

SHAPLEIGH PLANNING BOARD MINUTES

Tuesday, January 13, 2004

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

The Public Hearing Began at 7:00 p.m. The following items were reviewed:

- **Proposed Changes to the following Ordinance:**

Under

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 Board explained this change allows the Planning Board to waive this requirement if it feels the area does not need a fire pond due to its proximity to either the fire station or an existing fire pond.

There were no questions from the audience.

- **3-Lot Subdivision – “Turkey Crossing I” - Thomas & Barbara Worster – Map 6, Lot 29 (Owl’s Nest Road)**

Mr. and Mrs. Worster were present at the meeting to answer any questions from the audience. Mr. Worster and Mrs. Worster presented the Planning Board with a plan which depicted three lots. One lot being 151.54 acres in size, which is where the Worster’s have their residence. The second lot on the plan is approx. 3.32 acres in size and is also owned by the Worster’s. Currently a relative lives in the house on this lot. The third lot, which creates the 3-lot subdivision will be approx. 3.77 acres in size, and will be gifted to the Worster’s son.

Roger A. asked if there were any questions regarding the proposed 3-lot subdivision. There were none.

The Public Hearing ended at approximately 7:05 p.m.

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

The minutes from Tuesday, December 23, 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.

Roger A. asked the Worster’s if they had decided what waivers they would request from the Planning Board. The following waivers were noted:

- 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.
- 3) 89-25. Retention of open spaces and natural or historic features. Currently there is a large open area, in excess of 100 acres, that will not be developed at this time. The Worster’s will specifically designate an open area at such time that further division of the property takes place.

The Board members felt that all the waivers were justified. ***John C. made the motion to accept the requested waivers, Diane S. 2nd the motion. All members were in favor.***

Roger A. asked the Worster’s if they had a letter from the Fire Chief waiving the fire pond requirement? Mr. Worster stated that he had called the Fire Chief and requested Mr. Utgard contact him but the Fire Chief had not returned his call to date. Mr. Worster did not know what further he could do.

John C. stated that the Planning Board could possibly grant approval of the subdivision with the contingency that the Worster’s get approval from the Fire Chief prior to obtaining a building permit, or put in a fire pond prior to obtaining a building permit. Diane S. stated that she would second a motion for this approval.

Mr. Worster asked the Board if he had to accept this type of approval. Mr. Worster stated that he would prefer to hear from the Fire Chief prior to gaining approval for this project so he would know exactly where he stood with respect to cost. If he needs to put in a fire pond he may postpone the project. (The Worster’s do have the option of waiting until they own the property five years, then they could gift this piece of land to their son without having to put in a fire pond.)

Roger A. also reminded Mr. Worster and the Board that if the townspeople vote for the change to ordinance 89-30 (see Public Hearing section above), the Planning Board would have the ability to waive the fire pond requirement if they felt it was not necessary at this time in this location.

Mr. Worster stated that either way he would rather the Board not make a decision on final approval until he had more information from the Fire Chief. Mr. Worster reminded the Board that they did intend on putting in a major subdivision in the future and at that time he would address the fire pond issue as well as the open space issue. He did not feel either needed to be addressed at this time. Roger A. concurred stating that the distance to the fire pond at the commons and the close proximity to the fire station was sufficient to protect this one additional home. The other Board members agreed.

Mr. and Mrs. Worster stated that they would like to table the final vote for this subdivision until March 23rd after the Town Meeting to see if in fact ordinance 89-30 is changed and to have time to discuss this issue with the Fire Chief. The Planning Board agreed to postpone final review until that date.

At this time the Fire Chief, Gary Utgard, came into the meeting. The Board agreed to hear what his comments were for this subdivision. Mr. Utgard stated that he had measured the distance between the fire pond at the commons and the proposed subdivision. The distance was 3,600 feet. Mr. Utgard explained that he did not have enough fire line to go from the pond to the new home. He stated that requiring a sprinkler system would not work since two homes had already been built and the cost to put in a sprinkler system now would be significant. Mr. Utgard therefore recommended to the Planning Board that the Worster's put in a 10,000 gallon cistern for fire protection. Mr. Utgard also stated that he felt that all subdivisions should have the same criteria, treating them all the same, requiring either a cistern, sprinkler system, or pond for all locations.

Roger A. asked Mr. Utgard how much time it takes to get a tank truck to a site. Mr. Utgard stated that it depended on many factors including time of day, time of year, and location. Roger A. asked how much water was on a tank truck. Mr. Utgard stated approximately 2,550 gallons will be brought to the site. Mr. Utgard said that it takes approximately 100 gallons of water a minute for 20 minutes to put out the average fire in a 2,500 square foot home, unless it is fully involved. (With these calculations one tanker truck should be sufficient to put out the average fire.)

Mr. Utgard stated that in the future he would like more notice to review a subdivision more thoroughly. He did not like making a decision at the last minute. Roger A. stated that Mr. Utgard received the Planning Board agenda and minutes on a regular basis which clearly states what is being reviewed and at what stage the review process was in and he could at any time review a subdivision plan that was before the Board.

John C. suggested that perhaps the developer could submit a set of plans to both the Road Commissioner and Fire Chief at the same time plans were submitted to the Planning Board. Roger A. felt that this additional cost would be an unfair burden to the developer, especially for a minor subdivision. Roger again stated that both the Road Commissioner's and the Fire Chief could request at any time to see the plans prior to final approval. There are always a set of plans at the Town Hall available for anyone to review during regular town office hours.

John C. stated that perhaps there could be a set of plans reviewed at a Board of Selectmen meeting since the Road Commissioner's both attend these meetings. Mr. Utgard could also attend the meeting. Roger A. again stated that they could review the plans at any time at the town hall and make their suggestions to both the developer and the Planning Board.

Mr. Utgard's final comment for the 3-lot subdivision for the Worster's was that he felt a 10,000 gallon underground water holding tank, that is accessible year round, should be placed on site. This tank should be in close proximity to the road for easy access by the fire department.

Mr. and Mrs. Worster stated that there were large amounts of ledge in the area of the existing house lots and the proposed additional lot. They stated that the location of the existing homes were such that they did not have to blast ledge. If they had placed them in a different location they would have had to blast ledge. They did not know where an underground cistern could be placed in close proximity to these three lots. In addition, the best location for a fire pond would require a long road in to it. At this time the Worster's were not prepared to put in this road nor maintain it year round. Mr. Utgard agreed that perhaps in this location a cistern would not be feasible.

John C. stated that he did not feel, because of the location, that a fire pond or cistern was necessary for this subdivision. The other Board members agreed. John also said that as the ordinance is written at this time,

the Planning Board cannot waive the requirement without concurrence from the Fire Chief that the soils will not sustain a fire pond. John told the Worster's that it is probably in their best interest to wait until March 23rd when the Board ought to have the ability to waive the fire pond requirement. The Worster's agreed.

Mr. Utgard again stated that he was not trying to put an unfair burden on the Worster's, but he still felt that he had to have the same requirement for all subdivisions. Mr. Utgard stated that he would be drafting a letter for the Worster's and the Planning Board and this letter would most probably state either a fire pond or a cistern should be required.

Nothing further was discussed. *The subdivision application has been tabled and will have the final review on March 23rd unless notified otherwise by Mr. and Mrs. Worster.*

GROWTH PERMIT(S) – The following Growth Permits were reviewed in the order received:

GROWTH PERMITS 2004

NAME	Map / Lot	Address	Permit #	Date Permit Issued
1. George Rankin	5 / 12	23 rd Street	01-04	1-13-04
2. John & Mary Shirley, Jr.	7/3 Unit #14*	59 Kettle Pond Rd., 938 Shapleigh Corner Rd.	02-04	1-13-04
3. Richard R. Rainsford	7/3 Unit #7*	938 Shapleigh Corner Rd.	03-04	1-13-04
4. Dennis Sillon	7/3 Unit #5*	938 Shapleigh Corner Rd.	04-04	1-13-04
5. Francis & Violet DiPrisco	7/3 Unit #6*	52 Kettle Pond Rd., 938 Shapleigh Corner Rd.	05-04	1-13-04
6. Lee F. Dezan	7 / Part of Lot 42	Owl's Nest Road	06-04	1-13-04
7. Janet Junkins	11 / 33	156 Newfield Road	07-04	1-13-04
8. Shawn & Ann Marie Doiron	11 / 23I-2	Gander Drive	08-04	1-13-04
9. Thomas L. Blow	11 / 23I-1	Granny Kent Pond Rd.	09-04	1-13-04
10. Gregory Noble	6 / 26	Nason Road	10-04	1-13-04
11. Scott T. Martel	5 / 6B	23 rd St. Loop	11-04	1-13-04
12. Albert Conrad	6 / 34	270 Nason Road	12-04	1-13-04
13. Mathew W. Quinton	7/1 Part of Lot 8	Cedar Drive	13-04	1-13-04
14. Stephen Fleming	6 / 36	Gulf Road	14-04	1-13-04
15. Betsy Y. Creisher	8 / 5	499 Owl's Nest Road	15-04	1-13-04
16. Eric S. Cloutier	12 / 9	Gray Road	16-04	1-13-04
17. Stanley A. Helstowski	33 / 54	53/54 Treasure Island Road	17-04	1-13-04
18. Richard & Julie-Anne Tanner II	11 / 23C-1	22 Dee Way	18-04	1-13-04
19. Steven G. Bickford, Susan McCutcheon	8 / 57A	Ross Corner Road	19-04	1-13-04
20. Lillian V. Chalifour Michael J. Clukey	42 / 28D	Emily Lane, Pine Springs	20-04	1-13-04
21. Joseph P. Jutras	26 / 42	Buccaneers Way	21-04	1-13-04
22. Thomas F. Hickey	7/3 Unit #10*	10 Log Cabin Lane 938 Shapleigh Corner Rd.	22-04	1-13-04
23. Jacob M. White	1 / 34	Deering Ridge Road	23-04	1-13-04

**Seasonal Conversion*

GROWTH PERMITS 2004

NAME	Map / Lot	Address	Permit #	Date Permit Issued
24. David & Sandra White	1 / 4	Deering Ridge Road	24-04	1-13-04
25. Michael F. Wilson	5 / 3	354 Shapleigh Corner Rd.	25-04	1-13-04
26. Robert W. Ferrera, Jr.	10 / 22	1385 Shapleigh Corner Rd	(a)	
27. Robert W. Ferrera, Jr.	10 / 22	1385 Shapleigh Corner Rd	(a)	
28. John J. Voll II	17 / 8	30 th Street	26-04	1-13-04
29. Patco Construction	2 / 47A	1526 Walnut Hill Road	(b)	
30. Adam Blaikie & Assoc.	8 / 41-3	Garland Road	27-04	1-13-04
31. Carol Ann Gale	39 / 77	Swan Circle	28-04	1-13-04
32. Harvey L. Gale	40 / 7A	Mallard Way	29-04	1-13-04
33. Gail & Raymond Beaudoin Jr.	36 / 7*	114 Indian Village Rd.	30-04	1-13-04

***Seasonal Conversion**

(a) Mr. Ferrera, Jr., Tax Map 10, Lot 22, is requesting to put one additional home on his existing property for his in-laws and create one new house lot / home by breaking a piece from the existing property. The Planning Board questioned whether or not this created a minor subdivision. Roger A. felt that it did create a minor subdivision based on the definition of subdivision under the 2004 Maine Planning & Land Use Laws, Chapter 30-A §4401 "Definitions" which reads as follows:

4. "Subdivision" means the division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, **buildings** or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.

Barbara G. agreed. Because Mr. Ferrara, Steven McDonough, CEO, and several Board members were not certain, the Planning Board agreed to get a legal opinion as to whether or not the Board could issue two building permits for this property. Roger A. told Mr. Ferrera that if the town lawyer agreed that this would constitute a minor subdivision he would only be able to obtain one Growth Permit. He would need to decide for the next meeting whether he wanted to build the one additional home on the property or break off the one lot for a new home.

Roger A. also told Mr. Ferrera that he could pursue minor subdivision after receiving one Growth Permit for one home. Mr. Ferrera asked where he could obtain information regarding subdivision. Roger stated he could obtain a copy of the subdivision ordinance at the Town Hall which would explain the subdivision process.

(Note: Mr. Ferrera has not owned the property for five years or more so he is not able to build a home for his in-laws on his property and break off a house lot, without triggering subdivision.)

(b) Roger A., while reviewing the Growth Permit application for Map 2, Lot 47A, told the Planning Board members that this piece of property had been before the Planning Board in the past for a Growth Permit and had been denied as there was a question with respect to the total acreage. There was a discrepancy with the deed which stated 80,000 acres plus or *minus*. The ordinance clearly requires 80,000 minimum. Roger stated that there was also a road that runs through the middle of the property, possibly reducing the size of the buildable area of the lot. Roger stated that the Planning Board had requested during the last review that there be a land survey presented to the Planning Board showing that in fact there was 80,000 square feet available. The survey was never produced.

John C. stated that he would go the PATCO office and get more information for the Planning Board. He would have this information available for the next meeting.

(Note: The existing deed does not mention the location of a road on the property.)

At the town office will be a list of all Growth Permits waiting to be reviewed, should more permits become available.

The Planning Board meeting ended at 9:45 p.m.

Respectively submitted,
Barbara Gilbride
Planning Board Secretary

planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES
Tuesday, January 27, 2004

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

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

The minutes from Tuesday, January 13, 2004 were accepted as written.

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

Growth Permit for Robert Ferrera, Jr., Map 10, Lot 22

Mr. Ferrera had applied for two growth permits. One permit was to place one additional home on his existing property for his in-laws and the second was to create one new house lot / home by breaking a piece from the existing property. The Planning Board questioned whether or not this created a minor subdivision. Roger A. contacted Attorney Ron Bourque on January 14th to obtain a legal opinion. It was the opinion of Attorney Bourque that the addition of a home on Mr. Ferrera's property and dividing a lot for a residential home does constitute a subdivision. A subdivision is defined under the 2004 Maine Planning & Land Use Laws, Chapter 30-A §4401 "Definitions" is as follows:

4. "Subdivision" means the division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, ***buildings*** or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.

In addition, Mr. Ferrera has owned this property for less than five years.

Mr. Ferrera was asked which building he would like to obtain a Growth Permit for. Mr. Ferrera stated that he would like to split a lot from his existing lot and put a house on that property. The Board agreed that this was allowed. **Mr. Ferrera was granted Growth Permit 31-04.**

Roger A. told Mr. Ferrera he would have to give a description of this new lot to the Code Enforcement Officer upon applying for his building permit.

The second Growth Permit Mr. Ferrera was applying for was denied based on the fact that it would have created a minor subdivision. Mr. Ferrera can apply for minor subdivision if he wishes to pursue the second home.

Growth Permit for PATCO Construction, Map 2, Lot 47A

During the review of this Growth Permit on January 13th, Roger A. stated that the Planning Board needed a better description of the property, including a survey showing that in fact the property did contain the 80,000 square feet that is required for a building lot. There was also concern with an access road going through this property to a land-locked lot behind this lot that needed to be addressed. Prior Growth Permit applications for this lot have been denied due to this access road. John Caramihalis, who works for PATCO stated that he would bring the necessary information to the Planning Board for the next meeting.

John C. brought to the meeting a copy of a deed, recorded at York County Registry of Deeds on 1/27/04, Book 13890, Page 170, showing the access road to the back lot exist and has been relocated by easement; a copy of a survey by Corner Post Land Surveyors dated 1/20/04, which showed the parcel to have 80,006 square feet; a copy of the Real Estate Transfer Tax Declaration dated 1/23/04 and a copy of the Subsurface Wastewater Disposal System Application for the property dated 12/30/03.

All the documents showed the property met the criteria of a buildable lot. **PATCO was granted Growth Permit number 32-04.**

With the denial of Mr. Ferrera's second permit application there was one Growth Permit available. **Permit number 33-04 was granted to Gail Beaudoin, Map 7, Lot 3, Unit #8 (Kettle Pond Condominiums).**

At the town office will be a list of all Growth Permits waiting to be reviewed, should more permits become available.

The Planning Board discussed the fact that they would like to review the current draft of the Comprehensive Plan as it stands at this time. Barbara G. stated that she would talk to Ruth Ham, who is on the Comp. Plan Committee to ask her if the Board could have a copy of the plan and ask her what stage the plan is at. Also, Barbara will ask Ruth if any members of the committee would like to attend the next Planning Board meeting to have a workshop on the plan. There was a concern with the status of the Comprehensive Plan. If the plan was going to be voted on at Town Meeting in March, the Board needs to know how it will affect the Zoning Ordinance. If the Comp. Plan is not compatible with the Zoning Ordinance, changes will need to be made.

John C. stated that he would like to discuss the issue of lot coverage with respect to businesses along routes 109 and 11. He felt that if a business was allowed to cover a lot by more than 10%, there would be more incentive for businesses to come to Shapleigh. Other Board members agreed. The establishment of a commercial zone could be part of this change.

Board members all agreed that zone overlays should be established in the town creating a village area, business area, etc. Madge B. also added that although the State of Maine feels larger lots in certain areas could curb growth; in the Town of Shapleigh it may be best to address "growth locations" vs. land size.

Another issue discussed was the fact that the Planning Board needs to do a workshop with the Fire Chief, Gary Utgard, as well as the Road Commissioners, John Burnell and Dick Goodwin. There needs to be a plan developed and agreed upon by all parties, to make the process of subdivision review more timely and

efficient for all parties concerned. Also the Board realizes that all parties may have ideas for future ordinance changes that would benefit the community. Barbara G. will contact all three gentlemen and ask them if they could attend a meeting in February to sit down with the Planning Board and discuss issues of concern.

The Planning Board meeting ended at 8:45 p.m.

Respectively submitted,
Barbara Gilbride
Planning Board Secretary

planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES

Tuesday, February 10, 2004

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

The Public Hearing Began at 7:00 p.m. The following items were reviewed:

- **Proposed Changes to the following Ordinance(s):**

Roger read the following changes:

§ 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.*

There were no questions from the audience.

§ 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.*

There were no questions from the audience.

§ 105-27. Erosion control.

Erosion of soil and sedimentation ~~of watercourses and water bodies~~ shall be minimized by employing the following "best management" practices:

There were no questions from the audience.

Proposed Adult Business Ordinance:

Roger A. began by stating that presently the Planning Board can only review the health and safety of the public and all standards applicable to the ordinance. Glare, fumes, odors, stormwater runoff, etc. The Board has nothing specifically regulating adult business. This is why the Planning Board is proposing language for the ordinance. It will read as follow:

§ 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.**

Ron Prevoir, a Citizen in attendance, stated that it was his understanding that the town was setting a precedent by these rules (the new ordinance). He asked the Planning Board if anyone had come before them and expressed an interest in opening an adult business?

Roger A. replied that there had been a couple of questions as to whether or not an adult business would be allowed.

Barbara G. stated that there had been several telephone calls to the town office asking if an adult business was allowed.

Mr. Prevoir stated that there were neighboring towns that were dealing with this same issue and they did not have an ordinance to address it. Mr. Prevoir stated that he wanted to commend the Planning Board for addressing this issue now before there is a problem.

Roger A. replied that this was the reason the Planning Board wanted specific language in the ordinance so the board would have guidelines to go by.

Roger read the following ordinance addition:

§ 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.

There were no questions from the audience.

§ 105-17. Land Uses

COMMERCIAL INDUSTRIAL [Amended 10-22-1994 STM by Art. 3; 3-13-1999 ATM by Art. 67]

	RP	SD	GP	FD	SP
<i>Adult entertainment</i>	---	---	CU	---	---

Roger A. noted that adult entertainment would only be allowed in the General Purpose Zone.

A citizen asked if the Post Office was a government property?

Roger A. stated that it was a private entity. The building itself was owned by a private citizen, the Post Office rents the property.

The same citizen asked if the townspeople could boycott the adult business to show they didn't want this type of business in the town?

Roger A. replied that they could boycott the business but without the town having any restrictions for an adult business, an applicant could apply for a Conditional Use Permit and if they can meet our existing criteria, the application would be approved. The Planning Board hopes this new language will give the Board more criteria to review and additional criteria the applicant will have to meet.

The citizen asked about the fact that the town does not have local law enforcement. She was worried there would be people congregating at the establishment that may be less than desirable.

Roger A. replied that at the present time everything in the ordinance is overseen by the Code Enforcement Officer. The CEO makes sure approved applications are operating per the ordinance. If it is not, the town has the ability to bring the business owner to court.

The citizen asked if the chances of the Town of Shapleigh getting a business like this were slim?

Steve M, CEO, replied that as the ordinance is written now, an adult business is allowed anywhere in town as long as they meet the criteria for a Conditional Use Permit. There are no specific regulations for an adult business. Steve stated that he felt it was in the town's best interest to have some additional criteria to work with.

Roger A. added that the town cannot prohibit an adult business; State law does not allow that. The town can, however, regulate it.

Bill H. stated that the answer to the question regarding whether or not townspeople could boycott the business was, "as a citizen you are entitled to do anything you want, as long as it is in the realm of the law, to discourage this type of activity".

John C. replied, "We are not doing this so people won't open an adult business, we are doing it so we will have some means of direction when someone comes in with an application. Right now, if

someone comes in, without this ordinance in place, if they want to open an adult business all we can do is go over the general requirements of any business. We would have the same requirements for them as someone opening up a regular video store. This is such a controversial issue we want to have specific guidelines to go by for this type of business.”

Mr. Prevoir asked the Board if there was a time frame for when this ordinance would be in effect? “Will it come up at our next Town Meeting?”

The Planning Board responded with, “Yes, it will be voted on at town meeting on March 13th. If it is approved by the voters it would be in affect as of that date.”

There were no further questions from the audience.

Roger read the following ordinance change:

§ 105-44. Piers, docks and other shoreland construction.

(3) Conditional Use Permit

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

Roger stated that this change was made because MDIFW stated that they did not want to see all applications. Only those which the Planning Board felt they needed the State to comment on.

There were no questions from the audience.

Roger read the following ordinance change:

§ 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)²~~ ***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.***

John C., referring to (1) asked what “home occupation” was exempt from a Conditional Use Permit? John believed all home occupations required a permit.

Roger A. replied stating that agricultural home based businesses were exempt from a C.U.P. and they did not need a permit to place a seasonal sign on their premises.

John C. asked if this was in our ordinance under home occupations?

Roger A. replied that it was not under home occupations. Agriculture is governed by the State.

Steve M., CEO, agreed stating it was addressed under agricultural guidelines, through the Maine Dept. of Agriculture. Steve noted that under Ordinance 105-17, agriculture is allowed in the General Purpose district without a permit. He stated that only the sale of produce off premise required a Conditional Use Permit in this district.

The Planning Board agreed that perhaps agriculture should be addressed under home occupations stating it is a home occupation that does not require a permit.

Mr. Prevoir stated that there was also the fact that some properties are grandfathered, having had the farm and signs for the farm on the property for generations. This being the case, they continue to advertise as they always have done and farm in the same manner. Mr. Prevoir stated that he removed the sign from his property voluntarily but he did not have to do so (he sells produce on a seasonal basis).

John C. asked what was considered agriculture?

A citizen stated that agriculture, as defined by the State, does not only pertain to animal husbandry or produce. She stated that she makes quilts and is considered under the umbrella of “agriculture” according to the State of Maine. She said that other things considered are flowers, even wildflowers.

John C. asked the Board members if the Alpaca farm on Rte. 11 would be considered a farm and therefore exempt?

Roger A. replied stating that they opened a store that sold products not produced on site. It was not a home occupation.

Bill H., referring to (14) “temporary signs” spoke about the fact that Mr. Quartarone had a temporary sign board that he did not remove last year. Mr. Quartarone removed the lettering but not the sign, as he felt that removing the lettering was all he needed to do. Bill wanted to know how the Board should address this situation. Does the ordinance need further clarification?

Madge B. read the definition of a sign under 105-15, it reads as follows:

SIGN – A name, identification, description, display or illustration which is affixed to, painted or represented, directly or indirectly, upon a building, structure, parcel or lot and which relates to an object, product or place, activity or person, institution, organization or business on the premises.

Steve M. stated that he asked Mr. Quartarone to remove the sign and the fact that the sign had an arrow, Steve felt he could enforce the ordinance. If it hadn’t had an arrow perhaps it would have been more difficult to enforce as the ordinance is written at this time.

Roger A. read the part of (14) which he said clearly states the sign must be removed, “***such sign shall be limited to eight (8) square feet and be removed within thirty (30) days from the time of issuance***”. Roger stated that the words removed within 30 days refers to the sign itself and Roger felt the ordinance as written is clear.

Madge B., referring to (1) and (2) of this ordinance asked the Board members what they felt both meant with respect to the number of signs allowed. Madge felt that (2) clearly defines the fact that

one sign is allowed per approved C.U.P., attached to the building. Madge asked if (1), as it is written, could be construed to mean each approved C.U.P. could also have a free standing sign on the premises?

Bill H., after reading (1) felt that it *could* be interpreted that each approved C.U.P. was entitled to a free standing sign.

Roger A. and Steve M. disagreed. They both felt it was clear only one free standing sign is allowed "per lot". Madge thought the Board may want to address the language in (1) for next year to make it very clear what was allowed.

Roger read the following ordinance change:

§ 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 A. explained the change to this ordinance was made so the Town of Shapleigh would receive application money during the preliminary process instead of just when the final plan is submitted. The town incurs cost associated with the preliminary plan and if the applicant decides to not go to final plan, the town does not recoup the cost to process the application.

There were no questions from the audience.

Roger read the following ordinance change:

§ 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 A. stated that this change was an increase to the cost per lot to make up for the increase cost incurred to the town to process a major subdivision application.

There were no questions from the audience.

Roger read the following ordinance change:

§ 89-30. Required improvements.

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

B. (2)

- (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.

Roger A. stated that this change allowed the Planning Board the ability to waive the fire pond requirement such as when the location is near an existing fire pond, near the fire department, etc. Currently the board can only waive the requirement if the soil type will not permit its construction.

There were no questions from the audience.

Proposed ordinance entitled “Establishment of Shapleigh Planning Board”

Roger A. told the townspeople that the Planning Board currently operates under a set of bylaws. This proposed ordinance reflects those bylaws. (A copy of the proposed bylaws were available for the townspeople in attendance to read. Roger did not read it out loud as it is very long.)

There were no questions from the audience.

The Public Hearing ended at 7:40 p.m.

The Planning Board meeting started at 7:41 p.m.

The minutes from Tuesday, January 27, 2004 were accepted as written.

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

Workshop on Comprehensive Plan

There was going to be at least one member from the Comprehensive Plan Committee in attendance but at the last minute no members could attend. The Board decided to discuss the Comprehensive Plan (C.C.C.) amongst themselves this evening and below are some of the items discussed. In addition, Barbara G. asked members if they would be willing to meet on another night of the week with members of the committee. Members stated they would. They would prefer to meeting earlier, **6:30 p.m.** instead of 7:30. Barbara will discuss this with Ruth Ham, a member of the Comp. Plan Comm.

It was noted that it appeared that 90% of the items in the Comprehensive Plan are to be dealt with by the Planning Board therefore it is very important the board members understand how the plan is to be interpreted and implemented.

• **Cluster Housing**

Questions for the C.C.C.:

- 1) What kind of incentives does the C.C.C. think the town should give to promote cluster housing?
- 2) Should you have to cluster if you are on agricultural land?

Most Board members felt the current cluster housing ordinances are as loosely written as they can be. The Planning Board needs to know what the C.C.C. had in mind.

- **Impact Fees for Road**

Questions for the C.C.C.:

- 1) Is this how road improvements for subdivisions are to be handled?

It was noted that the Planning Board currently has the ability to ask for roads impacted by a subdivision to be improved.

- **Growth Areas**

Growth Areas appear to be in the historic district.

- 1) How can the two work well together?
- 2) How can you have buffers in the historic district while allowing 100 X 200' lots?
- 3) How much land in the growth area is able to be developed? (Areas such as wetlands would not support development.)

The board members wanted to know if there were maps currently that would show where the growth areas are to be. If so the members need a copy of those maps.

- **Commercial Development**

Commercial areas are going to be along Rte. 11 and Rte 109. The Rte. 11 corridor has the recreation fields. Adjacent to them is an endangered species so there will be a problem putting in a business in that area as lighting is a big issue per the State biologist. The only area available would be between Boonies and the Library. Future commercial development in these areas is very limited and that puts the future tax burden on individual property owners. Commercial areas may need to be expanded.

Rte. 11 and Rte. 109 need to be made more desirable if this will be the designated commercial area. Allowing larger lot coverage, than the 10% allowed now, could promote these areas for future business. Another problem could be that these areas also are part of the historic district. This may need to be addressed by adopting an ordinance to build to a certain architectural design, such as in Portsmouth NH. Another thing that may need to be addressed is a property maintenance code.

- **#19 from Actions and Timeline Involving Growth and Development**

Number 19 reads as follows: "Change the zoning to allow for smaller lots in designated growth areas. The minimum lot size will be 100 by 200 feet. The growth areas will be within a mile radius of the villages and on land currently owned by the Town."

Several Board members felt that this needed to be addressed further, and perhaps one way would be to designate areas for manufactured housing parks, requiring community waste collection systems. Ordinance 105-41 "Manufactured housing units and manufactured housing unit parks", addresses the smaller lots but no areas for the housing have been designated.

- **Increased Minimum Lot Size from 2 Acres to 5 Acres**

The Board discussed the fact that increasing lot size from 2 acres to 5 acres has been proposed at

town meeting in the past and was very unpopular and did not pass vote. Also, the amount of tax monies from commercial enterprises is not substantial and there are no new proposals that show this will change. Some Board members felt that by increasing lot sizes you have fewer homes to contribute to the tax base. Madge B. noted that the State of Maine is not looking at the size of the lot but where 330+ new homes will be placed over the next ten years. Madge felt that we as tax payers should care as well. The more scattered houses are, the more expensive every one of those houses becomes. The bottom line is the town needs to prevent sprawl.

Most Board members agreed that as the Comprehensive Plan is written currently, it does not deal with sprawl. Increasing lot sizes to 5 acres does not prevent sprawl it actually can cause it. An approved lot, whether 2 or 5 acres does not vary much in price, therefore, increasing lot size to 5 acres will not keep people from developing it.

John C. spoke about an idea used in other towns. It is to allow for 2 acre lots for individuals but subdivisions must be clustered and each home must account for 5 acres. With this idea, a 50 acre parcel of land could house only 10 houses. Each home could be on a 30,000 square foot lot for example. This way you are preserving open space / a rural look to the town and also preserving such things as wildlife corridors and the like. It was noted by other members that cluster housing is allowed now but it is not mandated. In addition, it is not always popular because of the expense of the subsurface waste disposal system and water systems that would be required. The town does have the ability to mandate this if they choose to.

- **Current Growth Ordinance**

Several Board members felt that the current Growth Ordinance may actually make the issue of sprawl worse. It does not address developers differently from individual home builders, thus the idea of putting in a cluster subdivision will not be popular amongst developers. The cost to put in a road, septic system, etc. would not be recouped because of the difficulty of obtaining a Growth Permit. Therefore, the only ones putting in new homes are individuals, and they are locating these new homes along existing roads. Another concern is many new homes are going in along roads that are currently in bad condition and these roads do not have to be upgraded by these individuals. With a development, the developer can contribute to road upgrades.

One idea was perhaps the Growth Permits could be given based on the location of where the home will be located. You could be moved up the list if you were going to build in a designated Growth area. You may have to wait or be bumped down if you are locating on an unmaintained road for an example. If Growth areas are established this could be a useful tool.

Most Board members felt that seasonal conversions should be addressed in another manner, not through the Growth Permit system. It was discussed that there are most probably people, at this time, living in seasonal conversions that have not applied for a Growth Permit. Many homes along the water have been converted to year round and there are people living in them. These people likely use all the services the town has to offer except the school system. In addition, it was noted that the people living along the waterfront pay the majority of the taxes in town. Roland Legere was concerned that if seasonal conversions were not addressed through the Growth Ordinance, more people would choose to live here year round and the overburdened lakes would continue to be compromised.

The Board members agreed there are many issues that must be addressed with respect to the Growth Ordinance. It will be reviewed in more detail as the year progresses.

- **Timber Harvesting**

Roger A. noted that there were new standards coming from the State with respect to harvesting in the Shoreland areas. These standards, when available, will be reviewed by the Planning Board. When the town receives the new guidelines we will have three options; 1 – Repeal the existing timber harvesting provisions of the town’s Shoreland Zoning Ordinance; or, 2 – Adopt identical standards as an amendment to the town’s Shoreland Zoning Ordinance; or, 3 – Retain the town’s current Shoreland Zoning Ordinance. All members agreed that when we receive the new guidelines they will be reviewed and the proper action shall be taken.

- **#14 from Actions and Timeline Involving Natural and Historic Resources**

Number 14 reads as follows: “Develop a phosphorous control program”. Roger A. felt that by developing our own phosphorous control program, the burden of liability of approved subdivision plans would be on the town. Currently the Planning Board has the option of having phosphorous plans reviewed by the State. The State may approve the plan as presented or approve with conditions. “It is because we don’t have our own plan the State is willing to be involved. If we have a plan of our own, we are the final reviewing authority.” Roger concluded that it was in the town’s best interest to have the State oversee this critical area because there are no Board members that are experts in phosphorous control. Roger also noted that phosphorous is largely tied in with road runoff near the lakes. The Board must be very careful all plans for roads are reviewed by a licensed engineer.

John C. also wanted Board members to consider adopting the requirement of a Nitrate Impact Analysis, which studies how much impact the sewer / septic system would have on the soil. In a cluster subdivision you want to be certain the wells will not be contaminated. A soil scientist would do this study. (This study was done for the proposed Goose Pond Subdivision due to the sandy soils and the proximity of the homes to the surrounding water bodies.) Roger A. stated that this requirement currently can be requested of the developer by the Board as the subdivision ordinance is written now. Board members agreed but mentioned the fact that it is not specifically mentioned and we may want to look at making it mandatory for all subdivisions on questionable soils.

- **#13 from Actions and Timeline Involving Natural and Historic Resources**

Number 13 reads as follows: “Adopt an ordinance protecting high-yield aquifers and their recharge areas that might serve as future water supplies.” Diane S. asked other Board members how the Board might address this issue?

Madge B. stated that the Board could prohibit certain uses in an area that houses a large aquifer beneath it. Things such as gas stations would not be allowed. Another item addressed over an aquifer would be regulating the density of homes, limiting the number of homes to be located over the aquifer. Madge felt this could be easily addressed once the area(s) containing the aquifers were mapped out.

- **#4 from Actions and Timeline Involving Natural and Historic Resources**

Number 4 reads as follows: “Review for a building code”. It was noted that the town voted to adopt a building code which the Code Enforcement Officer currently uses during the permitting process. This code is known as CABO, 1995 Edition. Steve M, CEO, stated that the town may want to adopt the International Residential Code for One-and Two-family Dwellings, the 2000 Edition.

Several members noted that the State is currently trying to adopt a statewide building code. Both Steve M., and Roger A. were skeptical that it would come to pass in the near future citing the fact that both the Plumbing and Electrical Codes have not been adopted in their entirety though the State has tried for many years. Contractors have been less than enthusiastic on these issues.

- **Identified Capital Investment Needs – Estimated Costs and Investment Schedule**

Several members questioned why the town would have a higher priority for a Paid Park Director (2007) than future staffing at the town offices (2010) or a full time Administrator (2010). Many members felt a town manager or administrator, someone who would coordinate town efforts and report to the Board of Selectmen, should be considered in earnest much sooner than 2010. Some felt the Board of Selectmen do not have the time it takes to actually manage a growing town, meeting only once a week, and Ruth Ham, who probably currently manages the town, should not have that burden along with assessing. It really is a job in and of itself.

Diane S. mentioned that the Park Director was not only for the recreation department but would monitor water quality in the lakes. John C. noted that the State currently does that very well, and if the Park Director after taking water samples noted a problem, this problem would be handled again by the State. Most members agreed “staffing needs” and “hiring a town administrator” are a much higher priority than a Park Director.

- **Back Lots**

Madge B. asked the other Board members if they understood how back lots are to be addressed? (Page 40) Is the town going to require additional road frontage to accommodate the increase in lot size? The Board members did not know how the C.C.C. planned to address the road requirements for back lots.

Madge B. gave Barbara G. a copy of the State’s “Categories for Future Land Use Plan”. Instead of having only two categories, rural and growth, the state is also entertaining having a “Critical Rural area” and a “Transitional area”. The Critical Rural area means a rural area that is specifically identified and designated by a municipality’s or multimunicipal region’s comprehensive plan as deserving maximum protection from development to preserve natural resources and related economic activities that may include, but are not limited to, significant farmland, forest land or mineral resources; high-value wildlife or fisheries habitat; scenic areas; public water supplies; scarce or especially vulnerable natural resources; and open lands functionally necessary to support a vibrant rural economy. The Transitional area means an area that is designated in a municipality’s or multimunicipal region’s comprehensive plan as suitable for a share of projected residential, commercial or industrial development but that is neither intended to accept the amount or density of development appropriate for a growth area nor intended to provide the level of protection for rural resources afforded in a rural area or critical rural area. Barbara will give a copy to Ruth Ham, who is a member of the C.C.C.

John C. wanted to speak with the Board members about the approved subdivision, Map 8, Lot 41, known as "Fort Ridge Woods" on the Garland Road. John represents the applicant for this project.

The Planning Board on September 23, 2003, approved the 4-lot subdivision with the following condition:

"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.**"

John C. stated that the fire pond, placed on the lot sold to Mr. Mullins (owner of lot 4) after Planning Board approval, currently was losing water. John stated that this time of the year a fire pond does not usually lose water so he felt that the pond may have failed. John stated that he called Gary Utgard, Fire Chief, and told him that the pond may not hold up and they may have to either reline the pond or consider another option.

John C. asked the Board members if they would consider allowing a sprinkler system be put into the homes on lots 3 and 4 in lieu of the fire pond. John also asked if another option would be that he wait until after the Town Meeting (where the town will be voting on a change to 89-30 which deals with the Boards ability to waive the fire pond requirement) and perhaps the Board would consider an amendment to the approved subdivision plan, removing the fire pond requirement.

Barbara G. did not like this last option due to the fact that the pond was required because of the location and the necessity of fire protection in the area. Bill H. added that the opportunity to waive the fire pond is for certain locations only. "This option must be used judiciously. The Board must be sure it only waives fire protection after carefully reviewing housing density and proximity to existing fire protection."

John C. stated that if the Board allowed the adoption of a sprinkler system in the two homes to be built, the applicant would also add a deed restriction to lot 3, the lot now owned by Mr. Mullin, that any home built on that lot would also have to put in a sprinkler system.

Bill H. stated that the Planning Board required Gary Utgard, Fire Chief, approve whatever fire protection the applicant provided on site, prior to the applicant receiving a building permit from the Code Enforcement Officer. If Mr. Utgard allows the sprinkler systems, Bill felt that the Board would probably approve this change to the final plan.

The Planning Board concluded that whatever fire protection was to be used on site, it had to be approved by Mr. Utgard. No homes shall be built until a letter from Mr. Utgard is received by either the Code Enforcement Officer or the Planning Board, stating clearly the type of protection and that it has been approved by the Fire Chief.

Nothing further was discussed.

Roger A. noted that Craig Higgins had contacted Barbara G. and stated he may come back before the Board to discuss the Goose Pond Subdivision. Mr. Higgins stated that through negotiations perhaps the project can resume. Barbara is putting him on the agenda for February 24th.

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, February 24, 2004

Members in attendance: Roger Allaire (Chairman), John Caramihalis, Madge Baker (Alternate), Bill Hayes 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, February 10, 2004 were accepted as written.

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

Workshop with Road Commissioner(s)

Barbara G. gave the Planning Board members as well as the Road Commissioner(s), Richard Goodwin and John Burnell, a copy of an example of an ordinance for "Private Ways" that was created by the Town of Falmouth. Currently the Town of Shapleigh does not address private ways / roads in their zoning ordinance and therefore these roads are not built to any standard. This has become a problem in town when it comes to fire and rescue having the ability to get to the homes serviced by these roads, and a problem when the homeowners petition the town to maintain the roads. The Planning Board asked for this workshop to get some ideas from the Road Commissioner(s) on this subject. In addition, the Road Commissioner(s) were asked for their opinion on how the Planning Board should involve them in the subdivision review process.

Roger A. started the discussion by telling the Road Commissioners that at this time unless subdivision is triggered, there is no road standard for the Planning Board to impose. The only set of road standards is in the Subdivision Ordinance, there is nothing in the Zoning Ordinance.

Mr. Goodwin asked the Planning Board if they were addressing driveways, as he did not think the town should be regulating driveways. Roger A. agreed and stated that wasn't the intent, the Board wanted to address 'road frontage'. Barbara G. stated the Board was addressing the development of a back lot. She stated that currently a back lot can be developed if the required 200 feet of road frontage is created along with a 50' right-of-way. Unfortunately there is no standard in the Zoning ordinance that addresses a standard for this road frontage. Barbara stated that a large landowner could continue this road and sell one additional lot every five years, circumventing subdivision, and the town could not regulate this private road accessing these homes, so the road is likely to be substandard.

Mr. Burnell asked if the road Barbara was talking about was a driveway? Steve M, CEO, stated not necessarily. Steve said that it could be a grandfathered lot of record and the person wants to split this lot in half. In order to make the two lots, 200 feet of road frontage has to be created for the back lot.

John C. gave the Gulf Road as another good example of what type of problem can be created when there are no standards required for building a home along a private road. Currently the Gulf Road has been improved from Ross Corner Road to the 1st home that was built on Gulf Road. The homeowner built the road to an adequate standard so that Central Maine Power could access his home, as well as emergency equipment. Beyond this home, another home is currently being built. This part of the Gulf Road is not only substandard but is extremely steep, rocky, and will not support large equipment. In addition, if gravel is placed on this road without additional erosion control materials, it is highly likely the gravel will wash away due to the grade of the road and what the base of the road is currently made of. John stated that if the Board had a standard for a private way, at least 200 feet of this road (the frontage required for a house lot) could be brought up to a town standard.

Richard Goodwin asked who would inspect the work being done on these roads? Mr. Goodwin felt that if the Board was going to try to regulate driveways this could be a problem as no towns person would agree to this. It would be too expensive for them. John C. replied by stating that a licensed engineer would be required to both design the road to the towns standard and reply in writing that the road was in fact built to the town standard.

Madge B. suggested the Board could use distance as a benchmark as to when a driveway might be triggered as having to be built to a standard. Steve M, CEO, agreed stating that very long driveways can be a problem for safety equipment when they have no place to turn around or are too narrow for safety equipment to access the home. Mr. Goodwin still felt that driveways should not be addressed with respect to a standard.

Roger gave the example of his land and his ability to use Break Neck Hill Road as access to it. Roger stated that he could break off a lot from his property and because it abuts Break Neck Hill Road he would have the necessary road frontage required to do so (Break Neck Hill Road in an unmaintained, presumably abandoned town road in very poor condition). Roger stated as long as he broke off two plus acres and made certain he had 200 feet of road frontage he could get a Growth Permit, since it would be a legal lot. Roger told the Road Commissioners that at this time, there was no standard in the Zoning ordinance that would require him to upgrade the road to access the lot. Safety equipment would most probably not be able to access the lot. Roger also added that if he sold the lot, it would be a "buyer beware" situation. The buyer would be hard pressed to access the lot even though it was a legal lot.

The Planning Board stated that one purpose of adding a private way ordinance in zoning is so when a person needs to create 200' of road frontage to be able to build on a back lot, there would be a requirement to bring that 200' up to a town standard. This road is likely to be a private road but it still needs to be regulated.

Mr. Goodwin stated that in this case the standards for a minor subdivision should be imposed. Roger A. replied stating that because this example is not a subdivision, the Planning Board could not impose the standard. This new lot is a single lot and there is nothing in the Zoning ordinance that requires the Board to impose any road standard. John C. agreed stating the Planning Board can only impose subdivision regulations to a proposed subdivision.

Bill H. asked the Road Commissioner(s) what they would like to see for a set of standards for private roads?

Mr. Goodwin agreed that on a road that "could" become a subdivision an ordinance would be acceptable but not for someone's driveway going into the woods. John C. replied stating the Planning Board was talking about creating road frontage not regulating someone's driveway.

Craig Higgins, who was attending the meeting on another matter, spoke of the ordinance that the Town of Falmouth had for private ways. This ordinance was geared toward large landowners and the ability of emergency vehicles to be able to access the back of these large lots. Mr. Higgins stated that the town required long driveways in excess of 1200' create periodic turnouts so emergency vehicles can pass one another along the driveway.

John C. asked the Road Commissioner(s) and the other Planning Board members if the Board should incorporate the road standards from the Subdivision ordinance into the Zoning ordinance. Barbara G. stated that this had been tried in the past but because of the detail and what some perceived as complexity in the subdivision road standards the townspeople did not agree to adopt the standards. Steve M. and Bill H., after reviewing the Private Ways ordinance from Falmouth, agreed this ordinance might be acceptable to the townspeople because it is easy to read, gives easy instruction, while maintaining a standard that the Planning Board could impose.

Mr. Goodwin was skeptical that the Town of Shapleigh could impose an ordinance for roads that would be followed. Mr. Goodwin cited the Fern Drive Subdivision (lots originally approved as wood lots but conditional approval overturned by the State citing homes would be allowed, the road was never readdressed and is in bad condition) and homes being built along Abbott Mountain Road (not a subdivision, it was never reviewed by the Planning Board). Both of these roads are extremely substandard and the town does not have the ability to change this.

Roger A. asked the Road Commissioner(s) once again what they felt might work best for the town?

Mr. Goodwin stated that he did not want to see driveways incorporated into any addition to the Zoning ordinance. Mr. Goodwin cited the fact that on his property there is the potential for three new homes to be added, in addition to his son's home. He did not feel comfortable requiring family divisions to meet a road standard. Mr. Goodwin felt the cost to bring a road up to a standard was more than most families could afford. Mr. Goodwin did state that in his case, the road into his property was up to the subdivision road standard as he could build the road at a reduced cost, since he owns the equipment needed to do the work.

Madge B. agreed that very often family owned property would be affected, but the Planning Board has to look at the future of this property. This property is likely to be sold and the town is still dealing with a substandard road issue. Madge reminded Mr. Goodwin that the Board was not trying to regulate "driveways" of a single home. Adding additional homes to this driveway access, however, would trigger the standards for a private way. Roger A. agreed.

Bill H. asked the Road Commissioners if they would agree to a road standard for private ways / private roads? The Road commissioners did not comment at this time.

John C. pointed out the fact that most of the road frontage in Shapleigh has been built upon. In the future the only homes being built will be homes on back lots having private ways to access them. John stated that the town could not continue allowing these roads to go in without having some kind of standard for them to be built to.

Madge B. reviewed Subdivision Ordinance 89-37 "Street construction standards". Madge asked if the minimum standards in this chapter are what the Planning Board used to dictate the road standard required in a subdivision or could the Road Commissioners require more of the developer than the minimum? Madge also asked who would make the decision with respect to what was required for a road in question? Roger A. stated that an engineer would determine, in a subdivision review, the minimum requirements for the road. Madge asked if the Road Commissioners had no say with respect to the road plans presented to the Board, why does the Board have to send the plans to them for review? Roger A. and John C. felt that both Road Commissioners may have additional knowledge of a particular roadway that an engineer, not knowing the area, would not have. The Road Commissioner may know that even though a road could be built to a minimum standard, in times of heavy rains that minimum standard would not hold up. After comment from the Road Commissioner, the Planning Board could ask the developer to go back to the engineer with this additional information and change the plans to reflect the new information. In review, the best situation is that the plans are created by an engineer and reviewed by the Road Commissioner(s). The Road Commissioner(s) then make comment as to whether or not they approve as submitted or request changes be made due to certain circumstances. The Planning Board and the Developer are notified of the Road Commissioners comments. The Planning Board either accepts the road plan as presented or asks the developer to go back to the engineer based on the comments made by the Road Commissioner(s).

Mr. Goodwin suggested the Planning Board give the Road Commissioners a copy of the plans prior to the

Planning Board meeting for them to review. In addition, Mr. Goodwin stated that he and Mr. Burnell would be willing to go on the site inspection when the Planning Board reviews the proposed road. This would give them the opportunity to see the road prior to final plans and they could make comments to the developer as to what they know to be true with respect to that road. This would save the developer money on engineered plans as he / she may not have to have them redone. Mr. Goodwin also mentioned to the Board members that there are many changes in the way roads are developed today which need to be incorporated to ensure a quality road can be maintained. Mr. Goodwin agreed with the statement that the Road Commissioners may see something about a road that could be missed by an engineer. Mr. Goodwin gave the example of the sandy soils along the lakes. In these areas the minimum road requirement may meet the needs of the new road, whereas on roads with a high water table additional culverts, stone, and mesh may be needed to keep the road stable.

Madge B., speaking to the other Planning Board members, stated that since the Road Commissioners were willing to come to site walks, the Board should make certain they are invited to discussions with respect to preliminary plans and also make sure they are invited to the site inspections. The other Board members agreed.

Both Road Commissioners agreed that reviewing the proposed road would create a better road plan the 1st time. The members also added that they might want to get the Fire Chief involved at the initial stage for his input on the project.

Going back to the subject of private ways, Mr. Goodwin stated that he agreed that a 50' right-of-way was needed to access a back lot. Mr. Goodwin did however want the Board to know he did not feel the town should make access to this back lot so expensive to put in a driveway, the land owner could not afford to build his home. Bill H. agreed the Planning Board should not have zoning requirements that would make it economically unreasonable to put in a home. Roger A. replied stating that the Board was not trying to regulate the entire length of someone's "driveway"; the Board was trying to regulate the "road frontage" necessary to access a back lot. A lot requires 200 feet of road frontage according to the ordinance. This 200 feet of road frontage would have to be up to the town standards for a private road. The remaining road would be considered his driveway and there would be no standard for that.

The subject of abandoned town roads was also discussed. The Road Commissioners along with Planning Board members felt that there needs to be a standard in place for adding additional homes onto these roads. Currently these roads can be used as "road frontage", even though they are substandard, during the Growth Permit review process. If the applicant shows that a road was a town road, their application is likely to get approved as having the necessary road frontage. This applicant is not required to bring that road frontage up to any standard. The Board cited once again the Gulf Road and the home that is currently being built on that road. At this time it is unlikely fire and safety equipment could travel on the portion of the Gulf Road that this home will abut. This is a concern. Roger A. stated that perhaps abandoned roads need to be addressed in the Growth Ordinance.

Mr. Goodwin had one last comment with respect to private property, private roads and abandoned roads. He stated that Central Maine Power will not bring power onto private property for a distance greater than 1000 feet. Mr. Goodwin stated that this could create a situation where the town would have to accept the road as a town road. The Planning Board felt this gave credence to the fact that there needed to be some standard for these private ways if the town would inevitably have to accept these roads in the future.

The Planning Board concluded that more discussion is necessary with respect to the issues of "Private Ways" and "Abandoned" roads. The Board will schedule more workshops when they have additional information and verbage in place for a possible addition to the Zoning ordinance and Growth Permit ordinance.

The Board will notify the appropriate Road Commissioner when they receive plans for a subdivision. The Road Commissioners will be invited on the site inspections and a copy of the road plans will be given to the Road Commissioners to review prior to the final review.

7-Lot Major Subdivision - “Goose Pond Overlook” – Northwoods Land Company of Maine, LLC, H. Craig Higgins Representing – Map 7, Lot 5 (Hodgdon Rd., Rte. 11 & Dogwood Rd.)

Mr. Higgins attended the Planning Board meeting to discuss the possibility of going forward with the subdivision process. In December of 2003, Mr. Higgins stated that the applicants did not feel the subdivision would be economically feasible with the conditions imposed upon them with respect to the construction of the roads and fire protection. Mr. Higgins was here tonight to see if any changes could be made to the plans for the proposed roadways and fire protection requirements.

John C. stepped down as being a voting member on this project as his company has done work with Mr. Higgins in the past. Roger A. had Madge B. sitting in as a regular voting member for this project.

Mr. Higgins started the discussion by stating that he realized the Planning Board was under no obligation to agree to any changes to the final plans Mr. Higgins presented in December, or to any agreements made verbally on that date between the Planning Board and himself for this project.

Mr. Higgins felt that with respect to the roadways and the fact that currently there existed Colton gravels and Adams sandy soils, and that these roads would serve less than 15 homes, the requirements of putting in a 22 foot wide road and greater than 12 inches of subbase on that road was excessive and not necessary. He also stated again that for his client, not economically feasible.

Mr. Higgins stated that in reviewing Shapleigh’s Subdivision ordinance, Shapleigh does allow a private right-of-way. Mr. Higgins cited the fact that each road for this subdivision will only house 3 new homes and there are restrictions on the final plan that no additional homes can be added. This language would be on the final plan. Mr. Higgins asked the Board to consider allowing the subdivision roads to be held to the standards for a private road, allowing for 12” of base aggregate vs. 18” and allowing the road with shoulders to be 18’ wide instead of 22’.

Another change Mr. Higgins requested was to reduce the amount of pavement on Hodgdon road from the first 200 feet to 50 feet, enough to create an appropriate apron onto Rte. 11. Mr. Higgins reminded the Board that the Maine Dept. of Inland Fisheries and Wildlife had stated that they did not want any pavement on the roadways because of the Blanding’s turtle population and they wanted the roads as narrow as possible.

Mr. Higgins referred the Board to Subdivision Ordinance 89-54 “Waiver of required improvements”. Mr. Higgins stated that because of the unique aspects of this subdivision, i.e. it houses an endangered species with strict protection requirements for that species from MDIFW; and the fact that there are (2) 3-lot pods, segregated from each other with no further division allowed, the Planning Board should have the authority to waive certain road requirements yet still meet their obligation to ensure the health, safety and welfare of the homeowners.

Mr. Higgins also spoke of the fire protection requirement of having to put in a cistern, fire pond, or in-home sprinkler systems. Mr. Higgins felt that due to the close proximity of the water holding tank at Kettle Pond Condominiums, and the close proximity to Goose Pond, this requirement could also be waived by the Planning Board. Mr. Higgins stated that the increased cost of approximately \$5000 per home for a sprinkler system was not cost effective.

The Planning Board had Mr. Higgins read Subdivision Ordinance 89-30 "Require improvements", B (2) (c), which states ".....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...." Mr. Higgins felt certain that a soil scientist would state the sandy soil in this area would not hold a fire pond. Mr. Higgins again stated that he felt the Board could waive the fire pond requirement because of this ordinance as well as the close proximity to the water holding tank at Kettle Pond Condos.

The Planning Board agreed that three of the lots, located on the Hodgdon Road could utilize the tank on Rte. 11. Roger A. stated that although the lots off of Dogwood Road were abutting Goose Pond, the embankment was such that the water was not easily accessible. The Planning Board did not believe they could waive fire protection for these three lots. A sprinkler system may be necessary at the Blandings Lane location.

The Planning Board asked John Burnell, the Road Commissioner for this area, to comment on the road plans as presented this evening. Mr. Burnell stated that he could not comment with certainty until he reviewed the site. Mr. Burnell and Mr. Higgins agreed to meet on site at a date that worked for the both of them to review the road plans.

Roger A. asked the Board members if they wanted to re-open this application, starting from the plans received in December 2003?

Bill H. made the motion, based on the developers request to re-open review of the application, that the Board resumes subdivision review using all material presented to date. Madge B. 2nd the motion. All members were in favor.

Mr. Goodwin wanted to remind the Planning Board and Mr. Higgins of the intense ATV traffic on the Hodgdon road. Mr. Goodwin stated that the property owners on this road would be burdened with having to upgrade this roadway constantly because of the heavy traffic and erosion that will take place. Mr. Higgins stated that he was aware of this problem, but the roadway could not be paved due to MDIFW recommendations and the cost involved. Madge B. agreed that MDIFW did not want the roadways paved. Mr. Goodwin reminded the Board that the town would not help maintain these roads.

Bill H. asked how the town or Mr. Higgins could stop the ATV's? There were no answers. Mr. Higgins did comment that the house lots were going to be priced higher than many lots in Shapleigh and that those people who could afford these lots most probably could afford to pay for the upkeep of the roadway.

Mr. Goodwin asked who would be responsible for the upkeep of the subdivision roads? Mr. Higgins stated there would be two road agreements. One for the lots on the Hodgdon Road and the other for the lots on Blandings Lane. The road agreements would be referenced on the final plan and would be enforced by the ability of the homeowners to place a lien on anyone who does not comply. Mr. Goodwin felt it was hard to get agreement between homeowners when it came to the issue of road maintenance.

There was nothing further discussed. The Planning Board will wait to hear from Mr. Higgins as to whether or not he wishes to pursue final approval for the subdivision. In addition, the Planning Board will wait for comment from Road Commissioner, John Burnell.

Questions from a citizen regarding Map 19, Lot 13, formerly Emery Mills Hardware.

Barbara G. had several questions from a townspeople with respect to what would be allowed on the property that formerly housed Emery Mills Hardware. This townspeople is interested in purchasing the property only if the existing cabins can be utilized and the existing hardware store can be made into some type of business.

Roger A. felt the cabins were grandfathered with respect to their use as rental cabins. He stated that these cabins were in use prior to Shapleigh adopting a Conditional Use Permit ordinance and additionally they are not in the Shoreland zone so Shoreland review wasn't necessary.

Madge B. and John C. both disagreed that the cabins were grandfathered. They agreed that if they had been used within the past year that the use could continue, but after reading 105-73.B (1) thru (3), they felt it was clear the rental of the cabins would have to come back before the Planning Board for review. In addition, at this time, the Board could not render a decision as to whether or not the cabins could resume as rental units without having all the appropriate information before them.

Madge B. and John C. stated that it is also possible an attorney may have to be consulted as to what can legally be allowed on site as the rental units could be considered residential units and if that is the case the lot already exceeds the number of residential units on site.

The Planning Board concluded that anyone seeking Planning Board advice needs to come before the Board with plans for them to review. Madge B. and John C. suggested to Barbara G. that any telephone calls she receives of this nature, she tells the person that they could buy a property with the condition that they will only purchase if they are able to obtain an approved Conditional Use Permit. By doing this the buyer would not purchase a business property that was unable to fulfill their financial needs.

Nothing further was discussed.

Memo from CEO to R. Allaire regarding fire pond on Garland Rd. Subdivision, Map 8, Lot 41

Roger A. sent a memo to the CEO, Steve M., with respect for the need to ask the developer for an after-the-fact Conditional Use Permit for the fire pond they put in as protection for the development. The pond was put in, on another person's property, and Roger felt that the owner of the property should have come in for a permit for earth moving as well as an engineered plan for the Planning Board to review.

Roger A. began by stating that the Planning Board approved the Garland Road minor subdivision with the stipulation they put in some type of fire protection and that the fire protection be approved by the Fire Chief, Gary Utgard. Roger stated that he feels the applicant should also provide the Board with an engineered plan for the type of fire protection that Mr. Utgard approves, either a pond or cistern. A Conditional Use Permit would be required as well for earth moving.

The Planning Board members agreed that they were lax in not asking the applicant for further details with respect to fire protection. In the final approval, all that was asked of the applicant was a letter from the Fire Chief stating the fire protection put in was done with his approval. It was agreed by Board members in the future the Planning Board needs to be more careful to ask for all the details required of the developer at final approval. In addition, a fire pond has not worked in this location so a cistern will be placed on the property, thus the issue of earth moving and specs for a pond are now irrelevant in this case.

Nothing further was discussed on this issue.

Proposed Zoning Ordinance Change to 105-47 "Signs and billboards" for March 2005

During the discussion of proposed changes to the Zoning Ordinance 105-47, for the March 2004 meeting (see the minutes from 2/24/04), it was noted the following addition needed to be made to the ordinance. This change will be presented in March 2005. It is as follows:

§ 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, 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, each face having no more than 32 square feet in area.
- (14) Only one free standing sign is allowed per lot, regardless of the number of approved Conditional Use Permits for the lot.**

The Board members agreed this change would make the ordinance more explicit to the number of free standing signs allowed per lot. This change will be presented to the townspeople at a later date.

Proposed addition to Ordinance entitled “Agricultural Home Based Business” for March 2005

During the meeting on 2/24/04, several Planning Board members felt there needed to be a distinction made between home based businesses that required a Conditional Use Permit and those that do not. Below is an ordinance that addresses this issue. It will be presented to the townspeople prior to the end of the year.

§ 105-49-1. Agricultural Home Based Businesses

- A. **Agricultural products shall be those as defined in M.R.S.A., Title 7, Agriculture and Animals, including but not limited to: horticulture; poultry products; livestock; bees; maple syrup; honey; and crafts produced on site.**
- B. **Temporary roadside stands and seasonal home based businesses based solely on the sale of agricultural products shall be considered accessory uses and permitted in the general purpose district without a Conditional Use Permit. Roadside stands must adhere to the following:**
- 1) **They must meet setback requirements as defined in Shapleigh Zoning Ordinance 105-18 for Residential Requirements;**
 - 2) **They must be used for the sale of agricultural products grown or produced on the premises;**
 - 3) **Parking spaces must be provided off the road right-of-way.**
- C. **One sign shall be allowed, attached to a building or farm stand or free standing; such sign shall be limited to eight (8) square feet in size. Additional signage requirements are as follows:**
- 1) **Free standing signs must be attached to a permanent post to be hung vertically above the ground.**
 - 2) **The sign must meet setback requirements as defined in Shapleigh Zoning Ordinance 105-47, Signs and Billboards;**
 - 3) **So-called “A-Frame” signs shall be prohibited.**
- D. **Timber products are not considered an agricultural product and therefore are not exempt from a Conditional Use Permit.**

Review Sample Letter of Credit – Some changes to original sample that more closely reflects what would be expected by the Town of Shapleigh.

Barbara G., using the sample letter of credit currently in the subdivision ordinance, created one that more closely reflects the town. Roger A. and Madge B. had no problems with the proposed changes. Roger A. noted that there may be a sample letter of credit with the approval for the tower in town, as well as for land improvements done by a gentleman named Hand on a property abutting Mousam Lake. Both of these Conditional Use Permits were required to provide a letter of credit for their proposed improvements. Barbara will look at both of these folders to see if a document that would be more suitable can be created.

Nothing further was discussed on this issue.

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.*

The Planning Board meeting ended at 10:05 p.m.

Respectively submitted,
Barbara Gilbride
Planning Board Secretary planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES

Tuesday, March 9, 2004

Members in attendance: Roger Allaire (Chairman), John Caramihalis, Madge Baker (Alternate), Bill Hayes, Diane Srebnick (Vice Chair) 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, February 24, 2004 were accepted as written.

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

Best Possible Location – Replace home with new Ranch-style home - Map 21, Lot 36A (81 24th Street) – John J. Kennedy

Mr. Kennedy was present at the meeting to discuss his application. He began by stating that he did not have all the needed information because the contractor he was using was unable to give him all the details of the project, including volume calculations.

Mr. Kennedy stated that he intended on removing the existing mobile home and addition, and would like to replace it with a ranch style home, being 24' X 55' in size. The existing mobile with the addition is 24' feet wide for 2/3 of its length, then 20' for the remainder. Mr. Kennedy stated that by square feet the new home will not exceed the 30% expansion allowed but he did not know if his plan would exceed the 30% with respect to volume.

Mr. Kennedy asked the Planning Board if the new foundation under the new home would be counted toward the volume calculation? Steve M., CEO, stated that it would not. Diane S. told Mr. Kennedy that any attic space would count toward the volume calculation.

Mr. Kennedy mentioned to the Planning Board that there had been additions to the mobile home in the early 1980's. A new roof and enclosed porch, etc. Steve M., CEO, stated he would look into these additions to make certain it was done prior to the establishment of the ordinance which mandates no more than 30% can be expanded. If the additions were done after the ordinance was voted in, Mr. Kennedy may not be able to build anything larger than what currently exist.

Mr. Kennedy stated that in one of the deeds for his property there is a 32' easement mentioned with respect to town road maintenance. Mr. Kennedy said that the town is not maintaining the road in front of his property at this time. Mr. Kennedy wanted the Planning Board to be aware of this issue when determining the best possible location. Steve M., CEO, stated he would ask Ruth Ham, the town Assessor, if she knew anything with respect to the road issue, but Steve did not feel that it held any bearing on this application regardless. He stated that the 32' is not a taking, so it doesn't diminish the size of the lot.

Steve M. asked Mr. Kennedy if he knew what type of septic system was on the property? Mr. Kennedy stated that there was a 1000 gallon septic system on site.

Roger A. asked Board members if they would like to do a site inspection prior to the next meeting so they would be able to give Mr. Kennedy an idea if the new home was in the best practical location. The Board members agreed to do a site inspection prior to the next meeting.

Mr. Kennedy had no further questions at this time. He will return on March 23rd with more information to share with the Board.

7-Lot Major Subdivision - “Goose Pond Overlook” – Northwoods Land Company of Maine, LLC, H. Craig Higgins Representing – Map 7, Lot 5 (Hodgdon Rd., Rte. 11 & Dogwood Rd.)

John C. stepped down as being a voting member on this project as his company has done work with Mr. Higgins in the past. Roger A. had Madge B. sitting in as a regular voting member.

Mr. Higgins was before the Planning Board with a final road plan as well as the final subdivision plan. Mr. Higgins spoke to the Board about the letter he submitted to John Burnell, Road Commissioner, with respect to the site inspection for the final road plan. Mr. Burnell, Michael Haskell of Haskell Engineering, and Mr. Higgins attended the site inspection. Mr. Higgins stated that during the site inspection it was discussed that there was a need for geotextile fabric to be added to the road plan to stabilize both the road and the ditches.

Mr. Higgins stated that another change from the original plan was that the turnaround on the Hodgdon Road would be moved approximately 125 feet to lessen the amount of embankment to be removed, thus having fewer disturbances to the area.

In regards to the actual letter itself, Mr. Higgins stated there was an error with respect to the funds to be submitted to the town for the required performance guarantee for road improvements. In the letter Mr. Higgins states the check will be in the amount of \$63,000. This was in error. The amount of the check to the town for improvements will be \$60,000 and a check for \$3,000 will be given to Three Rivers Land Trust to help to defray their cost with respect to their involvement with this project. This is where the figure of \$63,000 came from according to Mr. Higgins.

Mr. Higgins wanted the Planning Board to know that even though he and the Road Commissioner got off to a rocky start, and he admitted it could have been his fault, during the site inspection and afterward the Road Commissioner was very cooperative and helpful, including helping him find a place to get the best materials for the job.

Mr. Burnell thanked Mr. Higgins and noted to the Board that even though the grade appears to be 8% on paper (the final road plan), that for the most part there is a natural drain to the lay of the land, so with the added geotextile fabric there should be no problem with the new road plan for a private way, as presented. Mr. Higgins asked Mr. Burnell if he would suggest hydro seeding the ditches? Mr. Burnell thought mulch would be just as efficient to stabilize the area. Mr. Higgins stated that he planned on using stump grindings as they have held in place much better than traditional mulch on other jobs he has done.

Mr. Burnell also pointed out that Mr. Higgins was going to crown the road, regardless of the fact it was not required for a private road. Mr. Burnell felt that Mr. Higgins was going to create stable roads even though the roads were not going to be up to the Minor road standard.

Diane S. asked Mr. Higgins what #11 on the Plan Specific Notes was referring to? This note reads: “All lots conveyed in this subdivision are subject to a declaration of protective covenants to be recorded at the York County Registry of Deeds.” Mr. Higgins stated that the land had specific covenants relating to the building envelopes etc. that were much more strict than Shapleigh’s Zoning Ordinance, because of the restrictions imposed by MDIFW. Also, the location of the properties, being next to ponds and wetlands, requires covenants to prevent creating pasture, using fertilizer, etc. All of these will be recorded.

Diane S. asked the board members if Subdivision Ordinance 89-51 should be added to the Finding of Facts? The sentence she was referring to was: "All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the town." The Planning Board agreed it would be best to do so. Mr. Higgins agreed to add this statement to the final plan.

Mr. Higgins noted that on the original plan the old camp road that will access lots 4, 5 and 6 was called Totte Lane Extension, but the Planning Board suggested he come up with a different name so people would not be influenced to use Totte Lane since this road is not in good shape. The new road name is Blandings Lane.

Roger A. asked if there were any further questions for Mr. Higgins, or anything additional required for the final plan for Goose Pond Overlook subdivision? There were no questions and the board members felt Mr. Higgins had cooperated with the Planning Board and met all their requirements as well as the requirements imposed by MDIFW.

The Planning Board discussed the Findings of Facts and that they will be amended to: add the new road name "Blandings Lane"; to add the amount for the road improvements "\$60,000"; and to note that there is a deviation from Subdivision Ordinance 89-37 "Street construction standards" for minor roads, the roads shall be constructed to the private road standard. The remainder of the Findings of Facts shall remain as agreed upon previously by the Planning Board members. The final Findings of Fact shall be signed by Planning Board members on Tuesday, March 23rd.

Bill H. made the motion to accept the final road plan and profile for Blanding's Lane and Hodgdon Road, which is a deviation from the minor road requirement for subdivision, based on the request of MDIFW to have minimal disturbance along the roadways accessing the subdivision to protect the endangered species on site known as the Blandings Turtle; and based on the recommendation of the Road Commissioner that a private road will be adequate access for the lots of this subdivision. Diane S. 2nd the motion. All Planning Board members were in favor.

Bill H. asked if Mr. Higgins had complied with the Planning Boards requirement for fire protection for the subdivision. Roger A. stated that yes he had. The Applicant shall provide in-home sprinkler systems compliant with the National Fire Protection Association standards for lots 4, 5 and 6. Lots 1, 2 and 3 are within 2000 feet of an existing water holding tank on Rte. 11 and can be served by this tank for fire protection purposes. The requirement of sprinkler systems has been placed on the final plan as Note #14.

Bill H. made the motion to approve the final subdivision plan known as Goose Pond Overlook, presented Tuesday, March 9, 2004, with the following changes to be made to the final plan Mylar:

- 1) Note #15 will be added and shall read: "All roads in this subdivision (Blanding's Lane and Hodgdon Road) shall remain private roads to be maintained by the developer or the lots owners and shall not be accepted or maintained by the town."***
- 2) Waiver block Item A, Line 1 – Correct spelling of "installstion" to "installation".***
- 3) Plan Specific Note 12, Line 1 – Delete "a" in "are subject to a Road Maintenance Agreements"***

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

Roger A. asked Mr. Higgins what the estimated time of completion would be for the road improvements? Mr. Higgins felt that all road work should be completed by July 1, 2004.

Mr. Higgins asked who would need to sign off that the road work was completed? Roger A. replied that he would need the signatures of a representative of the Board of Selectmen, the Road Commissioner, John Burnell, and the Planning Board Chairman.

There were no further questions. The Goose Pond Overlook project was completed. Mr. Higgins will bring the Mylar to the town office and give it to Barbara G. when all the necessary additions or changes have been made as required in the final approval. Barbara will contact board members for their signatures.

Meet with Fire Chief, Gary Utgard, to discuss fire protection in subdivision(s).

Roger A. began the discussion by briefly describing the difference between the current requirements for fire protection, roads, etc. for minor and major subdivision and noted that for major subdivision, additional fire protection is always required. For minor subdivision the Planning Board has traditionally looked at the location of the subdivision, is it near existing fire protection, near the fire station, etc.

Mr. Utgard understood that in some circumstances it appears additional fire protection measures need not be required but he also felt that he did not want townspeople to gain a view that there was inconsistency with the way the requirement of fire protection was applied. Mr. Utgard spoke about a current minor subdivision under review; the applicants are Mr. and Mrs. Thomas Worster. (This is a three lot subdivision; two homes are currently developed and owned by the Worster's and they are trying to add one additional home for their son.) Mr. Utgard stated that there was probably enough water on the tanker truck to accommodate any one of these homes and because they are not in close proximity to one another and are not extremely large homes, additional fire protection may not be necessary, but again, he did not want to require fire protection for one three lot subdivision and not another.

Mr. Utgard spoke of the fire departments preference for water holding tanks (cisterns) vs. fire ponds. Mr. Utgard felt that water holding tanks, if maintained, would perform their function well into the future. He added that these tanks come with a lifetime guarantee as well. Mr. Utgard was not against fire ponds, he just felt that if a developer was going to invest \$2,500 to put in a pond and it failed, it was money wasted. Now the developer would have to put in a water holding tank. The Board asked Mr. Utgard about the maintenance of the water holding tank vs. the fire pond. Mr. Utgard stated that twice a year the fire department checks all fire ponds and makes certain there is no debris blocking the dry hydrant. The fire department also makes sure the water holding tank on Rte. 11 is topped off. He stated that the water holding tank loses very little water to evaporation and it is easy to top off. The fire ponds can take longer to clean up as it is imperative small objects do not block the screen. Water flow can be reduced by more than half by debris. This is never a problem with a water holding tank.

Mr. Utgard spoke of the possibility of the town being liable if they required a fire pond and then someone drowned in that pond. Mr. Utgard stated that if a fire pond were required, the town may want to mandate a fence be placed around the pond for protection. Mr. Utgard stated with a water holding tank this was not an issue.

Roger A., getting back to Mr. Worster's 3-lot subdivision, told Mr. Utgard that the three lots were only the beginning of Mr. Worster's plans for subdivision. Mr. Worster stated to the Planning Board that in the future there would be more divisions on the property and at that time a roadway would be going in, as well as a fire pond. Mr. Worster did not want to put in a fire pond at this time for several reasons. One reason is he would not be able to cover the cost for a road into a fire pond, and another is he could not maintain the road during the winter months at this time.

Mr. Utgard discussed another way to handle the minor subdivision issue and that was to require in-house sprinkler systems for all new homes. This way regardless of the size of the subdivision there will be protection. Mr. Utgard noted that a fire pond or water holding tank not only protects the homes in the subdivision but homes in the surrounding area; a sprinkler system would not do this. Mr. Utgard stated that if sprinkler systems were used, it is imperative they be engineered state approved systems. Not just something the homeowner came up with that he thought might work, like a hose with a sprinkler on the end. The ordinance would have to be specific. Roger A. stated that the ordinance requires approval from the authority having jurisdiction.

John C. agreed that something needed to be done with respect to fire protection and making it uniform for all applicants. John also agreed that for a minor subdivision, fire protection might not be cost effective depending on what the town required. Major subdivisions are not an issue because the cost of fire protection can be spread out over many more homes. John did not feel requiring in-house sprinkler systems were feasible because the company he works for expends approximately \$4 a square foot for the systems and this is a lot to recoup on a small subdivision. Mr. Utgard stated that he had an estimated cost of \$1 per square foot, which he did not feel was excessive. Barbara G. stated that Andy Nadeau of Corner Post Land Surveyors told her that the cost of in-home sprinkler systems were approximately \$1.25 a square foot, which again is not excessive.

John C. still did not agree with this estimate. Mr. Utgard stated that the new materials that are allowed for sprinkler systems are less costly than the original systems and any local licensed plumber can install them.

Bill H. expressed that he felt it was important for a developer to get a return on his / her investment. John C. and Diane S. felt that fire protection could not be waived for the reason of cost to the applicant. Bill agreed but still thought financial impact needed to be addressed when requiring the type of fire protection.

Madge B. asked Mr. Utgard how long a cistern (water holding tank) was expected to last? Mr. Utgard stated that there is a very good record with the fiberglass tanks or the concrete tanks. Steel tanks in the past have rusted out, but the new tanks have a lifetime warranty. Mr. Utgard stated that a tank could fail, but the company would replace the tank itself if that happened. The company would not pay to have it installed however. Mr. Utgard does not know of any tanks in the area that have failed. He noted one in the Sanford area that was installed for a subdivision at least 20 years ago and it continues to maintain the water level. Mr. Utgard also spoke of the water tank in Shapleigh on Rte. 11, and he stated that over the course of five years the tank has lost less than 1000 gallons of water thru evaporation, which the fire department replaced last year.

Mr. Roland Legere asked if there would be any liability with respect to a fire pond? Madge B. stated that it is highly likely that the pond would fall under the Maine Recreational Liability Act, so there would not be a liability issue with a fire pond. It would be treated like any pond on someone's property.

Several board members questioned what would be most appropriate for fire protection. Are fire ponds still appropriate or should we require water holding tanks or sprinkler systems? Madge B. stated that fire ponds came into play after the 1947 fires came through Shapleigh. At that time there were no fire ponds and the town was devastated. Madge suggested that perhaps the board should consider other means of fire protection. Roger A. stated that as the ordinance is written now the Planning Board has the ability to choose whatever fire protection is necessary for the health, safety and welfare of the town. Fire ponds are not the only option.

Mr. Utgard concluded that he felt it was his obligation to look at the community as a whole and he advised that the Planning Board require some type of fire protection for all subdivisions. John C. agreed citing the

fact that Shapleigh was the only town that doesn't require some type of fire protection for each and every subdivision. Roger A. disagreed stating that fire protection is reviewed for all subdivisions (minor and major). It is always required for major subdivision, and minor subdivision when necessary.

On the subject of notifying Mr. Utgard about subdivisions under review by the Planning Board, the Board members agreed to notify Mr. Utgard during the preliminary review process, to tell him when the site inspection will take place, and ask his input prior to final review. Mr. Utgard agreed this would be best because he needs time to review the proposal, he cannot make a quick last minute decision when dealing with fire protection.

Nothing further was discussed with Mr. Utgard.

Proposed Private Way Ordinance, Definition and Application

The following are proposed additions to the zoning ordinance that will be presented to the townspeople late in the year:

§ 105-15. Definitions

Private Way - A category of road not owned or maintained by the Town of Shapleigh or the State of Maine which provides frontage to a lot or lots.

.....

§ 105-60-1 Private Ways

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

- A. A plan showing the private way shall be prepared by a registered land surveyor or licensed engineer. The plan shall be labeled "Plan of Private Way" and shall provide an approval block for the signatures of the Planning Board members. The plan shall delineate the proposed way and each of the lots to be served by the private way.
- B. A street plan, cross section, and drainage plan shall be submitted for each private way serving two (2) or more lots.
- C. The plan shall bear notes that the Town of Shapleigh will not be responsible for the maintenance, repair, or plowing of the private way and that further lot divisions utilizing the private way are prohibited without prior approval of the Shapleigh Planning Board.
- D. If the private way is to provide access to two (2) or more lots, a maintenance agreement shall be required by the Planning Board and recorded in the York County Registry of Deeds. The maintenance agreement shall specify the rights and responsibilities of each lot owner with respect to the maintenance, repair and plowing of the private way.
- E. The construction of private ways shall meet the following minimum standards:

	Number of Lots Served		
	1	2 to 3	4 of more
Minimum Roadway Width	12'	16'	18'
Minimum Subbase (Heavy Road Gravel – max. size 4")	12"	15"	18"
Wearing Surface (Crushed Gravel)	2"	2"	3"
Maximum Length of Dead End	1500'	1500'	--
Maximum Grade	10%	8%	--
Minimum Grade	0.5%	0.5%	--
Turn Around at Dead End	Hammer Head or T	Hammer Head or T	--

- (1) One turnout to provide space for 2 vehicles to pass shall be provided for every 500 feet of private way.
- F. The plan shall be recorded in the York County Registry of Deeds within ninety (90) days of the date of the Planning Board approval. If the plan is not recorded within this time period, the approval of the Planning Board shall be null and void.
- G. After a private way has been approved by the Planning Board to provide access to a lot or lots, no further lots shall be created which are to be provided access by means of the private way without the prior approval of the use of the private way for access to such lots by the Planning Board.
- H. The applicant shall pay a Private Way Application fee of \$100, payable to the Town of Shapleigh, prior to review of the Private Way application by the Planning Board.

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.*

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, March 23, 2004

Members in attendance: Roger Allaire (Chairman), John Caramihalis, Bill Hayes, Diane Srebnick (Vice Chair) 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, March 9, 2004 were accepted as amended.

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.

Roger A. reminded the Planning Board members that at the meeting on January 13, 2004, Mr. and Mrs. Worster asked the Planning Board to table this application pending approval of a change to the subdivision ordinance that would allow the Planning Board to waive Fire Protection, if they did not feel it was necessary, for reasons other than the fact that sandy soils existed that would not support a fire pond. During this meeting it was discussed that the area had much ledge so a cistern could not easily be placed in the ground and the best location for a fire pond was in the middle of the parcel of land, which would require a long road into it. A road that the Worster’s were not going to be able to maintain at this time. In addition, Fire Chief Gary Utgard had attended the meeting on 3/9/04 and did state that he had sufficient water on his tanker truck to put out a fire in any one of the existing single family homes or the proposed single family home. Mr. Utgard’s only concern for this property was that he felt all subdivisions minor or major should be required to put in some type of fire protection, to be consistent with all applicants.

Roger A. told the Planning Board members that this subdivision was within a mile of an existing dry hydrant located across the street from Tom Penny’s property (approx. 500’ from the intersection of Owl’s Nest and Shapleigh Corner Rd.). In addition, there are 2 ponds, one at the Shapleigh Commons (Corner of Owl’s Nest and Back Rd.) and one located on the Ridley property (Nason Road). He did not know if the pond at the commons had a dry hydrant or not. Roger noted that without a dry hydrant the ponds would be accessible only when they were not frozen. (Barbara G. asked Ruth Ham if the pond at the commons had a dry hydrant and she stated that it did.)

Barbara G. asked how far the Worster property was from the Shapleigh Fire Station? She did not feel it was more than two miles. Other Planning Board members agreed that the fire station was in close proximity to this property.

Bill H. was very concerned that if the Planning Board waived the fire protection requirement, they must be able to list reasons for doing so. Bill felt there must be justification to waive, so when this plan was looked at in the future townspeople would know why no fire protection was required here, whereas it might be required for another minor subdivision.

Barbara G. reminded members that the Fire Chief had noted that these houses were not clustered together so there wasn’t a danger of fire spreading from one home to another. Mr. Utgard did state that further development on this property would require protection regardless of density. The Planning Board agreed with Mr. Utgard, as did Mr. and Mrs. Worster.

Roger A. asked Planning Board members if they had any further questions for the Worster's with respect to their plan? John C. and Roger A. asked if the final plan was an engineered plan as they could not see a seal on the final plan. After careful observation the seal was discovered. It was just hard to view.

John C. made the motion to accept the following waivers:

- 1) Article 89-30, "stone monuments shall be set at all street intersections and at all corner and angle points"***
- 2) Article 89-29, "Utilities shall be installed underground except as otherwise approved by the Board."***
- 3) Article 89-25, "Retention of open spaces and natural or historic features",***

Bill H. 2nd the motion. All Planning Board members were in favor.

Bill H. asked if a waiver for fire protection should be included in the motion. Roger A. replied, "Yes, if members want to accept the waiver." The Planning Board members agreed to waive fire protection since there was enough accessible water within a mile of the subdivision, and the property is in close proximity to the fire station. However, further development will require fire protection.

John C. made the motion to amend the motion on the waivers to accept the waiver for Article 89-30.B(2)(c), "The subdivider shall construct ponds and dry hydrants to provide for adequate water storage for fire-fighting purposes. Etc."

Bill H. 2nd the motion. All Planning Board members were in favor.

Barbara G. stated that she would amend the Findings of Fact to include the waiver for the requirement for fire protection and would have the Findings ready for signature at the next meeting on April 13th.

Where there were no further questions for Mr. and Mrs. Worster, Roger A. read the following from the "Final Plan Review Checklist for Minor Subdivision" that pertained to Turkey Crossing I:

- Will not result in undue water or air pollution.
- Will have sufficient water available for the foreseeable needs of the subdivision.
- Will not cause an unreasonable burden on the existing water supply.
- Will not cause unreasonable traffic congestion or result in unsafe conditions on existing or proposed roads.
- Will provide adequate sewage waste disposal.
- Will not cause an unreasonable burden on municipal solid waste disposal.
- Will not have an adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas.
- Will conform to local regulations, ordinances, development plan and comprehensive plan.
- Will not alone or in conjunction with existing activities, adversely affect groundwater quality or quantity.
- Will have rivers, streams and brooks identified on maps.
- Will provide for adequate stormwater management.
- Will not have spaghetti lots.

(For details with respect to the above see Planning Board minutes dated 12/23/03.)

John C. made the motion to approve the final plan dated 12/16/03, for Turkey Crossing I, 3-lot subdivision, located on Shapleigh Tax Map 6, Lot 29 (145 Owl's Nest Road).

Bill H. 2nd the motion. All Planning Board members were in favor.

Nothing further was discussed.

Best Possible Location – Replace home with new Ranch-style home - Map 21, Lot 36A (81 24th Street) – John J. Kennedy

Mr. Kennedy was not present at the meeting to discuss his application. The Board will table his application until Mr. Kennedy states he is ready to come back before the Board.

Sign Findings of Fact for Goose Pond Overlook Subdivision

Diane S. asked Planning Board members if on the final plan there was a note with respect to deeded access to Square Pond?

During previous Planning Board discussions with Mr. Higgins (see P.B. minutes dated 9/23/03 and 10/14/03); Mr. Higgins discussed the fact that the entire parcel of land, Tax Map 7, Lot 5, currently has deeded access to Square Pond. However, Mr. Higgins agreed to restrict this deeded access to lots 4, 5 and 6 of the final subdivision plan for Goose Pond Overlook.

Roger A. and Barbara G. stated that there was no note with reference to deeded access to Square Pond on the final plan presented and signed by the Planning Board. Diane S. asked if the Planning Board shouldn't make it a condition of approval, listed in the Findings of Fact for Goose Pond Overlook, that lots 4, 5 and 6 have access to Square Pond. Lot's 1, 2 and 3 shall not. The Board members agreed to amend the Findings of Fact to add this stipulation. The Findings of Fact therefore will not be signed until April 13th.

The additional condition added to the Findings of Facts shall read as follows:

7. *Lot(s) 4, 5 and 6 shall have deeded access to the right-of-way to Square Pond, previously deeded to Map 7, Lot 5. Lot(s) 1, 2 and 3 shall not have access deeded or otherwise to the right-of-way to Square Pond.*

Nothing further was discussed.

Conditional Use Permit – In-home Daycare – Map 17, Lot 57-4 (14 Jennikate Lane) – Cindy Downs

Mrs. Cynthia Downs and her husband Mr. Dean Downs were present to discuss Mrs. Downs application to open a daycare in her home.

Roger A. asked Mrs. Downs if she had her State inspections for her home yet, and she replied that she had not. Barbara G. told her that the Planning Board would need a copy of the State's findings for her file once she had the inspection completed. The Planning Board also asked if she had her water test done yet, and she had not.

Along with her application, Mrs. Downs had a sketch showing the location of her home, breezeway and garage. Also a 28 X 70 foot driveway was depicted on the plan. Barbara G. asked Mr. Dean (who drew the

sketch) to explain exactly what areas the children would be playing in. Barbara stated that it was very important that the children not be exposed to any vehicle traffic. Mr. Downs explained that Jennikate Lane, being a dead end road, was very quiet. Barbara said she understood, but even a car slowly turning around can run over a small child, so again it is very important that the play area not be near the parking area.

The Planning Board members concluded it would be best to do a site inspection to view the property since the sketch was not as detailed as they would like. ***Roger A. scheduled a site inspection for Tuesday, April 13th at 7:00 p.m., prior to the next Planning Board meeting.***

The Planning Board will not schedule a Public Hearing until they have more information from Mrs. Downs with respect to the State inspection. Nothing further was discussed.

Mr. Kurt Saltmarsh from 116 Garland Road asked to speak to the Planning Board members in regards to his property and the possibility of splitting a lot from it, creating two house lots. The Planning Board told Mr. Saltmarsh that he did not need to come before the Planning Board as this was not a subdivision. A subdivision was the creation of three or more lots.

Mr. Saltmarsh showed the Planning Board members a sketch of his 22 acre property, which has one existing home at present. Mr. Saltmarsh said that he had 800 feet of road frontage with this property. He asked what he needed for road frontage to create a house lot? The board told Mr. Saltmarsh he needed 200 feet of road frontage and 80,000 square feet as a minimum for a house lot. It appeared Mr. Saltmarsh could easily create both. The Planning Board told Mr. Saltmarsh that any other details could be obtained from the Code Enforcement Officer, Steve McDonough.

Mr. Saltmarsh thanked the Planning Board for their time.

Roger A. asked the Planning Board members if anyone was interested in the "Justifying Growth Caps" seminar to be held by SMRPC on either Monday April 12th from 7-9 p.m. or Wednesday April 14th from 7-9 p.m. Barbara G. and Diane S. will try to attend the meeting on April 14th. Roger A. will attend the meeting on April 12th.

Roger A., with respect to the Growth Permit Ordinance, spoke of the possibility where one person could bring in a growth permit application for another. Roger stated that in this years waiting line, there were some who considered giving their application to a person at the head of the line. One person even went so far as to suggest giving money to the person at the head of the line, if only they would carry the application in. Roger suggested to Planning Board members that during their review of the ordinance this year, this should be addressed.

The Planning Board members agreed this could become a problem but at this time no one had a good idea to stop the problem. The Growth Ordinance will be discussed at future meetings.

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.

The Planning Board meeting ended at 8:45 p.m.

Respectively submitted,

Barbara Gilbride

Planning Board Secretary planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES

Tuesday, April 13, 2004

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

Site Inspection(s) began at 6:30 p.m.

- **Best Possible Location – Replace Home with New Ranch-style Home - Map 21, Lot 36A (81 24th Street) – John J. Kennedy**

Board members Roger Allaire, Bill Hayes, Diane Srebnick and Barbara Gilbride attended the site inspection. It was noted the existing mobile home was very close to the well, which sat between the road and the mobile. Mr. Kennedy was present and the board members asked where the septic system was located. Mr. Kennedy was not certain. The only information he received when buying the property was that it was likely to be directly adjacent to the mobile, on the side facing the lake. Roger A. asked if the system was a pump-up system, since Mr. Kennedy's description of the location would place the tank lower than the leach field. Mr. Kennedy did not believe it was a pump-up system and he stated that perhaps the leach field was very deep into the ground. Roger still did not believe the location as drawn was correct, as Roger stated, "water does not run uphill and if the system is where you say, it has to be pumped uphill".

The board members agreed there was not a lot of room between the road and the mobile and between the right lot line and the mobile. Nothing further was discussed on site.

- **Conditional Use Permit – In-home Daycare – Map 17, Lot 57-4 (14 Jennikate Lane) – Cindy Downs**

Board member Roger Allaire and Bill Hayes went to the site together and members Diane Srebnick and Barbara Gilbride visited the site together. Barbara and Diane noted the large pile of logs next to an existing swing set / play area. Diane was concerned that should a child play on or near the logs, they could get seriously hurt, Barbara agreed. Both Barbara and Diane noted that the area where the swing set was located did not have a fence which would prevent the children from going onto Jennikate Lane. Nothing further was discussed.

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

The minutes from Tuesday, March 23, 2004 were accepted as written.

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

Conditional Use Permit – In-home Daycare – Map 17, Lot 57-4 (14 Jennikate Lane) – Cindy Downs

The applicants were not present at the meeting; this item will be tabled until Mrs. Downs contacts the board.

Best Possible Location – Replace home with new Ranch-style home - Map 21, Lot 36A (81 24th Street) – John J. Kennedy

Mr. Kennedy was present to discuss his application along with the gentlemen who would be building the new home.

Mr. Kennedy has the following calculations with him, as requested by the Planning Board at the meeting on 3/9/04:

Structure	Area (Square Feet)	Volume	% Change Area	% Change Volume
Existing	1,278	14,165		
Proposed	1,552	18,240	21%	29%
Both Area and Volume are below the maximum increase allowed of 30% (Shapleigh Zoning Ordinance 105-4.D(1) "Expansions" of non-conforming structures.)				

While reviewing Mr. Kennedy's sketch dated 4/8/04, the board members noted 2/3rds of the mobile was within 100' of the high water mark. Bill H. asked if Mr. Kennedy could move the structure any closer to the water, as it appeared part of improvements he was proposing would square up the footprint, thus placing part of the "new" home closer to the water than what exist now. Steve M., CEO did not feel this was a problem because Steve believed you could draw a straight line from the part of the structure closest to the water and continue this line, you just could not go "beyond" this line. Madge B. did not agree. Madge believes you must stay within the footprint or if the structure is moved it must be moved farther from the water.

Mr. Kennedy asked if he could move the entire house back from the right lot line approximately five feet, making it more conforming than what exist. He also suggested moving the angle of the new home so that it lined up more with the shoreline thus moving the left side of the structure farther away from the water. The board members were concerned with the location of the well that was very close to the rear of the house. Mr. Kennedy believed he could move the house several feet back and not disturb the well.

Because Mr. Kennedy did not know the exact location of the existing septic system, and the fact there was no design on file at the Town Hall, the board members were concerned that while digging for a new foundation the septic system could be disturbed. Diane S. and Barbara G. were also concerned with the fact that there was no septic design and that this property was very close to the lake. Diane asked Roger A. if the board should ask for a new septic design and if a new septic system should be placed on the property. All board members agreed this should be required as part of the approval. Mr. Kennedy was not opposed to the request.

The board members noted that the existing mobile home had a deck attached on the side closest to the water, and the new home would also have a deck attached in the same location. Members asked Mr. Kennedy if the deck size was included in the calculations for area? Mr. Kennedy was not sure, but stated that he knew the engineer had done the calculations the existing mobile home deck, so he assumed it was also done for the new home design. In addition, because the new home design was only an increase in area of 21% adding the deck would not place the square feet beyond the 30% allowed.

Roger A. asked Mr. Kennedy if he could have the stairs from his front door exit to the side of the new home instead of toward the road? This would make them less non-conforming. Mr. Kennedy had no objection.

Steve M. told the Planning Board that he would like Mr. Kennedy to do some replanting on site. Mr. Kennedy had removed several large pine trees without permission. In lieu of Steve citing Mr. Kennedy for this as a separate matter, Steve asked that Mr. Kennedy replant 6 trees indigenous to the area as part of the BPL approval. The board members, which noted the trees had recently been removed during their site visit, agreed with Steve. They too would like to see trees replanted to prevent the erosion of sand going into the lake. Mr. Kennedy asked if he could plant birch trees? Steve suggested he plant something that was longer

lived such as the pine. Diane S. suggested Mr. Kennedy consult a local nursery to see what would work best in this area.

This discussion ended with the board members requiring Mr. Kennedy to bring in a new sketch plan showing exactly where the new home would be placed as agreed upon at this meeting. In addition Mr. Kennedy will need a new septic design for the property. Steve asked that Mr. Kennedy show on the sketch where the new trees would be planted.

A Notice to Abutters shall be mailed for the meeting on April 27th.

Conditional Use Permit – Auto Body Repair Shop – Map 3, Lot 4 (359 Shapleigh Corner Road) – Adrian Knox

Mr. Knox was present to discuss his application. In a letter dated 9/24/03 the Planning Board had requested the following from Mr. Knox and below each is what the Planning Board received for this evenings meeting:

- 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.
 - *An engineered site plan by Civil Consultants dated 11/17/03, showing the exact location of the gravel parking area, new 48' X 60' garage, the 30' X 40' spray booth room and a 12' X 16' storage shed.*
- 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.
 - *A quote sheet from Advanced Liquid Recycling Inc. showing they will remove waste oil, antifreeze, and paint thinner from site as needed. The company supplies the storage containers. (Mr. Knox felt that he would be using them by-monthly.)*
- 3) State in writing how explosive materials shall be handled if applicable.
 - *Mr. Knox had stated previously in writing that all explosive materials will be stored on site in explosive proof cabinets. Explosive material (see above) will be removed by Advanced Liquid Recycling.*
- 4) Bring a copy of DOT approval for curb cut/ driveway location for the business and site distance calculations.
 - *MDOT permit no. 2004-6-104 was received by Leon Knox, owner of the property. The permit is dated 10/6/03 and is stated to be for one entrance to a commercial property located "on the SE-ly side of SH #110, Rt. 11, 984' SW-ly of Hooper Road".*
- 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.
 - *The engineered site plan dated 11/13/03 includes a drainage study plan. In addition, Mr. Carl V. Beal, P.E. describes the drainage study for the Knox Garage on Rte. 11 in a memo dated 11/24/03. The study concludes the "Knox Garage project will create a minimal amount of increase in the peak rate of stormwater runoff for a 25-year storm event. This increase will result in no impacts on downstream properties, including the Route 11 drainage ditch, the 36" CMP culvert crossing Route 11, and Mousam Lake."*
 - * *The Planning Board received a memo from Carl Beal, P.E. on 4/21/04, which states "The results of a 50-year storm are the same as the 25-year model that we submitted earlier. The project will have no impact on the water flowing through the existing 36" culvert under Route 11."*
- 6) List what type of screening shall be used to provide a visual buffer from automobiles, auto parts, etc.
 - *Mr. Knox stated that all vehicles being worked on will be parked behind the building shielding them from Rte. 11 as well as the neighbors. No parts will be stored in front of the building.*

- 7) List the maximum number of vehicles to be worked on and stored on site.
 - ***Mr. Knox showed parking for four vehicles. One for himself the only employee at this time and three for people picking up their vehicles. Mr. Knox was not sure how many vehicles he would be working on at this time.***
- 8) List the hours of operations and days open for operation.
 - ***Mr. Knox did not have this information at this time.***
- 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.
 - ***Mr. Knox gave the board a copy of the brochure from Future Cure, which is the company that makes the paint booth he will be using. Included was the specifications of the booth, description of the filters used and a detailed plan of the spray booth Mr. Knox will be using. It is going to be a pit exhaust which means the exhaust will exit thru a pit in the floor. Mr. Knox stated this was the best type of exhaust on the market and that the filters are certified to be 99.6% efficient.***
 - ***The State Fire Marshall's office stated to Mr. Knox as well as Barbara G., Planning Board Secretary, that the size of this building is too small to require State approval.***

John C. asked Mr. Knox about safeguards for himself while he is working, since he is going to be working by himself. Mr. Knox stated that he would wear protective gear, which included an oxygen mask that detects carbon monoxide and it signals you should the level get dangerous. Mr. Knox added that the efficiency of the spray booth is such that you get very little fumes and virtually no back spray. Mr. Knox also said he currently works for a body shop and his knowledge is up to date on the latest rules regarding the necessary safety equipment.

John C. asked about the details of the paint booth. Roger A. handed John a copy of the information Mr. Knox gave the planning board and Mr. Knox added that the company that makes the spray booth will also be erecting it. Mr. Knox said that the booth he was going to use was the style that vents through the floor pit and that this was the best and safest on the market. The mixing room is also fully ventilated.

Roger A., after reading the quote from Advanced Liquid Recycling Inc., asked Mr. Knox how often the company would be collecting his waste? Mr. Knox stated that to begin with it would probably be bi-monthly.

Roger A. asked Mr. Knox if he would be doing work on engines as well as body work? Mr. Knox stated that his main focus was on body work.

John C. asked about the actual design of the body shop? The plan presented for the building showed the detail of the concrete floor and footing and states that the roof trusses will be 2 X 8 construction. John asked if the board needed more details with respect to the roof trusses? The other board members felt that when Mr. Knox goes for his building permit, that information will need to be given to Steve M., CEO. The board did not need those details.

John C. asked Mr. Knox if he was going to have lights on the building? Mr. Knox gave Roger a copy of a lighting plan for the garage and storage shed. He stated he would be using High Pressure Sodium lighting.

Bill H. asked Mr. Knox if he was going to put up a privacy fence? Mr. Knox stated that he did not intend to because all the vehicles being worked on would be parked behind the garage and therefore would not be seen from Rte. 11 or the neighbors.

The board members asked Mr. Knox if he intended to sell any of the vehicles he worked on? Mr. Knox had

not thought about that aspect of his business. Diane S. told Mr. Knox that if this was a possibility, he needs to be certain to tell the board at his final review so it would become part of his permit; otherwise he would have to come back before the planning board in the future to amend his application.

The board members had no further questions after reviewing the engineered plans presented as well as all of the other documents received at the meeting. Roger told Mr. Knox to have his hours of operation and the number of vehicles he will have on site, site distances, and a letter from Civil Consultants regarding a 50-year stormwater plan for the final review. Also, if he wants to sell vehicles as well he needs to tell the board members along with the number of vehicles that will be for sale at any one time.

A Public Hearing will be scheduled for Tuesday, April 27th at 7:00 p.m. A Notice to Abutters will be mailed out as well.

Amendment to a Conditional Use Permit – Put in Well for Irrigation of Farmland - Map 11, Lot 23-8 (438 Newfield Road) – Paul Rankin, Sr.

Mr. Rankin was not present. This application will be tabled until the next meeting.

Andrew Nadeau of Corner Post Land Surveyors to discuss 14-lot subdivision in Acton that will abut Shapleigh on the Lebanon Road

Mr. John Hutchins was present to discuss the proposed subdivision in Acton, Mr. Nadeau was unable to attend. Richard & Carolyn Levesque are the developers.

Corner Post Land Surveyors had mailed the Planning Board a copy of a plan for a 14-lot subdivision, which includes two lots over the Shapleigh line, and its entrance/exit road empties onto the Lebanon road in Shapleigh. It is also the intention of the developer to have the subdivision road become a town road. Part of this road, approximately 400 feet would be in Shapleigh.

The following questions were posed to Mr. Hutchins from Planning Board members and Road Commissioner Richard Goodwin:

Planning Board - Will there be any homes built on the lots in Shapleigh?

Mr. Hutchins - No there will not.

Planning Board - Where the road access is in Shapleigh, does the developer plan to have Shapleigh maintain the road?

Mr. Hutchins - That has not been worked out yet. The developer would like to have the subdivision road become the responsibility of the town of Acton. Perhaps Acton and Shapleigh could work something out for the 400 feet?

Mr. Goodwin - Who will do the winter maintenance?

Bill H. - Doesn't Shapleigh have reciprocal agreements with the town of Sanford with respect to winter maintenance? Couldn't we do that with Acton on this stretch of road?

Mr. Goodwin - With the town of Sanford, they do one stretch of Walnut Hill road in the Springvale area and we do a stretch of Deering Ridge road near White's farm. With Acton there is no stretch of road that Shapleigh would reciprocate with. There is nothing to benefit Shapleigh, it would only be more work. In addition, the winter maintenance isn't the problem; it is the maintenance of the road itself in the future that is costly and time consuming.

Roger A. - Where would the children stand for the bus? Where would they go to school? Acton or Shapleigh?

Mr. Hutchins - I do not know.

Steve M., CEO - Has there been a traffic study done in this area to see what impact this will have on the Lebanon road?

Mr. Hutchins - No

Bill H. - Why would the Town of Shapleigh accept a road that would be no benefit to the town? The board members agreed it would not be in the town's best interest.

Steve M. - Will the lots in Shapleigh, which will become a part of an approved subdivision, come before the Shapleigh Planning Board should further division take place?

Mr. Hutchins - He was not sure. He added all construction of homes would be taking place on the Acton side.

Roger A. - Looking at the plan, Roger said it appears there will be three lots in Shapleigh making it a minor subdivision.

Mr. Hutchins - Mr. Hutchins agreed it may be a minor subdivision.

John C. & Roger A. – Both believe that because the land is in two different towns, the lots in Shapleigh are separate from the parent lot regardless of whether or not it was sold as one piece.

Several lots about the subdivision on the Shapleigh side; they are Map 1, Lot(s) 17B thru 17E. The Planning Board asked Barbara G. to make certain these were not part of an existing subdivision.

Barbara G. asked Ruth Ham, Assessor, and she stated that lots 17B thru 17E were not part of a subdivision. They were sold as individual lots over a period of at least 30 years from the original owner of Parcel 17.

The Board agreed that the plan as presented would have no benefit to the Town of Shapleigh. Accepting the road would only be a cost to the town.

Mr. Hutchins ended the discussion by saying the sketch was very preliminary. The developer wanted Corner Post to see what concerns or questions would be posed by both towns and proceed from there. No decisions were made and nothing further was discussed. Roger A. told Mr. Hutchins they were willing to work with the Town of Acton on this project and he could contact either himself or Barbara Gilbride, Planning Board Secretary, with information regarding any meeting taking place concerning this development in the future.

Mr. Hutchins of Corner Post Land Surveyors – Posed a question to the Planning Board members regarding a proposed 3-lot subdivision on 23rd street.

Mr. Hutchins stated a gentleman named Mr. Martel came to his office asking Corner Post whether or not a 3-lot subdivision on 23rd street would require fire protection such as a pond or cistern. The lot(s) in question are within a mile of two existing fire ponds. Mr. Hutchins asked if the requirement of fire protection was likely to be waived for this location?

Roger A. stated that without an application before him he did not feel he could render an opinion. Madge B. agreed. John C. asked if 23rd street was a town road. Road Commissioner Goodwin stated that the town had an easement over the entire road for summer grading but only part of the road for winter maintenance.

The Planning Board concluded that without at least a sketch plan they could not render a decision for fire protection on this property. The board members did tell Mr. Hutchins that because of the road condition and the fact it wasn't a town road, there would probably be some requirements made prior to approval of this subdivision with respect to safety issues. Nothing further was discussed.

Map 15, Lot #1 and #3 (32nd Street) – Sandra McLeod – To discuss Kostis subdivision and selling of Lot #1

Mr. and Mrs. McLeod were present at the meeting.

Roger A. started the discussion by stating that lot(s) 1 and 3 were joined by the town, creating one lot, known as Map 15, lot1B.

Mr. McLeod stated that lot(s) 1 and 3 abutted each other by 9 feet only, there was an existing lot between the two of them for the most part. Mr. McLeod stated that the town told he and his wife that the lots were combined for tax purposes. Mr. McLeod said that the lots were always non-conforming and that they were part of an approved subdivision (Kostis Subdivision 1973).

Mrs. McLeod stated that when they bought the lots, they were bought separately. One lot they bought to live on and the other was bought for an investment in the future. She stated that now that both she and her husband have physical problems, they want to sell the vacant lot. Mrs. McLeod stated that by the town joining the lots, they have lost their investment. Mrs. McLeod wants the Planning Board to tell her why they cannot sell the vacant lot. Also, if the lots are grandfathered lots of record, why can't the vacant lot be built on?

John C. replied stating that the town combines vacant non-conforming lots owned by the same person to try to create a more conforming lot.

Bill H. asked if the original deed described the lots as two separate lots? Madge stated that it didn't matter because if you buy two separate lots that are side by side and they are both non-conforming, it is basically the buyers "tough luck" if they thought they were going to remain two lots.

Barbara G. asked, "So even if the lots were in an approved subdivision they have to be combined?" Madge stated, "Yes if they were nonconforming."

Bill H. asked, "Aren't these lots of record?"

Mr. McLeod stated that a Realtor told him that he could not split the lots and he could not sell his house because it was on a non-conforming lot.

Madge Baker read Shapleigh Zoning Ordinance 105-4.E(1) "Nonconforming lots of record; Vacant lots" – A nonconforming lot of record may be built upon, provided that such lot shall be in separate ownership and not contiguous with any other lot in the same ownership, and all the provisions of this chapter, except lot size and frontage, can be met. Variance of yard or other requirements not involving area or frontage shall be obtained only by action of the Board of Appeals.

Mrs. McLeod stated that they did not know that the lawyer (who recorded their deeds) failed to file a deed for their property until 1980 and they didn't learn of the fact the two lots were on one deed until 1997. At that time they were told they could not sell the vacant lot. The deed does not read that the lots are combined; it reads the McLeod's own lot 1 & lot 3.

John C. told the McLeod's that even with lots 1 and 3 combined, the lot is still non-conforming. John felt this situation required a legal opinion.

Mrs. McLeod stated that they did contact a lawyer with respect to this situation and he stated that for \$2,500 he could put in writing that these lots were two separate lots. Mrs. McLeod said that they did not have \$2,500.

Mrs. McLeod asked about the 15' easement they gave the town for road maintenance to make the road wider? Mrs. McLeod stated that the two lots are actually no longer connected. She said they could not walk from one lot to the other without going onto the road. Mrs. McLeod stated that for 28 years they assumed they owned two lots. They lived on one lot and had another to sell one day.

Madge B. asked if when they bought the 1st lot there was a home on it? Mrs. McLeod stated that they bought the lot and the mobile at the same time. It was not already on the lot. Roger A. added that this lot was an improved lot. Madge asked when they bought the 2nd lot? Mrs. McLeod stated a year after the 1st lot. She added that neither purchase was recorded until 1980.

The zoning ordinance from 1974 was read and at that time regardless of whether or not a lot had a home on it, lots in the same ownership were combined if the lots were non-conforming. Today only unimproved non-conforming lots in the same ownership are combined.

Madge B. stated that the McLeod's should have sued the person that sold them the lots at that time since they were not buildable lots. Madge felt that the McLeod's would need a legal opinion on this matter since the McLeod's were allowed to build. Also, they need to know if the town was justified to combine the lots in the first place. John C. agreed, the town was told to put the lots together, the Planning Board does not know why.

Madge B. asked Steve M., CEO, if the McLeod's could go to him for a building permit for the vacant lot, it would be denied, and then they could go to the Zoning Board of Appeals? Steve asked Madge what issue would he deny them for? Madge didn't have an answer at this time.

Mrs. McLeod asked if they could put a small trailer on the vacant lot and sell the existing mobile and lot? Madge B. stated that it is unlikely they could do so. She told them they could apply to do it, the application would be denied because it is a non-conforming lot, then they could appeal the decision of the CEO to the Zoning Board of Appeals. The ZBA might allow it? The ZBA has jurisdiction over zoning issues, the Planning Board does not. The Planning Board can only work with what is written in the zoning ordinance. The planning board members felt this would be a less costly route to take for the McLeod's rather than going to a lawyer.

Steve M. asked if they needed to have a Growth Permit first before applying for a building permit? Several board members noted another situation that went before the ZBA last year where the applicant went to Steve 1st, was denied, appealed to the ZBA, and now they need a Growth Permit before proceeding.

The planning board members concluded that they could not render a legal decision on this matter. Most probably the least costly avenue for the McLeod's would be getting a building permit denial from the Code

Enforcement Officer and then appeal his decision to the Zoning Board of Appeals. Nothing further was discussed.

Map 24, Lot #25 and #26 (Acorn Way) – Bruce Folsom – To discuss possibly moving the lot line between two lots.

Mr. Folsom was present and he stated that he wants to move the lot line between Map 24, lot 25 and lot 26. Mr. Folsom stated that lot 25 was owned by he and his wife and lot 26 was owned by him alone. Mr. Folsom stated that he would like to move a pie shaped piece of land, having 90' on the water's edge and tapering to a point at the corner of lot 25; to lot 26.

Madge B. asked the board members why Mr. Folsom could not do this? Why does he have to come to the Planning Board? Mr. Folsom stated that he had spoken with someone at the town office last year and they suggested he go before the Planning Board.

Bill H. asked why Mr. Folsom could not just Quit Claim the portion he wants to add to lot 25?

Barbara G. showed Roger A. a copy of the towns assessing information for both properties. The information depicts lot 25 as having .50 acres, and lot 26 as having .70 acres. Both lots are currently non-conforming lots. Barbara asked if someone can make a non-conforming lot more non-conforming? She did not believe you could. Roger A. agreed that you could not.

John C. asked Mr. Folsom why wanted to move the lots lines? He stated he wanted to reflect how the land is currently being used. Also he may sell one of the pieces of land and wants to be certain lot 25 still has beach access. John stated that Mr. Folsom could give an easement from lot 25 to lot 26. This would allow people to continue to use the beach area. John added that the easement would run with the land and continue on indefinitely.

There was nothing further discussed.

Conditional Use Permit – Rent Office Building, Drill Well & Store Portable Toilets on Property – Map 1, Lot 41 (184 Emery Mills Road) – David, Christine & John Gallant

John, David and Christine Gallant were present at the meeting.

John Gallant began by stating that they wanted to open the existing office building (formerly used by the Window Box video store and Emery Mills Energy) to house office space for Stoney Road Septic and Stoney Road Portables. He stated that there was an existing septic system (bathroom) for the office building and electric in the building. Off the Simon Ricker Road they would like to cut in a gravel circular driveway, place portable toilets on site and erect a 16' X 16' storage / utility building. An L-shaped fence will be placed on site so the portables can not be seen from the neighbors or the Simon Ricker road. (They cannot be seen by Rte. 109 because of the steep embankment behind the office building.) They would also like to drill a well on site to use to fill the water tank on the septic trucks.

John C. asked how many feet from Rte. 109 was the entrance to the driveway? John Gallant thought it was at least 200 feet. John asked Road Commissioner Goodwin what the posted speed limit was on the Simon Ricker road. Mr. Goodwin stated that at this time the road was not posted so the speed limit was 45 m.p.h.

Mr. Goodwin added that the town had asked the State to reduce the speed limit to 25 m.p.h. Mr. Goodwin did not think the town had received a decision by the State as yet.

John C. told the Gallant's, this being the case, they would need at least 315' for a site distance in both directions. John Gallant stated there was already a curb cut into the field in existence. John C. stated that since there was no business in this location, the curb cut was not grandfathered. If the entrance/exit can not meet the site distances, it will have to be moved. John added that the Planning Board did not have the authority to waive anything in zoning. Barbara G. will ask Karla Bergeron, the Executive Secretary to the Board of Selectmen, if there has been any progress with the State on this issue.

The planning board members asked the Gallant's if they would be adding any additional lighting on the existing building or the new building? John Gallant stated there was a light on the existing building now. He said they may add motion sensor lights to the utility shed for security purposes.

Madge B. asked the planning board members if additional erosion control was needed for the driveway? Roger A. stated that due to the lay of the land, stormwater would not be an issue. Mr. Goodwin, the Road Commissioner, agreed stating that very little water came across the area where the driveway would be located. Also the existing swales, placed on site by the Town of Shapleigh to prevent stormwater from the roadway from going onto neighboring properties, will continue to keep erosion from taking place.

Madge B. asked what the portable toilets would be used for on site? Roger A. replied that the site was a holding area only until they could be rented out. The Gallants concurred. Madge asked how the portables were emptied? The Gallant's replied that they were emptied on the job site with their truck. They added that you cannot transport portables that are full over the roads.

John C. asked what would be in the utility shed? John Gallant stated a hot water heater and toiletries such as toilet chemicals and toilet paper for the portables. He added that the existing building was going to be used for office space.

Madge B. asked the planning board members if they needed to have more information with respect to the driveway other than site distances? Do the Gallant's have to build the driveway to a certain standard? Roger A. replied stating that this was a driveway not a roadway so there is no standard to impose.

Mr. Goodwin added that the existing curb cut is in the location it is because as you go further down the road the embankment gets steeper. The curb cut was the best location to enter the field without having to bring in a lot of fill.

John C. suggested the Gallant's create a parking area in the driveway to turn the septic truck around in, or to be able to move the truck off the driveway for another vehicle to pass by. John Gallant stated this would not be a problem since there was plenty of room to do so.

The Gallant's will need the site distance calculations for the next meeting. Roger A. told the Gallant's there would be a public hearing regarding this application on the 27th. At that time citizens could pose questions which could require further information from the applicants. He wanted them to be aware of this possibility.

A Notice to Abutters shall be mailed and the Public Hearing is scheduled for Tuesday, April 27th at 7:00 p.m.

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

This item was not on the agenda but John C. wanted to discuss the issue of the water holding tank and the fact it was not in at this time. John said that he was issued a Growth Permit for the remaining vacant lot but was unable to get a building permit as yet because the tank was not in and functional. Steve M., CEO, agreed to extend the permit expiration for two weeks because PATCO was unable to go over the Garland road due to the fact the roads were posted. Steve believed that fact created an extenuating circumstance. In light of this situation, John C. stated that PATCO is offering a check for the full amount of the project, in the amount of \$15,000 payable to the Town of Shapleigh. The town can keep this check in an escrow until the project is completed.

Roger A. stated that the check was a good idea, but if the project is going to be completed in two weeks, he felt depositing the check and then withdrawing it would be more work for the town than a benefit. Roger felt that Steve could issue the building permit but no occupancy permit until the tank is completed.

John C. stated that he felt for certain the project will be completed within two weeks. Fire Chief Gary Utgard stated that he would fill and test the tank. Mr. Utgard thought he could travel over the Garland road by the weekend with a truck.

Steve M. stated that he had no problem with the way the planning board was going to handle this situation because he knew John. He wanted the board members to be careful not to set a precedence by not accepting the check. He stated that in a year in a half he might not remember the stipulation of no occupancy permit or he may no longer be working in Shapleigh. The tank could get overlooked.

Bill H. asked Steve if he had the authority to extend the Growth Permit for two weeks? Steve stated he did but he noted that the tank issue is a Planning Board issue not a Code Enforcement issue at this point. Steve was extending the permit based on the fact the roads were posted and heavy equipment could not travel over them, so the tank installation was held up. Planning Board members concurred on the two week extension of the Growth Permit and also agreed Steve should deny the building permit if the tank wasn't approved by 4/27/04.

The planning board members agreed the check was not necessary as long as the project was completed within the next two weeks. The check was returned to John C. to give to PATCO. Nothing further was discussed.

Growth Ordinance Review – Proposed changes to the existing ordinance.

March 2005 the following change must be added to the current Growth Permit Ordinance:

1.1 REVIEW PROCEDURE

The ordinance shall be reviewed every three (3) years by a committee comprised of the Board of Selectmen, the Planning Board and the Code Enforcement Officer.

The board members agreed this change has to take place in accordance with the State's mandate.

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Create an Exemptions paragraph consisting of the following:

This Growth Ordinance shall not apply to the following:

- A. Dwelling units constructed by the York Housing Authority, an agency of the state or federal government; or by a private developer or contractor with a continuing age restriction of persons 55 years of age or older. Any conversion of these units eliminating the age restriction would require a Growth Permit.***

(This keeps in line with the Comprehensive Plan wanting to develop affordable housing for the elderly.)

Roger A. stated that if we added this to the ordinance he would like to see size criteria as well. For example the requirement that there be a minimum of 20 units created. He did not feel single unit housing would work. It would be easy to convert single units from elderly to house anyone, thus circumventing the Growth Permit ordinance. The other members agreed this needs to be discussed further. This item is tabled at this time.

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Another possible change is to the following section of the ordinance:

1.8 (a)

A maximum number of 33 dwelling units shall be granted Growth Permits in each calendar year, plus 2 additional Growth Permits that shall be for affordable housing constructed by Habitat for Humanity or a similar not for profit organization.

Steve M. asked how an organization qualifies for non-profit? He was afraid this could become a loophole for contractors to get a Growth Permit.

John C. spoke about Habitat for Humanity and the fact they had very strict criteria. It wasn't just based on a financial need. The board members agreed it was a worthy organization to exempt from the process. Madge B. suggested that at this time the board approve the change for Habitat for Humanity but remove "or a similar not for profit organization". All planning board members agreed. They will review other organizations as they come forward to see if they should be exempted as well but at this time only Habitat for Humanity would be exempt at this time.

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The following may be more clearly stated by the change below:

1.2 EXPIRY OF PERMITS

Growth Permits selected and issued in accordance with this ordinance shall expire after ~~three (3) months~~ 90 days, unless a building permit has been issued. This time period may be extended by the Code Enforcement Officer if issuance of a building permit is delayed due to a technical problem.

All members agreed this change will make the ordinance easier to administer.

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Should the Planning Board receive Growth Permits from a contractor who owns the land, then prior to the building permit being issued the land is sold, the permit would become null and void? Shouldn't the permit be attached to the "land", not the human? Following is an example of what most towns use with respect to "transferability".

Growth Permits shall be site-specific, and shall be valid for construction only on the lot specified on the application. However, said permits shall be transferable to new owners of the lot, should the property change hands. If a Permit is transferred, the date of issuance remains unchanged.

Madge B. stated that the permit should be transferable. Any land use regulation should be. Madge stated that at this time the Planning Board should be interpreting it as such now. This new wording will reflect just that.

Roger A. stated that the original intent was if a contractor was building a speculation house without a buyer, he could get a Growth Permit and sit on the house for over a year, then get another permit. Steve M. stated that a contractor is entitled to two permits a month now. Other board members agreed.

Madge B. reiterated that the town has no legal right to prevent the transfer of land. The planning board members agreed. This change will be added to the Growth Permit for review by the townspeople.

Other:

Findings of Fact for Goose Pond Overlook Subdivision and Turkey Crossing I Subdivision

Both were signed and will be distributed to the Applicants, Board of Selectmen and placed in the appropriate file.

Letter from Andrea Erskine from MDIFW regarding the Upper Goose Pond petition / public hearing regarding the prohibition of the use of motorized watercraft.

There will be a public hearing at the town hall on Tuesday, May 4th regarding the petition mailed to the Maine Department of Inland Fisheries and Wildlife. The petition is to prevent the use of motorized watercraft on Upper Goose Pond. The concern is the native Milfoil will be disturbed and go into Goose Pond if motors are allowed. In addition there is a fragile wildlife ecosystem surrounding the area and limiting disturbance in the area is imperative. All citizens of the Town of Shapleigh are invited to attend the public hearing. Roger A. mentioned there was a notice in the Portland paper today that advertised the meeting.

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.*

The Planning Board meeting ended at 10:00 p.m.

Respectively submitted,
Barbara Gilbride

Planning Board Secretary planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES
Tuesday, April 27, 2004

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

The Public Hearing Began at 7:00 p.m. The following items were reviewed:

- **Conditional Use Permit – Rent Office Building, Drill Well & Store Portable Toilets on Property – Map 1, Lot 41 (184 Emery Mills Road) – David, Christine & John Gallant**

John Gallant spoke to the townspeople and the planning board members stating that their plans were to use the existing office space on Rte. 109, that was rented previously by the Window Box video store and Emery Mills Energy, to house Stoney Road Septic and Stoney Road Portables. In addition, in the field behind the building which is off of the Simon Ricker Road, they will be placing portable toilets on site along with a 16' X 16' storage shed to store items used with the portables. An L-shaped fence will be placed around the portables to hide them from the Simon Ricker Road and the neighbors. Mr. Gallant stated that the portables could not be seen from Rte. 109 because of the steep embankment behind the office building.

Question from Eric Davis – How high is the fence going to be around the portables?

John Gallant – It only needs to be as tall as the portables. Several board members agreed, citing again that you cannot see them from Rte. 109. They just need to be shielded from the Simon Ricker Road.

Roland Legere – Will there be any chemicals used on site to clean the portables that could possibly be spilled at the storage site?

John Gallant – The portables will be emptied at the job site, not at the Simon Ricker location.

Christine Gallant – “Most chemicals today are biodegradable. We are using the safest chemicals available.”

Roland Legere – I am glad to see this service and I am hoping it takes off. I would like to see more people on the waterfront using the portables to protect the water quality.

Roland Legere – How many portables will be on site?

John Gallant – We will start with 36 but we will increase the number as demand increases.

Christine Gallant – We would like to eventually have 100 portables and we would like to expand the size of the gravel area on the original plan to accommodate them.

John C. – What is the size of the portables footprint?

John Gallant – 44” X 48”

There were no further questions at this time. The Public Hearing for the Gallant’s application closed at 7:11 p.m.

- **Conditional Use Permit – Auto Body Repair Shop – Map 3, Lot 4 (359 Shapleigh Corner Road) – Adrian Knox**

Mr. Knox was present and he stated to the townspeople and the planning board members that his application was to own and operate an auto body shop across the street from 23rd street (359 Shapleigh Corner Road). He stated that he would like the hours of operation to be 8:00 a.m. to 6:00 p.m. Monday thru Friday and 8:00 a.m. to 4:00 p.m. on Saturday. He would like to house up to 14 vehicles on site, with up to four of these vehicles to be for sale. The 10 vehicles to be worked on may be on site for up to six months.

Mr. Knox gave the planning board his site distances which were 796' toward Mousam Lake and 470' toward his parent's driveway.

In addition, Mr. Knox stated that Mr. Carl Beal, P.E., of Civil Consultants had faxed the Planning Board a memo which stated that the stormwater calculations for a 50 year storm would be the same as the 25 year model which Mr. Knox had submitted earlier.

Roger A. asked if there were any questions?

Question from Citizen – Will hazardous waste be picked up on site? Will waste be stored in explosion proof cabinets and containers?

Roger A. replied stating that Mr. Knox gave the planning board a copy of the quote sheet from the company he would be using to haul hazardous waste off site. Roger also stated that Mr. Knox had stated at a previous meeting he would be using explosion proof cabinets and containers.

Question from Citizen – Will Mr. Knox be doing body work only, or is he also going to be doing mechanical work?

Mr. Knox – The majority of the work is body work. There is always some mechanical involved such as suspension work. All the work is going to be accident related repairs.

Question from Citizen – Is there a building plan? Is there a plan for the spray booth?

Mr. Knox - Both a building plan and the brochure / information for the spray booth was given to the planning board at a previous meeting. (Mr. Knox showed the gentlemen a copy of the plans for both the building and the spray booth.)

Roland Legere – Do you think you will have a wrecker service eventually?

Mr. Knox – Yes.

John C. – Could you tell the board members what experience you have in this business?

Mr. Knox – I attended a 2 year technical college and graduated with a 4.0 average at the top of my class. I am currently working in Wolfboro N.H. as an auto body technician.

Roger A. asked if there were any further questions? There were none. The Public Hearing closed at 7:18 p.m.

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

The minutes from Tuesday, April 13, 2004 were accepted as written.

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

Best Possible Location – Replace home with new Ranch-style home - Map 21, Lot 36A (81 24th Street) – John J. Kennedy

Mr. Kennedy was present to discuss his application along with the gentlemen who would be building the new home.

Mr. Kennedy presented a new plan in which the location of the proposed home was penciled in over the existing plot plan. It showed the new home to be moved from its current location of 5' to the right property line to 12' from the right property line. The angle of the new home has been changed as well so that it will be parallel to the waterfront, which moves it farther from the high water mark.

Mr. Kennedy did not have a new septic design to present because Mr. John Large was on vacation at this time. Diane S. stated that she did not feel Mr. Kennedy would be able to get a building permit without a new septic design. Barbara G. agreed. Bill H. asked if a letter from John Large to Steve M., CEO, stating the septic system does not have to be replaced, would be adequate to get a building permit. Roger A. believed it would be. Diane stated that if Mr. Large did not agree the existing septic was adequate, Mr. Kennedy should have to put in a new one. All board members agreed as did Steve.

John C. asked if the existing well on site was adequate? Mr. Kennedy stated it was a drilled well and in good working order.

The planning board reminded Mr. Kennedy that at the last meeting Steve M. had requested he replant a total of six trees to replace those he had removed on site. The planning board members had agreed to Steve's request as had Mr. Kennedy. Roger A. asked Mr. Kennedy to place the location of these trees on the plan he presented this evening. Barbara A. asked Steve to look at the plan to be sure the trees were in the best location. After three trees were placed on the plan by Steve, he stated that Mr. Kennedy could put the other three trees in the location he felt was best. The planning board members agreed with the final locations.

John C. asked Mr. Kennedy if the residence is currently year round. Mr. Kennedy stated that it was.

Roger A. stated the Planning Board must review this application under 105-4.D "Nonconforming structures" as well as 105-4.D(1) "Expansions", (3) "Foundations", and (7) "Relocation". Diane S. read under (7)(a) "A nonconforming structure may be relocated within the boundaries of the parcel on which the structure is located, provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of state law and the State of Maine Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with the law and said Rules...." Roger stated that John Large will either have to o.k. the existing septic system or draw up a set of plans for a new system. Bill H. asked if a new septic design would have to meet the criteria of current State rules including setbacks to lot lines, well, etc.? Both Roger and Steve M. stated that a "replacement" can go no closer to an existing well but if it cannot meet setbacks, it can still be replaced.

Roger A. stated that at the site inspection the board members noted that due to the lay of the land, the plan presented this evening is the best possible location for the replacement home. Roger asked if there were any other questions for Mr. Kennedy. There were none.

John C. made the motion to approve the revised best possible location plan presented this evening by Mr. Kennedy. The relocation of the new home will be per the plan initialed and signed by Mr. Kennedy which includes the location of the six new trees to be planted as soon as possible per the plan. Bill H. 2nd the motion. All board members were in favor.

Conditional Use Permit – Auto Body Repair Shop – Map 3, Lot 4 (359 Shapleigh Corner Road) – Adrian Knox

Mr. Knox was present to discuss his application.

Roger A., speaking of Mr. Knox's request to sell automobiles, told Mr. Knox that he would have to have State approval prior to selling vehicles on site. Mr. Knox agreed, stating that he was aware of the State's rules for selling automobiles. John C., speaking to the other board members, stated that he felt Mr. Knox should give a copy of any permits he receives from the State for selling automobiles to the Code Enforcement Officer when he receives them. Mr. Knox stated he would do so, he did add that he was not planning on selling automobiles for quite some time.

John C. asked Mr. Knox if he was going to have any interior or exterior drains in or around the building? Mr. Knox stated there would not be any.

Roger A. reiterated what Mr. Knox had stated during the Public Hearing to be certain he had the information correct, that being there would be a total of 14 automobiles on site, 10 of which would be vehicles waiting to be repaired, as well as up to four vehicles for sale, for a total of 14 vehicles on site. Mr. Knox stated that was correct. John C. asked if there would be additional vehicles on site like customers picking up their autos or a vehicle for Mr. Knox. Diane S. asked if he would have a wrecker on site? Mr. Knox stated there would be cars parking short term on the side of the building and he would have one vehicle as well. Mr. Knox added that he would like to have a wrecker one day. (There is a designated area on the plan for short term parking as well as a space provided for Mr. Knox, for a total of four spaces on the side of the building.)

The board told Mr. Knox he probably should request a total of 15 vehicles in the service area so his wrecker could be included in that number. He stated he would do so.

Roger asked if there were any further questions? After planning board members reviewed all material presented, there were none. (See 4/13/04 for a list of materials requested and presented.)

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

- 105-17 - Land Uses. *This business is allowed in the General Purpose District.***
- 105-20 – Applicability of standards; prohibited uses. *This application is a permitted use.***
- 105-21 – Traffic. *Traffic will have safe access. The site distances are well in excess of the minimum required which is 315'. In addition, a MDOT Permit for Entrance was received as required for this location.***
- 105-22 – Noise. *This business shall not create excessive noise, the building will be insulated and all autobody work will be performed inside the building.***
Roger A. explained to Mr. Knox the noise level criteria.
- 105-23 – Dust, fumes, vapors and gases. *There will be no emissions created by this business that would go beyond the outside of the building. In addition, dust, fumes, vapors and gases will be collected by the ventilation system which is documented by the manufacturer as being 99.6% efficient.***

- 105-24 – Odors. *There will be no odors emitted from this business that would go beyond the building exterior. In addition, dust, fumes, vapors and gases will be collected by the ventilation system which is documented by the manufacturer as being 99.6% efficient.*
 - 105-25 – Glare. *The only additional lighting will be on the building for security purposes. A lighting plan was submitted.*
 - 105-26 – Stormwater runoff. *There has been an approved stormwater runoff plan submitted for this location, drawn up by Carl Beal, P.E. of Civil Consultants, dated 11/17/03.*
 - 105-27 – Erosion control. *Erosion at this location will not be a problem per the Drainage Study submitted for this location, drawn up by Carl Beal, P.E. of Civil Consultants, dated 11/24/03.*
 - 105-28 – Setbacks and screening. *Any discarded auto parts, metal, or articles of salvage shall have adequate screening between them and Rte.11. All automobiles being serviced shall be parked behind the building, except those for sale.*
 - 105-29 – Explosive materials. *All explosive materials shall be stored in proper containers as well as fire proof cabinets. They shall be disposed of offsite by Advanced Liquid Recycling, Inc. in containers provided by A.L.R.*
 - 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 surrounding landscape, which is a field, is in existence and shall not be disturbed except where the building is located and gravel drive / parking area.*
- John C. asked where the vehicles for sale would be parked? Mr. Knox replied, “Probably out front on the grass”. Bill H. asked if there needed to be a fence or plantings to screen the cars to be repaired from view? He felt dented cars and the like could be unsightly. Mr. Knox stated that the cars to be repaired would not be seen because they would be behind the building. Bill still felt the board should require some type of screening, leaving the choice up to Mr. Knox, whether it is a fence or planting a hedge. The majority of the board members agreed.
- 105-32 – Relation of proposed building to environment. *The building will be compatible with existing buildings in the surrounding area.*
 - 105-33 – Refuse disposal. *This business shall not house or store any discarded waste or salvage products outside of the repair building, except in a dumpster. All hazardous waste shall be removed by a hazardous waste company, initially to be Advanced Liquid Recycling Inc.*
 - 105-34 – Access control on Routes 109 and 11. *All traffic will enter onto the site via an MDOT approved entrance/exit.*
 - 105-43 - Off-street parking and loading. *This location shall have an adequate parking area per the plan, as well as access for any size vehicle, including an area to turn around safely.*
 - 105-46 - Sanitary provisions. *There shall be a State approved septic system put in for use by the repair facility.*
 - 105-47 – Signs and billboards. *Mr. Knox shall go to the Code Enforcement Officer, prior to installing a sign on site.*
 - 105-60 – Driveways. *The driveway shall require a permit from the Road Commissioner.*

John C. asked if the building would have a foundation or be on a floating slab? Mr. Knox replied that it would be on a floating slab.

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.*

- 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 Comprehensive Plan wants businesses located along Rte. 11 and Rte. 109.***
- 4) Traffic access to the site is safe. ***It is, the site distances are well within the limits and MDOT approved the entrance location.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***It is according to the documentation received from Carl Beal, P.E. of Civil Consultants.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***A state approved septic system will be placed on site. Any hazardous wastewater shall be removed by Advanced Liquid Recycling Inc.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***Advanced Liquid Recycling Inc. shall dispose of all hazardous waste.***
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***Carl Beal, P.E. of Civil Consultants stated in the drainage study that the Knox building will create a minimal amount of increase in the peak rate of stormwater runoff for a 25-year storm event resulting in no impact on the surrounding area.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***Carl Beal, P.E. of Civil Consultants stated the gravel parking area and building would have no negative impact on the downstream properties, including the Rte.11 drainage ditch, the 36" CMP culvert crossing Rte. 11, and the Mousam Lake.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***There is, the property is within 600' of a dry hydrant.***
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. ***The business location is a large distance from neighboring properties.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

Roger asked if there were any further questions and there were none.

Bill H. made the motion to approve the Conditional Use Permit for Mr. Knox to own and operate an auto body repair facility with the following conditions:

- 1) ***The hours of operation shall be from 7:00 a.m. thru 10:00 p.m., Monday through Saturday.***
- 2) ***There shall be a maximum of 14 vehicles on site waiting for service or for sale.***
- 3) ***There shall be one service vehicle on site such as a wrecker / tow truck.***
- 4) ***All flammable materials shall be stored in fire proof cabinets.***
- 5) ***Hazardous waste shall be removed by Advanced Liquid Recycling, Inc. Should Mr. Knox use another company he shall notify either the Code Enforcement Officer or the Planning Board.***
- 6) ***Adequate screening shall be provided to prevent vehicles waiting for service from being seen from neighboring properties or Rte. 11.***
- 7) ***Mr. Knox cannot sell vehicles without State approvals. A copy of these approvals shall be provided for the Code Enforcement Officer and the Planning Board Secretary.***
- 8) ***No more than four vehicles shall be for sale on site at one time. These four vehicles are included in the total number of vehicles allowed in the service area, which is 14 (see #2).***

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

Conditional Use Permit – Rent Office Building, Drill Well & Store Portable Toilets on Property – Map 1, Lot 41 (184 Emery Mills Road) – David, Christine & John Gallant

John and Christine Gallant were present at the meeting. Details of their application can be read above in the Public Hearing section.

During the meeting on April 13th the Gallant's were asked to bring the Planning Board their site distances for the driveway entrance off from the Simon Ricker Road. John Gallant stated that the site distance from Rte. 109 was 225 feet. He stated that Mr. Richard Goodwin, the Road Commissioner had helped them with the calculation.

The board members told Mr. Gallant that the minimum site distance required was 245 feet at 35 m.p.h., which Mr. Gallant had stated previously was the posted speed limit in this location. Roger A. asked Mr. Gallant if the road was posted at 35 m.p.h. Mr. Gallant stated that the road was not posted but Mr. Goodwin told him the State had approved the road at 35 m.p.h. Roger stated that if the road was not posted the speed limit was set to be 45 m.p.h. At 45 m.p.h. the minimum site distance required is 315 feet. Roger added that the entrance to the business could not be wider than 26 feet.

Mr. Gallant said he did not want to move the existing curb cut because he would need to bring in a lot of gravel. In addition, he did not want to disturb more of the existing field, since the field continues to be used for either hay or corn. Also, Mr. Gallant did not believe his father, the owner of the property, would want a driveway through the middle of the parcel. Bill H. asked why he could not have the new driveway follow along beside Simon Ricker Road, that way he would not disturb much of the existing field. Steve M., CEO, stated he could place the driveway along the road. Steve also said that if the Gallant's need to bring in a lot of fill for the driveway they would need to keep a setback of 10 feet from existing road.

Mr. Gallant still did not think it was best to require them to put in a new curb cut when the one that existed was in good working order and he would not have to disturb the area as much. John C. stated that this was a zoning requirement and the Planning Board had to follow what was established in the existing ordinance. Mr. Gallant asked who made the rules in the ordinance? John replied that the townspeople vote on all ordinances. He stated it was likely the site distances were created using the Maine Dept. of Transportations guidelines.

Mr. Gallant once again reiterated the fact he did not feel this requirement was necessary because the only ones using the driveway would be the applicants, this wasn't a public access. He added that Mr. Goodwin felt the existing curb cut was adequate for what it was going to be used for. Diane S. explained that all businesses had to be reviewed in the same manner using the existing ordinances. The planning board had no choice but to follow the ordinance. Diane asked Roger A. if the planning board could deny the application, then the Gallant's could go to the Zoning Board of Appeals for a variance for the driveway entrance. Roger stated that the board members could not deny the application because there were other locations where the driveway could be placed. We would only deny it if there were no other alternatives for a driveway location.

Mr. Gallant agreed reluctantly to move the entrance to the driveway farther down Simon Ricker Road so he would meet the site distances. The planning board members stated that if the State reduced the m.p.h. on Simon Ricker to 25 m.p.h., they would only need 175 feet and then they could use the existing curb cut. Otherwise, the curb cut would have to be relocated.

Christine Gallant stated that she would be starting out with approximately 36 portable toilets but this number would be increased to probably 100 in the future. Therefore, while looking at the plan presented to the Planning Board, Christine noted that the area for the location of the portables would be increased to

approximately 32' X 100'. Mr. Gallant stated that there would be a fence around the portables but he did not want to build a fence 100 feet long. He felt that an L-shaped fence would hide the portables, because of its shape, without being 100 feet in length. The planning board members agreed, but added that should the portables become noticeable, the fence size would have to be increased.

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

- 105-17 - Land Uses. *This business is allowed in the General Purpose District.***
- 105-20 – Applicability of standards; prohibited uses. *This application is a permitted use.***
- 105-21 – Traffic. *Traffic will be safe on the Simon Ricker Road entrance once site distances are met with a new entrance/exit which meets the minimum site distance of 245 feet. The site distances for the office building were previously approved on a former C.U.P., and were within the limits allowed.***
- 105-22 – Noise. *The approved businesses shall not create a noise problem.***
- 105-23 – Dust, fumes, vapors and gases. *There will be no emissions created by these businesses. All portables are cleaned on the site location, not in the storage area.***
- 105-24 – Odors. *There will be no odors emitted from either business. The portables are stored on site clean.***
- 105-25 – Glare. *The only additional lighting will be on the building for security purposes.***
- 105-26 – Stormwater runoff. *The office building has been previously approved as having no problem with stormwater runoff. The storage location has existing swales created by the Town of Shapleigh to prevent stormwater runoff.***
- 105-27 – Erosion control. *The existing office building was previously approved as not having an erosion control problem. The storage location in the field will not have an excessive area disturbed so that the existing stormwater swales will be adequate.***
- 105-28 – Setbacks and screening. *An L-shaped fence shall be placed around the portable toilets to screen them from neighbors and the Simon Ricker Road. The office building does not need any additional screening.***
- 105-29 – Explosive materials. *There will be no explosive materials stored on site.***
- 105-30 – Water quality. *There are no hazardous materials to be used or stored on site. All toilet chemicals in the utility shed are environmentally safe.***
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *Very little area will be disturbed. No trees shall be removed and the portable toilets shall be placed behind an L-shaped fence. The only vehicle in the storage location will be one septic pumper truck.***
- 105-32 – Relation of proposed building to environment. *The existing building is compatible with existing buildings in the surrounding area. The storage shed will be as well.***
- 105-33 – Refuse disposal. *This business shall bring any discarded waste from the office to the transfer station. No sewage shall be dumped on site.***
- 105-34 – Access control on Routes 109 and 11. *The office building has an existing approved entrance onto Rte. 109.***
- 105-43 - Off-street parking and loading. *The existing office building already has an approved parking area for employees and customers from the previous C.U.P. There shall be one parking area in the storage area for the septic pump truck.***
- 105-46 - Sanitary provisions. *There is a State approved septic system in existence for the office building.***
- 105-47 – Signs and billboards. *The applicants shall go to the Code Enforcement Officer, prior to installing a sign on site.***
- 105-60 – Driveways. *Driveway shall require a permit from the Road Commissioner.***

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.***
- 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 Comprehensive Plan wants businesses located along Rte. 109 and Rte. 11.***
- 4) Traffic access to the site is safe. ***The Simon Ricker Road location will be when the new driveway access is put in at the proper site distance. The office building meets the site distance requirements.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***It is.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***A State approved septic system is in placed for the office building. There is no other waste being generated.***
- 7) Adequate provisions for the transportation, storage and disposal of any hazardous materials has been made. ***There is none being generated.***
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***The existing office building was previously approved. The Simon Ricker Road location has existing swales to divert all stormwater from neighbors.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***There will be little disturbance to the existing field where the portable toilets will be stored. The office building is in existence at this time and has no problems with erosion.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***The location is within 1000 feet of lake water / hydrant at Emery Mills Dam.***
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. ***The existing office building needs no additional landscaping. The portables on the Simon Ricker Road shall be fenced from view.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

Roger A. asked if there were any further questions for the applicants and there were none.

Bill H. made the motion to approve the application for a Conditional Use Permit to use the office building on Rte. 109 for Stoney Road Septic and Stoney Road Portables, as well as place a 16' X 16' shed and portable toilets in the field off the Simon Ricker Road with the following conditions:

- 1) ***The hours of operation shall be Monday through Saturday, 7:00 a.m. thru 10:00 p.m.***
- 2) ***The driveway entrance from the Simon Ricker Road shall comply with the minimum site distance requirements of Shapleigh Zoning Ordinance 105-21 “Traffic”. The minimum at 35 m.p.h. is 245 feet.***
- 3) ***The maximum width of the curb cut from Simon Ricker road shall be 26 feet.***
- 4) ***The fencing surrounding the portables shall be large enough to prevent them from being seen from the neighbors and the Simon Ricker Road.***

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

Amendment to a Conditional Use Permit – Put in Well for Irrigation of Farmland - Map 11, Lot 23-8 (438 Newfield Road) – Paul Rankin, Sr.

Mr. Rankin was present at the meeting.

The board members asked Mr. Rankin what he was proposing to do? Why was he before the board? Steve M., CEO, stated that Mr. Rankin had come to him stating he was going to put a well in and wanted to put in a roadway to access the well location. In order to do this he was going to be bringing in fill. This is why Steve sent him to the planning board.

Roger A. asked Mr. Rankin how many acres he had under cultivation now? Mr. Rankin stated approximately 1 ½ acres but he wanted to add more. To do so he would need more water. Mr. Rankin explained that the existing well can only handle the greenhouse that is in existence.

Roger A. asked how big the road would be he would be putting in? Mr. Rankin stated that he decided he did not need to put in a road. All he had to do was remove some small brush and the well drilling equipment could get in. Roger stated that if that was the case Mr. Rankin did not need a C.U.P. Roger asked Mr. Rankin if he needed anything else from the planning board. He stated he did not. Roger asked Steve M. if there was any other issue to review with Mr. Rankin? Steve said no.

The discussion ended with Roger A. telling Barbara G. to refund Mr. Rankin his application fee. She told Mr. Rankin he would get a check in the mail as soon as it was processed. He thanked the board members and that was the end of the discussion.

OTHER:

Question from Bill H. regarding “grandfathered” Conditional Use Permits.

Bill H. asked the board members to explain a “grandfathered” Conditional Use Permit. Bill stated his wife was concerned with the establishment across the street from Ted’s (seafood restaurant), the barn which always had “junk” for sale all around it. Bill and his wife agreed the place was an eyesore much of the time and wondered why the town could not do something about it. He stated his wife had talked to Steve M. and Steve stated that it was a grandfathered business which meant the business could carry on as it had for years, as long as it remains the same business, i.e. the gentlemen could continue selling junk but could not sell food, auto’s, etc.

Roger A. added that the only way the planning board could step in is if the owner tried to expand his business by 25% or more, then the planning board could require him to come in for a permit. At that time the planning board would review his entire business and could attach some stipulations to the permit. Roger added that this could be difficult because the town must first document what exists there now in order to show that he has expanded his business.

Bill H. stated that he and his wife were worried that this business being so close to the water, has lots of different items outside that could be hazardous. John C. stated that the owner would have to follow EPA guidelines. John suggested Bill contact the EPA with his concerns.

Steve M. stated that if the area around the barn becomes cleaned up for a year the town might be able to address it, should he add more junk outside. But again, it would have to be documented *when* the area was cleaned up and *for how long*.

Roger A. noted the fact that in the past the owner of the business was asked to come before the planning board and did so. After much discussion regarding the business and how long it had been at this location, the consensus of the board members was that the business was grandfathered and could continue.

Roger A. stated that another issue that could be addressed is if cars park on Rte. 109, then the Sheriff and MDOT could be notified. Cars should not be parking on the pavement.

There was nothing more discussed on this issue.

Question from a citizen regarding the new roads being built for Goose Pond Overlook Subdivision.

A gentleman from Shapleigh, named Eric Davis, stated to the Planning Board that the new road to be known as Blanding's Lane in the Goose Pond Overlook subdivision, was not following the "old camp road" as discussed during previous planning board meetings. The new road began and ended where the camp road previously existed but the rest of the road followed a different more direct route. (Mr. Davis had come to the Town Hall earlier in the day and spoke with Barbara G. regarding Blanding's Lane. Barbara showed Mr. Davis a copy of the approved road plan which Mr. Davis stated did look like what was being built.)

Mr. Davis also voiced his concern with the end of the new road where it empties onto Totte and Evergreen road. Mr. Davis stated that the end of Blanding's Lane would be very steep and Mr. Davis felt that there would be a lot of stormwater runoff which could cause some serious erosion on Totte. He said that currently the vegetation that had grown up at the end of the camp road has limited the stormwater runoff. With the new widened road he felt there would be much more damage done if the road goes in as planned.

Roger A. stated that Road Commissioner John Burnell also had issues with the ditching on Blanding's Lane and the possibility of erosion. Mr. Burnell met with Mr. Higgins (who is in charge of the project) and spoke to him about using additional rip-rap, etc. Mr. Higgins agreed more was needed to prevent erosion and would readdress the issue.

Mr. Davis spoke once again about the new road not following the original camp road. He asked why the developer could say one thing and do another, especially when at every meeting Mr. Higgins stated the new subdivision road would follow the old camp road. The board members stated that Mr. Higgins had to follow the final approved plans. These plans were also approved by the Road Commissioner. The plans are designed for what is best for the location to prevent stormwater runoff and create minimal disturbance to the area.

John C. told Mr. Davis that the road plans must follow the property lines approved. If it doesn't when someone buys the property there would be a problem with the deed, etc. John said that Mr. Higgins knows this.

John C. did tell the other planning board members that he felt they should consider mandating that an engineer look at the final road with respect to the plans and get his/her approval. This would determine to all concerned that the road was not only in the proper location but also engineered correctly. This would take the burden off the Road Commissioner who does not have time to oversee a subdivision road project from start to finish. The other board members agreed.

Mr. Davis concluded that he agreed there was no harm done by the new subdivision road being diverted from the original camp road. He did state again however that he wanted the town to be certain that the new road

would not cause additional problems for property owners along both Totte and Evergreen Road. The board agreed and again stated the Road Commissioner was aware of the situation and Roger A. would further discuss this with Mr. Burnell prior to release of the funds to Mr. Higgins at the conclusion of the project.

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.*

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, May 11, 2004

Members in attendance: Roger Allaire (Chairman), Bill Hayes, Diane Srebnick (Vice Chair), 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, April 27, 2004 were accepted as written.

4-Lot Subdivision – “Granny Kent Crossing” – Laurent & Tammy Caron –Map 12, Lot 34 (Newfield Road)

Larry and Tammy Caron were present at the meeting to discuss their application.

The Caron's presented along with the application a hand drawn sketch depicting four proposed lots, each being approximately 80,000± sq. ft., one located on the Newfield Road and three located on the Granny Kent Pond Road. Mrs. Caron stated that she did not have an engineered plan at this time because after speaking with both John Caramihalis and Barbara G., she decided it would be best to review the proposal with the Planning Board members prior to creating the lots.

While reviewing the lots, Madge B. asked the other board members if there was a minimal width to a new lot because two of the lots looked as if they were quite narrow. The Planning Board members stated that the lot(s) would have to be able to meet setbacks (25 ft side setbacks) as well as have the correct road frontage (200 feet) and area (80,000 sq. ft minimum). The board members reviewed Subdivision Ordinance 89-28.G which reads “Flat lots and other odd-shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited. *The ratio of lot length to width shall not be more than 3 to 1.*” The board members told the Caron's that they needed to bring this to the attention of whoever engineered their lots. Mrs. Caron made note of the ordinance.

Bill H. mentioned that the entire parcel consisted of 8.2 acres, so it appears there is enough area to create four lots based on the information received at this time.

Roger A. asked the Caron's if the area was wet? Roger was referring to Subdivision Ordinance 89-26 “Land not suitable for development”. Wetlands cannot be included per the Minimum Lot Size Law 12 M.R.S.A. § 4807 et seq. Mr. Caron stated there was a brook near the lot lines but it did not travel through the lots that they wish to create. (Burnt Mill Brook)

Roger A. told the Caron's that the Planning Board would need a copy of the purchase and sale agreement to show they had interest in the property before the board could move forward with this application. The Caron's stated that they understood.

The board members told the Caron's they would need to speak with the Fire Chief, Gary Utgard, to get his opinion on fire protection in this area. Mr. Caron stated that a dry hydrant was located very close to the property. The board members stated that they should discuss this with Mr. Utgard. Roger A. also noted that if the location could not support a fire pond it was possible the Planning Board could waive the fire protection requirement.

The Caron's asked what else was needed prior to the next review. Roger A. listed the following:

- Purchase & Sale Agreement
- Surveyed Plan showing:
 - 1) Name of subdivision;
 - 2) Assessor's map and lot numbers;
 - 3) Boundary lines;
 - 4) Contour lines showing elevations;
 - 5) Acreage;
 - 6) Existing building(s);
 - 7) Watercourses and existing physical features.
- Letter from Fire Chief, Gary Utgard, stating his opinion for fire protection at this location.
- Roger reminded the applicants to review the subdivision ordinance and all the requirements it contains.

Roger A. stated that this information must be mailed to Planning Board members seven days prior to the meeting they wish to attend. Mrs. Caron stated that she understood.

There were no further questions from the board members at this time. The Planning Board will table this application until the applicants are ready to come back before the board.

Best Possible Location – Replace Retaining Wall(s) - Map 40, Lot 41 (5 Osprey Road) – Marcel Boisvert / Paul Fecteau Representing

Neither Mr. Boisvert nor Mr. Fecteau were present. This application will be tabled until the next meeting.

After-the-Fact Amendment to a Conditional Use Permit – (Repair Two Retaining Walls & Add Additional Lock Block Walls – Shoreland District) – Map 23, Lot 10 (23rd Street Loop / Starboard Lane) – Lincourt / Hermann/ Bourque & Gabrielle

Mr. Lincourt was before the Planning Board along with Ms. Hermann, both the original representatives of the approved Amendment to a Conditional Use Permit. Also, Mrs. Lincourt was in attendance.

In October 2002 the applicants were permitted to remove and replace one retaining wall, directly adjacent to the water as well as put in plantings to prevent erosion by June 15, 2003. In January of 2003 the applicants requested that the Planning Board allow them to extend the date of plantings until June 15, 2004, which was approved, but nothing else was changed from the original application for the one retaining wall.

Mr. Lincourt began by telling the Planning Board members that in addition to the wall they were approved to replace, a second 8 foot high wall was placed on the property due to the extremely detrimental erosion problem once the 1st wall was removed. Mr. Lincourt stated that the original 2nd wall collapsed after the 1st wall was removed due to the sandy soil. Mr. Lincourt also said they had no alternative but to immediately place a 2nd wall behind the 1st before the erosion caused the home on the property to fall into the lake. Several Planning Board members agreed there was a problem but stated that he should have contacted the Town of Shapleigh and come before the Planning Board noting the necessary changes that had to take place to the original plan. Mr. Lincourt admitted that he should have done so.

The board members asked Mr. Lincourt if the 2nd wall was certified by an engineer? Mr. Lincourt stated it was not but it was “built to twin” the 1st wall that was an engineered wall. The board members were concerned about the original plan since it appears it did not take into account the possibility of the 2nd wall collapsing. Roger A. stated that the Planning Board would need certification from an engineer that in fact the 2nd wall was adequate to protect the area from further erosion as well as protect the foundation (support columns) of the existing home.

Mr. Lincourt stated that in addition to this 2nd wall, they were told by the DEP and other local agencies that they also needed to create some smaller tiered walls (approximately 32” high) to prevent the back fill behind the concrete walls from eroding into the lake. Mrs. Lincourt stated that they would like to use the lock-block system. She had been told they work very well in this type of location.

Mr. Lincourt stated that they also needed a 32” high wall to prevent the support columns under the home from being undermined. The new 8 foot high wall would not be enough due to the steep incline and the sandy soil.

Bill H. asked Mr. Lincourt why he came before the Planning Board now, when most of the work had already been done and without Planning Board approval? Roger A. stated that Mr. Lincourt had called him on Saturday evening to discuss extending the approved planting date of June 14th, because the area would not be ready. When Roger asked him why, Mr. Lincourt explained about the new wall, and the need for additional walls. Roger at that time told him he was operating without a Conditional Use Permit and he needed to come back before the Planning Board to get the necessary permit(s). Mr. Lincourt added that Saturday was the first day he and the other owners of the property had a clear plan of what they wanted to do next. This is why they knew the planting would not be done on time.

Roger A. told Mr. Lincourt that they would need an engineered plan from a certified engineer for the 2nd wall as well as the proposed wall(s). In addition, there needed to be a plan to stabilize the area, also engineered by a professional. Roger stated that the board members did not have the expertise to render a decision on a site that was so unstable. The other board members agreed.

The Planning Board members concluded the following would need to be presented to the Planning Board before they could render a decision on additional permitting:

- 1) A new Amendment to the original Conditional Use Permit must be received by the Planning Board. The permit application is after-the-fact and the fee will be \$400.
- 2) A certified engineered plan for the additional lock block retaining wall(s) being added to the property, as well as a certified engineered plan for the existing new 2nd wall that was placed on site without a permit.
- 3) A new DEP Permit by Rule Notification, the existing permit on file expired 11/6/03.
- 4) A stabilization plan for the entire area involved, which includes replanting using plants indigenous to this area.
- 5) Pictures of the shorefront area prior to the initial project beginning. The board members need to see exactly what was removed / replaced.

Roger A. told Mr. Lincourt to contact Barbara G. when they were ready to come back before the Planning Board. Mrs. Lincourt thanked the Planning Board members for their time.

Roland Legere asked the Planning Board members why Mr. Lincourt didn't face a consequence for his actions, i.e. putting up a wall in the Shoreland zone without proper permits? Steve M., CEO, stated that they would have to come back for the proper permits and the fee associated with it would be for an after-the-fact permit. Roger A. added that the after-the-fact permit fee is four times what the normal fee is. Steve also added that the DEP was involved with this project as well as several other agencies.

Mr. Legere still felt that other after-the-fact permits were treated much more severely than these applicants. He asked if Mr. Lincourt was going to have to do some replanting? Roger A. stated that yes, as part of the original approval, plantings were required to help to retain the soil on site. Mr. Legere stated that he thought there were trees at this location as well, that were no longer there. Roger replied that the board members had no way of knowing that without pictures of what it looked like prior to the project. The Planning Board will ask Mr. Lincourt to produce these pictures so there is something to compare to.

Bill H. stated that he also looked at intent. Did the people come in voluntarily or not? Roger A. stated that the only reason they came in was because Roger told them they were working without permits and needed to come back before the Planning Board. He did not know whether or not they would have come in otherwise.

Steve M. added that he had been watching this project for several weeks because they did not have any silt fence up, no hay bales, etc. and the sand was washing directly into Mousam Lake. He was in the process of addressing the issue. Steve added that Mr. Lincourt had already heard from the DEP and York County Soils. They may have gotten a fine from the DEP?

Bill H. asked Roger A. if the Planning Board had the ability to fine someone for not doing what was called for in an approved permit? Roger stated the Planning Board did not, but the Code Enforcement Officer did. Roger stated that the only thing the Planning Board has control over is the permit fees and for an after-the-fact permit, and again he said the fee is four times the amount of the normal permit fee.

Bill H. stated that it would be very helpful to see the pictures of the grounds before construction began. He asked if the board members had seen any pictures before the project had started? Roger did not remember whether or not they had, but there was a site inspection. Steve M. stated that the DEP would have required pictures prior to approving the Permit by Rule. Steve said that Mr. Lincourt may be able to get a copy of the pictures from them for the board members.

Nothing further was discussed.

Review Declaration of Protective Covenants from C. Higgins for Goose Pond Overlook

Mr. Higgins had mailed the Planning Board a copy of the "Declaration of Protective Covenants Affecting Property of Northwoods Land Company of Maine, LLC, Known as the Goose Pond Overlook Subdivision off State Route 11 and Dogwood Road in the Town of Shapleigh, County of York and State of Maine". Mr. Higgins requested the Planning Board review the document for errors or clarification.

Listed below are the comments / requested changes or additions, which are based on the review of the document:

- 1) Under #10 "Fertilizer and #12 "Watercraft – It refers to Lower Goose Pond. There is no **Lower** Goose Pond. It is Upper Goose and "Goose" pond. Mr. Higgins needs to strike the word Lower.

- 2) Under #12 "Watercraft" – During several Planning Board meetings Mr. Higgins agreed to support "no motors including electric motors" on Upper Goose Pond. Mr. Higgins will be asked to strike **(except those with electric motors)**.
- 3) The board members were concerned that there is no mention of the restriction for lot(s) 1, 2 and 3 with respect to Square Pond and the fact *they do not have access to the deeded right-of-way*. Mr. Higgins agreed on 10/14/03 to **only allow lot(s) 4, 5 and 6 to have access to Square Pond**. It will be requested Mr. Higgins add this to the document.

Barbara will fax the above to Mr. Higgins as soon as possible. Nothing further was discussed on this issue.

Roland Legere wanted to thank Planning Board members who attended the Public Hearing on May 4th for the petition to prevent motorized watercraft on Upper Goose Pond. He also wanted to thank Barbara G. for her support and help with coordinating the effort. Mr. Legere stated there was a larger delegation from the State than he expected as well as more townspeople in attendance than expected.

Mr. Legere stated he was unaware that the decision will be based solely on a safety issue, not the fact that there is native Milfoil in the pond, etc. He said that he wished he had known this so he might have been a bit more prepared to address the issue from that perspective.

Mr. Legere stated that he spoke with the Board of Selectmen and asked them if they would write a letter of support for the petition and they stated they would. (The Planning Board drafted a letter of support as well.)

Mr. Legere wanted to speak with Steve M., CEO, about the dock at Kettle Pond Condominiums, as well as the Planning Board members. Mr. Legere stated that he has been getting telephone calls regarding the use of the dock by a boat that is moored in Goose Pond. Mr. Legere stated that he was under the impression that in the covenants for the condos, no one was supposed to use the dock for motorized boats. The docks could only be used for canoes or paddleboats. The Planning Board members believed this was true but without the documents in front of them they could not be certain.

Mr. Legere also questioned whether or not boats could be moored in Goose Pond? Roger A. replied by stating the Planning Board could not control what happened in a lake and the State also does very little to restrict lake use other than reducing speed limits in dangerous areas. The Planning Board can only restrict what happens on the shorefront by what is in the ordinance.

Roger A. stated that Steve M. could send a letter to the Association of Kettle Pond Condos stating that the dock cannot be used for anything other than what was approved. The President of the Association could then remind condo owners of this and the town could try to get compliance this way. If members of the Association are aware of the problem, it is likely they will monitor the area and take care of the problem in house.

Mr. Legere stated that he felt the town was partly responsible for the large size of the dock, which invites people to use it. So he also feels the town needs to make certain it is only used for what was approved. Steve M. stated that the town has ordinances for guidance and development of an area but the town cannot prevent docks and the like from being built in Shapleigh.

Barbara G. will look at the file to find out what was approved for the dock at Kettle Pond Condos and she will give a copy of the approval to Steve M., CEO., so he can address the issue. Nothing further was discussed.

Letter to Gallant's regarding new Public Hearing notice, dated May 7, 2004.

Roger told board members that five abutters were inadvertently not notified for the Gallant application for Stoney Road Septic and Stoney Road Portables. One of these abutters was upset about it so the decision has been made to renotify abutters and hold a Public Hearing on May 25th. The applicants were also mailed a letter stating they are to halt going any further with their project until after the meeting on May 25th. There were no questions from the board members.

Question from CEO regarding Stone Ridge Taxidermy

Steve M. told the Planning Board that Stone Ridge Taxidermy would like to place a sign for their business on their property. Steve stated that part of the property is in Acton and the other half is in Shapleigh. The business is located in Acton but the sign will be placed in Shapleigh. Steve asked board members if this was just a sign issue for the Town of Shapleigh or if they would have any jurisdiction over the business itself?

The board members did not believe the business was anything they would need to review. It was not in Shapleigh. They did agree if the sign was in Shapleigh, the permit should be issued through the Shapleigh CEO. Steve then asked if they thought this business was a home occupation or a business? Madge B. read the definition of Home Occupation from Shapleigh Zoning ordinance 105-15 "An occupation or profession which is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit; carried on by a member of the family residing in the dwelling unit; clearly incidental and secondary to the use of the dwelling unit for residential purposes. Real estate offices and resale of purchased merchandise will not be considered as home occupations." The board members concurred the taxidermy was a business.

Steve M. told the board members the owner of the property wanted to divide his parcel of land at the town line, having one lot in Shapleigh, the other in Acton. Then he wanted to deed the Shapleigh parcel to his daughter. Would he be able to do so? Madge B. read the description of Lot from Ordinance 105-15 "A parcel of land in single ownership, described on a deed, plot or similar legal document." The board members felt that as long as he wasn't creating a non-conforming lot it could be done.

Nothing more was discussed.

Election of Officers

- Bill Hayes nominated Roger Allaire for Chairman, Madge Baker 2nd the motion, all members were in favor.
- Bill Hayes nominated Diane Srebnick for Vice Chairman, Madge Baker 2nd the motion, all members were in favor.
- Bill Hayes nominated Barbara Gilbride for Secretary, Madge Baker 2nd the motion, all members were in favor.

All members accepted their respective positions.

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.*

The Planning Board meeting ended at 9:05 p.m.

Respectively submitted,

Barbara Gilbride

Planning Board Secretary planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES
Tuesday, May 25, 2004

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

The Public Hearing Began at 7:00 p.m. The following items were reviewed:

- **Conditional Use Permit – Rent Office Building, Drill Well & Store Portable Toilets on Property – Map 1, Lot 41 (184 Emery Mills Road) – David, Christine & John Gallant**

Roger had told board members that five abutters were inadvertently not notified for the Gallant application for Stoney Road Septic and Stoney Road Portables, during the Planning Board meeting on Tuesday May 11th. It was decided by the board members to hold a second public hearing to make certain all abutters were able to comment.

John Gallant spoke to the townspeople and the Planning Board members stating that their plans were to use the existing office space on Rte. 109 for Stoney Road Septic and Stoney Road Portables. In addition, in the field behind the building which is off of the Simon Ricker Road, they will be placing portable toilets on site that would be available to rent, along with building a 16' X 16' storage shed to store items used with the portables. A fence would be placed around the portables to hide them from the Simon Ricker Road and the neighbors.

Mr. Steven Warren, an abutter that had not been notified during the first review, stated that he was upset that he hadn't been notified. He added that he felt the portable toilets would be seen from his kitchen window, even if they had a fence around them. He was also concerned with dirt coming from the driveway leading into the property where the portables would be stored. Mr. Warren asked Planning Board members if they would want to smell portable toilets? He added that he felt his property would lose value being next to this type of business.

Roger A. replied to Mr. Warren stating that the portable units were cleaned on the site they were rented for. They would be stored at the business clean so there would be no odor. Roger said that there would be a fence surrounding the portables so they could not be seen from the Simon Ricker Road. Mr. John Gallant stated that he would not be able to build a fence high enough to conceal them all from Mr. Warren's property because his property set higher than the field they would be placed in. But Mr. Gallant added that his family did not want the place to be an "eyesore" and they were going to make every effort to make certain the area looked good for anyone passing on the Simon Ricker Road.

Mr. David Gallant reminded everyone that the field the portables would be in had been used for growing produce in the past and could continue to be used for farming. During that process the field has produced dust, it would have an odor from the fertilizer, and at times a lot of traffic was generated when crops were being removed from the field. It was an active commercial field and could be again. He stated that the portables business would bring much less traffic and dust, and no odor.

Mr. Warren still felt that having the portables so close to his property would diminish his property value.

Mrs. Gallant stated that the storage shed would be built to look like a barn. The portables were going to be tucked in as close as possible behind this barn, and there would be a fence around them as well. She felt that the property would blend in with the surrounding landscapes in the area. Mrs. Gallant also stated that the reason the entrance road was so long was because of the site distance ordinance for the town. She stated that they had wanted a much shorter driveway but had to move it beyond the existing telephone pole because of the ordinance restrictions. This is why more gravel had to be put in, gravel that created a much larger expense for them.

Mrs. Gallant wanted clarification from the Planning Board as to what Ordinance 105-73.D.(1) & (2) meant, specifically (2). (2) reads: The owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Planning Board.

Roger A. stated that if all abutters had been notified and they did not receive their mail, then the permit process and outcome would not be affected. In this case, five abutters were not notified so the Planning Board felt it was necessary to hold another public hearing since it was a Planning Board error. Otherwise if someone objected to the permit they would have the right to take it to Superior Court should there be a valid reason for the permit to be denied. Roger, as well as the other board members, felt the best thing would be to make certain all abutters were notified and had their say with respect to this permit. (Note: The Public Hearing notices were posted in five locations as well as two newspapers in accordance with the ordinance.)

Mr. Warren wanted the board members to know that he had an autistic child and was very worried with his son's excitement when seeing "big trucks" driving by and in the field. He felt it would be easy for his son to get hurt should he go over to where the truck was parked. Mr. Warren did add that Mr. Gallant had allowed his son to sit on the equipment being used to build the new driveway and he was afraid his son would want to go back over there. Mr. Gallant stated that he allowed the son to sit on the equipment, with the Warren's permission, and would never do anything to endanger a child. Mr. Gallant added that the septic trucks would probably only be doing 5 m.p.h. in and out of the driveway and the Simon Ricker Road. Mr. Gallant stated that the traffic Mr. Warren needed to worry about were the others that used that road at very high speeds. The Gallant's knew the child was there so they would be watching for him. Others may not know. Mr. Warren agreed other people travel much too fast on the road and that is why he contacted the State DOT for reducing the speed on the road. Mr. Warren also said that the Gallant's had been very good with his son. Mr. Gallant added that he spoke to the State on his own behalf as well for Mr. Warren's child, but they were unwilling to negotiate a lower m.p.h. at this time. The State spokesperson did say the request could be resubmitted but he wanted Mr. Gallant to know that the State could also change the speed limit, boosting it back up to 45 m.p.h. (The present speed limit adopted by the State is 35 m.p.h.)

Mrs. Gallant told the board members and abutters that she looked carefully into this business and felt it would not cause any hardship on the surrounding neighbors. She and her husband needed to make a career change due to his being in the manufacturing field and the jobs were no longer available. This business was a business she was familiar with because she has worked with John (Stoney Road Septic). She wanted the board members and the abutter(s) to know that they had already invested a lot of money in the new driveway and she wanted the board to take that into consideration prior to making a final decision.

Roger A. stated that the board members had to follow the criteria of the ordinance only, they could not take feelings into consideration, it had to be facts. Only evidence that shows the ordinance cannot be met can change the original decision of approval.

Pat Baldwin, a citizen of the town, stated that she had known the Gallant family for years. (Mr. Richard Gallant owns the property; the sons John and David Gallant are requesting the Conditional Use Permit.) Ms. Baldwin lives relatively close to this property and stated that she did not feel this business would be harmful to the area. There will be little traffic created by this business, it isn't a store serving alcohol and the like, and it is a family run business. A family that has a good reputation in the area. Also, the portable toilets are well off the main road, as is the entrance to them. There is good visibility from the office building to enter or exit from it, and good visibility coming out of the driveway for the portable storage area. Ms. Baldwin felt this type of business was a plus for the area. She stated that she knew that most people hated change and Shapleigh residents were no different. Especially when they see a nice field being used for something other than staying natural. But change is inevitable and this business is at least not going to create a big impact on the area.

Ms. Baldwin also spoke about the fact that she was very concerned with the water quality of the lakes. With the locals having access to these portable toilets, hopefully more people will use them when they have large gatherings. Ms. Baldwin stated that she had used the portables before and they are very user friendly and not unsightly. There is no odor emitted with the new products used in them. She reminded everyone that water quality is a big issue in Shapleigh due to the ever-changing conditions of the lakes and ponds. Ms. Baldwin ended with saying that she felt the service they were going to provide was greatly needed in the area.

Bill H., speaking as a townspeople rather than a representative of the Planning Board, stated that when looking at this property, he sees that it is zoned commercial (it is where the Comprehensive Plan wants to locate businesses, along Rte. 109 & 11, but there is no actual commercial zones established per the ordinance in Shapleigh). Bill said that of all the different types of businesses the Gallant's could locate on this property, for example a service station or salvage yard, this business seemed to be relatively benign. Especially when most of the existing field will still remain as is.

Bill H. stated that if the Town of Shapleigh or through the efforts of Mr. Warren and/or the Gallant's the speed limit gets reduced to 25 m.p.h., then the entrance could be shorter (closer to Rte. 109), which is what the Gallant's originally proposed. Then the extended driveway could be reseeded and put back into field. But at this time, the road had to be placed where it is per the ordinance.

Bill H. said that he agreed with the approach and planning the Gallant's brought to the Planning Board. They are also concerned with aesthetics, wanting to be sure the portables are tucked up against the hill, along with placing a fence around them, as well as using environmentally safe products for the portables. In addition, the portables would not be serviced at the Simon Ricker Road location but on site (rental location). Bill believed this was a very well thought out plan for a commercial operation.

Bill H. concluded that the field is available at this time for any type of commercial operation, not just agriculture. In his opinion, people have the right to develop their land in a sound, ecological, responsible fashion.

Mr. Warren asked why the Gallant's needed a well on the property if they weren't going to service the portables? John Gallant stated that the well was to fill the tank truck with water. He said that the truck had two compartments, one for the sewage and the other to charge the toilets on site. Roger A. added that there was no new septic system going onto the property for waste. None of the waste is going to be unloaded at the Simon Ricker Road location.

Mrs. Gallant wanted to remind the board members and the abutters that the products used for the toilets were all environmentally safe products. (They will be stored on site in the 16 X 16 foot storage shed.)

Mr. Warren stated that the biggest reason he and his wife were upset was that they weren't notified. They saw the driveway going in and when they saw there wasn't a house being built and heard about the portable toilets, they did not understand why they weren't notified. The Gallant's and the Planning Board members stated that they understood their concern, which is why the 2nd public hearing was scheduled when the oversight was noticed.

Mr. John Gallant ended by stating that he wanted to assure both the Planning Board and Mr. Warren that this business was going to be presentable and that his family had no intention of making the place an eyesore.

Roger A. asked if there were any further questions. There were none so the Public Hearing was closed at 7:30 p.m.

The Planning Board meeting started at 7:31 p.m.

The minutes from Tuesday, May 11th, 2004 were accepted as written.

Conditional Use Permit – Rent Office Building, Drill Well & Store Portable Toilets on Property – Map 1, Lot 41 (184 Emery Mills Road) – David, Christine & John Gallant

There were no more questions from planning board members or the audience. (The Standards were read and reviewed during the meeting on April 27th during the approval process. There was no new evidence contrary to that review received during this evening's public hearing.)

Bill H. stated that because there was no new evidence introduced that would be contrary to the preceding and because the Planning Board has gone through all the standards and requirements in the zoning ordinance, ***Bill made a motion to grant a continuance for the Gallant's to proceed with their application as approved on April 27, 2004. Barbara G. 2nd the motion. All members were in favor.***

Nothing further was discussed for this application.

The following was the approval from April 27th: Bill H. made the motion to approve the application for a Conditional Use Permit to use the office building on Rte. 109 for Stoney Road Septic and Stoney Road Portables, as well as place a 16' X 16' shed, drill a well, and place portable toilets in the field off the Simon Ricker Road with the following conditions:

- 1) The hours of operation shall be Monday through Saturday, 7:00 a.m. thru 10:00 p.m.***
- 2) The driveway entrance from the Simon Ricker Road shall comply with the minimum site distance requirements of Shapleigh Zoning Ordinance 105-21 "Traffic". The minimum at 35 m.p.h. is 245 feet.***
- 3) The maximum width of the curb cut from Simon Ricker road shall be 26 feet.***
- 4) The fencing surrounding the portables shall be large enough to prevent them from being seen from the neighbors and the Simon Ricker Road.***

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

After-the-Fact Conditional Use Permit for Retaining Walls – Map 23, Lot 10 (23rd Street Loop) – Lincourt / Hermann

Joseph Lincourt was at the meeting to represent all the applicant(s) / family members. He brought the following information to the board members:

- 1) Application with appropriate after-the-fact fee. Also the signature of all the owners of the property except one sister. This will be received by the board as soon as possible per Mr. Lincourt.
- 2) Letter from Engineer Roger Gore, which stated in part “It is my understanding that the new wall was constructed as detailed on “Section B-B” of the plan, except that the wall stem is 8’ high instead of the 6’ shown on the plan, and the wall thickness was increased from the 10” shown on the plan to 12”. I have not independently confirmed reinforcing installation or footing size. My understanding of the wall construction is as detailed on the enclosed sketch, SK-1 of 1. If, in fact, the wall was constructed as illustrated on the enclosed sketch, SK-1, the wall is code compliant, safe and adequate for its intended purpose.”
- 3) Letter from Ron Allaire Construction which states that the second wall was “done with the same specs as was provided for the first wall. As these were provided by the Engineer, Mr. Gore, we used them for the second wall also.”
- 4) Picture of the new wall for the file.
- 5) Pictures of what the old walls and landscaping looked like prior to construction of the new walls.
- 6) Sketch called SK-1, dated and signed by Engineer Roger Gore of Acton Maine, on 5/24/04, showing the retaining wall details.
- 7) Copy of the DEP Permit by rule dated 10/26/01.

Mr. Lincourt told board members that the DEP stated to him that he did not need another DEP Permit by Rule because the original permit was good for three years since the project was replacing “existing” wall(s).

Bill H. reading the letter from Engineer Gore noted the following, “As anticipated, the rubble wall was not adequately supported during the construction of the new 6’ retaining wall detailed on the plan. The rubble wall had to be removed to complete the construction.”

Bill H. believed, from reading this, that if the 2nd wall had been adequately supported during construction, it would not have failed. Mr. Lincourt asked to look at the original plan and read the following note: “18’ - 6” section of wall may not be stable during excavation and removal of existing wall. Depending upon site soil conditions under this wall, this portion of wall may need to be removed in order to safely perform required work. To lesson risk of collapse, retained fill should be removed from behind wall prior to demolition of 140’ wall.” Madge B. asked if this had been done? Mr. Lincourt replied, “No”. Bill said that if the fill had been removed prior to construction the wall might not have collapsed.

Mr. Lincourt stated that the 2nd wall was approximately 3 feet from the 1st wall, not 10 feet as described by the engineer. Steve M., CEO, noted that there was a third wall 10 feet from the first wall and that could have been saved if care had been taken.

The board members asked who did the work? Mr. Lincourt stated that Ron Allaire had poured the walls; Dave Allen did the excavation work. Mr. Lincourt admitted that the project had turned into a nightmare for all concerned. Now the biggest problem was securing the soil. Mr. Lincourt stated that he is relying on the experts to come up with a plan that will work. Mr. Lincourt stated that the plan he spoke about at the last meeting, to add more retaining walls, was not what Engineer Gore felt would be best. Mr. Gore suggested more piers needed to be placed under the existing camp and let the earth settle in the area. Then add riprap, matting and plants indigenous to the area. Salmon falls nursery has been hired by the applicants to provide a planting plan.

Bill H., looking at the “before” pictures, stated that it appeared at least 9 trees were removed along the original wall. Bill asked Steve M. if at least 9 trees should be replaced on site? Steve stated that the trees needed to be replaced 2 to 1, unless replacement trees were the same size as those removed. He added that the replacement trees need to be at least 4 feet in height. Bill stated to Mr. Lincourt that there should be 18 new trees placed on site and they should be incorporated into the landscaping plan.

Mr. Lincourt told the board members that his family wanted the area to be better for themselves, their children, and the lake. Mr. Lincourt stated that they would make every effort to do what it takes to get the site stable.

Roger A. scheduled a site inspection for 6:30 p.m., prior to the meeting on Wednesday, June 9th. Abutter’s will be notified. Nothing further was discussed.

Best Possible Location – Replace Retaining Wall(s) - Map 40, Lot 41 (5 Osprey Road) – Marcel Boisvert / Paul Fecteau Representing

Mr. Marcel Boisvert was in attendance, as well as Mr. Paul Fecteau of Paul’s Lawncare, Lyman ME. Mr. Fecteau is the person who will be replacing the retaining walls.

Mr. Fecteau explained there would be three retaining walls replaced. Two were down at the waterfront and one was across the road. The 1st wall to be replaced is 21 feet from the water and is two feet in height. The 2nd wall is next to the camp and is three feet in height. These walls are dry laid stone walls and are deteriorating in places. Only the area that is deteriorating shall be replaced, in the exact same location and height. The stone replacement shall be the manufactured stone (blocks) from Genest concrete.

Mr. Fecteau stated that he was DEP Certified as well as certified by the State in erosion control and a member of Lake Smart.

The planning board members reviewed the sketch presented. Mr. Boisvert stated that there were railroad ties along the waters edge and they would be replaced as well with the block wall because they were rotting, in addition to being a hazard to the environment.

Mr. Fecteau stated that he would be using a small loader and hand wheel material in and out of the job site so as not to create an erosion problem. Roger A. asked if he would be using silt fencing? Mr. Fecteau stated that he would, he was DEP certified, worked with Fred Gallant (area rep.) and would not jeopardize his good standing with the department by not following the DEP guidelines.

Madge. B. asked if any plants would be removed? Mr. Boisvert stated that no plants would be removed nor any trees.

Mr. Fecteau stated that he would be using 4” perforated pipe for drainage behind the walls. He may also add a dry well area if needed.

There were no further questions for either gentleman. Roger A. scheduled a site inspection for 7:00 p.m. on June 9th. Abutters will be notified.

Amendment to a Conditional Use Permit – Addition to Existing Alpaca Product Business –Map 10, Lot 22 (1385 Shapleigh Corner Rd.) – Bob Ferrera, Jr.

Mr. Ferrera was in attendance to discuss his application.

Mr. Ferrera stated to the planning board members that he wanted to expand the existing Alpaca product business into a country store that sold the following:

- Baked goods.
- Cider, milk, soda, etc.
- Produce from other farms.
- Landscaping and gardening supplies, flowers and shrubs.
- Bark mulch, topsoil, compost and sand in bulk.

The hours of operation would be 6:00 a.m. through 10:00 p.m., seven days a week. The maximum yardage of materials on site would not exceed 3,000 yards. He would like to be able to use the existing old blueberry barn as needed. Also, he would like to add two additions to the existing Alpaca barn / business, 16' X 60' to the front and 30' X 60' to the rear.

Steve M., CEO, asked if he would be using a screener for the loam? Mr. Ferrera replied that he was going to be buying prescreened loam so no screener would be needed. Mr. Ferrera asked Steve if he needed a screener in the future, would it be a problem? Steve stated, "No".

Mr. Ferrera stated that he wanted to be able to use the existing blueberry barn on an as needed basis. He said there is a curb cut by the blueberry barn that he would like to block off so customers use the existing access road. Madge B. asked if there was enough room for parking with the expanded business? Mr. Ferrera stated that there was more room than necessary. The board members asked him to put the parking areas on the final plan.

Steve M., CEO, asked if he would be using blocks around the mulch piles? Mr. Ferrera stated that he didn't like the looks of the blocks. He might use Jersey barriers if necessary. He wanted the place to have a nice appearance.

Madge B. asked if he would be cutting any trees for the parking area? Mr. Ferrera stated he would not. Madge noted that she would like to see the existing trees along the roadway remain as a buffer. She added that the town likes to see buffers around a business, and the ordinance makes note of this as well. Mr. Ferrera stated no trees along Rte. 11 would be cut. The only trees that would be removed are tree stumps that are there now and need to be removed for the additional parking area.

There were no further questions at this time. A notice to abutters shall be mailed and a Public Hearing shall be scheduled for June 9th at 7:30 p.m.

Other:

Roland Legere asked about the references to Goose Pond and Kettle Pond Condos listed on the agenda under "Information".

The first item was the "Draft of Declaration of Protective Covenant for Goose Pond Overlook..." with respect to Mr. H. Craig Higgins making the changes to the covenants as requested by the Planning Board.

Roger A. told Mr. Legere that Mr. Higgins made the following changes to the covenants:

- 1) Under #10, Mr. Higgins removed “Lower” from the name of Goose Pond. The planning board members had told Mr. Higgins that there is no Lower Goose Pond. There is Upper Goose Pond and Goose Pond only.
- 2) Under #12, Mr. Higgins removed “Lower” from the name of Goose Pond. In addition, he removed “except those with electric motors” from the section dealing with Watercraft. The planning board members told Mr. Higgins he had agreed that there would be no motors of any kind allowed on Upper Goose Pond due to its fragile environment.
- 3) Mr. Higgins added #14 to the covenants at the planning board members request, it reads as follows: **Square Pond R.O.W.:** Lot owners 1, 2 and 3 shall not be granted a right-of-way (R.O.W.) to use “the shore lot on Square Pond which was reserved for bathing and boating privileges” per the deed into Albert R. LaValley, Inc. recorded in Book 1870 Page 877 at the York County Registry of Deeds. Lots 4, 5 and 6 shall be granted a right-of-way (R.O.W.) to use “the shore lot on Square Pond”.

Mr. Legere had no questions regarding the above changes.

The other item Mr. Legere wanted to know about was the dock approval in the Findings of Facts for Kettle Pond Condominiums. Mr. Legere had told the board members at a previous meeting that someone was using the existing dock to access their motorized boat moored offshore and he believed this was not allowed per the final approval. Mr. Legere was correct. The board members reviewed a copy of the Findings of Fact and within the Findings the following is written:

- a) On page 5 of 7, under #4, it reads: The terms of January 9, 2002 Conditional Use approval relating to the Dock are hereby adopted and included by reference, they are as follows: **3) Only non-motorized watercraft can be placed at the dock.**
- b) On page 6 of 7, still under #4, it reads: This Approval shall supercede the Conditional Use Permit issued by the Planning Board on December 8, 1998. The following conditions from the Conditional Use Permit dated December 8, 1998 are hereby readopted: **a) The Condominium shall limit water access to a single dock designed for swimming and non-motorized boat tie-ups. b) The Condominium shall be prohibited from renting any motorized boats, including personal watercraft, on the property or enabling guests to launch motorized boats from the property. c) The Condominium shall not make any alterations to Kettle Pond, or clear any vegetation within 100 feet of the Pond. In addition, there shall be no boat tie-ups to the shoreline, no hydro lifts, and no offshore boat tie-ups used by the residents of Kettle Pond Condominiums. All non-motorized boat access shall be through the existing approved dock.**

Mr. Legere asked how this could be enforced and if anything was being done. Steve M., CEO, stated that he would be writing the Condo Association President a letter attaching the Findings of Fact so he could inform the other residents / association members of the limited dock access. If they did not comply, Steve would take further action. Bill H. noted that because the Findings of Facts listed the non-motorized watercraft criteria as being part of a Conditional Use Permit, the Town could enforce this as being a non-permitted use. Roger A. agreed.

Nothing further was discussed.

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.*

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

Respectively submitted,

Barbara Gilbride

Planning Board Secretary planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES
Wednesday, June 9, 2004

Members in attendance: Roger Allaire (Chairman), Diane Srebnick (Vice Chairman), and Barbara Gilbride (Secretary). Code Enforcement Officer, Steven McDonough was also in attendance.

Note(s): Meeting was held Wednesday night due to elections being held on Tuesday. Bill Hayes will no longer be serving on the Planning Board as he was voted in as a member of the Board of Selectmen. The Planning Board would like to sincerely thank Bill for his dedication to the Planning Board during the time served. We would also like to congratulate him on his new position.

The Public Hearing Began at 7:30 p.m. The following items were reviewed:

- **Amendment to a Conditional Use Permit – Addition to Existing Alpaca Product Business – Map 10, Lot 22 (1385 Shapleigh Corner Rd.) – Bob Ferrera, Jr.**

Mr. Ferrera was present. Roger A. asked him to explain to the public what he was intending to do.

Mr. Ferrera stated to the Planning Board members and the audience that he wanted to expand the existing Alpaca product business into a country store. In the store he would be selling baked goods, including blueberry pies made from local blueberries. He would like to sell refreshments such as cider, milk and soda and crafts will be sold in addition to the alpaca products they currently sell. Also, landscaping and gardening supplies would be offered including bark mulch sold by the bulk as well as loam and compost.

Roger A. asked if the hours of operation would be the same as the existing hours of operation. Mr. Ferrera stated he would like to expand the hours to 6:00 a.m. through 10:00 p.m., seven days a week.

Roger A. asked if there were any questions. There were none. The Public Hearing closed at 7:40 p.m.

The Planning Board meeting started at 7:41 p.m.

The minutes from Tuesday, May 25, 2004 were accepted as written.

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

After-the-Fact Conditional Use Permit for Retaining Walls – Map 23, Lot 10 (23rd Street Loop) – Lincourt / Hermann

Joseph Lincourt was at the meeting to represent all the applicant(s) / family members. Mary Hermann and Mrs. Lincourt were also in attendance.

Planning Board members Roger A., Diane S. and Barbara G. did a site visit earlier in the evening. At the site visit it was noted that the area was very sandy and the land sloped very aggressively toward the lake. There was no vegetation remaining in the area where the walls were built. The cottage was in need of repair and members noted that it appeared tree roots ran under the building in the front. They thought it might have been from a tree that was removed during the project. They concluded the area as it exists would continue to erode during heavy rains without the protection of a good ground cover or a heavy layer of mulch.

Mr. Lincourt brought a picture of the existing landscape which appeared as noted above. He also had a landscaping plan from Salmon Falls Nursery, which he stated he had received just prior to this evening's meeting. The stabilization plan, in the areas with a grade greater than 3:1, will house a long term degradable erosion control blanket. "This blanket is 100% coconut fiber and bonded with a UV stabilizing thread. The blanket is pinned into the soil and is effective coverage for 3 years." This is per the letter from the nursery. The letter also states that 18 trees will be planted on the property. (The Planning Board required this at the last meeting to replace trees that were removed during the project.) These trees will most likely be Eastern White Pine because of their "tenacity in extreme situations".

There was also a list of plants that Salmon Falls would use on site. The list included Bearberry, Sweetfern, Green Ash, Bayberry, Shrubby Cinquefoil, Beach Plum, Obedient Plant, Lowbush Blueberry and Mapleleaf Viburnum. A brief description of each was attached to the letter.

Roger A. asked Mr. Lincourt if there would be any additional block walls? Mr. Lincourt stated that the site engineer he hired, Mr. Robert T. Gore, Jr., felt that instead of more retaining walls, the rocks under the cottage should be replaced with piers and the soil should be allowed to self level under and around the cottage. This along with the plantings would stabilize the area.

Diane S. asked if there would be rails placed along the upper wall? (The wall is 6' high from the top of the wall to the next tier of sand and wall.) Diane felt this could be a very dangerous area for adults and children alike. Mr. Lincourt stated that a new deck would be placed in front of the cottage to replace the one removed during the project, and along the deck would be railings. The railings could be extended from the deck to the ends of the new wall.

Diane S. asked where the trees would be placed on site? The new site plan from Salmon Falls Nursery did not show where the trees would be located. Mr. Lincourt said that he would draw trees on the plan right now if the board members would like. Diane stated that she would prefer Salmon Falls Nursery to place them on the plan and Mr. Lincourt could then fax or mail the plan to the Planning Board prior to completion of the project. The other board members agreed this would be adequate as long as the trees were incorporated into the plan and there was a plan for the Code Enforcement Officer to review upon completion.

Barbara G. asked if they would be using Salmon Falls Nursery to complete the project and if they had a completion date? Barbara also asked if they felt they could finish the project by September 1, 2004? The applicants were told by Salmon Falls Nursery that if they used them, they could begin the project in mid July. Mr. Lincourt stated that although the family was thinking about doing the job themselves, they realize that because of the scope of the project it would be best to utilize experts in this area. The applicants felt that a September 1st completion date would not be a problem.

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

Diane S. made the motion to approve the After the Fact Amendment to the Conditional Use Permit per the plan provided with the following condition(s):

- 1) A final plan shall be faxed or mailed to the Planning Board and/or Code Enforcement Officer, and on this plan will be the placement of the 18 trees required on site to replace those removed during construction.
- 2) All planting shall be completed by September 1, 2004.

Barbara G. 2nd the motion. All members were in favor.

Nothing further was discussed.

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- **Gretchen Wood wanted to discuss 911 addressing with Planning Board for Robert Ferrera's property.**

Mr. Ferrera currently has one driveway. This driveway is used to access his existing home, existing business and will access a second home being built. Mr. Ferrera wants to be able to keep his current address of 1385 Shapleigh Corner Road due to the fact it is printed on all his business stationary, business cards, etc.

Mrs. Gretchen Wood, the E-911 director for the Town of Shapleigh, stated that if he uses this one driveway to access all three buildings, the driveway will have to become a road and new numbers will be given to the buildings, including his business. The only way to avoid this is to have a separate entrance for the new home, thus allowing for the business / existing home to remain 1385 Shapleigh Corner Road.

Steve M., CEO, reminded the Planning Board of Zoning Ordinance 105-34 "Access control on Routes 109 and 11". The ordinance reads in part: "Land lying on Routes 109 and 11 may be divided into lots, but all vehicular movements to and from the highway shall be via a common driveway or entranceway serving adjacent lots or premises."

Mrs. Wood stated that there was a separate access put in for construction equipment accessing the new home. She felt that in fact there were already two entrances to the property. The board members and CEO stated that this was not an approved curb cut onto Rte. 11 and could not be used. Mrs. Wood added that she may have numbered the curb cut that accesses the blueberry shed, also on Mr. Ferrera's property. The board members did not have a problem with numbering an existing curb cut.

After much discussion it was agreed that Mr. Ferrera would continue to use the existing entrance at 1385 Shapleigh Corner Road but according to Mrs. Wood it would have to become a road and be renumbered. She did not know exactly how long the process would take because she has to go through the State for approval of a new name for the road, etc. Mr. Ferrera, although not entirely happy with the decision, agreed to use the one new access road for all buildings on the property. (Oak Hill road is the proposed name of the new road.)

Best Possible Location – Replace Retaining Wall(s) - Map 40, Lot 41 (5 Osprey Road) – Marcel Boisvert / Paul Fecteau Representing

Mr. Boisvert and Mr. Fecteau were present at the meeting, as well as the site inspection that was held prior to the meeting. Roger A., Diane S., and Barbara G. attended the site inspection.

During the site inspection the three walls, which Mr. Boisvert wishes to replace, were seen. All were dry laid stones that were no longer working to retain the earth in many places. Also a small railroad tie wall needed to be replaced as it had a substantial amount of rot. In addition, Mr. Boisvert explained that a retaining wall will be built next to the garage, and he would like to remove some of the existing fill to place the new 4' wall farther back into the existing embankment. Mr. Boisvert intends to place the fill in a hollow area next to the project, which is on his neighbor's property, with the neighbor's permission.

As discussed at the previous meeting, all the walls will be replaced with the locking blocks made by Genest concrete. Both of the walls within 100 feet of the water will remain the exact same height (approximately 2') and length.

Roger A. told Mr. Boisvert that if the neighbor wants to accept the earth, he will need a Conditional Use Permit since it is in the Shoreland zone. Roger also stated that the Planning Board would need a letter from the neighbor stating he was willing to accept the earth onto his property. Mr. Boisvert asked if he could have the soil hauled off if the neighbor did not want to come in for a Conditional Use Permit? Roger A. stated he could as long as he was not going to leave it in the Shoreland zone.

Roger A. asked if there were any further questions, there were none.

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

- 105-26** – Stormwater runoff. *There will be Best Management Practices used during the project. The walls, when in place will help to prevent erosion from stormwater.*
- 105-27** – Erosion control. *There will be Best Management Practices used during the project. Mr. Fecteau, who will be doing the project is DEP Certified as well as certified by the State in erosion control and a member of Lake Smart.*
- 105-30** – Water quality. *Water quality will be preserved by the new walls which will prevent soil from being washed into the water.*

Roger reviewed the following listed under “Performance Standards for Specific Activities”:

- 105-39** - Earth removal and filling. *The two walls closest to the water will be dry laid requiring no fill to be removed or added. Should the fill next to the garage be moved to the neighbor's property, a Conditional Use Permit shall be required.*
- 105-51** – Clearing of vegetation for development. *There will be no vegetation removed during the replacement of the stone walls.*

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, Best Management Practices will be used during the reconstruction of the walls.*
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. *The new walls will help to prevent erosion, maintaining the cover that exists.*
- 3) The use is consistent with the Comprehensive Plan. *It is, the Comprehensive Plan wants to protect the lakes from stormwater runoff.*
- 4) Traffic access to the site is safe. *N/A*
- 5) The site design is in conformance with all municipal flood hazard protection regulations. *The project has DEP approval.*
- 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. ***The two railroad ties that will be removed shall be taken to the transfer station for disposal.***
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***The wall(s) are in existence and no change is being made to their location or size.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***Best Management Practices shall be used during reconstruction of the walls.***
- 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. ***N/A***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

Roger asked if there were any further questions and there were none.

Diane S. made the motion to approve the Best Possible Location application as presented with the following condition(s):

- 1) ***The Planning Board or Code Enforcement Officer will need a letter from the neighbor stating Mr. Boisvert has permission to place earth on his property.***
- 2) ***If Mr. Boisvert's neighbor accepts the earth, he will need to come to the Planning Board for a Conditional Use Permit prior to the earth being moved.***

Barbara G. 2nd the motion. All members were in favor.

Nothing further was discussed.

Amendment to a Conditional Use Permit – Addition to Existing Alpaca Product Business –Map 10, Lot 22 (1385 Shapleigh Corner Rd.) – Bob Ferrera, Jr.

Mr. Ferrera was in attendance to discuss his application.

Roger A. asked board members if they had any questions for Mr. Ferrera after the Public Hearing. There were none.

Roger reviewed the following with respect to this application:

- 105-17 - Land Uses. ***This business is allowed in the General Purpose District.***
- 105-20 – Applicability of standards; prohibited uses. ***This application is a permitted use.***
- 105-21 – Traffic. ***Traffic will continue to have safe access. The site distances were approved on the previous application for the Alpaca products business.***
- 105-22 – Noise. ***This business shall not create excessive noise.***
- 105-23 – Dust, fumes, vapors and gases. ***There will be no emissions created by this addition to the business.***
- 105-24 – Odors. ***There will be no odors emitted from this addition to the existing business.***
- 105-25 – Glare. ***Per the applicant, any additional lighting shall not face Rte. 11.***
- 105-26 – Stormwater runoff. ***The area is very flat. Therefore, stormwater runoff is not an issue with this location.***

- 105-27 – Erosion control. *This is an existing business location. The additional buildings / parking area shall not create an erosion problem because it is a flat area.*
- 105-28 – Setbacks and screening. *Screening consisting of a tree line between the business and Rte. 11 is in existence and shall not be removed.*
- 105-30 – Water quality. *The addition to the existing business shall not create any hazardous materials that could damage the water quality.*
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *The parking area shall have a buffer of trees between the area and Rte 11.*
- 105-32 – Relation of proposed building to environment. *The building will be compatible with existing buildings in the surrounding area.*
- 105-33 – Refuse disposal. *Any refuse from the business shall be taken to the transfer station by the applicant.*
- 105-34 – Access control on Routes 109 and 11. *All traffic will enter onto the site through the existing curb cut onto Rte 11.*
- 105-43 - Off-street parking and loading. *This location shall have an adequate parking area per the plan, as well as access for any size vehicle, including an area to turn around safely.*
- 105-47 – Signs and billboards. *Mr. Ferrera shall go to the Code Enforcement Officer, prior to installing any additional signs or a change in the existing sign.*
- 105-60 – Driveways. *The driveway is in existence.*

Roger A. stated that at the previous meeting Mr. Ferrera has talked about possibly placing Jersey barriers on site next to the piles of bark mulch. Roger asked if any of the board members wanted to make that a condition of the permit to make certain the mulch does not encroach onto the neighbor's lot line? Diane S. thought Jersey barriers would help to contain the bark mulch in one area. Roger asked what the maximum yardage would be for the mulch? Mr. Ferrera stated on his application 3000 yards but he stated that this was far in excess of what he would have on site.

Diane S. asked what part of the addition to the building was for the store and what would be the area to house the alpaca's? She wanted to be sure Mr. Ferrera had enough additional parking placed on the plan. Diane calculated 17 parking spaces would be required for the addition(s). After looking at Mr. Ferrera's plan, there was room for more than 17 spaces on site. Mr. Ferrera had depicted 22 parking slots on the plan.

Roger A. asked Mr. Ferrera if he was aware of Ordinance 105-56 "Animal breeding or care."? He read the following to Mr. Ferrera to make certain he was in compliance:

The keeping or raising of animals, including fowl, for any commercial purpose, may be conducted as a conditional use, subject to the following standards:

- A. All pens, stables, barns coops or other building shelters for animals shall be set back no less than 150 feet from any lot line.*

Mr. Ferrera stated that his animals were well within the limit.

Roger A. asked if there would be additional plumbing added to the building? Mr. Ferrera stated that the one hydrant that exists in the barn would not be added to at this time.

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. *N/A*

- 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 Comprehensive Plan wants businesses located along Rte. 11 and Rte. 109.***
- 4) Traffic access to the site is safe. ***It is, the site distances are well within the limits as approved on the original CUP.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***It is.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***There is no waste disposal for the addition to this business.***
- 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. ***The original business approved for this location, has had no impact on the site with respect to stormwater drainage. There are no slopes, the area is relatively flat. The addition to the business will not change the site.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***The site is flat with no erosion problems with the existing business and none foreseen.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***There is, as approved on the original CUP.***
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. ***The business location is a large distance from neighboring properties and the existing tree line along Rte. 11 shall remain in place.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

Roger A. asked if there were any further questions from members or the audience. There were none.

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

- 1) ***Hours of operation to be 6:00 a.m. thru 10:00 p.m., seven days a week.***
- 2) ***The only entrance to the business shall be through the existing entrance, currently 1385 Shapleigh Corner Road.***
- 3) ***The old blueberry barn may be used as needed but access will not be from Rte. 11.***
- 4) ***Jersey Barriers shall be placed around the bark mulch to contain it in a localized area.***
- 5) ***All additions to the existing barn / business shall be approved and permitted through the Code Enforcement Office.***

Barbara G. 2nd the motion. All members were in favor.

Nothing further was discussed.

4-Lot Subdivision – “Granny Kent Crossing” – Map 12, Lot 34 (Newfield Road) - Laurent & Tammy Caron

Larry and Tammy Caron were present for the meeting.

The Caron's had mailed board members a copy of the soils report for the waste water system design for the three lots to be developed (lot 4 already has an existing home on the property). The board members also received a copy of the deed showing the Caron's as owners of the property, a copy of a topography map of the area, and the preliminary subdivision plan drafted by Metcalf Land Surveying, Inc.

The Planning Board received from Fire Chief Gary Utgard a letter stating that he recommends that a state approved sprinkler system should be placed in each new home in light of the fact that the area could not sustain a fire pond.

The board members reviewed the material received and stated that for the final plan the types of soils must be placed on the plan itself as well as the contour lines for elevation covering all four lots. One of the lots on the plan appeared to be too narrow at one point possibly creating a spaghetti lot which is not allowed per the subdivision ordinance. Mr. Caron stated that the lot lines for that lot would be moved on the final plan, to be certain the lots lines meet the subdivision requirements. Roger A asked the board members if they had any question for the Caron's or felt that anything further was required of them at this time. There were no questions or comments.

Roger A. stated that a Public Hearing will be scheduled for Tuesday, June 22nd at 7:30 p.m. A notice to abutters shall be mailed as well. In addition a site inspection was scheduled prior to the meeting at 5:30 p.m. Nothing further was discussed.

Best Possible Location – New Foundation under Home – Map 44, Lot 6 (30 Whippoorwill Lane) - Robert Harrington

Mr. Harrington was present to discuss his application.

Mr. Harrington stated that he wanted to jack up his home and place a new foundation under it. In addition, he would be replacing the existing septic holding tank with a new state approved system. Mr. Harrington gave the Planning Board a copy of the Waste Water Disposal System Application dated 5/24/04, designed by Site Evaluator Kenneth Gardner, SE #73. In addition, there was a sketch showing the lot dimensions, including the setback from Silver Lake and Whippoorwill Lane. Currently the side setbacks to the cottage are approximately 10' and 21' from the side lot lines and 50' to Whippoorwill Lane and 61' from the high water mark.

The Planning Board members had no questions at this time. *Roger A. stated a site inspection would be scheduled for Tuesday, June 22nd at 6:00 p.m.* A notice to abutters will be mailed. Nothing further was discussed.

Best Possible Location – Add Full Basement, Extend Gable Roof over Porch and Enclose Porch – Map 31, Lot 12 (34 Cillie Road) – Joanne Weiss

Ms. Weiss was present at the meeting to discuss her application.

Ms. Weiss told the Planning Board members that she intended to add a full basement under the existing camp; extend the gable roof over the existing porch and enclose the porch (dormer and porch to the right of the camp). Ms. Weiss presented a sketch along with the application. The sketch depicted the following setbacks from the cabin to the lot lines: 17.5" to the left lot line; 194' from the right lot line (side with proposed roof over porch); 27' from Cillie Road; and 104' from the high water mark (Goose Pond).

The board members had no questions for Ms. Weiss at this time. ***Roger A. scheduled a site inspection for 7:00 p.m. on Tuesday, June 22nd.*** A notice to abutters will be mailed. Nothing further was discussed.

Best Possible Location – Replace Two Retaining Walls – Map 39, Lot 53 (Swan Circle) – Dennis & Francine Cram

Mr. and Mrs. Cram were present to discuss their application.

Mrs. Cram stated to the board members that they wished to replace two retaining walls that are within 100 feet of Granny Kent Pond. Mrs. Cram stated that after they rebuilt their home that was destroyed by fire (with P.B. approval), one of the retaining walls was destroyed while moving and rebuilding the foundation (the P.B. asked them to move the destroyed home 10 farther back from the waterfront). Mrs. Cram added that because of the slope of the land, this wall needed to be rebuilt to prevent erosion.

Mrs. Cram stated that the second wall, the wall closest to the water, was falling down thus in need of repair. She explained that in the middle of this wall was a dug well and an old pump house along with a set of stairs. Mrs. Cram said they would like to rebuild the wall, moving the stairs so they align more closely with the walkway used to access the water. Also, the new wall will be in front of where the pump house is instead of jogging behind it.

Both walls will be made of interlocking concrete block. New plantings will be placed behind the walls once they are finished to prevent further erosion of the natural shoreline.

The applicants presented a sketch depicting the above along with their application. In addition, a brief description of their project was attached along with a copy of the Subsurface Wastewater Disposal System Application (for reference).

Mrs. Cram stated that they mailed their DEP Permit by Rule Application on May 30th and were waiting for their copy to be returned so they can give it to the Planning Board. ***(On 6/9/04, Steve M., CEO, received a copy of the DEP permit which stated that the Cram's needed to resubmit their plan.)***

There were no questions from the board members at this time. ***Roger A. scheduled a site inspection for Tuesday, June 22nd at 6:15 p.m.*** A notice to abutters will be mailed. Nothing further was discussed.

Conditional Use Permit – Earth Moving in Excess of 150 Yards – Map 12, Lot 15 (102 Swan Circle) – Henry Gierie

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

Mr. Gierie stated that he had built a new home and now that it is completed he wants to landscape the area. He said that it was very sandy so there was little vegetation growing. He would need to bring in clay and loam to be able to create a lawn, etc. He also needed to bring in more gravel for his driveway. The amount of earth he would need for both projects was in excess of 150 yards which is why he was before the Planning Board. Mr. Gierie concluded that all these projects would take approximately the next two years to complete.

Roger A. asked Steve M., CEO, if the earth moving could be considered incidental to construction? Steve stated that it was not because Mr. Gierie had already received his occupancy permit so the construction of the home, from a permit standpoint, was complete.

There were no questions from board members at this time. *A site inspection was scheduled for Tuesday, June 22nd, at 6:30 p.m.* A notice to abutters will be mailed. Nothing further was discussed.

11-Lot Major Subdivision – “Evergreen Overlook” – Map 5, Lot 20 (State Rte. 11) – Development Services, Inc. – H. Craig Higgins Representing

Mr. Higgins was present stating he was representing North Country Land, Inc. who is the owner of the property. The property is located on Tax Map 5, Lot 20 and consist of 43.42 acres of land. There will be a total of 11 lots developed. There will be a three pod cluster with the following acreage: 2.70; 1.65 and 2.49. A second cluster of five lots will have the following acreage: 1.08; 1.02; 1.56; 1.44 and 1.50. The remaining lots are 1.12 acres, 1.09 acres and 1.21 acres in size.

Mr. Higgins mailed to each board member a copy of the 11-lot preliminary plan which included proposed lots, open green space, wetlands, road, contour lines (elevation), and test pit locations (on all proposed lots except lot 4). Also received was a soil survey by Soil Scientist James Logan, and it was noted in an attached letter that “Due to poor ground control in the rear of the site (TP 11-13), it is my recommendation that you have test pits surveyed onto the plan for accuracy.”

In addition, the board members received the MDOT Permit for Entrance. Mr. Higgins stated that the description on the permit stating the entrance would be 405’ NW-ly of 21st street was incorrect. Mr. Higgins would have a correct permit from MDOT for the next meeting.

Mr. Higgins stated that he would ask Madge Baker if the Land Trust would be interested in the Open Green Space. Mr. Higgins also said that he has informed several “locals” that they are welcome to take the downed trees (left over from the logging that took place on site recently). Mr. Higgins did not want to see the wood go to waste and its removal would help make the area look more presentable.

Roger A. asked Mr. Higgins if he would make certain he does not need a DEP permit for water crossing since the road does cross a wetland in two places. Mr. Higgins did not believe a permit was necessary because of the small size of the project. However, he would make certain he was correct.

Mr. Higgins stated that a fire pond would be placed on site. The area was wet enough to house a pond in several locations.

Mr. Higgins asked if there was anything missing that stood out at this time. Roger A. stated that he believed the second cluster of houses, the five lot cluster, would require a turnaround. Mr. Higgins concurred that it would be a good idea.

Roger A. asked the board members if there were any more questions at this time. There were none. *A site inspection was scheduled for Friday, June 18th at 5:30 p.m. and another on Monday, June 21st at 4:00 p.m. to accommodate both Planning Board members as well as the Fire Chief and Road Commissioner.* Nothing further was discussed at this time.

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.*

The Planning Board meeting ended at 9:50 p.m.

Respectively submitted,

Barbara Gilbride
Planning Board Secretary planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES
Tuesday, June 22, 2004

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

The Public Hearing Began at 7:35 p.m. The following items were reviewed:

- **4-Lot Subdivision – “Granny Kent Crossing” – Map 12, Lot 34 (Newfield Road) - Laurent & Tammy Caron**

Mr. Caron was present for the public hearing.

Roger A. told audience members that the application before the Planning Board was for a 4-lot subdivision. The property was on the corner of the Newfield Road and Granny Kent Pond Road. Each of the proposed lots are 80,000+ sq. ft. Lot 1 had an existing mobile home on the property. All the lots will have their own well and state approved septic system.

One abutter, Mr. Gierie, looked at the plan but had no comments or questions. Roger A. asked if there were any questions from board members or the audience at this time. There were none.

The Public Hearing was closed at 7:40 p.m.

The Planning Board meeting started at 7:42 p.m.

The minutes from Wednesday, June 9, 2004 were accepted as written.

Madge B. acted as a regular member due to vacancies on the Planning Board.

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

4-Lot Subdivision – “Granny Kent Crossing” – Map 12, Lot 34 (Newfield Road) - Laurent & Tammy Caron

Earlier in the evening, Mr. and Mrs. Caron met the Planning Board members on site to view the proposed lot locations. The board members noted that lot 2 had a natural spring running within 75 feet of the road. Lots 3 and 4 appeared to be on higher ground and relatively flat until they reached the back of the lots where the area drops off toward a stream known as Burnt Mill Brook which abuts the rear of lots 3 and 4.

Roger A. and Madge B. were concerned with the layout of lot 3. At one point the lot is very narrow and their concern was this lot could be considered a spaghetti lot. The Caron's had part of the original lot line moved between lot 3 and 4 to avoid this situation (as suggested by Roger A. at the previous P.B. meeting) but at this evening's review Roger and Madge did not believe moving the line removed the problem. Mr. Caron stated that he could combine lots 3 and 4 creating a 3 lot subdivision to eliminate the spaghetti lot. Roger and Madge agreed that might be best.

The board members told Mr. Caron that anyone building on lot 2 would need to avoid the spring with both the septic system and the home. Mr. Caron stated he understood that. Diane S. added that no one could build within 75 feet of Brunt Mill Brook as well. Mr. Caron stated he understood that as well.

Roger A. told Mr. Caron that because lots 1 and 2 were only 80,000 square feet, the minimum allowed in Shapleigh for a building lot. He would need to be certain the deeds read 80,000+ square feet, not 80,000±. There could be no minus as the minimum acreage has been reached.

Barbara G. asked the board members if Mr. Caron would need to have sprinkler systems in the new homes as requested by Fire Chief Gary Utgard. Roger A. read from Mr. Utgard's letter dated June 4, 2004, the following was read: "It is my recommendation, that Mr. Caron receive a waiver of necessity for a fire pond and / or cistern for the proposed four-lot subdivision. I would recommend that a state approved residential sprinkler system be installed in each new residence (total of 3) in this project. The existing trailer would not be required to be retrofitted, however any new construction at that location shall be compliant with the terms of this subdivision."

Barbara G. asked if Mr. Caron should place the requirement of a sprinkler system on the final plan. The board members believed it should be. Board members were concerned with fire protection in this area as two homes in the near vicinity were lost last year due to fire. The members agreed sprinkler systems should be required in the new homes and should the mobile be replaced with a new home, the new home would be required to have a sprinkler system as well.

Roger A. asked the board members if they felt another public hearing was required due to the changes being made to the final plan? Members reviewed the ordinance and did not see where a Public Hearing was mandatory. This and the fact no townspeople came to this evening's public hearing, another would not be scheduled. Roger stated that a notice to abutters would be mailed to inform abutters that another review would take place due to the changes requested by the Planning Board.

There were no further questions. The application will be placed on the July 13th agenda provided all requested information is received by board member seven days prior to the meeting date.

Best Possible Location – New Foundation under Home – Map 44, Lot 6 (30 Whippoorwill Lane) - Robert Harrington

Mr. Harrington was present to discuss his application.

Planning Board members met on site earlier in the evening to look at the current setback for Mr. Harrington and determine what the Best Possible Location would be. Mr. Harrington was proposing to jack up his home approximately 2 feet and place a new foundation under it. During the site review, Mr. Harrington reminded the board members that he would be replacing the existing septic holding tank with a new state approved system. The new system would be placed across the street behind Mr. Harrington's year round home and would require a pump since it would be higher than the camp. The new septic system would be over 300 feet from Silver Lake in its new location.

The board members looked at the camps location with respect to the road, waterfront, existing trees and neighboring camps. It was determined, since the camp was currently non-conforming with respect to both the road setback and the setback from the lake, moving the structure in either direction would not make the camp more conforming. In addition, moving the camp in either direction would require the removal of existing vegetation which could create a greater erosion problem with respect to the water. Lastly, both neighboring properties had camps somewhat in line with Mr. Harrington's cabin. Moving it would not add to the aesthetics of the area.

Roger A. asked if the board members had any questions for Mr. Harrington. They did not.

After reviewing the application, sketch plan provided, subsurface wastewater disposal system application dated 5/24/04, and the site inspection, ***Diane S. made the motion to approve the application, keeping the camp in the same location, leaving all existing vegetation in place. Madge B. seconded the motion. All members were in favor.***

Best Possible Location – Replace Two Retaining Walls – Map 39, Lot 53 (Swan Circle) – Dennis & Francine Cram

The Planning Board members did a site inspection earlier in the evening. The board members were able to see the existing wall closest to the waters edge. It appeared another wall had been removed during construction, as the Cram's had stated in their application. The area between the existing wall and the new home was very steep and sandy. The board members noted what appeared to be a drainage pipe coming from under the new home and exiting directly behind what will be the second wall. There was concern expressed by members that this water would cause a lot of pressure behind the new wall. Mr. Cram, who was present at the site inspection, spoke about possibly diverting water to either side of the wall. The members agreed this was probably a necessity.

The board members had received a copy of the DEP Permit by Rule which stated the Cram's had to resubmit their application. Roger A. told Mr. Cram that their application would be tabled until the Planning Board receives a copy of the approved DEP permit. Mr. Cram understood and would contact the Planning Board as soon as he received his copy.

There was no discussion on the application at the meeting.

Conditional Use Permit – Earth Moving in Excess of 150 Yards – Map 12, Lot 15 (102 Swan Circle) – Henry Gierie

The Planning Board met on site earlier in the evening. Mr. Gierie was not present at the site inspection.

The board members observed a lot of existing gravel on site in piles around the driveway and home. There was a large brush / stump pile as well as a few piles of what looked like loam. The area appeared to be very sandy and there were several leveled tiers around the home. The driveway into the home was very long.

Mr. Gierie was present for the meeting. He stated once again that he wanted to haul in gravel, clay and loam to landscape around the home and add more crushed gravel to his driveway. Roger A. asked how much gravel was presently on site and why he needed more gravel? Mr. Gierie stated that the piles the board members saw were going to be used to create a turn around area and further build up the driveway prior to laying down the crushed gravel that he would have to bring in. He also stated he was going to use the existing gravel to level around his septic system.

Mr. Gierie stated that he would be using a putty sand mix as a base then loam over it to create an area for a lawn and other vegetation. The putty sand had a clay base so water would remain. He stated that currently the area would hold no rainwater since it was all gravel. He added that even during construction he did not have to worry about erosion since the water immediately percolated into the ground. Now that he wants landscaping, however, it is a problem. This is why he will need a lot of clay and loam brought in.

Madge B. asked if Mr. Gierie would be landscaping along the driveway? He stated that he would. Madge stated that the board needed to be certain there would be no run-off created by the new driveway. Mr. Gierie stated the soils prohibited runoff in this area. He did state that the only area that might be a problem was the end of the driveway but it has not been a problem to date.

Madge asked Mr. Gierie if he would be clearing the vegetation up to the property lines? Mr. Gierie stated that he was staying at least 100 feet from the nearest property line. He also noted that the area was dense with foliage. Mr. Gierie said that he would be leaving any substantial trees while doing his landscaping around the home. Only the scrub brush would be removed.

Madge B. asked the board members if there needed to be a time line for replanting? Diane S. noted that under Zoning Ordinance 105-39.J it is written in part, "Any operation involving the excavation, processing or storage of soil, earth, loam, sand, gravel, rock or other mineral deposits in lawful operation at the time this chapter became effective (March 12, 1983) may operate for a period of three years from the effective date."

Mr. Gierie added that he wanted to do the project in stages, doing one section at a time, to minimize the area exposed. By doing this he could reseed each area before moving onto the next area to be landscaped. Roger A. agreed citing Zoning Ordinance 105-61.B(4)(c) which reads: "Topsoil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project."

Roger A. asked if there were any additional questions for Mr. Gierie and there were none. Roger reviewed the Zoning Ordinance 105-39 "Earth removal and filling", Section G "Conditions of Permit", which read as follows:

- (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.
 - ***The project will be phased in over a three year period, doing it in small sections.***
 - ***Applicant shall reseed / stabilize each area.***
- (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.
 - ***There has been no runoff to date due to the highly permeable soils on site.***
 - ***Best Management Practices shall be used.***
- (3) Diversions, silting basins, terraces and other methods to trap sediment shall be used.
 - ***Not required at this location.***
- (4) Lagooning shall be conducted in such a 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.
 - ***Not required at this location.***
- (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.
 - ***Crushed gravel shall be used to finish the driveway. A clay mix shall be used to enhance the ability of the soil to retain water. Loam shall be placed on top to landscape the area. 750 yards of material shall be brought onto the site to finish the project.***
- (6) Fill shall not restrict a floodway, channel or natural drainageway.
 - ***Not applicable at this location.***

- (7) The sides and bottom of cuts, fills, channels and artificial watercourses shall be constructed and stabilized to prevent erosion or failure. Such structure is to be designed and built according to the Maine Soil and Water Conservation Commission, Technical Guide, Standards and Specifications.
 - ***Not applicable at this location.***
- (8) Where activities carried out under this article require the removal of existing ground cover, revegetation should be carried out.
 - ***The intent of this project is revegetation of the area after the construction of the new home.***
- (9) Currently there is no #9.
- (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.
 - ***Not applicable at this location.***
- (11) No excavation shall be extended below the grade of an adjacent street, except for drainageways, unless 100 feet from the street line. No excavation below the grade of the surrounding land shall be allowed within 100 feet of any side or rear lot line. However, removal of earth material deposits from hills or knolls may be allowed within 50 feet of a side or rear lot line if no excavation below the grade of abutter's properties occurs.
 - ***Not applicable at this location.***
- (12) Sufficient topsoil or loam shall be retained to cover all areas, so that they may be seeded and restored to natural conditions.
 - ***There is no topsoil available on site. The area is sandy soil with limited vegetative debris on top.***
 - ***The area will be loamed and seeded.***
- (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 therefor.
 - ***The approved Conditional Use Permit application is the permit for this project.***

Roger A. asked what Mr. Gierie was going to do with the very large stump pile? Mr. Gierie stated that it was mostly brush, not stumps, but regardless he was going to do small controlled burns throughout the season to get rid of it.

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.***
- 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 Comprehensive Plan wants to protect the soils from erosion and promote plant growth.***
- 4) Traffic access to the site is safe. ***It is.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***It is.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***There is a new state approved subsurface waste disposal system on site.***
- 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. ***The area has been designed to reduce stormwater runoff and the additional clay and loam shall help to stabilize the area by creating a base for plant life to grow.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***Due to the soil composite on site, erosion is not a problem at this time nor should it be in the future.***
- 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 is a large buffer of land and trees between this project and the nearest neighbor. To reduce noise large equipment will only be used during daylight hours.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

Roger asked if there were any further questions and there were none.

Diane S. made the motion to approve the Conditional Use Permit to move up to 750 yards of earth on site with the following condition(s):

- 1) **The equipment used to bring in the earth and move the earth may only do so during daylight hours.**
- 2) **The project must be completed within 3 years otherwise the applicant must come before the Planning Board to renew the permit.**

Madge B. seconded the motion. All members were in favor.

Best Possible Location – Add Full Basement, Extend Gable Roof over Porch and Enclose Porch – Map 31, Lot 12 (34 Cillie Road) – Joanne Weiss

Ms. Weiss was present at the meeting to discuss her application.

Planning Board members met on site prior to this evenings meeting. Ms. Weiss was also on site and explained her project. She would like to add a full basement under the existing camp, creating a walkout basement on both the front and the rear of the home; extend the gable roof over the existing porch and enclose the porch (porch to the rear of the camp); and add a small porch on the right side of the home placing it in the middle of the existing wall.

During the site inspection Ms. Weiss asked Planning Board members if they thought she would be able to create a walkout area at the rear of the home (pond side). The embankment would need to be dug out to approximately 6 feet in depth. Ms. Weiss stated that the sides would be sloped and she would use material to prevent them from being eroded. She pointed out the steep embankment to the water and stated that she had a problem with erosion in that area until she had the Mousam Lake Youth Conservation Corp. terrace the walkway. It appeared to members that the area was well landscaped and there were no signs of problems from water runoff at this time.

Roger A. was concerned that the right side of the home could become a problem for water runoff if Ms. Weiss moved earth behind the home. The lay of the land could create a problem in this area. Ms. Weiss stated that she was willing to listen to suggestions and if the board did not feel she could excavate in that area she would understand.

Diane S. asked Ms. Weiss how far the home was from the high water mark. Ms. Weiss stated the distance was 104 feet away. Diane asked because the new roof plans would bring the roof another foot \pm beyond what exists now and she wanted to be sure Ms. Weiss would not be creating a non-conforming structure. The board members concluded she would not be within the 100 foot setback of the high water mark. (The structure as it exists is non-conforming to Cillie Road only.)

At the previous meeting Ms. Weiss presented a sketch along with the application. The sketch depicted the following setbacks from the cabin to the lot lines: 17.5' to the left lot line; 194' from the right lot line (side of proposed new porch); 27' from Cillie Road; and 104' from the high water mark (Goose Pond).

Diane S. asked Ms. Weiss where the road ended; did it stop at her home or continue on? Ms. Weiss stated that even though she was the last home on the road, she had been told it continued on according to the old maps of the area.

Roger A. reviewed 105-4.D "Nonconforming structures." Specifically Roger reviewed (3) "Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure, provided that:

- (a) The structure and the new foundation are placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in Subsection D(7), Relocation, below:
- (b) The completed foundation does not extend beyond the exterior dimensions of the structure; and
- (c) The foundation does not cause the structure to be elevated by more than three additional feet.

The addition to the home, as presented per the plan, will meet all the above criteria. The home is in the best possible location, not moving closer to the high water mark or the road. The new foundation will not extend beyond the existing structure. And the new elevation will not be more than 2 feet in height.

Roger A. again expressed concern with the stormwater runoff coming from the new roof line toward the area to be excavated behind the home. Diane S. asked if it would be best that Ms. Weiss put up a storm water gutter system to direct all the water toward the road side of the home, preventing a problem with the rear of the house. Ms. Weiss stated that she would also be willing to have Mousam Lake Youth Conservation return to her property and place stones etc. on the embankment to be certain it stays in place. Steve M., CEO, stated that the placement of a French drain system at the roof line would be all that was necessary to pitch the water toward the road. He stated you dig a ditch along the roof line and fill it with crushed stone. The water will go into the French drain and permeate into the ground and/or continue toward the road as directed via the drain. Barbara G. agreed stating she used French drains at her home and they worked well.

Madge B. told Ms. Weiss that the changes she would be doing at the rear of the home would change the use of the area as well as the appearance of the area (creating a walkout basement and excavating the earth to do so). Ms. Weiss stated that she understood that, but she wanted to have more light come into the basement and by having a French door at the rear of the home, it would do just that.

The board members concluded that the addition to the rear of the structure would not make the home non-conforming to the pond. The board did not have to review the 30% expansion ordinance because the home was not within 100 feet of the water, even with the addition to the roof line. The addition to the right side of the home was within the side lot setback ordinance and it was not going to be closer to the road than the front of the house so it will not make the home more non-conforming. The addition was in fact going to be farther back from the road than the front of the house.

Roger A. asked if there were any more questions and there were none.

Diane S. made the motion to approve the Best Possible Location, per the application and plan presented with the following condition:

- 1) There would be what's known as a French drainage system created at the eave line on the right side of the home where the new porch will be placed, to prevent stormwater runoff from going toward the back of the home.**

Madge B. seconded the motion. All members were in favor.

Ms. Weiss asked the board members if she needed a survey for this project. She had been told a Best Possible Location required a survey. The board members stated that she did not need a survey because the home was not being relocated. A survey is only required for a "relocation".

As a note, Zoning Ordinance 105-4.D(7)(c) reads as follows: 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. (Again this is referring to a relocated structure.)

Nothing further was discussed regarding this application.

Conditional Use Permit – Replace Existing Camp with Modular Home – Map 34, Lot 31A (Cedar Drive) – Stephen & Barbara Philbrook

Mr. and Mrs. Philbrook were present at the meeting.

The Philbrook's stated that they intended to place a modular home on their property 154' back from the high water mark. The existing cabin has not been lived in for a long period of time and is need of much repair. The cabin is located 53' from the high water mark. Instead of renovating the cabin the Philbrook's would like to place the new home on the property and possibly keep the cabin for a storage shed or bunkhouse. Madge B. asked if they intended to keep the cabin or remove it. Mr. Philbrook stated they would remove the cabin if the board members required it.

The Planning Board decided not to make any decision with respect to the cabin until after a site inspection. Because there were no questions at this time, ***Roger A. scheduled a site inspection for Tuesday, July 13th at 6:30 p.m.*** There was nothing more discussed.

Best Possible Location – Relocate Existing Home 65' Farther Back from Square Pond – Map 30, Lot 62 (11 Hickory Street) – Ken Roy

Mr. Paul Demers was at the meeting representing Mr. Ken Roy.

Mr. Demers stated that Mr. Roy currently has a home located approximately 20 feet from the high water mark of Square Pond. Mr. Roy would like to relocate his home 100 feet back from the high water mark. In addition, he would like to add a garage for future use; the garage will also be beyond the 100' setback to the water. Mr. Demers stated that Mr. Roy wanted to do this because the property has a steep slope toward the water and he does not wish to navigate this hill in the winter, should he decide to live in the home when he retires.

Mr. Demers pointed out that that the proposed deck attached to the front of the home would be within the 100' mark from the water, but this is because, at Mr. Demers suggestion, the home would remain 20 feet from the existing utility lines. Although Central Maine Power suggests the home could be closer to the lines, Mr. Demers did not agree. (Mr. Demers is a Code Enforcement Officer for the Town of Kennebunk, ME.)

Mr. Demers stated that Mr. Roy has spent \$22,000 to have the existing power lines move to their current location. It was the farthest distance from the water that CMP would agree to move the lines.

Diane S. asked if Mr. Roy would need to follow the ordinance allowing only a 30% expansion since his porch was within 100 feet of the high water mark? (Diane S. was referring to Zoning Ordinance 105-4D(1) "Expansions" which reads in part.....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.) Steve M., CEO, explained that the portion of the structure within the 100 foot setback, in this case the porch only, would have to adhere to the ordinance. The porch is clearly subject to the limits of the ordinance. The home, which is beyond the 100 foot setback, is not an issue with respect to the 30% expansion rule.

Diane S., speaking about the existing paved driveway, asked if they driveway would remain in place even though the home would be relocated? Mr. Demers stated that it would to prevent erosion and give access to the dock on site.

Mr. Demers stated that the existing septic tank is located under what will become the new deck. This system will be replaced with a new system which will be located near the rear of the property; approximately 200 feet back from the high water mark. Mr. Demers said that the new septic system would be put in first, prior to the relocation of the home. The existing home will be hooked up to the new system until it is moved, then reattached when the move is completed. Mr. Demers gave a copy of the Subsurface Wastewater Disposal System Application, dated 5/29/04, to the Planning Board for the file.

Mr. Demers stated that Mr. Roy wanted a daylight basement under the home in the new location and the porch would be built over this area.

Mr. Demers had a copy of the DEP Permit by Rule attached to the application. Mr. Demers stated that he would be applying for a new permit as this one did not include the porch that was within the 100' high water mark delineation.

Mr. Demers stated the existing foundation will be removed in its entirety. The relocated home will use the existing well. The area where the existing home is will be revegetated and Best Management Practices will be used for all work done in the Shoreland zone, which will include a silt fence. Mr. Demers concluded that he feels that after the home is relocated the area will have a significant reduction in stormwater runoff due to the revegetation of the house site.

There were no further questions from the board members. ***Roger A. scheduled a site inspection for Tuesday, July 13th at 7:00 p.m.*** Mr. Demers stated that Mr. Roy would be present for the meeting on the 13th because he would be away on vacation. Nothing further was discussed.

11-Lot Major Subdivision – "Evergreen Overlook" – Map 5, Lot 20 (State Rte. 11) – Development Services, Inc. – H. Craig Higgins Representing

Mr. Higgins was unable to attend the meeting.

There was a site visit held on Friday, June 18th and Monday, June 21st. Roger A. stated that during the Friday site visit it was agreed that the location for the fire pond would be best adjacent to lot 7. Mr. Higgins was going to have the site tested as soon as possible to make certain the area will hold a pond.

John Burnell was unable to attend the site inspection but did review the subdivision plans received from Mr. Higgins. Mr. Burnell stated that he would prefer to see the turnaround at the end of the subdivision to be located on lot 11 instead of lot 9. Mr. Burnell stated that the way the plow sets on the truck, a right hand turn is easier than a left hand turn. He stated that if the turnaround remains on the left, all the snow will have to be pushed to the end of the road onto lot 10. The Planning Board stated they would give this suggestion to Mr. Higgins prior to the next meeting.

Diane S. said that on the Monday site visit, Mr. Higgins stated to those present that he was thinking of creating a hiking trail in the designated open green space surrounding the lots. Diane and Madge B. both agreed that this might not be a good idea because it could create an area that ATV traffic could use. At present there are no designated ATV trails on site and it probably would be preferable to those that buy the property that it remains that way.

Diane S. reviewed Shapleigh Zoning Ordinance 105-45 "Planned unit development and cluster development". Diane noted that this proposed cluster subdivision would meet the requirements of the ordinance as presented except (11) which reads "*All dwelling units in a planned unit development or cluster development shall be connected to a central water system, at no expense to the municipality.*" Diane stated that she felt the Planning Board should have Barbara G. contact Mr. Higgins and point out this item to him before the next meeting. The other members agreed.

Madge B. stated that the Conservation Commission asked why there wasn't more open space and smaller lots? Roger A. stated that due to the lay of the land and high water table, Mr. Higgins did not want to overburden the area with more houses. Roger added that Mr. Higgins could have created smaller lots allowing for more housing per the ordinance. Roland Legere stated that by leaving the lots at approximately an acre it gives the illusion, along with the open space, that the lots are larger than they are. This makes them more attractive to a buyer.

Madge B. stated there had been a recent court case regarding the clustering of houses and their relationship to health, safety, and welfare of the townspeople. She will try to have a copy for the board members at the next meeting.

It was concluded there was nothing left to discuss without Mr. Higgins present. Barbara G. will send Mr. Higgins a memo that lists the items discussed this evening.

Other:

Roger A. wanted to briefly discuss the proposed major subdivision in Acton proposed by the Levesque's. The applicants are being represented by John Hutchins of Corner Post Land Surveyor's.

Roger A. stated that the applicants have removed one of the lots from the Shapleigh side so now there are only two lots that are going to be in Shapleigh. This eliminates the need for them to go through minor subdivision in Shapleigh. Roger did state that the access to this subdivision is still going to be through Shapleigh, therefore, the road is an issue for the Planning Board in this town to discuss. Roger stated he would like the developer to create a turnaround at the Shapleigh line so Shapleigh will not have to plow past the town line. Roger mentioned this to Acton's Planning Board and John Hutchins, the applicant's representative, at the Acton Planning Board meeting.

The issue Roger A. had expressed concern with regarding the school children pickup was addressed by John Hutchins of Corner Post, he stated that there will be an area in *Acton* where the children will be picked up for school.

Roger A. stated he believed the Shapleigh end of the road would need to be brought up to the town's standards for a major subdivision; it would have to be paved. The other board members agreed. The developer wants the road to be a private graveled road.

Roger A. told board members that he felt South Maine Regional Planning Commission should be involved at least in the initial stage of review. The Acton Planning Board members agreed as well. Roger said he has asked Barbara G. to contact SMRPC to set up a date where they could meet with all parties in the process. Members agreed that they could meet either on July 13th during the Shapleigh Planning Board meeting or Thursday July 15th. If these days do not work with SMRPC, Barbara will try to coordinate a date that is best for all. ***(There will be a meeting with all concerned parties on July 13th at approximately 8:30 p.m.)***

Roger A. stated that he would also like Road Commissioner Dick Goodwin contacted once a meeting date is established. Barbara G. stated she would do so.

Nothing further was discussed.

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.*

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

Respectively submitted,

Barbara Gilbride

Planning Board Secretary planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES
Tuesday, July 13, 2004

Members in attendance: Roger Allaire (Chairman), Madge Baker (Alternate), Alexander MacPhail and Barbara Gilbride (Secretary). Code Enforcement Officer, Steven McDonough was also in attendance.

The Planning Board would like to welcome Alex MacPhail as our newest member. We look forward to working with him and we are certain the Town of Shapleigh will benefit from his presence on the board.

The Planning Board meeting started at 7:35 p.m.

The minutes from Tuesday, June 22, 2004 were accepted as written.

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

4-Lot Subdivision – “Granny Kent Crossing” – Map 12, Lot 34 (Newfield Road) - Laurent & Tammy Caron

Mr. and Mrs. Caron were present for the review of their application.

At the previous meeting the Planning Board could not approve the minor subdivision as presented. The board ascertained that the four lots as presented, created a spaghetti lot (Lot 3) and that is not allowed per the subdivision ordinance. The Caron's, therefore, were asked to present a new plan for a 3-lot subdivision at this meeting. The Planning Board also requested a copy of their “recorded” deed so members could determine that in fact the Caron's held interest in the property.

Furthermore, the Caron's were advised that they must place any requested waivers on their final plan as well as the stipulation that in lieu of a fire pond, each new home would be equipped with a State approved fire sprinkler system. Should the existing mobile home be replaced with a new home, that home would be required to have a sprinkler system as well.

The Caron's presented a new 3-lot subdivision plan. The area summary of the plan is as follows: Total Area = 8.19 Acres±; Proposed Lot 1 = 1.95 Acres±; Proposed Lot 2 = 2.04 Acres±; and Proposed Lot 3 = 4.19 Acres±. Lot 1 currently has an existing mobile home on it. Water for the subdivision is to be supplied by individual private wells. Sewage is to be disposed of by individual subsurface disposal systems. A site evaluation for each lot, meeting the requirement of the Maine Plumbing Rules was completed by Brian Howard, Licensed Site Evaluator #196, dated May 18, 2004. The existing mobile home has an approved subsurface wastewater disposal system application on file with the Town of Shapleigh, dated 6/27/91.

Mrs. Caron provided a copy of the Warranty Deed from Elsie A. Gregoire to Tammy L. Caron and Laurent G. Caron, registered at the York County Registry of Deeds, May 19, 2004, Book 14091, Page 518.

Roger A. asked the Caron's if there were going to be any deed restrictions for the property. Mrs. Caron stated, “No”. The Caron's did request that the Board waive the requirement for Article 89-29, Utilities; and Article 89-30.A, Stone monuments and the waivers were placed on the final plan.

Roger A. asked the board members if they had any additional questions for the applicants. There were none.

Roger A. read the following findings with respect to a minor subdivision:

- Granny Kent Crossing 3-lot subdivision **will** not result in undue water or air pollution.
- Granny Kent Crossing 3-lot subdivision **will** have sufficient water available for the foreseeable needs of the subdivision.
- Granny Kent Crossing 3-lot subdivision **will not** cause an unreasonable burden on the existing water supply.
- Granny Kent Crossing 3-lot subdivision **will not** cause unreasonable soil erosion or reduction in the capacity of land to hold water so that a dangerous or unhealthy condition results.
- Granny Kent Crossing 3-lot subdivision **will not** cause unreasonable traffic congestion or result in unsafe conditions on existing or proposed roads.
- Granny Kent Crossing 3-lot subdivision **will** provide adequate sewage waste disposal.
- Granny Kent Crossing 3-lot subdivision **will** not cause an unreasonable burden on municipal solid waste disposal.
- Granny Kent Crossing 3-lot subdivision **will not** have an adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas.
- Granny Kent Crossing 3-lot subdivision **will** conform to local regulations, ordinances, development plan and comprehensive plan.
- Granny Kent Crossing 3-lot subdivision **will not** adversely affect the quality of surface water or shoreline of ponds, rivers, streams or tidal areas.
- Granny Kent Crossing 3-lot subdivision **will not** alone or in conjunction with existing activities, adversely affect groundwater quality or quantity.
- Granny Kent Crossing 3-lot subdivision **will** demonstrate adequate technical and financial capacity to meet the above.
- Granny Kent Crossing 3-lot subdivision **will** have all buildings one foot above the base flood elevation.
- Granny Kent Crossing 3-lot subdivision **will** have freshwater wetlands identified on maps if applicable.
- Granny Kent Crossing 3-lot subdivision **will** have rivers, streams and brooks identified on maps.
- Granny Kent Crossing 3-lot subdivision **will** provide for adequate stormwater management.
- Granny Kent Crossing 3-lot subdivision **will not** have spaghetti lots.
- Granny Kent Crossing 3-lot subdivision **will not** unreasonably increase a great pond's phosphorous concentration.

Note: For details of the above see the specific Findings of Fact for Granny Kent Crossing, located in the Planning Board File.

Madge B. made the motion to approve the plan for Granny Kent Crossing, 3-lot subdivision, located on Tax Map 12, Lot 34, along with the requested waivers as stated on the plan and the requirement of a State approved sprinkler system for each new residence. Barbara G. 2nd the motion. All members were in favor.

Nothing further was discussed.

Conditional Use Permit – Replace Existing Camp with Modular Home – Map 34, Lot 31A (Cedar Drive) – Stephen & Barbara Philbrook

Earlier in the evening Roger A., Madge B. and Barbara G. were at the site inspection for this application. They viewed a camp that obviously had not been used in quite some time. There were two propane cylinders next to the camp and also located on the property was part of the old “out-house”.

Mr. and Mrs. Philbrook attended the site inspection. Mr. Philbrook showed the members the stakes that delineated the 100’ mark from the lake as well as the proposed location of the modular home and new septic system. Mr. Philbrook also noted the area where he would like to put in the new driveway. It would be located 100’+ from the high water mark as well. (The modular home will be located 154’ back from the high water mark.)

Mr. and Mrs. Philbrook were at the meeting to discuss their application. They explained once again that they would like to replace the existing camp with a new modular home. It was noted by the board members that because the new home was beyond 100’ from the high water mark, the ordinance requiring a new home be no more than 30% larger than the existing does not apply.

Roger A. and Madge B. discussed whether or not the Philbrook’s could in fact place a new home on the property without a Growth Permit? Steve M., CEO, stated that they were replacing an existing structure so they could do so without a Growth Permit. Steve added that they could not live in the home year round without a Growth Permit for a seasonal conversion. The Philbrook’s stated that they were told this when they filled out their application, and understood that they needed to apply for a Growth Permit in January.

Roger A. stated that the Philbrook’s had said they did not want to remove the existing camp. They wanted to use it for storage. Steve M. stated they had to remove the existing camp. This was a non-conforming lot and did not meet the minimum lot size requirements for two residences. Steve explained that they could keep the one residence on the property because Attorney Ron Bourque had deemed the existing structure a camp because it had both water and septic (out-house) at one time. (The existing property was able to be divided into two properties even though the lot as a whole was a non-conforming lot. The lot originally had two camps, and was able to be divided down the middle per Attorney Bourque, housing one camp on each lot.)

Roger A. stated that he felt what was in existence on the lot now was not a camp. Steve M. stated that Atty. Bourque ruled on this matter and he agreed it was a camp. Otherwise this lot could not have been divided.

Mr. Philbrook stated that he would remove the camp if it needed to be. Steve M. stated that he had to remove the camp.

Roger A. reviewed Zoning Ordinance 105-4(7)(a) “Relocation” and he stated that the new modular home will meet the setback requirements to the greatest practical extent. Also, the applicant’s have provided documentation that the new subsurface sewage disposal system shall meet the requirements of the State of Maine.

Roger A. asked if a survey had been done on the property for the placement of the new home? Mr. Philbrook stated that it had. He said that the stakes were placed in the ground by the surveyor. Mr. Philbrook stated that the location of the home was decided upon so it would meet the setback from the lake as well as to have the location of the new septic avoid existing wells in the area.

Roger A. asked if there were anymore questions. There were none.

Madge B. made the motion to approve the removal of the existing camp, placing the new home and septic within the staked area. Barbara G. 2nd the motion. All members were in favor.

Best Possible Location – Relocate Existing Home 65’ Farther Back from Square Pond – Map 30, Lot 62 (11 Hickory Street) – Ken Roy

Members Roger A., Madge B. and Barbara G. met on site for an inspection. Mr. Roy was present to discuss this application and point out the exact relocation of his home.

To begin Mr. Roy explained that initially he was going to relocate the existing home but after a cost comparison he decided it was not cost effective. Mr. Roy stated that he would remove the existing home and build a new home. Mr. Roy pointed out the location of the new home, garage and new septic system. Also he showed where the new deck would be located at the front of the home. The new deck will be located within 100’ of the high water mark.

Mr. Roy told board members that he wanted to keep part of the existing homes foundation in place. The area that was up against the steep embankment. Mr. Roy felt that if this part of the foundation was removed, there would be a tremendous erosion problem. In addition, to the rear foundation Mr. Roy would like to keep part of the existing deck (and 1st floor of the existing camp) and stairs to the water. The deck would then be 10’ X 25’ in size and he would enclose underneath it for storage. (Currently with the house and deck, the area with a structure is 25’ X 35’ in size.)

Mr. Roy attended the Planning Board meeting. Madge B. and Roger A. both asked Mr. Roy if the proposed garage had to be attached to the new home? They felt if it was not, the entire structure could be moved beyond 100’ of the high water mark. Mr. Roy stated that he wanted the garage attached to the home to be able to walk from the garage straight into the home for safety reasons with respect to his aging parents. Also, because a new septic system was going to be placed on site, moving the garage would interfere with its location.

Roger A. asked if Mr. Roy could make the new porch smaller, thus making the new structures more conforming? Mr. Roy stated that the new deck was only going to be 6 feet wide. He did not feel anything smaller would work. The other board members agreed. Steve M., CEO, stated he had no problem with the size of the new deck. Steve *did not* agree with the size of the existing deck that was going to remain on site. Steve felt that the DEP should be notified to be certain they agree with Mr. Roy’s plan. Steve also added that the Planning Board must make certain the existing deck is never expanded.

Mr. Roy is going to remove the existing driveway and the board members agree this would help to prevent some of the current sheeting action of the stormwater. Board members told Mr. Roy that they would prefer perennial plantings as opposed to his suggestion at the site inspection of putting in a lawn. It has been the town’s experience that lawns do not work because you are not supposed to fertilize them so they do not hold up. Steve M. stated that he would like to see heavy bark mulch and/or vegetation such as Junipers. Steve told the board members that they might consider requiring a plan showing exactly what will be planted and where. The board members agreed.

Madge B. asked Mr. Roy if the area for the new home had been surveyed. Mr. Roy stated, “Yes”.

Mr. Roy supplied the Planning Board with a detailed plan showing the location of the new home. Mr. Roy also provided the calculations showing that the part of the new structures to be located within 100’ of the water would not exceed the volume or area requirement of 30% expansion.

Mr. Roy also had a determination from Dawn Buker of the DEP which stated "The house location may be changed, provided it does not fall within the 75ft setback to the lake. The area may be restored with natural vegetation and sand or gravel only where the original foundation was placed. A 25 ft vegetated buffer to the lake is encouraged".

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

Madge B. made the motion to approve the plan to remove the existing home, build a new home, garage, deck and septic system, as presented with the following condition(s):

- 1) There shall be no expansion to the existing deck beyond 10' X 25'.
This deck may be closed in with DEP approval.**
- 2) The existing pavement shall be removed. In its place shall be plantings native to the area and / or bark mulch to prevent erosion.**
- 3) After the existing home is removed, plantings native to the area and / or bark mulch shall be put in its footprint to prevent erosion.**
- 4) A plan showing the new vegetation to be placed on site shall be given to the Code Enforcement Officer prior to receipt of a building permit.**
- 5) A DEP Permit by Rule shall be required for the existing 10' X 25' deck, noting its location and the fact it will be closed in.**

Barbara G. 2nd the motion. All members were in favor.

Nothing further was discussed.

8:30 p.m. – Special meeting between Town of Acton, Town of Shapleigh, Southern Maine Regional Planning Commission, Corner Post Land Surveyors & Mr. & Mrs. Levesque regarding proposed Major Subdivision on the Lebanon Road which is located in both towns.

Present for this meeting were Mr. Dana Libby from Corner Post Land Surveyors (representing the applicants), Mr. and Mrs. Levesque (the applicants), two members of the Acton Planning Board and Jamie Saltmarsh from Southern Maine Regional Planning Commission.

The purpose of this meeting was to discuss a proposal for a 14 lot subdivision that has land both in Shapleigh and Acton. The building lots will be located in Acton, but the entrance / exit to the subdivision will be exclusively through the Lebanon Road in Shapleigh. Approximately 400 feet of the subdivision road will be in Shapleigh as well.

Roger A. started the discussion by stating that he felt the part of the subdivision roadway that is located in Shapleigh should be brought up to the standards for a major subdivision, which would mean the road would be paved. In addition, a turnaround may be necessary on the Shapleigh side for safety equipment as well as road equipment should the town have to plow.

Mr. Libby replied by stating that the road was going to be forever a private road and a "Homeowners Association" would take care of all maintenance. Roger A. stated that this may very well be the intention of the developer but things do change. Roger noted that there has been several development associations in Shapleigh in the past, most of which eventually came to the town for help with the roads because the cost was too substantial for them to bear. Mr. Richard Goodwin, the Road Commissioner in Shapleigh,

concurred. Mr. Goodwin stated that County Road is a good example. When the association could no longer pay to maintain the road they came to the town to ask if the town would take over the maintenance. The town would only consider it if the road was brought up to the town's standard. This was a huge burden to the homeowners.

Mr. Libby stated that there would be no need for a turnaround because the road was going to be private. Mr. Goodwin reiterated that with all the subdivisions, having road agreements / associations in the Town of Shapleigh, "they inevitably have ended up coming back to the town" (the town must maintain). Mr. Goodwin also stated that lots that are not developed do not contribute to the association's pool of money, so there are less people initially to pay for the maintenance of the road. This is a huge burden for individuals. Mr. Goodwin stated that this subdivision may have an association that works. But in case it does not, the road should be upgraded now so if the town is approached, it will not cost the homeowners a huge expense to do it.

There was a concern by Shapleigh Planning Board members as to who would plow the road, should it become a town road. The Acton Planning Board felt it was likely Acton would plow the road. Mr. Goodwin agreed that it did not work when two towns were plowing the same area. Mr. Goodwin cited some reciprocal agreements Shapleigh has with Sanford that worked well. Mr. Goodwin stated that something with respect to plowing could probably be worked out.

Roger A. asked where the school children would get onto the school bus? In Acton or Shapleigh? Roger stated that it was unlikely Shapleigh would want the pickup in Shapleigh. Roger also reminded everyone that it was important the road be up to a safe standard for school buses to travel. It was up to the planning boards to make certain new roads were easily traveled by buses, as well as fire and safety equipment.

Roger A. asked Mr. Goodwin if he had any other concerns with respect to the road. Mr. Goodwin stated that where the subdivision road would enter/exit onto the Lebanon Road is one of the worst areas on the Lebanon Road. Mr. Goodwin stated that there was poor drainage in that area so the road was unstable. It was very narrow as well. Roger asked if the Town of Shapleigh had any intentions in the near future of making any changes to the Lebanon Road. Mr. Goodwin stated that at this time, the Lebanon road is not on the agenda. He added that when it is repaired, it is likely the road will need to come up three feet to help with the drainage problem in that area.

Madge B. asked Mr. Goodwin if the Lebanon road was heavily traveled? Mr. Goodwin stated that during the commuter hours in the a.m. and p.m. there was a lot of traffic. At other times there was much less because it was not the best road to travel on in places. Madge asked if the road was wide enough in the area that the subdivision road was going to be? Mr. Goodwin stated that it was not. It was probably not even 20 feet wide in this location.

Madge B. asked Mr. Goodwin if the upgrade of the Lebanon Road was in Shapleigh's five year plan? He stated it was not.

Alex M. stated that he agreed with Mr. Goodwin that this stretch of the Lebanon road was in *very* poor condition.

Roger A. asked Mr. Libby if there were any plans for fire protection at this point? Mr. Libby stated that this was only the sketch plan phase so it had not been discussed yet.

Acton Planning Board member Chip Vennell stated that he felt that the new subdivision road plan was only an issue because of the fact it crossed both towns. He stated that the town of Acton has no problem with the

road staying private. Mr. Vennell stated that he did not envision Acton allowing a subdivision of this size, with the possibility of the road becoming a town road.

Roger A. addressed the concern with the school buses using the subdivision road. Madge B. stated again that the Town of Shapleigh would not want the school children to be picked up in Shapleigh. Roger reminded the Acton Planning Board members that a handicapped child must be picked up at his or her home. It is therefore important that the subdivision road be built to accommodate a school bus.

Roger A. stated that the Shapleigh Planning Board would want the land in Shapleigh to meet the Subdivision Ordinance in Shapleigh, and in this case the road would be one of the biggest issues. The Shapleigh Planning Board members agreed that it should be the developer's responsibility to create a subdivision road that would meet Shapleigh's requirements for a major subdivision, not the responsibility of the homeowners.

The Acton Planning Board members agreed that because this is a major subdivision, it is likely the road would need to be paved.

A member of the audience stated that another concern was the topography and the high water table in the area. He felt that the addition of the road and new homes, especially in the area of proposed lot 12, could create more of a drainage problem. Mr. Libby from Corner Post Land Surveyors stated that the issues of the water on site would be addressed by an engineer during the preliminary phase of the project. This was only the sketch plan phase.

Roger A. was concerned with the size of the lot that was to be gifted to Carol Levesque and located in Shapleigh. Because of the large body of water on the lot, Roger did not know if the lot could be considered as a viable lot. Roger added that Shapleigh may require this lot to be added to the open space and deemed that it is not a buildable lot. He wanted the applicants to be aware of this possibility.

Jamie Saltmarsh, a representative from Southern Maine Regional Planning Commission attended the meeting to give both Planning Boards some information with respect to how to review a subdivision that crosses town lines.

First the planning board members from both towns were given a copy of Maine Statute 30-A § 4403 "Municipal Review and Regulation".

Next, three examples from separate law firms were given regarding "joint review" by towns. Maine Municipal gave the following opinion with respect to the Maine Supreme Court's decision in *Town of North Yarmouth v. Moulton*, 710 A. 2d 252 (Me. 1998), "it appears that each town's board needs to approve the entire plan which shows the whole subdivision (i.e. the land in all three towns) and not just the portion which lies within the board's own town boundaries. Each board would conduct its review using the statutory review criteria and pertinent provisions of its town's local subdivision ordinance."

The law firm of Shepard & Read, after reviewing the above court decision concluded "The statute does not however, give any of the individual Planning Boards the direct authority to vote on the portions of the subdivision that are not within its municipal boundaries."

Lastly, the law firm of Bergen & Parkinson, LLC, concluded ".....I believe the Maine statutes and the Moulton case tell us that a municipality should not apply its subdivision ordinance to portions of a

subdivision outside its municipal boundaries; though the Board is instructed by state law to consider the impact of a subdivision on traffic and safety of the public ways in an adjoining municipality. 30-A MRSA § 4404(19).”

Ms. Saltmarsh stated that SMRPC agrees that state law concludes you should have joint meetings on a shared subdivision but state law does not address how to handle the voting, ordinance issues, etc. State law does say that “The reviewing authorities in each municipality, upon written agreement, may waive the requirement under this subsection for any joint meeting or hearing.”

Ms. Saltmarsh stated that traffic issues are a very clear concern with this subdivision for both towns. It would be best that both towns discuss these issues and address them together.

Madge B. asked the Acton Planning Board members if they would be using SMRPC to help with the review of this subdivision? The Acton members stated that have not contacted SMRPC at this time but were considering doing so because of the size of the development.

Roger A. stated to the applicant’s the following items that would need to be addressed for the Shapleigh Planning Board. 1) The road would be the biggest concern and how it is going to be built on the Shapleigh side of the project. 2) A road impact study would need to be done for the Lebanon Road. 3) The board will need the exact size of lot 13 that is located in Shapleigh. Roger added that lot 13 in Shapleigh had no road frontage so it probably would not be a buildable lot over the Shapleigh line. 4) The board will need the size of the water body located on the lot gifted to Carol Levesque in Shapleigh to ascertain if it is a buildable lot.

Mr. Libby wanted to know what the number of vehicles was that triggered the requirement for a traffic study. Roger A. and Madge B. stated there was no number. There need only be a concern with the conditions that were going to be created by the development. Madge B. noted Zoning Ordinance 105-21 “Traffic”, which reads in part as follows:

“The proposed development shall provide for safe access to and from public and private roads. Safe access shall be assured by locating an adequate number of access points, with respect to site distances, intersections, schools and other traffic generators. Curb cuts shall be limited to the minimum width necessary for safe entering and exiting. The proposed development shall not have an unreasonable negative impact on the Town road system and shall assure safe interior circulation within its site by separating pedestrian and vehicular traffic and providing adequate parking and loading areas....”

Mr. Libby asked if an engineer stated that the access and egress from the subdivision onto the Lebanon road was o.k., would the Shapleigh Planning Board agree? Roger A. stated that an engineer’s opinion would probably be fine. *(Madge B. noted later than the Planning Board may want a second opinion from an engineer independent of the project. This opinion could be at the applicant’s expense.)*

Roger A. asked Mr. Goodwin if he had any further comments at this time. Mr. Goodwin stated again that he had to deal with the individuals who will live in the subdivision. Mr. Goodwin felt that the developer should make living in the subdivision as easy as possible for homeowners with respect to the road. Carol Levesque, one of the applicants and a local realtor, stated that many new subdivisions have associations that maintain the developments road. The Planning Board and Mr. Goodwin were aware of this, but again reiterated that a majority of the time it has not worked over time.

Mr. Libby asked how both planning boards would like the meetings conducted for review of this project? The planning board meetings in Acton are held the 1st & 3rd Thursday of the month. Roger A. stated that he would have no problem attending the Acton meetings. Mr. Libby stated that he would notify both Shapleigh and Acton when he wanted to be placed on the agenda. Roger asked if he could notify the boards at least three days prior to the scheduled meeting. Madge B. asked if he could notify a week in advance? He stated that should not be a problem.

Roger A. stated that once Shapleigh's concerns were addressed and agreement was made, in his opinion, Shapleigh would have not a problem turning the rest of the approval process over to Acton. Mr. Goodwin stated that he wanted to make sure the road plan would not be finalized without Shapleigh's approval. Roger A. agreed, as did the other members present. Roger also stated that an impact study would be a requirement.

Ms. Saltmarsh stated that Shapleigh would want to draft their own Findings of Fact for this project as well as a written agreement with Acton, which clearly states what each town will be responsible for in the approval process.

Madge B. agreed and stated that the agreement should probably be drafted by Attorney Durwood Parkinson, the lawyer the Planning Board has used in the past for subdivision issues.

There were no further questions at this time.

Best Possible Location – Replace Two Retaining Walls – Map 39, Lot 53 (Swan Circle) – Dennis & Francine Cram

Mr. Cram was in attendance for the review of his application.

The Planning Board members had done a site inspection at a previous meeting. The board members had observed a drainage pipe coming from under the new home and exiting directly behind what will be the second wall. There was concern expressed by members that this water would cause a lot of pressure behind the new wall.

During this meeting Roger A. asked Mr. Cram what he intended to do with the overflow pipe? How would he divert the water so it would not destroy the new wall or cause an erosion problem? Mr. Cram stated that he had no definite plans. He thought he would use crushed stone over the pipe to help to filter the water. He asked the board members and Steve M., CEO, what they would like to have him do? Steve stated that he was not an engineer so he would not feel comfortable in this situation to create a water drainage plan. Steve suggested that the planning board require Mr. Cram to consult with an engineer that had expertise in this area because of the terrain and its proximity to the water. Mr. Cram stated he did intend to use filter fabric and crushed stone.

The board members asked what type of vegetation the Cram's were going to place in the area after the walls were reconstructed? Mr. Cram was considering grass. The board members as well as Steve M. stated that grass was not recommended. Fertilizer cannot be used this close to the water so a lawn would most probably not do well. Steve stated that heavy bark mulch or perennials such as Junipers might work best.

The Planning Board did receive a copy of the signed DEP Permit by Rule giving the Cram's permission to go forward with the project. The stipulation was that they could go no higher than 4' with the new walls.

Steve M. asked Mr. Cram if he still had hay bales and silt fencing in place. Mr. Cram stated the hay bales were on site as well as the silt fence, but the silt fence was not up in one location. Steve stated that he wants the entire silt fence in place until the project is finished. Mr. Cram stated that he understood.

The Planning Board concluded that they would need a stormwater plan prior to approving the rebuilding of the two walls. Mr. Cram stated he would have one done. Mr. Cram will contact Barbara G. when he is ready to come back before the board. At this time the application will be tabled.

Nothing further was discussed.

Conditional Use Permit – In-home Daycare – Map 17, Lot 57-4 (14 Jennikate Lane) – Cynthia Downs

Ms. Downs attended the meeting to review her application.

Ms. Downs stated that she had received all the necessary permits from the State of Maine to operate an in-home daycare.

As a note, on April 13, 2004, board members Roger Allaire and Bill Hayes went to the site visit together and members Diane Srebnick and Barbara Gilbride visited the site together. Barbara and Diane noted the large pile of logs next to an existing swing set / play area. Diane was concerned that should a child play on or near the logs, they could get seriously hurt, Barbara agreed. Both Barbara and Diane noted that the area where the swing set was located did not have a fence which would prevent the children from going onto Jennikate Lane.

The board members at this evenings meeting had no questions for Ms. Downs. They had been waiting for the State permits before proceeding with the review. Now that the State has permitted Ms. Downs, ***Roger A. scheduled a Public Hearing for Tuesday, July 27th at 7:00 p.m. A notice to abutters shall be mailed as well.***

11-Lot Major Subdivision – “Evergreen Overlook” – Map 5, Lot 20 (State Rte. 11) – Development Services, Inc. – H. Craig Higgins Representing

Mr. Higgins was unable to attend the meeting.

Road Commissioner John Burnell attended the meeting. He stated that he was pleased that the turnaround had been moved from lot 9 to lot 11 as requested by Mr. Burnell at a previous meeting. Mr. Burnell did state that he had received a copy of the road plans. At this time they seem to be acceptable. Mr. Burnell would have like to have the underground utilities 3 feet into the ground vs. 2 feet. Mr. Burnell would not require the 3 feet however.

Mr. Burnell noted that he felt there would be a water drainage problem between lots 3 and 4, especially when they are built upon.

There was nothing further discussed on this application.

Possible Amendment to a Conditional Use Permit – Additional Tree Removal in Town Forest - Map 7, Lot 10 & 11 (Corner of Town Farm Road and Square Pond Road) – Shapleigh Town Forest Committee

Karl Robinson of the Town Forest Committee and Mr. Peter Klachany a licensed forester attended the meeting.

Mr. Klachany reminded the board members that they had already approved tree cutting to take place on Map 7, Lots 10 and 11. Mr. Klachany explained that not all the approved cutting had been finished on lot 11 and that the forest committee would like to do additional cutting on the neighboring lot 21. Mr. Klachany explained that there were a lot of dead trees on lot 21 that needed to be removed for the health of the forest. Mr. Klachany stated that in order to make it worthwhile for a logger to come onto the property and cut the dead trees, they would also like to selectively thin some of the healthy trees. Mr. Klachany stated this would also be best for the overall health of the forest on that parcel.

Mr. Robinson asked what the committee would have to do to be able to do this. Roger A. stated they would have to apply for an Amendment to their original Conditional Use Permit. Mr. Robinson stated that they would do that.

Mr. Klachany stated he would create a plan to present to the planning board because the existing management plan from 1994 was no longer valid. He stated that the ice storm damaged a lot of the existing trees after that plan was in effect. Also the drought in Shapleigh several years ago, did further damage to the stand of trees that had been previously weakened by the ice storm.

Roger A. stated that if they wish to proceed with an application, they needed to have a plan to Barbara G. by Friday so she could send out a notice to abutters. Roger A. also concluded that a Public Hearing would be in order to notify the townspeople since this was taking place in the town forest. Mr. Robinson agreed it would best.

Mr. Klachany did notify Barbara on Friday, July 16th that the Town Forest Committee wished to proceed with the application process. Mr. Klachany also had a plan for members to view at the next meeting on the 27th. A notice to abutters was mailed and a Public Hearing notice posted.

Best Possible Location – Remove and Reconstruct Garage – Map 20, Lot 8 (106 Shapleigh Corner Road) – James & Donna Seebirt

Mr. and Mrs. Seebirt attended the meeting to review their application.

Mr. Seebirt stated they would like to remove the existing garage and accompanying breezeway and build a new garage with a second story. There will be no breezeway because lot coverage is an issue. Currently the lot is covered by structures by 16.35%. With the new plan the increase in lot coverage is .82%. Mr. Seebirt stated that he had consulted with Steve M., CEO, prior to bringing the application to the planning board.

Roger A. asked Mr. Seebirt if he was going to be adding a kitchen area over the garage. Mr. Seebirt stated he was not. Mr. Seebirt stated there would be living space above the garage, bedrooms.

There were no further questions at this time. ***Roger A scheduled a site inspection for July 27th at 6:15 p.m.***

4-Lot Minor Subdivision – “Great Hollow Acres” – Map 10, Lot(s) 2, 6A & 7 (Town Farm Road) – Northwoods Land Company of Maine – H. Craig Higgins Representing

Mr. Higgins was unable to attend the meeting this evening.

Mr. Higgins asked Barbara G. if the Planning Board would schedule a site inspection for Town Farm Road on the 27th of July. The board members stated they would do so. Roger A. scheduled the inspection for 5:15 p.m. The members will meet at the Town Hall at 5:00.

Nothing further was discussed.

Other:

Madge B. spoke briefly about Mr. Higgins memo regarding Shapleigh Zoning Ordinance 105-45 “Planned unit development and cluster development”, specially (11) “All dwelling units in a planned unit development or cluster development shall be connected to a central water system, at no expense to the municipality.”

Mr. Higgins feels that this ordinance is referring to condominiums and not house lots that are clustered. Mr. Higgins noted the following in a memo to the Planning Board dated July 5, 2004:

“.....Having studied this section of the Zoning Ordinance closely, and having reviewed the definitions of “Planned Unit Development” and “Cluster Subdivision” in Section 105-15, their definitions do not include the term “lots” as in a subdivision, but “Land under unified management....” (from definition of Planned Unit Development) and “...several housing units are grouped together on a tract of land...” (from definition of Clustered Subdivision).

The definition of “Cluster Subdivision” in the Zoning Ordinance further states townhouses, or they may be apartments in an apartment complex, or condominiums.” Land in apartment complexes, condominiums and houseaminiums do not sit upon individual lots, but where all of the land is owned in common by the association, as are the water and sewerage utilities. The difference of significance is that a “Cluster Subdivision” as defined in Section 89-6 of your Chapter 89 Subdivision of Land Code states “A subdivision in which the lot sizes are reduced...in return for the provision of permanent open space owned in common by lot/unit owners...”

In conclusion, Mr. Higgins feels the definitions should be reviewed so they would be consistent in both ordinances if that is the intention of the Planning Board. Mr. Higgins also feels the Zoning Ordinance does not apply to land division, only units such as condominiums as it is addressed.

Madge B. still feels that the Zoning Ordinance overrides the Subdivision Ordinance. Madge did agree the definitions need to be looked at so they mirror each other where referenced but she still believed the division of land was relevant with respect to 105-45(11).

Barbara G. stated that it would be best to discuss this further when Mr. Higgins was present. The other board members agreed. Mr. Higgins will be on the agenda for the next planning board meeting. This will be discussed at that time.

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

The Planning Board meeting ended at 10:15 p.m.

Respectively submitted,

Barbara Gilbride
Planning Board Secretary planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES
Tuesday, July 27, 2004

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

The Public Hearing Began at 7:05 p.m. The following items were reviewed:

- **Conditional Use Permit – *In-home Daycare* – Map 17, Lot 57-4 (14 Jennikate Lane) – Cynthia Downs**

Ms. Downs attended the Public Hearing. She stated to the Planning Board members as well as the audience that she intended to open an in-home daycare for up to eight children. She said that her home was located on a quiet dead end street.

Roger stated board members had done a site inspection and found no issues with the location.

Roger asked if there were any questions for Ms. Downs. There were none. The Public Hearing for Ms. Downs was closed at 7:08 p.m.

- **Conditional Use Permit – *Tree Thinning in Town Forest* – Map 7, Lot 21 (Town Farm Road & Square Pond) – Shapleigh Town Forest Committee**

The Public Hearing began at 7:10 p.m. Mr. Ralph Ridley of the Forest Committee attended the Public Hearing. Mr. Peter Klachany, the Forester hired for this project, arrived at approximately 7:15 p.m.

Mr. Ridley stated that the Planning Board had approved tree thinning on Map 7, Lot(s) 10 and 11. He said that on Lot 11 only the South end has been completed, the North end still needs to be done. The Forest Committee would like to be able to complete the North end along with removing the dead trees on Lot 21. In addition to the dead trees, tree thinning will take place so there will be a profit for the logger hired. Approximately 10 acres will be thinned. Although some of the tree work will be along the walking trail, the walking trail itself will not be damaged in any way.

Anna Desmond of the Conservation Commission asked what percent of the trees will be removed from the site? She was worried about the walking trail. Her concern was that the more the trail is opened up, the more likely it is that motorized traffic would use it. Mr. Ridley stated that they did not plan to open up the trail any more than it is now.

Ms. Desmond asked if the Forest Committee would consider placing signs along the trail stating that non-motorized traffic was prohibited? Mr. Ridley stated that there is currently an ordinance for the town forest that mandates only snowmobile traffic is allowed. He added that in the past, when signs were placed on the trail or in the forest, they were taken down. Even when the signs were placed very high on the trees.

Mr. Charles Gruber of the Conservation Commission asked if any hardwood was going to be cut along Town Farm Road. Mr. Klachany stated that he had not planned on removing any hardwood.

Madge B. asked Mr. Klachany if he was intending on leaving any dead trees? (Mr. Klachany will mark all the trees that will be removed from the site.) She would prefer that they did for the sake of the wildlife in the area. Mr. Klachany stated that normally he left a few dead trees per acre for just that reason.

Mr. Klachany stated that in the memo to the Planning Board, dated July 15, 2004, he said he would be putting in a temporary, corduroy-type bridge of logs and tree brush installed at the point of crossing the stream. The memo also stated the stream crossing would be armored with tree brush to help reduce scarification of the soil. The bridge would be removed at the completion of the logging. Mr. Klachany stated that due to the project taking place during the summer, when the soil will be dry, he did not want to place brush along the stream. He feels the brush will get dragged into the stream causing a much larger problem. Mr. Klachany proposed that they keep things as they are and the number of times the stream is crossed will be limited. When the project is completed brush and limbs will be placed on site along the stream to reduce stormwater erosion. Madge B. asked Mr. Klachany how many times the stream would be crossed during the project? Mr. Klachany stated probably not more than two times, once in two locations. Mr. Klachany stated that the individuals that were hired for the project were certified and knew all the rules pertaining to stream crossing and the like. Madge B. asked if they would be crossing the stream in a level area? Mr. Klachany stated crossing a stream in a level / low area was "common sense stuff" for professional loggers. Mr. Klachany added that the Forest Committee only hired responsible certified loggers.

Mr. Gruber asked if the "old causeway" would be used by the loggers? Mr. Klachany stated, "No".

An audience member asked if the town made any money on the logging projects? Mr. Klachany stated that the Forest Committee made approximately \$46,000 on the selective cutting that took place across the road and there was at least that much money to be made on the trees left standing. Mr. Ridley stated that the money was used for projects such as the town beach program, and also it is used to buy more land to add to the town forest.

Roger A. asked if there were anymore questions. There were none. The Public Hearing closed at 7:21 p.m.

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

The minutes from Tuesday, July 13, 2004 were accepted as amended.

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

Conditional Use Permit – In Home Day Care – Map 13, Lot 21 (384 Emery Mills Road) – Deborah Cadigan

Ms. Cadigan was present to discuss her application.

Ms. Cadigan stated that she would like to open a nursery school in her home. It would be open three days a week for two sessions. The first session would run from 9:00 a.m. until Noon. The second would run from 1:00 p.m. until 4:00 p.m. It would operate during the school year.

Roger A. asked Ms. Cadigan if she had her approvals from the State and the Fire Marshall? Ms. Cadigan stated the Fire Marshall had been at her home “today” and the State had already been to her home. The State said that she should receive her Certificate from the Dept. of Human Services within two weeks. Roger asked if the Fire Marshall had said there were any problems with her home. Ms. Cadigan stated that he said there were none.

Roger A. asked the board members if they had any questions? There were none. ***Roger scheduled a site inspection for Tuesday, August 10th at 6:00 p.m. In addition a Notice to Abutters will be mailed and a Public Hearing scheduled, to take place on August 10th at 7:00 p.m.***

There was nothing further discussed.

Conditional Use Permit – In-home Daycare – Map 17, Lot 57-4 (14 Jennikate Lane) – Cynthia Downs
Mr. and Mrs. Downs were present for the meeting.

Diane S. asked Ms. Downs if the logs, which were in the yard during the site inspection in April, were still on site? Ms. Downs stated they were. Diane asked if they intended to move the logs? She felt, along with other board members, that the logs could be a hazard should children climb on them and fall or if the logs should move and fall onto a child. Mr. Downs stated that he intended to cut them up for fire wood before winter. Diane asked if he could put up some type of temporary fencing until the logs are removed. Mr. Downs stated he would do so.

Roger A. asked Mrs. Downs if she had received her permit from the State. She stated that she had and that a copy was given to the town clerk’s office for the Planning Board secretary. After looking through the file, a copy of the Provisional Certificate for up to 8 children was found attached to a copy of the Warranty Deed for the property.

Roger A. reviewed the following ordinances with respect to this application:

- 105-20 – Applicability of standards; prohibited uses. ***This application is a permitted use.***
- 105-21 – Traffic. ***The traffic is safe on site, it meets both site distances and it is a quiet dead end road.***
- 105-22 – Noise. ***This business will not create excessive noise. It will operate between 6:30 a.m. and 5:00 p.m. only.***
- 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. There are automatic flood lights in existence.***
- 105-26 – Stormwater runoff. ***There has already been an approved stormwater runoff plan submitted for this location as part of the approved subdivision.***
- 105-27 – Erosion control. ***There are no changes being made to the property.***
- 105-28 – Setbacks and screening. ***Setbacks and screening are currently in place, such as trees and shrubs.***
- 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. *There are no changes being made to the building.*
- 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 for the subdivision (Jennikate Lane). There is no change being made.*
- 105-43 - Off-street parking and loading. *There is adequate parking for this business.*
- 105-46 – Sanitary Provisions. *The home has been approved by the State Dept. of Human Services as having the necessary provisions.*
- 105-47 – Signs and billboards. *Ms. Downs shall go to the Code Enforcement Officer, prior to erecting any signs on the premises to advertise her business.*

Roger A. asked what the hours of operation would be and if the day care would be opened year round?

Ms. Downs stated it would be opened 6:30 a.m. through 5:00 p.m., five days a week. It would be opened year round except for holidays.

Roger A. stated that after reviewing the subdivision this property is located in, he could find no restrictions for operating an in-home business.

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 allows for in-home businesses in the general purpose district.*
- 4) Traffic access to the site is safe. *It is, this is a quiet dead end street. Site distances are adequate as seen during the site inspection.*
- 5) The site design is in conformance with all municipal flood hazard protection regulations. *It is per the previously approved subdivision.*
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. *There is a State approved wastewater and solid waste system on site.*
- 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 are no changes being made to the existing property which is part of an approved subdivision.*
- 9) Adequate provisions to control soil erosion and sedimentation have been made. *There will be none generated by this activity. No changes are 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 an approved fire pond in this subdivision.*
- 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 natural buffers in place, there will be no additional lighting added to the home / business location.*
- 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 for an in-home day care for up to eight children with the following condition(s):

- 1) *The hours of operation shall be 6:30 a.m. thru 5:00 p.m., five days a week.*
- 2) *There shall be no access to the existing wood pile by the children. A temporary fence shall be placed around the wood pile until it is removed.*

Madge B. seconded the motion. All members were in favor.

Roger A. reminded Mrs. Downs that any signage must be approved by the Code Enforcement Officer. She stated that she understood.

Nothing further was discussed.

Best Possible Location – Remove and Reconstruct Garage – Map 20, Lot 8 (106 Shapleigh Corner Road) – James & Donna Seebirt

Mr. and Mrs. Seebirt were at the meeting.

Planning Board members Roger A., Diane S., Madge B., and Alex M. attended a site inspection earlier in the evening. It was noted by members that the lot was very narrow and that the existing structures were very close to the lot line.

Madge B. began the discussion by stating the Planning Board must review Zoning Ordinance 105-4(5)(a) with respect to this permit. Madge read the following:

“Any nonconforming structure which is removed or damaged or destroyed by more than 50% of its town-assessed value before such damage, destruction or removal, may be reconstructed or replaced, provided that a permit is obtained within one year of the date of said damage, destruction or removal and provided that such reconstruction or replacement must be in compliance with all setback requirements to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this chapter. In no case shall the structure be reconstructed or replaced so as to increase its nonconformity.”

Madge B. noted that in this case the lot coverage maximum of 10% (105-18 “Dimensional requirements”) has already been exceeded. Currently the lot is covered by 16.35%. The proposed new structure would increase the lot coverage by .82%. Madge, along with the other board members, agreed they could not allow any increase in lot coverage from what currently exists.

Madge B. told Mr. and Mrs. Seebirt that she felt they would have to reduce the size of their proposed building. They stated they understood.

Roger A. stated that the new garage would be beyond the 100’ high water mark so Zoning Ordinance 105-4(1) “Expansions” would not apply, specifically “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.”

Roger A. noted the new garage as proposed would be farther from the neighbor’s lot line. There is a new septic system proposed which will be farther from the high water mark. Diane S. stated that the new septic system would have to be large enough to accommodate the additional two bedrooms and bathroom that will be above the new garage.

There was one abutter present (Mr. and Mrs. Hammond) and they stated they did not object to the project as long as the new garage was not going to encroach onto their property. They explained when the original garage was built it was done so at an angle so it would not go over the lot line. Mr. Hammond said that there had never been an official survey done but there was an agreement between the former owners of this camp and himself as to where the lot line was. He stated the lot line ran perpendicular to the existing fence on his property.

Roger A. showed the Hammond's the sketch plan. Mr. Hammond was concerned that the new garage may encroach onto his land.

The Planning Board agreed that a survey would be required prior to the Planning Board being able to make a decision for the best possible location. The property lines would need to be indicated. The board members also noted Zoning Ordinance 105-4(7)(c) under Relocation, "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." In this case the board will need a survey *prior to* making an approval.

Roger A. stated the following would be required prior to the Planning Board being able to make a decision on this application:

- 1) A survey of the property showing the location of the lot lines with respect to the existing structures as well as the proposed structures.*
- 2) New plan, redesigning the garage so the lot coverage does not exceed what it is currently (16.35%).*
- 3) New Septic Design that will include the additional bedrooms and bathroom.*

Roger A. asked the Seebirt's if they wished to have the Planning Board table this matter until they had the requested information or if they wanted to withdraw their application? The Seebirt's stated they would like to have the application tabled so they could gather the information. They stated they would contact the Planning Board secretary when they were ready to be placed back onto the agenda.

Nothing further was discussed.

Conditional Use Permit – Tree Thinning in Town Forest – Map 7, Lot 21 (Town Farm Road & Square Pond) – Shapleigh Town Forest Committee

Mr. Ralph Ridley was present to represent the Town Forest Committee and Mr. Peter Klachany, a licensed Forester, was present to explain the project.

The Planning Board reviewed Zoning Ordinance 105-50 "Timber harvesting". Roger A. read 105-50(b)(1) in part, "Selective cutting of no more than 40% of the total volume of trees four inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten-year period is permitted..." Roger asked Mr. Klachany if more than 40% of the forest would be removed? Mr. Klachany asked if this excluded the dead trees? Madge B. stated the ordinance did not specify, but added that perhaps it should. Mr. Klachany stated that he had not marked the trees yet but did not believe more than 40% of the area would be removed, including the dead trees.

Roger A. asked what the hours of operation were going to be. Mr. Klachany stated that on the last application the Planning Board approved 7:00 a.m. thru 7:00 p.m. but did allow the equipment to idle earlier in the morning as long as it was not running.

Mr. Charles Gruber noted that with the last project in this area, the loggers took great care not to damage the existing walking trail.

Ms. Anna Desmond asked again if the Forest Committee would consider placing signs along the property prohibiting motorized traffic? Mr. Ralph Ridley stated once again that the signs only got torn down. Also, even if there were signs, there was no way to enforce them. The Planning Board members agreed.

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. Best Management Practices will be used.***
- 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 addresses the town forest and maintaining the health of the forest.***
- 4) Traffic access to the site is safe. ***It is, the area used as a landing has been used in the past due to its easy and safe access onto the Town Farm Road.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. *N/A.*
- 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. ***Any oil, tires, or rubbish etc. shall be removed from the site at the completion of the project.***
- 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 land. Tree removal only.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***When the project is completed adequate brush and mulch shall be added along the stream crossing to prevent erosion.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***There is an adequate water supply in the 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. ***The hours of operation shall be limited with respect to noise. There shall be no glare, fumes, dust or odors.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

Roger A. noted the following conditions with respect to this project:

- 1) **Mulch shall be placed along the streambed where the equipment crosses, at the completion of the cutting to prevent erosion.**
- 2) **There shall be a small percent of dead trees left per acre for the existing wildlife.**
- 3) **The existing walking trail cannot be used or expanded, but it can be crossed with equipment.**
- 4) **There shall be no slash left on the existing walking trail.**
- 5) **There shall be nothing done in close proximity to the existing old foundation on site.**
- 6) **The hours of operation shall be 7:00 a.m. thru 7:00 p.m., seven days a week until the project is completed.**

The board members discussed once again whether or not the dead trees would be considered with respect to the 40% maximum cut allowed. Mr. Charles Gruber felt that the ordinance was dealing with “timber” not dead trees. Steve M., CEO, stated that whether or not the dead trees were considered did not matter. He referred the Planning Board members to 105-50(B)(2), which states the following:

“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 Department of Environmental Protection of each exception allowed, within 14 days of the Planning Board’s decision.”

Having read the above the Planning Board added the following to the approval:

- 7) **There shall be no more than 40% of the live trees taken from Lot 21. The dead trees taken may be in excess of the 40% allowed.**

Madge B. noted per the ordinance, the Planning Board should mail a copy of the decision to the D.E.P. The other board members agreed.

Roger A. noted the cutting is not going to be taking place in the Shoreland Zone. Mr. Klachany agreed.

Madge B. made the motion to approve the Amendment to the Conditional Use Permit for Tree Thinning on Map 7, Lot 21, with the above conditions. Diane S. seconded the motion. All members were in favor.

Conditional Use Permit – Earth Moving > 150 Yards – Map 2, Lot 34A (Walnut Hill Road) – Joachim & Sarah Angeltun

Mr. and Mrs. Angeltun were in attendance.

The proposed plan submitted showed a 40’ right-of-way extending from the Walnut Hill Road 668’, then making a left 78 degree turn and extending to the end of the Angeltun’s property line. Mrs. Angeltun stated that this right-of-way has been in existence for many years and it is in the deed. Steve M., CEO, confirmed what Ms. Angeltun was stating.

The Angeltun’s want to bring in enough gravel and crushed gravel to make the right-of-way 12 - 14’ wide and passable year round. Mrs. Angeltun stated she had an estimate of the amount of gravel going to be used but it did not give the depth the road would be when completed.

Roger A. stated that the road would have to be up to the subdivision standard. There would need to be a depth of 12” of course material and the road would need to be 12’ wide. Mrs. Angeltun stated that the estimate she received from Curtis Excavating was 12 – 14’ in width, 210 yards of bank run gravel and 100 yards of fill. There would be a culvert placed where necessary and on top would be 205 yards of crushed gravel. She stated that verbally the owner said the road would be approximately 1 foot in depth, but it was not in writing. Steve M. stated that the road would need to have 12” of gravel and then 3” of crushed gravel on top to be to code.

The Angeltun’s discussed the possibility of using Break Neck Hill Road instead of the right-of-way to access the property. They asked if they could use Break Neck Hill and create two lots instead of one? Also they asked if B.N.H. was a town road and if so, would the town bring it up to standard. The Planning Board members did not feel B.N.H. road was in the town’s short range plans. It certainly was not going to be done in time for the Angeltun’s to get a Growth Permit for next year. Roger A. suggested they speak with Mr. Richard Goodwin, the Road Commissioner for this part of town. He could more accurately state whether or not it is still in fact a town road and if the town had any future plans to upgrade the road.

The Angeltun's decided to go forward with their application as presented. Roger A. stated that he felt Barbara G. should ask Mr. Goodwin if he could attend the meeting to discuss this application. She stated she would tell him it was on the agenda and give him the details and ask him for comments at the very least.

Steve M., CEO, asked if a detailed description of their project, explaining the fill going to be used, etc. would be sufficient. Roger A. said that it would.

Roger A. stated a Notice to Abutters would be mailed and a site inspection would take place at 5:30 on Tuesday, August 10th. Nothing further was discussed.

Best Possible Location – Full Basement under Existing Home – Map 29, Lot 16 (183 Granny Kent Pond Road) – Donald & Yvonne Brackett

Mrs. Brackett was in attendance.

The application is to jack up the existing home and put in a full cellar. The Brackett's supplied a sketch depicting the size of the existing home (27 ½' X 23 ½'), the distance from the house to the road (75'), and the distance from the house to Granny Kent Pond (31'). In addition, the distance from the house to the left lot line is 14 feet and the distance from the right lot to the right-of-way is 25 ½ feet.

Roger A. asked Mrs. Brackett if she was going to be jacking the house up more than three feet when she put the foundation / cellar in? Mrs. Brackett stated that she wanted to jack the house up approximately 8' due to the fact there was a high water table and she did not want water in her cellar. Steve M., CEO, stated that she would not be able to do this because of Zoning Ordinance 105-4.D(3)(c) which reads, Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure, provided that: "The foundation does not cause the structure to be elevated by more than three additional feet." Because of this, Steve said they would need to dig down. He also said a good contractor would know how to prevent the water problem.

Diane S. stated that she has learned that a dry basement in the summer can become a wet basement in the spring during the high water because of a water problem in her home. Again Steve stated a good contractor can avoid this problem.

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

Roger A. stated a Notice to Abutters shall be mailed. A site inspection shall be held at approximately 6:30 p.m. on Tuesday, August 10th.

Nothing further was discussed.

11-Lot Major Subdivision – "Evergreen Overlook" – Map 5, Lot 20 (State Rte. 11) – Northwoods Land Company of Maine – H. Craig Higgins Representing

Mr. Higgins was present at the meeting.

Mr. Higgins showed on the original plan what conventional lots would look like, instead of the proposed "clustered" lots. Mr. Higgins stated that he would create the subdivision in the manner the Planning Board required, either clustered or traditional. (Mr. Higgins did not intend to put in central water which is required in the Zoning Ordinance for a clustered development.)

The conventional lot plan used the same building sites / envelopes but the lines were adjusted to make certain each lot has the necessary 200' of road frontage and could meet the 80,000 sq. ft. lot size requirement. Mr. Higgins stated he felt the original cluster subdivision plan was good development which is why he intended on keeping the building envelopes the same as what was originally intended, and the rest of the area will be open green space, created through deed restrictions.

Mr. Higgins stated that for the towns benefit he would like to see the Planning Board interpret the cluster subdivision standards in the Subdivision Ordinance as applying to subdivisions and the cluster developments in the Zoning Ordinance apply to condominiums, apartment complexes, etc. Mr. Higgins said the critical difference in his opinion was that you would not have created cluster subdivision in the Subdivision Ordinance if it wasn't different from planned unit development and houseaminiums, condominiums, and apt. complexes as in the Zoning Ordinance.

Mr. Higgins stated he would leave the decision on whether or not he should go forward with a traditional subdivision or a clustered subdivision up to the Planning Board.

Roger A. stated that in his opinion the original intent of a cluster development in the Zoning Ordinance was to be able to regulate manufactured housing. He said when the State dictated the town would have to allow for a reduced lot size for mfg. housing, the town opted to have a central water supply for all the lots. Roger said it was less about the clustering of the homes, but about the much reduced lot size. Roger agreed that in this case individual wells would be sufficient, but the Zoning Ordinance does not allow the Planning Board to waive the central water requirement.

Diane S. noted the Subdivision Ordinance contradicts the Zoning Ordinance, so the Planning Board may need to rewrite part of the ordinance to make it clearer. The other board members agreed.

Mr. Higgins still felt the Subdivision Ordinance referred to individual lots and the cluster development in zoning talked about unified ownership. The lots in the subdivision proposal would be owned individually. Mr. Higgins stated that in the Zoning Ordinance, Planned Unit Development referred to "land under unified management"; Cluster Subdivision refers to individual housing units grouped together on "a tract of land". Mr. Higgins said that in his opinion individual lots do not qualify under the Zoning Ordinance. Mr. Higgins referred the Planning Board to his memo which addressed individual units vs. lots.

Madge B. stated she was not in disagreement with Mr. Higgins on what she would like to see. "But subdivision standards state that zoning requirements must be complied with. The Zoning Ordinance states that all building lots shall be 2 acres in size with 200 feet of road frontage. The only way you can get out of that is to come under cluster development in the Zoning Ordinance. So in this case either Mr. Higgins has to put in central water or do a traditional subdivision, until the town changes the Zoning Ordinance."

All the Planning Board members agreed that individual wells would work here but as Madge stated, the Planning Board does not have the ability to waive "anything" in the Zoning Ordinance.

Mr. Higgins stated the board members had the option to view the distinction between cluster subdivision and cluster development differently. Madge B. strongly disagreed. Mr. Higgins concurred that Madge had the legal expertise to interpret the ordinance (Madge Baker is a lawyer), and he concluded based on her opinion as well as the opinion of the other board members, that he would create a traditional subdivision.

Diane S. asked if Mr. Higgins could go to the Zoning Board of Appeals to get a reduction in the lot size requirement? Roger A. stated that Mr. Higgins did have that right. But he added it was highly unlikely Mr. Higgins would be granted a variance because there was no hardship. Mr. Higgins can get a return on his investment whether he creates a cluster subdivision or a traditional subdivision.

Mr. Higgins stated he did not feel it would be proper to request a variance. He added that if he somehow was granted the variance he felt it could be challenged by someone in the future.

Roger A. stated he had spoken on the issue of the requirement of water and / or sewer in cluster subdivisions to the town in the past. Roger said that even though the Comprehensive Plan encouraged cluster subdivision, because of the cost of the subdivision road, the developers do not want the added expense of central water and / or sewer. This discourages a developer from anything other than the traditional subdivision.

Mr. Higgins stated he would revise the subdivision plan for Evergreen Overlook so the lots comply with the zoning requirements.

Mr. Higgins asked the board members if he could dig the fire pond now, prior to subdivision plan approval? Roger A. stated he could but if he was going to remove greater than 150 yards of earth, he would need a Conditional Use Permit. Roger stated that a Notice to Abutters would need to be mailed and the board could do it at this time if he was certain the application would be presented for the next meeting, especially because it was the Planning Board that was requiring the fire pond. Mr. Higgins said he would have the application ready for Barbara G. by Friday (July 30th).

Roger A. told Mr. Higgins to make certain he did not need a DEP permit for the pond / earthmoving in this area. Steve M., CEO, stated that he would speak with the DEP on behalf of the Planning Board. Mr. Higgins stated he would also find out if he needed a permit.

Mr. Higgins stated he has had a soil scientist take samples to make certain there was enough clay to hold the water for the pond. Roger A. stated that it was likely, if the soil would not hold water, the Fire Chief would require two small water holding tanks in two different locations.

Mr. Higgins stated he would send the revised plan to Planning Board members within a week. There would be no need to change the test pits as they are currently within the lots lines accommodating the proposed building envelopes. The road plan should not have to be changed either. The board members told Mr. Higgins they would need the cost estimate for the road's construction. Mr. Higgins stated that he had provided a number in one of his memo's to the Planning Board. Barbara G. concurred. She believed that number was \$100,000. The board members asked that he break down that figure for the review of the final plan.

There was nothing more discussed with respect to this project.

4-Lot Minor Subdivision – “Great Hollow Acres” – Map 10, Lot(s) 2, 6A & 7 (Town Farm Road) – Northwoods Land Company of Maine – H. Craig Higgins Representing

Mr. Higgins was present to discuss this application.

Roger A. stated that in his opinion this subdivision was not a four lot subdivision but a five lot. The parent lot must be included in the lot calculation. Part of that parent lot would be a “remaining” lot, making this a five lot major subdivision. Mr. Higgins agreed to address this application as such.

The board members reviewed the plan before them. The lot sizes were as follows: Lot 1 = 4.51± acres, Lot 2 = 11.77± acres, Lot 3 = 19.81± acres, Lot 4 = 13.46± acres and the remaining acreage = 69.85±. Diane S. asked about the lot between Lots 2 and 3, who owned it? Mr. Higgins did not know but would have that information for the next meeting.

Planning Board members Roger A., Diane S., Madge B., and Alex M., met on site prior to this evenings meeting. They believe they were walking between Lots 3 and 4. Because of this they walked through a lot of wet land.

Roger A. was concerned that Lot 2 might be a spaghetti lot, which is not allowed per the Subdivision Ordinance. After doing a calculation based on the lot frontage, it was determined the side lot lines could be up to 1,350 feet in length. The longest lot line on Lot 2 is only 1,275 feet, which is allowed. It was determined this is not a spaghetti lot.

The board members asked Mr. Higgins if Fowler Way, located on Lot 1, was a private right-of-way? Mr. Higgins stated that it was. It is used to access three lots, Map 10, Lot(s) 6B, 6B-1 & 6B-2.

The board members stated to Mr. Higgins that he would need to contact Fire Chief, Gary Utgard, to see what he would recommend for fire protection for this subdivision.

Roger A. stated the Planning Board members would need to speak with Road Commissioner, John Burnell, regarding the condition of Town Farm road.

Roger A. stated Mr. Higgins would need to list any requested waivers on the plan. Mr. Higgins stated he would most probably request a waiver for the underground utilities, stone monuments and sidewalks.

The board members ask if there were any plans to develop the 69.85± acre lot? Mr. Higgins stated that at this time there were no plans.

Mr. Higgins stated there would be the standard deed restrictions such as no commercial use, private residential purposes only, and one house per lot. The board members asked if he was going to prohibit mobile homes? He stated he could if the Planning Board members wanted that. Diane S. stated she felt that was best.

Mr. Higgins stated he did not have the test pits done at this time. They should be done and placed on the preliminary plan. Mr. Higgins stated he would have a copy of the plan mailed to all members prior to the next meeting.

There was nothing more discussed at this time.

OTHER:

Question from Steven McDonough, CEO, regarding Ken Roy's existing home on Map 30, Lot 62 (11 Hickory Street)

Steve M. stated Mr. Roy asked if he could move the existing camp, that he was going to tear down, onto another lot?

(The Planning Board recently approved the following Best Possible Location for Mr. Roy. The Planning Board voted to allow Mr. Roy to remove the existing home, build a new home, garage, deck and septic system, as presented on the plan with the following condition(s):

- 1) There shall be no expansion to the existing deck beyond 10' X 25'.
This deck may be closed in with DEP approval.
- 2) The existing pavement shall be removed. In its place shall be plantings native to the area and / or bark mulch to prevent erosion.
- 3) After the existing home is removed, plantings native to the area and / or bark mulch shall be put in its footprint to prevent erosion.
- 4) A plan showing the new vegetation to be placed on site shall be given to the Code Enforcement Officer prior to receipt of a building permit.
- 5) A DEP Permit by Rule shall be required for the existing 10' X 25' deck, noting its location and the fact it will be closed in.)

The Planning Board members agreed, as did Steve M., CEO, that Mr. Roy is allowed to do only what was approved by the Planning Board. If he wants to change those plans, he must come before the Planning Board for an Amendment to his Best Possible Location approval. Steve will contact Mr. Roy and tell him the Planning Board's decision.

Nothing further was discussed.

Memo from Barbara G. regarding telephone conversation with Fire Chief Gary Utgard

Roger A. read the memo from Barbara G. which is highlighted as follows:

- Gary contacted me yesterday to talk about several matters, one being the telephone calls he has been receiving regarding the Laura Bicknell property (Map 7, Lot 8 – Cedar Drive) and he asked how the Planning Board felt about fire protection for further division of the property. I gave Gary a copy of the minutes from when we approved Mr. Quinton's lot as well the minutes in which the board discussed the property in general with Andy Nadeau of Corner Post Land Surveyors. In those minutes we address the fact that some type of fire protection will be required with further division of that property. I.E. A water holding tank or year round access to a dry hydrant connected to the lake across the street. Gary asked if the board would consider drafting a letter to Ms. Bicknell stating their position on this property and that she should in fact present the letter to possible buyers of her land.
- Another item Gary would like the board to consider is a performance guaranty for the water tanks and possibly an escrow account between \$500 & \$1000 dollars for future repairs that the town may have to provide for the water holding tank.
- The last item Gary mentioned was that depending on the topography of the land, he would allow homes to be built without fire protection if they were within 1500 feet of a dry hydrant. But he emphasized that topography was important as well as location of the dry hydrant.

The Planning Board concluded that with respect to a performance guaranty and an escrow account for a water holding tank, it would be a good idea to consider both.

The Planning Board concluded with respect to Ms. Bicknell's property, it would be up to Ms. Bicknell to deal with any subdivision issues in the future. It is her property. If an application comes before the Planning Board then the board members could discuss the matter further. The Planning Board would not write any letter on this subject at this time.

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

The Planning Board meeting ended at 9:55 p.m.

Respectively submitted,

Barbara Gilbride

Planning Board Secretary planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES
Tuesday, August 10, 2004

Members in attendance: Roger Allaire (Chairman), Diane Srebnick (Vice Chairman), Madge Baker (Acting Member), Alexander MacPhail (Member) and Barbara Gilbride (Secretary). Code Enforcement Officer, Steven McDonough was also in attendance.

The Public Hearing Began at 7:15 p.m. The following items were reviewed:

- **Conditional Use Permit – *In Home Nursery School* – Map 13, Lot 21 (384 Emery Mills Road) – Deborah Cadigan**

Ms. Cadigan attended the Public Hearing. She stated to the Planning Board members as well as the audience that she intended to open an in-home nursery school for up to eight children. She said the school would be for three to five year olds, and would operate 3 days a week.

Roger A. stated board members had done a site inspection earlier in the evening.

Roger A. asked if there were any questions for Ms. Cadigan. There were none. The Public Hearing for Ms. Cadigan was closed at 7:18 p.m.

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

The minutes from Tuesday, July 27, 2004 were accepted as written.

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

Conditional Use Permit – *In Home Day Care* – Map 13, Lot 21 (384 Emery Mills Road) – Deborah Cadigan

Ms. Cadigan was present to discuss her application. Mr. Cadigan was present as well. The Planning Board members did a site review prior to this evenings meeting. They noted the play area had shingles / nails on the ground behind the house. The house was having a new roof added, and a second story was being added over the part of the house where the nursery school was located. There was a fence on two sides of the yard. The fence did not extend onto the back of the property. There was a room located between the nursery school area and the bathroom that was being built for the nursery school. This room housed a pellet stove which the board members noted might be a safety issue. In addition there were two windows in this room that were floor level. These also could be a safety issue.

At the meeting, Roger A. asked Ms. Cadigan what days of the week she intended to run the nursery school. Ms. Cadigan stated Monday, Tuesday and Thursday were the days she would be open. Roger asked her if in the future she would extend those hours. Ms. Cadigan stated, “No”.

Roger A. asked if she had any paperwork from the Fire Marshall and the State Dept. of Health and Human Svs., also if she had a parking plan? Roger said that in the past the Planning Board had received the checklist from the Fire Marshall which showed all the areas the Fire Marshall had reviewed and whether or not they passed inspection. Ms. Cadigan stated she did not receive anything from the Fire Marshall. She was told verbally to place something in front of the pellet stove to protect the children from it (it is located in the room adjacent to the nursery school classroom, and the children will have to walk by it when going to the bathroom). Ms. Cadigan stated that she was told by the State that she would receive her permits by Friday, August 13th.

Roger A. asked if she had a parking plan. Where would the cars turn around on the property? He stated it would not be safe to back onto Rte. 109 to turn around, since this is a heavily traveled road. Madge B. concurred. Ms. Cadigan stated that there were two driveways on site. It was possible people could drive in one and out the other if the board members thought this was best. Roger said that as long as there was a designated area where the vehicles could turn around, that would be sufficient. Ms. Cadigan stated that they could turn around on the grass. The board members asked Ms. Cadigan to place the turnaround area on the plan she presented. Roger said that it was important to have the area designated on paper so the Code Enforcement Officer could make certain the designated area was being used. He would know where it was located. Mr. Cadigan sketched the parking plan on the sketch plan that had been submitted with the application. Mr. Cadigan added that he would be certain to tell the parents to turn around in the designated area. Roger felt comfortable with this, stating that since the same people would be coming into the preschool, once they knew where to turn around they would use that area.

Roger A. stated the board members felt it was necessary to protect the children from the pellet stove and windows in the room adjacent to the nursery school. In addition, the board members noted that the stove's vent pipe, on the outside of the home, could be touched by a child. Steve M., CEO, added that the window area needed to be fenced off both on the inside and outside of the home, because it could be accessed in both locations by children. Steve stated that the barrier needed to be 42" minimum height to be to code.

The board members concluded that the window needed to have protection both inside and outside of the home. Also the pellet stove would need to have something in front of it so no child could touch it, and the vent pipe from the stove to the outside of the home would need to be blocked off as well. Ms. Cadigan did state that she had already planned on protecting the children from both the stove and the vent pipe. She would also follow through on the Planning Boards recommendations for the windows.

Madge B. asked if the site distances were adequate in both directions. Roger A. stated that while on the site inspection he looked at the site distances since the board members did not mention to Ms. Cadigan at the last meeting she would need that information. Roger said that Rte. 109 had a posted speed limit of 45 m.p.h. in this location. According to Zoning Ordinance 105-21 "Traffic", the minimum site distance required is 315 feet. Roger stated that there was a least 315 in both directions. He added that it was likely the site distances met the 'recommended' distance of 450 feet as well.

Diane S. asked Ms. Cadigan if she was going to be running the nursery school while the construction was taking place on the home? Ms. Cadigan stated that she intended to run the nursery school during the school year and it was likely the construction would not be completed by that time. Ms. Cadigan stated that the building materials that were in the back yard would be removed prior to the children playing in that area. The shingles, nails and any wood would not be there.

Alex M. asked Ms. Cadigan if she had any intentions of extending the existing fence more than what exists now? Alex was concerned that on the side where a swimming pool is located, the fence does not go back far

enough to deter a child from going around it and possibly accessing the pool on the other side. Other board members agreed this was a concern. Ms. Cadigan stated that she could put up more fence. Mr. Cadigan asked if they could put up some flexible fencing, such as snow fencing. Steve M., CEO, stated he felt this would be adequate as long as the fence was put up properly.

Diane S. asked Ms. Cadigan if she was going to be the only employee? She stated that she was. Ms. Cadigan stated that the State of Maine allowed up to 12 nursery school children to be watched by one person, but she would only be having 8 children at any one time.

Roger A. reviewed the following ordinances with respect to this application:

- 105-20** – Applicability of standards; prohibited uses. *This application is a permitted use.*
- 105-21** – Traffic. *The traffic is safe on site, it meets both site distances and there shall be an adequate turn around created so no traffic backs onto Rte. 109.*
- 105-22** – Noise. *This business will not create excessive noise. It will operate between 9:00 a.m. and 4:00 p.m. only, three days a week.*
- 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 are automatic flood lights in existence. Any additional lighting shall not be directed toward Rte. 109.*
- 105-26** – Stormwater runoff. *There are no changes being made to the existing property.*
- 105-27** – Erosion control. *There are no changes being made to the property.*
- 105-28** – Setbacks and screening. *Setbacks and screening are currently in place, such as trees and shrubs.*
- 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 other than one 15' X 20' turnaround area.*
- 105-32** – Relation of proposed building to environment. *There are no additional changes being made to the building. (Structure is under construction at this time with the proper permits.)*
- 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. *No traffic shall back onto Rte. 109; there shall be a turnaround area on site created off the existing driveway.*
- 105-40** – Home occupations. *The business meets all the criteria for a home based business.*
- 105-43** – Off-street parking and loading. *There is adequate parking for this business.*
- 105-46** – Sanitary Provisions. *The home has been approved by the State Dept. of Human Services as having the necessary provisions.*
- 105-47** – Signs and billboards. *Ms. Cadigan shall go to the Code Enforcement Officer, prior to erecting any signs on the premises to advertise her business.*

Roger asked Planning Board members if there were any other questions at this time. There were none.

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 allows for in-home businesses in the general purpose district.***
- 4) Traffic access to the site is safe. ***It is, site distances are adequate as seen during the site inspection. There shall be a turnaround next to the existing driveway so no traffic shall turnaround on or adjacent to Rte. 109.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***There are no changes being made to the existing structures / site.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***There is a State approved wastewater and solid waste system on site.***
- 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 are no changes being made to the existing property.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***There will be none generated by this activity. No changes are being made to the land.***
- 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's Fire Marshall as being adequate to meet the needs of the proposed business.***
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. ***N/A; there are natural buffers in place, any additional lighting will be situated such that it will not glare onto Rte. 109.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

Roger listed the following conditions that will be imposed upon this application, as discussed above:

- 1) **There shall be a turn around placed on site as depicted on the plan, being 20' deep X 15' wide.**
- 2) **The two interior ground level windows and pellet stove shall be shielded from the children with a barrier approved by the Code Enforcement Officer.**
- 3) **The exterior same two windows and exterior stove vent pipe shall be shielded outside the home, from the children with a barrier that is a minimum of 42" in height.**
- 4) **All construction debris shall be removed from the backyard prior to opening the nursery school.**
- 5) **Any additional lighting is not to shine into the face of oncoming traffic from either direction of Rte. 109.**
- 6) **There shall be adequate fencing installed an additional 20 feet up the hill, on the side of the property which abuts the neighbors currently known as the Roy's.**
- 7) **There shall be adequate fencing installed an additional 5 feet on the side of the property adjacent to the swimming pool.**
- 8) **The hours of operations shall be 9:00 a.m. thru 4:00 p.m., Monday, Tuesday and Thursday during the normal school year.**

Roger A. stated to Ms. Cadigan that the Planning Board would like a copy of the license when she received it for the file. Roger also stated that Ms. Cadigan needed to go to the CEO for signage.

After review of the application and plan received; a Notice to Abutters and Public Hearing; a site inspection and the discussion above, the following motion was made:

Diane S. made the motion to approve the application for a nursery school for up to eight children between the ages of three and five, with the above conditions. Alex M. seconded the motion. All members were in favor.

Nothing further was discussed.

Conditional Use Permit – Earth Moving > 150 Yards – Map 2, Lot 34A (Walnut Hill Road) – Joachim & Sarah Angeltun

Mr. Angeltun was in attendance.

At the previous meeting a plan was submitted showing a 40' right-of-way extending from the Walnut Hill Road 668', then making a left 78 degree turn and extending to the end of the Angeltun's property line. Mrs. Angeltun stated that this right-of-way has been in existence for many years and it is in the deed. The Angeltun's want to bring in enough gravel and crushed gravel to make the right-of-way 12 - 14' wide and passable year round. Roger A. stated that the road would have to be up to the subdivision standard. Steve M. stated that the road would need to have 12" of gravel and then 3" of crushed gravel on top to be to code. The Angeltun's were asked to bring in a detailed description of their project, explaining the fill going to be used, etc. would be sufficient.

A site inspection was held prior to this evenings meeting. Road Commissioner Richard Goodwin was in attendance along with the Planning Board members and Steve M., CEO. The area was notably steep and wet on part of the 440' right-of-way. It was noted that erosion could be a major problem if the road was not built correctly.

Mr. Angeltun gave the Planning Board a copy of a new estimate from Curtis Excavation. Roger A. read the following:

- Cutting & Logging 440' by 25' for right-of-way, expanding 600' of existing road.
- Excavation of right-of-way using 210 yards of 4" minus gravel.
- 100 yards of fill.
- Installation of 15' X 20 culvert.
- 205 Yards of crushed gravel.
- New roadway 12 – 14' in width.
- Base gravel 12", topped with 3" crushed gravel.
- Stumps disposed of on site.
- Marking of right-of-way responsibility of land owner.

Roger A. asked if the 440' access would also be used for Fernandez and Paul & Joanne (as depicted on the map)? Mr. Angeltun thought the Fernandez could use the right-of-way but Paul & Joanne would not need to as they had direct access off of the initial 600+ feet of roadway.

Madge B. asked if the Fernandez lot was a legal lot of record? Steve M., CEO, stated that at the time the lot was created, you could create a back lot with a 30' right-of-way, which is why the lot(s) in question made it to the town map along with the right-of-way. Roger A. stated that it had been a family subdivision originally so it was never reviewed by the Planning Board. Steve asked if it needed to be reviewed at the time it was created? Roger stated that it did not. Steve added that he believed it was a legally created lot under the rules that were in place at the time it was created. Roger agreed.

The board noted that the Fernandez owned two adjoining lots of record. Steve M. stated that those two lots, being in the same ownership should now be joined. The board members agreed.

Madge B. asked how these lots could be a legally approved subdivision? Barbara G. stated they were not, they were lots of record. Steve M. added that Madge needed to take subdivision out of the equation. These were legally created *lots* under the rules that were in place at that time. Madge stated, "O.K., you could access a 2 acre back lot with a 30' right-of-way." Steve stated, "Correct". Roger added again that it was a "family" subdivision which required no Planning Board review at the time of division.

Madge B. asked Mr. Angeltun if what is known as the Break Neck Hill Road was mentioned in his deed? Mr. Angeltun did not believe it was there but was not certain.

Roger A. and Road Commissioner Richard Goodwin believed it had been a town road at one time. Mr. Robert Ferguson was also in attendance and he added that he knew of the road as the "Old Summer Road", but did not know if it was ever a town road. Mr. Ferguson added, as an abutter to this property, that he had no objections to the project.

Steve M. asked how Break Neck Hill Road applied to this project? Madge B. and Roger A. stated that the road accessed Mr. & Mrs. Angeltun's property and if they were to use it, they would avoid using a very steep and wet area on the right-of-way. Break Neck Hill Road would be the better of the two choices for access. Roger also said that the right-of-way is very close to Break Neck Hill Road at one point. Steve stated that he understood, but in order to use Break Neck Hill Road, the Angeltun's would have to drive over Paul & Joanne's property. The Planning Board does not know if the Angeltun's can legally do this. Steve stated that the right-of-way had to be at least deeded in order to be placed on the town map. So the right-of-way legally exists. We do not know if the use of Break Neck Hill Road is possible.

Roger A. stated the fact that the Angeltun's may not be able to use Break Neck Hill, and because of the steep slopes of the land on the right-of-way thus creating a large potential for erosion, he felt that the Planning Board would need to see an engineered road plan prior to making an approval for the project.

Diane S. asked if the Planning Board could require an engineered plan since the area in question is not designated as a wetland on the town map? Roger A. stated that the planning board could require it because of the slope of the land created a high erosion potential. Roger A. asked Road Commissioner Richard Goodwin his opinion. Mr. Goodwin stated that he felt that the planning board should require either an engineered road plan or make certain a very competent person did the job. Steve M. felt the only way to ensure the road is built correctly is to have an engineered plan to follow.

Madge B. agreed that the board members as well as the person doing the project would need an actual road construction plan (not just a list of materials to be used).

Roger A. added that there also needed to be some survey markers put in place to show the exact location of the right-of-way. Mr. Angeltun stated that the deed was very specific with respect to the location of the right-of-way. He felt that he could easily stake out the right-of-way himself.

Roger A. concluded that the Planning Board would need the following before further review could take place:

- 1) **An engineered road plan.**
- 2) **Notice that the right-of-way had been staked out.**

Roger A. reminded Mr. Angeltun the right-of-way would need to be done to the specifications listed in the Subdivision Ordinance. This application will be tabled until all information required is presented to the Planning Board and the right-of-way is staked out.

Nothing further was discussed.

Best Possible Location – Full Basement under Existing Home – Map 29, Lot 16 (183 Granny Kent Pond Road) – Donald & Yvonne Brackett

Mrs. Brackett was in attendance. Prior to the Planning Board meeting was a site inspection of the property. The board members noted the building appeared to be in the best possible location. It was fairly centered on the lot line, with respect to the side lot lines. The septic system was fairly close to the existing building, the septic cover appeared to be within 10 feet of the home, therefore moving the camp back farther would not be best for the site. (Mrs. Brackett stated the septic system was installed approximately 5 years ago.)

The application as presented at the previous meeting was to jack up the existing home and put in a full cellar. The Brackett's supplied a sketch depicting the size of the existing home (27 ½' X 23 ½'), the distance from the house to the road (75'), and the distance from the house to Granny Kent Pond (31'). In addition, the distance from the house to the left lot line is 14 feet and the distance from the right lot to the right-of-way is 25 ½ feet.

At the previous meeting Ms. Brackett stated she wanted to jack up the house approximately 8' due to the fact there was a high water table. Steve M., CEO, had stated that because of Zoning Ordinance 105-4.D(3)(c) which reads, Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure, provided that: "The foundation does not cause the structure to be elevated by more than three additional feet.", Ms. Brackett could not jack up the house more than three feet from where it was now, otherwise the increase would be an expansion and an expansion in the Shoreland district cannot be more than 30%. Thus it would not be allowed.

Roger A. explained that he had been at a seminar when the subject of 30% expansion was discussed in depth with a gentleman from the Dept. of Environmental Protection. The gentleman's name was Rich Baker. Roger stated that he did not know what capacity if any Mr. Baker still had with the DEP. Steve M. stated he would try to find out if Mr. Baker was still with the dept. and what his interpretation was for new foundations. Steve added that he believed at this time Ms. Brackett could go up an additional 2 ½ feet and down 3 feet for a total of 5 ½ feet before the 30% increase was triggered. Roger agreed.

Diane S. asked if the Planning Board was only voting on what the Best Possible Location was? Didn't the Steve M. have to deal with the expansion issue? Roger A. stated that was correct.

All members agreed that because of the location of the existing septic system, the camp was in the best possible location on site.

Roger A. reviewed Zoning Ordinance 105-4.D(3) "Foundations" as well as 105-4.D(7), (a) thru (c). Even though the building was not going to be relocated the board members felt it was in the best interest of Ms. Brackett that she be required to have a licensed surveyor place the structure on the property as well as do an existing elevation of the camp on the property. By doing this, the amount the home would be able to be jacked up would be correct and no one in the future could state she increased the height beyond what was allowed. Steve M., CEO, agreed.

There were no further questions for Ms. Brackett.

Madge B. made the motion to keep the foundation in the exact location as it currently exists. The foundation meets the site yard setbacks, and the location of the existing State approved septic system prohibits the camp from being moved farther from the high water mark. Diane S. 2nd the motion. All members were in favor.

Nothing further was discussed.

Best Possible Location – Replace Two Retaining Walls – Map 39, Lot 53 (Swan Circle) – Dennis & Francine Cram

Mrs. Cram was in attendance at the meeting.

At a previous meeting on June 9th, Mrs. Cram stated to the board members that they wished to replace two retaining walls that are within 100 feet of Granny Kent Pond. Mrs. Cram stated that after they rebuilt their home that was destroyed by fire (with P.B. approval), one of the retaining walls was destroyed while moving and rebuilding the foundation (the P.B. asked them to move the destroyed home 10 farther back from the waterfront). Mrs. Cram added that because of the slope of the land, this wall needed to be rebuilt to prevent erosion.

During the site inspection prior to the meeting on July 13th, the board members had observed a drainage pipe coming from under the new home and exiting directly behind what will be the second wall. There was concern expressed by members that this water would cause a lot of pressure behind the new wall. Because Mr. Cram had no plan on how he was going to redirect any water coming from the drainage pipe, the Planning Board asked Mr. Cram to have a stormwater plan drawn up by a licensed engineer.

The Cram's mailed the Planning Board a letter the week prior to this evenings meeting, which stated in part the following:

At the July 13th planning board meeting the board expressed concern that the water flowing from the overflow pipe around our foundation would cause pressure behind the new wall we were proposing to build. It was asked at that time if we would put together a storm water plan addressing this issue. The details following are such a plan:

.....Since the overflow pipe was installed over a year ago, we have not observed any water at all draining from the pipe. As it is currently situated the pipe would run through the first retaining wall and end 10 feet from the second retaining wall. Water if any exiting the pipe would drain into the soil. We have talked to many contractors and engineers who do not believe that we should ever have any problem with the pipe the way it is designed because of the soil in the area and that it is currently 10 feet away from the wall.

However, if the board feels strongly that this could be an issue at some point in the future

The dry well would be constructed as follows:

Where the overflow pipe now currently ends, we would dig a hole, three feet wide and three feet deep. The hole would be covered with landscape fabric and crushed stone. The top of the well would be covered with a patio block to keep rain out. The patio block would then be covered with soil and mulch. This system would allow any water coming from the pipe to seep directly into the well and be absorbed and diverted before reaching the wall.

Roger A. asked Mrs. Cram if she had anything in writing / signed by an engineer stating the above plan would be adequate? Roger voiced the concerns the planning board members had at the site inspection while viewing the location of the drainage pipe and its close proximity to the back of the retaining wall. Also, Roger added that the Planning Board needs to be very concerned with all waterfront property to make certain no surface water drains into the lake in such a capacity it adds additional sand / soil to the water.

Mrs. Cram stated that she had talked to several professionals and they all laughed saying there was no need for a plan. Due to the sandy soils, all water would permeate into the earth and not cause any erosion. Because of this Mrs. Cram stated it would be very hard to get anyone out to look at the project. Mrs. Cram added that her old house / foundation (it burned down and this is the new home that was built in its place with Planning Board approval) did not have a drainage pipe and there was no problem with ground water. Mrs. Cram said the only reason a drainage pipe was put in for the new home was because it was a code requirement, not because it was necessary.

Roger A. spoke about his new home and the large amount of water that was accumulating when he put in his foundation. After the drainage pipe was put in around the foundation, there was no water to be found, including there was no water in the pipe? Neither he, nor the contractor knows where that water went but the drain pipe was still a necessity and it needed to be put in correctly.

Roger A. reiterated that the board members needed someone with expertise to state that the new wall will not be affected by the drain pipe, nor will the lake. Madge B. agreed stating that a house located higher than the lake, on such a steep slope, needs to have water flow looked at carefully.

Diane S. stated that she felt a letter from an engineer stating the drainage plan the Cram's presented would work in this location, would be sufficient. Diane did not believe the Cram's needed to have a new plan created by an engineer, if this plan will protect the lakes water quality and the integrity of the new wall will not be compromised.

Mrs. Cram stated that they were confused with the request of the Planning Board at the last meeting for a storm water plan. They did not know they needed an engineer to o.k. the plan. Roger A. read from the minutes of the last review so Mrs. Cram would understand what the board members were requesting

Madge B. stated that the creation of a dry well system, as presented by the Cram's would be a stormwater plan. Roger A. agreed again stating all that was necessary was an engineer to agree that the plan was sufficient and that all stormwater will be retained on site.

Mrs. Cram stated that she understood and would contact the Planning Board when she got an engineers signature for the plan. The item will be tabled until such time Mr. or Mrs. Cram contacts the Planning Board.

Nothing further was discussed.

11-Lot Major Subdivision – “Evergreen Overlook” – Map 5, Lot 20 (State Rte. 11) – Northwoods Land Company of Maine – H. Craig Higgins Representing

Mr. Higgins was present at the meeting.

Mr. Higgins presented the Planning Board members with a new plan with conventional lots, instead of the proposed “clustered” lots. The building envelopes on these lots will be the same as the original clustered lots, leaving the additional land as open green space.

Steve M., CEO, told Mr. Higgins that DEP permits may be required for this project according to Dawn Buker who briefly reviewed the sketch plan for this project. Mr. Higgins stated that he would like to schedule a field determination with Ms. Buker and possibly Steve M. Steve stated he would go, but also thought a Planning Board member should attend as well. Steve thought Barbara G., since she would be available during the day, may be the person to attend. Roger A. agreed.

Mr. Higgins asked when the Planning Board would schedule the Public Hearing for this project. Roger A. stated that he would like to wait for DEP's determination prior to scheduling the Public Hearing. The other board members agreed.

At this time Roger A. asked Mr. Higgins if he would like to review the Conditional Use Permit for the Fire Pond for Evergreen at this time. Mr. Higgins stated that would be fine.

Conditional Use Permit – 100,000+ Gallon Fire Pond w/Dry Hydrant & Access Road – Map 5, Lot 20 – North Woods Land Company – H. Craig Higgins Representing

Roger A. stated this permit would be reviewed under 105-39 "Earth removal and filling."

Roger A. asked Mr. Higgins what the size of the fire pond would be? Mr. Higgins stated he believed the calculated size would be 24' X 24' X 8' deep. The sides of the pond would be walk-up and the slopes would be hydroseeded. Mr. Higgins stated in the past the product from inside the pond was bermed up and a rock lined spillway would be created.

Mr. Higgins stated that he would create a design after he spoke with the DEP to determine what should be done. Roger A. stated that Mr. Higgins should contact Fire Chief Gary Utgard for his input on the amount of gallons he would require. Mr. Higgins stated that he believed he had proposed 50,000 gallons but could raise it to 100,000 gallons if required. Mr. Higgins felt the road to access the fire pond would need DEP approval but the fire pond would not be an issue.

Roger A. asked the Planning Board members if there were any questions. There were none.

Roger A read from 105-39 "Earth removal and filling", G "Conditions of Permit" that would be relevant:

- (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.
- (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.
- (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 of the surrounding land shall be allowed within 100 feet of any side or rear lot line. However, removal of earth material deposits from hills or knolls may be allowed within 50 feet of a 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.

Roger A. asked if there were any questions for Mr. Higgins. There were none.

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; the addition of a fire pond will help the area including the protection of the wildlife.***
- 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 additional fire protection throughout Shapleigh.***
- 4) Traffic access to the site is safe. ***It is, there shall be an easement for the town's fire equipment to access the fire pond.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***The fire pond shall be engineered to consider both DEP guidelines for the wetlands in the area as well as to ensure its ability to retain water.***
- 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, 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. ***The fire pond shall be engineered to consider both DEP guidelines for the wetlands in the area as well as to ensure its ability to retain water.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***The fire pond shall be engineered to consider both DEP guidelines for the wetlands in the area as well as to ensure its ability to retain water. Best Management Practices to be used during construction.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***The intent of the project is fire protection for the proposed subdivision and surrounding community.***
- 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 natural buffers that will remain in place.***
- 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 for a Fire Pond for Evergreen Subdivision with the following condition(s):

- 1) **An engineered plan shall be presented to the Code Enforcement Officer prior to construction and a copy forwarded to the Planning Board.**
- 2) **All necessary DEP permits shall be obtained for this activity and copies of the permits shall be forwarded to the Code Enforcement Officer and to the Planning Board.**

Madge B. seconded the motion. All members were in favor.

Nothing further was discussed.

6-Lot Minor Subdivision – “Great Hollow Acres” – Map 10, Lot(s) 2, 6A & 7 (Town Farm Road) – Northwoods Land Company of Maine – H. Craig Higgins Representing

Mr. Higgins was present to discuss this application and present new information.

During the last meeting the board members reviewed the plan which lot sizes were the following: Lot 1 = 4.51± acres, Lot 2 = 11.77± acres, Lot 3 = 19.81± acres, Lot 4 = 13.46± acres and the remaining acreage = 69.85±. It was determined this created a five lot subdivision. Mr. Higgins noted this evening that the lot on the plan, which has no determination of who owns it or its size, was a lot sold by Northwoods within the past five years, therefore this lot would need to be considered part of the subdivision for reference, making this a 6 lot subdivision. Mr. Higgins stated that he would have Northwoods issue a check for \$50 for this additional lot as part of the preliminary fee. (The fee for a preliminary plan of a major subdivision is \$50 per lot.)

Diane S. told Mr. Higgins the board members received a memo which stated that Fire Chief Gary Utgard was requesting Lots 1 thru 4 have in-home sprinkler systems installed. The remaining lot, 69.85 acres, Mr. Utgard felt should be approved as needing a fire pond or cistern with any further division. Barbara G. gave Mr. Higgins a copy of the memo.

Roger A. stated that Mr. Higgins would need to speak with Road Commissioner John Burnell with respect to Town Farm Road in front of lots where the road has a gravel surface. Was the road adequate? Mr. Higgins stated that he believed he had been told the town would plow in front of any lots that received a building permit. Roger believed this was correct.

Mr. Higgins stated he was requesting three waivers and they are:

- a) Waiver for Section 89-30A to allow the installation of rebar survey monuments instead of stone monuments.

Mr. Higgins states on the application that “the surveying practices of today require the installation of rebar pins flush with the ground, which eliminates the primary problem previously associated with iron pipes – their removal by hand – that the use of granite monuments discouraged. Moreover, the Maine Board of Registration of Land Surveyors requires the use of monuments that can be located by a metal detector”.

- b) Waiver for Section 89-36M which requires “sidewalks shall be installed within all subdivision within the urban compact area”.

Mr. Higgins states that the project site is located in a rural setting fronting along Town Farm Road, a portion which is paved (along Lots 1 and 2), and the remaining frontage has a gravel surface (Lots 3 and 4). Mr. Higgins adds that vehicular traffic along this section of Town Farm Road is very limited, generally destination related, not “through” traffic.

- c) Waiver for Section 89-29 which requires “Utilities shall be installed underground except as otherwise approved by the Board”.

Mr. Higgins would like to install additional overhead utilities along Town Farm Road from the existing utility poles and to allow overhead utilities from the existing roadside utility poles to the homes. Mr. Higgins added that traditionally underground utilities are required when new roads are being created in a subdivision.

Roger A. asked Mr. Higgins if he would be adding the additional utility poles or if the homeowners would have to? Mr. Higgins stated that the applicant would be paying for the installation of the utility poles. Mr. Higgins did not feel the buyer should have to bear the burden of the cost, etc.

Steve M., CEO, asked if there were any significant animal habitats on site? Mr. Higgins referred Steve and the Planning Board members to the page submitted entitled IF&W Report – LaValley Properties – Shapleigh, Dept. of Inland Fisheries and Wildlife, which notes that “No identified wildlife habitats associated with these properties”.

Madge B. asked how Subdivision Ordinance 89-25 “Retention of open spaces...” will be met? Mr. Higgins stated that he could place a protective covenant around the wetland area. The area on the “remaining land” which houses the kettle pond could be protected.

Madge B. read Subdivision Ordinance 89-25.D “Land reservation shall be calculated on a basis of 1,300 square feet per dwelling unit proposed, or three acres per 100 dwelling units. Where land is not suitable or is sufficient in amount, a payment in lieu of dedication shall be calculated at the market value of land at the time of the subdivision, as determined by the Municipal Tax Assessor, and deposited into a municipal land acquisition or improvement fund”. Madge stated that this was an alternative to setting aside a piece of land. Madge asked the other board members how they felt about creating a land acquisition fund when the property does not have any significant wildlife or botanical value? Mr. Higgins proposed donating \$10,000 in lieu of the open green space, should the board members prefer. This equates to \$2,000 per lot (excluding the Lot #6 which was previously sold and could not have conditions such as open space placed on it at this time).

Alex M. asked if any deed restrictions for open green space would be placed on Lots 1 through 4 only? Roger A. stated, “Yes”. Alex would prefer the Planning Board consider open green space vs. a monetary donation. Alex felt that setting a precedence of collecting monies over reserving land could be viewed as allowing a developer to build his project because of the money he / she is willing to offer the town. Roger A. said he wanted board members to understand that any money received would have to go into the appropriate fund for a *specific* time period and *purpose* and it would need to be used in that time period; otherwise it would have to go back to the developer. Roger said whomever was in charge of this fund would have to monitor it carefully.

Madge B. thought it would be best if Barbara G. send a memo to the Board of Selectmen to get their view on acquisition funds prior to the Planning Board making a decision. Barbara stated she would do so.

Steve M., CEO, asked if this subdivision would need an internal road because it was a major subdivision? Steve stated that because the Planning Board has required an internal road for past subdivisions, why wouldn't they require one for this application? Steve and all the board members reviewed the subdivision ordinance.

Barbara G. reviewed past subdivision approvals as well as the minutes of the meeting on the proposed subdivision on the Newfield Road by Mr. Dubois. Barbara noted that in the case of the major subdivision on the Newfield Road the Planning Board deemed an internal road was needed because of Subdivision Ordinance 89-26.G, which reads as follows:

Where a major subdivision abuts or contains an existing or proposed arterial street, no residential lot may have a vehicular access directly on to the arterial street. This requirement shall be noted on the plan and in the deeds of any lot with frontage on the arterial street.

Barbara G. added that the board members felt the Newfield Road was an arterial street. The definition of an Arterial Street under 89-6 Definitions "Terms Defined" is as follows:

A major thoroughfare which serves as a major traffic way for travel between municipalities and through the municipality.

Steve M. and Roger A. still believed there was another section in the subdivision ordinance that required all major subdivisions to have an internal road. Both would continue to review the ordinance and if that information is found will have it for the next Planning Board meeting.

The board members also thought the definition of "arterial road" may need to be defined more clearly for future review. Barbara G. will see if she can find another definition that could be possible be added to the ordinance by town vote in March 2005.

Mr. Higgins asked the Planning Board what if any changes he would need to make for the final plan?

Diane S. noted that in his application, under #14, he states that there have been no other divisions within the past 5 years. This would have to read yes, per his information this evening.

Diane S. also noted in his application, under #27, he would have to add that all new homes on Lots 1 thru 4 would be required to have in-home sprinkler systems. Fire Chief Gary Utgard also added that the "remaining" lot should be required to put in a fire pond or cistern should this land be developed.

Mr. Higgins would also have to place on the plan that he would extend the power to all four lots. There would either be an area for open green space or money for a land acquisition fund. This will be determined after the Planning Board speaks with the Board of Selectmen.

The board members could see no further requirements for this subdivision at this time. ***Roger A. stated a Public Hearing would be held at 7:00 p.m. on August 24th prior to the planning board meeting. A Notice to Abutters would be mailed out as well.***

Nothing further was discussed at this time.

OTHER:

Steve McDonough, CEO, Has DEP information regarding changes to Permits by Rule.

The Planning Board members were given a copy of a memo Steve had received from Dawn Buker of the DEP. This memo was a copy of a page from the DEP Guidelines for Municipal Shoreland Zoning Ordinances, 06-096 "Non-conforming Structures". On this page was highlighted C(1)(b)(i) "The structure and new foundation are placed such that the setback requirement is met to the greatest practical extent as determined by the planning board or its designee, basing its decision on the criteria specified in subsection 2 Relation..."

Ms. Buker states on this page "Steve, I cannot approve PBR's without documentation showing that the greatest practical extent has been determined".

Steve M. stated that Ms. Buker will no longer review a DEP Permit by Rule prior to a determination of best practical location from the planning board. Steve stated that the board members will need to make the approval based on the condition that the applicants receive their Permit by Rule approval prior to starting any work. A copy of this approval will need to be received by the Code Enforcement Officer and Planning Board.

The planning board members stated they understood and would follow this policy with future reviews. Nothing further was discussed.

Steve McDonough, CEO, Information from Attorney Durwood Parkinson regarding Acton / Shapleigh subdivision on the Lebanon Road.

Steve M. had mailed a letter to Attorney Parkinson on July 21st which read in part:

Recently, Carol and Richard Levesque have submitted a subdivision plan. The subdivision property is located in two towns (Shapleigh and Acton). The Shapleigh Planning Board has asked for your assistance regarding several issues.

- 1) How should the Planning Board go about jointly reviewing the subdivision and what law addresses how we should proceed?
- 2) Do we have authority to require fire protection if Acton does not?
- 3) Could you draft an agreement between the two towns stating that both are engaged in the approval process?

In addition to the letter to Attorney Parkinson, a copy of the sketch plan for the subdivision was mailed for his review.

Steve M. received a telephone call from Attorney Parkinson. Attorney Parkinson stated that upon initial review the Town of Shapleigh would receive the greatest impact to its infrastructure even though the actual building lots are in Acton. The road will enter / exit in Shapleigh. Because of this, Attorney Parkinson feels the review of the subdivision should be in Shapleigh, with representatives of Acton attending.

Attorney Parkinson also told Steve M. that he would draft a letter of understanding for both town Planning Boards to sign, as well as the applicant. This document would address how the boards would work together. Steve thought this letter would be drafted in the near future.

Barbara G. stated she would draft a memo to the Acton Planning Board as well as Dana Libby of Corner Post Land Surveyors, the person representing Mr. and Mrs. Levesque. All board members agreed this would be best.

Nothing further was discussed.

Roger A. wanted to discuss a telephone conversation with Gino Romano regarding an old subdivision application.

Roger A. stated that Gino Romano had submitted a plan for a 7 lot major subdivision on the Gore Road over five years ago. This subdivision had a tentative approval. The board members were waiting for a plan for a fire pond and the road. The final plan including both was never received by the board members.

Mr. Romano asked if he could bring in the old plan and start from where he left off. Roger A. believed he would need a new application and plan but would broach the subject with the other board members.

Steve M. asked why the original plan was not approved? Roger A. stated again, there was no plan for the fire pond or road presented. Steve believed that because the plan had not commenced within five years, the

plan itself was null and void. Steve was referring to Subdivision Ordinance 89-20.F, which reads: "Failure to commence substantial construction of the subdivision within five years of the date of approval and signing of the plan shall render the plan null and void...."

Roger A. added that Mr. Romano also stated that now he wants nine lots instead of seven. This is another change to the original plan.

Steve M. asked what the difference was to Mr. Romano to begin with a new application? Couldn't he go to the person who drew up the original plan and make the necessary adjustments? Roger A. said that Mr. Romano was told it would be an additional \$28,000 to "start over".

Roger A. told Mr. Romano that a performance guarantee for the road improvements would be required. The other board members concurred.

The board members agreed Mr. Romano would need to bring in a new application because of the great amount of time that had passed since the last review.

Nothing further was discussed.

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

The Planning Board meeting ended at 10:35 p.m.

Respectively submitted,

Barbara Gilbride

Planning Board Secretary planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES
Tuesday, August 24, 2004

Members in attendance: Roger Allaire (Chairman), Madge Baker (Acting Member), Alexander MacPhail (Member) and Barbara Gilbride (Secretary). Code Enforcement Officer, Steven McDonough was also in attendance.

The Public Hearing Began at 7:07 p.m. The following items were reviewed:

- **5-Lot Minor Subdivision – “Great Hollow Acres” – Map 10, Lot(s) 2, 6A & 7 (Town Farm Road) – Northwoods Land Company of Maine – H. Craig Higgins Representing**

Mr. Higgins began the public hearing by stating this project was to create four lots on the Town Farm Road. The lots ranged in size from approximately 4 ½ acres (Lot 1) to 20 acres (Lot 3). He explained that a portion of the Town Farm Road was gravel in front of Lots 3 and 4, and Lots 1 and 2 abut the paved portion of Town Farm Road.

Mr. Higgins told the audience that he and the Planning Board had discussed the requirement of “Open Green Space” vs. a monetary donation as described in Shapleigh’s Subdivision Ordinance (89-25.D). Mr. Higgins stated that the Board of Selectmen as well as several Planning Board members preferred the concept of Open Green Space. Therefore, the applicants are proposing to create a 50-foot buffer around the wetland area on lots 3 and 4. Also on Lot 3, approximately 15 acres shall be designated as Open Green Space, 7 acres of which are wetland.

Mr. Higgins stated that there were two corrections made to the application, as requested by the Planning Board at a previous meeting. On item 14, which asks if there had been any other division of the parcels, originally Mr. Higgins had previously stated no. However, Mr. Higgins discovered that a 20+ acre parcel had been sold within the past five years to a Corneilius & Diane Stewart on 8/29/02, so line 14 now states “yes”. Item #27 was modified to reflect that there would be fire protection for this development in the form of in-home sprinkler systems for lots 1 thru 4.

Mr. Higgins stated changes would be made to the final plan to reflect the above changes as well as adding the note that “The developer shall install overhead electrical lines along Town Farm Road from its current end near Red Gate Road to the Lot 3 / 4 corner.”

Roger A. asked the citizens in attendance if there were any questions.

Citizen – Are you (Mr. Higgins) just selling the land or are you developing it as well?

Mr. Higgins – We are selling the land to the general public for single family use. There will be some deed restrictions including the fact that the land is intended for single family homes only. There will be no mobile homes allowed. Only animals that you typically find inside the home will be allowed.

Citizen – Will horses be allowed?

Mr. Higgins – They will not.

Citizen – Why wouldn’t you extend the electric poles to the end of Lot 4?

Mr. Higgins – We have no idea what the location of the home will be on the property, therefore the homeowner can place any additional pole where needed according to the new homes location.

Citizen – What will you do with the lot known as “remaining land”?

Mr. Higgins – This lot will remain a single buildable lot of record. It will be sold at a future date as is.

Citizen – What is meant by Open Green Space?

Roger A. – This is land that is reserved to be set aside as open space, never to be developed.

Mr. Higgins – This land is not going to be commonly owned as it is in some developments such as condominiums. The land will remain part of the lot (Lot 3 or 4), but the owner will never be able to build on it.

Citizen – Will the owner be able to level every tree?

Mr. Higgins – No, the land can only be used for recreational activities such as hiking, cross country skiing, etc.

Roger A. – John, what opinion do you have of the Town Farm Road along this subdivision? (Road Commissioner, John Burnell)

John B. – Approximately 2100 feet will need to be brought up to a plowable standard in order to have access to Lot 4. The road currently will not hold traffic in the spring due to the high volume of water that sheets across it leaving the road impassable. The road will need ditching as well as under drainage and fabric to create access year round. The cost to the town is approximately \$35 to \$40 a foot for a project such as this. To get the road up to standard it would cost \$80,000 plus.

Mr. Higgins – If Lot 4 was accessed from North Shapleigh, what would have to be done to the road?

John B. – Some tree cutting and ditching only.

Mr. Higgins – Is Red Gate Road how far you go now (how far the Town of Shapleigh maintains the road now)? (Red Gate Road is at the corner of Lot 3.)

John B. – Correct.

Mr. Higgins – So Lot 4 is the biggest concern for the road.

John B. – Yes, because of the change in elevation / stormwater problem. Also, there would need to be a place for the snowplow to turn around.

Mr. Higgins – So drainage is the biggest issue?

John B. – Drainage and the fact there is no good base.

Mr. Higgins – Would ditching, such as what was done at the Goose Pond Subdivision (off of Rte 11) be a major improvement for the road?

John B. – Yes, but the water shed would have to dump onto Lot 3 and the Moulton property.

Mr. Higgins – How wide is the right-of-way for the road?

John B. – 50 feet

Mr. Higgins – If the developer put in stormwater drainage in front of Lots 3 & 4, would that satisfy the town?

John B. – I cannot speak for the Board of Selectmen, but I would be satisfied.

Mr. Moulton – What do you mean by the statement “water would go onto the Moulton property”?

John B. - The stormwater would flow onto your property because of the lay of the land and the amount of water that flows down Town Farm Road in the spring. The water currently runs from Great Hollow Road to the Moulton property, moving straight across Town Farm Road.

Mr. Higgins – If we created an 18” ditch that drained onto Great Hollow road and at the bottom of the hill created a detention pond, would this help to keep the stormwater off the Moulton property?

John B. – Yes

Mr. Higgins – Mr. Moulton, would this be preferable to you?

Mr. Moulton – Whatever is best for everyone is fine.

Citizen – Is the Town of Shapleigh going to plow Town Farm Road year round?

Mr. Higgins – I was told that if someone got a building permit for Lot 4, the town would plow year round.

John B. agreed.

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

The Public Hearing ended at 7:37 p.m.

The Planning Board meeting started at 7:38 p.m.

The minutes from Tuesday, August 10, 2004 were accepted as written.

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

5-Lot Minor Subdivision – “Great Hollow Acres” – Map 10, Lot(s) 2, 6A & 7 (Town Farm Road) – Northwoods Land Company of Maine – H. Craig Higgins Representing

Mr. Higgins was present to discuss this application.

Roger A. began by stating that the project was a 5 lot subdivision, not a 4 lot as mentioned by Mr. Higgins during the public hearing. The “remaining lot” counts as one lot as well. Roger also added that per the subdivision ordinance (89-29 “Utilities”), utilities are required. The developer must make certain there is access to electricity for all lots within the subdivision.

A citizen asked if the developer had a permit to build upon any of the lots at this time? Roger A. stated that they did not. This subdivision was in the preliminary phase at this time. No approvals have been issued.

A citizen asked if the town was the one that upgraded the Town Farm Road up to the Red Gate Road? Road Commissioner John B. stated, “Yes”.

Alex M. stated that because Town Farm Road is a town road, and the upgrade of Town Farm would benefit both the developer and the town, the cost to upgrade the road should be a shared cost between both parties. Alex felt that Mr. Higgins agreeing to do the ditching and create an area for the storm water to flow onto his property, was something the Planning Board should consider accepting.

Mr. Higgins agreed that to “share” the cost would be cost effective. If the town requires the applicant to gravel the road as well, it is likely Lot 4 would not be developed. Lot 4 would be removed from the final plan, and a hammerhead turnaround could be created on Lot 3 to accommodate the town snowplows.

Madge B. asked if Roger A. or Steve M., CEO, had found a requirement that the developer had to have an internal road. Both agreed that because Town Farm Road was not an arterial road, the developer was not required to do so. Roger read Subdivision Ordinance 89-26.G that pertains to the subdivision road, for all in attendance:

Where a major subdivision abuts or contains an existing or proposed arterial street, no residential lot may have a vehicular access directly on to the arterial street. This requirement shall be noted on the plan and in the deeds of any lot with frontage on the arterial street.

Madge B. agreed Town Farm Road was not an arterial road.

Alex M. stated that although he was not a big fan of subdivisions, in light of the fact the developer was proposing only four lots on 45+ plus acres, he was in favor of this application. In addition, because of the large amount of “open space” being reserved on lots 3 & 4, the developer was creating minimal disturbance for the area, which Alex felt was positive for the town.

Roger A. asked Road Commissioner John Burnell what final recommendations/comments he had for the Town Farm Road with respect to the applicant’s proposal of ditching. John B. stated that the ditching proposed by Mr. Higgins would be a great benefit. Keeping the water on the same side of the road as the development, which is where most of the water is generated from, would alleviate much of the current problem. John stated the ditching along Lot 4 as well as a retention pond would be a huge savings to the town. John added that Mr. Higgins offer to keep the material removed from the ditches on his property was another savings and benefit. John B. concluded that he was satisfied with Mr. Higgins proposal but he could not speak for the Board of Selectmen. Mr. Higgins agreed to go to a meeting with the Selectmen to discuss the matter with them. John B. stated he would attend the meeting as well.

Mr. Higgins stated he would put his ditching proposal in writing for both the Board of Selectmen and the Planning Board to review. He would propose ditching his side of Town Farm Road the entire length of Lot 4. After the ditching is completed the area will be hydroseeded and rip rap added where necessary. Mr. Higgins stated he would like to go to the site with John B., prior to the Board of Selectmen meeting, to discuss his plans and make any necessary adjustments. John B. stated he was available the end of this week.

Mr. Higgins added that he would have an estimated cost to complete the work for the performance guaranty ready for the next planning board meeting.

Madge B. asked Mr. Higgins to have language regarding the Open Space agreement for the final plan as well.

Roger A. stated he would like to see the utilities brought beyond the lot line of Lots 3 and 4. Mr. Higgins stated he could extend them to just beyond the wetland on Lot 4. Roger stated that would be better access for Lot 4.

Roger A. stated to all those in attendance that normally the Planning Board requires underground utilities for a major subdivision but in this case, overhead utilities would be a greater benefit. Lots on both sides of the road, not just Mr. Higgins parcel, could access the utility poles. For an example, the Moulton's across the street could pull power from the pole next to Lot 4. A citizen asked what side of the road the poles would be on? Roger stated the side of the development. Mr. Higgins concurred.

There were no more questions at this time for this project. Mr. Higgins will meet with the Board of Selectmen to discuss the road issue prior to the next Planning Board meeting on Tuesday, September 14th. Nothing more was discussed.

11-Lot Major Subdivision – “Evergreen Overlook” – Map 5, Lot 20 (State Rte. 11) – Northwoods Land Company of Maine – H. Craig Higgins Representing

Mr. Higgins was present at the meeting.

Mr. Higgins stated that he, Soils Engineer Jim Logan, DEP Representative Dawn Buker, and Code Enforcement Officer Steve M. would be going to the site on Wednesday, August 25th to come to an agreement on the location of the fire pond and ascertain what permits would be needed for both the subdivision road and fire pond.

Mr. Higgins stated that a field determination for the water shed is divided into two watersheds. The front part of the property is the Mousam Lake watershed, the back is the Little Ossipee River to the Saco River watershed. The Mousam Lake watershed is the most at risk. This means that as little as 20,000 square feet of impervious surface, such as the gravel road, triggers the need for a DEP Stormwater Management permit.

Mr. Higgins stated that for the entire site, the road would have to cover approximately one acre to trigger the need for a Maine Construction General Permit. The road totals approximately 40,000 square feet, so this permit will not be required.

Mr. Higgins stated the fire pond would only need a DEP Permit by Rule. He added that he would not be able to have the approval for the Stormwater Permit back from the DEP for 75 days.

Mr. Higgins stated that he would like to reduce the amount of impervious road surface on site. The applicant still will pave the roadway 24' in width and have 5' shoulders on each side; however, he would like to add four inches of loam over the shoulders and hydroseed. This will reduce the amount of impervious area as well as being esthetically pleasing. The board members agreed it would be a benefit both in the reduction of stormwater sheeting action as well as be a visual benefit.

Alex M. asked if the grass would be maintained by the owners of the properties? Mr. Higgins stated, “Yes”.

An abutter, John Townsend, spoke to the board members and Mr. Higgins. He stated he had sold the property to the applicant and was also a direct neighbor of the property. He began by stating he had a favorable impression of the subdivision plan. He had gotten a copy of the plan from Barbara G., as well as a copy of the application for his review. He thought the plan showed the applicant was going to do a high quality job.

Mr. Townsend stated that one concern of his was that he did not realize there was not enough of a buffer between his property and the subdivision. He added that it was a concern for the Selfridge / Turgeon property as well. (They had approached him about purchasing some of this property in the past for a buffer

but at that time he did not want to sell.) In light of this, Mr. Townsend asked Mr. Higgins if there was anything he could do to create a buffer? Possibly plant some trees or put up a fence between the subdivision road and his property? Mr. Townsend stated he has always liked apple trees. Also, could Mr. Higgins make certain there was a buffer between Lot 1 and the Selfridge / Turgeon property?

Mr. Higgins pointed out that each lot has a building envelope and a protected "Open Space" around it. Mr. Higgins stated there would be approximately 145 feet between the building envelope on Lot 1 and the Selfridge / Turgeon property. Board members agreed this was adequate.

With respect to the Townsend property and the subdivision road, Mr. Higgins agreed what was left was mostly high canopy White Pine so you would be able to see the road from Mr. Townsend's property at this time. Mr. Higgins told Mr. Townsend that in the Town of Shapleigh you need a 50 foot right-of-way to build a road. This would not leave enough additional land for any plantings on the subdivision property, and a fence would not be able to meet setbacks. Mr. Higgins told Mr. Townsend that there was nothing to prevent him from planting trees or putting up a fence on his property.

Mr. Higgins added that the road was in this location because he needed to build it in the area that would have the least amount of environmental impact to the land / wetlands on site. Also, the entrance to the road had to meet Maine's Dept. of Transportation site distance requirements. The original road entrance, which would have been farther from Mr. Townsend's property, could not meet these requirements.

Mr. Higgins stated that he could ask the applicants if they would plant some 4' to 8' evergreens along the road on Mr. Townsend's property. They could get them from on site while doing the site work for the subdivision. Mr. Higgins told Mr. Townsend that he would need his written permission to do so. Mr. Townsend stated he would speak with the other owners of the property but believed they would agree to this. He thanked Mr. Higgins for his consideration.

Mr. Townsend asked Mr. Higgins if he would have to pay for the maintenance of the subdivision road in any way? Mr. Higgins stated that only the eleven homeowners in the subdivision would have that responsibility exclusively. Mr. Higgins said the homeowners could in the future petition the town to take over the maintenance but it would have to go to town vote for approval. If approved the entire town would share the maintenance cost. Initially the subdivision homeowners will have a road maintenance agreement which is executed upon the sale of their property. If they in turn sell their property the new owners will also have to abide by the road maintenance agreement, and so on.

Mr. Townsend asked if there would be any architectural restrictions? Mr. Higgins stated, "No". Mr. Townsend asked if the road would be paved? Mr. Higgins stated, "Yes".

Mr. Higgins invited Mr. Townsend to the site visit to be held the next day, August 25th at 2:30 p.m. Mr. Higgins also invited any board member or citizen that wanted to attend. Again, he would be meeting with the DEP to discuss the fire pond and road issue with respect to stormwater permits.

Roger A. asked if there were any further questions from the board members or audience and there were none. Nothing further was discussed. This application is tabled until more information is received.

OTHER:

Letter received 8/17/04 from James & Donna Seebirt – Requesting Reconsideration of the Board Actions on their Best Possible Location – Remove and Reconstruct Garage – Map 20, Lot 8 (106 Shapleigh Corner Road)

Mr. and Mrs. Seebirt were before the Planning Board to remove an existing garage and breezeway and to build a new garage on site. The Planning Board required a survey prior to determining the Best Possible Location after a site inspection and review of the project on Tuesday, July 27th. The application was tabled pending several additional requirements including a survey of the lot.

Mr. and Mrs. Seebirt wrote the Planning Board a letter requesting “the Board reconsider their decision resulting in a requirement for a surveyed line between Lots 7 & 8, Map 20. It is our position that the line as described is adequate for the purpose of locating structures on Lot 8 and is an unnecessary burden of expense and delay.”

The Planning Board members after reading the letter agreed they could not grant their request due to Shapleigh’s Zoning Ordinance 105-4(7)(c) which reads as follows:

(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.

The board members voiced the fact a Zoning ordinance cannot be waived by the Planning Board, therefore, the Planning Board would stand by its decision to require a survey of the property prior to approval.

Barbara G. will mail the Seebirt’s the Planning Boards decision. Nothing further was discussed.

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

The Planning Board meeting ended at 9:05 p.m.

Respectively submitted,

Barbara Gilbride
Planning Board Secretary planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES

Tuesday, September 14, 2004

Members in attendance: Roger Allaire (Chairman), Madge Baker, John Klimas (New Member), Alexander MacPhail, Diane Srebnick (Vice Chairman), and Barbara Gilbride (Secretary). Code Enforcement Officer, Steven McDonough was also in attendance.

The Planning Board would like to welcome a new member, Mr. John Klimas. We look forward to his participation on the Planning Board and are certain he will be a great asset.

The Planning Board meeting started at 7:35 p.m.

The minutes from Tuesday, August 24, 2004 were accepted as written.

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

Conditional Use Permit – Replace Retaining Wall – Map 30, Lot 9 (23 Totte Road) – Douglas Broughton

Mr. Broughton was present to discuss the application.

Mr. Broughton explained to the Planning Board that he had hired a contractor to replace the existing wall which was in much need of repair. He began the project without a DEP Permit by Rule as he did not know he needed one. He was informed by the DEP he was in violation and he was told by the Dawn Buker of the DEP that he also needed to obtain a permit from the Town of Shapleigh to go forward with the project. (Mr. Broughton does have a Permit by Rule Notification Form signed / approved by Dawn Buker of the DEP, dated 7/12/04. The Planning Board now has a copy for the file.) Mr. Broughton added that the DEP made him put the original wall back up until all the necessary permits were obtained, which he has done.

Roger A. reviewed the application along with the sketch plans submitted. Roger asked Mr. Broughton if the existing 5' X 10' dock was a removable dock. Mr. Broughton stated, "Yes".

Roger A. asked Mr. Broughton what the existing wall was made of? Mr. Broughton replied, "Wood and Stone". Mr. Broughton explained the wood was rotting and the stone was no longer holding back the embankment.

Madge B. asked Mr. Broughton if he would be bringing in stone to place behind the new wall? Mr. Broughton stated he would need to bring in crushed stone to place behind the new wall for drainage.

Steve M., CEO, asked what the height of the new wall would be. Roger A. reviewed the plans and stated it appeared it would be 4 feet in height. Mr. Broughton stated that was correct.

Roland Legere asked if Mr. Broughton had been in touch with York County Soil and Water Conservation for this project? Mr. Legere stated that the area that abuts Mr. Broughton's property has a serious erosion problem. Mr. Legere stated that there is a lot of sand and silt being washed into Goose Pond. Mr. Legere asked the planning board members if this project should be tied in with trying to fix the existing erosion problem? Steve M. stated that the DEP is aware of the erosion problem Mr. Legere is speaking of, however,

it is not Mr. Broughton's property and he is not responsible for it. Mr. Broughton's property has been inspected by Dawn Buker of the DEP and his plans have been approved.

Mr. Legere stated that he was still very concerned with the erosion problem, as it is one of the major sources of pollution to Goose Pond at this time.

Roger A. asked if there were anymore questions. There were none. Roger stated *a Notice to Abutter's will be mailed* and due to the high volume of site inspections prior to the next meeting, individual members can go to the site on their own to view the location. Nothing more was discussed.

Conditional Use Permit – Used Car Sales, Small Engine Sales & Cabin Rentals – Map 19, Lot 13 (State Rte. 109) – Medue / Boissonneault

Mr. Medue and Mr. Boissonneault were present for the review of their application.

The applicants began the discussion by stating there were very few changes they wanted to make to the existing property. In addition, they felt the proposed businesses would pose a similar impact to the surrounding area as what has existed in the past, i.e. the cabin rental and hardware store. The applicants wanted the planning board members to know that they expected to invest approximately \$500,000 into the property and believed it would be an asset to the town as well as themselves. Also, they needed the planning board members to understand the buying process has been a difficult one to date, with many stipulations including the need for them to get some kind of pre-approval due to the deadlines associated with their purchase and sale agreement. Although they know the planning board members cannot make a hasty decision, the applicants would like some input as to whether or not their ideas for the site would be allowed with the proper permits.

The application states the applicants would like to do the following on site: Refurbish the existing cabins for weekly rentals; divide the main building into two sections, one for the sales of used automobiles and the other for the sale of used ATV's, motorcycles, personnel watercraft, boats, campers, etc.; and to use the existing outbuilding for a vehicle service area. The applicants stated that the most important aspect of their business was the sale of used automobiles. If the Planning Board felt this would not be allowed, they would like them to say so at this time. Roger A. stated the planning board members could not render a decision regarding the auto sales without further information.

The applicants gave the planning board members a copy of the purchase and sale agreement. The applicants explained there was a very specific kick-out clause that included the fact the applicants had to waive many inspections; they could not do the inspections prior to the purchase of the property. The applicants also had a limited amount of time to obtain the necessary permits from both the town and state, i.e. "30 days from the effective contract date to obtain all necessary town permits and or licenses, and 45 days from the effective contract date to obtain all necessary state permits and or licenses". Again, the applicants asked the planning board members if they could give them some idea by the end of tonight's review, as to whether or not these businesses were possible.

The applicants stated there would be no change to the existing utilities. Signs will be done through the Code Enforcement Officer. The applicants stated they would like a larger parking area but did not propose to pave it at this time.

The hours of operation will be: 8:00 a.m. thru 8:00 p.m., Monday thru Thursday
8:00 a.m. thru 6:00 p.m. Friday
8:00 a.m. thru 5:00 p.m. Saturday
Sunday all business would be closed except for the cabin rentals.

There would be gasoline on site, stored in non-explosive government approved containers. It would only be in small quantities.

The applicants stated the businesses they were proposing should not affect the traffic much different than the previous hardware store.

Roger A. stated to both planning board members and the applicants that there were no valid permits in existence for this location at this time. All the previous businesses have been closed for more than one year. Roger also said the site contained approximately three acres. Per the zoning ordinance two acres is required per principle dwelling unit, therefore, the rental of the cabins may not be allowed.

Roger A. asked how the used gasoline, gas soaked rags, etc. would be handled? Would the applicants be using a company to dispose of these items? The applicants did not have a disposal company at this time.

Diane S. asked if there was only one septic system in place for everything, i.e. the cabins and existing building formerly used as a hardware store? The applicants were not sure at this time as the seller has not been very cooperative when it comes to giving out information. Steve M., CEO, stated there was nothing on file for this location. Steve stated it was likely the septic for the cabins was pre-1972 so a new system would probably be required. The applicants stated they would be putting in a new septic system.

Roger A. stated that the planning board had to use the zoning criteria for this property and it is possible the applicants would not be able to use the cabins as they exist now. Roger stated that the applicants did have the option of going to the Zoning Board of Appeals for the use of the cabins. The applicants asked if they removed the kitchens, could the cabins be used, since they would no longer be dwelling units? The applicants also asked if they removed the kitchens, could they have a small refrigerator and microwave oven inside each cabin? Steve M., CEO, stated that as long as there was no kitchen sink, they would not be considered dwelling units.

Roger A. read the definition of a Dwelling Unit, "A room or group of rooms designed and equipped exclusively for the use as living quarters for only one family, including provisions for living, sleeping, cooking and eating. The term shall include manufactured housing units but shall not include trailers or recreational vehicles."

Alex M. asked where the office for the cabins rentals would be located? The applicants stated it would be in the same building as the auto sales.

Alex M. asked if the planning board would have to deny the whole application if the cabins were not a viable option? Roger A. stated the planning board could approve the auto sales and not the cabins if they felt it was appropriate.

The applicants asked if they set up the cabins like a hotel room, would they be allowed? Roger A. stated the rooms would have to be inspected to make certain they met the criteria of a room and not a dwelling. The applicants stated they would do whatever the planning board recommended.

Roger A. stated the flammable items needed to be addressed in more detail. How will they be stored? Who will remove them from site? The applicants stated they will be stored in fireproof metal cabinets, in the proper State approved containers. Roger stated that the applicants needed to make sure the amount of waste stored on site would not trigger any need for DEP permits / approvals.

Madge B. asked if the businesses would be located in the Shoreland Zone? The planning board members reviewed the town maps. Steve M. stated that part of the land might fall within 250 feet of the water but none of the buildings did. Roger A. concurred.

Madge B. asked if the planning board had received the site distance calculations? The applicants did not know what she was referring to. Roger A. stated they could get the calculations during the site inspection and he told the applicant's site distance calculations referred to the distance one could see in either direction while pulling out onto Rte 109. Roger believed the site distance would be well within the ordinance, which at 45 m.p.h. is 315 minimum site distance.

Steve M., CEO, asked what the potential use of the water access would be? This property has a deeded right-of-way to Mousam Lake. The applicants stated they would like to use it for their own personal use as well as testing motors that they have serviced for boats or jet skis. Roland Legere asked if the right-of-way would be used for snowmachine access to the lake? The applicants stated it would not be used for business purposes but possibly for their own access via snowmobile to the lake.

Madge B. stated that access to the dock / right-of-way needed to be addressed. If there were a lot of people using it there would need to be measures taken to prevent erosion. The applicants stated the area was relatively flat. They did not intend to have a lot of people use the right-of-way. The planning board members asked what type of dock would be used? The applicants stated a "regular" removable dock attached to metal poles. Steve M. asked if the people renting the cabins would be allowed to use the right-of-way? The applicants stated they were thinking of allowing them to use it. Steve felt that could turn into a lot of people and the neighbors may not appreciate it. Roland Legere agreed stating there most probably would be a concern from local residents if the right-of-way became a commercial use.

The applicants stated most probably only two boats a month would be tested at the dock. Steve M. was concerned with the fact there really was no good way to monitor its use. The applicants stated it was not imperative they use the lake access for commercial use, especially if the planning board does not feel it is a good idea.

Roger A. asked how many vehicles would be stored on site? How many boats, etc.? The exact size of the parking area needed to be placed on the plan. Roger referred the applicant to the zoning ordinance. One space would be needed for every 150 square feet of retail space and one space for each person employed or anticipated employees. (105-43 "Off-street parking and loading")

Roger A. reviewed Zoning Ordinance 105-31. B "All parking or outdoor storage areas shall be separated from any public road by a landscaped buffer strip at least 15 feet wide, planted with shade trees (minimum two-inch caliper, planted at least every 50 feet along the road frontage) and dense, medium-height shrubs (three feet in height) to screen parked vehicles. All such planting shall be maintained as an effective visual screen. Shrubs or trees which die shall be replaced within one growing season." The applicants were concerned with this requirement as they were going to sell used vehicles which should be seen from the road. Steve M. stated the buffer could be created such that some of the vehicles for sale could be seen but vehicles being worked on should be hidden from view. The ordinance was created to keep the area from looking like a junk yard to the neighbors and people passing by along the road.

The planning board members noted there would need to be a new septic design / septic system prior to the buildings being utilized.

The applicants asked what they needed for the next review as it was very important to be able to make a decision whether or not to purchase the property within the deadline they were given.

The planning board members listed the following items but added that after a public hearing it was possible more items would need to be addressed:

- A quote sheet from the company to be used to remove the hazardous waste from site.
- Put in writing how hazardous waste will be stored and where on site.
- On the plan show the number of parking spaces on site.
- List the number of autos that will be for sale and show where they will be located.
- List the number of other items for sale or repair, including ATV's, motorcycles, jet ski's, boats, etc. and show where they will be located.
- Calculate lot coverage.
- Details of what will be done to restore cabins and how they will be used.
- In writing detail how the existing right-of-way will be used / by whom.
- What will be the size of the dock and who will use it?
- What type of screening / buffers will be used around vehicles waiting to be worked on?
- Show where any additional lighting will be placed on site.

There were no further questions at this time.

Roger A. stated there would be a Public Hearing on Tuesday, September 28, 2004 at 7:00 p.m. A Notice to Abutters would be sent out. A site inspection will take place prior to the meeting at 6:15 p.m. Nothing further was discussed.

5-Lot Minor Subdivision – “Great Hollow Acres” – Map 10, Lot(s) 2, 6A & 7 (Town Farm Road) – Northwoods Land Company of Maine – H. Craig Higgins Representing

Mr. Higgins was present to discuss this application.

Roger A. began by stating he discussed the road issue with the Road Commissioner and Board of Selectmen prior to the planning board meeting. The Board of Selectmen and Road Commissioner believed any improvement to the Town Farm Road by the developer would be a benefit to both parties.

Mr. Higgins reviewed the latest subdivision plan with the planning board members. There was a stormwater plan added for Town Farm Road. There will be ditching done from Red Gate Road to the existing wetland on Lot 4. A 50' X 50' drainage easement will be located on Lot 3. Also on Lot 3 a drainage culvert will be used to drain the water from the Moulton property into the existing wetland on Lot 3. Lot 4 will have a 50' X 100' drainage easement for the steepest portion along Town Farm Road, and the ditching in this area will have riprap as well. The water should go into the sandy soils contained on the property. The proposed ditching will end just before the 50 X 100' easement on Lot 4. There will also be a 50 X 50' drainage easement created on the remaining land to provide gravity water flow away from the roadway. All the ditch turnouts and settling basins will be conveyed to the Town by an Easement Deed. (An exact list of work to be completed was received by Mr. Higgins and is in the file.)

Mr. Higgins also provided a cost estimate as follows:

A.	2,000± linear feet of ditching @ \$5.00 per foot	\$10,000
B.	2 settling basins @ \$1,250 each	\$ 2,500
C.	250± linear feet of riprap for steep ditch area	<u>\$ 2,500</u>

Total cost for Public Improvements

\$15,000

Mr. Higgins stated he would also be submitting a check for \$5,000 for the installation of overhead utilities. Although this estimate would be low if he was using Central Maine Power to do the installations, it is appropriate for the private contractor he will use to complete the project.

The Total amount proposed for the Performance Guaranty is \$20,000

Mr. Higgins stated he had added a 50' buffer around the wetlands located on the "remaining land". Also, there is a change to the plan for Lot 3. The total acreage for the building site shall be 4.71± acres, not 4 acres as printed.

Roger A. stated that Mr. Higgins had not addressed fire protection for the "remaining land" on the plan, as discussed at a previous meeting. Roger stated that Fire Chief Gary Utgard had expressed that he would like to have either a fire pond or cistern required for the remaining land should it be developed in the future. Mr. Higgins stated that the land was likely to be sold as one piece. He asked if the planning board members would accept a sprinkler system if a home is built on the remaining land, at this time. He could add it to the final plan. Mr. Higgins also stated that since any further division to the remaining land would have to come before the planning board, he felt at that time they could require additional fire protections such as a cistern or pond. Board member agreed that a note to the plan that a sprinkler system would be required for any new home, would be adequate at this time. Mr. Higgins stated he would add the requirement of a sprinkler system should a home be built on the "remaining land" to the Notes section of the final plan.

Roger A. asked Road Commissioner John Burnell if he had any additional comments regarding the ditching for Town Farm Road. Mr. Burnell stated the ditching plan was adequate as far as he was concerned. John B. asked Mr. Higgins if he could make certain the utility poles were 18 feet from the center of Town Farm Road in case more ditching was needed in the future. Mr. Higgins stated it would be no problem to comply with John's request. Roger added that the last power pole on Lot 4 needed better access and Mr. Higgins stated he revised the location of the pole to be 250' NE from the intersection of Lot 3 / 4. This will be on the final plan. Roger agreed this is a preferable location.

Mr. Higgins asked if the planning board members felt he had covered all their concerns and met all the ordinance requirements. Mr. Higgins wanted to present the final plan on Tuesday, September 28th. None of the planning board members had any additional requirements for Mr. Higgins.

There was nothing further discussed.

11-Lot Major Subdivision – "Evergreen Overlook" – Map 5, Lot 20 (State Rte. 11) – Northwoods Land Company of Maine – H. Craig Higgins Representing

Mr. Higgins was present at the meeting. He stated he had no new information to share with the planning board for this application. He stated he is working with the DEP to gather the necessary permits required for the road and fire pond.

Mr. Higgins did give the planning board members a copy of a letter he mailed to Mr. Townsend; a direct abutter to what will be Evergreen Overlook subdivision. Mr. Townsend had been at the last meeting requesting Mr. Higgins create some type of vegetative screening between the subdivision road and his property.

Mr. Higgins stated the applicant was willing to place some small evergreens along the property line but they

would have to be located on Mr. Townsend's property due to the limited amount of space between the subdivision road and the property line of the subdivision property. Mr. Higgins stated he would need a letter from Mr. Townsend stating he agreed to Mr. Higgins proposal before any planting takes place.

There was nothing further discussed with regard to this application.

Conditional Use Permit – Timber Harvesting – Map 2, Lot 35 (Walnut Hill Road) – Reader / Swartz

Brian Reader was present to represent the land owner, Mr. Peter Swartz.

Mr. Reader began by stating the application was to do a selective harvest in the Shoreland Zone. He stated the majority of the wetland had been previously forested. He said that currently the area has many trees over 20 feet in height, many of which are red maples. Mr. Reader stated he would be harvesting less than 40% of the standing timber, and the trees would be totally removed leaving no slash. The project would begin either when the water was low or when the ground was frozen.

Mr. Reader stated the area had been harvested in the past and managed by the previous owner. Many of the trees have grown and reached maturity since the last harvest. Any contractor / logger chosen for the project would be certified by the State of Maine and would use Best Management Practices.

Roger A. asked Mr. Reader if he would be harvesting more than 40 percent of the trees? Mr. Reader stated, "No". Mr. Reader added that they would not be harvesting on the steep slopes. He did not want an erosion problem created.

Roger A. asked how many acres there were in total? Mr. Reader stated he calculated the area to be approximately 63 acres in size. Roger, after looking at the town map thought the area may be closer to 80 acres. Mr. Reader stated using GPS technology he calculated it to be between 63 and 65 acres. He stated the town shows it to be less than that. (The Town of Shapleigh has this property listed as having 55 acres total.)

Roger A. asked if 10 percent of the harvesting would be in the wetland area? Mr. Reader stated it would not. The harvesting would only take place up to the high water mark.

Mr. Reader stated he could mark the trees ahead of the planning board's decision if this would be helpful. By doing this the board members could see approximately how much of the area would be harvested. Mr. Reader stated he would do whatever would be best for the planning board members. The planning board members did not ask Mr. Reader to mark the trees. Roger A. asked if the Forest Service had been notified of the proposed harvest? Mr. Reader stated that a notice had been sent to the State.

Madge B. stated that an endangered species had been found on the property known as the Ebony Boghaunter (Dragonfly). Madge asked Mr. Reader to contact Inland Fisheries and Wildlife to get more information and make certain the tree harvesting would be permitted. Mr. Reader stated he would also contact Maine Natural Areas Program as they would probably have information as well. Madge agreed.

Roger A. asked the planning board members if there were any further questions and there were none. Roger stated the planning board members would do a site inspection prior to the next meeting on Tuesday, September 28th. ***A Notice to Abutters will be mailed.***

Mr. Reader asked if he needed to be there or mark the trees. He stated he knew what 40% of a tree stand was but did not know if the planning board members would know. Roger did not state it was necessary for him to mark the trees. Roger stated that Mr. Reader needed to be aware that both dead trees as well as live trees are counted in the maximum of 40% that can be harvested.

There was nothing further discussed.

Best Possible Location – Replace Existing Garage – Map 20, Lot 19 (144 Shapleigh Corner Road) – Margaret Moody

Ms. Moody was at the meeting to discuss her application along with the contractor who would be doing the work.

The application is to replace the existing 10' X 20' garage with a new 24' X 24' garage. The existing garage does not meet the setback to the road and the proposed location does not meet the road setback either. The existing garage is 9 feet from Shapleigh Corner Road; the proposed new location appears to be approximately 16 feet from Shapleigh Corner Road. Ms. Moody stated the location of the new garage was chosen due to the topography on site.

Roger A. asked if there were any questions from the planning board members at this time. There were none. Roger stated there would be a site inspection prior to the next meeting on Tuesday, September 28th. Members would go on an individual basis. Also *a Notice to Abutters will be mailed.*

Nothing further was discussed.

Amendment to a Conditional Use Permit – Add On To Existing Auto Body Shop – Map 2, Lot 47-B (1610 Walnut Hill Road) – Dennis Merrow

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

Roger A. sat out of this discussion as he is an abutter. Madge B. sat in as a regular member.

Mr. Merrow stated he wanted to add a 32' X 42' addition onto the existing auto body shop. He stated he needed more room for storage of vehicles under cover. After a car has been stripped of paint it needs to be under cover. Currently they are stored outside under a tarp. Mr. Merrow stated that once you start repairing a vehicle you don't want to have to put it outside.

The planning board asked what the size of the lot was? Mr. Merrow stated he had 2.3 acres according to the survey he had done. Steve M., CEO, stated he would check to make certain lot coverage would not be exceeded during the building permit process.

Madge B. asked if there would be more waste from the business with this addition? Mr. Merrow stated there would not. The area is for storage, not for additional working space. Alex M. asked if there would be any additional servicing of vehicles on site? Mr. Merrow stated only to his own vehicles, not customers.

Mr. Merrow gave the planning board a copy of the set of plans for the new structure.

Steve M. told Mr. Merrow that he had to make certain there was enough area on site for parking for the addition. Diane S. stated he would need to add the parking area to his plan for the final review. Also the planning board would need to know the number of vehicles that would be on site at any one time. Mr. Merrow stated that on his original application he was approved for 12 vehicles of his own plus customer vehicles. Diane stated again the total number of vehicles needed to be stated for final approval as well as a parking plan.

Madge B. asked the other members if stormwater runoff would be something that needed to be reviewed? Mr. Merrow stated that he had a stormwater runoff plan with his original application. This addition was designed to coincide with that plan.

Diane S. asked if there were any additional questions. There were none. ***Diane stated a Public Hearing would be held on Tuesday, September 28th. A Notice to Abutters would be mailed as well.*** Site inspections would be done on an individual basis.

Nothing further was discussed.

As a note, Mr. Merrow was approved for the following on June 22, 1999:

1. Hours of operation, 8:00 a.m. thru 8:00 p.m., six days a week.
2. The maximum number of vehicles allowed on the premises during normal business hours shall be 12, including his own vehicles, but excluding customer and visitor vehicles.
3. No vehicles for sale shall be parked closer to the road than his house.
4. All vehicles for sale shall be in repairable condition, and if not sold within nine months of acquisition shall be disposed of.
5. The parking area must be constructed according to the erosion and sedimentation plan.

Best Possible Location – Tear Down Existing Structure and Rebuild – Map 25, Lot 25 (187 23rd Street Loop) – Robert & JoAnn Conlon

Mr. and Mrs. Conlon were present to discuss their application.

Mr. Conlon stated that the planning board approved an application last year to place two small additions onto the existing structure and complete the existing foundation under the home. After consulting five different contractors, because of the shape of the existing home, it was determined it was not cost effective to follow through with the original plans. Therefore, Mr. Conlon stated they would like to replace the existing structure with a new home.

Mr. Conlon stated the new structure would be squared off, making the side lots lines more in conformance than what is in existence now. The home would be 2 ½ feet farther back from the high water mark. Currently, at one point the home is only 6” from the side lot line. The proposed building will be 3 feet from that same property line.

Mr. Conlon stated the proposed new deck will extend two feet wider than the existing but no closer to the high water mark.

Mr. Conlon stated there would be a new full foundation.

Diane S. told the Conlon's that they would need calculations for both volume and square feet so the planning board and Code Enforcement Office could determine that the new structure will not exceed 30% expansion.

Diane S. asked the Conlon's if they had a septic design? Mr. Conlon stated there was a new septic system put in, in 1983, but a copy was not on file with the town. Mr. Conlon had contacted John Large for a copy of the design but he could not find his copy either. Mr. Conlon did have a copy of the paid plumbing permit slip from the Town of Shapleigh, dated 8/4/83, with the approved permit application last year. Barbara concurred this was correct.

Madge B. asked if they were going to change the number of bedrooms in the home? Mr. Conlon stated they were not. They had three bedrooms at present and would have three in their new home. Mr. Conlon stated there was a bunkhouse where his son slept sometimes but it was just four walls and a cot. There was no bathroom in it and it was only used on occasion.

Steve M., CEO, stated the Dept. of Health & Engineering should have a copy of the septic design on file. They could contact the department and get a copy from them. Mr. Conlon stated he would do so.

The planning board members had no further questions at this time. Roger A. stated a site inspection would be held on an individual basis prior to the next meeting on Tuesday, September 28th. ***A Notice to Abutters would be mailed*** as well.

Nothing further was discussed.

OTHER:

Memo from Dawn Buker of the Dept. of Environmental Protection regarding Evergreen Overlook, 11-lot subdivision proposed for Map 5, Lot 20

Steve M., CEO, received the following notes from Dawn Buker, of the DEP:

- Road was built prior to receiving a stormwater permit. This is a violation.
- The fire pond cannot be constructed with a Permit by Rule as indicated by Craig Higgins, August 24th meeting. The fire pond must be located outside the wetland. The wetland cannot be drained into the pond.
- The ditches / trenches dug in the wetland must be removed.
- The exemption covers 4300 square feet.
- Erosion control must be maintained.
- Any soil disturbance of one acre or greater will require a Maine General Construction Permit, even if it is revegetated after construction.

After reviewing this memo, the planning board members concluded it would be best to have the DEP review the proposed plan for Town Farm Road as well to make certain the proposed ditches and catch basins are in compliance. Barbara G. will mail a copy of the current plans to Dawn Buker prior to the next meeting. Nothing further was discussed.

Diane S. had a concern with the recently approved Conditional Use Permit for Deborah Cadigan for a Nursery School on Rte. 109. Diane stated the application, as approved, had an area (parking plan) for parents to turn around on the property so they would not be backing onto Rte. 109 or parking along Rte 109. Diane stated that there have been cars parked along Rte. 109 and some vehicles are making u-turns. She stated her husband witnessed a situation that almost created an accident. Diane asked that Steve M., CEO, contact Mrs. Cadigan and make certain she instructs her participants to use her yard to turn around. Steve stated he would.

Alex M. had a question regarding multiple uses on a property / Conditional Use Permit. Alex asked why each use did not need a separate permit? Roger A. and Steve M. gave an example of a strip mall. You can have multiple uses on one site and apply for each at the same time. Roger added that if you want to add

additional uses after your permit is approved, then you need another permit for that additional use. Diane S. stated that if there was zoning restricting certain uses on a property it could become an issue, but at this time any lot can have multiple businesses if they meet the criteria of the Conditional Use Permit.

Roger A. stated that we do review each use separately to make certain they all comply. Also, it is possible to put conditions on certain uses and not on others, depending on the business.

Madge B., referring to the application for the used car sales and cabin rentals on Map 19, Lot 13, stating she was not convinced both businesses could be allowed on the property due to the size of the lot. The principle building requires two acres. Can the cabins be considered accessory structures? Madge read the definition of accessory structures from the zoning ordinance, it read as follows:

Accessory structure or use – A use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated, shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

Madge believed the cabins were not necessary to the used vehicle sales.

Steve M., CEO, stated strip malls can have totally separate uses yet all are allowed. Planning board members agreed this subject was not clearly defined in the ordinance, i.e. multiple businesses on one property.

Nothing further was discussed at this time.

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

The Planning Board meeting ended at 10:30 p.m.

Respectively submitted,

Barbara Gilbride
Planning Board Secretary planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES

Tuesday, September 28, 2004

Members in attendance: Roger Allaire (Chairman), John Klimas, Alexander MacPhail, and Barbara Gilbride (Secretary). Code Enforcement Officer, Steven McDonough was also in attendance.

The Public Hearing Began at 7:10 p.m. The following items were reviewed:

Conditional Use Permit – Used Car Sales, Small Engine Sales & Cabin Rentals – Map 19, Lot 13 (State Rte. 109) – Medue / Boissonneault

Mr. Medue began by stating to the citizens in the audience that there were three things he and his partner, Mr. Boissonneault would like to do. They want to open a used auto sales business along with auto repairs; ATV, snowmobile, boat and camper sales and repair; and refurbish the cabins for nightly and weekend rentals.

Mr. Medue explained that the area taped out on site is the location of future parking areas for customer parking, used auto display area, small engine display area, and employee parking. Mr. Medue stated the parking area for auto's will need to be expanded by another 50' to make certain the parking spaces meet the ordinance requirement for parking.

Mr. Medue stated the existing right-of-way would be used by the applicants only; there would be no commercial use. The cabin guest would not be able to use the right-of-way, nor would there be access for ATV's or snowmobiles. A sign would be posted stating there would be no trespassing onto the right-of-way. In addition, a fence could be placed along the right-of-way to discourage its use.

Mr. Medue stated that given the location of the property, as well as the size of the buildings and property he and his partner felt the proposed businesses would work well.

Mr. Medue listed the following ordinances which he believed pertained to this application, and listed how his application could meet the requirements. *Mr. Medue read the following:*

Shapleigh Zoning Ordinance:

105-17 "Permitted Uses" & 105-20 "Applicability of standards; prohibited uses"

– *Project does require Conditional Use Permit and is listed in code book as a permitted use.*

105-21 "Traffic" – *Safe access to Rte. 109 from both entrances as shown on Map 1, with 450' and 750' visibility from 5th street entrance and a 600' visibility both ways from main entrance.*

105-22 "Noise" – *There shall be no noise outside of building after 5:00 p.m. If noise levels become an issue after 5:00 p.m. an area will be built to reduce excessive noise.* Mr. Medue stated they would add sound proofing to the existing building if necessary and additional fencing around the property.

105-23 "Dust, fumes, vapors and gases" – *A plan is included with an estimate from Advanced Liquid Recycling that includes 4 drums and a containment spill pallet under all said drums.*

105-24 "Odors", 105-29 "Explosive materials" & 105-33 "Refuse Disposal" – *(2) 55 gallon drums for waste oil, (1) 55 gallon drum for waste antifreeze, (1) 35 gallon drum for waste gas which will be located inside the building. Also a storage cabinet will be purchased for storage of all flammable liquids.* (Specifications of drums and storage cabinet were provided to members. In addition members were given the name of the gentlemen who will be in charge of the waste removal. His name is Bob Moore and his telephone number is 207-577-2787.)

105-25 "Glare" – *All lighting will conform to town codes and no lighting will be facing in the direction of Rte. 109.*

105-26 "Stormwater runoff" – *If any paving or gravel is to be done in the future, a 50-year (stormwater) plan will be submitted to town for pre-approval. Areas marked on Map 1 would be the only areas subject to such resurfacing.*

105-27 "Erosion control" – *No changes are being made to property that would result in any type of erosion.*

105-28 "Setbacks and screening" – *Most of the existing property is well screened as it sits.* (The back and sides of the property have vegetative buffers in existence.) *However, proposed screening is labeled and marked on Map 2. Any additional trees will be fruit trees and Dogwood, enhancing the beauty of the property. As far as shrubs are concerned Boxwoods will be planted and well maintained. Trees will be placed at a distance of no more than 50' apart.*

105-30 "Water quality" – *N/A. Well located on Map 1.*

105-31 "Preservation of landscape; landscaping of parking and storage areas" – *This property will be well maintained and Steve (Boissonneault) and myself take great pride as to the appearance of our properties as well as our homes and business.*

105-32 "Relation of proposed building to environment" – *We are not asking for any new buildings at this time, but would like to rehab cabins at some point with approved septic system design.* (See cabin details and future renovations.) *I would never expect anyone to stay in a property that I myself would not be comfortable in.*

105-43 "Off-street parking and loading." – *There is adequate parking for this building as it now sits. We have provided one parking spot for every 150 sq. ft. of building.* (See Map 1)

105-47 "Signs and billboards." – *On Map 2, placement of a 32 sq. ft. two sided lit sign which will be placed according to the Code Enforcement Officers recommendations.*

105-73.G "Standards applicable to conditional uses" –

Wildlife – *Work area to be enclosed, posing no threat to any wildlife or water reservoirs.*

Water – *There will be no changes to the right-of-way to the lake except for a 20' dock for the private use of the landowners.*

Comprehensive Plan – *Plan wants to see quality business located on Rte. 109, keeping the rural nature and quality of life in the Shapleigh area.*

Traffic – *There are safe distances in both directions from either driveways entering and leaving.*

Flood – *There are no changes being made to property that would have any impact on existing property.*

Waste Water – *The main building waste water system is currently functioning properly. After contacting the previous owners we found that there were actually eight employees using the system with no adverse results. We are planning to have only five employees. The cabin waste water design is yet to be determined and will be acquiring the services of Mark Truman septic design engineer. Unfortunately we were unable to get such service provided in such a short period of time.*

Hazardous Material Plan is in Place.

Storm Water Waste – *No change being made to the property at this time.*

Mr. Medue stated again that there would be plants placed around the auto sales parking area.

Mr. Medue stated the cabins would have the kitchens removed when they were refurbished. They would not be used for long term stays. Overnight and weekends only.

Question from Citizen – Are you going to use 5th street to access the cabins?

Applicant(s) – *Yes we would use the existing entrance to the cabins that is in place. 5th street is part of the existing property.*

Question from Citizen – Will you maintain 5th street from Rte 109 to the cabins?

Applicant(s) – *Yes, we will maintain this portion of 5th street.*

Mr. Medue asked who maintains 5th street now. Several members of the audience stated they did at this time.

Question from Citizen – Are you planning on placing a fence across 5th street? You cannot block access to the lake.

Applicant(s) – *We are not placing the fence or right-of-way sign ON 5th street. The fence will be placed along the side of 5th street between the cabins and 5th street itself.*

Question from Citizen – If the cabins are not going to have lake access, how are you going to advertise them? What would be the reason for someone to stay there?

Applicant(s) – *There will be no public access to the boat launch or beach on the right-of-way. The right-of-way cannot be used by anyone other than us (applicants). These cabins would probably be used in the same fashion as the Mousam Valley Motel. In the summer those in the cabins would have access to the public boat launch or the beach on Mousam Lake. It is unlikely many people would want to rent them in the winter months. In addition, until the cabins are winterized they will not be open.*

Citizen – The land abuts an old railroad bed. You (the applicants) will not be able to control ATV's.

Applicant(s) – *ATV's purchased or worked on will be leaving on a trailer. We cannot stop what they will be doing once they are offsite. This is an enforcement issue. We could put a gate across 5th street during the winter months if that is what you want.*

Citizen – We do put a cable across it in the winter now.

Citizen, Mr. Jay Ellis – I am an abutter. I traveled up to Shapleigh from Maryland. I am an adjacent property owner on Lot 15. One of my concerns is with the intent of the right-of-way. I believe the intent of a right-of-way is to allow one party to pass over the land of another. It is not a license for unrestricted use, including placing a structure on the property. Mr. Ellis stated he was glad the applicants did not intend to allow others to use the property. He was concerned of their intention to build a temporary dock as he did not believe they had the right to do so.

Mr. Ellis wrote a letter to the Planning Board and read parts of the letter to board members. Mr. Ellis's letter stated that the intent of a ROW was to grant to one party the right to pass over the land of another and more importantly, to use land in a manner that is consistent with the use by the owner of the land itself. It is not a license for unrestricted use. Mr. Ellis stated his grandparents granted the original ROW to his uncle to allow access to the lake for purposes of obtaining water. Mr. Ellis brought a copy of the deed to the property which stated the ROW "Together with the right to install in the ground and maintain a water pipe to run across land of Carl J. Lamb and Elizabeth S. Lamb, etc." and "Also the right to install and maintain a water pump and suitable housing therefore on the aforesaid land of Carl J. Lamb and Elizabeth S. Lamb, etc."

Mr. Ellis wrote "Paragraphs 4 and 5 of the said deed detail the intent of the ROW for water obtaining purposes. The deed states that a pump house and pipes extending to the lake could be installed on my property for the purpose of providing water from the lake to the cabins." In addition, Mr. Ellis wrote, "As the pipe and pump house currently reside on my property; I would like clarification as to whether they serve any purpose at this point. If they do, I would certainly honor the terms of the deed to allow these to be kept in place, but would request that they be repaired and a lock placed on the door of the pump house to keep it safe from children...."

Mr. Ellis states in the letter that he did not want the ROW used for commercial purposes due to the fact "the shoreline for this ROW is very shallow, and does not drop off adequately to be suitable for launching any type of watercraft." The area is not large enough to accommodate a boat trailer. "The ROW does not permit any building or alteration of the road to which it pertains and extends ONLY to the "area above the road" and not the ground itself...."

Mr. Ellis states that the ROW is 12 feet and not 30 feet as originally described in the application. Also Mr. Ellis states that the Conditional Use Permit states the cabins would be weekly rentals and then on the plan it states they will be nightly and weekly. He believes this needs to be clarified.

The applicant(s) – *So you do not want us to put in a dock for personal use?*

Mr. Ellis – If you read the deed regarding the ROW use, I do not feel it would be allowed. Also, it would be very unsafe to launch a boat. Mr. Ellis stated that he had tried to launch a boat in this location with no success because the area is so shallow.

Applicant(s) – *It is our understanding 5th Street is a ROW for Mr. Ellis as well. This ROW does not state how it can be used. We understand that a person can drive on the ROW but they could not for example place a shed on it.*

Mr. Ellis felt that this also would include building a dock. He did not believe any structure would be allowed.

Maxine Crouch – I am a year round resident. My main concern is the changing aspect of the neighborhood. I would like to see something smaller in size go in. We already have jet ski's and boats (for sale) now in the area. I feel what they are proposing is too much for this location.

Citizen – We are not trying to be nasty, but we live here and have to live with what happens on site. With respect to the cabins, whoever rents them, we have to deal with them. You (applicants) get to go home at night.

Applicant(s) – *What would you propose we do? If someone pulls in with snowmobiles on a trailer, what do we do? Not rent to them?*

No one had a reply.

Mr. Ellis felt that the noise from the small engine repair would create too much noise pollution. Also servicing the vehicles could cause severe damage to the lake.

Ms. Crouch – I feel the proposal will decrease our property value.

Applicant(s) – We are spending our life savings on this business. We are looking for a commercial location, which is the way this was advertised. 95% of the business will be auto sales. The area will look much better when we are at the location than it does now. It will be landscaped and the buildings will be maintained. The property will be worth more when we fix it up than what it is worth now. Currently the buildings are falling down. That does not help property value.

Mr. Ellis – I feel the number of vehicles proposed will create noise pollution and other pollution. This will be a radical change. Also the proximity to the lake is a concern.

Citizen – If you are pressure washing a vehicle, how will you prevent leaching oil from going into the ground?

Applicant(s) – *This is a DEP issue. We contacted the Maine Dept. of Environmental Protection with regard to our proposal and they told us to contact a hazardous waste company. The hazardous waste company came to the site but this was not addressed as being an issue.*

Citizen – I am worried about it (pressure washing) being done on many vehicles.

Applicant(s) – *I can see where it could be a concern.*

Applicant(s) – *What does the marina up the street do?*

Citizen – I do not know.

Applicant(s) – *The DEP gets informed of what business will take place on site and they make their recommendations. We have to follow those recommendations. They inspect the site.*

Citizen – What is the estimated cost of construction? On the application it states \$25,000.

Applicant(s) – *The first estimate is probably low. Much of the work will be done by us, but it will probably be higher than our original estimate.*

Citizen Bruce Lamb asked how the applicant(s) would address the problem with ATV's and snowmobiles. He was also concerned with the noise these would generate. Mr. Lamb also added that because the applicants were willing to add insulation to the building should the noise become a problem, he surmised this meant noise WILL become a problem.

Applicant(s) – *We addressed the possibility of noise because it is addressed in the ordinance. We do not feel it will be an issue, but if it is we will address it. We can also put up a fence along the back of the property as a noise buffer and to prevent unauthorized access onto the property.*

Mr. Lamb – We have put up cable to prevent snowmobile access, yet there is still a problem with snowmobiles. Mr. Lamb did not believe a fence was going to stop the problem with ATV's.

Applicant(s) – *We are willing to work with all the abutters to address the problem with snowmobiles and ATV's. There is an existing problem however, and this is an enforcement issue. It would be there regardless of whether or not a new business is here. All we can do is state all snowmobiles / ATV's, etc. must come onto the property on a trailer and leave the property on a trailer. The problem at this time is probably a local problem which we have no control over.*

Mr. Lamb – If an ATV or snowmobile needs repairs and they know you are open, they will probably drive to your business, crossing the right-of-way, etc. I feel it would be best if you just sold automobiles, not snowmobiles or ATV's.

Applicant(s) – *We want to be successful. Many people in this area have snowmobiles and ATV's. This would be a good business for us. Once it was known that we will not work on them unless they come in on a trailer, the word would get around, and it would not remain a problem.*

A letter from Gary Lamb, an abutter, was read by his father to planning board members. The letter raises concerns with the right-of-way. Mr. Lamb states that the deed does not allow the applicants to use the ROW to operate a commercial watercraft repair operation on the 12 foot ROW (as stated in their original application). Mr. Lamb also wanted the Planning Board to request a "properly prepared site plan showing tenant, employee, and public parking spaces, outdoor area for cars for sale, required landscaping/buffering, location of dumpster(s), etc". In addition, Mr. Lamb would like to see where the office would be for the cabin rentals. Mr. Lamb concluded the application as presented was "grossly incomplete in its present form".

Applicant(s) – *It was apparent at the first meeting that the ROW would be a major issue (problem) if it was allowed to be used for commercial purposes. This is why it is not going to be used by anyone other than us (the applicants) for personal use.*

Citizen – Have you read a copy of the deed (regarding the ROW)?

Applicant(s) – *We have not reviewed it clearly at this time.*

Several citizens questioned why this new plan was not available for them to review prior to the Public Hearing? Roger A. stated that at the preliminary review of the application, the planning board voices concerns that may be brought up by abutters, as well as requiring additional information per the zoning ordinance. The planning board, at the first meeting, required a more detailed plan, which the applicants brought to this second meeting. The planning board requires a public hearing for businesses at the second meeting, this is when additional information is brought to the planning board from the applicants and citizens are able to ask questions and review the additional information which includes any changes made to the original application.

Ms. Jane Ferguson wrote a letter that was read by her brother. The letter stated her family had a strong opposition to the pending application. "This dramatic expansion of the former, quiet property used as a resident serving hardware facility, will inevitably introduce noise, glare, fumes, dust, odors and auto and truck traffic which will disturb or annoy the community and thereby constitute uses prohibited by Section 105-20.B of the Shapleigh Zoning Code. There is no real need for such a use in this location, either for local residents or for visitor use. Similar such facilities abound in the greater Shapleigh-Springvale area, including the substantial business which was not long ago constructed at the intersection of Route 109 and Milton Mills Road. The visual appearance and increased traffic resulting from the proposed use would dramatically degrade the rural/residential character of this area of Shapleigh, and would as a result not only disturb or annoy local residents as mentioned above but would seriously degrade the quiet Lake District charm which underlies this area's strengthening second-home / tourism economy....." In conclusion Ms. Ferguson states her "family is not opposed to the continuation of commercial use of this property, but urge the Planning Board to encourage an alternative use which respects the rural / residential quality of the area".

A question was asked if this area was a commercial zone? Roger A. replied it was in the general purpose zone which allows commercial uses.

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

The public hearing closed at 8:20 p.m.

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Amendment to a Conditional Use Permit – Add On to the Existing Auto Body Shop – Map 2, Lot 47-B (1610 Walnut Hill Road) – Dennis Merrow

Mr. Merrow began by stating his application was to add a 32' X 42' addition onto his existing auto body shop. He stated he needed this space for additional storage of vehicles he is working on. Once they have been stripped of paint they need to be undercover. Currently he is using tarps which are not the best choice.

Abutter – I am Mr. Merrow's neighbor. I would like to ask Mr. Merrow how much more noise he is going to make? The citizen addressed the board members stating Mr. Merrow makes noise early Sunday morning and late into the night. The citizen stated that Mr. Merrow tested vehicles on Walnut Hill and very often revved them up and drove much too fast for this location on Walnut Hill Road.

Mr. Merrow stated he did not believe this had been happening lately. Mr. Merrow stated that he was not doing this but sometimes some of his clients did so or some of his friends. He stated he had spoken with them about this problem and would again.

Abutter – Are there going to be any additional employees?

Mr. Merrow – *There are no employees now. The people that are there, are usually customers or friends.*

Abutter – Not lately but in the past, vehicles spinning tires has been an issue. We are concerned because we have both children and animals. We do not feel vehicles should be going fast in this area, it is not a safe stretch of road.

Mr. Merrow stated he was aware this had been a problem and would take care not to do this in the future. Mr. Merrow stated that he has tried to curtail the problem over the past year. Mr. Merrow stated he was also going to invest in a machine to place inside the new addition that the vehicles could be tested on, so they would not have to be road tested. The machine hooks up to the exhaust of the car to take care of any fumes.

Abutter – We are concerned with the access to the driveway. The site distances are poor.

It was suggested that perhaps Mr. Merrow could speak with the town of Sanford with respect to putting up a "blind driveway" sign. (The difficult part of the road is located in Springvale.)

Abutter – There is also a problem with the pickup for his dumpster, it is 6:00 a.m. and very noisy!

Mr. Merrow – *The dumpster is only picked up one Monday a month.*

Abutter – We do not feel the expansion should take place.

Nothing further was discussed.

Public Hearing closed at 8:45 p.m.

The Planning Board meeting started at 8:46 p.m.

The minutes from Tuesday, September 14, 2004 were accepted as written.

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

5-Lot Major Subdivision – “Great Hollow Acres” – Map 10, Lot(s) 2, 6A & 7 (Town Farm Road) – Northwoods Land Company of Maine – H. Craig Higgins Representing

Mr. Philip Reed of Reed Surveying was in attendance to represent Mr. Higgins.

Mr. Reed presented the Planning Board with the copy of the final plans for Great Hollow Acres. He also gave the board members a copy of the Draft Easement Deed for drainage areas for stormwater, as well as a copy of the Quitclaim Deed for the subdivision property from Maine Woodland Properties to Northwoods Land Company of Maine, LLC.

Roger A. told Mr. Reed that the Planning Board had mailed a copy of the plans, application, etc. to Dawn Buker at the DEP to get her opinion on the drainage ditch turnouts located adjacent to the wetlands. Roger stated the board members wanted to be sure this was an acceptable area for the stormwater to flow.

Mr. Reed stated that the location of the drainage easements were most probably located in the natural drainage course where the water is currently running at this time.

Roger A. stated that the Planning Board still wanted to make certain this was not going to be a DEP issue. If Ms. Buker states this location is not allowed, Mr. Higgins will just have to relocate the easement/ drainage turnout.

Roger A. asked the Moulton’s (an abutter) if they had any questions? They had no issue with the final plans as presented.

Mr. Reed asked if he had confirmation from the DEP that the ditches as presented were fine, or if he made the necessary changes provided by the DEP, could he contact the secretary and present the final plans at the next meeting? Roger stated, “Yes.”

There was nothing further discussed.

Conditional Use Permit – Replace Retaining Wall – Map 30, Lot 9 (23 Totte Road) – Douglas Broughton

Mr. Broughton was present to discuss the application. A site inspection had been done by planning board members for this property on an individual basis.

Mr. Broughton had presented a sketch plan of the proposed new wall at the planning board meeting on September 14th. Mr. Broughton applied to replace an existing stone and wood retaining wall with a concrete locking block retaining wall. The new wall would be the same length and height of the existing wall. A Permit by Rule was obtained from the DEP by Mr. Broughton, dated 7/12/04.

Roger A. asked Mr. Broughton if he was going to put the new wall behind the existing wall or in the same location? Mr. Broughton stated the same location.

Roger A. stated that when he did a site inspection, it was clear the existing wall was not four feet in height. The application states the new wall will be four feet in height. Mr. Broughton replied that the four foot height was a guess on his part. The new wall will not be higher than the existing. Mr. Broughton added that the locking blocks are not one foot in height and if you reviewed his sketch plan you will note the blocks are only four high, with the 1st block being 6” below the high water line. Therefore, the new wall is probably only 32” high at most.

Roger A. asked Steve M., CEO, if he had any concerns? Steve only reminded the planning board members and Mr. Broughton that the new wall cannot be any longer than the existing wall. Mr. Broughton stated that Dawn Buker of the DEP had told him this as well.

Roger A. asked Mr. Broughton if he was going to be using filter fabric behind the new wall or just crushed stone? Mr. Broughton stated the plans for the new wall did not require filter fabric be used per the manufacturer's instructions, but if the planning board wanted him to use it, he would.

Roger A. reviewed Shapleigh Zoning Ordinance 105-39.D "Earth removal and filling." This ordinance states, "Any filling, dredging or excavation of land above or below the normal high watermark, except earthmoving of less than 10 cubic yards which shall require a permit from the CEO (except as provided above) to ensure proper erosion and sedimentation, shall require a conditional use permit from the Planning Board."

Roger A. stated to Mr. Broughton that the smallest amount of bare ground should be exposed during reconstruction. Roger asked Mr. Broughton if there was a time frame for his project? Mr. Broughton stated that when the lake level was dropped he would do the installation.

Roger A. asked Mr. Broughton what was going to be done to the ground behind the new wall? Mr. Broughton stated there would be a flat block on top of the wall and ground behind the wall would be kept in its natural state.

Roger A. asked Mr. Broughton if he was going to use silt fencing during the project? Mr. Broughton stated that it was required, and yes he would have it in place.

Roger A. asked if the board members had any questions, there were none.

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; the new wall will help to protect the wildlife habitat by preventing erosion.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. ***The new wall will help stabilize the area, preserving shore cover.***
- 3) The use is consistent with the Comprehensive Plan. ***It is, the Comp. Plan wants water quality in the Lake and Great Ponds to improve.***
- 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***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***N/A***

Roland Legere asked what would happen to the existing material, i.e. stones and wood making up the existing wall? Mr. Broughton stated some of the clean fill will be used as backfill. The rest would be removed from the site.

- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***There is, existing wall will be removed from site.***
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***A stormwater drainage system has not been designed but the replacement of the existing wall will help to stabilize the existing property.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***Best Management Practices to be used during construction. Silt fencing will be in place prior to removal of the existing wall or reconstruction.***
- 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. ***N/A; there are natural buffers that will remain in place.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

Alex M. made the motion to accept the Conditional Use Application to replace the existing retaining wall with a locking block concrete wall, the same length as the existing wall, with the following condition(s):

- 1) A copy of the installation instructions shall be given to the Planning Board Secretary and Code Enforcement Officer prior to installation of the new wall.
- 2) A silt fence shall be placed on site prior to removal of the existing wall.
- 3) The existing retaining wall, which includes stones and timber, shall be removed from the property.

John K. 2nd the motion. All members were in favor.

Nothing further was discussed.

Conditional Use Permit – Used Car Sales, Small Engine Sales & Cabin Rentals – Map 19, Lot 13 (State Rte. 109) – Medue / Boissonneault

Mr. Medue and Mr. Boissonneault were present for the review of their application. Planning Board members met on site at 6:15 p.m. for a site inspection of the property. Both applicants were at the site inspection as well.

Mr. Medue began by going over the handouts he gave to planning board members this evening. He explained Map 1 not only showed a parking plan but also the number of vehicles they wanted to have on site; (70) automobiles, (75) ATV's, motorcycles, watercraft and snowmobiles and (20) boats and campers. He also pointed out again the fact there would be a sign and/or fence which restricted the access to the right-of-way. On Map 1 the lot coverage had been calculated for the existing buildings, it currently stands at 6% which Mr. Medue pointed out is well within the allowed amount of 10%. Mr. Medue calculated the number of parking spaces for the retail space was 24. 32 are depicted on the plan; this covers eight extra spaces for employees and service customers. There are also 12 parking spaces depicted on the plan for the cabins, two per cabin.

Mr. Medue explained Map 2. This page showed the proposed lighting plan, the possible sight for the new septic system for the cabins, and the proposed vegetative buffer around the auto display area.

Pages 8A & 8B had been discussed during the Public Hearing. These pages displayed the zoning ordinances and how the applicants addressed each. Page 8C listed the upgrades to the cabins that included new paint, insulation, electrical, carpeting, bathroom fixtures / plumbing, propane gas heaters, etc.

Mr. Boissonneault stated Page 9 showed the proposed interior layout for the cabins, and he stated he would be doing much of the work himself. It depicted an area for the bed, couch, chair and bathroom, as well as a counter, area for a small refrigerator, and a closet. A small island may be installed for additional counter space. The cabins are 15' X 20' in size except for one large cabin which is 15' X 40', it houses two units.

Mr. Medue explained Page 10 described the Flammable Safety Storage Cabinets they would use in the auto repair facility. This cabinet would be used to store flammable liquids and each cabinet could hold up to 350 pounds of material. Mr. Medue stated Page 11 is an email from Interstate Products, the company selling the cabinets, and it states these cabinets were OSHA and NFPA approved.

Mr. Medue stated Page 12 was a quote sheet from the waste removal company he will be using named Advance Liquid Recycling, Inc. The quote sheet shows the company would be removing use oil, antifreeze and other nonhazardous solid waste as needed. Robert (Bob) Moore is the company representative. (See the Public Hearing section to view his telephone number.) Roger A. asked where the recycling company was from since it did not state the address on the quote sheet. Mr. Medue stated they were based in Connecticut.

Mr. Medue stated Page 13 showed the 4 drum spill pallet / barrels they would be using for the liquid waste. Mr. Medue noted that on Map 1 board members could view the location of the spill pallet which would be located in the auto service area.

Mr. Medue stated that he did not present a storm water plan at this time because they did not own the property. They did not want to expend thousands of dollars on a property that they may not be able to purchase. Mr. Medue stated he would hire an engineer to do a storm water plan for the gravel area and any area that may be paved, but again he did not want to do so until they knew they would be able to get a permit for the business / own the property. Mr. Medue asked the Planning Board if they would consider granting the permit with the condition a storm water plan had to be conducted prior to the auto sales business going in.

Mr. Medue asked if crushed stone would be adequate at this time to park the automobiles on? He stated he did not want to pave the service at this time due to the cost. Roger A. felt that crushed stone would be inadequate due to the fact it would not prevent antifreeze from seeping into the ground. Steve M., CEO, agreed that although gravel was considered an impervious surface for stormwater runoff, it may not be sufficient to prevent soil penetration of oil, etc.

Roger A. asked the applicants if they were going to do any ditching or major changes to the land at this time? The applicants stated no. Mr. Boissonneault stated he was going to create a vegetative buffer between the used auto sales and 5th street, and plant trees every 50' along Rte. 109. Mr. Boissonneault stated again the property would look much better after he landscaped it, then how it appears at this time.

Mr. Medue stated the cabins would not be rented until after they are refurbished AND not until a new septic system was in place. Mr. Medue said they would most probably put in the septic system first, and then refurbish one cabin at a time.

The applicants stated they were going to concentrate mostly on used on auto sales to start. They believed there would be very little repair of snowmobiles, etc. in the beginning. Their expertise was in the automobile field. They did however want the option to expand their business.

Alex M. asked if they had any plans in place for accidental spills in the service area? Alex asked if there was a drain in the floor of the service area? Mr. Medue stated he did not have a plan at this time for spills. He stated the waste removal company carried products for spill recovery and the company does know the DEP guidelines. Mr. Medue stated there was not a drain in the floor, so the waste products would not going into the ground. Mr. Medue was confident, with the help of Advanced Liquid Recycling; he could contain any accidental spills of hazardous waste.

Alex M. asked what would be under the automobiles parked outside? What would be on the surface? Alex was concerned that with what appeared to be a total of 114 parking slots for vehicles, there should be something down to protect the ground. Alex pointed out this property was probably part of the Mousam Lake watershed and any hazardous materials coming from the automobiles was a concern. Alex concluded that in his opinion hazardous waste and stormwater was the biggest concern at this location with what was being proposed. Alex stated he did not feel he could approve the permit without first having a stormwater plan to review. Mr. Medue stated that he understood Alex's concerns and would have an engineer do a 50 year storm water plan after the property was purchased. Mr. Medue stated once again he could not afford to pay for a stormwater plan without first owning the property and that the purchase of the property was contingent on the applicants being able to get a Conditional Use Permit first. Alex stated he could not approve this permit without first seeing a storm water plan.

Roger A. asked if the applicants planned on having not more than 20 campers and boats on site? The applicants stated yes. The applicants stated they needed to have 70 automobiles on site, as this is a 45 day supply. Anything less than that amount and the business would not be feasible.

Roger A. asked if the Fire Marshall or Fire Chief had been on site to inspect it? Mr. Medue stated they had not since he did not know this was a requirement. Roger stated that he believe this was a State requirement. Mr. Medue stated he did not believe it was as he had the State's requirements and the Fire Marshall was not listed.

Roger A. read the remaining emails / letters received by the Planning Board regarding this application. Letters were received by (in addition to the aforementioned): Deanna Culbert, Martha Strohl, Nancy Magaud, Albert Spendlove, Lisa Wong, Constance Barragar, Katherine Talmadge, Frances Willard von Maltitz, Gloria Holda and William McKie. (All emails / letters are on file and can be viewed during regular town office hours.)

Mr. Medue responded to the emails by stating it seems most of the concerns by citizens were with respect to the use of the right-of-way / lake access. Mr. Medue stated there would be only one additional boat accessing the lake and it would be their (the applicants) personal boat. There would be no commercial access.

Roger A. asked the applicants how they would deal with the snowmobile / ATV concerns. How would they keep them from coming onto the property? The applicants stated once again they could fence the entire property if necessary and block the right-of-way. Mr. Medue stated it did appear like this is currently a problem and no one has been able to stop it. Mr. Medue asked how he and Mr. Boissonneault were expected to stop a problem that was town wide? Roger felt that once the business opened the problem would get bigger because there is no one at this time to police the area. Mr. Medue stated he could only block the entrance to the right-of-way and only work on small engines that came onto the site via a trailer. Mr. Medue stated he was willing to make every effort but he could not stop the problem and again he said it seems it is currently a large problem that has not been solved successfully. Steve M. stated that by not offering access to ATV's / snowmobiles other than by trailer, and by cutting off access via a fence, is probably the only thing the applicants could do or be expected to do. Steve added that the State needed more local wardens to deal with the growing problem.

Mr. Medue found a copy of the State business application and he stated that there were no DEP provisions on the form. Mr. Medue added the State would not review the form until after the Town's CEO stated the necessary permits were obtained. Mr. Medue read the form that he received to open an auto sales business, it read as follows:

As required by the Secretary of State, the above named applicant, at the location shown, is in compliance with all local building codes and land use regulatory ordinances as they pertain to a commercial building, a vehicle display area, and sale and service of vehicles and the display of a permanently mounted sign.

Mr. Medue stated that the CEO has the ability to sign this form stating he cannot confirm the existing building is to code. That is acceptable by the State. Roger A. added that any changes to the building had to go through the code enforcement office. Mr. Medue stated that he understood that, as well as any signage had to be approved by the CEO.

John K. stated he was concerned with the amount of vehicles to be displayed on site and what they would do to the environment. John believed most auto sales were on paved surfaces. Mr. Medue disagreed stated several auto businesses in the Sanford area had gravel display areas. (Mr. Medue is currently employed by a local dealership.)

John K. stated that he was not sure what rights a person had with respect to a right-of-way. John did not believe a person had a right to put a structure on a ROW. John would like to get this clarified before making any decision with respect to a possible dock being added on site.

John K. did not believe the ATV / snowmobile / off road issue was a major concern. John believed that if the applicants had a policy that vehicles had to be on a trailer to access the services, the word would get out, and any problems would stop. John did believe the noise from small engine repair could become an issue but if the applicants were willing to add sound proofing it would be sufficient. Mr. Medue stated he could add insulation to the building. John stated that he knew of other small engine repair businesses in the area where noise was not a problem.

John K. asked if there were any fire laws that pertained to the cabins? Roger A. stated that since the cabins were in existence now new laws probably did not pertain, but Roger added that the Planning Board had the right to ask for anything that pertained to the health and welfare of citizens. Roger proceeded to read Zoning Ordinance 105-2.A, which reads as follows:

“The purpose of this chapter is to further the maintenance of the safe and healthful conditions and the general welfare, prevent and control water pollution, protect spawning grounds, fish, aquatic life, bird and other wildlife habitat, control building sties, placement of structures and land uses and conserve shore cover, visual as well as actual points of access to inland and coastal waters and natural beauty, and to encourage the preservation of farmland.”

Steve M. added that the Planning Board, by way of this ordinance, can ask for any information that they feel is necessary to satisfy the ordinance, this can include fire protection. Roger A. agreed.

Roger A. read Zoning Ordinance 105-22 "Noise" so the applicants were aware of the noise levels that are acceptable.

Steve M. asked the applicants if the cars taken in for trade were included in the number of vehicles listed on site at any given time? Mr. Medue stated they were not as those automobiles would be removed from the site daily to a wholesale dealer.

Roger A. asked the planning board members what if anything further should be required from the applicants? **Alex M. made the motion to require an environmental impact study with respect to the number of vehicles that will be housed on site. John K. 2nd the motion. Roger A., John K. and Alex M. were in favor. Barbara G. was opposed**

A citizen asked if there would be another Public Hearing for this application. Roger A. stated that there would not because no major changes were being requested for the proposed plan. The information requested would be reviewed at the next meeting or when the applicants stated they had the information for the Planning Board to review. Roger stated that all were welcome to the next review.

Roger A. told the applicants that they should contact the Fire Chief (Gary Utgard) to get his recommendations for this business.

John K. asked the applicants if they would detail how they were going to maintain the property noise level for the small engine repair. Also what hours any testing would be done on the engines. The applicants stated the hours of operation would be ending at 5:00 p.m.

Alex M. stated he would like to see a more detailed description of the inside of the automobile service area.

There were no further questions or comments at this time.

Conditional Use Permit – Timber Harvesting – Map 2, Lot 35 (Walnut Hill Road) – Reader / Swartz

Brian Reader was present to represent the land owner, Mr. Peter Swartz.

Mr. Reader's application is to do a selective harvest in the Shoreland Zone. The harvest would be less than 40% of the standing timber, and the trees would be totally removed leaving no slash. The project would begin either when the water was low or when the ground was frozen.

Mr. Reader stated he marked the trees in case the planning board members went to the site for a site inspection. Most members did not go to the site. Roger A. did view the area.

Mr. Reader stated he faxed the timber harvesting plan to the Maine Natural Areas Program as requested by the Planning Board at the last meeting. Madge B. had noticed there was evidence that an endangered species known as the Ebony Boghaunter (Dragonfly) had been located on site at one time. Mr. Reader stated he had not received a reply by the State at this time. Mr. Reader asked if he could get approval for this application with the stipulation he returned to the Planning Board if there was an issue to discuss? Mr. Reader stated this was a large parcel of land and he could work around the suspected area. The board members stated they would consider this.

Mr. Ferguson, an abutter to the property, was in attendance. He stated that he had to issues with this project.

Roger A. asked Mr. Reader if he had a copy of the timber harvesting plan he faxed to the State. Mr. Reader stated he did not have one with him, it was in his business file.

Roger A. read Zoning Ordinance 105-50.B "Timber Harvesting", which describes the provisions for timber harvesting in the Shoreland Zone. Roger asked Mr. Reader if he was harvesting in the wetland. Mr. Reader replied he was not. Roger asked if there would be more than 40% of the timber harvested. Mr. Reader stated there would not, and said again the trees were marked and members could go to the site to inspect.

Roger A. asked if there were going to be any large piles of debris left on site? Mr. Reader stated there would be no piles left, the tree limbs left behind would be spread around the site so they would naturally break down.

Roger A. asked the board members if they had any additional questions for Mr. Reader, and they did not.

Alex M. made the motion to approve the Conditional Use Permit to harvest timber using Best Management Practices, with the following condition(s):

- 1) **A copy of the notification to harvest timber mailed to the State of Maine shall be faxed or mailed to the Planning Board Secretary to be placed in the application file.**
- 2) **Should the endangered species known as the Ebony Boghaunter Dragonfly, or any other endangered species recognized by the State of Maine be found on site, appropriate measures shall be taken to protect said species. This information shall be faxed or mailed to the Planning Board Secretary and a meeting with the Planning Board to follow.**
- 3) **The hours of operation shall be 7:00 a.m. thru 7:00 p.m., seven days a week until the project is completed.**
- 4) **There shall be no more than 40% of the trees taken from the site.**

John K. 2nd the motion. All members were in favor.

(Mr. Reader notified Barbara G. on October 5th stating he did hear from the State of Maine and would be back before the Planning Board on October 12th to share the State's recommendations for the site.)

Best Possible Location – Replace Existing Garage – Map 20, Lot 19 (144 Shapleigh Corner Road) – Margaret Moody

Ms. Moody was at the meeting to discuss her application. Planning Board members did a site inspection on an individual basis for this application.

The application is to replace the existing 10' X 20' garage with a new 24' X 24' garage. The existing garage does not meet the setback to the road and the *proposed* location does not meet the road setback either. The existing garage is 9 feet from Shapleigh Corner Road; the proposed new location appears to be approximately 16 feet from Shapleigh Corner Road. Ms. Moody stated the location of the new garage was chosen due to the topography on site.

Roger A. asked Ms. Moody why she could not meet road setbacks. Roger stated he had been to the site and he believed the garage could be placed on site so it could meet setbacks. Ms. Moody stated she wanted to keep the area closest to her home for her garden. Ms. Moody stated that she was also concerned with driving closer to her home in the winter. In addition, she did not want to cut down anymore trees than necessary or have to move the existing gravel embankment.

Roger A. stated that she could keep the garage in its current location but she would not be able to increase the size of the structure. Ms. Moody stated she needed the extra space. Roger stated that she could not expand the existing structure by more than 20%, so she would not be able to have the 2nd story as indicated on her plan.

Roger A. reviewed 105-4.D "Nonconforming structures".

Roger A. asked Barbara G. went to the site? Barbara stated her, Diane S. and Steve M., CEO, went to the site. They took measurements to see if Ms. Moody would be able to place the garage in an area that would meet setbacks. Barbara stated they felt if Ms. Moody placed the garage where the existing camper was located it could meet all setbacks. This area was relatively flat and a minimal amount of trees would have to be removed. Ms. Moody stated she did not want to lose any of her yard to a garage.

Steve M, CEO, told Ms. Moody that according to Zoning Ordinance 105-4(7)(c) "Relocation", Ms. Moody would be required to have a licensed surveyor place the structure on site if she could not meet setbacks.

After thinking about the cost of a survey, Ms. Moody decided she would locate the new garage in an area that would meet setbacks. Therefore, the Planning Board, in agreement with Ms. Moody, the owner of the property, concluded to place the new garage on site in a location that meets Shapleigh's Zoning Ordinance 105-18, Residential Dimensional Requirements in the Shoreland District. In light of this decision, there is nothing further required from either Ms. Moody or the Planning Board.

Nothing further was discussed.

Amendment to a Conditional Use Permit – Add On To Existing Auto Body Shop – Map 2, Lot 47-B (1610 Walnut Hill Road) – Dennis Merrow

Mr. Merrow was present at the meeting to discuss his application. Planning Board members did a site inspection on an individual basis.

Roger A. did not sit out of the discussion because the Vice Chairman was unable to attend the meeting. The board members felt that Roger could be objective on this issue, even though Mr. Merrow was an abutter.

Mr. Merrow's application is to add a 32' X 42' addition onto the existing auto body shop for storage of vehicles and additional work space. The Planning Board members had asked Mr. Merrow what his lot size was, and he stated 2.3 acres. He did have a survey as there had been a problem with his land when he initially purchased it from PATCO. The planning board did receive a copy of Mr. Merrow's building plans.

Roger A. asked if he was going to add any additional lighting to the outside of the building. Mr. Merrow replied, "No." Roger asked if Mr. Merrow was going to put auto testing equipment in the addition? Mr. Merrow stated, "Yes".

Roger A. asked how many cars on site at this time belonged to Mr. Merrow? Mr. Merrow stated 11 at present, but added that he was told at his last approval he could have up to 12 cars that he owned personally on site.

Steve M., CEO, stated that he had counted 27 cars on site at present. Mr. Merrow stated many of the autos were from the Dodge dealership in town and he was waiting for insurance money to complete them. He stated he receives a lot of business from this dealership. Mr. Merrow added that he kept a record of all vehicles on site as it is a State requirement.

Roger A. reviewed the following ordinances with respect to this application:

- 105-20** – Applicability of standards; prohibited uses. *This application is a permitted use.*
- 105-21** – Traffic. *The traffic site distances were approved on the original Conditional Use Permit. It is suggested Mr. Merrow get signage approved from the Town of Sanford stating this location was a blind drive.*
- 105-22** – Noise. *This business will not create excessive noise during or after business hours in accordance with Shapleigh's Zoning Ordinance. Mr. Merrow stated more work will be done inside with the new addition.*
- 105-23** – Dust, fumes, vapors and gases. *There will be no additional emissions created by this addition to the business. There will be NO painting of vehicles outside of the building.*
- 105-24** – Odors. *There will be no odors emitted from this business outside of the building.*
- 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 as part of the approved CUP.*
- 105-27** – Erosion control. *There are no changes being made to the property.*
- 105-28** – Setbacks and screening. *Setbacks and screening are currently in place, such as trees and shrubs. All additional automobiles will be parked behind the building.*
- 105-29** – Explosive materials. *All hazardous materials are stored in approved containers / storage units inside the existing building.*

- 105-30 – Water quality. **N/A, nothing is changing to affect water quality on site.**
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. ***There are no changes being made to the existing vegetation. There is room for 23 vehicles outside of the existing building.***
- 105-32 – Relation of proposed building to environment. ***The addition to the building will be to the rear of the existing building and will not be seen from Walnut Hill Road.***
- 105-33 – Refuse disposal. ***The applicant will continue to have a waste removal company remove waste from the site.***
- 105-34 – Access control on Routes 109 and 11. **N/A**
- 105-43 – Off-street parking and loading. ***There is adequate parking for this business.***
- 105-46 – Sanitary Provisions. ***There are no changes being made to the existing approved waste water disposal system. There will be no additional employees.***
- 105-47 – Signs and billboards. ***There is no signage being added to the site.***

Roger A. asked if there were any additional questions and there were none.

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 originally approved CUP. This addition to the building will not affect the original approval.***
- 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.***
- 4) Traffic access to the site is safe. ***It is per the originally approved CUP.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***It is.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***It is, there is a State approved wastewater system on site.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***All hazardous materials are stored in the proper containers and removed from site by a licensed hazardous waster removal company.***
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***A stormwater drainage system was developed and approved on the original CUP.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***Soil erosion will not be an issue with the addition to the existing building. No changes being made on site. The slab/floor for the addition to the building is in existence now.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***The Springvale Fire Dept. handles fire protection in this location.***
- 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 natural buffers that will remain in place.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

Alex M. made the motion to approve the Amendment to a Conditional Use Permit to add a 32' X 42' addition to the existing structure, with the following conditions:

- 1) **Hours of operation shall remain 8 a.m. thru 8 p.m., six day per week.**
- 2) **No vehicles for sale shall be parked closer to the road than the existing home.**
- 3) **All vehicles for sale shall be in repairable condition, and if not sold within 9 months of acquisition shall be disposed of.**
- 4) **The maximum number of cars being serviced on the premises during normal business hours shall not exceed 23 total. This does not include personally owned vehicles, which cannot exceed 12 total.**
- 5) **Noise levels of 60 dB(A) shall not be exceeded by 10 dB(A) for a single period, no longer than 15 minutes in any one day.**

- 6) There shall be no painting of any kind outside of the existing or proposed auto body shop.
- 7) All hazardous waste shall continue to be stored in State approved containers and shall be removed from site by a licensed hazardous waste company. The name of this company shall be given to the Code Enforcement Officer.

John K. 2nd the motion. Members Alex M., John K, and Barbara G. approved the motion; Roger A. abstained from the vote.

Nothing further was discussed.

Best Possible Location – Tear Down Existing Structure and Rebuild – Map 25, Lot 25 (187 23rd Street Loop) – Robert & JoAnn Conlon

Mr. and Mrs. Conlon were present to discuss their application. Planning Board members did a site inspection on an individual basis.

Mr. Conlon stated he had contacted Mr. Large, the site evaluator for the septic design, and had received a copy of the plans. The existing septic system was designed for a two bedroom home. Mr. Conlon stated that he will have to add onto the existing to accommodate a three bedroom home, which is what he was proposing to build. Mr. Large stated he would redesign the existing chamber system, and he believed Mr. Conlon would only need to add onto what exist now. Mr. Large was unable to do the design prior to this evenings meeting. Mr. Conlon stated that he was willing to commit to both the Planning Board and the Code Enforcement Officer that the septic system would be redesigned and upgraded per Mr. Large's specifications.

During the site inspection Planning Board members noted that there was sufficient room to move the proposed structure back another eight feet from the high water mark. This would move the new structure 12 feet toward the road from where the existing home exists at this time. After board members explained to Mr. Conlon this new location could be accomplished, the applicants agreed the relocation would be best in this new location.

Roger A. asked if there were any further questions for Mr. and Mrs. Conlon. There were none.

Alex M. made the motion to approve the plan to remove the existing home, and replace with a new home, with the following condition(s):

- 1) The new structure shall be placed 12 feet back from the rear of the existing structure, which places the front of the new structure 8 feet back from the high water mark.
- 2) A new septic design shall be given to the Code Enforcement Officer to accommodate the addition of one bedroom, for a total of three bedrooms, prior to receipt of a building permit.
- 3) A surveyed plan showing the new building location shall be given to the Code Enforcement Officer prior to receipt of a building permit.
- 4) Volume and Square Foot calculations shall be presented to the Code Enforcement Officer prior to receipt of a building permit to make certain the new structure does not exceed the 30% expansion of the original structure.
- 5) After the new home is placed on site, any areas that could become an erosion problem shall be revegetated or bark mulch shall be placed on site to prevent erosion.

John K. 2nd the motion. All members were in favor.

Nothing further was discussed.

OTHER:

Dawn Corliss – Question Regarding 45 Hussey Lane, Map 7, Lot 44-3

Ms. Corliss bought a piece of property that was part of the 3-lot subdivision known as Agony Acres. This subdivision contains a private right-of-way and utility easement which ends on her property in a cul-de-sac. Ms. Corliss stated that the cul-de-sac was never upgraded / created by the developer, Mr. Roscoe Hussey. Ms. Corliss stated she has no intention of upgrading the right-of-way as a property owner.

Ms. Corliss stated she was before the Planning Board this evening, asking if she had to abide by the original plans. She wanted to place a new home on the property and the best location was where the cul-de-sac was supposed to exist. She was asking the board members if she could ignore the plans and place her home in the location that worked best?

Roger A. stated he was a member who approved the plans for this subdivision. At the time of approval the developer was not asked to improve the road all the way to the cul-de-sac. Roger stated the reason for the cul-de-sac was for fire and safety equipment. Roger did not feel comfortable with allowing the area to be built upon, as well as the fact that any change to the original subdivision plan had to come before the Planning Board as an amendment.

Steve M., CEO, stated that a possible change to the plan could be to create a hammerhead turnaround in lieu of the cul-de-sac. This would allow Ms. Corliss to put her home in the location of her choice while creating a turnaround area for fire and safety equipment. Roger agreed and told Ms. Corliss that she may want to contact Corner Post Land Surveyors since they did the plans for Mr. Hussey. They would have the plans on file and could modify from the original.

Roger A. told Ms. Corliss if she chose to modify the original plans, she would need to come back to the Planning Board so they could approve the change and then she would need to file the change with York County Registry of Deeds. Ms. Corliss stated she understood and thanked the board members for their time.

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

The Planning Board meeting ended at 12:00 a.m.

Respectively submitted,

Barbara Gilbride

Planning Board Secretary

planningboard@shapleigh.net

As a note: Minutes are not verbatim.

SHAPLEIGH PLANNING BOARD MINUTES
Tuesday, October 12, 2004

Members in attendance: Diane Srebnick (Acting Chairman), Madge Baker (Acting Member), Alexander MacPhail (Member) and Barbara Gilbride (Secretary). Code Enforcement Officer, Steven McDonough was unable to attend.

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

The minutes from Tuesday, September 28, 2004 were accepted as written.

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

Conditional Use Permit – Timber Harvesting – Map 2, Lot 35 (Walnut Hill Road) – Reader / Swartz

Mr. Reader was present at the meeting.

Mr. Reader gave the Planning Board a copy of the application to harvest timber that was mailed to the State of Maine Forest Service, in Augusta. In addition, the Planning Board received a copy of the Maine Natural Areas Forest Management Plan checklist which noted that there were rare, threatened and/or endangered animals documented on or near the site. These species include the Northern Black Racer, Ebony Boghaunter (Dragonfly) and the Blanding's Turtle. The Maine Dept. of Inland Fisheries and Wildlife were also notified of the harvest and supplied some information with respect to the Black Racer and the "Ringed" Boghaunter. (MDIFW did not have information available at this time for the Ebony Boghaunter.) Both the Ebony Boghaunter and the Northern Black Racer had habitats that were located partially on Lot 35.

Barbara G. asked Mr. Reader if he had a plan proposed to reduce the impact on the habitats of these species? Mr. Reader stated he would be using Best Management Practices. Barbara stated she understood that was a requirement but was he also going to be doing a low intensity harvest as recommended by MDIFW? Mr. Reader stated, "Yes".

Diane S. stated under the recommendations listed by MDIFW, it was written the forester should consult a biologist. Diane asked Mr. Reader if he had done so? Mr. Reader stated that he contacted the biologist with MDIFW and the information he presented to the planning board members was their recommendation.

Mr. Reader stated the Black Racer appeared to have the largest amount of habitat on site of the two species indicated. He added that this wetland area is not the ideal habitat for the Black Racer, normally they inhabit fields. The information provided from MDIFW states that the "Black Racer occurs in a variety of moist and dry habitats, including deciduous and coniferous forests, fields, woodlands interspersed with fields, and swamps or marshes. *In southern Maine, open grasslands, power line rights-of-way, orchards, rocky ridges and the edges between forests and fields seem to be preferred habitats.*"

The Planning Board reviewed the material given by Mr. Reader and the recommendations by MDIFW. Diane S. reviewed the recommendations for the Blanding's Turtle and MDIFW stated that enough of the forest should remain and to be certain no more than 40% of the existing trees would be harvested. Mr. Reader stated this project will not exceed the 40%.

The Planning Board members concluded the applicant could harvest the trees on the property, as previously approved at the planning board meeting on September 28th, per the plans provided. Best Management Forestry Practices shall be used. It was noted that MDIFW did not state the project could not go forward as presented, provided Best Management Practices were used.

Mr. Reader asked, "Where the stream intersects the wetland area, the wetland being in the Shoreland zone, which takes precedence, the 100' resource protection buffer of the stream or the Shoreland zone buffer requirement?" Diane S. asked which buffer was greater? Mr. Reader stated the stream protection was 100 feet and the Shoreland was 250 feet. Madge B. stated, "I assume the buffer on the stream still applies because that doesn't change. The stream buffer doesn't change whether it is in or out of the Shoreland zone."

Mr. Reader stated he would speak with Steve M., CEO, to make certain before he begins the project.

Nothing further was discussed.

5-Lot Minor Subdivision – "Great Hollow Acres" – Map 10, Lot(s) 2, 6A & 7 (Town Farm Road) – Northwoods Land Company of Maine – H. Craig Higgins Representing

Mr. Higgins was present to discuss this application.

The Planning Board mailed a copy of the subdivision plans to Dawn Buker of the Dept. of Environmental Protection in Portland. The board members wanted to make certain the stormwater management plan, which allows stormwater to drain near or into the existing wetlands, would not pose a threat to the environment. Mr. Higgins began by reading a portion of Ms. Buker's reply, which was in email format to Steve M., it read as follows: "I reviewed the stormwater on this project and have determined that it would meet my standards as long as it did not pond water in the wetland. Craig Higgins can verify that or put it on the plans."

Mr. Higgins replied to this statement, "The water in the roadside ditch would not pond in the wetland anymore than it already does. The ditch is a conduit that will allow the water to freeflow rather than undermine the road. It is not going to change the wetland because it is already going there. Now it will go at a slower place."

Mr. Higgins read another portion of Ms. Buker's reply, which read as follows: "Plans should have a restriction that there cannot be additional wetland impact after the lots are sold. Anyone proposing wetland impact must have it approved by the DEP." Mr. Higgins pointed out that there was already a buffer around the wetlands depicted on the plan, so there should be no additional impact to the wetland. (The buffer is 50 feet.) Mr. Higgins believed the 50 foot buffer would prevent any impact or alterations in any of the wetland area and added that very often the buffer is only 30 feet in size.

Alex M. stated that he believed there would be less stormwater runoff with the ditching and riprap once in place, than there is currently.

Diane S. asked if there were any additional questions for Mr. Higgins. There were none.

Diane S. reviewed the Findings of Fact, they are as follows:

The Planning Board finds that Great Hollow Acres Subdivision:

1. Does not result in undue water or air pollution.
 - *There is criteria presented with respect to disposal of surface drainage water along Town Farm Road, dated September 8, 2004.*
 - *The soils on site will adequately support waste disposal per the test pit logs completed by James Logan, SE #237, of Albert Frick Assoc., Inc., dated December 11, 2000 and February 8, 2001.*
 - *There is a 50 foot buffer around wetland areas on Lots 3, 4 and the "Remaining Land".*
 - *There is no air pollution being generated.*
2. Does have sufficient water available for the foreseeable needs of the subdivision.
 - *The water to be supplied by individual drilled wells, no dug wells allowed.*
3. Does not cause an unreasonable burden on the existing water supply.
 - *There is no existing municipal water supply at this time.*
4. Does not cause unreasonable soil erosion or reduction in the capacity of land to hold water so that a dangerous or unhealthy condition results.
 - *Test Pits 1 – 5, 7 - 12 contain Skerry soils which consist of, "Stony, sandy loam". Test Pit 6 contains Colonel soil which consist of "Sandy and gravelly loam". Test Pit 13 contains Dixfield soil which consists of "Sandy loam". Test Pits 14 – 16 contain Adams soil which consist of "Loamy Sand and Medium Course Sand". All soils were determined to be suitable for onsite subsurface wastewater disposal. Information taken from the Test Pit information by James Logan, SE #237, SS#213 of Albert Frick Associates, Inc., Gorham, ME, dated 12/11/00 & 2/8/01.*
 - *There is criteria presented with respect to disposal of surface drainage water along Town Farm Road, dated September 8, 2004.*
5. Does not cause unreasonable traffic congestion or result in unsafe conditions on existing or proposed road(s).
 - *All driveways must be approved by the Road Commissioner prior to being installed.*
 - *The Road Commissioner reviewed this subdivision and approved of the proposed plans.*
6. Does provide adequate sewage waste disposal.
 - *The soils observed are suitable, as defined by the State of Maine Subsurface Wastewater Disposal Rules. This is per James Logan, SE#237 / 213, dated 12/11/00 & 2/8/01.*
 - *All wetlands have been delineated on the plan and there shall be a 50 foot buffer created surrounding the wetlands where no building can take place including septic system installation.*
7. Does not cause an unreasonable burden on municipal solid waste disposal.
 - *Each property owner will be responsible for handling his or her individual waste.*
 - *This subdivision is subject to the Growth Ordinance and therefore shall not unreasonably burden the municipal solid waste facility.*

8. Does not have an adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat as identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas.
 - ***This is not a scenic or historic site nor is it in the vicinity of one recognized by the Town of Shapleigh.***
 - ***The building of single family homes in this location will not adversely affect the aesthetics of the area.***
9. Does conform to local regulations, ordinances, development plan and comprehensive plan.
 - ***The final approved plan shall meet all zoning and subdivision regulations.***
 - ***Any changes to the final approved plan shall have to come back before the Planning Board and/or Code Enforcement Officer regarding all zoning or subdivision issues.***
 - ***The Comprehensive Plan encourages road improvements by developers such as proposed per this plan.***
10. Does not adversely affect the quality of surface water or shoreline of ponds, rivers, streams or tidal areas.
 - ***There shall be a 50 foot buffer created to protect the wetlands, delineated on the final plan.***
 - ***There shall be State approved septic designs / systems for each new home on site.***
11. Does not alone or in conjunction with existing activities, adversely affect groundwater quality or quantity.
 - ***The soils observed are suitable, as defined by the State of Maine Subsurface Wastewater Disposal Rules. This is per James Logan, SE#237 / 213, dated 12/11/00 & 2/8/01.***
12. Has demonstrated adequate technical and financial capacity to meet the above.
 - ***There is a check in the amount of \$20,000 payable to the Town of Shapleigh, for all improvements as proposed on the plan, including road improvements and overhead utilities.***
13. Does have all buildings one foot above the base flood elevation.
 - ***No portion of the property is within the 100-year flood plane per the Flood Insurance Rate Map for the Town of Shapleigh.***
14. Does have freshwater wetlands identified on maps.
 - ***All wetland areas have been clearly depicted on the final plan and a 50 foot protective buffer has been placed around them per the final plan.***
15. Does have rivers, streams and brooks identified on maps.
 - ***All waterbodies have been clearly identified on the final plan.***
16. The applicant has provided an adequate stormwater management plan.
 - ***The applicant presented a stormwater proposal for Town Farm Road which includes 2,000 linear feet of ditching, drainage easements for two settling basins and ditch turnouts, and 250 linear feet of riprap for the steep ditch area, dated September 8, 2004.***
 - ***The Department of Environmental Protection has agreed that the stormwater plan as presented would be sufficient as long as additional stormwater does not pond in the wetland area.***
 - ***The DEP does state that this routing of stormwater is an impact and would use the 4300 sq. ft. exemption in NRPA, section 480Q, therefore no additional impact can be made to the area.***

17. Great Hollow Acres shall have no spaghetti lots and no additional lots shall be created per the final plan.
18. Does not unreasonably increase a great pond's phosphorous concentration.
 - ***There shall be no fertilizer containing phosphorus used within 75 feet of any water body or wetland area.***

Diane S. appointed Madge B. as a voting member due to the absence of Roger A. and John K.

Madge B. made the motion to approve Great Hollow Acres as it meets the requirements of the Shapleigh Subdivision Ordinance as well as the Shapleigh Zoning Ordinance. The approval is per the final plan including the "plan specific notes". Alex M. 2nd the motion. All members were in favor.

The Planning Board members signed the plan.

The following waivers were approved at the planning board meeting on September 14, 2004:

The Planning Board finds that the request to waive the requirement 89-29, "Utilities shall be installed underground except as otherwise approved by the Board."; ***shall be granted.*** Overhead utilities shall be a greater benefit to this location as a whole, allowing other abutting properties the use of the utility poles in the future.

The Planning Board finds that the request to waive the requirement, Article 89-30, "stone monuments shall be set at all street intersections and at all corner and angle points"; ***shall be granted*** provided that all markers used to delineate property lines are placed deep enough into the earth that they are not easily removed by vandals. A minimum of three feet of rebar shall be placed into the earth.

The Planning Board finds that the request to waive the requirement, Article 89-36.M, "sidewalks shall be installed within all subdivisions within the urban compact area"; ***shall be granted*** due to the fact this subdivision is located along an existing town road. There is no internal road being created.

Nothing further was discussed.

OTHER:

Roland Legere asked Mr. Higgins – The lots in the Goose Pond Subdivision have specific building envelopes per the approved plan, now that the water level is changing in the pond, are the building envelopes affected? (Goose Pond Subdivision is on State Rte. 11 and consists of six building lots with very specific building envelopes.) Mr. Legere asked, "Since it is my understanding it (the building envelope) is so many feet from the high water mark and the high water mark has now moved, doesn't that change the building envelope?"

Mr. Higgins replied, "It is actually from the edge of the wetland which was further back from the high water mark." Mr. Legere stated, "The water area has expanded." Mr. Higgins stated, "Around the entire pond is wetlands. The high water mark will continue to go up into the wetlands."

Mr. Legere asked, "How do you detect where the building sites are?" Mr. Higgins replied, "Based on the measurements from the wetlands there are pins 100 feet back placed where people can build."

Mr. Legere stated that on the Square Pond side rather than on the Rte. 11 side of the subdivision, the wetland is not as well defined. Mr. Legere believed the high water mark is higher now than it has ever been. Mr. Higgins stated he did not disagree. Mr. Legere stated he felt because of this fact, the water could possibly affect the building sites on the Square Pond side.

Mr. Higgins stated, "On the Square Pond side, even if the water comes up 2 feet, it would not reach the building envelopes. These sites are much higher than the lower lying flat wetlands. The land goes up dramatically after it leaves the wetland to where the building envelopes are."

Mr. Legere stated that he only wanted to raise the issue because he had never seen the water this high and would not want someone to build a home in an area that would be in violation of the setback requirements. Mr. Higgins stated that he would go to the property with Mr. Legere if he would like to review the area. Mr. Legere stated he would go on his own but thanked Mr. Higgins for the offer. Mr. Higgins told Mr. Legere there would be blue flags delineating the wetland areas.

Nothing more was discussed regarding this issue.

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Letter from Attorney Durwood Parkinson regarding Levesque Property in Acton / Shapleigh, Subdivision, dated 9/29/04.

Attorney Parkinson wrote a letter regarding the proposed subdivision that is located in both Acton and Shapleigh. Mr. Parkinson gave his viewpoint on meeting protocol and issues both towns should address. Diane S. asked Barbara G. if she had heard from the Town of Acton or Corner Post Land Surveyors, the company representing the applicants. Barbara stated she had been contacted by Corner Post but has not received any new information to date. Barbara will contact Corner Post to see what the status of this project is.

Nothing further was discussed.

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

The Planning Board meeting ended at 8:17 p.m.

Respectively submitted,

Barbara Gilbride
Planning Board Secretary planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES
Tuesday, October 26, 2004

Members in attendance: Roger Allaire (Chairman), Diane Srebnick (Vice Chairman), Madge Baker, John Klimas, Alexander MacPhail, 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, October 12, 2004 were accepted as written.

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

5-Lot Minor Subdivision – “Great Hollow Acres” – Map 10, Lot(s) 2, 6A & 7 (Town Farm Road) – Northwoods Land Company of Maine – H. Craig Higgins Representing

Mr. Reed of Reed Surveying, Inc. was present to represent Mr. Higgins.

Mr. Higgins had mailed the Planning Board members a letter which stated the Drainage Easement located on Lot 4 was inadvertently placed on the final plan as being 50' x 50', when, in fact, it should have been designated as 50' x 100'. Mr. Higgins called Barbara G. and asked if Mr. Reed could attend the Planning Board meeting on October 26th to bring in a revised plan to correct the error.

Roger A. explained to the members the letter from Mr. Higgins. Roger stated that all else on the final plan would remain the same as approved on October 12, 2004, including all Specific Notes and approved waivers.

Diane S. made the motion to approve the corrected final plan presented to the Planning Board. John K. 2nd the motion. All members were in favor.

The Findings of Fact were also presented to the Planning Board members for a vote. The Findings are the same as reviewed on October 12, 2004 during the planning board meeting.

Diane S. made the motion to approve the Findings of Fact as written. John K. 2nd the motion. All members were in favor.

Members present signed both the plan for Great Hollows Acres and the Findings of Fact. Mr. Higgins has 90 days to have the plan recorded at York County Registry of Deeds and return it to the Town Hall; otherwise the plan will become null and void.

Nothing further was discussed.

Best Possible Location – Replace Existing Mobile Home with Colonial Home & Replace Shed – Map 26 Lot 29 (111 21st Street) – James Lessard

Mr. Lessard was present for his application.

Mr. Lessard stated he would like to place a 24' x 32' Colonial type home on the property in place of the mobile home that was on site. In addition, he would like to tear down the existing 12' x 18' shed that is located at the water's edge (Mousam Lake) and replace it with a 12' x 12' shed placed 30 feet back from the high water mark.

Mr. Lessard had a copy of a survey of his property which he stated had just been done by Corner Post Land Surveyors, Inc. He added that when the planning board members agreed to the size and location of the structures, they too would be placed on the final survey. Mr. Lessard stated that Corner Post would also stake out the approved location of the structure and remeasure the location after it was built to be certain it was placed correctly.

Roger A. asked Mr. Lessard if the mobile home was still on site? Mr. Lessard stated it was not, it had been removed in September of this year. Roger told Mr. Lessard that he had only one year to replace the structure per Shapleigh Zoning Ordinance 105-7.G "Restoration or replacement." Mr. Lessard stated he understood.

Mr. Lessard stated the proposed new home would be beyond the 100' high water mark and would meet the road setback as well. It would not however meet the side setbacks with respect to the accumulated 30 feet required. Each side would have a 13 feet distance to the lot line. Mr. Lessard stated that if he did meet the side setbacks he would have to reduce the size of the home from 24 feet in width to 20 feet in width. He said this would leave little room for a hallway or create very small rooms.

Mr. Lessard stated the proposed new shed would be 30 feet back from the high water mark and smaller in size than the one that exists at this time. The proposed structure is 12' x 12'; the existing is 12' x 18'. Mr. Lessard stated he is moving the structure as far back as possible. The landscape is very steep beyond the 30' mark and would require a lot of excavation if he were to move it beyond 30 feet.

Roger A. asked if there were any questions. There were none. ***Roger scheduled a site inspection for the property on Saturday, November 6th at 9:00 a.m.***

There was nothing further discussed at this time.

OTHER:

A Ms. JoAnne Henry was in attendance. She wanted to introduce herself as a citizen of Shapleigh who lived on the Walnut Hill Road. She stated she attended the meeting so she would be able to put faces with the names of the Planning Board members. The Planning Board members introduced themselves to her.

Ms. Henry stated she was located next to the Peter Swartz property, which had been before the Planning Board for timber harvesting. Ms. Henry wanted to know why she hadn't been notified as an abutter that this project was taking place. Barbara G. stated she would look into the matter and get back to her.

Nothing more was discussed.

Note: The reason Ms. Henry did not receive notification was because the notice for Map 2, Lot 34B-1, which is Ms. Henry's property, was mailed to the previous owner, a Ms. Mary Lyn Lindell. The assessor's files had not been updated. The assessor's files are now current and Ms. Henry will be notified of any further activity should it be warranted.

Letter from James & Donna Seebirt regarding their Best Possible Location Application

In the original Best Possible Location application, Mr. & Mrs. Seebirt's project description was to remove the existing garage and accompanying breezeway, and reconstruct a new garage with a second story. The second story was going to be utilized for two bedrooms and a bathroom. The Planning Board, after the initial review and site inspection, required the Seebirt's to have a survey done so the board members could be certain their new structure would not encroach closer or over their lot lines onto the neighbors property. The Planning Board did not feel they could approve the application as presented with this survey.

The Planning Board received a letter from the Seebirt's on Tuesday, October 26th, along with an attached copy of a completed survey of their property. The survey included the location of all existing structures as well as lot line locations.

Roger A. read letter from the Seebirt's, which read in part:

Additionally, with this letter we are submitting a modification to our application and requesting that it be considered for approval.

The modifications to the application are as follows:

Paragraph 8 - Percentage of lot covered: 18% - an Increase of 0%

Paragraph 9 - Area as per survey: 10250 Sq. Ft.

Paragraph 10 - Project Description: Remove existing breezeway and construct a 10' x 10' addition adjacent to the existing structure.

Paragraph 12 - Estimated Cost: \$22,000

Attachment:

Proposed Site Plan: A modified copy of the Land Survey marked "Proposed Site Plan" is enclosed. The modification is a shaded area depicting the location of the proposed structure. The use of this new building will be for a bathroom. All references in the application to a new garage and added bedrooms are to be deleted. The number of bedrooms will remain at two.

The Planning Board members and Steve M., CEO, reviewed the new proposal. The sketch drawn on one copy of the survey showed the location of the proposed breezeway in relation to the existing structures and lot lines. Steve M. stated that the new addition as depicted is no closer to the existing lots lines and it does meet road setbacks.

The Planning Board members agreed with the Code Enforcement Officer. Therefore, the Planning Board concluded the new structure placed on site per the plan provided, would meet Shapleigh's Zoning Ordinance 105-18, Residential Dimensional Requirements in the Shoreland District. In light of this decision, there is nothing further required from Mr. and Mrs. Seebirt by the Planning Board.

Diane S. made the motion that the breezeway removal and proposed new addition will go through the Code Enforcement Officer for a Building Permit. The original application / plans are null and void. Alexander M. 2nd the motion. All Planning Board members are in favor.

Nothing further was discussed.

Final Review of Possible Ordinances Changes

After discussion over a course of meetings throughout the year, the following ordinance changes and / or additions will be presented to the townspeople at Town Meeting in March 2005. They are as follows:

New Ordinance(s):

Child Day Care

- A. A child day care home or center may be conducted as a conditional use.**
- B. A child day care home shall be allowed in a single family dwelling located on a residential lot that meets the minimum lot size requirement, providing care for up to 12 children, which charges for their care and which holds all legally required licenses and approvals by the Town of Shapleigh and the State of Maine.**
 - 1. A child day care home may also include part time care. Part time in this use shall mean 4 hours per day, per child.**
 - 2. Parking area shall be large enough to accommodate the 2 spaces required for the dwelling unit, as well as 2 additional spaces minimum.**
- C. A child day care center is a private establishment providing day care for 13 or more children which charges for their care and holds all legally required licenses and approvals by the Town of Shapleigh and the State of Maine.**
 - 1. Parking area shall be large enough to accommodate one parking space per full-time employee, as well as one parking space for every four persons attending the day care center at any one time.**
- D. Outside play areas shall be buffered from adjoining uses, including neighboring properties, and parking area(s), by appropriate fencing or plantings.**
- E. All outside play equipment shall meet the required front, side, and rear setback requirements.**

§ 105-60-1 Private Ways

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

- A. A plan showing the private way shall be prepared by a registered land surveyor or licensed engineer. The plan shall be labeled "Plan of Private Way" and shall provide an approval block for the signatures of the Planning Board members. The plan shall delineate the proposed way and each of the lots to be served by the private way.**
- B. A street plan, cross section, and drainage plan shall be submitted for each private way serving two (2) or more lots.**

- C. The plan shall bear notes that the Town of Shapleigh will not be responsible for the maintenance, repair, or plowing of the private way and that further lot divisions utilizing the private way are prohibited without prior approval of the Shapleigh Planning Board.
- D. If the private way is to provide access to two (2) or more lots, a maintenance agreement shall be required by the Planning Board and recorded in the York County Registry of Deeds. The maintenance agreement shall specify the rights and responsibilities of each lot owner with respect to the maintenance, repair and plowing of the private way.
- E. The construction of private ways shall meet the following minimum standards:

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

- (1) One turnout to provide space for 2 vehicles to pass shall be provided for every 500 feet of private way.
 - (2) The Hammerhead or T shall have a useable surface area that is a minimum of 24 feet deep and 24 feet wide.
- F. The plan shall be recorded in the York County Registry of Deeds within ninety (90) days of the date of the Planning Board approval. If the plan is not recorded within this time period, the approval of the Planning Board shall be null and void.
- G. After a private way has been approved by the Planning Board to provide access to a lot or lots, no further lots shall be created which are to be provided access by means of the private way without the prior approval of the use of the private way for access to such lots by the Planning Board.
- H. The applicant shall pay a Private Way Application fee of \$100, payable to the Town of Shapleigh, prior to review of the Private Way application by the Planning Board.

§ 105-49-1. Agricultural Home Based Businesses

- A. Agricultural products shall be those as defined in M.R.S.A., Title 7, Agriculture and Animals, including but not limited to: horticulture; poultry products; livestock; bees; maple syrup; honey; and crafts produced on site.
- B. Temporary roadside stands and seasonal home based businesses based solely on the sale of agricultural products shall be considered accessory uses and permitted in the general purpose district without a Conditional Use Permit. Roadside stands must adhere to the following:

- 1) They must meet setback requirements as defined in Shapleigh Zoning Ordinance 105-18 for Residential Requirements;
 - 2) They must be used for the sale of agricultural products grown or produced on the premises;
 - 3) Parking spaces must be provided off the road right-of-way.
- C. One sign shall be allowed, attached to a building or farm stand or free standing; such sign shall be limited to eight (8) square feet in size. Additional signage requirements are as follows:
- 1) Free standing signs must be attached to a permanent post to be hung vertically above the ground.
 - 2) The sign must meet setback requirements as defined in Shapleigh Zoning Ordinance 105-47, Signs and Billboards;
 - 3) So-called "A-Frame" signs shall be prohibited.
- D. Timber products are not considered an agricultural product and therefore are not exempt from a Conditional Use Permit.

New Definition(s):

Addition to § 89.6 Terms defined. (Subdivision Ordinance)

Common Open Space – Land within or related to a subdivision, not individually owned or within an individual lot, which is designed and intended for the common use or enjoyment of the residents of the development or the general public. It may include complementary structures and improvements, typically used for maintenance and operation of the open space, such as for outdoor recreation.

Addition(s) to § 105-15. Definitions. (Zoning Ordinance)

Abutting Property – Any lot which is physically contiguous with the subject lot even if only at a point and any lot which is located directly across a street or right-of-way from the subject lot such that the extension of the side lot lines of the subject lot would touch or enclose the abutting property. In addition, an abutting property can be anyone within 500 feet of the subject lot when addressing notification, this is in accordance with Shapleigh Zoning Ordinance 105-73.D(1) in conjunction with Title 30-A.M.R.S.A. #4403 Sub #3.

Child Day Care Center – A private establishment providing day care for 13 or more persons which charges for their care and holds all legally required licenses and approvals.

Child Day Care Home – A private home providing day care for up to 12 persons which charges for their care and which holds all legally required licenses and approvals. A day care home may also include part time care of up to 12 persons. Part time in this use shall mean 4 hours or less per day, per person.

Cluster Subdivision – A subdivision in which the lot sizes are reduced below those normally required in the zoning district in which the development is located in return for the provision of permanent open space owned in common by lot / unit owners, the town or land conservation organization. Cluster shall not be used to increase the overall net residential density of the development.

Hazardous Material – A product or waste, or combination of substances that, because of quantity, concentration, or physical, chemical, or infectious characteristics, poses a substantial present or potential hazard to human health, safety, or welfare and the natural environment. This term applies to any materials or substances designated as hazardous by the United States Environmental Protection Agency and/or the Maine Department of Environmental Protection.

High Water Line or Elevation – That line that is apparent from visible marking, changes in the character of soils due to prolonged action of the water or changes in vegetation, that distinguishes between predominantly aquatic and predominantly terrestrial land. In the case of wetlands adjacent to rivers, streams, brooks, or ponds, the normal high-water line is the upland edge of the wetland, and not the edge of the open water.

Private Way – A category of road not owned or maintained by the town of Shapleigh or the State of Maine which provides frontage to a lot or lots.

Note: Changes in Bold and Italics

Changes to the Ordinance(s):

§ 105-45. Planned unit development and cluster development.

- B. Basic requirement. Planned unit developments and cluster developments shall meet all of the following criteria:
- (11) All dwelling units in a planned unit development or cluster development ~~shall~~ **may** be connected to a central water system, at no expenses to the municipality.

§ 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, 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, each face having no more than 32 square feet in area.
- (a) Only one free standing sign is allowed per lot, regardless of the number of approved Conditional Use Permits for the lot.***
- (2) 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.

§ 105-72. Appeal procedures.

- K. A variance under the provisions of this chapter secured by vote of the Board of Appeals shall expire if the work or change involved is not commenced within ~~one year~~ **two years** of the date on which the appeal is granted and if the work or change is not substantially completed within two years of the date on which the appeal is granted.

§105-73. Conditional use permits.

- G. Standards applicable to conditional uses. It shall be the responsibility of the applicant to demonstrate that the proposed use meets all of the following criteria. The Board shall approve the application unless it makes written findings that one or more of these criteria have not been met.
- (8) A stormwater drainage system capable of handling a ~~twenty-five-year~~ **fifty-year** storm without adverse impact on adjacent properties has been designed.

Typographical Errors to be corrected in the existing Zoning Ordinance (in Bold):

105-73 D(2)

The owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owner to ~~a~~ receive **a** notice of public hearing shall not necessitate another hearing or invalidate any action by the Planning Board.

105-39 G(4)

Lagooning shall be conducted in such **a** 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.

Changes to the existing Sample Letter of Credit to more accurately reflect an example of what Shapleigh would require.

SUBDIVISION OF LAND

APPENDIX B

Sample Letter of Credit

Jane Planner, Chairman
Town of Shapleigh Planning Board
P.O. Box 26
Shapleigh, ME 04076

Re: Letter of Credit - Developer, Inc., Sunshine Estates, Shapleigh, Maine

Dear Ms. Planner;

This letter will confirm to the Town of Shapleigh that the Big Town Savings Bank has issued a loan commitment to Development Inc. for the purpose of constructing all required improvements in the "Sunshine Estates" subdivision.

Big Town Savings Bank will set aside \$230,000 in a Construction Escrow Account, for completion of the required improvements. This account can be drawn upon by the Town of Shapleigh in the event that Developer, Inc. fails to complete steps A through H listed below for Windy Road on or before two years from the (date of final plan approval).

Approximate length of road 2,350 feet:

A.	Grub roadways full width of 50 feet - \$4/ft.	\$ 9,400
B.	Shape subbase and grade it - \$4/ft.	\$ 9,400
C.	Install under drain culverts - \$16/ft.	\$37,600
D.	Apply and shape 18' gravel base \$8.30/ft x 2,350'	\$19,500
E.	Apply and shape 3" of crushed gravel: apply 1 ¾" of base course bituminous concrete to width of 24', apply bituminous curb and 2" of bituminous concrete to a width of 5', \$10/ft. x 2,350'	\$23,500
F.	Apply ¾" of surface bituminous concrete to width of 24' - \$5/ft.	\$11,800
G.	Install sewer \$22/ft. x 2,350 plus pump	\$16,500
H.	Install water mains \$14//ft x 2,400	\$33,600

Big Town Savings Bank understands that Developer, Inc., or the contractor, will notify the Code Enforcement Officer and the Road Commissioner before any of the above work has begun and obtain his approval in writing as he completes each phase of the road construction.

This account shall expire when the Town of Shapleigh acknowledges in writing to the Developer, Inc. that the work outlined in Steps A through H has been completed in accordance with the Town of Shapleigh subdivision ordinance regulations for street standards and the approved plans of Sunshine Estates. Any funds remaining in the account on (date specified above) for work outlined in Steps A through H which has not been completed and approved by the Town on that date shall be released to the Town to complete such work. As the Code Enforcement Officer and Road Commissioner issue their written approvals for each step above to Developer, Inc. the funds in this account will be released based upon the schedule above.

Letter of Credit

Page 2 of 2

Drafts drawn upon this account must be for this particular subdivision and to complete any work which is outlined above. Furthermore, drafts must be accompanied by itemized statements showing costs of work to be completed and must be submitted prior to (six to nine months following date specified above). The Town of Shapleigh shall not be responsible for repayment or interest cost for any funds released to the Town for work not completed on or before (date specified above).

Very truly yours,

Loan Officer

Date

SEEN AND AGREED TO: _____

Developer, Inc.

Date

The Town of Shapleigh hereby accepts said original letter as evidence of its satisfaction of Developer Inc.'s obligation to be performed.

TOWN OF SHAPLEIGH

Selectman

Date

Selectman

Date

Selectman

Date

Chairman, Planning Board

Date

Road Commissioner

Date

The Public Hearing for all the proposed changes and / or additions shall be held on Tuesday, November 9, 2004.

Plan received from Corner Post Land Surveyors regarding the Levesque Property in Acton / Shapleigh/ the proposed 14-Lot Subdivision

The Planning Board received a copy of a sketch plan for the proposed 14-lot subdivision to be located in both Acton and Shapleigh, with access for the subdivision being proposed on the Lebanon Road. At this time there is no scheduled meeting date to review the latest sketch plan.

Barbara G. will mail a copy of the plan to Dawn Buker of the DEP in Portland to be certain there are no additional requirements from her department since there are large areas of wetland on the property.

In addition, there may be some question to the actual number of lots proposed. The Planning Board along with the DEP and perhaps the town attorney will further review the plans once a meeting date has been established.

Nothing further was discussed.

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

The Planning Board meeting ended at 9:25 p.m.

Respectively submitted,

Barbara Gilbride
Planning Board Secretary planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES
Tuesday, November 9, 2004

Members in attendance: Roger Allaire (Chairman), Diane Srebnick (Vice Chairman), John Klimas, Alexander MacPhail, and Barbara Gilbride (Secretary). Code Enforcement Officer, Steven McDonough was also in attendance.

The Public Hearing Began at 7:10 p.m. The following items were reviewed:

- ***Final Review of Possible Ordinance Changes and/or Additions***

- ◇ Addition to § 89.6 **Terms defined.** (Subdivision Ordinance)

Common Open Space – Land within or related to a subdivision, not individually owned or within an individual lot, which is designed and intended for the common use or enjoyment of the residents of the development or the general public. It may include complementary structures and improvements, typically used for maintenance and operation of the open space, such as for outdoor recreation.

- ◇ Addition(s) to § 105-15. **Definitions.** (Zoning Ordinance)

Abutting Property – Any lot which is physically contiguous with the subject lot, even if only at a point, such that the extension of the side lot lines of the subject lot would touch or enclose the abutting property.

Child Day Care Center – A private establishment providing day care for 13 or more persons which charges for their care and holds all legally required licenses and approvals.

Child Day Care Home – A private home providing day care for up to 12 persons which charges for their care and which holds all legally required licenses and approvals. A day care home may also include part time care of up to 12 persons. Part time in this use shall mean 4 hours or less per day, per person.

Cluster Subdivision – A subdivision in which the lot sizes are reduced below those normally required in the zoning district in which the development is located in return for the provision of permanent open space owned in common by lot / unit owners, the town or land conservation organization. Cluster shall not be used to increase the overall net residential density of the development.

Hazardous Material – A product or waste, or combination of substances that, because of quantity, concentration, or physical, chemical, or infectious characteristics, poses a substantial present or potential hazard to human health, safety, or welfare and the natural environment. This term applies to any materials or substances designated as hazardous by the United States Environmental Protection Agency and/or the Maine Department of Environmental Protection.

High Water Line or Elevation – That line that distinguishes between predominantly aquatic and predominantly terrestrial land that is apparent from visible marking, changes in the character of soils due to prolonged action of the water or changes in vegetation. In the case of wetlands adjacent to rivers, streams, brooks, or ponds, the normal high-water line is the upland edge of the wetland, and not the edge of the open water.

Private Way – A category of road not owned or maintained by the town of Shapleigh or the State of Maine which provides frontage to a lot or lots.

Question:

Roland Legere – *Would all structures built in “Common Open Space” require a building permit?*

Roger A. – All structures built in Shapleigh require a building permit regardless of their location.

Question:

Citizen – *With reference to the Child Day Care Home definition – If a person has six children in the a.m. and six children in the p.m., how would this be handled? As six & six or a total of twelve children?*

Barbara G. – A permit for a Child Day Care is for “up to” twelve children. It does not matter whether or not there are six in the morning or six in the evening, a person can have up to twelve total.

Roger A. concurred citing that the State reviews the home as well and allows for up to twelve children total for an In-home Day Care.

There were two definition changes from the prior meeting on Tuesday, October 26th. At Madge Bakers suggestion the definition of Abutting Property and High Water Line or Elevation were modified. See October 26th for the prior definition. The townspeople had no issue with the changes made.

§ 105-45. Planned unit development and cluster development.

B. Basic requirement. Planned unit developments and cluster developments shall meet all of the following criteria:

- (11) All dwelling units in a planned unit development or cluster development ~~shall~~ **may** be connected to a central water system, at no expenses to the municipality.

Roger A. explained that the change to this ordinance allowed the Planning Board more flexibility. There are locations that do not necessitate the need for a central water system due to the size of the lots, location, etc. Currently the board members cannot waive this requirement because it is in Zoning. With the change they will be able to do so.

There were no questions from the townspeople.

§ 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, 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, each face having no more than 32 square feet in area.

(14) Only one free standing sign is allowed per lot, regardless of the number of approved Conditional Use Permits for the lot.

- (2) 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.

Roger A. explained this change was to make the ordinance very clear that only one free standing sign was allowed per lot. Roger added that this would be most important for businesses such as strip malls.

There were no questions from the townspeople.

§ 105-49-1. Agricultural Home Based Businesses

- A. Agricultural products shall be those as defined in M.R.S.A., Title 7, Agriculture and Animals, including but not limited to: horticulture; poultry products; livestock; bees; maple syrup; honey; and crafts produced on site.**
- B. Temporary roadside stands and seasonal home based businesses based solely on the sale of agricultural products shall be considered accessory uses and permitted in the general purpose district without a Conditional Use Permit. Roadside stands must adhere to the following:**
 - 1) They must meet setback requirements as defined in Shapleigh Zoning Ordinance 105-18 for Residential Requirements;**
 - 2) They must be used for the sale of agricultural products grown or produced on the premises;**
 - 3) Parking spaces must be provided off the road right-of-way.**
- C. One sign shall be allowed, attached to a building or farm stand or free standing; such sign shall be limited to eight (8) square feet in size. Additional signage requirements are as follows:**
 - 1) Free standing signs must be attached to a permanent post to be hung vertically above the ground.**
 - 2) The sign must meet setback requirements as defined in Shapleigh Zoning Ordinance 105-47, Signs and Billboards;**
 - 3) So-called "A-Frame" signs shall be prohibited.**
- D. Timber products are not considered an agricultural product and therefore are not exempt from a Conditional Use Permit.**

Roger A. explained this was a new ordinance designed to give the Code Enforcement Officer some guidance with respect to signs and parking, as well as help to further define what a home based business was. Roger explained that there had been questions in these areas during past Planning Board review for Conditional Use Permits.

There were no questions from the townspeople.

§ 105-60-1 Private Ways

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

- A. A plan showing the private way shall be prepared by a registered land surveyor or licensed engineer. The plan shall be labeled "Plan of Private Way" and shall provide an approval block for the signatures of the Planning Board members. The plan shall delineate the proposed way and each of the lots to be served by the private way.**
- B. A street plan, cross section, and drainage plan shall be submitted for each private way serving two (2) or more lots.**
- C. The plan shall bear notes that the Town of Shapleigh will not be responsible for the maintenance, repair, or plowing of the private way and that further lot divisions utilizing the private way are prohibited without prior approval of the Shapleigh Planning Board.**

- D. If the private way is to provide access to two (2) or more lots, a maintenance agreement shall be required by the Planning Board and recorded in the York County Registry of Deeds. The maintenance agreement shall specify the rights and responsibilities of each lot owner with respect to the maintenance, repair and plowing of the private way.
- E. The construction of private ways shall meet the following minimum standards:

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

- (1) One turnout to provide space for 2 vehicles to pass shall be provided for every 500 feet of private way.
 - (2) The Hammerhead or T shall have a useable surface area that is a minimum of 24 feet deep and 24 feet wide.
- F. The plan shall be recorded in the York County Registry of Deeds within ninety (90) days of the date of the Planning Board approval. If the plan is not recorded within this time period, the approval of the Planning Board shall be null and void.
- G. After a private way has been approved by the Planning Board to provide access to a lot or lots, no further lots shall be created which are to be provided access by means of the private way without the prior approval of the use of the private way for access to such lots by the Planning Board.
- H. The applicant shall pay a Private Way Application fee of \$100, payable to the Town of Shapleigh, prior to review of the Private Way application by the Planning Board.

Roger A. stated that this new ordinance was created because at this time there is nothing in Zoning that allows for a Private Right-of-Way to be created, nor is there any construction standards for the Planning Board to impose other than what exists in the subdivision ordinance. Roger stated that Road Commissioner Richard Goodwin was involved with the Planning Board when creating this ordinance and agreed to its content.

There were no questions from the townspeople.

§ 105-72. Appeal procedures.

- K. A variance under the provisions of this chapter secured by vote of the Board of Appeals shall expire if the work or change involved is not commenced within ~~one year~~ **two years** of the date on which the appeal is granted and if the work or change is not substantially completed within two years of the date on which the appeal is granted.

Roger A. stated that the change from one year to two years is to accommodate situations where a Growth Permit is required to replace a structure. Because of the possible two year wait for a Growth Permit, the Planning Board wanted to extend the period of time for a granted variance. Roger noted that the time to complete the work has not changed; it will remain at two years from the date on which the appeal is granted. There were no questions from the townspeople.

§105-73. Conditional use permits.

G. Standards applicable to conditional uses. It shall be the responsibility of the applicant to demonstrate that the proposed use meets all of the following criteria. The Board shall approve the application unless it makes written findings that one or more of these criteria have not been met.

- (8) A stormwater drainage system capable of handling a ~~twenty-five-year~~ **fifty-year** storm without adverse impact on adjacent properties has been designed.

Roger A. stated that this change was done so this ordinance would mirror the Stormwater requirement under 105-26, which is also for a design period for a fifty-year storm. Now the references to stormwater are consistent throughout the Zoning ordinance. There were no questions from the townspeople.

Child Day Care

- A. **A child day care home or center may be conducted as a conditional use.**
- B. **A child day care home shall be allowed in a single family dwelling located on a residential lot that meets the minimum lot size requirement, providing care for up to 12 children, which charges for their care and which holds all legally required licenses and approvals by the Town of Shapleigh and the State of Maine.**
1. **A child day care home may also include part time care. Part time in this use shall mean 4 hours per day, per child.**
 2. **Parking area shall be large enough to accommodate the 2 spaces required for the dwelling unit, as well as 2 additional spaces minimum.**
- C. **A child day care center is a private establishment providing day care for 13 or more children which charges for their care and holds all legally required licenses and approvals by the Town of Shapleigh and the State of Maine.**
1. **Parking area shall be large enough to accommodate one parking space per full-time employee, as well as one parking space for every four persons attending the day care center at any one time.**
- D. **Outside play areas shall be buffered from adjoining uses, including neighboring properties, and parking area(s), by appropriate fencing or plantings.**
- E. **All outside play equipment shall meet the required front, side, and rear setback requirements.**

Question:

Citizen – With respect to the buffer zone, what might it be? Would it be trees every four or five feet, a solid wall of shrubs, or a solid picket fence? Is the buffer for sound deadening or visual reasons?

Barbara G. – The solid wall may be so the neighbors cannot see all the play equipment. Each circumstance is different. For example, if the property was located next to a busy highway it (the buffer) would be a solid fence for safety. She added the fact that the Planning Board can require these things under a Conditional Use Permit now.

Question:

Citizen – If during a Public Hearing a neighbor was concerned with a noise issue and wanted a solid wooden fence, would the Planning Board consider requiring the solid fence?

Barbara G. – Yes, each application is looked at on an individual basis with respect to location, safety and comments from abutters.

Roger A. noted that in Shapleigh Zoning Ordinance 105-31 “Reservation of landscape; landscaping of parking and storage areas.”, buffers are reviewed. Roger read 105-31(B) which states, “All parking or outdoor storage areas shall be separated from any public road by a landscaped buffer strip at least 15 feet wide, planted with shade trees (minimum two-inch caliper, planted at least every 50 feet along the road frontage) and dense, medium-height shrubs (three feet in height) to screen parked vehicles. All such planting shall be maintained as an effective visual screen. Shrubs or trees which die shall be replaced within one growing season. Roger stated that the Planning Board can now review buffers for a Day Care facility under the review of a Conditional Use Permit. This new ordinance just reiterates the fact again.

Roger stated that the following items were typographical areas that needed to be corrected.

105-73 D(2)

The owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owner to ~~a~~ receive ~~a~~ notice of public hearing shall not necessitate another hearing or invalidate any action by the Planning Board.

105-39 G(4)

Lagooning shall be conducted in such ~~a~~ 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.

A citizen added that under 105-73 D(2) the Planning Board might consider changing *or invalidate* to **nor** *invalidate* for correct grammar use. Roger stated that the Planning Board would consider it.

The last change would be to the **Sample Letter of Credit in Appendix B**. The new version would include making the letter more realistic by adding the Town of Shapleigh address, and referring to the Town of Shapleigh in the body of the letter instead of some fictitious town. In addition, there would be additions on the signature page which would include all three Selectmen, The Chairman of the Planning Board as well as the Road Commissioner.

There were no questions from the townspeople.

The Planning Board meeting started at 7:32 p.m.

The minutes from Tuesday, October 26, 2004 were accepted as written.

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

Best Possible Location – Replace Existing Mobile Home with Colonial Home & Replace Shed – Map 26 Lot 29 (111 21st Street) – James Lessard

Mr. Lessard was present for his application.

Mr. Lessard's application is to place a 24' x 32' Colonial type home on the property in place of the mobile home that was on site. The mobile home was removed from the property in September of this year. In addition, he would like to tear down the existing 12' x 18' shed that is located at the water's edge (Mousam Lake) and replace it with a 12' x 12' shed placed approximately 30 feet back from the high water mark. A new septic system will be installed as well.

Mr. Lessard submitted a copy of a survey of his property. Placed on the survey was the proposed location of the house, shed and leach field. The proposed new home would be beyond the 100' high water mark. Mr. Lessard had stated at the previous meeting that when the Planning Board members agreed to the size and location of the structures, that would also be placed on the final survey.

During a site inspection the proposed location of the new home, septic system, and property boundaries were well marked. It was noted that the topography is extremely steep from approximately 30' from the high water mark to approximately 120' from the high water mark.

Roger A. asked if there were any abutters in the audience with questions? There were none.

Roger stated that the proposed location of the shed was better than the existing location. The shed will be located farther from the high water mark and due to the existing slope the proposed location is the best possible. In addition, no large trees will be removed for the proposed location of the shed. Roger reviewed 105-4(7)(a) which states, "A nonconforming structure may be relocated within the boundaries of the parcel on which the structure is located, provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of state law and the State of Maine's Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more nonconforming."

Roger asked what the side setbacks were for the location of the mobile home? Mr. Lessard stated the mobile home was 40' in length and the lot is 50' wide, therefore the side setbacks were 5 feet on either side. Roger noted that with the proposed new home the side setbacks would be 13 feet, increasing the conformity of the structure. Mr. Lessard stated that he would like to have a one foot overhang for his roof line, so the side setbacks would actually be 12' on either side. He stated he had noted this on page 1 of his application. Roger reviewed the application and the note was there. Roger stated that even with the addition of the overhang, the nonconformity would be less than what had previously existed.

Roger A. asked if there were any additional questions from the Planning Board members. There were none.

Alex M. made the motion to approve the plan to remove the existing mobile home and build a new home; remove the existing shed and build a new shed; and put in a new septic system, per the plan presented. Diane S. 2nd the motion. All members were in favor.

Mr. Lessard was informed that after the plan(s) have been completed, a copy of an updated survey shall be given to the Code Enforcement Officer showing the exact location of new home, shed and septic system.

There was nothing further discussed at this time.

Conditional Use Permit – Operate a Seafood Store – Map 14, Lot 11 (217 Emery Mills Road) – Scott Cobbett

Mr. Scott Cobbett was in attendance to review his application. In addition, the Realtor selling the property, Mrs. Cudworth was also in attendance.

Mr. Cobbett would like to buy the property located at 217 Emery Mills Road and open a seafood and associated goods store. The property has a home, garage, and a building that was a business in the past. The business however has not operated in over a year so the existing Conditional Use Permit is no longer valid.

Mr. Cobbett began the conversation by stating he wanted to sell lobsters, and other shellfish. He would operate Monday thru Saturday from 9:00 a.m. to 5:00 p.m. The business would be closed on Sunday.

Diane S. asked Mr. Cobbett if he would be selling the seafood cooked? Mr. Cobbett stated that to start he would not but eventually he may do steamed clams, steamed lobster, etc.

Diane S. asked Mr. Cobbett if people would be eating the food on site? Mr. Cobbett stated the business would be a take out only.

Alex M. asked if the house would be used for the business or if Mr. Cobbett would be living in the house? Mr. Cobbett stated that only the area where “Millie’s” used to operate would be used. The house may be rented or he may live in the home, he was not sure at this time. Mrs. Cudworth stated the home was being purchased as a second home. Mr. Cobbett concurred. John K. asked exactly where Mr. Cobbett would be selling the seafood. Mr. Cobbett stated he would be using the existing windows that were once used by “Millies”.

Roger A. asked Mr. Cobbett if he had a parking plan? Mr. Cobbett stated he had not written anything down but he believed there was adequate parking in front of the business. The house and garage had their own parking area as well. Mrs. Cudworth said she believed the existing parking area was large enough to create an island so cars could enter on one end and exit on the other. Diane S. read from Shapleigh Zoning Ordinance 105-44, “Off-street parking and loading”, under (A) “.....An area of 200 square feet appropriate for the parking of an automobile, exclusive of maneuvering space, shall be considered as one off-street parking space.”; under (B)(1)(f) “One space for each 150 square feet or fraction thereof of floor area of any retail, wholesale or service establishment or office or professional building.”; and under (B)(1)(h) “One space for each person employed or anticipated to be employed.....”.

John K. asked if there would be any signage for the business? Mrs. Cudworth stated there would probably be a flag / open sign attached to the building as well as a painted sign attached to the building. There would not be a sign at the road. Mr. Cobbett concurred.

Steve M, CEO, noted that the property was in the Shoreland District so this proposal may not be an allowable use.

Roger A. reviewed Shapleigh Zoning Ordinance 105-17 "Land Uses", "Commercial / Industrial", and noted that you could not have a commercial facility in the Shoreland District. Roger stated that because of this, the Planning Board could not consider this application. Roger stated that the only business allowed were businesses requiring a shorefront location such as marinas boat yards, bath houses or fisheries. This business did not fall into any of those categories. Roger stated that eating establishments were not allowed. Mr. Cobbett stated that this business was not an eatery, it was a seafood business. Roger replied that it was not a marina or fishery because the product was not being taken from the existing water body.

Mrs. Cudworth asked the Planning Board members what they were calling Mr. Cobbett's proposal? Roger A. stated that this was a commercial business, it is a seafood store, and it is not an allowed use.

Steve M., CEO, asked the Planning Board members if Mr. Cobbett could go to the Zoning Board of Appeals for a variance with a denial from the Planning Board? Roger A. stated that if the Planning Board denied the application, they could go to the ZBA. Diane S. read Shapleigh Zoning Ordinance 105-70 "Appeals procedure", (E) "Appeals involving conditions imposed by the Planning Board or a decision to deny approval shall be from the Planning Board to the Superior Court, according to state law, when such appeals do not involve administrative procedures and interpretation. Questions concerning administrative procedures and interpretation may first be heard and decided by the town's Board of Appeals." Diane believed the Planning Board would need to table the application so Mr. Cobbett could go to the ZBA, otherwise he would have to go to Superior Court.

Agreeing with Diane S., the Planning Board decided to table the application based on 105-70(E).

Roger A. did not see how Mr. Cobbett could be granted a variance because under 105-17, this was not an allowed use. Roger added the fact that even if this business was not allowed, the property still held value. Roger did agree that everyone has the right to appeal a Planning Board decision.

Diane S. made the motion to table the application to open a seafood business, based on the fact that it was not an allowed use and the applicant had a right to request a variance from the ZBA. Alex M. 2nd the motion. All members were in favor.

Nothing more was discussed.

Conditional Use Permit – Earth Moving > 150 Yards – Map 2, Lot 34A (Walnut Hill Road) – Joachim & Sarah Angeltun

Mr. and Mrs. Angeltun were present as well as Attorney Jeff Lemieux, who would represent their interest.

Attorney Lemieux stated a copy of plan called "Sketch Plan of Proposed Wetland Crossing Off Walnut Hill Road, Shapleigh, Maine; Owned by Joachim & Sarah Angeltun" was given to the Planning Board.

Attorney Lemieux stated the Angeltun's were before the Planning Board to create a road across their right-of-way to access their land locked property. The Angeltun's are requesting to move in excess of 150 cubic yards of fill, which is why they are before the Planning Board at this time. Therefore, the Angeltun's are before the Planning Board to request an earth moving permit (Shapleigh Zoning Ordinance 105-39 "Earth Removal and Filling").

Attorney Lemieux stated that on the plan there was a road design which showed the location of a wetland area. The total fill required to fill in the wetland area is approximately 760 square feet and there is a design for a culvert to cross the wetland area. He explained the right hand side of the wetland area was where the wetland stopped and the wetland itself drained to the left. He stated this was not a large area and it would be covered under the wetland exceptions (Dept. of Environmental Protection) and did not require a permit. Attorney Lemieux said there were no other wetlands located on the property per an actual certified wetland delineator.

Roger A. stated that what had been asked of the Angeltun's, because the road serviced three units (house lots) of a previous family subdivision, they would have to meet the criteria of the minor subdivision road standards. Roger stated it was the only standards the board was asking them to provide. Roger said that at this time the plan does not show what the standards address. It does not show the grade / slope of the property or any ditching that might be needed.

Attorney Lemieux stated the reason the plan did not meet the standards of a typical subdivision was because this is a plan for a road (it is not a subdivision). Roger stated it needed to comply with the road standards.

Attorney Lemieux stated that essentially the Planning Board was requesting a fully engineered road plan that could not be done in a time frame to meet the Angeltun's needs. Attorney Lemieux stated, "We are not sure why you are asking for a subdivision plan because this does not fall under subdivision." Attorney Lemieux noted the chain of title for the property, of which he gave a copy to the Planning Board, shows that this property does not fall under "subdivision".

Roger A. stated that the Angeltun's are exempt from subdivision regulations but they still need to comply with the regulations. There is a difference between requiring and complying. Roger stated, "Where the compliance hasn't been there, they need to show the compliance."

Steve M., CEO, asked Roger A. if they were exempt from subdivision review. Roger stated, "Correct".

Roger A. stated that at the present time the Planning Board was requesting the Angeltun's comply with the subdivision standards for a road to be certain the right amount of gravel goes in and that the steep slope on the property was addressed. Roger believed the grade / slope was in excess of 10%.

Roger A. asked Attorney Lemieux if per this plan, he could tell where the water would drain for a fifty-year storm? Attorney Lemieux stated he could not. Attorney Lemieux agreed this plan did not show any type of storm water drainage plan because neither he nor the applicants felt the requirement applied to this application. Attorney Lemieux stated they were essentially looking under earth moving (were required to abide by the provisions of the earth moving ordinance).

Diane S. read from Shapleigh Zoning Ordinance 105-39 "Earth removal and filling." (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: (4), "The proposed provisions for drainage and erosion control, including drainage calculations."

Attorney Lemieux felt that some stipulations under "earth moving", including the one Diane S. was referring to, related to excavation and processing as with a gravel pit. Attorney Lemieux felt this did not apply to "filling". Roger A. disagreed stating that it applied to any fill. The Planning Board needed to know how the fill was being displaced.

Attorney Lemieux stated that he understood but he believed it was described pretty well on the plan. He did agree stormwater analysis was not addressed however.

Diane S. read Ordinance 105-39(F)(5), "Other information necessary to indicate the physical characteristics of the proposed operation, including existing topography and the proposed horizontal and vertical limits of the excavation or filling and proposed reclamation measures (grading, loaming, seeding mulching, planting, etc.) Attorney Lemieux reviewed 105-39(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:". He believed this only applied to excavation, processing and storage, not the Angeltun's application.

Roger A. disagreed stating the excavation is used for removing fill from a property or moving it to a different location. Attorney Lemieux stated the Angeltun's were bringing in fill to fill the road, there was no storage involved. Roger stated in this case the excavating would be the removal of tree stumps, etc. and again the road would need to comply with the road standard in 89-37 "Street construction standards." Roger added that the Planning Board could not verify there was enough gravel as a base in existence now. He stated that the Road Commissioner, Richard Goodwin, had been to the site and he could not attest there was enough gravel on site. Roger stated that because this road would service three or more lots, the applicants needed to show compliance to a road standard.

Attorney Lemieux asked Roger what the Road Commissioners involvement was? Roger A. stated the Road Commissioner had put the gravel in on the first section of the right-of-way. During the site inspection Mr. Goodwin could not attest that there was 12" of gravel on site. Mrs. Angeltun stated that their excavator was going to improve that part of the road where Mr. Goodwin had added fill.

Roger A. stated that the Planning Board was asking that compliance was necessary for the entire length of road. If the Angeltun's can show there is compliance, that there is the necessary drainage in place, the Planning Board would have no problem with the plan. Attorney Lemieux stated the applicant's could not show compliance until the road was built. Roger stated they could give the Planning Board an adequate plan showing where water will runoff and that the steep slope has been addressed.

Attorney Lemieux asked if the Planning Board was asking for a storm water analysis? Roger stated, "Yes". Attorney Lemieux stated, "That is a description of a subdivision statute and we do not think it applies."

Roger A. stated that this property did not require a full subdivision review but the road had to comply with the road standard. Attorney Lemieux stated that Roger was making an illogical jump from this plan to the subdivision statutes in 89-37. He stated that he did not see the statutory authority to get from this application to subdivision review. Roger stated that he had spoken with the town attorney and a land use attorney and asked if the Planning Board had the right to ask for an engineered study of the road and how it was going to be built.

Attorney Lemieux stated that the plan showed a cross section of the road; how it is was going to be built. Roger A. stated that the plan did not have the grade of the road, which (at the site inspection) was deemed greater than 10%, so there will be an excessive amount of water coming down (the road). How will it be collected? How will it be prevented from going onto someone else's property?

Attorney Lemieux stated that the Planning Board was asking for a stormwater analysis which is a lengthy process and costly, and the applicants do not think it applies to the construction of a private road. Roger asked Mr. Lemieux how the Planning Board was going to protect other people's property?

Barbara G. stated, "This is a Conditional Use Permit." Barbara asked, "Do all standards of a CUP apply to this permit?" Roger A. stated, "Yes". Barbara stated, "Under a Conditional Use Permit, one of the criteria is (the requirement) of a stormwater drainage system capable of handling a 25 year storm." Barbara asked, "Wouldn't that apply here?"

Attorney Lemieux asked, "Is there a provision we can apply to the Planning Board to waive this provision?" Roger replied, "No, it is an ordinance." Barbara stated, "It is in the Zoning Ordinance and we cannot waive anything in Zoning." Roger added that the applicants could go to the Zoning Board of Appeals.

Mrs. Angeltun stated that a certified surveyor and water certified surveyor was on site and stated there was no drainage needed. This was not something the applicants just came up with. Roger replied that he understood that but what Leon Blood (the surveyor) needed to do was show where the slope was (on the plan) and how the area that will be opened up will hold the water. The water must be kept on site and not allowed to cross onto another person's property. Mr. and Mrs. Angeltun stated that there was no water on site.

Roger A. explained the need to prevent rainwater from washing out the road once it was built. The Angeltun's and Joanne Henry, an abutter, believed the existing road was adequate.

Diane S. showed Attorney Lemieux the requirement for roads and water crossings (Shapleigh Zoning Ordinance 105-59). The ordinance stated that the road and water crossing requirements shall apply town wide. These requirements included addressing slopes and drainage ditches. Attorney Lemieux did not believe it applied in this case. Diane disagreed reading the following from the ordinance, 105-59(B) "The following requirements shall apply to construction and maintenance of roads *other than skid roads*:"

Roger A. stated again the right-of-way needed to be built to the standard of a minor subdivision even though it was a family subdivision. Roger said if someone could state it was built to a standard now, the Planning Board would not need an engineered plan. Mr. Angeltun disagreed because this property was not part of a subdivision so why should they have to comply with subdivision standards? Roger stated that this property was part of a family subdivision. Attorney Lemieux stated that the property was either a subdivision or it was not, family subdivisions were exempt.

Roger A. and Attorney Lemieux disagreed on how a "family" subdivision would be reviewed. Attorney Lemieux believed a family subdivision could not be reviewed; Roger disagreed with respect to the road. Steve M., CEO, agreed this was not a subdivision but stated this road would have to comply with zoning which states you need "road" frontage.

Attorney said, "I do not see why you cannot approve this (the plan submitted). If you see a reason, maybe you can enlighten me?" Roger replied, "We cannot approve this because we have greater than a 10% grade and with respect to water runoff, we don't know by this plan what will happen to it. This plan is inadequate at this time."

The Angeltun's wanted to know how Roger A. knew this slope was greater than 10%? Roger stated that the applicant had to prove it was not greater than 10%, not the Planning Board.

Attorney Lemieux stated that if they were working through the subdivision statutes, then they would have to prove it but this is not the case so they do not have to comply with the restrictions and statutes. This is construction of a private road to a private residence and there are not many ordinances that apply to private roads.

Ms. Henry asked, "Richard Goodwin cannot attest to the grade of the road?" Mrs. Angeltun stated, "He is your Road Commissioner and he can't attest to it, that is pretty sad." Ms. Henry asked, "What if I could get the person who built the road to make some kind of statement (regarding the fill)?" Roger replied, "We still need to address the stormwater to prevent the runoff."

Attorney Lemieux asked, "So you are asking for a stormwater analysis?" Roger A. explained again about the fact that after the road is built the stormwater could be an issue. The slope needs to be addressed and how the water would be handled.

The cost of the road and engineered plan was brought up by the applicants. Roger A. stated that the cost was not an issue the Planning Board looked at during the review process. Roger stated again the Planning Board needed an engineered stormwater plan.

Roger A. asked Attorney Lemieux if this application required a DEP permit for filling in the wetland? Attorney Lemieux stated that it did not because it falls under a Permit by Rule, and because the area of fill is less than 760 square feet, nothing is required.

Alex M. stated that the Planning Board needed an engineered study so they could see if there would be any impact to the wetland. The Planning Board also needs to see where the drainage will go (stormwater). If there is no drainage problem with the new road, an engineered plan will show that. Alex stated that he did not think it was unreasonable for the Planning Board to ask for a properly engineered study (plan). The plan needs to show the topography of the area, and grade of the road, showing where the water will go.

Mr. Angeltun asked if only the area that has a greater than 10% slope needed to be addressed? Roger answered, "The total road needs to be addressed."

The applicants took a brief recess with their attorney.

Ms. JoAnne Henry asked what the status of Break Neck Hill Road was? (This road intersects several of the properties that also abut the right-of-way in question.) Roger A. and Barbara G. stated that Ms. Henry would have to speak with the Board of Selectmen with respect to this road. Ms. Henry stated that at one point Mr. Swartz, an abutter, was blocking Break Neck Hill road. Apparently he did not know it was a public trail. Ms. Henry stated that he unblocked it when she contacted him and told him it was a public right-of-way. Ms. Henry asked the Planning Board if Mr. Swartz was planning on putting in a subdivision as it appeared he was creating lots. The members of the Planning Board had no idea what his intentions were. (He has not applied for a subdivision to date, he had approval for timber harvesting on site.) Roger A. added that when the town attorney was asked about the status of Break Neck Hill Road, the reply was that no one could block it or own it.

When the applicant returned, Attorney Lemieux stated, "Is it our understanding that the road design on the plan, without taking into consideration the road contours and stormwater analysis, etc, does it meet the requirements of construction of a private right-of-way road?" Roger A. replied, "Just on the cross sections only. Without the topography and the drainage, or how a 50-year storm would be addressed, at this time the plan is incomplete." (Shapleigh Zoning Ordinance 105-26 "Stormwater runoff.")

Attorney Lemieux asked, "Because it is incomplete, the Planning Board will not take any further action, is this correct?" Roger stated, "True." Attorney Lemieux asked if he could get a vote on this. Roger stated, "Sure".

Diane S. made the motion that the Planning Board table the application until they receive the information requested. John K. 2nd the motion. All members were in favor.

Attorney Lemieux asked, "The road as shown on the plan is gravel, does this meet the requirements of a private right-of-way? The road will not have to be paved?" Roger A. replied, "That is up to the Planning Board. I spoke with the attorney and because of the slopes being 10% there is a probability it would have to be paved to be stabilized." Steve M., CEO, stated "Because that requirement is not in Zoning, the requirement of pavement could be waived." Roger agreed.

Attorney Lemieux asked if there were any concerns with the road width on the plan? The Planning Board members agreed it met that road requirements.

Attorney Lemieux asked if there were any other statute restrictions that the road did not meet? Roger A. replied, "We cannot tell until we get an engineer to look at it." Ms. Henry asked if the engineer had to look at the hill or the entire road? Barbara G. stated the entire road needed a stormwater plan. Ms. Henry stated she was referring to the pavement. Roger A. stated that the engineer will be able to tell if there needed to be pavement required in order to meet the traffic requirement and for the safe passage of safety vehicles. If he (the engineer) says it needs 500 feet of pavement then the Planning Board is going to go with his recommendation. And if he says it needs 700 or 800 feet we will look at that. The Planning Board cannot answer that question right now. Roger stated he had no idea.

There were no further questions from the Planning Board or Attorney Lemieux. The Planning Board will table this application pending the receipt of a new plan.

Nothing more was discussed.

Best Possible Location – Add a Full Foundation, New Roof & Change Pitch of Roof, Add Loft and New Septic – Map 40, Lot 56 (15 Emily Lane) – Owner Daniel & Christina Picanco, Applicant David Boutilier

Mr. Boutilier was present to represent Mr. and Mrs. Picanco for this application review.

Mr. Boutilier stated that the proposal was to jack up the existing building, dig out the remainder of the basement and put in a full foundation. In addition, they wanted to remove the existing roof, change the pitch of the roof adding a gable toward the pond. They would like to add a loft in this new section, keeping within the 30% expansion allowed. In addition, a new septic system would be put in. The exact location is not known at this time, it may be across the street, on property the applicants own. Mr. Boutilier stated that John Large was doing the septic design. Mr. Boutilier stated that the applicants had no problem with the Planning Board suggesting where they would like the septic system located.

Mr. Boutilier gave the Planning Board a sketch plan which showed the home to be approximately 34' from the high water mark, 16' to the left lot line, 38' to the right lot line and approximately 34' to the edge of the road. The existing septic system is located between the existing home and the road. The proposed septic would be placed across the street. This new system would be larger than the existing.

The Planning Board asked how much higher the house would sit off the ground? Mr. Boutilier stated that it would be between 2 and 3 feet higher than the existing location. Enough to get the home off the ground where it currently rests in one location. Roger A. stated that the most the home could be raised is 3' in height.

Roger asked board members if they had any questions. There were none.

The board members decided to do the site inspection on an individual basis due to light constraints this time of the year. A notice to abutters shall be mailed out.

Nothing further was discussed at this time.

Memo from Ruth Ham regarding Growth Ordinance and cost to town of each new household.

The Planning Board reviewed Selectman Ruth Ham's memo which was requested by Barbara G. to give additional information to evaluate while reviewing possible changes to the Growth Ordinance.

The Planning Board is trying to gather pertinent criteria to add to the Growth Ordinance so it accurately mirrors the cost to the town per new home. Ruth Ham's memo showed the average cost per new home with respect to town services, which included the largest cost to the town being the school system. After review of Mrs. Ham's memo the following changes / additions were made to page 2 of the Growth Ordinance:

Growth Ordinance

- (a) To ensure that the Growth Permit issuance system is not abused by individuals who would obtain Growth Permits when they are otherwise (perhaps financially) not able to commence construction within several months.
- (b) To allow growth of the residential population of the town at a rate which would not impose an undue burden upon the provision of community services (including education, fire protection, road maintenance, waste disposal, health services and welfare) and which would be compatible with the orderly and gradual expansion of said services.
 - (1) **During the most current review of the tax base for 2004, the Education system accounts for 73% of the cost to taxpayers. The figure calculated per child per year for 2004 is \$5,314. With this figure it is apparent that any household with even one child would be an impact since there are not enough property taxes derived from the average house to generate enough money to pay for one child's education. Therefore, the Growth Ordinance system must calculate growth in such a way as to assure the town can fund education at the current levels and those of the future.**
- (c) **To guide Shapleigh's expansion so that the annual increase in population and dwelling units shall not exceed the average rate of population and housing growth which occurred within the sub-region between 1990 and 2004. During this time period, the compounded annual growth rate for the sub-region was a population of 2.59% and housing of 3.06% growth. With the projected need for housing growth of 3.06%, the maximum annual increase in Shapleigh's housing stock should be 34 units.**
- (d) **To guide Shapleigh's expansion so that the increases in education costs are predictable and manageable. The current cost per child in the educational system averages over \$5,000, and the cost per family averages \$6,500. This creates an increased tax burden of \$221,000 annually with a growth cap of 34 units, and amounts to roughly an 11.5% increase annually in the municipal education bill. Therefore, in view of the increase in education costs, the maximum annual increase in housing shall be 34 units. This annual total shall be subject to the issuance procedure in Section 1.8 below, and to the exceptions noted in 1.5. The number of growth permits to be issued in any one year may be amended only by the town's legislative body.**

1.1 Existing Structures

This ordinance shall not apply to the repair, replacement, reconstruction or alteration of any existing building structure as long as no additional dwelling units are created by such construction.

Seasonal conversions are additional dwelling units.

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The changes which are in bold will be presented to the townspeople at town meeting in March 2005.

There will be a public hearing on all proposed changes to the Growth Ordinance on Tuesday, December 14, 2004.

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

The Planning Board meeting ended at 9:55 p.m.

Respectively submitted,

Barbara Gilbride
Planning Board Secretary planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES
Tuesday, November 23, 2004

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

The Planning Board meeting started at 7:32 p.m.

Roger A. made the motion to accept the minutes from Tuesday, October 26, 2004 as amended. Diane S. 2nd the motion. All were in favor.

(There were typographical errors on pages 11 and 14.)

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

Best Possible Location – Add a Full Foundation, New Roof & Change Pitch of Roof, Add Loft and New Septic – Map 40, Lot 56 (8 Teal) – Owner(s) Daniel & Christina Picanco, Applicant David Boutilier

Mr. and Mrs. Picanco attended the meeting.

The application is a proposal to jack up the existing building, dig out the remainder of the basement and put in a full foundation. In addition, the Picanco's want to remove the existing roof, change the pitch of the roof and add a gable toward the pond under which would be a loft. This expansion would be within the 30% expansion allowed. A new septic system will be put in on the rear of the property, on the far side of the existing right-of-way. The Picanco's gave the Planning Board a copy of a septic design dated 8/03/02, done by John Large, SE #7.

During the last Planning Board meeting the sketch plan was reviewed which showed the home to be approximately 34' from the high water mark, 16' from the left lot line, 38' from the right lot line and approximately 34' from the edge of the road (right-of-way). The existing septic system is located between the existing home and the road (ROW).

Members Diane S., Barbara G. and Madge B. did a site inspection of the property.

Roger A. reminded the applicants that the camp cannot be lifted more than 3' above the ground level. Mr. Picanco said that he understood.

Roger A. stated the Planning Board had received a note from an abutter, a Mr. Carl Weiss. The note stated, "Dear Sir, No objections." The note was dated 11/16/2004. It was the only abutter letter / note received.

Diane S. asked what percentage of the camp would be replaced? The Picanco's stated they would be basically leaving the outside walls only, most everything else would be replaced due to water problems having caused so much damage.

Diane S. asked the Picanco's if they considered turning the house 90 degrees, so that it could be moved farther back from the water? (The house dimension is 18' 6" x 40', and currently the 18' 6" is parallel to the high water mark, with the house running 40' deep.) Diane noted there was enough room to meet the side setback even with turning the house 90° and there would be a greater setback from the water to the house.

The Picanco's stated they had thought of turning the house but they did not know it was an option. Diane S. added that the house did not have to remain 18' 6" wide; it could be 24' by X, just as long as the 30% expansion was calculated. The Picanco's stated they would speak with the builder to discuss their options, which included the cost to totally rebuild the home.

Steve M., CEO, asked, "Why don't we let them go and get additional information and come back to the Planning Board?" The Picanco's asked if they would have to reapply for another Best Possible Location Permit, including paying another application fee? Roger A. agreed the Planning Board could table the application and told the Picanco's there would be no additional fees from the Planning Board.

Roger A. reiterated the fact that if the applicants turned the camp, they would gain approximately 18' on the setback to the water.

Steve M. told the applicants to do the square foot and volume calculations to figure out what size the new home could be. He told them to be sure to include the 30% expansion in the calculations for the new home.

Diane S. told the applicants they would need 30' total to meet the side setback requirement. She noted that the side setback could be 15 feet on either side of the home or 10 feet on one side and 20 feet on the other. (For setback requirements see Shapleigh Zoning Ordinance 105-18 "Dimensional requirements.")

Roger A. stated the applicant's would need to keep the back of the new home parallel to the rear lot line.

Mr. Picanco asked if it was o.k. if the new foundation caused the old septic system to be dug up because they did not know the exact location of the existing system? Steve M., CEO, stated it was likely the existing septic system would get encroached on with the excavation of the existing foundation since it was not unusual to have an area of up to 10 feet opened up beyond the actual foundation. Steve stated it would not be a problem to have the old septic system dug up.

The Planning Board had no further questions for the applicants. Mr. Picanco stated they would come back once they had more information from the contractor. Barbara G. told the applicants to contact her when they were ready. Steve M. told the applicants to contact him if they had any questions.

This application is tabled pending additional information. Nothing further was discussed.

14-Lot Subdivision Located Between Shapleigh & Acton – Map 1, Lot(s) 17 & 19 (Lebanon Road) – Applicants Richard & Carolyn Levesque; Representative, Corner Post Land Surveyors

Mr. and Mrs. Levesque were present for this review. Mr. Dana Libby of Corner Post Land Surveyors was present to discuss the application. In addition, Mr. Dwight "Chip" Venell, Chairman of the Planning Board for the Town of Acton was in attendance. There was also one other Acton Planning Board member in attendance (name?).

Mr. Libby stated the main purpose of this meeting tonight was to verify that the proposed location of the subdivision road was acceptable to the Town of Shapleigh before the applicants proceeded with additional engineering on the project.

The Planning Board members reviewed the plan before them.

Mr. Libby stated the plan depicted an area off the subdivision road which provided for a turnaround and there would be open space on each side of the proposed road (located on the Shapleigh side). Mr. Libby stated the open space area would probably be used for stormwater detention since the area is wet and contains a small stream. He stated there would be a stream crossing permit required and if the 4,300 square foot threshold was crossed a DEP permit would be required.

Steve M., CEO, asked if the permit requirement would apply to other wetland areas on the plan (on the Acton side)? He also asked if the forested wetland was under 4,300 square feet but was associated with a great pond, would a permit be required? Mr. Libby stated yes, but in this case it was a forested wetland area only.

Steve M., CEO, asked Mr. Libby if he knew what the size of the building envelopes would be? (There was concern with several lots that have a large amount of wetland on them which cannot be calculated into the square foot requirement of a building lot.) Mr. Libby stated they did not know the size of the building envelopes at this time as the current plan will probably change, i.e. lot lines, after the topography is looked at.

Roger A. told Mr. Libby that the DEP was sent a copy of the current plan and they (Dawn Buker of the Dept. of Environment Protection in Portland) questioned the number of lots. There appeared to be more than 15 lots on site. Mr. Libby replied that he wasn't sure what plan was sent. He asked if the open space was labeled on the Shapleigh side? Barbara G. stated it was the current plan before the board members.

Mr. Libby stated the issue of what is a lot is whether or not the parcel is offered as a sale or lease. The lots in question are going to be open space. Roger A. asked if the lot goes all the way to the town line (the line between Acton and Shapleigh)? Mr. Libby replied, "Yes, everything in this area in Shapleigh will be open space."

Madge B. asked about Lot #13, she stated that by the town's definition, this was a spaghetti lot. Madge asked Mr. Venell, if the Town of Acton cared about the configuration of a lot. Mr. Venell stated that they did have something in their ordinance regarding odd shaped lots but he did not have the information with him.

Mr. Libby and Steve M. both stated that the issue of spaghetti lots only applies to the Shoreland Zone and added that this project was not located in that zone. Mr. Libby stated if the shape of the lot was an issue for either town, the applicant could restrict the use on the property. Mr. Libby noted that the lot is already in existence currently so there was nothing the applicants could do about its configuration. Roger A. agreed.

Madge B. asked, "Do you (Town of Acton Planning Board) require any open space in a subdivision? Mr. Venell stated, "It depends, I don't know that it is a hard and fast rule."

Roger A. asked where a fire pond would be located on site, or if in-home sprinkler systems would be used? Mr. Levesque stated they did not want to use in-home sprinkler systems. Mr. Libby stated they would not know the location of a pond until the engineering was done. Mr. Libby said they might be able to line an area (materials used to maintain a sufficient water level) on the property for a pond. He added that if they could not do this, they would use underground water holding tanks. Roger stated that he asked the question because depending on the location of the fire pond, building envelopes could be affected. Mr. Libby stated the entire plan would be redesigned after the engineering was done.

Roger A. told the applicants he saw no major problems with the project. Roger stated the DEP would require a Tier 1 permit and possibly a Tier 2 II permit. Roger stated that some type of fire protection would be necessary.

Madge B. asked what type of improvement would be done to the road? Mr. Libby stated the road would be done to the Town of Shapleigh's standards, with whatever was required such as culverts and ditching.

Madge B. asked how wide the Lebanon Road was. Madge stated this could be an issue if in the future the road needed to be widened. Roger A. noted that Road Commissioner Richard Goodwin stated the Lebanon Road was in poor shape in this location and that the increase in traffic could be an issue. The road may need to be improved. Mr. Libby said he had spoken with Mr. Goodwin and Mr. Goodwin said as long as the developer was not going to decrease the level of service to the road, he would not have an issue.

Madge B. asked if the road (Lebanon Road) had a 50 foot wide right-of-way? Roger A. stated that yes it did, so that would not be a problem. Roger said that because of the wet area in this location, the road was in poor condition. Mr. Libby said that the Lebanon Road may improve with the subdivision road going in, because the developer would be doing some stormwater work which may help to divert some of the wetland. Madge asked if there was a stream in this location or just a wetland? Mr. Libby stated there was water flowing so he believed the DEP would look at it as there being a stream.

Mr. Libby stated the DEP thought the applicant may need a stormwater permit. Mr. Libby said that only a small portion of the property was in a watershed area but he would be looking into it to see if the applicant needed a permit. He stated that if one was needed, he would apply to the DEP for it. Roger A. stated that he thought the DEP was looking at the road with respect to the stormwater permit. Mr. Libby agreed stating the DEP was looking at how much impervious area was going to be generated. He stated that in a watershed at risk the area is 20,000 sq. ft. In a watershed it was 40,000 sq. ft.

Mr. Libby stated that if there were no problems with the plan he would go forward with the project (get the engineering done).

Roger A. noted that Attorney Durwood Parkinson stated the review process should go through the Shapleigh Planning Board with both Planning Boards present and with approval from both boards. Mr. Libby stated he believed there needed to be joint meetings and he did not believe it had to be in Shapleigh but he would hold them wherever both towns wanted them. Chairman Venell of Acton stated his board members had not said whether or not they cared about who runs the meetings. He stated that he would try to be certain he had a quorum from Acton present if they are held in Shapleigh. Mr. Libby stated he would like to set a tentative date to begin the review process.

(Attorney Parkinson, in his letter dated 9/29/04 entitled "Re: Levesque Property/Acton-/Shapleigh Subdivision" stated on Page 4, "Agreement with Acton. Moreover, I have preliminary discussed this matter with the Town of Acton, and it is willing to proceed with the Town of Shapleigh taking the primary role throughout the subdivision review process. You, however, should confirm this directly with the chairman of the Acton Planning Board....")

Mr. Libby asked if the Town of Shapleigh was going to send the plans to Southern Maine Regional Planning Commission (SMRPC) for review? Mr. Venell stated that on a project this large, Acton might have SMRPC review the plans at the developers cost. Mr. Libby asked if he should send SMRPC a copy of the plans when he mailed the plans to both planning boards? Mr. Venell stated that because of the large amount of wetland and the fact two towns were involved, he thought SMRPC should be involved.

Mr. Venell stated they (Town of Acton) had used Paul Schumacher of SMRPC in the past. Roger A. agreed Mr. Schumacher would be a good contact.

Madge B. questioned again whether or not there would be an issue with several lots that were “odd shaped”? (Shapleigh Subdivision Ordinance 89-28 “Lots”; G “Flag lots and other odd-shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited. The ratio of lot length to width shall not be more than 3 to 1.”) Mr. Vennell stated that the pie-shaped lot may be an issue. Mr. Libby replied, “The intent (of the ordinance) is so there aren’t strips attaching to large pieces just to gain area. For example, a small building lot attached to a larger lot.” Mr. Libby added the fact they could change lot lines after they do the engineering for the plan.

Mr. Venell asked if he did not always have a quorum at the meeting, would it be a problem for the applicants? Roger A. asked if the applicants would accept an alternate member to gain a quorum. Mr. Venell stated that from his perspective, Acton always accepts alternates as long as they have attended the meetings. The applicants agreed stating they had no problem with using an alternate member.

Mr. Libby stated he could take the plans to an Acton meeting and get their vote on the plans, then take the plans to Shapleigh for their vote, if this would work best.

There were no further questions.

A meeting was tentatively scheduled for Tuesday, February 22, 2005 at the Shapleigh Planning Board meeting to review the preliminary plans. Mr. Libby will mail a copy of the plans to both planning boards as well as SMRPC prior to this meeting.

Nothing further was discussed.

14-lot Subdivision – Map 1, Lot 24 (Lebanon Road & Deering Ridge Road) – Applicant Leonid Temkin, Representative Corner Post Land Surveying, Inc.

Mr. Dana Libby of Corner Post Land Surveyors was present to represent the applicant.

Mr. Libby stated that Mr. Temkin wants to sell the lot called Lot #14 on the plan now. Mr. Libby stated that Mr. Temkin had held the land for five years so he is able to sell this lot prior to creating the subdivision. The lot will be included as part of the subdivision, but it will not be a numbered lot. (Mr. Temkin bought the lot in 2003.)

Roger A. and Madge B. stated that in the past the Planning Board had required the lot to be numbered, but did not impose the subdivision restrictions on the lot.

Roger A. stated that the Planning Board charged for each lot on the plan, which is why each lot is numbered. Mr. Libby stated that if the Planning Board numbered the lot, according to State subdivision rules, any changes to the lot would have to come back to the Planning Board for approval / review, even though it did not require approval to begin with because it is an exempt lot. Mr. Libby felt the board members were trying to impose restrictions on the lot in the future, which is exempt now. Mr. Libby did agree the lot should be placed on the plan. Madge B. said this issue was not something to get hung up on at this time.

Mr. Libby stated the wetlands were mapped out on the plan. He also stated there was a flood zone which was depicted on Lot #12. The flood zone ran 50 feet above the Mousam River.

Mr. Libby asked the board members if the Town of Shapleigh allowed hammerhead turnarounds or did they require a cul-de-sac? Madge B. replied that in the Subdivision Ordinance 89-36.K it states in part, "Dead-end streets. In addition to the design standards above, dead-end streets shall be constructed to provide a cul-de-sac turnaround with the following requirements....." Madge added that the Planning Board had not always required one. Mr. Libby asked what the Road Commissioner required? Roger A. and Steve M. both agreed the road commissioners preferred the hammerhead turnaround. Mr. Libby asked, "So the town does allow for hammerheads?" Roger replied, "Yes."

Madge B. noted that the Planning Board may want to consider changing this ordinance to allow for the hammerhead turnaround. The other board members agreed.

Mr. Libby asked, "This requirement is in the subdivision standards, so it can be waived by the Planning Board?" Roger A. and Madge B. stated, "Correct."

Roger A. added that on other subdivisions the Road Commissioners recommended a hammerhead turnaround and the Planning Board allowed them. Steve M., CEO, added that he believe Road Commissioner Burnell preferred a right hand hammerhead over a left handed due to the plow configuration (the plan currently shows a left hand turn). Mr. Libby stated it did not matter to him; he can change it on the preliminary plan.

Mr. Libby stated the applicant was not requesting any waivers. Madge stated that he would want a waiver for the cul-de-sac requirement. Roger A. asked if there would be underground utilities? Mr. Libby stated there would.

Madge B. asked how the board members would deal with the land that is not suitable for development? She was referring to all the wetland shown on the plan. Steve M. stated that it could not be calculated as part of the building lot. Madge referred the board members to Ordinance 89-26 "Land not suitable for development." Mr. Libby stated that he would meet this requirement. He added that the current plan was only a sketch plan. The lots were created prior to mapping out the wetland. Mr. Libby said that if the lots needed to be expanded, because of the amount of wetland, they would be.

Roger A. asked Mr. Libby if they would be asking for a waiver for fire protection since it was indicated there were two fire hydrants located within ½ mile of the property? Mr. Libby stated they would. Madge B. added that he would probably want a waiver for sidewalks as well.

Steve M. asked if there would be the required 200 feet of lot frontage required on Lot #12, which contained the hammerhead turnaround? Mr. Libby stated that every lot would meet the minimum lot requirements. Mr. Libby asked if the Town of Shapleigh accepted the frontage along the hammerhead as lot frontage? Roger A. replied, "We have accepted the running frontage on all prior reviews and I don't see why we wouldn't here."

Madge B. asked Mr. Libby if he was going to have any open space? (Subdivision Ordinance 89-25, "Retention of open spaces and natural or historic features" (A.) 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....") Mr. Libby stated, "No, there is going to be remaining land."

Madge B. asked how wide the Deering Ridge Road was. Mr. Libby replied, "3 Rods."

Madge B. stated that if Lot #14 was removed from the current plan, there would not be a problem with an arterial road (Lot #14 borders the Lebanon Road).

Madge B. asked Mr. Libby if it was possible to have the driveway for Lot #14 enter onto the Deering Ridge Road instead of the Lebanon Road? Mr. Libby replied, "The better building envelope is on the Lebanon Road side." He added that they could review the lot again to see what would work best. Madge stated the Planning Board was trying to reduce the number of access points on a commuter road. Mr. Libby asked if there was something in the ordinance to address this? Madge stated the ordinance addressed limiting access onto an arterial road but added that she was in no position to argue the fact of whether or not the Lebanon Road was an arterial road or just a commuter road. Madge also said she knew the board members had no control over Lot #14 if it was not going to be part of the subdivision. (Madge was referring to Subdivision Ordinance 89-36.G "Where a major subdivision abuts or contains an existing or proposed arterial street, no residential lot may have vehicular access directly on to the arterial street. This requirement shall be noted on the plan and in the deeds of any lot with frontage on the arterial street.")

Diane S. was concerned with where the entrance to the subdivision would be located. Diane noted that there was a sharp corner where Deering Ridge and Lebanon Road meet. Diane was concerned with the fact that people do travel fast on this corner and if they could not see someone entering or exiting the subdivision it could be serious. Diane asked what the site distance was at the subdivision entrance? Mr. Libby stated that he did not have that information at this time. He stated the site distances would be reviewed again and if necessary trees would be cleared to make certain there wouldn't be a problem. Alex M. agreed this corner could be very dangerous.

Madge B. asked if there were going to be specific building envelopes? Mr. Libby stated the building envelopes were going to be the setback requirement. (Shapleigh Zoning Ordinance 105-18; Front Setback 75 feet from the centerline of the road or 50 feet from the right-of-way, whichever is greater.)

Madge B. noted that several lots had a large amount of wetland located within the boundaries. She stated this could be a problem for both the building location and with respect to meeting the minimum lot size. Mr. Libby stated this would be considered during the engineering phase of the project. Roger A. stated that it was likely the current lot lines would be shifting due to the location of the wetlands. Mr. Libby agreed.

Road Commissioner Richard "Dick" Goodwin arrived at the meeting.

Mr. Goodwin was concerned with the corner of Deering Ridge Road and the Lebanon Road. Mr. Libby stated that they had measured the area and the entrance to the subdivision would meet the site distance requirements. The exact location of the road entrance was not on the plan at this time.

Mr. Goodwin, looking at the plan, agreed he preferred a hammerhead turnaround. Mr. Goodwin stated he did not like a cul-de-sac unless it was extremely large. Mr. Goodwin added that he did not want the hammerhead to be part of someone's driveway.

Mr. Goodwin stated he wanted Mr. Libby to be aware of the large volume of water that would be affecting the subdivision road (due to the wetlands). Mr. Libby stated that he understood and that the engineers would address it.

Madge B. wanted to address Lot #14 again and how the lot would be reviewed. Mr. Libby stated that if Mr. Temkin had already cut out the lot, it would not have been part of the subdivision. It would not have to go through the approval process. Steve M. stated that if you cut the lot out, you would have to wait five years before that would be true. Roger A. agreed. Mr. Libby did not. Mr. Libby stated that what created the subdivision would be the third lot.

Steve M. stated he understood what Mr. Libby was saying but asked what if we were talking about three lots? Mr. Libby replied, "The first lot is exempt, end of story. When you divide the second lot that is the creation of the subdivision." The last two lots get subdivision approval, not the first lot. Steve stated that he understood but respectfully disagreed. Mr. Libby stated that once a lot is exempt, it is always exempt. He stated the DEP looks at it the same way.

Roger A. stated the Planning Board always included the lot, and required a review if any changes were made. The Planning Board would then amend the approved subdivision plan with the change. Mr. Libby stated the lot in question would not be an issue for this plan because it cannot be redivided (acreage not large enough). Mr. Libby stated that Roger may want to ask the Planning Board attorney for clarification on this issue.

Steve M. stated that he believed an owner would have to own the land for five years prior to making another division; otherwise it would be part of the subdivision. (He was referring to a lot owner creating two or more lots within a five year period.) Mr. Libby stated he believed Steve was thinking of gift laws. A gift to a relative has to be held for five years to be exempt from subdivision law.

Diane S. asked about Lot #4, was the shape of it an issue (pie shaped)? Madge B. did not feel a pie shaped lot was unusual. Madge said the developer needs to be certain they could meet the criteria of a lot. Madge said the wetlands had to be removed from the acreage calculations on all the lots.

There were no other comments or questions at this time. Nothing further was discussed.

Roger A. showed Road Commissioner Dick Goodwin the plans for the 14-Lot Lebanon Road subdivision, discussed earlier in the evening. Mr. Goodwin was concerned with the wetland area located where the road would be built.

Madge B. asked Mr. Goodwin if he thought the Lebanon Road was 3 rods wide? She was concerned if any road widening was necessary, there needed to be enough room so no lot sizes would be reduced. Mr. Goodwin stated he assumed the road was 3 rods wide. He has seen no actual survey. Mr. Goodwin stated the only thing that could cause a problem would be if the town was to consider changing the direction of the road to take out some of the corners. Mr. Goodwin stated that would not occur after the homes go in. He said the time to make this type of change is before the houses go in.

Mr. Goodwin stated the elevation of the road would not change much. He did not foresee rebuilding the Lebanon Road. It had been built in the 1950's. He said there are some drainage issues so the existing stone wall may need to be moved, but it should be within the 3 rods and not affect the subdivision.

Alex M. asked about the quality of the Lebanon Road in this location. Alex asked if the road was a good solid road? Mr. Goodwin stated that in the area of the subdivision there were logs under the road. If the road was ever rebuilt it would have to come up several feet. Mr. Goodwin did not see this taking place but if something happens to change the traffic flow as to damage the existing road, it may have to happen.

Alex M. felt that most of the traffic would go toward Rte. 109. Alex stated he believed the Planning Board should require a traffic study. Alex thought that with a 14 lot subdivision there could be a minimum of two cars per family, which could equate to 28 trips in the morning alone. This didn't include trips to school, soccer practice, etc. Alex said the town could be looking at 100 additional automobiles on the road a day using the Lebanon Road.

Mr. Goodwin stated he was not worried as much about automobile traffic as with the heavy equipment. He did not think the road would hold up under heavy equipment, such as construction vehicles (concrete trucks, gravel trucks, etc.).

Mr. Venell asked if the Planning Board had asked for a traffic study at the last meeting, he thought they had. Roger A. said they had stated they would require a traffic study. Mr. Venell stated the board members could have SMRPC ask them for one when they review the plans. Roger agreed.

Mr. Venell asked if the board members thought there should be another site inspection once the new lot lines were established? Roger A. believed it would be best as did the rest of the board. Mr. Venell noted that even the road has been moved from the original plan.

There was nothing further discussed.

Conditional Use Permit – *Earth Moving > 150 Yards* – Map 2, Lot 34A (Walnut Hill Road) – Joachim & Sarah Angeltun

Mr. and Mrs. Angeltun were not present. This application is tabled until more information is presented.

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

The Planning Board meeting ended at 8:40 p.m.

Respectively submitted,

Barbara Gilbride

Planning Board Secretary planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES
Tuesday, December 14, 2004

Members in attendance: Roger Allaire (Chairman), John Klimas, Alexander MacPhail, Madge Baker (Alternate) and Barbara Gilbride (Secretary). Code Enforcement Officer, Steven McDonough was also in attendance. *Note: Madge Baker and Alex MacPhail were unable to attend the Public Hearing.*

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

Final Review of Possible Changes to Growth Ordinance

Roger A. read the proposed changes to the Growth Ordinance, they are as follows:

1.4 Purpose

- (f) To allow growth of the residential population of the town at a rate which would not impose an undue burden upon the provision of community services (including education, fire protection, road maintenance, waste disposal, health services and welfare) and which would be compatible with the orderly and gradual expansion of said services.
 - (1) **During the most current review of the tax base for 2004, the Education system accounts for 73% of the cost to taxpayers. The figure calculated per child per year for 2004 is \$5,314. With this figure it is apparent that any household with even one child would be an impact since there are not enough property taxes derived from the average house to generate enough money to pay for one child's education. Therefore, the Growth Ordinance system must calculate growth in such a way as to assure the town can fund education at the current levels and those of the future.**
- (g) **To guide Shapleigh's expansion so that the annual increase in population and dwelling units shall not exceed the average rate of population and housing growth which occurred within the sub-region between 1990 and 2004. During this time period, the compounded annual growth rate for the sub-region was a population of 2.59% and housing of 3.06% growth. With the projected need for housing growth of 3.06%, the maximum annual increase in Shapleigh's housing stock should be 34 units.**
- (h) **To guide Shapleigh's expansion so that the increases in education costs are predictable and manageable. The current cost per child in the educational system averages over \$5,000, and the cost per family averages \$6,500. This creates an increased tax burden of \$221,000 annually with a growth cap of 34 units, and amounts to roughly an 11.5% increase annually in the municipal education bill. Therefore, in view of the increase in education costs, the maximum annual increase in housing shall be 34 units. This annual total shall be subject to the issuance procedure in Section 1.8 below, and to the exceptions noted in 1.5. The number of growth permits to be issued in any one year may be amended only by the town's legislative body.**

1.8 Growth Permit Selection System

- (a) **A maximum number of 34 dwelling units shall be granted Growth Permits in each calendar year, plus 2 additional Growth Permits that shall be for affordable housing constructed by Habitat for Humanity.**
-

1.10 Expiry of Permits

Growth Permits selected and issued in accordance with this ordinance shall expire after ~~three (3) months~~ **90 days**, unless a building permit has been issued. This time period may be extended by the Code Enforcement Officer if issuance of a building permit is delayed due to a technical problem.

1.11 Non-Transferability

Growth Permits shall be site-specific, and shall be valid for construction only on the lot specified on the application. However, said permits shall be transferable to new owners of the lot, should the property change hands. If a Permit is transferred, the date of issuance remains unchanged.

1.15 Review Procedure

The ordinance shall be reviewed every **three (3)** years by a committee comprised of the Board of Selectmen, the Planning Board and the Code Enforcement Officer.

Roland Legere – Does the \$5,300 include the State subsidy to the schools or is that taxpayer cost?
Steve M. and Roger A. believed it was taxpayer cost as this figure is what it cost the Town of Shapleigh.

Roland Legere – Knowing how the taxpayers feel about the cost of education, why hasn't the number of Growth Permits gone down?

Roger A. stated that the school budget increases each year regardless of the fact that the number of children decreases. The cost of salaries, insurance, busing, etc. increases. In addition, with a new school going in, the cost is going to rise further.

Roland Legere – I understand that, but at some point the number of children will go up and then the number of teachers will go up, more buses will be needed, so it seems an argument could be made that we should decrease the number of permits allowed.

Roger A. replied stating the number used comes from SMRPC based on the regions growth, not just Shapleigh. This includes towns like Acton, Waterboro, Sanford, the Berwick's, etc. This is how the number is derived. The number could be as low as 28 according to SMRPC (the range was between 28 and 34). Roger stated that because the permits were all issued within the 1st quarter of the year for the past two years and the last quarter for the preceding year, the Planning Board did not feel they should decrease the number allowed. In addition to the 34 issued, Habitat for Humanity will be able to obtain 2 permits. If they do not use these permits, they will not go to someone else. They can be used for Habitat for Humanity only.

Roland Legere – Who takes the permits out for Habitat for Humanity, the person the house is built for?
Roger A. stated Habitat for Humanity takes out the permit.

Roland Legere – So they do not have to be here on January 4th. They can wait until land becomes available?

Roger A. stated that was correct. But again, the permits do not get put into the pool of permits issued, nor do they get rolled over.

There were no other questions from the audience.

The Public Hearing closed at 7:20 p.m.

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

The minutes from Tuesday, November 23, 2004 were accepted as written.

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

Conditional Use Permit – *Earth Moving > 150 Yards* – Map 2, Lot 34A (Walnut Hill Road) – Joachim & Sarah Angeltun

Mr. and Mrs. Angeltun were present for review of their application. In addition, Eric Williams, PE, of Land Use Consultants was present.

An engineered road plan was received by the Planning Board. The plan included stormwater drainage and topography.

Roger A. asked Mr. Williams about the fact that the grade of the road at one point was greater than 10%. Roger wanted to know if that was taken into consideration when the stormwater plans were created?

Mr. Williams stated that he interpreted the grade as an existing condition. To accommodate the grade, several erosion control methods were used including check dams along the side of the road to slow the water flow and at the bottom of the grade a level spreader / ditch turnout will be created. By using these two methods, if the water gets accelerated, it will spill from the ditch turnout into the natural drainage area. Mr. Williams stated the check dams consisted of specified rock that would stay in place to keep everything from washing out.

Mr. Williams stated several additional culverts were added since the original plan was presented. Mr. Williams showed the members how the water flowed naturally and how the plan would accommodate this, in part by an additional 15" culvert. There were calculations provided showing how this water would flow as well as where the water coming down the steep grade would go.

Roger A. mentioned the location of old Break Neck Hill Road and how loggers destroyed parts of it and there was a lot of water that came through because of it. Roger also stated the water in this area seemed to run year round. Mr. Williams stated he was aware of this and the culverts and ditches should take care of the problem.

Roger A. stated a potential problem he saw on the plan was the fact that where the road came in currently, off the Walnut Hill Road, it crossed over another persons land. It is not on the right-of-way. Roger asked if there was any thought to moving the road so it is on the right-of-way in its entirety?

Mr. Williams stated that he had not proposed it because there had not been a problem to date. If it becomes an issue it would be easy to move. Mrs. Angeltun stated that if it was a concern they could move the road to the right-of-way. Mr. Williams agreed.

Madge B. asked if the Planning Board should require a letter from the abutter who owns the property the road is currently running over, stating they do not object to the road staying where it is. Roger stated it would probably be best if the road does not get moved onto the right-of-way.

Roger A. stated that the Planning Board would also require an engineer to inspect the road after it was completed, and would ask for a letter stating it was put in per the specifications on the plan. Roger believed because this road needs an engineer's approval, and the fact that three lots could access this road, it might be best to move the road entrance. Mr. Williams stated he would have to consult a surveyor to move the road. Roger stated for all concerned the total road should be on the right-of-way.

Roger A. stated he believed an engineer needed to be certain the ditch turnouts were put in correctly. Mr. Williams stated there would be a day that an engineer would be on site during construction. It was mentioned on the plan that the level spreader (ditch turnout) needed an engineer on site during its construction to ensure it was built per the plan.

Mr. Williams asked if everyone was clear on the wetland crossing. (Mr. Williams had mailed the board members some information regarding DEP requirements for wetlands.) Mr. Williams stated that because there was only one activity taking place on the wetland and the fact the square feet did not meet the requirement that would trigger the need for a permit, nothing further was required from the DEP. There were no questions from the Planning Board or Steve M., CEO.

Roger A. reviewed the Street Design Standards in 89-35 and 89-36 of the Subdivision Ordinance. The proposed plan would meet the requirements for a Private Right-of-Way. Roger A. stated that he did not believe a road performance guarantee would be required because the road would need to be signed off by an engineer before a Growth Permit would be issued for the Angeltun property. The engineer would need to certify the road was built to the standards as written in the ordinance and presented on the plan.

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 from the standpoint that the Town of Shapleigh wants all roads to be to a standard that safety equipment can pass over the road.***
- 4) Traffic access to the site is safe. ***It will be once the plan is completed and certified by an engineer.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***There are provisions to handle a 25 year flood per the approved plan.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***The only solid waste from this project will be tree stumps. They will be disposed of either by burying them on site or they shall be hauled off site by the contractor.***
- 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 stormwater plan provided for this project.***

- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***There will be silt fencing in place during construction of the road to prevent erosion as stated on the final plan.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***There is no fire protection for this project, nor should any be necessary for the construction of the road as proposed.***
- 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 natural buffers in place.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

Roger stated once again that the plans presented met the criteria for Subdivision Ordinances 89-35 thru 89-29, which all deal with Street Construction Standards.

Roger then reviewed Shapleigh Zoning Ordinance 105-39, "Earth removal and filling."

Conditions of Permit:

- 1) The smallest amount of bare ground shall be exposed for the shortest time feasible. The Planning Board shall set a specific date after which bare ground shall not be exposed.
 - ***Best Management Practices shall be used during construction of the roadway.***
- 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.
 - ***Silt fencing shall be used during construction of the roadway & ditching. There will be minimal ground disturbance outside of the roadway itself.***
- 3) Diversions, silting basins, terraces and other methods to trap sediment shall be used.
 - ***Check dams and ditch turnouts shall be built as part of the stormwater retention system designed per the plan.***
- 4) Lagooning shall be conducted in such a 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.
 - ***N/A for this project.***
- 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.
 - ***The amount and type of fill shall be as indicated in Subdivision Ordinance 89-37 "Street construction standards", and as indicated on the approved plan.***
- 6) Fill shall not restrict a floodway, channel or natural drainageway.
 - ***Culverts shall be put in place to prevent the restriction of all natural drainageways in the wetland area.***
- 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.
 - ***There shall be measures taken in the form of check dams and ditch turnouts to prevent erosion after the roadway is in place. During construction Best Management Practices shall be used, which includes silt fencing to prevent erosion as noted on the final plan.***

- 8) Where activities carried out under this article require the removal of existing ground cover, revegetation should be carried out.
 - ***N/A for this project. All ground disturbance is restricted to the roadway and ditching for stormwater management.***
- 9) -----
- 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.
 - ***Stormwater managements plans and construction plans for the roadway take into consideration steep slopes, existing waterways as well as future runoff.***
- 11) No excavation shall be extended below the grade of an adjacent street, except for drainageways, unless 100 feet from the street line. No excavation below the grade of the surrounding land shall be allowed within 100 feet of any side or rear lot line. However, removal of earth material deposits from hills or knolls may be allowed within 50 feet of a side or rear lot line if no excavation below the grade of abutter's properties occurs.
 - ***The roadway shall be built upon the existing right-of-way. The road shall be built to the standards for a private right-or-way for the Town of Shapleigh.***
- 12) Sufficient topsoil or loam shall be retained to cover all areas, so that they may be seeded and restored to natural conditions.
 - ***N/A for this project.***
- 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.
 - ***N/A for this project.***

Roger reviewed the following Zoning Ordinance 105-39.H "Optional conditions of permit.":

- (6) Provision of temporary or permanent drainage. ***There shall be ditches, check dams, and drainage turnouts created as a permanent means to contain the stormwater or existing water on site.***
- (7) Disposition of stumps, brush and boulders. ***Stumps, brush and boulders shall either be buried on site or removed from site by the contractor.***

Roger reviewed Zoning Ordinance 105-39.I "Surety and terms of permit.":

- (1) No permit shall be issued without a surety bond or other equivalent security to ensure compliance with such conditions as the Planning Board may impose. The bond or surety shall be in an amount recommended by the Code Enforcement Officer and approved by the Planning Board, as sufficient to guarantee conformity with the conditions of approval, taking inflation into account.

Roger stated that in lieu of a bond, no Growth Permit shall be issued to the property unless the road is done to town specifications and an engineer has signed off that the road was done per the approved plan. The other board members agreed.

Roger asked if there were any additional questions and there were none.

Alex M. made the motion to accept the road plan with the following condition:

- **The entrance to the private road (where it intersects with Walnut Hill Road) shall be placed on the actual right-of-way as written in the deed.**

John K. 2nd the motion. All members were in favor.

(Madge B. did not vote as she was not in attendance for all reviews of this project and there were enough regular members to cast a vote.)

Roger A. told Mr. and Mr. Angeltun that there needed to be a letter from the engineer mailed to the Code Enforcement Officer stating the road, check dams and ditch turnouts were installed per the plan.

Madge B. wanted to discuss the definition of subdivision so there would not be any confusion with respect to several subdivisions that would be before the Planning Board in 2005. She read the definition of Subdivision as written in the 2004 Maine Planning & Land Use Laws publication. After reading the definition the board members agreed the first division of a parcel of property is not a subdivision.

Madge B. also wanted to review the Planning Board By-laws that currently exist as well as the Planning Board Ordinance that was enacted by the voters in 2004. Madge explained that initially Planning Boards were established under a State Statute but that Statute was eventually repealed. Now it is up to each town to create an ordinance to establish the Planning Board and the Town of Shapleigh did so in 2004. This is now the Planning Boards legal authority to act.

Madge B. said the Planning Board By-laws need to be consistent with the Ordinance (which they are) but they can have more information contained within them (which they do). The By-laws spell out what the board members are to do with items such as Public Hearings, the posting of the agenda, the taking of minutes, and the fact that everyone must be treated fairly during the review process. Also, it is clear that due process must be followed, and everything that takes place is to be made public, including emails that deal with information pertaining to items such as individual applications and the decision making process. Madge stated that board members must bring any information to a meeting that is discussed outside the meeting if it has relevance to the decision making process.

Madge B. wanted board members to be familiar with the issue of "Conflict of Interest". When should a board member withdraw from review of an application? Madge stated that most often a board member knows if they have a conflict. Madge stated that this Planning Board to date has done very well in this area. Madge said that the reason for making sure there is no conflict was so a Planning Board decision would not be voided. Madge stated that any member can ask the fellow members if they believe there is conflict if the member is uncertain. Madge stated that "Conflict of Interest" is spelled out in the by-laws. Roger A. added that should a member want to resign from a vote, they need to state why they are doing so.

Madge B. stated she felt it would be a good idea to review the Planning Board manual at the next meeting. The other board members agreed. Roger A. reminded all board members to always feel free to ask questions if they are unsure of anything that takes place during the review process. Madge agreed.

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

The Planning Board meeting ended at 8:32 p.m.

Respectively submitted,

Barbara Gilbride

Planning Board Secretary planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES
Tuesday, December 28, 2004

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

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

The minutes from Tuesday, December 14, 2004 were accepted as written.

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

Questions from William Mageary regarding splitting a lot in the recently approved 5-Lot Town Farm Road subdivision.

Mr. and Mrs. Mageary, of 21st street in Shapleigh, came before the Planning Board with a question regarding Lot #2 of the 5-lot Town Farm Road subdivision known as Great Hollow Acres.

Mr. Mageary asked the board members if they thought it would be possible to split the 11.77 acre lot into two lots. Mr. Mageary stated the lot had approximately 466 feet of road frontage.

Roger A. told the Mageary's that any proposed change to this lot would have to come before the Planning Board as an amendment to the original subdivision. Mr. Mageary stated he understood. Roger stated the original lots had the stipulation that in-home sprinkler systems would be required in any new home. Mr. Mageary stated he had been told this and it was not a problem.

Roger A. stated that the other issue could be that by creating two lots from this lot, it appears to make two spaghetti lots because of the frontage to depth ratio. Roger said the Planning Board did not usually allow spaghetti lots. Mr. Mageary asked if the Planning Board would have a problem with the lot dimensions, knowing there would still be plenty of acreage after dividing the lots (approx. 5+ acres each)? Roger said again that a narrow lot isn't allowed per the ordinance.

Madge B. read Subdivision Ordinance 89-28.G under "Lots", it read as follows:

- G. Flag lots and other odd-shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited. The ratio of lot length to width shall not be more than 3 to 1.

Mr. Mageary reviewed the ordinance and he interpreted it to mean you could not create a lot by adding onto an existing lot to meet the acreage requirement. Mr. Mageary did not feel it pertained to dividing an existing lot. Mr. Mageary emphasized the first sentence which spoke of "in which narrow strips are joined to other parcels...". Madge B. felt the Planning Board had to deal with the 2nd sentence of this section as well as the first which clearly refers to the lot width not being more than 3 to 1.

Mr. Mageary asked if he were to designate part of the property as open space, which would not be buildable, would it eliminate the 3 to 1 ratio problem? (He would keep the back part of both lots as open space.) Mr. Mageary stated the realtor for this property thought by doing this the configuration of the lot would be changed and the realtor believed this had been done with another lot in the subdivision.

Diane S. asked if the Mageary's could split the lot in the other direction and build a road into the back lot to get the required road frontage? Roger A. stated it could probably be done but it would not be cost effective, the road would have to be very long (700+ feet) to get the required frontage for the back lot.

Madge B. stated again that the Planning Board has consistently applied the 3 to 1 lot ratio requirement when reviewing subdivisions. Madge reiterated that the Mageary's were asking the board members to apply the ratio only to flag lots and other odd-shaped lots as stated in the ordinance, and it was a fact that the Mageary's lot proposal was neither case. Because of this, Madge believed the Mageary's should get a legal opinion and perhaps the Planning Board should consult their attorney as well. Mr. Mageary said he did not have time to get a legal opinion as there was a back-up offer on the property in question.

Mr. Mageary thanked the Planning Board for their time. Nothing further was discussed.

**Conditional Use Permit – 11 X 24 Addition to Cottage for Handicap Ramp – George Jonah (Owner);
Maine Window and Sunroom Inc. (Applicant) – Map 33, Lot 4 (4 Treasure Island)**

A representative from MWS Inc. was present to review the application.

The owner of the property, George Jonah, would like to build an 11' x 24' addition to the cottage to be used for a handicap accessible bathroom and additional living space, as well as build a handicap ramp to be built to BOCA standards.

Madge B. asked why this application was before the Planning Board? Madge thought this might be a Zoning Board of Appeals issue since it appeared on the plans the ramp would not meet the side lot setbacks and it encroached toward the water putting it within the 100' high water mark. The gentlemen from MWS Inc. stated he was told he needed a Conditional Use Permit for the disability access, which is why he is before the Planning Board.

Roger A. agreed, citing Shapleigh Zoning Ordinance 105-4.D(8) "Non-conforming structures; Disability access". Roger read under (8)(a) "...There is one exception to this permission: any installation or construction which does not meet the required setback from the shoreline in a Shoreland District shall be allowed only upon receipt of a conditional use permit from the Planning Board." The plans presented show the handicap ramp to be within 100 feet of the water, as well as part of the proposed bathroom addition.

Roger A. told the MWS Inc. representative to make sure Mr. Jonah is aware the handicap ramp is only a temporary structure. It's necessity will be reviewed every three years by the Code Enforcement Officer and should the need no longer exist; the ramp must be removed within 90 days after the demonstrated need ends, per the ordinance (105-4.D(8)(c)).

Diane S. asked if the Planning Board received a doctor's note stating Mr. Jonah was indeed handicapped. Diane stated that in the past the Planning Board had required this from the applicant when a ramp was being installed that encroached upon the high water mark. Roger stated one had not been received. Roger told the MWS representative that Mr. Jonah would need a doctor's note prior to final review and approval.

Roger A. asked what the additional room area was for next to the proposed bathroom? The gentlemen from MWS stated it was for a changing area, large enough to accommodate the wheelchair. It was noted that only a small portion of the additional room was within the 100 foot setback to the water.

Roger A. asked how far the handicap ramp would be from the property line? The MWS representative stated it was approximately 9 feet from the lot line. Roger noted that if the new room addition was reduced in size, the handicap ramp could meet the side lot setback requirement. Roger stated that unless Mr. Jonah can show why the full width of the addition is necessary, the Planning Board would not have to allow the full width as proposed.

Diane S. asked if the existing structure had been added onto in the past? This could affect the 30% expansion allowance. The gentlemen from MWS did not know. (There are no permits on file for this map / lot except for a new septic design from 2002.)

Roger A. reiterated the fact the ramp would be a temporary structure only. Roger also read from Zoning Ordinance 105-4.D(8)(b) which read as follows, "Permission granted under this subsection is restricted solely to the installation of equipment or the construction of structures necessary for access to or egress from the property by the person with the disability...."

There was a suggestion made by Mr. McKenna, a member of the audience, that perhaps the ramp could be moved to the rear of the home, then it would not be encroaching toward the water or the lot line, and the only permit required would be from the Code Enforcement Officer. The MWS representative stated the rear of the property would be difficult for wheelchair access which is why it is located where it is on the plan.

Roger A. once again told the MWS representative that he needed to make certain Mr. Jonah knew the handicap ramp, if approved, would only be a temporary structure. Roger also stated he felt the proposed bathroom met the setback requirements but he was not sure the Planning Board could justify the additional room area. Diane S. believed the addition fell under the allowance for a 30% expansion, as long as the structure has not already been expanded its full 30% it would be allowed.

The Planning Board agreed to table the application until the MWS representative could contact Mr. Jonah to see how he wanted to proceed. The Planning Board will have to send out a notice to abutters and do a site inspection prior to further review. The application will not be put back onto the agenda until those items can be taken care of, along with Mr. Jonah wish to continue.

Nothing further was discussed.

Best Possible Location – Replace Existing Camp & Garage with New Camp — Dale & Karin Johnson (Owners); McKenna Brothers Construction Inc. (Applicant) - Map 32, Lot 31 (120 Dogwood Road)

Mr. McKenna was present to represent Dale & Karin Johnson and review the application.

Mr. McKenna stated the Johnson's wanted to remove the existing camp and garage and construct a new home on a full foundation. This new structure will be partly within 100' of the high water mark. Per the plan, it appears approximately 30% of the new structure will be within the 100' mark, this is due to the existing utility pole and the fact the Johnson's would like the house to be angled so they have a view of the water. Mr. McKenna stated he might be able to change the angle of the house a little or remove part of the proposed deck, if there was a problem.

Mr. McKenna had presented existing and proposed calculations. They are as follows:

- The existing lot coverage is currently 1.22% of the property.
The proposed coverage would be 2.04%.
- The existing square foot building calculation within 100 feet of the water is 806 sq. ft.
The amount allowed with a 30% expansion would be 1047.80 sq. ft.
The square feet proposed within 100 feet of the high water mark is 1011.30 sq. ft.
- The existing volume calculation within 100 feet of the water is 8,882.16 ft³
The volume proposed with allowed 30% expansion is 11,546.81 ft³
The volume proposed within 100 feet of the high water mark is 6,504.27 ft³

Mr. McKenna explained the lot was large, approximately 2 acres.

Madge B. asked about elevation of the new home? Mr. McKenna stated there would be a daylight basement with the deck being above the 6' door.

The Planning Board noted the existing structure was 39' from the high water mark and the new structure is shown as 69' from the high water mark.

There was a new septic design submitted by John Large, SE#7, dated 7/20/2004.

A site inspection was scheduled for Saturday, January 1, 2005 at 10:00 a.m.

Nothing further was discussed.

Question from Steve M., CEO, regarding the minimum lot size when wetlands are involved.

Barbara G. stated Steve M. wanted the Planning Board's opinion as to whether or not wetland on a property makes a difference with respect to minimum lot size. If there is a wetland area, does the lot size have to be increased? Madge B. and Roger A. stated currently wetlands were only an issue when creating lots in a subdivision. Both agreed wetlands on individual lots should be reviewed in the future.

Madge B. stated there were new rules regarding "liquidation harvesting" of timber by the State. She will try to get further information to the Planning Board as these rules could affect Growth Permits.

Letter dated 12/21/2004 from Attorney Christian Chandler regarding converting Square Pond Marina into a residential property.

Roger A. stated Mr. Pat Hannon had contacted him to discuss the status of the property he owns known as Square Pond Marina, located on Cedar Drive. Mr. Hannon stated he had a potential buyer who planned to convert both buildings on the Square Pond lot into seasonal camps.

Roger A. stated that the letter from Attorney Chandler was incorrect when it states in the first paragraph "When Pat requested information from the Planning Board...", when in fact he had only spoken with Roger on the telephone. Roger told Mr. Hannon during the conversation he could not speak for the Planning Board members. Roger stated his opinion was that he would not be able to create two camps on the property because there was not enough acreage to support two dwellings.

Roger A. stated Mr. Hannon told his attorney that he could not convert the buildings because the town would not allow a marina to be converted into a residential dwelling. Roger stated this was incorrect. It was the fact that the lot could not house two residential dwellings was the issue.

Roger read the following from Attorney Chandler's letter:

"I have reviewed the Shapleigh Town Zoning Ordinance and I believe the Town's position is mistaken. Residential use of these buildings is currently [a] permitted use within the shore land zone. See 105-17(Seasonal Camps). The issue is whether the nonconformance of the buildings somehow prohibits or prevents their use as seasonal camp residences.

Section 105-4(D) of the Shapleigh Zoning Ordinance states:

Resumption. Discontinuance of the use of a legally existing nonconforming structure shall not constitute abandonment of the structure. Conforming use of the structure may be resumed at any time.

Accordingly, although these seasonal camps may not currently meet the dimensional lot requirements of the Ordinance, as nonconforming buildings their use is permitted and the only permit required is the issuance of a permit by the CEO."

Roger A. noted that the Planning Board Attorney, Durwood Parkinson, has received a copy of the letter.

Madge B. asked Roger A. how big the lot was and how much frontage it had? Roger stated the lot was less than 2 acres in size he was not sure about the amount of frontage.

Diane S. stated that since the lot was an existing lot, why couldn't the marina be converted back into residential housing? Diane also added that she thought the lot had three buildings on it, one being for boat storage. Madge B. read from Shapleigh Zoning Ordinance 105-4.C (2):

Resumption. Whenever a nonconforming use is superseded by a permitted use of a structure, or structure and land in combination, such structure or combination of land and structure ***shall thereafter conform to the provisions of this chapter***, and the nonconforming use may not thereafter be resumed.

Madge also read 105-4.C(4):

Change of use. An existing nonconforming use may be changed to another nonconforming use, provided that the proposed use is equally or more appropriate to the district than the existing nonconforming use, and the impact on adjacent properties is less adverse than the impact of the former use as determined by the Board of Appeals.

Madge B. believed 105-4.C(2) was most appropriate for this situation. There are no proposed changes being made to the existing structures, there is a discontinuance of use of an existing structure, and a conforming use may be resumed at any time. Madge believe that a permit would be allowed for one home on this lot.

Madge B. and Diane S. asked if a Growth Permit would be required? Roger A. stated one would be required to convert the camp into a seasonal or permanent dwelling. Roger quoted the Growth Permit Ordinance which states the following:

1.5 Existing Structures

This ordinance shall not apply to the repair, replacement, reconstruction or alteration of any existing building structure as long as no additional dwelling units are created by such construction.

Seasonal conversions are additional dwelling units.

Roger reminded members that the buildings are not dwelling units at this time. Making them into camps would be creating a dwelling unit regardless of whether or not they are seasonal. Madge B. asked if this is true then no occupancy permit could be issued without a Growth Permit? Roger stated, "Correct."

Diane S. asked if she understood correctly, that only one residential dwelling would be allowed on the property, even though there were possibly three buildings on the property? Roger stated that was correct because the property was less than 2 acres in size. Madge B. agreed, that if in fact the property was less than two acres, only one residence could be allowed.

Roger A. added that when Mr. Hannon contacted him by telephone, he led Roger to believe he was going to divide the lot itself into two lots, one for each camp. Roger at that time told him that you cannot make a non-conforming lot more non-conforming. Roger stated again that there may be adequate frontage but not adequate lot size.

Madge B. concluded that the Planning Board does not have a problem with the conversion of Square Pond Marina into a single residential dwelling, but the land itself is not large enough to support two dwellings. This is based on the information the Planning Board has from the Town Hall. If in fact the lot is greater than four acres, two dwellings would be permitted. Madge referred again to Zoning Ordinance 105-4.C(2).

The board members agreed this matter may need to be addressed by the Planning Board Attorney, Durwood Parkinson.

Nothing further was discussed.

Roger A. told the Planning Board a gentlemen called him stating he and his brother owned three parcels of property. Both names were on the deed. He asked Roger if he could put in for a Growth Permit for two parcels and his brother for the third. Roger told them you can submit your Growth Permits but you will only be allowed two per month because both parties own the land. The other Planning Board members agreed with Roger's assessment.

Roger A. stated he received a telephone call asking if an old subdivision property on an abandoned road could get a Growth Permit? Roger told the person they would have to come before the Planning Board; he could not answer the question. Roger told the person there were several questions that would need to be answered. Was the road passable? Does the person have the right to use the road? Roger stated this issue needs to be addressed further as it will be happening more and more as lots on abandoned roads are being sold.

Madge B. asked if the Board of Selectmen had addressed this issue? Roger A. stated the BOS said if the town hasn't put any money into a road for a 25 year period then it reverts to the homeowners on each side. Madge agreed citing that is how the State sees it.

Roger A. stated this is still a problem. How does the town address lots that have their only access as an abandoned road? This will need to be discussed at future meetings. Members agreed. Roger added that the Code Enforcement Officer will need to review the road issue because the Growth Permit process only allows the Planning Board to review the Deed or Purchase and Sale Agreement as to whether or not a lot is viable.

Review of Planning Board Manual with Madge Baker conducting review.

Madge B. reviewed the Planning Board Manual created by Maine Municipal Association. Some of the subjects reviewed were as follows:

- Creation, Qualifications and Liability
 - Liability of Board Members
 - Right to Know Law
 - Records Retention and Public Access
- The Decision-Making Process
 - Conflict of Interest / Bias (Some of which was discussed at a previous meeting.)
 - Conducting the Meeting
 - Making the Decision
- Ordinance Interpretation
 - General Ordinance Interpretation
- Laws Affecting Municipal Ordinance Authority and Planning Boards
 - Jurisdiction

Madge concluded her review with reminding members that any time they had a question when reviewing an application they had the Planning Board Manual to use as a tool to help guide their decisions.

There were no questions from the Planning Board members. Nothing further was discussed.

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

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

Respectively submitted,

Barbara Gilbride

Planning Board Secretary planningboard@shapleigh.net