

SHAPLEIGH PLANNING BOARD MINUTES
Tuesday, January 11, 2005

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

The Planning Board meeting started at 6:00 p.m.

The minutes from Tuesday, December 28, 2004 were accepted as written.

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

Review Growth Permits

The Town of Shapleigh gives out 33 Growth Permits per year. The following Growth Permits were reviewed at this evenings meeting.

GROWTH PERMITS 2005

| NAME | Map / Lot | Address | Permit # | Date Permit Issued |
|---|--------------------------------|-------------------------------------|----------|--------------------|
| 1. Henry & Kelly DeSruiSseaux | 17 / 9 | 30 th Street | 01-05 | 1/11/05 |
| 2. Carl DeSruiSseaux | Part of 31 / 22 (s) | Dogwood Road Will be 22S per RSH | 02-05 | 1/11/05 |
| 3. Irene & William Mann | 8 / 2** | 601 Owls Nest Road | 03-05 | 1/11/05 |
| 4. William Palladino | 15 / 9* | 13 Trails End | 04-05 | 1/11/05 |
| 5. John Vachon | 3 / 20C-1 | Simon Ricker Road | 05-05 | 1/11/05 |
| 6. Lise Roy | 29 / 31 | Goose Pond Road | 06-05 | 1/11/05 |
| 7. Carol Levesque | 41 / 30 | Royal Coachman Way | 07-05 | 1/11/05 |
| 8. Richard & Maureen Bennett | 36 / 1 | 64 Indian Village Road | 08-05 | 1/11/05 |
| 9. Diane Laitres – Glenn Travis | 7 / 12 | Town Farm Road | 09-05 | 1/11/05 |
| 10. Robert Steffens | 7 / 5-4 | Blanding's Lane | 10-05 | 1/11/05 |
| 11. Joachim & Sarah Angeltun | 2 / 34A | Walnut Hill Road | 11-05 | 1/11/05 |

GROWTH PERMITS 2005

| NAME | Map / Lot | Address | Permit # | Date Permit Issued |
|---|-----------------------|-----------------------------|--------------------|--------------------|
| 12. Terry Hardy | 7 / 20 | Town Farm Road | 12-05 | 1/11/05 |
| 13. Dennis Glover | 9 / 12A-1 | Town Farm Road | 13-05 | 1/11/05 |
| 14. Roger Allaire | 2 / 31C | Walnut Hill Road | 14-05 | 1/11/05 |
| 15. Leonid Temkin | Part of 1 / 24 | Deering Ridge Road | 15-05 | 1/11/05 |
| 16. Chuck Pierce | 40 / 13 | Granny Kent Pond Road | 16-05 | 1/11/05 |
| 17. Linda Thomas | 3 / 22 | Simon Ricker Road | 17-05 | 1/11/05 |
| 18. Gordon Waterman | 15 / 6 | 103 32 nd Street | 18-05 | 1/11/05 |
| 19. Gabe Wansor | 6 / 3-9 | Knox Road | 19-05 | 1/11/05 |
| 20. Kurt Saltmarsh | 8 / 42A | Garland Road | 20-05 | 1/11/05 |
| 21. Patrick Frasier | 12 / 28 | Newfield Road | 21-05 | 1/11/05 |
| 22. Patrick Frasier | 12 / 28B | N. Shore Road | 22-05 | 1/11/05 |
| 23. Sandra & Warren Sullivan | 25 / 9A | Sachem's Way | 23-05 | 1/11/05 |
| 24. Bruce & Penny Wakita | 11 / 23 | Granny Kent Pond Road | 24-05 | 1/11/05 |
| 25. Pauline & James Gorman | 11 / 23M | Newfield Road | Pending more info. | |
| 26. Robert Stocker | 10 / 6-1 | Town Farm Road | 26-05 | 1/11/05 |
| 27. Michael Hebgen | 8 / 56 | Garland Road | 27-05 | 1/11/05 |
| 28. Ernest & Joyce Johnson | 32 / 25 | 22 Dogwood Drive | 28-05 | 1/11/05 |
| 29. Michael & Katherine Travis | 8 / 65A-1 | Ross Corner Road | 29-05 | 1/11/05 |
| 30. James & Kristy Cacace, Jr. | 6 / 50-2 | County Road | 30-05 | 1/11/05 |
| 31. Roger & Rosemarie Batchelder | 22 / 1 | Wardens Way | 31-05 | 1/11/05 |
| 32. Jason Howgate | Part of 4 / 7P | Coley Trafton Road | 32-05 | 1/11/05 |
| 33. Linda Dahms | 7 / 16-2 | 122 Town Farm Road | 33-05 | 1/11/05 |

**Seasonal Conversion*

**** Apartment**

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 of McKenna Brothers Construction was present to represent the applicants.

Roger A. began by stating that during the site inspection on January 1st, the members in attendance noted the location of the proposed camp and believed by changing the angle of the deck system, it would make the camp look better and also increase the distance between the camp and the high water mark by three feet. The new camp would be approximately 72 feet from the high water mark instead of the 69 feet that was proposed on the original plan.

Roger A. noted that the garage that would be removed was beyond the 100' high water mark, so should the applicants want to replace it; all they would need would be a building permit from the Code Enforcement Officer.

Roger A. also noted to the board members and Mr. McKenna that because the applicants were replacing a camp with a camp they would not need a Growth Permit. Should they want to live in the camp year round however, a Growth Permit would be required.

Steve M., CEO, told Mr. McKenna that he would need a survey for the placement of the structure. Roger A. agreed and read the following Ordinances:

105-4.D Nonconforming structures.

(7) Relocation.

- (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 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.
- (b) In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems and the type and amount of vegetation to be removed to accomplish the 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.*

Roger A. stated that there was a limiting factor to the location of the new camp and that was the existing utility pole/power line. The back corner of the proposed camp will be approximately 8' from the utility line.

Mr. McKenna presented the Planning Board with a new plan for the cabin which denotes the change to the proposed deck as discussed on the site inspection. This plan will place the cabin 72 feet plus back from the high water mark.

Mr. McKenna had presented existing and proposed calculations during the Planning Board meeting on December 28, 2004. They were 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

The only change to these calculations will be the reduction of the size of the deck, which will reduce the square foot calculations for the new building only.

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

Diane S. made the motion to approve the plans as presented this evening, keeping the new camp no closer than 72 feet from the normal high water mark. Madge B. 2nd the motion. All members were in favor.

(Madge B. was a voting member for this application since she was one of the three members able to attend the site inspection.)

Roger A. reminded Mr. McKenna he would need a survey to place the camp on the property in the correct location and a copy of that survey would need to be presented to Steve M., CEO.

Nothing further was discussed.

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

Mrs. Cram was present to discuss the application.

At the Planning Board meeting dated August 20, 2004, Mr. and Mrs. Cram were told they would need an engineered plan for erosion and stormwater control prior to the planning board making a decision on their application.

On January 5, 2005, the Planning Board received a letter dated October 20, 2004, entitled “Foundation Drain Outlet”, from Daniel A. Ghidoni, PE, of Alfred, Maine. In this letter Mr. Ghidoni explains how the drainpipes should be installed. In addition, attached to the letter, is a plan called “Energy Dissipator”. In this plan a cross section of the filter material, end of pipe, and elevation are depicted.

The Planning Board members had no questions for Mrs. Cram. The board members agreed the erosion and stormwater plan was adequate.

Diane S. made the motion to accept the stormwater plan for erosion control as presented and approve the best possible location to replace two retaining walls. Madge B. 2nd the motion. All members were in favor.

(Madge B. was a voting member since John K. and Alex M. were not members at the time the application was initially reviewed in July and August of 2004.)

Nothing more was discussed.

Conditional Use Permit – Home Occupation for the Sale of Lobsters & Flea Market – Roland & Gloria Varney (Owners); Scott & Karen Cobbett (Applicants) - Map 14, Lot 11 (217 Emery Mills Road)

Mr. and Mrs. Cobbett were present along with Karen Cudworth, their Realtor for the property.

Mr. Cobbett stated that he wanted to open a home occupation selling the lobsters he caught, out of his home. In addition, Mr. Cobbett stated he wanted to have a flea market on site. The hours of operation would be 7:00 a.m. to 7:00 p.m. seven days a week.

Madge B. asked if this would be a new business? Roger A. stated it would be because the building was currently vacant and there hadn't been a business operating in this location for over a year.

Roger A. read the definition of Home Occupation, it read as follows:

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 office and resale of purchased merchandise will not be considered as home occupations.

Roger A. noted that the definition of Home Occupation did not include Flea Markets.

Diane S. reviewed Garage Sale Business vs. Garage Sale, which can be conducted out of ones home. Diane read the definition of Garage Sale Business which was as follows:

The sale of assorted items, usually secondhand, from noncommercial premises, which occurs more frequently than on a three-day occasion, or more than three weekends, or on more than five consecutive weekdays of any calendar year. The term applies also to the following types of sales when they exceed the above-described frequencies: yard sales, porch sales, barn sales, tag sales, cellar sales, etc.

Diane stated that Mr. Cobbett could sell the above items as long as he didn't go longer than the amount of time mentioned above.

Roger A. read the definition of a Commercial Use. It read as follows:

The use of lands, buildings or structures, other than a home occupation defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

Roger thought the selling of lobsters was best defined as a commercial use, which was not an allowed in this location.

Madge B. disagreed. Madge stated that as long as the applicants were going to use this property as their residence, she did not see why the selling of lobsters would be commercial. Diane S. agreed citing home occupations such as the selling of vegetables and fruits that one grows on their property were an allowed use.

Mr. Cobbett would be selling the lobsters he himself catches. Madge asked Mr. Cobbett if he would be residing at this location. Mr. and Mrs. Cobbett stated they would be living in the building.

Barbara G. asked if Home Occupations and Flea Markets were allowed in the Shoreland District? Diane S. reviewed Zoning Ordinance 105-17, Land Uses, and it was noted they were both an allowed use.

Madge B. asked if the applicants were restricted to the percentage of the property they could use for the business? Alex M. asked how the Planning Board could limit the area used since the ordinance only specified the business needs be secondary to the use of the dwelling. Alex asked how one could measure that? Madge felt as long as the building was being used as a home, it would qualify.

Diane S. questioned allowing a flea market since under the definition of a home occupation the resale of purchased merchandise would not be allowed. Steve M., CEO, stated the applicants were not purchasing merchandise for resale, they were selling their own produce. For the flea market you rent space to others, you do not sell their merchandise. Barbara G. and Steve reminded members that the applicants were asking for two different things, one was a permit to sell lobsters under a home occupation and the other was to open a flea market.

Madge B. noted that under Zoning ordinance 105-40 "Home occupations", (C), there was no exterior display, no exterior sign, no exterior storage of materials and no other exterior indication of the home occupation allowed that would change the residential character of the principal building. Steve M. agreed but stated that the board could not apply the home occupation criteria to the flea market.

Madge B. read 105-40.E, which read as follows:

If existing off-street parking is required to be expanded, it shall be adequately screened from the road and adjacent lots (for example, with a dense screen of evergreens) and shall not be located between the house and the road.

Madge asked the applicants if there was ample area for parking that would meet the above criteria. Mr. Cobbett stated he believed there was. He had already discussed parking with Steve M., CEO.

Alex M. asked if there were any restrictions with respect to what could be sold in the flea market area? Steve M., CEO, stated the only restrictions would be those imposed by the Planning Board during the review process. Alex was concerned with there being no restrictions so just anything could be sold.

Diane S. thought the applicants could sell their lobsters under the application for a flea market, since there were no restrictions for a flea market. Madge B. asked the applicants if they rented or owned the property? Mr. Cobbett stated they were going to purchase the property.

Roger A. still believed both selling lobsters and having a flea market made this a commercial business which is not allowed in this location. Mrs. Cudworth, the Realtor, stated the applicants did not purchase the lobsters for sale they caught them, so they were not buying and selling lobsters. Roger stated that income derived from selling goods makes it commercial. Steve M., CEO, stated that there was no resale of goods. Madge B. added that a home occupation was an income generator. Barbara G., Alex M., and Diane S. believed that selling lobsters was the same as someone selling produce from ones house. Because Mr. Cobbett caught the lobster it could be considered a home business.

Alex M. and Diane S. thought there were many things that could fall under home occupation. Alex talked about the fact he gave guitar lessons out of his home. Diane stated again that a flea market was allowed in the Shoreland zone.

Roger A. stated he was not sure if there would be enough parking for the flea market. Mr. Cobbett stated he had spoken with Steve M., CEO, about the parking and they believed there was adequate parking for the size of the building.

John K. asked what the size of the store was that would house the flea market? Mrs. Cudworth, the Realtor, stated it was 20' x 20'.

John K. asked what was permitted for signage? Steve M., CEO, stated that he believed it was eight square feet. Mr. Cobbett stated there would be no signs on the road. John K. asked how the applicants would advertise if they did not have any signs. Mr. Cobbett stated he would hang an open flag on the home and advertise in the local newspapers and use word of mouth. He stated that people who knew he was a lobsterman have asked if he sold lobsters on his own. He felt he would have an adequate business without a large sign.

John K. asked who would be employed on site? Mr. Cobbett stated just he and his wife would work on the premises.

Diane S. and Madge B. stated that after reading the definition of Home Occupation line by line, the selling of lobsters would be an allowed use as a home occupation. Madge added the fact that the applicant was not making any changes to the existing property and it is already set-up for this type of business.

Madge B. stated that traffic access could be an issue. She said it would be important customers do not back out onto Rte 109 (Emery Mills Road). The board members would have to review this carefully.

There were no more questions at this time. Roger stated a Notice to Abutters would be mailed out and a Public Hearing would be held at 7:00 p.m. on January 25th.

Nothing further was discussed.

Letter from Attorney Durwood Parkinson dated January 11, 2005, regarding Cedar Drive Property

During the Planning Board meeting on December 28th, 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. During that meeting 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.”

Attorney Parkinson responded to this letter. Part of his response is below:

“As we understand the underlying facts, the above-referenced Cedar Drive Property consists of two structures located on Square Pond (the “Property”). The structures are non-conforming as they do not meet current set-back requirements under the Ordinance. The structures were formerly seasonal camps that have since been converted into use as a marina. A potential buyer of the Property wishes to convert the structures back into their former use as seasonal camps. Whether the buyer is entitled to do so is the issue that will be addressed below.

It is our opinion that there is nothing in the Ordinance that would preclude the proposed activity of converting the structures back into seasonal camps.

.....The “use” of the structures as seasonal camps was discontinued. Section 105-4(D)(4) makes clear, however, that discontinued that use does not preclude a property owner from resuming it as some points in the future. To the contrary, § 105(D)(4) unambiguously states that a conforming use may be resumed at any time. Accordingly, it is our opinion that the proposed conversion back to seasonal camps is permitted under the Ordinance.”

Roger A. and Steve M., CEO both questioned whether or not the lot could be split. The owner had talked about that possibility as well. Steve stated he would contact Attorney Parkinson on this issue to get an answer for the board members.

Roland Legere asked if the camps would need a Growth Permit in order to be converted back into camps. Steve M. thought that they could convert them into a seasonal dwelling but not into a year round home without a Growth Permit. Steve would ask Attorney Parkinson this question as well.

The Planning Board concluded to let the town attorney look further into the matter. Nothing more was discussed.

Roger A. stated that the Planning Board had received an email dated January 8th from Rick Bennett. In this email he states that the way the Growth Permits process is currently handled is very stressful for some and perhaps the method needs to change. The Planning Board members agreed to have further discussion on the matter. Roger told members that the Board of Selectmen were also looking into suggestions for the future. A meeting will be held by the Board of Selectmen and there is talk amongst the BOS of a possibly having a public hearing on the subject in the near future.

Roger A. stated that the Planning Board had received an email from Jo-Anne Henry regarding her property and the required 200 feet of road frontage necessary to receive a Growth Permit. One of her abutters, Mr. and Mrs. Angeltun, have put in 720’ of private road, which Ms. Henry can access. Her question was whether or not this private road could be used as road frontage for her property as well. The Planning Board agreed it could because the road was recently brought up to the standard of a private road by the Angeltun’s. Roger asked Barbara G. to send Ms. Henry a letter or email telling her this fact.

There were no questions from the Planning Board members. Nothing further was discussed.

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, January 25, 2005

Members in attendance: Roger Allaire (Chairman), John Klimas, Alex MacPhail, Madge Baker (Alternate) and Barbara Gilbride (Secretary). Code Enforcement Officer, Steven McDonough was also in attendance.

The Public Hearing Began at 7:05 p.m.

Conditional Use Permit – Home Occupation for the Sale of Lobsters & Flea Market – Roland & Gloria Varney (Owners); Scott & Karen Cobbett (Applicants) - Map 14, Lot 11 (217 Emery Mills Road)

Mr. and Mrs. Cobbett were in attendance along with Mrs. Karen Cudworth, the Realtor for the property.

Roger A. asked Mr. Cobbett to explain to everyone in attendance what his plans were.

Mr. Cobbett stated he wanted to sell lobsters that he caught, as well as open a flea market.

Roger A. asked if lobsters were the only seafood Mr. Cobbett was going to sell? Mr. Cobbett stated that at this time this was all he was licensed to catch. Roger asked Mr. Cobbett how many traps he had. Mr. Cobbett stated he had 800 lobster traps. He told board members that he was working with the State to possibly expand into taking shrimp. Roger told him that if he chose to sell shrimp he would need to come back before the planning board for an amendment to the conditional use permit. Mr. Cobbett stated that he understood.

Roger A. asked Mr. and Mrs. Cobbett if they were going to be living in the home? They both stated, “Yes”.

Madge B. asked how many vehicles the site could hold comfortably? She asked if the applicants had a parking plan? Roger A. showed Madge the parking plan submitted. The plan depicted an area that was approximately 1700 square feet in size. It appeared there was room for approximately 13 parking slots.

Madge B. asked what the size of the building was that would house the lobsters and flea market? Roger A. stated 20’ x 20’. Steve M., CEO, stated taking into the consideration the size of the building and the possibility of several vendors at the flea market, the number of parking spaces necessary would be six. The board members agreed the size of the parking area was adequate. Steve M. stated the board members must be sure the parking area is designed so that no patrons back out onto Rte. 109.

Alex M., after looking at some information received by the Planning Board from the Maine Dept. of Transportation, noted that the applicants may need an entrance permit. Alex read the following from a pamphlet from MDOT: “State law mandates that even if you intend to “change use” of your entrance, (for example from strictly residential or residential and small business) a permit must be obtained from MaineDOT.” Steve M. agreed it might be best to have the applicants contact MDOT with their plans.

Alex M. asked if there needed to be an area to turn around? Barbara G. asked why they couldn’t have the parking set up so they drive onto the property through one entrance and exit through another? That way there would be no need for a turning area. Roger A. agreed they could have the parking set up that way, and in fact it should be. There should be a designated entrance and exit.

Roger A. asked Mr. Cobbett if the flea market was going to be held inside only? Mr. Cobbett stated it was but he may have a few hanging plants for sale on the outside of the building.

Madge B. asked about how the stormwater ran on site? Roger stated that with the slope of the land, all water behind the house would run toward the river. Roger added that the parking area was slanted toward Route 109 so water would run toward Emery Mills Market, not the river. Roger also stated that there was dense vegetation in place between the building and the river. It was vegetation that has been in place for years.

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

Public Hearing was closed at 7:25 p.m.

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

The minutes from Tuesday, January 11, 2005 were accepted as written.

Roger A. asked Madge B. to sit in as a regular member due to Diane's (Srebnick) absence.

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

Review Growth Permit Application for Pauline & James Gorman, Map 11, Lot 23K, Newfield Road

The Planning Board reviewed Mr. and Mrs. Gorman's application once again. The Planning Board also received a copy of Mr. Gorman's deed and a plot plan showing the exact location of the property. The lot was a buildable lot. *Mr. and Mrs. Gorman were issued Growth Permit number 25-05.*

Conditional Use Permit – Home Occupation for the Sale of Lobsters & Flea Market – Roland & Gloria Varney (Owners); Scott & Karen Cobbett (Applicants) - Map 14, Lot 11 (217 Emery Mills Road)

Mr. and Mrs. Cobbett were present along with Karen Cudworth, their Realtor for the property.

Mr. and Mrs. Cobbett are applying for a home occupation to sell lobsters and a flea market. The location of the property is in the Shoreland Zone. The Cobbett's currently have a purchase and sale agreement for the property.

Roger A. asked the applicants if they were going to keep the lunch counter that existed or remove it? Mr. Cobbett stated he would keep it as it was nostalgic. Steve M., CEO, asked if there were going to be any people eating at the lunch counter? Mr. Cobbett stated no, there would be no one eating on site. The lobsters were take-out only.

Roger A. read the definition of Home Occupation, it read as follows:

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 office and resale of purchased merchandise will not be considered as home occupations.

Roger A. noted that the definition of Home Occupation did include the sale of lobster since Mr. Cobbett would not be buying the lobsters from someone else, but providing them himself. The Planning Board had a copy of his fishing license on file, which showed Mr. Cobbett was licensed for lobster and crab. Roger added that Mr. and Mrs. Cobbett would have to live on site in order for this business to be approved as a home occupation.

Roger A. read the following applicable ordinances:

- 105-17 - Land Uses. *Both a home occupation and a flea market are an allowed use in the Shoreland Zone.***
- 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 245'. An entrance and exit shall be created so no traffic backs onto Rte. 109. In addition, a MDOT Permit for Entrance will be obtained for this location.***
- 105-22 – Noise. *This business shall not create excessive noise; all activity will take place inside the building.***
- 105-23 – Dust, fumes, vapors and gases. *There will be no emissions created by this business. All dead lobsters shall be used for bait and not kept on site.***
- 105-24 – Odors. *There will be no odors emitted from this business. All dead lobsters shall be removed from the location and used for bait.***
- 105-25 – Glare. *There will be no additional lighting.***
- 105-26 – Stormwater runoff. *There has been no change to the existing structure, parking area or land. The property has been in existence for over 25 years with no detrimental effects to the area. There are existing trees, shrubs, etc. that prevent excess water from going into the river.***
- 105-27 – Erosion control. *There has been no change to the existing structure, parking area or land. The property has been in existence for over 25 years with no detrimental effects to the area. There are existing trees, shrubs, etc. that prevent excess water from going into the river.***
- 105-28 – Setbacks and screening. *There is no room for screening between the parking area and Rte. 109. Also, trying to add any would be detrimental, blocking the view when exiting the property.***
- 105-29 – Explosive materials. *There are currently no explosive materials on site. Any future propane tanks shall be placed on site using NFPA guidelines.***
- 105-30 – Water quality. *There shall be no hazardous materials on site that could affect water quality. The salt water in the lobster tanks, when changed, shall be returned back to the ocean.***
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *The surrounding landscape, which is trees and shrubs, shall not be disturbed. There is no room to add additional trees or shrubs near the parking area.***
- 105-32 - Relation of proposed building to the environment. *There are no changes being made to the existing structure.***
- 105-33 – Refuse disposal. *The applicants will take all refuse to the town facilities. If the flea market should need a dumpster, one will be provided by the applicant.***
- 105-34 - Access control on Routes 109 and 11. *The entrance and exit onto Rte. 109 shall be directional so no vehicle shall back onto Rte. 109. A MDOT entrance permit shall be obtained by the applicants. Site distances exceed the minimum required.***
- 105-40 – Home occupations. *The selling of lobsters will be done by family members only in the building attached to the home.***

- 105-43 – Off-street parking and loading. *There are more than the required number of parking slots on site. The existing parking area is pitched toward Rte. 109 and therefore the stormwater will not go toward the river.*
- 105-47 – Signs and billboards. *Any signage shall be obtained through the Code Enforcement Office.*

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, there are no changes being made to the existing property.*
- 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 there will be MDOT approval before the applicants open the business.*
- 5) The site design is in conformance with all municipal flood hazard protection regulations. *It is, the buildings and parking area have been in existence for over 25 years without problem.*
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. *A state approved septic system exists for the home.*
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. *There are no hazardous materials on site that the applicant or board members were aware of.*
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. *The buildings and parking area have been in existence for over 25 years. There are established trees and shrubs on site between the buildings and the river.*
- 9) Adequate provisions to control soil erosion and sedimentation have been made. *The buildings and parking area have been in existence for over 25 years. There are established trees and shrubs on site between the buildings and the river.*
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. *There is, the property is located near an existing fire hydrant which is on the Lebanon Road.*
- 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 is located across from an existing business. There will be no noise, glare, fumes, dust, odors and the like generated from either the home occupation or the flea market.*
- 12) All performance standards in this chapter applicable to the proposed use will be met. *They shall.*

Roger A. asked if the board members wanted to add any restrictions to the use of the flea market. Board members did not feel, because of the definition of flea market, that they could adequately impose restrictions.

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

Alex M. made the motion to approve the conditional use permit to open a home occupation selling lobsters and open a flea market with the following condition(s):

- 1) *The hours of operation shall be 9:00 a.m. thru 9:00 p.m., seven days a week.*
- 2) *A MDOT permit for a business entrance shall be obtained prior to opening either business.*
- 3) *A curb will be created between the existing paved parking area and Route 109 to prevent patrons from backing out onto Route 109. This curb will extend to a length so neither the entrance or exit shall exceed 26 feet in width.*
- 4) *Any signage shall be permitted through the Code Enforcement Officer.*
- 5) *Any change in home ownership will make the home occupation of selling lobsters null and void.*

Madge B. 2nd the motion. All Planning Board members were in favor.

Nothing further was discussed.

Review Changes to Growth Ordinance

Roger A. told planning board members that the Board of Selectmen, Steve M., CEO, Barbara G. and himself had attended a meeting to discuss the current problem with how the Growth Permits are submitted. This year after having people camped out at the town hall, in freezing temperatures, it was clear something had to be changed.

The following changes were made as a result of input from the townspeople during the campout at the town hall, as discussed with Bill Hayes, Selectmen, and the discussion held on January 24th with the Selectmen. (Changes made as a result of the meeting are under (a), (b), (c), (f), (g) and (h).)

1.1 Growth Permit Selection System

- (a) **There will be a \$200 non-refundable application fee for each Growth Permit Application submitted.**
- (b) **No more than two applications may be submitted per individual, corporation or any other legal entity per month.**
- (c) **No more than two Growth Permits shall be issued to any one individual, corporation or any other legal entity in one month.**
- (d) **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.**
- (e) **A notarized copy of a signed sales contract, or other evidence acceptable to the Planning Board, shall be required.**
- (f) **Applications may be submitted, beginning in August 2005, in person, or by certified mail on each day the town office is normally open. Growth Permits will be issued as received at the first Planning Board meeting in January of each year. Applications will be reviewed at each Planning Board meeting thereafter until all permits have been issued for the calendar year. Applications not issued after the yearly quota has been filled and before the new administrative year begins shall be added to a waiting list.**

- (g) Applications placed on the waiting list will be reviewed according to the date received on the first-come first-served basis. Applicants who are on the waiting list will be notified December 1st that they have 30 days in which to tell the Planning Board whether or not they wish to remain on the waiting list for the following year. If they do not notify the Planning Board by January 1st of the following year stating they wish to remain on the list, they will be removed from the list.**
- (h) All applicants that wish to remain on the waiting list must mail a non-refundable \$50 administration fee for the next calendar year. It must be received by January 1st. If the administration fee is not received by January 1st the application will be removed from the waiting list.**

The board members in attendance agreed the above changes would be a step in the right direction. The implementation of a waiting list as well as allowing applicants to submit their applications throughout the year would prevent people camping out as well as giving applicants an indication of when they might obtain a permit. The above changes will be presented to the townspeople at the town meeting in March. If voted in the changes would be in effect as written at that time.

Roger A. noted that a Public Hearing would be held at 7:00 p.m. on Tuesday, February 8th for a final review of all zoning changes and the changes to the growth ordinance.

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 8:15 p.m.

Respectively submitted,

Barbara Gilbride
Planning Board Secretary planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES

Tuesday, February 8, 2005

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

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

Zoning Changes & Changes to Growth Permit Ordinance

Roger began the Public Hearing by stating he would be reading changes to the zoning and subdivision ordinances, and that these change will be how they will be written at Town Meeting in March. The ordinance changes have already been presented at a previous public hearings and any change from those meetings are represented in final form now. The Ordinance changes are as follows:

§ 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 stated this change allows the Planning Board some flexibility with the requirement for central water.

There were no comments from the audience.

§ 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.

There were no comments from the audience.

§ 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 the Planning Board was asked to consider this extension of time to help when an applicant needs a Growth Permit to proceed.

One citizen thanked the Planning Board for this change.

There were no questions from the audience.

§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 this change is to make the Zoning Ordinance consistent throughout when referring to storm water requirements. Currently the ordinance states requiring a design for both a twenty-five year storm and a fifty-year storm.

There were no questions from the audience.

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.

Roger A. stated that the definitions were a combination of new definitions being added and a change to some existing definitions to make them more clearly understood.

There were no questions from the audience.

Typo's to be fixed in Zoning Ordinance:

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 nor 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.

Roger A. stated that the changes here were only typographical errors from the existing Zoning Ordinance book.

There were no questions from the audience.

§ 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.**

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.
- 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 explained the ordinances above are all new ordinances to be presented to the townspeople.

There were no questions from the audience.

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 3/4" 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 3/4" 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.

Page 1 of 2

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

Roger A. stated the Sample Letter of Credit was changed so it more closely reflects what the Town of Shapleigh requires of developers. Also there were some additional signature lines added for the Chairman of the Planning Board, each of the Board of Selectmen and the Road Commissioner.

There were no questions from the audience.

RESIDENTIAL GROWTH ORDINANCE

1.1 Title

This ordinance shall be known as the “Residential Growth Ordinance of the town of Shapleigh, Maine” and will be referred to herein as the “ordinance”.

1.2 Legal Authority

This ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII-A of the Maine Constitution and Title 30, MRSA Section 1917.

1.3 Definitions

Growth Permit: a permit to create a new dwelling, issued by the Shapleigh Planning Board after ascertaining that the proposed dwelling would meet all of the relevant requirements of this ordinance.

Dwelling Unit: a room or group of rooms designed and equipped exclusively for use as living quarters for only one family, including provisions for living, sleeping, cooking and eating. The term shall include manufactured dwelling units but shall not include trailers or recreational vehicles.

Family: one or more persons occupying a premise and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house or hotel. Such unit shall not exceed five persons not related by blood or marriage.

Manufactured Housing Unit: structures, transportable in one or two sections, which are constructed in a manufacturing facility and are transported to a building site and designed to be used as dwellings when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein.

1.4 Purpose

- (a) To maintain the predominately rural character of the town.
- (b) To provide for the local housing needs of Shapleigh’s existing residents, while accommodating Shapleigh’s “fair share” of population growth in York County and in the immediate sub-region.
- (c) To ensure fairness in the allocation of Growth Permits.
- (d) **To ensure that the Growth Permit issuance system does not unduly increase construction costs by preventing builders from erecting a moderate number of houses at the same time.**

1 of 6

Growth Ordinance

- (e) 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.

- (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.**

1.5 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.

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Growth Ordinance

1.6 General Requirements

All new dwelling units within the Town of Shapleigh, whether permanent or seasonal, shall be in conformity with the provisions of this ordinance and the Zoning Ordinance, no new dwelling unit shall be constructed which fails to meet the requirements of this ordinance and the Zoning Ordinance.

1.7 Administration

The procedure for applicants shall be as follows:

- (a) The Planning Board shall administer the "Growth Permit Selection System" as described in paragraph 1.8 below in the case of all Growth Permit applications.
- (b) The Code Enforcement Officer shall ensure that all of the endorsements on the Growth Permit application form have been completed before issuing any Building Permit.
- (c) Every Growth Permit shall be displayed with the Building Permit in a conspicuous place on the premises under construction, and shall not be removed until all work covered by the permit has been approved.

1.8 Growth Permit Selection System

- (a) There will be a \$200 non-refundable application fee for each Growth Permit Application submitted.
- (b) No more than two applications may be submitted per individual, corporation or any other legal entity per month.
- (c) No more than two Growth Permits shall be issued to any one individual, corporation or any other legal entity in one month.
- (d) 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.
- (e) A notarized copy of a signed sales contract, or other evidence acceptable to the Planning Board, shall be required.
- (f) Applications may be submitted, beginning in August 2005, in person, or by certified mail on each day the town office is normally open. Growth Permits will be issued as received at the first Planning Board meeting in January of each year. Applications will be reviewed at each Planning Board meeting thereafter until all permits have been issued for the calendar year. Applications not issued after the yearly quota has been filled and before the new administrative year begins shall be added to a waiting list.

Page 3 of 6

Growth Ordinance

- (g) Applications placed on the waiting list will be reviewed according to the date received on the first-come first-served basis. Applicants who are on the waiting list will be notified December 1st that they have 30 days in which to tell the Planning Board whether or not they wish to remain on the waiting list for the following year. If they do not notify the Planning Board by January 1st of the following year stating they wish to remain on the list, they will be removed from the list.
- (h) All applicants that wish to remain on the waiting list must mail a non-refundable \$50 administration fee for the next calendar year. It must be received by January 1st. If the administration fee is not received by January 1st the application will be removed from the waiting list.

1.9 Appeals

Appeals procedure for this ordinance shall be the same as specified in Section 6.8 of the Town of Shapleigh Zoning ordinance, as revised.

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.

1.12 Conflict with Other Ordinances

This ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulation, by-law, permit or provision of law and the Zoning Ordinance. Where this ordinance imposes a greater restriction upon the use of land, buildings or structures, the provisions of this ordinance shall prevail.

1.13 Validity and Severability

Should any section or provision of this ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this ordinance.

Page 4 of 6

Growth Ordinance

1.14 Effective Date

The effective date of this ordinance is the date of adoption by Town vote.

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.

1.16 Amendment Procedure

An amendment to this ordinance may be initiated by:

- (a) the Planning Board, provided a majority of the Board has so voted,
- (b) request of the municipal officers to the Planning Board, or
- (c) written petition of a number of voters equal to at least 10% of the number of votes cast in the municipality at the last gubernatorial election.

An amendment to this ordinance may be adopted by:

- (a) a majority vote of registered voters present and voting if the proposed amendment is recommended by the Planning Board, or
- (b) a majority vote of registered voters present and voting if the proposed amendment is not recommended by the Planning Board.

1.17 Violations

- (a) A violation of this ordinance shall be deemed to exist when any person, firm or corporation engages in any construction activity directly related to the erection or placement of a dwelling unit upon any land within the town of Shapleigh without having first obtained a Growth Permit from the Planning Board.
- (b) If a dwelling has been constructed or placed without a Growth Permit, it shall also be deemed a violation for any person, firm or corporation to sell, lease, rent or convey such dwelling, or for any person or family to occupy such dwelling until such permit has been duly issued.

1.18 Penalties

- (a) Any person, firm or corporation being the owner or having control or use of any residential building constructed in violation of any of the provisions of this ordinance, shall be guilty of a misdemeanor, and on conviction shall be fined not less than fifty dollars (\$50.00) for each day such a violation (construction activity) continues after notification by the town or its agents.

Page 5 of 6

Growth Ordinance

- (b) **If a dwelling unit has been constructed contrary to the provisions of this ordinance and then sold, leased, rented or conveyed for the residential use, the vendor, lessor, landlord or conveyor shall be guilty of a misdemeanor, and on conviction shall be fined not less than five thousand dollars (\$5,000).**

- (c) If a dwelling unit has been constructed contrary to the provisions of this ordinance and is then occupied by the builder or his family, for residential use, the builder shall be guilty of a misdemeanor, and on conviction shall be fined not less than five thousand dollars (\$5,000).

Signature Page:

AMENDED: March XX, 2005

Town Clerk

Page 6 of 6

Roger A. began by stating that the Growth Ordinance was reviewed per the ordinance every five years. Now, due to a change in the State of Maine's requirement, the Growth Ordinance must be reviewed every three years. Roger said that this was one reason the Ordinance was currently being reviewed along with the fact the Board of Selectmen and Planning Board realized changes needed to be made to the review process.

Roger stated that one of the reasons the Growth Ordinance is in place is to keep the cost of infrastructure affordable. If the town grows too fast additional infrastructure might be needed such as water and sewage lines. Road maintenance increases with additional traffic as well as increased cost for the transfer station. Roger said one of the largest costs to the community is the cost of the school system, which is partly explained in the changes under 1.4(f)(1).

Roger A. also explained that Southern Maine Regional Planning Commission is asked by the Planning Board to review all the surrounding communities in York County with respect to their annual growth rate for population and housing. Roger said the Planning Board asks SMRPC to give their input on how many houses the Town of Shapleigh should allow so Shapleigh will take its fair share of the housing market. Roger stated that SMRPC recommended 28 units for our community. Roger stated the Planning Board discussed the recommendations, taking into consideration the number of Growth Permit applications for the past three years. The board members agreed 34 Growth Permits were a more feasible number. This figure allows the town to grow at a manageable rate while taking in the fare share of new homes in York County.

Citizen – The changes to paragraph's 1.4(f)(1), 1.4(g) and 1.4(h), deal with the tax impact of putting additional children into the school system. A number of the homes asking for permits this year were second homes. In the future could there be a consideration for second homes since they do not have children that impact the town? Second homes are a positive impact instead of a negative impact.

Roger A. replied stating these second homes still impact the community with respect to roads, solid waste disposal, etc. Roger stated it isn't just the school system that impacts the town. Roger said the Board of Selectmen and Planning Board elected to show the townspeople in the ordinance the impact of additional children in the school system on the town, but that isn't the only impact. Roger stated that in the future it is likely the "second" home would be sold to a family with children, thus having the impact to the school system. The town has no way to monitor who buys the home. By managing growth through a Growth Permit system, the home is affected once, but after that it can be sold to whomever.

Roger A. also spoke of discrimination and how the Town of Shapleigh cannot discriminate with respect to age, whether or not a family has children, etc. It isn't allowed by the State of Maine. Therefore, there cannot be an exemption for a second home. The town has to look at all new homes the same way.

Citizen – Who actually establishes the number of permits allowed by the Growth Permit Ordinance, the Board of Selectmen or the Planning Board?

Roger replied, “Both”. Roger stated SMRPC gives the town the figures requested, this year the figure they suggested was 28 new homes.

Citizen – Are you sure this figure is correct. There are 44 new children in the school system this year, where will they all find housing in the future?

Roger A. replied stating SMRPC takes into consideration all the neighboring communities, it isn’t just Shapleigh. Sanford, Alfred, the Berwick’s, Waterboro, etc. are reviewed. In actuality the Town of Shapleigh sold 36 units last year, that is houses changing hands. In addition, there were 33 Growth Permits issued. Roger stated that the Town of Shapleigh does not know how many of these homes bought and sold, or new homes actually had children. We looked at home sales, new homes in our town and the surrounding communities, estimating what would be in the best interest of the town. SMRPC believed this figure to be 28, and again, the Planning Board felt this figure should be increased to 34.

A question was asked about seasonal conversions. Why do they need a Growth Permit when they are only being used seasonally?

Roger A. replied that the town does not know whether or not the people using these homes are in Shapleigh year round or how they are impacting the town. The Code Enforcement Officer does not have time to patrol each seasonal house to see how it is being utilized, therefore, new homes whether seasonal or not need to have a Growth Permit. If a *new* home is seasonal, and they get a Growth Permit, it does not matter if they are converted into year round use because they have already been counted as part of the increase to the community.

Citizen – If we are giving out fewer permits than the number of children graduating, then the children have to move away. Also, why can’t a formula be written to allow second homes for retirees, without the need for a Growth Permit. Could this be taken into account in the future?

Barbara G. – Many people are moving away because there are no good paying jobs in Maine.

Roger A. – Again, you may sell this second home in the future and we have no way to monitor that. This is also an issue for a seasonal home. We need to count each new home initially.

Selectmen Bill Hayes – I was here through much of the Growth Permit Process in January. Almost everyone that was here agreed they wanted to maintain a Growth Ordinance in Shapleigh. Most people agreed they want Shapleigh to remain the kind of place it is, which is why they moved to Shapleigh in the first place.

Bill H. explained that the Growth Permit is not specific to anyone as a family; it is specific to the property. A person’s use of the property today may not have an effect on the cost of the school system, but if you sell tomorrow the use may well impact the school. This ordinance is the best attempt at trying to be fair and maintain a growth ordinance to prevent run-a-way growth, and to prevent over taxing because of increased infrastructure. Bill stated that under the new ordinance everyone will know when they are going to be able to build their home depending where on the list they are. It will no longer be a guess of whether or not you will get one. Bill added that once the list is created you will no longer have to stand in line three or four days, and still not know whether or not you will get a permit. You will be able to call the Planning Board Secretary and find out where you are on the waiting list so you can determine when you might be able to build.

Bill H. talked about the fact that several years ago he went through the seasonal conversion process and had to get a Growth Permit. At that time he looked at the process differently and thought that perhaps seasonal

conversions should not be required to get a Growth Permit. Bill stated that after thinking about the impact and the fact that no one can guarantee how long they will be in their home using it the way they are using it today, they may sell it, I looked at it in an entirely different manner. Bill stated that most new “seasonal” homes today in Shapleigh are being built with the capability of being used year round, including insulation and heating systems and full plumbing for the eventuality of retiring in the home or selling it.

Citizen – You say we will have some idea of when we will be able to build. We have been denied a permit for three years. We have no idea when we will be able to build.

Selectmen Bill Hayes – This will be further explained by Roger shortly.

Citizen – The growth ordinance does not spell out the definition of seasonal dwelling under definitions. Under 1.5 and 1.6 it talks about seasonal unit but there is no clear definition.

Madge B. – When the ordinance was written the Planning Board was probably relying on the definition of a seasonal conversion under State Law. It probably wasn’t thought it was needed, but it could be added and it is a good comment.

Roger A. read the changes under 1.8 “Growth Permit Selection System”.

Citizen – Under (b) and (c) it allows for only two Growth Permits to be submitted and issued to any one individual. The citizen wanted further explanation.

Roger A. explained that at this time a single contractor could submit as many permits as they wanted to, but would only be allowed to get two per month. The problem with this system is if a waiting list is created and carried forward from year to year, he may bump some other people because he takes up x amount of spaces. This way he can only submit two per month so that gives others a chance to get a permit, but still allows him to have access as well.

Citizen – I think giving two applications to a contractor is excessive. I do not think it is taking care of the people who live here, people with children looking for a home. I have listened to people who put in a Growth Permit application, people who have lived here all their lives and they didn’t get a permit, yet you are allowing someone to get two Growth Permits. Also on 1.8(d), I have a question about allowing two additional permits for the Habitat for Humanity, what happens if they do not get those permits? Can those be used by other townspeople? If not, why not?

Roger A. stated that they can only be used for Habitat for Humanity. They do not go back into the number allowed.

Citizen – Why don’t they go back into the allotment because it is likely they will have children and will impact the town so why can’t those permits be added in? There will be no more of a negative impact if they get issued.

Roger A. replied that one additional permit was added to the allotment from last year. This will be looked at from year to year but again, this is still up from the amount that we could have opted for which was 28 units. Also, Habitat for Humanity has the calendar year to opt to take out a Growth Permit. Because of this they can wait until December 31st to take out their permits, making giving these permits to someone else not feasible. Roger stated that because the Planning Board is not going to increase the number to 36 permits on

January 1, so the suggestion to roll over the Habitat to Humanity permits is a mute point. Roger also noted that Habitat for Humanity has never asked for more than one permit and by allowing them this option it can help members of the community in need.

Roger A. noted the other change in the permitting process, is to begin the new process August 2005, because we do have permits that will most probably be reissued due to persons not getting their building permits within the three month's allow. All the people currently applying for a Growth Permit but not receiving one will want to re-apply in August. There may be a line in August but thankfully the weather will be better than January. After this, the waiting list will continue to grow and there should be no need for further lines.

Roger A. stated that with this new system you will be able to contact the Planning Board Secretary and ask where you are on the list. In the future, there will be no need for a line because you will be able to submit your application any day the Town Office is open.

Citizen – When do you get in line for the August submittal date?

Roger A replied that it was up to the applicants. The Planning Board has no control over this.

Citizen – If an application was submitted in January 2005, is there any chance this application can be brought forward.

Roger A. stated they would not be brought forward because there will now be a non-refundable application fee and all applications will need to be re-submitted.

Citizen – Under 1.8(f) it states you can submit your application by certified mail, does this pre-empt someone standing in line?

It was agreed by Selectmen Bill Hayes and the Planning Board that the people standing in line will be reviewed first then the applications coming in the mail would be added afterward.

Citizen – Does the two permits accepted and issued per month take place in August 2005?

Roger A. stated this was correct; the new system of accepting two per month begins on August 2, 2005 if accepted at Town Meeting in March 2005. The issuance of Growth Permits will still be done at the first Planning Board meeting of January 2006.

Roger A. reviewed 1.8(g) which states that on December 1st all those on the waiting list shall be notified and will have 30 days to state whether or not they wish to remain on the waiting list. If they wish to remain they will need to mail in a check for \$50 along with a statement they want to remain on the list. Roger stated this should filter out people that no longer want to build or who have sold the property, etc.

Citizen – There is a growing percentage of the population who are 65 years and over, and who have lived in the area for years but might want to move into something smaller and easier to maintain. This may be a need the boards should look at.

Roger A. replied that the Planning Board and Board of Selectmen have looked at this situation. It is very difficult to make changes based on age as this becomes a discrimination factor which is not allowed.

Citizen – I realize that but also you need to look at the fact the school situation we are all concerned with, the student population has dropped in the past five years. (It was noted by the Planning Board at the previous review that although the number of students is dropping in the school system, the cost per student continues to rising due to cost in transportation, school maintenance, new schools, and teachers salaries. The actual figures and cost to each town has been reviewed each year.)

Citizen – I believe that if there was more consideration for older local residents, to make it more feasible for them to stay instead of selling their land off into smaller parcels, it might be better for the community.

Citizen – Many of us have large parcels and have been paying taxes on them for quite some time. Now we want to build a retirement home that is smaller. Our property is only going to put one more driveway onto an existing road. We increase the tax base putting no children into the school system. If there was a formula that would allow for so many permits for us that do not impact the school, it would keep us in the town.

Roger A. stated the Planning Board has looked into impact fees for those who impact the town in a greater way. A problem with impact fees you need to use it within 10 years and apply the fee for a specific project. Also because Shapleigh does not have a high debt or a large need at this time, we could not take in a lot of money, and its unlikely we would manage it affectively.

Selectmen Bill Hayes – We watched the process this year and it did not get better this year from last. Everybody was well mannered and considerate but you could tell it would not have taken a lot to create a serious situation. No one wants to see that happen. In addition, although we have to review the ordinance every three years according to State law, there is nothing to say we cannot review it every year. These changes were an honest attempt to help to change what currently exists and make the process a little better.

Roger A. spoke about the State and Town considering village centers and allowing additional growth and smaller lots in those areas. Roger stated he was against this because the cost to create water and sewer could be substantial. Roger did state that condominiums or town houses may be viable since they would be required to put in common water and sewer, which would be no cost to the town. The developer would need an incentive to do this. At the present time, anyone that wants to come to Shapleigh to build a condo, triplex, etc. cannot because they are only allowed two permits per month. So additional housing for the needs of the town is a difficult problem to solve.

Citizen – There are a number of families that are taking in their adult children but they cannot build an attached apartment.

Roger A. stated that additional living space is an allowed use as long as there is not an additional kitchen added to the property. You can have a bedroom, living room and bath. If you add the additional kitchen then you need a Growth Permit because you are creating a duplex.

Citizen – Because of the limited amount of Growth Permits the cost of owning a home has gone out of reach for many children graduating from high school. Or if they do buy, there isn't enough equity in the home for the future. The citizen felt the number of permits should be tied in with the number children graduating from high school.

Roger A. agreed housing prices have inflated but noted it was not just Shapleigh. All of York County has seen a substantial increase in the cost of housing. Much of the country is seeing the inflationary prices whether there are growth ordinances or not.

Citizen – Standing in line for a Growth Permit I found it is not out-of-towner's wanting to build a home but local's from the Sanford area. People who graduated from Massabesic High. I feel the number of Growth Permits should be increased from what the Planning Board was proposing.

Roger A. stated that he has been on the Planning Board for over 10 years. He stated four years ago the Planning Board did not issue the last Growth Permit until the December of that year. Roger stated three years ago the last growth permit was issued in April. Last year the Planning Board issued them all in January, with the last permit being given out in April because of the waiting list. This year appears to be the same.

Roger A. stated Southern Maine Regional felt the Town could be at 28 units. The Planning Board agrees this number is too low. "We are a bedroom community of Sanford. We have the lakes. If we increase it, it will not stop the problem. We are going to continue to grow because of the location and benefits of living in Shapleigh. But the growth needs to be manageable so Shapleigh is a community we all want to continue to live in."

Several citizens still believe that the Growth Permits affect the locals the most and there should be a way to help the locals.

Alex M. – With the proposed changes at least anyone wanting a Growth Permit will be able to estimate when they are going to receive one and they will not have to stand in a line for days after the August application process. Alex spoke of the large number of subdivisions that are being proposed for Shapleigh at this time and Alex felt it was imperative the town tries to control growth. Alex explained he moved here from the Sanford area and saw what uncontrolled growth did to that area. He lived in Old Orchard beach as well and the same thing happened there. Alex pointed out that many of the Growth Permits this year were given out to developers of recent subdivisions.

Citizen – How does SMRPC come up with the figure of 28 units as being what the Town of Shapleigh should have for their Growth Ordinance?

Madge B. – It is set by State Court law, that is every town has to take their fair share of the regional growth. By that they mean population growth. It is both State and Federal as to how the figures are acquired. The Bill of Rights prevents us from keeping people out. So a method was created to determine what would be a Town's fair share and this is the formula used by Southern Maine Regional Planning Commission.

Madge B. stated that in the past growth ordinances in other parts of the country have been used to discriminate and keep certain people out of a town, such as low income, blacks, etc. So this is why we have to be extremely careful not to put categories of people into the ordinance. Trying to allow only residents to have a certain number of permits or to have special privileges could never be done.

Madge B. stated that back in 1979 her and her husband had to wait six months to get their Growth Permit. Having to wait for a Growth Permit is nothing new, it's been going on since the inception of the ordinance (March 1979). Madge stated that the ordinance hasn't changed a lot because it was fashioned from the onset to meet the court requirements regarding numbers of permits and to be non-discriminatory. You could set up a point system but you must be very careful what it is used for. Madge, unlike Roger A., would like to see more houses allowed closer to a village center and fewer in outlying areas. Madge stated that although water and sewer are expensive, the cost for new roads and maintenance is very expensive as well. Madge believes that once water and sewer are in place you know the cost to the town. She felt that the cost to maintain roads goes up every year and you never know the additional cost from year to year. Madge added that at this time we are spending lots of money to maintain outlying roads.

Madge B. concluded that the current Growth Ordinance has worked well for many years and that unless the town does not want one at all, this ordinance is a good attempt at making the system work.

Roger A. reminded the citizens that Growth Permits are site specific. They can be transferred from person to person because they run with the lot. But they can be used only for the *lot* approved on the permit.

Citizen – The ordinance changes are going for a vote, correct?

Roger A. – Yes it is, at the town meeting in March.

Citizen – What alternative is there other than to vote for this? Can we change the number of Growth Permits allotted?

Roger A. – At the Town Meeting you can ask to amend any ordinance change. The Planning Board is presenting it to the townspeople as it is currently written. You can decide to make an amendment to what is being proposed. You can decide to keep the current Growth Ordinance as it is written.

Citizen – Is there any way we can have an alternative to the August campout?

Roger A. and Madge B. – A lottery system was suggested but after much discussion it was thought that if someone had been standing in line they should know where they will be on the list, therefore the lottery idea was not considered. Roger stated that the August line will be the last waiting line. Roger stated they decided upon August because it will be a much better temperature. Also, all the existing Growth Permits will be given out so everyone who did not get one can re-apply at that time. In August all 2005 growth and building permits will have been given out.

A citizen asked about the list that was created by the townspeople during the last waiting line in January 2005, would this be created again?

Selectmen Bill Hayes – This list was not created by any Town officials. It was an agreement by the people participating in the process. They governed that themselves. The Town of Shapleigh recognizes the people waiting in line and the first person in line will be the first person on the new list reviewed by the Planning Board.

Citizen – Does the current waiting list from January 2005 get rolled over onto the new list in August?

Roger A. – No, the current list expires and a new list will be created starting in August. Barbara G. (Planning Board Secretary) will send out a letter to the current people/addresses on the waiting list. The letter will state that you will need to reapply and submit a \$200 application fee if you wish to be on the new list.

Citizen – If you go on the list in August 2005, will you then remain on the waiting list?

Roger A. – Yes, as long as you wish to remain on the list. There will be a \$50 administration fee each year you wish to remain on the list until you receive a permit.

Roger A. explained in August 2005, the first 34 people will be reviewed and have a permit issued in January 2006 if they meet all the criteria. The people who do not get a permit will remain on the waiting list and be reviewed in January 2007. If you are amongst the next 34 people, and you have a viable lot, you will receive your permit in 2007.

Selectmen Bill Hayes reminded those present that if they are on a waiting list they can contact the Planning Board Secretary to find out where they are on the list which will give you an idea of when you would receive a growth / building permit.

Citizen – If I do not get a Growth Permit this year, then I do not have a buildable lot. Do I get a break on my taxes because I do not have a buildable lot?

Roger A. – You have a buildable lot. Because you don't have a Growth Permit yet, does not mean you do not have a buildable lot.

Selectmen Bill Hayes – If you do not have the proper size or road frontage and it isn't a grandfathered lot of record, then you do not have a buildable lot. Otherwise you do, once you have a permit.

Citizen – Shouldn't my taxes go down until I get a Growth Permit? Isn't land valued more if it is buildable or not buildable?

Madge B. – Not in this town.

Citizen – You require a purchase and sales agreement to get a Growth Permit; I have owned the land for 30 years, why do I need one?

Roger A. – You only need a purchase and sales agreement if you do not have a viable deed. If you own the property then you would have a deed.

Madge B. – You only need a purchase and sale agreement to show you have an interest in the property if you do not own it at the time you apply for the Growth Permit.

Citizen – I have a comment. I am a fifth generation Shapleigh resident. I built a house on the old family farm and I had to go through the Growth Permit process like everybody else. When I got mine there were 16 permits allowed and I was lucky enough to get the last one in July of that year. I think that this ordinance is the best thing this town ever did. It controls growth and keeps Shapleigh a community that people want to live in. All you have to do is look at the town hall parking lot in January and you can see this is a very desirable town to live in. One of the main reasons is because of the ordinance. Yes it is tough when someone has a piece of land and they want to build and you say you can't because we have already given out the permits for that year. It is that process and that limit that has kept us a real nice place to live. I would hate to see that change. I also think that creating a waiting list will eliminate the circus we had in January this year. Now that people know they don't have to wait in a line on January 1st in order to get on a list, it should not be so frantic in August. You will also know where you are on the list. I think it is a great idea.

Roger A. concluded that with the changes to the ordinance, people will now know approximately when they will be able to build, and after August 2005, there will be no need for a waiting line.

Roger A. asked if there were anymore questions and there were none.

Public Hearing was closed at 8:25 p.m.

The Planning Board meeting started at 8:30 p.m.

The minutes from Tuesday, January 25, 2005 were accepted as written.

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

Best Possible Location – Handicap Accessible Bathroom & Bedroom – Richard Huntress (Applicant); Wendell Clough (Property Owner); Lee Dezan (Builder) – Map 35, Lot 22 (21 Cypress Road, Square Pond)

Mr. and Mrs. Wendall Clough, and Mr. and Mrs. Huntress (parents of applicant) were present to discuss the application.

The application is a request to change the existing structure so Mr. Richard Huntress can access the existing bedroom and bathroom with his wheelchair. Currently the doorways do not accommodate the wheelchair and the area is very small to maneuver the wheelchair.

The board members reviewed the material presented. Along with the application that stated the intentions, a plot plan was drawn showing the existing camp to be 103' from the high water mark, 30' and 56' to the side lots lines, and 69' to the center of the road. It was apparent the lot line the addition would not meet would be the road setback which needs to be 75' to the center of the road or 50' from the edge of the road whichever is greater.

Mr. Huntress is requesting an addition to the existing structure that would add an additional four feet to the home, making the setback to the center of the road, 65 feet, ten feet shy of the requirement.

The Planning Board members reviewed Shapleigh Zoning Ordinance 105-4.D(8) "Disability access". Madge B. questioned that this application would fall under this ordinance since this ordinance appears to be specific 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".

Roger A. was also concerned with the fact that any structure added for disability access must be renewed every three years by the Code Enforcement Officer and should the need no longer exist the structure must be removed. Roger did not think the applicants would want to remove four feet of the building.

Barbara G. and Diane S. asked if this could be reviewed under a 30% expansion? The other board members were not certain. Barbara G. stated she would speak with Steve M., CEO, on the issue to get his determination.

The board members agreed to do a site inspection on Saturday, February 12th at 9:30 a.m. Roger A. stated a Notice to Abutters would be mailed as well. The members will discuss how the application would be reviewed at the next meeting.

Nothing further was discussed.

Other:

Map 44, Lot 46 – Abutting neighbor would like to discuss an approved Conditional Use Permit granted in 2000, for gravel in excess of 3500 yards.

Mr. Eaton was before the Planning Board to ask how his neighbor, Mr. Noah Richard, was allowed to dump 3500 yards of gravel onto Mr. Eaton's property without his permission. Mr. Eaton added that he was never sent a notice stating Mr. Richard was before the Planning Board.

Roger A. stated that at the time of review and approval, the Planning Board was using the information given to them by Mr. Richard. In 1998, at the time of the approval, the Town of Shapleigh did not require a survey to prove the location of boundary lines. Today it would be required if there was a question. Roger also added the fact that this permit was an “after-the-fact” permit. The fill had already been moved onto the site. Madge B., who was a board member at the time and who attended the site inspection, stated that the board members were under the impression the land they were looking at belonged to the applicant, Mr. Noah Richard.

Roger A. stated the Planning Board was required to send out a notice to abutters for all Conditional Use Permits, and if it was not done he did not know why. He had assumed it was mailed. Barbara G., who was not the secretary in 1998, stated she did not see any indication the letters were mailed out in the file.

Roger A. stated that a permit to move gravel is only good for three years, then it has to be renewed. At this time the Planning Boards approval to move gravel has expired.

The Planning Board members concluded that although it is clear Mr. Richard has encroached onto Mr. Eaton’s property, this is now a civil matter between Mr. Richard and Mr. Eaton. Roger A. stated that it would be in their best interest to work something out between them since they are neighbors.

There was nothing further discussed by Planning Board members.

GROWTH PERMIT(S) – *There are none available at this time.*

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

Respectively submitted,

Barbara Gilbride
Planning Board Secretary planningboard@shapleigh.net

Note: The minutes are not verbatim.

SHAPLEIGH PLANNING BOARD MINUTES

Wednesday, March 9, 2005

Members in attendance: Roger Allaire, John Klimas, and Barbara Gilbride (Member / Secretary). Code Enforcement Officer, Steven McDonough was also in attendance.

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

Amendment to a Conditional Use Permit – Moving Home Day Care to New Location - Part of Map 4, Lot 10 (601 Back Road) – Jamie & Jennifer Cole

Mr. Jamie Cole was in attendance to review the application.

Roger A. began by asking Mr. Cole to state what the application was for. Mr. Cole stated he and his wife wanted to move the existing Home Day Care business from their old home to their new home.

Roger A. stated that the current application states the day care will be for up to 12 children. Roger said the current number of children approved is 10. Roger asked if Mr. Cole wanted to increase the number to 12? Roger also asked if there would be infants at the day care because currently the day care is not approved for infants. Mr. Cole stated the State of Maine had approved him for 12 children at both the current location and at the new location. He said they would in fact like to have up to 12 children allowed. Mr. Cole stated that though they do not have any infants at this time, they would like that option.

Roger A. asked if there were any additional things they would have to do in order to be able to have infants? Mr. Cole stated that the day care could have infants, but the State would require more adults on site, the ratio of adult to child increases. Mr. Cole stated the reason why they did not have infants at this time is because the profit margin goes down with the necessity of hiring additional personnel. Mr. Cole stated he still would like to be able to care for infants in the future.

Roger A. reviewed the parking area on the plan presented. He stated that in addition to the two parking spaces needed for Mr. and Mrs. Cole, there would need to be up to two parking spaces for personnel and perhaps up to four for parents dropping off children. Roger stated the parking area as described was sufficient to hold eight vehicles and he noted there was also a place for vehicles to turn around.

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

The minutes from Tuesday, February 8, 2005 were accepted as written.

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

Best Possible Location – Handicap Accessible Bathroom & Bedroom – Richard Huntress (Applicant); Wendell Clough (Property Owner); Lee Dezan (Builder) – Map 35, Lot 22 (21 Cypress Road, Square Pond)

During the Planning Board meeting on Tuesday, February 8th, the Planning Board discussed with Mr. and Mrs. Wendall Clough, and Mr. and Mrs. Huntress (parents of applicant) their application to expand their cottage to create a handicap bathroom and bedroom. During the discussion the Planning Board members were concerned that this matter might best be handled by the Zoning Board of Appeals, otherwise the

applicants would have to remove the addition should there no longer be a need for handicap accessibility. The board members agreed to discuss this matter with the Code Enforcement Officer, Steven McDonough, who was unable to attend the meeting on February 8th.

Barbara G. discussed the application with Mr. McDonough, had a telephone conference with Diane Srebnick, Vice Chairman, (Roger Allaire could not be reached), and spoke with Madge B. It was concluded that this application request should be handled through the Zoning Board of Appeals. Therefore, the site inspection was canceled for Saturday and the Notice to Abutters was not mailed. The following letter was mailed to Mr. Wendall Clough and Mr. Richard Huntress:

Subject: Best Possible Location of a Non-Conforming Structure

Dear Wendall;

The Planning Board has determined it cannot act on your application as presented. It does not fit the criteria for disability access which deals with installation of equipment or construction necessary for access to or egress from the property. In addition such construction must be removed within 90 days after the demonstrated need ends, see Shapleigh Zoning Ordinance 105-4.D(8).

The Planning Board believes your request should be taken to the Zoning Board of Appeals. Enclosed is a copy of your B.P.L. application should you need the information contained within it. Also enclosed is a copy of the Z.B.A. application.

Should you want to proceed through the Z.B.A., your \$100 B.P.L. application fee will be credited toward the \$150 required by the Z.B.A. Thus you will only need to submit an additional \$50. If you do not want to proceed, please notify the Planning Board Secretary so your \$100 may be returned to you.

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Shapleigh Planning Board, Tuesday, February 22, 2005

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If you have any further questions feel free to contact Charles Gruber of the Zoning Board of Appeals at 207-636-1875. He can give you the necessary submittal deadlines, when the Zoning Board meets, etc. You may also contact the Planning Board Secretary during regular Town Office hours. Thank you.

Sincerely,

Diane Srebnick
Vice Chairman, Planning Board

Cc: Richard Huntress

Nothing further was discussed on this application.

Conditional Use Permit – Repair Retaining Walls & Stairs - Map 44, Lot 37 (236 Silver Lake Rd.) – Mike & Lorraine Chubet

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

Presented along with their application, was a statement that the project would be done in three phases.

Phase 1 = Replace 1st retaining wall approximately 39' long and 5' high with rip rap stone and create a French drain to disperse water.

Phase 2 = Replace two retaining walls, one 40' long, the other 27' long, both 4' high with rip rap stone. Again using French drains to disperse water.

Phase 3 = Replace approximately 25 steps that run in the middle of all three retaining walls from the house to the high water mark.

Pictures were received of the existing railroad tie retaining walls and stairs that shall be replaced along with pictures of a neighboring property showing what the new retaining walls will look like. The applicants stated they would use the same gentlemen to do their project as the neighbors did.

A copy of the DEP Permit by Rule application was received, dated 9/11/04.

Diane S. stated that if the new walls were going to be greater than four feet in height the Planning Board would need an engineered plan. Mr. Chubet stated that they were five feet in height but that was the measured distance because they would be going uphill to retain the earth. They are not built vertically as are the current walls, the stones will lay on the embankment.

Diane S. asked Steve M., CEO, if the Chubet's should have an engineered plan? Steve M. asked if all the existing walls would be removed? Mr. Chubet stated eventually. The wall closest to the water would not be done at this time. Steve stated that the grade of the slope would need to be addressed to be certain the French drains would be adequate. Steve did state that the proposed rip-rap walls were preferable to what exists now or many other types of retaining walls. Steve said the most important thing the Planning Board needs to look at is how the rip-rap, drainage, etc. will be installed.

Diane S. asked the Chubet's to get a detailed plan from the contractor doing the job which would show how he would completing the project. The other board members agreed this should be required.

Diane S. asked if any trees would be removed during the project? Mr. Chubet stated he did not believe that would be necessary.

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Mr. Chubet asked if he could move his application forward so he had time to get the information from the contractor. Diane S. stated the application could be tabled until he is ready to return. Diane told the Chubet's to contact Barbara G., the Planning Board Secretary, when they wish to be back on the agenda. Diane stated that a Notice to Abutters would have to be mailed 10 days in advance of the meeting they wish to attend. The Chubet's stated they understood.

Nothing further was discussed.

Amendment to a Conditional Use Permit – Moving Home Day Care to New Location - Part of Map 4, Lot 10 (601 Back Road) – Jamie & Jennifer Cole

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

The applicants stated they would be moving their approved Home Day Care from 651 Back Road to their new home located at 601 Back Road. The applicants are requesting they be allowed up to 12 children, from 6 weeks in age to 12 years. (Currently their Home Day Care is licensed by the State of Maine for up to 12 children, and ***approved by the Planning Board for 10 children, and no infants.***)

Diane S. asked the applicant's if they had their State inspection / approval at this time. Mrs. Cole stated they did and gave the report to Barbara G. A copy was made for the file.

Diane S. asked if there was a parking plan and if the site distances had been calculated. Diane did find a sketch plan showing an area to turn around but there were no site distances. Diane felt the Coles needed to

have a better sketch depicting the parking area for the next meeting as well as the site distances. The other board members agreed.

Diane S. scheduled a Public Hearing for Tuesday, March 8th at 7:00 p.m. She stated again the applicants needed a better sketched parking plan as well site distances.

Nothing further was discussed.

Best Possible Location – 30% Expansion and New Septic – Map 28, Lot 18 (17th Street, Mousam Lake)
– Paul & Patricia Burbank

Mr. Burbank was present to review his application.

Mr. Burbank submitted along with his application a copy of a Subsurface Wastewater Disposal System Application dated 1/16/04, done by Joseph Noel, SE# 221; a sketch plan showing the existing structures on the property and one showing the proposed structures; and an engineered design of the proposed new camp.

Mr. Burbank began by stating he was working with the contractor, Steve McKenna, to come up with a plan that would satisfy both the requirements of the Town of Shapleigh and create functional living space. Mr. Burbank stated that he was before the Planning Board to get any suggestions that would be helpful for this project. He wanted the board members input.

Mr. Burbank stated he would be replacing the existing septic system with a new system, moving it 20 feet farther from the high water mark. He stated that the new cottage would have a poured full foundation as opposed to the posts it sits on now. In addition, the existing cement decking area will be removed and replaced with grass or mulch so the area will better be able to absorb rainwater.

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Mr. Burbank showed board members a sketch of the existing structures / decking / stairs, and septic location on the property. Diane S. asked how far the existing camp was from the high water mark? Mr. Burbank believed it was approximately 47 feet. (A second sketch was submitted which showed the 47 feet. The original sketch showed this distance to be 53 feet from the camp to the water but Mr. Burbank thought the 53' depicted was because the water had been dropped for the winter season.) The existing camp is approximately 29 feet from the road. One side setback from the camp is 8 feet; the other side setback from the cement deck is approximately 4 feet.

Mr. Burbank stated he did not plan on moving the camp. The only change would be to expand it by 30%. The current 4 foot setback would actually become 8 feet. The remaining area would be planted with grass or mulch would be added to the site.

Mr. Burbank stated there would be a lock-block retaining wall placed around the new septic system at the suggestion of the septic system designer. The existing retaining wall is not sound enough to retain the earth necessary for the new septic system. The wall is currently made of railroad ties and boards with metal posts holding the boards in place.

Diane S. asked Steve M., CEO, if the existing decking counted toward the square foot calculation for existing structures? Steve stated that it did.

Mr. Burbank asked the Planning Board members if after reviewing his sketch plan, they wanted him to make changes for the next review? At this time the members did not feel any changes were necessary. Diane S.

stated there would need to be a site inspection. During the inspection the board members may find some changes are warranted.

Diane S. asked Mr. Burbank if any trees would be removed? Mr. Burbank stated approximately three would be removed but he would replant three after the project was completed.

Mr. Burbank concluded by stating the lay of the land is such that he believed he could not move the camp to another location without harming the environment. He added that again he was willing to hear any suggestions the Planning Board may have after the site inspection.

Diane S. scheduled the site inspection for 11:30 a.m., March 8th. Mr. Burbank will try to attend. Diane stated a Notice to Abutters would be mailed as well.

Nothing further was discussed.

Other:

Questions from Gil Berube regarding a possible new road for a lot division.

Mr. Berube did not attend the meeting so nothing was discussed.

GROWTH PERMIT(S) – *There are none available at this time.*

Shapleigh Planning Board, Tuesday, February 22, 2005

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The Planning Board meeting ended at 7:55 p.m.

Respectively submitted,

Barbara Gilbride
Planning Board Secretary planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES

Wednesday, March 9, 2005

Members in attendance: Roger Allaire, John Klimas, and Barbara Gilbride (Member / Secretary). Code Enforcement Officer, Steven McDonough was also in attendance.

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

Amendment to a Conditional Use Permit – Moving Home Day Care to New Location - Part of Map 4, Lot 10 (601 Back Road) – Jamie & Jennifer Cole

Mr. Jamie Cole was in attendance to review the application.

Roger A. began by asking Mr. Cole to state what the application was for. Mr. Cole stated he and his wife wanted to move the existing Home Day Care business from their old home to their new home.

Roger A. stated that the current application states the Day Care facility will be for up to 12 children. Roger said the current number of children approved is 10. Roger asked Mr. Cole if they wanted to increase the number of children to 12? Roger also asked if there would be infants at the Day Care because currently the Day Care is not approved for infants. Mr. Cole stated the State of Maine had approved him for 12 children at both the current location and at the new location. He said they would in fact like to have up to 12 children allowed. Mr. Cole stated that though they do not have any infants at this time, they would like that option.

Roger A. asked if there were any additional things they would have to do in order to be able to have infants? Mr. Cole stated that the Day Care could have infants, but the State would require more adults on site, the ratio of adult to child increases. Mr. Cole stated one reason they did not have infants at this time is because the profit margin goes down with the necessity of hiring additional personnel. Mr. Cole stated he still would like to be able to care for infants in the future.

Roger A. reviewed the parking area on the plan presented. He stated that in addition to the two parking spaces needed for Mr. and Mrs. Cole, there would need to be up to two parking spaces for personnel and perhaps up to four for parents dropping off children. Roger stated the parking area as described was sufficient to hold eight vehicles and he noted there was also a place for vehicles to turn around.

Steve M., CEO, asked if the parking area existed now or was it just on the sketch plan? Mr. Cole stated it existed at this time but part of it was under the snow banks. Mr. Cole stated he could have someone come in and remove the snow banks if the Planning Board wanted him to. Steve stated that the Planning Board may want to require the parking area be available by the time the Day Care opened for business.

Roger A. stated this application was in fact a new Conditional Use Permit and not an Amendment to a Conditional Use Permit because the new home is now on a separate lot from the existing home. (At one time both homes were on a single lot, which has subsequently been divided and this division has been recorded at the York County Registry of Deeds according to Mr. Cole.) Roger told Mr. Cole he would need to submit an additional \$50 for the application fee prior to the business being opened. Mr. Cole stated he understood.

Roger A. asked what the hours of operation would be. Mr. Cole stated the same as they are at this time, which he believed were 6:30 a.m. thru 5:30 p.m., Monday through Friday.

Steve M. noted that the Coles did not have their Occupancy Permit at this time and the Planning Board might want to make it a condition of approval. Roger A. agreed.

Roger A. asked if there were any more questions, there were none. The Public Hearing closed at 7:06 p.m.

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

The minutes from Tuesday, February 22, 2005 were accepted as written.

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

Conditional Use Permit – Moving Home Day Care to New Location - Part of Map 4, Lot 10 (601 Back Road) – Jamie & Jennifer Cole

Mr. Cole was present to discuss the application.

Roger A. stated once again that the application is to move the approved Home Day Care from 651 Back Road to their new home located at 601 Back Road. As stated during the Public Hearing, the applicants are requesting they be allowed up to 12 children, from 6 weeks in age to 12 years.

Along with a copy of the application the Planning Board received two sketch plans showing the location of the home, the proposed children's play area, Day Care entrance, parking / turn around area and site distances. The site distances are 522 feet toward Springvale and 453 feet toward the Town Hall. Roger A. stated that both of these site distances far exceed the minimum requirement, which for Back Road at 45 m.p.h. is 315 feet, per Zoning Ordinance 105-21 "Traffic". In addition, the Planning Board received the State of Maine, Dept. of Human Services Assessment Criteria checklist, which showed the Cole residence to be satisfactory for a home Day Care.

Roger A. reminded Mr. Cole that he would need to bring to the Town Office another \$50 for his Conditional Use Permit Application fee.

Roger A. asked if there were any additional questions from board members or Steve M., and there were none.

Roger A. read the following applicable ordinances:

- 105-17 - Land Uses. *A home occupation, such as a home Day Care is a permitted use.***
- 105-20 – Applicability of standards; prohibited uses. *This application is a permitted use within the zoning ordinance and it meets all state and federal law regulations.***
- 105-21 – Traffic. *Traffic will have safe access. The site distances are well in excess of the minimum required which is 315'.***
- 105-22 – Noise. *This business shall not create excessive noise; most activity will take place inside the building and the play area is well away from neighboring lot lines.***
- 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. There is currently one motion detector light in existence for traffic entering the driveway.***
- 105-26 – Stormwater runoff. *This is a new structure, permitted through the Code Enforcement Office, meeting all building site criteria. There are no changes being made to the outside to affect stormwater.***

- 105-27 – Erosion control. *This is a new structure, permitted through the Code Enforcement Office meeting all building site criteria. There are no changes being made to the outside to create erosion.*
- 105-28 – Setbacks and screening. *There will be fencing around the outdoor play area to prevent children from going into the parking area or offsite. No additional screening is necessary for this location.*
- 105-29 – Explosive materials. *There are no explosive materials on site.*
- 105-30 – Water quality. *There shall be no hazardous materials on site that could affect water quality, nor will any be produced by this business.*
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *The surrounding landscape, which is trees and shrubs, shall not be disturbed.*
- 105-32 – Relation of proposed building to the environment. *The new home fits in well with the area.*
- 105-33 – Refuse disposal. *The applicants will take all refuse to the town facilities.*
- 105-40 – Home occupations. *There shall be no more than two members outside of the family working at the Day Care. Currently only the homeowners tend to the Day Care.*
- 105-43 – Off-street parking and loading. *The parking / turnaround area is adequate for the number of employees and patrons of the home Day Care, per the sketch received.*
- 105-47 – Signs and billboards. *Any signage shall be obtained through the Code Enforcement Office.*

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, there are no changes being made to the existing property.*
- 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 encourages home occupations.*
- 4) Traffic access to the site is safe. *It is, the site distances are well within the limits.*
- 5) The site design is in conformance with all municipal flood hazard protection regulations. *It is, the new home shall have all necessary permits from the Code Enforcement Office and no changes are being made to the existing landscape.*
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. *A state approved septic system exists for the home.*
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. *There are no hazardous materials on site.*
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. *The building is a new home permitted through the Code Enforcement Office and no changes are being made to the landscape that would affect the flow of stormwater.*
- 9) Adequate provisions to control soil erosion and sedimentation have been made. *The building is a new home permitted through the Code Enforcement Office and no changes are being made to the landscape that would cause erosion.*
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. *There is, the water supply has State approval and the property is located near an existing fire pond and 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. *This business will not produce anything detrimental to the neighboring properties. The outdoor children’s play area is not located near the side lot lines.*
- 12) All performance standards in this chapter applicable to the proposed use will be met. *They shall.*

John K. made the motion to approve the Conditional Use Permit to locate the Home Day Care from 651 Back Road to 601 Back Road with the following condition(s):

- 1) *The hours of operation shall be 6:30 a.m. thru 5:30 p.m., Monday through Friday.*
- 2) *The parking / turnaround area and fencing for the play area must be completed by May 30, 2005.*
- 3) *An occupancy permit needs to be obtained for the new home prior to operating the Day Care business.*
- 4) *Any signage shall be permitted through the Code Enforcement Office.*

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

Nothing further was discussed.

Best Possible Location – 30% Expansion and New Septic – Map 28, Lot 18 (17th Street, Mousam Lake) – Paul & Patricia Burbank

Mr. Burbank was present to review his application.

Mr. Burbank submitted along with his application a copy of a Subsurface Wastewater Disposal System Application dated 1/16/04, done by Joseph Noel, SE# 221; a sketch plan showing the existing structures on the property and one showing the proposed structures; and an engineered design of the proposed new camp.

Alex MacPhail was the only member able to attend the site inspection due to the poor weather conditions. Alex told Barbara G. that from his observation the proposed home location was the best possible location due to the very steep terrain surrounding the existing structure. In addition, Alex said it was very important any areas exposed be replanted with vegetation as soon as possible to prevent erosion.

Mr. Burbank's newest sketch showed the new structure will be no closer to the high water mark than the existing which was a distance of 47 feet. During the last meeting, Mr. Burbank stated he would like to expand the size of the existing structure by the allowed 30%. Mr. Burbank had stated that the disturbed area, as well as the area currently covered by a cement patio area which will be removed, would be planted with vegetation.

Roger A. asked about the height of the proposed retaining wall around the new septic system. Roger also asked if it would be one solid wall or a stepped wall? Mr. Burbank stated the replacement wall would be the same height as the existing wall which was approximately 7 ½ feet. Mr. Burbank stated there was a good depiction of what the new wall will be comprised of, attached to his septic system design. The cross section of the wall shows a stepped down retaining wall.

Roger A. asked Steve M., CEO, if Mr. Burbank would need a DEP Permit by Rule for this project? Steve M. stated that it was likely but the Dept. of Environmental Protection no longer granted Permit by Rule without the Planning Board granting the Best Possible Location prior to their review. Steve stated that the Planning Board can make it a condition of approval, that Mr. Burbank obtains a Permit by Rule prior to starting construction. Mr. Burbank asked how he would go about obtaining a DEP Permit by Rule? Steve M. told Mr. Burbank to contact him and he would get him the application and explain it in further detail.

Roger A. stated that in addition to a Permit by Rule, Mr. Burbank should have an engineer design the retaining wall because it is above four feet in height. Mr. Burbank stated that he would do so if required.

Roger A. stated that this application fell under Shapleigh Zoning Ordinance 105-4.D(7) "Relocation". Roger stated that after review of the application which contained the location of the property, a plan showing the current location of the existing home, deck(s), septic, well, retaining wall and parking area; a copy of the Subsurface Wastewater Disposal System Application, dated 1/16/04, done by Joseph Noel, SE #221, showing in detail the location of the new system and the retaining walls needed around the new system; and the proposed home design, done by Thane Pearson Design; the Planning Board concluded the Best Possible Location was as presented on the final plan.

John K. made the motion to approve the Best Possible Location of the new camp and septic system as presented on the plan, with the following condition(s):

- 1) **A DEP Permit by Rule must be received by the Code Enforcement Officer for the proposed project prior to the issuance of any permits.**
- 2) **The setbacks for the new camp shall be 47 feet from the high water mark, 8 feet to the property currently owned by Furbish (Lot 17), 11 feet to the property currently owned by Hogan (Lot 19) – stairs 8 feet to Lot 19; new Septic System per the wastewater application received, dated 1/16/04.**
- 3) **The placement of the structure must have confirmation by a licensed surveyor that the building is placed in the correct location per the approved plans. This confirmation must be given to the Code Enforcement Officer, and a copy to the Planning Board for the file.**
- 4) **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.**

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

Nothing further was discussed.

Other:

Diane S. letter of resignation as a regular member and Vice Chairman.

Roger A. stated that Diane S. was going to step down as a permanent member and Vice Chairman due to changes in her schedule. Roger stated that Madge Baker told Barbara G. that she would be willing to come on board as a regular member. Roger believed it would be best to wait to elect a Vice Chairman until the first meeting in May, which is the yearly date to elect Planning Board officials. Barbara G. and John K. agreed this would be best.

GROWTH PERMIT(S) – *There are none available at this time.*

The Planning Board meeting ended at 7:50 p.m.

Respectively submitted,

Barbara Gilbride

Planning Board Secretary planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES

Tuesday, March 22, 2005

Members in attendance: Roger Allaire (Chairman), John Klimas, Madge Baker, Alexander MacPhail, and Barbara Gilbride (Member / Secretary). Code Enforcement Officer, Steven McDonough was also in attendance.

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

The minutes from Wednesday, March 9, 2005 were accepted as written.

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

Conditional Use Permit – Rent Retail Space to a Donut Shop with Drive thru Window and Real Estate Office, in the Existing Building – Map 19, Lot 13 (63 Emery Mills Road) – Roger Berube Applicant / Owner

Mr. Berube was in attendance for review of his application.

Mr. Berube presented a Sketch Plan to Planning Board members which showed the location of the existing buildings, the location of the proposed 60' x 100' storage building, lot dimensions, distance from buildings to lot lines, site distances on Emery Mills Road (State Rte. 109), existing parking area, and existing driveway. In addition, the Planning Board received a copy of the Subsurface Wastewater Disposal System Application, dated 2/17/04, done by John Large SE #7. This septic design had been designed for the proposed 10 employees in the retail space as well as a laundromat. Mr. Berube stated the septic system needed for the retail space would not be as large as proposed because he was no longer going to put in a laundromat / washing machines, which require a much larger septic system.

Mr. Berube stated that Samia Reality had expressed an interest in renting office space from him as soon as possible. Also, a gentlemen who owned the donut shop called Dough Boy would like to rent space, provided he was allowed to have a drive-up window in the building.

Mr. Berube stated he would be removing the existing cabins and shed because they were in such poor condition. He would like to build a 60' x 100' foot building to use for his own storage at this time and for possible use by others in the future.

Roger A. calculated the total square feet of the proposed buildings and it came to 9,880 sq. ft. He then calculated the lot size and it was in excess of 110,000 square feet. The existing building and proposed new building is less than the 10% lot coverage allowed.

Roger A. asked Mr. Berube how many seats would be placed in the donut shop. Mr. Berube stated the lessee said he would like a seating capacity of 20. Mr. Berube stated there would be up to four employees at the donut shop.

Roger A. asked about the drive-thru, how would the cars access the window? Mr. Berube stated he was going to have them enter from Fifth Street and exit onto Rte. 109 from the existing driveway. Mr. Berube stated that he was one of the neighbors who lived on Fifth Street so he would not have a problem with it, but he did not know how the other neighbors would feel about his plan.

Mr. Berube stated that if he could not have the drive-thru window the donut shop would not be opening because the gentlemen would not rent the space.

Alex M. asked if there was a fence on Fifth Street? Mr. Berube stated there was not but he could put one up if it was necessary. Alex did not believe it would be necessary due to the lay of the land, it dropped off significantly, so any traffic lights would most likely be shining over the rooftops of the homes below.

Madge B. asked if any of this property was in the Shoreland Zone. Roger A. stated he did not believe so based on the last review of this property.

Steve M., CEO, asked if the proposed storage building was going to be one large building or broken up into small rental units? Mr. Berube stated that initially it was going to be one large building, used for himself. He stated that in the future if someone wanted to rent some storage space he would build some inside petitions, with doors exiting out the back of the building. Steve stated that the board members needed to know what was being stored. If Mr. Berube wanted to store something like boats, boat motors, etc. there could be criteria that would have to be met because of the storage of explosive fuel, etc. Roger A. concurred stating that different standards would be applied depending on what would be placed inside the building. If Mr. Berube just wanted to store miscellaneous personal items it would not be a problem. Mr. Berube was not sure at this time what he wanted to do.

Roger A. stated that if Mr. Berube wanted the building to be approved for personal storage only, there would be limitations placed on the approval.

Roger A. and Madge B. reviewed Zoning Ordinance 105-43 "Off-street parking and loading". Roger stated that an area of 200 square feet would need to be allocated for each parking space. Roger stated that normally the parking spaces were 10' x 20' in size. Roger and Madge stated the following parking ordinances applied to this proposal:

105-43.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.
- (g) - One space for each three seats, permanent or otherwise, for patron use for restaurants and other places serving food or beverage and for theaters, auditoriums and other places of amusement or assembly.

Madge B. asked Roger which would best apply to this application? Roger stated that whichever ordinance required the greatest number of parking slots, is what the Planning Board would be required to use. Roger calculated that based on the building size, 26 parking spaces would be the minimum required. Madge agreed.

John K. asked if any additional buffers should be required. Roger A. believed that the vegetation that was currently in place, along with the slope of the land behind this property, would be adequate to act as a buffer from the lights from the vehicles using the establishment.

Roger A. asked if the donut shop was going to be cooking on site or bringing the donuts from another location? Mr. Berube believed the donuts would be cooked on site. Roger stated that the Planning Board would need to know that information. John K. stated the board members would also need to know what would be done with any waste generated by the donut shop. Would there be a dumpster on site and if so, where will it be located.

Roger A. reviewed the septic design. Mr. Berube stated that the septic design was originally designed for not only employees but a Laundromat so it was larger than necessary for the proposed real estate office and donut shop. Roger told Mr. Berube that he would need a system that was designed specifically for the donut shop and real estate office. Mr. Berube stated he would bring it to the next meeting.

Roger A. asked what the hours of operation would be? Mr. Berube stated the donut shop would probably be open from 5:00 a.m. thru 2:00 p.m. The Real Estate office might be open from 8:30 a.m. thru 5:30 p.m. Roger told Mr. Berube to ask his renters what their hours of operations will be and have that information for the next meeting as well.

Roger A. told Mr. Berube he would need the following information for the next review of his application:

- 1) **A Parking Plan needs to be placed on the Sketch Plan. 26 parking spaces are needed as a minimum, each being 200 sq. ft in size.**
- 2) **A revised Septic Design is required to address the proposed businesses.**
- 3) **A written plan stating whether or not the donuts will be cooked on site and what will be done with any waste generated by the Donut Shop.**
- 4) **Place location of dumpster(s) on Sketch Plan.**
- 5) **Bathrooms need to be placed on the plan, for each business located in the building.**
- 6) **Hours of operation need to be listed for each business.**
- 7) **What type of lighting will be placed on the building? Show the location of any lighting, making certain it does not shine onto neighboring properties.**
- 8) **If any additional paving will be done now or in the near future, show it's location on the Sketch Plan.**
- 9) **Should you decide to build the additional storage building, you need to list all items that may be stored inside the building. Any changes to these items would need to be presented to the Planning Board as an Amendment to your Conditional Use Permit.**

Roger stated that at the next meeting, in which there will be not only a review of his application but a Public Hearing, there may be more requirements that are necessary prior to approval of his application.

Roger A. set the Public Hearing for 7:00 p.m. on Tuesday, April 12th. Roger stated that a Notice to Abutters will also be mailed.

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

Nothing further was discussed.

Other:

Roger A. stated that at this time, because Diane Srebnick resigned as Regular member / Vice Chairman, and was appointed an Alternate member, there is a vacancy for Vice Chairman. Roger asked if anyone wanted to make the motion to elect a new Vice Chairman.

Barbara G. made the motion to elect Madge Baker as Vice Chairman of the Planning Board. Alex M. 2nd the motion. All members were in favor.

Roger A. asked Madge B. if she would accept the nomination. She stated she would. ***Madge Baker is now Vice Chairman of the Planning Board.***

Roger A. stated that all the ordinances proposed by the Planning Board passed except the ordinance to regulate "Agricultural Home Based Businesses". This ordinance was written to address signage and parking, as well as having the business meet setback requirements. Roger stated that the Board of Selectmen didn't recommend approval based on the fact that a roadside stand would not be a "roadside" stand if they had to meet setback requirements.

Madge B. and Steve M. both agreed that the ordinance was created over the concern for parking and not where a roadside table was placed. Madge thought the Planning Board might want to look at this ordinance once again this year to see if changes could be made to it so it addressed the parking problem without affecting the stand itself. Other members agreed this should be addressed at another meeting.

Nothing more was discussed.

GROWTH PERMIT(S) – *There are none available at this time.*

The Planning Board meeting ended at 8:10 p.m.

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

SHAPLEIGH PLANNING BOARD MINUTES

Tuesday, April 12, 2005

Members in attendance: Roger Allaire (Chairman), Madge Baker (Vice Chair), John Klimas, Alexander MacPhail, and Barbara Gilbride (Member / Secretary). Code Enforcement Officer, Steven McDonough was also in attendance.

The Public Hearing Began at 7:05 p.m.

Conditional Use Permit – Rent Retail Space to a Donut Shop with Drive thru Window and Real Estate Office, in the Existing Building – Map 19, Lot 13 (63 Emery Mills Road) – Roger Berube Applicant / Owner

Mr. Berube was in attendance.

Mr. Berube began by giving the Planning Board a copy of a new sketch plan with the additional information requested at the previous review of his application on March 22, 2005.

The Sketch Plan showed the location of the existing building and proposed 60' x 100' storage building. The existing cabins had been removed from the plan and shall be removed from the site. The plan showed three parking areas which held a total of 27 parking spaces. The plan showed the existing driveway and the fact it will be paved. The sketch of the existing building showed the location of the proposed donut shop and real estate office, as well as the handicap accessible bathroom for each. On the back of the existing building will be a drive-thru window for the donut shop. Mr. Berube noted the window would not have a communication box outside such as used by Duncan Donuts. There would be a window only.

The location of the septic system area was also on the Sketch Plan. The Planning Board received a copy of the new Subsurface Wastewater Disposal System Application done by John Large SE #7, dated 4/7/05, as requested during the initial review. The new septic design included a grease interceptor to accommodate any possible grease drained from the donut shop. Mr. Berube wanted the Planning Board to note that the design done by Mr. Large called for 35 plastic chambers to accommodate the proposed businesses, including 9 seats for the donut shop. Mr. Berube would be putting in 60 plastic chambers along with a 750g grease interceptor, to be certain there would be no problem in the future with the septic system.

Mr. Berube stated Century 21, Samia Realty, would be using the front of the existing building (section closest to Route 109), and the donut shop would be using the rear of the building. Century 21 requested their hours of operation be 8:00 a.m. thru 8:00 p.m. The Dough Boy donut shop would be open from 5:30 a.m. thru 1:00 p.m.

The Planning Board asked Mr. Berube if the donut shop would be cooking the donuts on site? Mr. Berube stated yes.

Mr. Frederick Sweetsir, an abutter to the property, asked about how the property would be accessed? Mr. Berube stated the automobiles would enter through 5th street from Rte. 109 to access the donut shop drive-thru window. Autos would use the existing entrance to access the real estate office. (The original entrance is 20 feet in width.)

Mr. Berube stated that he is in the process of completely rewiring the building per instructions by the Fire Marshall. Mr. Berube also stated there would be a fire wall with four layers of sheetrock from floor to roof between both businesses. This fire wall is per the fire code from the Fire Marshall.

Mr. Berube was asked what he would store in the proposed 60' x 100' new building? Mr. Berube stated that at this time it would be lumber, doors, windows, etc. for his construction business.

Mr. Berube stated the real estate office would like to move their existing sign to this new location. Roger A. stated the sign was an issue for Mr. Berube to discuss with the Code Enforcement Officer.

Mr. Berube was asked about what type of lighting he would be having on site? Mr. Berube showed the lighting location on the sketch plan and gave the Planning Board a copy of the type of lights to be used, which are called a "Cutoff Wallpack with Glare Shield". Mr. Berube said the large outdoor light that has always been on site will remain to light the parking area.

Roland Legere, a member of the audience, asked if the existing right-of-way to Mousam Lake would be used by snowmobiles to access the donut shop? Mr. Legere stated that when another applicant trying to lease this property and they came before the Planning Board, there was a great concern by the neighbors with ATV's, snowmobiles, etc. using this right-of-way to access the site.

Mr. Berube stated the right-of-way was not for vehicular access, it was for water rights to a pump house. Mr. Berube stated there would be no use of the right-of-way, nor would there be any advertising at the waterfront.

Roger asked if there were any further questions, there were none. The Public Hearing closed at 7:17 p.m.

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

The minutes from Wednesday, March 22, 2005 were accepted as written.

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

Conditional Use Permit – Rent Retail Space to a Donut Shop with Drive thru Window and Real Estate Office, in the Existing Building – Map 19, Lot 13 (63 Emery Mills Road) – Roger Berube Applicant / Owner

Mr. Berube was in attendance for review of his application.

Roger A. asked if there were any questions after the review of the sketch plan or from the discussion during the public hearing? Roger reminded members there would be nine seats in the donut shop for customers. There were no questions at this time.

Roger A. read the following applicable ordinances:

105-17 - Land Uses. *A real estate office and donut shop are a permitted use in the General Purpose district with a Conditional Use Permit.*

105-19 – Notes to table on dimensional requirements. *The building meets the required road frontage and meets the required setbacks.*

105-20 – Applicability of standards; prohibited uses. *This application is a permitted use within the zoning ordinance and it meets all state and federal law regulations.*

105-21 – Traffic. *Traffic will have safe access. The site distances are well in excess of the minimum required which is 315'.*

- 105-22 – Noise. *This business shall not create excessive noise; most activity will take place inside the building. Automotive traffic for the donut shop will have very limited hours.*
- 105-23 – Dust, fumes, vapors and gases. *There will be no emissions created by this business.*
- 105-24 – Odors. *The only odors emitted will be from the donut shop for limited hours only.*
- 105-25 – Glare. *The additional lighting on the building will be glare shielded lamps. There is one large light currently lighting the parking area, it will remain.*
- 105-26 – Stormwater runoff. *This structure is already in existence with minimal changes being made to the parking area. When the cabins are removed, the area will be replanted with grass or mulch to prevent stormwater runoff.*
- 105-27 – Erosion control. *This structure is already in existence with minimal changes being made to the parking area. When the cabins are removed, the area will be replanted with grass or mulch to prevent erosion.*

Madge B. asked about the proposed 60' x 100' storage building. How would the water coming from the roof be addressed to prevent runoff / erosion? Mr. Berube did not have an erosion plan at this time so he asked if the Planning Board would table the final review of the storage building until he could bring in further information. The board members agreed to table this part of the application.

Diane S., an alternate member to the Planning Board, was in the audience and she reminded the board members that during the last review of this property, a requirement was going to be imposed to place some landscaping between the parking area and Route 109. Diane reviewed Zoning Ordinance 105-31.B with board members. Madge B. agreed that the Planning Board needed to require at least a 15 foot buffer strip with trees or shrubs to meet the requirement.

- 105-28 – Setbacks and screening. *There will be shrubs planted in front of parking slot #6 and #7 on the Sketch Plan to act as a barrier between Rte. 109 and the parking area. The rest of the site is adequately screened with existing vegetation.*
- 105-29 – Explosive materials. *The propane tank to be used for the donut shop will be placed on site so as to comply with NFPA 58, Liquefied Petroleum Gas Code, 2001 Edition.*
- 105-30 – Water quality. *There shall be no hazardous materials on site that could affect water quality, nor will any be produced by this business.*
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *The surrounding landscape, which is trees and shrubs, shall not be disturbed. There shall be a 15 foot buffer strip planted between parking slots #6 and #7, and Route 109.*
- 105-32 – Relation of proposed building to the environment. *The existing building fits in well with the surrounding area.*
- 105-33 – Refuse disposal. *A dumpster will be placed on site and refuse shall be removed on a regular basis.*
- 105-34. Access control on Routes 109 and 11. *Access onto Route 109 will be via the existing entrances and the site distances exceed the acceptable range.*
- 105-43 – Off-street parking and loading. *The parking / turnaround area is adequate for the number of employees and patrons of the real estate office and donut shop, per the Sketch Plan received.*
- 105-46 – Sanitary provisions. *There will be a new septic system placed on site that exceeds the requirements of the state per the septic system design presented, done by John E. Large, SE #7, known as Subsurface Wastewater Disposal System Application, dated 4/7/05.*

105-47 – Signs and billboards. *Any signage shall be obtained through the Code Enforcement Office.*

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, there are minimal changes being made to the existing property.***
- 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 encourages businesses along Rte. 109.***
- 4) Traffic access to the site is safe. ***It is, the site distances exceed both the minimum and maximum requirement in the ordinance.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***It is, the building is in existence and there has been no indication of problems nor are any changes being made to the existing landscape that would create non-conformance.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***A state approved septic system will be installed. The design, done by John Large, SE #7, dated 4/7/05, will actually exceed the requirements of the state and it will include a grease interceptor for the donut shop. Solid waste will be contracted for removal.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***There are no hazardous materials on site.***
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***The building that will house the real estate office and donut shop is in existence and has been permitted through the Code Enforcement Office. No changes are being made to the landscape that would affect the flow of stormwater around this building. The 60' x 100' storage building will be addressed separately.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***The building that will house the real estate office and donut shop is in existence and has been permitted through the Code Enforcement Office. No changes are being made to the landscape that would affect the flow of stormwater around this building. After the cabins are removed, the area will be loamed and seeded to stabilize the area. The 60' x 100' storage building will be addressed separately.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***There is, lake access is within 500 feet of this property.***
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. ***This business will not produce anything detrimental to the neighboring properties. Lighting on the building will have a glare shield, noise from vehicles will be limited by hours of operation, odors from the donut shop will not extend beyond the property lines and the hours of operation shall be limited.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

Madge B. made the motion to approve the Conditional Use Permit to lease space in the existing building to a real estate office and donut shop, and to allow a drive-thru window access for the donut shop with the following condition(s):

- 1) ***The hours of operation shall be 5:30 a.m. thru 1:00 p.m., seven days a week for the donut shop; 8:00 a.m. thru 8:00 p.m., seven days a week for the real estate office.***

- 2) *The parking / turnaround area shall have a 15 foot buffer strip planted between parking slot #6 and Route 109, and parking slot #7 and Route 109 as seen on the Sketch Plan, by June 15, 2005.*
- 3) *The area where the cabins were located shall be reseeded or mulch shall be placed on site, by June 15, 2005.*
- 4) *Any signage shall be permitted through the Code Enforcement Office.*

John K. 2nd the motion. All members were in favor.

Roger A. asked Mr. Berube if he would be ready for the review of the storage shed at the next meeting on April 26th? Mr. Berube stated he would.

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

Nothing further was discussed.

GROWTH PERMIT(S) – *There are none available at this time.*

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

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

SHAPLEIGH PLANNING BOARD MINUTES

Tuesday, April 26, 2005

Members in attendance: Roger Allaire (Chairman), Madge Baker (Vice Chair), John Klimas, Alexander MacPhail, and Barbara Gilbride (Member / 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 12, 2005 were accepted as written.

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

Conditional Use Permit – Storage Building Erected on Site, next to the Approved Rental Retail Space for a Donut Shop with Drive thru Window and Real Estate Office – Map 19, Lot 13 (63 Emery Mills Road) –

Roger Berube Applicant / Owner

Mr. Berube was unable to attend the meeting so this application was tabled until Tuesday, May 10th.

Roger A. stated that he had stopped at the site and spoke with Mr. Berube prior to this evenings meeting. Mr. Berube stated that he did not have the stormwater calculations done at this time for the proposed 60' x 100' storage building.

Roger A. stated that Mr. Berube also said he may want to amend his Conditional Use Permit to include a 12' x 30' room to rent to two school teachers so they could tutor students. Steve M., CEO, stated that Mr. Berube most probably would have to add another fire wall in the building per the State Fire Marshall's office. Mr. Berube would have to contact that office with his proposed changes.

Roger A. stated that he was concerned with the fact that the flow of stormwater on site appeared to be in the direction of the leach field of the new septic system. Steve M. stated he was concerned as well and would wait for Mr. Berube's stormwater calculations before making a final assessment.

Roger A. stated Mr. Berube also mentioned he might keep one of the cabins on site instead of removing all of them. His partner was thinking about utilizing it.

There was nothing more discussed at this time.

Barbara G. received a memo from Mr. John Hutchins of Maine Surveyors, with regard to the proposed Richard Levesque Subdivision on the Lebanon Road in Acton / Shapleigh. The memo stated there was a site inspection scheduled for Sunday, May 1st at 9:00 a.m. for the new road and lot layout. Mr. Hutchins stated the subdivision road on the Shapleigh side had not changed from the last sketch plan.

Mr. Hutchins stated the plan was still in the sketch plan phase so no meetings had been scheduled with Shapleigh at this time. (The Planning Board agreed to hold off meeting with Mr. Hutchings, Mr. Levesque and the Acton Planning Board, until the applicant was ready to present the Preliminary Plan.)

Several Planning Board members stated they would meet at the Lebanon Road property at 9:00 a.m.

Nothing further was discussed.

Roger A. stated that the applicants, named Mike and Lorraine Chubet, located on 236 Silver Lake Road, were ready to come back before the Planning Board to process their application to repair the existing retaining walls and stairs. Roger said a Notice to Abutters would be mailed out and a site inspection would need to be scheduled prior to the next meeting on May 10th.

Steve M, CEO, stated that an application had been faxed to the Town Hall from a Mr. Michael Roberts. He also was applying to replace existing retaining walls and stairs. The location of the property is 164 16th St. Mr. Roberts had asked that the board members do a site inspection prior to the next meeting so he could discuss his plans. Roger A. did not feel that would be a problem. Roger also agreed the Notice to Abutter's could be mail on this application as well.

Roger A. concluded that the Planning Board members would meet at the Town Hall at 6:00 p.m. on May 10th, prior to the scheduled meeting, to do both the Silver Lake Road inspection and 16th St. inspection, with the 16th Street inspection commencing first. All board members agreed.

Nothing further was discussed.

Roger A. noted that the Election of Officers would take place at the next Planning Board meeting.

GROWTH PERMIT(S) – One Growth Permit became available and it was assigned to Thomas DeVouton for a seasonal conversion on Map 7, Lot 3 (Kettle Pond Condominiums), #29A-05. There are no more Growth Permits available for the year 2005.

The Planning Board meeting ended at 7:50 p.m.

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

SHAPLEIGH PLANNING BOARD MINUTES

Tuesday, May 10, 2005

Members in attendance: Roger Allaire (Chairman), Madge Baker (Vice Chair), John Klimas, Diane Srebnick (Alternate), and Barbara Gilbride (Member / 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 26, 2005 were accepted as written.

Diane Srebnick sat in as a regular member due to Alex MacPhail's absence.

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

Conditional Use Permit – Storage Building Erected on Site, next to the Approved Rental Retail Space for a Donut Shop with Drive thru Window and Real Estate Office – Map 19, Lot 13 (63 Emery Mills Road) – Roger Berube Applicant / Owner

Mr. Berube was in attendance to discuss his application.

Mr. Berube presented a sketch for his final plans for the site. This sketch was revised from the original. The final plans showed the proposed new storage building to be 50' x 100' in size (the original was going to be 60' x 100'). The final sketch shows the existing reconstructed 25' x 40' shed as remaining on site. Also on the plan is the location of cabin known as cabin #6, which Mr. Berube wants to remain on site for personal use only.

Also, the final sketch plan shows the elevation of land, depicting the stormwater flow, which will drain toward a water detention area. Mr. Berube is placing in the water detention area a man hole surrounded by a drain tile. This is to make certain stormwater will be able to flow to this area year round, keeping it on site and away from the septic system area.

Included on the sketch plan was the existing building approved for use by a real estate office and donut shop previously on April 26, 2005. The parking plan for the approved rental building is on the sketch as well at the location of the driveway.

Roger A. asked if there would be any additional exterior lighting on the new storage building? Also, if there would be electricity in the building? Mr. Berube stated there would be basic electric and he did not plan on having additional outdoor lighting.

Madge B. asked if the size of the building dictated whether or not there needed to be DEP stormwater plan approval? Roger A. stated it depended on the size of the building, and he did not believe the size of this building triggered that requirement.

Roger A. stated there should not be any additional noise with this building because it is just to be used for storage. Roger asked Mr. Berube if there would be any milling of wood in the building. Mr. Berube stated, "No". Madge B. told Mr. Berube that should there be any changes to the use of this building he would have to come back before the planning board. Mr. Berube stated he understood.

Madge B. asked what the requirements were for a 50 year storm. Roger A. stated that the area had to hold on site up to 6" of rain in a 24 hour period. Roger believed the plan shown was adequate for the area.

Roger A. asked Mr. Berube if he would be storing any hazardous material and he stated no. Roger A. asked if there would be any trash from the storage building? Mr. Berube stated there would not.

Madge B. asked if there would be a concrete floor under the building? Mr. Berube stated yes. Mr. Berube stated there would be a fork lift on site used to move the material inside the building. Mr. Berube stated the new storage building would be used for construction materials to support his business. The 25' x 40' storage shed would be used for the same.

Mr. Berube was asked if there would be a bathroom inside the building? He replied, no. Roger A. added that parking would not be an issue for the storage building since it was for Mr. Berube's personal use only.

Mr. Berube noted that he would be adding a call box for the approved retail building. The donut shop decided one was necessary. The Planning Board members had no problem with the addition of a call box.

Steve M., CEO, asked if one cabin was going to remain on site? Ms. Clarissa Guay, a partner of Mr. Berube's, stated they would be keeping one cabin on site so they would not lose their right-of-way to access the water (Mousam Lake). The deeded right-of-way to the lake is tied to the existing cabins. Ms. Guay stated that they were consulting an attorney at this time to see if they would be able to remove all the cabins but at this time they did not have an answer. Ms. Guay stated there would be no business conducted in the cabin; it would be for personal use only.

Diane S. stated that at the last meeting Mr. Berube had said he might be renting some space in the existing building to some teachers. Would this still be the case? Ms. Guay stated this was proposed to them a few weeks ago but the teachers did not confirm they wanted to use the building, so at this time it is no longer part of the application.

Diane S. asked if there would be paint stored in either storage building? Ms. Guay stated no, and she said the only paint they used was latex paint in their business but again it would not be in this storage building. The only materials stored would be building materials such as windows, wood, doors, etc. Ms. Guay stated that they bought these items in bulk to get a better price and they needed this building to store the materials in.

Steve M., CEO, asked how much distance was between the location of the existing building that will house the donut shop, and the existing 25' x 40' storage shed? Mr. Berube stated that it was definitely greater than 20' between the two buildings. Steve believed he was correct but suggested Mr. Berube add lolly columns next to both buildings to protect them from traffic. Roger A. agreed.

Roger A. asked if there were anymore questions regarding the new storage building or any of the changes to the sketch plan as presented this evening? 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, there is a stormwater plan for the storage building. There are no changes being made to the existing building.***
- 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 encourages businesses along Rte. 109.*
- 4) Traffic access to the site is safe. *It is, the site distances exceed both the minimum and maximum requirement in the ordinance.*
- 5) The site design is in conformance with all municipal flood hazard protection regulations. *It is, the approved building is in existence and there has been no indication of problems nor are any changes being made to the existing landscape that would create non-conformance. The stormwater plan presented will protect the entire site.*
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. *A state approved septic system will be installed for the approved building. There is none needed for the storage buildings, there will be no bathrooms.*
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. *There are no hazardous materials on site.*
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. *There was a stormwater plan presented for the area surrounding the new 50' x 100' storage building, which will include drain tiles and a holding tank. The building that will house the real estate office and donut shop is in existence and has been permitted through the Code Enforcement Office. No changes are being made to the landscape that would affect the flow of stormwater around this building.*
- 9) Adequate provisions to control soil erosion and sedimentation have been made. *The building that will house the real estate office and donut shop is in existence and has been permitted through the Code Enforcement Office. No changes are being made to the landscape that would affect the flow of stormwater around this building. The area surrounding the 50' x 100' storage building will be graded so all water shall run into the drain tiles / holding tank area. After the cabins are removed, the septic system is put in, and the new building is erect, the area will be loamed and seeded to stabilize the area.*
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. *There is, lake access is within 500 feet of this property.*
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. *The 50' x 100' storage shed will not have any additional lighting on the outside of the building. The approved business will not produce anything detrimental to the neighboring properties. Lighting on the approved rental building will have a glare shield, noise from vehicles will be limited by hours of operation, odors from the donut shop will not extend beyond the property lines and the hours of operation shall be limited.*
- 12) All performance standards in this chapter applicable to the proposed use will be met. *They shall.*

Madge B. made the motion to **approve the Conditional Use Permit to erect a 50' x 100' storage building, keep the reconstructed storage building, place a call box for the donut shop on site, and leave one cabin on site for personal use only, removing the remaining cabins, with the following condition(s):**

- 1) **The two storage buildings shall be used for storage of non-hazardous building supplies; this is for personal use only.**
- 2) **The one cabin remaining shall be for non-business purposes only.**
- 3) **Cement lolly columns shall be placed in front of the corner of each building along the roadway that passes by the donut shop window to protect the buildings from motorists.**
- 4) **The entire site shall be reseeded when the work is complete, which includes the area around the 50' x 100' storage building, the removal of all cabins except for one, and the completion of the septic system and water detention area.**

John K. 2nd the motion. All members were in favor.

There was nothing further discussed.

Best Possible Location – Repair Retaining Walls & Stairs - Map 44, Lot 37 (236 Silver Lake Rd.) – Mike & Lorraine Chubet

Mr. Chubet was in attendance to review his application.

Roger A. began by stating the Planning Board had done a site inspection of the property prior to the meeting.

Received along with the application was a sketch plan depicting the location of the existing walls and stairs, and the cement deck which will remain on site. *Pictures* of the existing walls, stairs and deck were also received along with a picture depicting the type of wall that will be erected; this picture is from work done on a neighboring property. Roger A. stated the Planning Board had received the approved Permit by Rule Notification Form and it was dated 9/22/04. Roger asked Steve M., CEO, how long the permit was good for? Steve stated the permit was good for two years for new construction, three years for the replacement of an existing structure. Mr. Chubet's permit would be good for three years.

Roger A. asked Mr. Chubet if the new walls would be 4' in height? Mr. Chubet stated, "Yes".

Madge B. asked if there was a planting plan presented for after the project is finished. Mr. Chubet stated there was going to be very little vegetation disturbed. He did not plan on removing any trees. Diane S. pointed out that the DEP did not recommend replanting vegetation after September 15th because it was likely it will not take root. Diane suggested if any new plantings were needed, and the project did not get finished by September, that the Planning Board should have Mr. Chubet place some mulch to prevent erosion if necessary.

Mr. Chubet stated the entire new wall would be rip-rap, as shown in a picture he presented of a neighboring property. Roger A. asked if there would be mortar used? The gentlemen doing the project for Mr. Chubet stated there would be mortar behind the rock. Under this would be filter fabric and a French drain system to divert the water behind the new wall.

Diane S. asked how the contractor would get equipment in to do the project, as it behind the existing home and the embankment was extremely steep? The contractor stated all existing wall timbers would be removed by hand, and all new material would be brought in by hand. No equipment would be used. Rocks would be moved to the location using a chute system so as not to harm the ground. The contractor, who rebuilt the neighbors walls, stated that the neighbors job was done in the same fashion.

Roger A. was concerned after looking at the sketch that it appeared the replacement wall was greater than 4' in height. The contractor assured Roger that the wall would not be any higher than 4' but it would be 7' in length. The contractor corrected the sketch plan to show the 4' wall sections.

The contractor asked Steve M., CEO, what his definition was of riprap. Steve stated sharp, irregular stone, greater than 6" in size. The pictures shown were of a round stone, Steve stated he preferred irregular stone if it was dry laid. With mortar holding the stone in place, it might not make a difference.

Steve M. and Madge B. both stated that where replanting is required they would prefer plants such as Juniper, because it grew well in the area and also was a good plant to stabilize earth.

Mr. Chubet stated the only walls to be removed were the railroad timber walls. The existing cement wall and cement pad would remain. Also the existing stairs shall be rebuilt.

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, it will help to preserve the landscape and protect the water.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. ***The use will conserve shore cover and protect the lake.***
- 3) The use is consistent with the Comprehensive Plan. ***It is, the Comprehensive Plan wants water quality of the lakes preserved.***
- 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 structures to be replaced are in existence.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***Existing wall timbers shall be removed and disposed of off site.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***The hazardous materials, i.e. the railroad ties, will be removed from the site.***
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***The applicant is replacing existing structures only. No additional changes are being made to the property. Drainage will be placed behind the new walls.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***Best Management practices shall be used during construction and the new walls will prevent any further erosion.***
- 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 are no changes being made to the existing landscape. Any existing trees or shrubs shall be replaced if necessary.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

Steve M., CEO, noted that should the project begin before the water recedes, a new DEP Permit by Rule Notification Form will need to be sent to the DEP for approval. Steve stated that the applicant will not have to come back before the Planning Board as long as he notifies the DEP. Roger A. agreed.

Because Mr. Chubet did not know when he would begin the project, the Planning Board agreed to a completion date of October 2006 to give him plenty of time to complete the project without having to come back before the Planning Board.

Madge B. made the motion to ***approve the Conditional Use Permit to repair the existing retaining walls & stairs with the following condition(s):***

- 1) ***Project to be completed by October 2006, including any vegetation necessary to prevent erosion.***
- 2) ***The DEP shall be notified before the project begins if the replacement of the walls involves any work below the mean water mark.***

- 3) *Best management practices shall be used during construction, which includes the use of silt fencing.*
- 4) *No work shall begin without first receiving a permit from the Code Enforcement Officer.*

John K. 2nd the motion. All members were in favor.

Nothing further was discussed.

Best Possible Location – Replace Retaining Walls & Stairs – Map 27, Lot 6 (164 16th Street) – Michael Roberts

Mr. Roberts was in attendance to review his application.

The Planning Board members did a site inspection prior to the planning board meeting.

The Planning Board received a sketch which contained the location of the property, a plan showing current location of the existing home, driveway, and retaining walls and stairs. Also received was a copy of a sketch called “Profile of Existing Conditions, which showed the slope of the property; a plan called “Wall Details” which showed the maximum height using standard blocks, “Typical Section Retaining Wall System” which shows the drainage required behind the retaining wall, “Calculations for Wall Detail Sheets”, and “Estimated Maximum Wall Height with Sloping Backslope Condition”. In addition, a Permit by Rule Notification Form was received, in which the project was approved on 2/09/05, by Dawn Buker of the Portland DEP.

Mr. Roberts stated that the new concrete walls will be placed behind the existing timber walls, then the existing walls will be removed. By doing the project this way, it will minimize the possibility of earth collapsing toward the water. The project will be done one section at a time.

Diane S. asked how equipment will be brought onto the site. The embankments are very steep. Mr. Roberts stated there is an existing path that he presumes was used to create the original walls. They will get the equipment in on this path.

Mr. Roberts showed an example of what the blocks look like. Roger A. asked how the blocks were held in place? Mr. Roberts put the model together to show how they interlock. He stated the blocks weigh 2300 pounds each and once in place they have proven to be extremely stable. Mr. Robert’s said they have used the blocks along oceanfront property with much success.

Steve M., CEO, asked who would be placing these blocks on site? Would it be someone with experience or Mr. Roberts and friends only? Steve was concerned that this project would need some expert advice to handle the size of the blocks and be certain they were placed correctly on site. Mr. Roberts stated a representative from R.W. Craft Wall Company, the makers of the stone, would be on site during the entire project. Mr. Roberts stated he would also be on site as well as several other people familiar with these walls.

John K. asked if the soil would be able to hold the material without shifting? John was concerned with the weight of the wall once in place. Mr. Roberts stated per the manufacturer’s instructions, there needed to be 12” of compacted footing bearing material, compacted to 95% to ensure adequate bearing capacity. Mr. Roberts stated he intended to exceed the 12” requirement.

Mr. Roberts stated that behind the wall there would be free draining aggregate, ¾” washed stone or better, and geotextile wrapped perforated drain. Mr. Roberts referred to the wall section charts provided by the manufacturer.

Roger A. was concerned with the backslope of the property. Would the new walls directly abut the steep slope? If so that could be a concern. Mr. Roberts gave the Planning Board a copy of "Profile of the Existing Conditions" which refers to the embankment. The drawing showed the location of the walls to be where the land flattens out into a plateau.

Madge B. asked if the trees that were already removed would be replaced and what type of vegetation did Mr. Roberts propose to protect the landscape once the project was completed? Mr. Roberts stated he would do whatever the Planning Board required. He stated he removed five trees not knowing he could not do so without permission from the town. Mr. Roberts had already spoken with Steve M. on this issue. Steve requested Mr. Roberts's plant a minimum of five trees to replace what was removed. These trees would have to be 4 ½" in diameter. Mr. Roberts agreed to do so.

Mr. Roberts asked what the Planning Board would suggest for his landscaping once the new walls were in. Diane S. stated that Juniper works very well. Diane stated that the only thing that the board members would not be in favor of is grass because it does not hold up and you cannot fertilize within 75 feet of the waterfront.

Roger A. was concerned that currently the lake water was not below the line of the bottom wall. Diane S. concurred and did not see how Mr. Roberts could replace the wall closest to the water under his current DEP permit as his permit stated "the project does not involve work below mean low water". Mr. Roberts stated he would go back to the DEP to get a new permit. He wanted to begin work within the next month.

Roger A. asked if there were anymore 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, it will help to preserve the landscape and protect the water.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. ***The use will conserve shore cover and protect the lake.***
- 3) The use is consistent with the Comprehensive Plan. ***It is, the Comprehensive Plan wants water quality of the lakes preserved.***
- 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 structures to be replaced are in existence.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***The existing railroad tie walls will be removed from the site and taken to the transfer station.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***The hazardous materials, i.e. the railroad ties, will be removed from the site and taken to the transfer station.***
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***The applicant is replacing existing structures only. A drainage system shall be placed behind the new walls per the plans presented.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***Best Management practices shall be used during construction and the new walls will prevent any further erosion.***
- 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 are no changes being made to the surrounding landscape. 5 trees 4 ½" in diameter or greater shall be placed on site and the area will be landscaped with plants such as Juniper to prevent future erosion by September 15, 2005.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

Roger A. stated that a new DEP Permit by Rule Notification Form will need to be sent to the DEP for approval, prior to the work beginning, if the applicant intends to replace the wall closest to the water before the water recedes.

Madge B. made the motion to **approve** the Best Possible Location **to replace the railroad tie retaining walls and stairs per the plan with the following conditions:**

- 1) **Best Management Practices shall be used, including silt fencing and any other additions the DEP might impose.**
- 2) **The DEP shall be contacted prior to beginning the project if work will be done below the mean low water mark.**
- 3) **A minimum of five trees, being 4 ½" in diameter or larger, shall be planted to replace the trees removed on site for the project.**
- 4) **Landscaping shall be done by September 15, 2005, using plants native to the area that will prevent future erosion. These plantings shall include Juniper to retain the embankment.**
- 5) **No work shall begin without getting the necessary permits through the Code Enforcement Office.**

John K. 2nd the motion. All members were in favor.

Note: On Thursday, May 12th, the Planning Board received an email from Dawn Buker of the DEP office in Portland. She stated the following: "Mr. Roberts spoke with me today. I have given him permission to go ahead with the wall replacement on the water. If the water level of the lake does not go down, he will sand bag the area around the wall to prevent water from reaching that portion of the wall."

Nothing further was discussed.

Best Possible Location – Replace Cottage, add New Foundation – Map 44, Lot 57 (205 Silver Lake Road) – Alan & Linda Durant

Mr. and Mrs. Durant were in attendance along with Mr. Randy Cooch from RC Custom Homes who will do the project.

Mr. Cooch stated the existing cottage did not meet the setback to the road and did not meet the calculated side setbacks of 30 feet.

Mr. Cooch stated that with the new cottage, the applicants wanted to use the 10% lot coverage allowed. With the lay of the land, it would be possible to move the footprint of the cottage back several feet without the need to go into the embankment. The existing footprint will be used for the front part of the new cottage and the rear will be extended toward the banking, trying to jog the house in to get closer to meeting the side setbacks for the rear of the cottage.

The existing septic system, which was designed in 1992, will be used for the new cottage as well as the existing cottage across the street. The septic system was designed for four bedrooms plus, which is adequate for both structures. Diane S. asked how many bedrooms were in each structure. The applicants replied, two bedrooms in each for a total of four. Mr. Durant stated that when they had the new septic designed; it was designed taking both cabins into consideration.

Mr. Cooch stated there would be a full basement under the new cottage.

The Planning Board members did a site inspection prior to the meeting since they were already in the vicinity on another inspection.

There were no more questions at this time. ***Roger A. stated a Notice to Abutters would be mailed out and the review process would continue at the next scheduled meeting on May 24th.***

Roger A. told Mr. Cooch and the Durant's that a survey would be required to determine that the final placement of the structure was done according to the approved plan. It will need to be done for the building permit. They stated they understood.

Nothing further was discussed.

OTHER:

Election of Officers

The election of officers was held. Diane S. nominated the following:

**Chairman – Roger Allaire
Vice Chairman – Madge Baker
Secretary – Barbara Gilbride**

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

Roger A. briefly spoke about the site inspection he attended for the proposed Levesque subdivision on the Lebanon Road, which is located in both Shapleigh and Acton. He stated the DEP had not been notified yet so he did not know what type of permits would be required for the project. Roger stated that on the Shapleigh side there would be open space only, no building lots. The road would be coming out in Shapleigh as well and that needed to be addressed. When the applicants are ready for the preliminary plan, it will be presented at a meeting in Shapleigh. John Klimas also attended the site review.

Nothing further was discussed.

GROWTH PERMIT(S) – *There are no more Growth Permits available for the year 2005.*

The Planning Board meeting ended at 9:20 p.m.

Respectively submitted,

Barbara Gilbride

Planning Board Secretary planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES

Tuesday, May 24, 2005

Members in attendance: Roger Allaire (Chairman), Alex MacPhail and Barbara Gilbride (Member / Secretary). Code Enforcement Officer, Steven McDonough was also in attendance.

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

The minutes from Tuesday May 10, 2005 were accepted as written.

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

Best Possible Location – Replace Cottage, add New Foundation – Map 44, Lot 57 (205 Silver Lake Road) – Alan & Linda Durant

Mr. and Mrs. Durant were in attendance along with Mr. Randy Couch from RC Custom Homes who will be the contractor for the project.

The Planning Board reviewed the application at their meeting on May 10th, which contained the location of the property, a plan showing current location of the existing home, and septic system, as well as setbacks to Silver Lake Road, and the rear and side lots lines. Also received was a copy of the Subsurface Wastewater Disposal System Application, dated 5/07/92, done by John Large, SE #7, showing in detail the location and size of the existing system.

At this evenings meeting a final draft of the proposed home design was received, which included a deck on the front of the house. The new home, including the deck will be 2 feet farther from Silver Lake Road than the existing cottage. The new home will not encroach further upon the side lots lines.

Mr. Couch asked about having the final location of the new cottage surveyed, was it really necessary? Mr. Couch stated they had taken measurements themselves and believes them to be accurate. Roger A. replied that it is an ordinance requirement that could not be waived. Roger read the following ordinance:

105-4.D(7)(c) “which is referring to the relocation of non-conforming structures”:

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.

Steve M., CEO, explained that a Best Possible Location application is very similar to a variance and that it requires the structure be located in the exact location approved by the Planning Board. Roger A. agreed.

Roger A. asked what the exact width of the structure would be? Mr. Couch stated the existing structure without the eve overhang is 22’6”, with the eve overhang it is 24’ wide. Mr. Couch said the new structure would be the same.

Roger A. stated to the board members that the new location would be farther from the existing roadway. Roger also noted that the existing outhouse would be removed in order to move the camp farther from the road. Roger stated the new structure could not be more non-conforming than the existing structure.

Roger stated by moving the structure back two feet from the existing road, the structure would be more conforming to the road setback.

Roger A. read Zoning Ordinance 105-4.D(7)(b), which reads as follows:

“In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems and the type and amount of vegetation to be removed to accomplish the relocation.”

Roger A. stated at the site inspection the Planning Board members in attendance took into consideration all of the above. The board members felt that the new location of the structure was the best possible location on site when looking at the location of the septic system, slope of land, lot size, etc.

Roger A. noted to the applicants that if the side lot lines are not in the location stated on the sketch, if they are actually closer to the existing structure, they would need to reduce the width of the house. Roger stated this could not be determined until a survey has been done.

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

Alex M. made the motion to approve the Best Possible Location to replace the existing cottage and add a new foundation with the following condition(s):

- 1) The setbacks for the new camp shall be a minimum of 58' 11" to the side of the road; 12'4" & 14'2" minimum to the side lot lines; and 49' to the rear of the property.**
- 2) The placement of the structure must have confirmation by a licensed surveyor that the building is placed in the correct location per the approved plans. This confirmation must be given to the Code Enforcement Officer, and a copy to the Planning Board for the file.**
- 3) 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, as approved by the Code Enforcement Officer.**

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

Roger A. told Mr. Couch and the Durant's that they would need to go to the Code Enforcement Officer for their building permit prior to starting any work. They stated they understood.

Nothing further was discussed.

Best Possible Location – Replace Cottage, add new Foundation – Map 40, Lot 56 (8 Teal Drive) – David Boutilier, Applicant – Daniel & Christina Picanco, Owners

Mr. and Mrs. Picanco were present for the review of the application.

In October of last year the Planning Board reviewed the application which contained the location of the property, a plan showing current location of the existing home, and septic system, as well as setbacks to the road, Granny Kent Pond and the side lots lines. A copy of the Subsurface Wastewater Disposal System

Application, dated 8/03/02, done by John Large, SE #7, was received showing in detail the location of the new system, which will be located on the other side of the existing roadway, on land owned by Mr. and Mrs. Picanco, owners of Map 40, Lot 56. The proposed home design was also received, and the square foot and volume calculations for the new home and existing home. The final sketch plan of the property showing the location of the new camp, shows one third of the new structure will not be within 100 feet of the high water mark for Silver Lake. The applicants did the volume and square foot calculations and they resulted in less of the new home being within 100 feet of the high water mark than the existing home.

Mr. Picanco stated that there was over 20 feet to each side lot line, which is in excess of the 30 feet combined total required in the ordinance. Mr. Picanco stated the new home would be pushed back farther toward the road to increase the distance between the high water mark and the structure.

Roger A. asked if there would be a new foundation under the structure? Mr. Picanco stated yes.

The board members were concerned that there was no revegetation plan presented. The Planning Board agreed it would be best that the applicant's get in touch with Steve M., CEO, to discuss what would work best to prevent erosion after the project was completed. Steve and the applicants agreed to do this.

Roger A. asked if the basement under the new structure would be living space? The applicant stated no.

Roger A. asked if there were any additional questions after looking at the new sketch plan, house plan, and site review? There were none.

Alex M. made the motion to approve the Best Possible Location of the new camp and septic system with the following condition(s):

- 1) The setbacks for the new camp shall be a minimum of 86' to the high water mark; 20' minimum to the side lot lines; and 19' to the roadway.*
- 2) The placement of the structure must have confirmation by a licensed surveyor that the building is placed in the correct location per the approved plans. This confirmation must be given to the Code Enforcement Officer, and a copy to the Planning Board for the file.*
- 3) 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, as approved by the Code Enforcement Officer.*

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

Roger reminded the applicants that no work can begin without a permit from the Code Enforcement Officer.

Nothing further was discussed.

Conditional Use Permit – Construct a New Cape & Septic for Parsonage – Map 45, Lot 4 (600 Shapleigh Corner Road) – First Baptist Church – Lee Dezan Contractor Representing

Mr. Dezan was present to discuss the application along with several other church members.

Mr. Dezan stated the church was no longer able to use the existing parsonage because it was not safe, therefore, the church members voted to build a new parsonage and close the existing building.

Mr. Dezan stated the style of the new home would be very similar to the existing home. Mr. Dezan presented the Planning Board with a drawing of the new home, dated 5/24/05. The plans included elevation, front, side and rear; floor plan of first and second floors; foundation plan; and the details page showing the studs, sills, girder, rafter, joists, etc.

One of the church members stated that they would not be using the existing parsonage for storage as the insurance company would not insure the structure if they did. The plan was to keep the building as it is, because it has historic value, but no one would be going inside the building.

Roger A. stated that the existing parsonage could not be used otherwise the proposed new structure would need a Growth Permit in order to be built and occupied. Steve M., CEO, agreed.

Roger A. asked if the parsonage had been used recently? Mr. Dezan stated the former Pastor used it, but has now past away. There was also a family living in it for a time after Pastor left. But for the past few months the building has been vacant.

Mr. Dezan stated that if the Planning Board wanted them to, he could remove all the plumbing inside the building so the town could be assured no one would be using it in the future. Roger A. stated that should someone use it in the future, they would have to come back before the Planning Board for a Growth Permit. Mr. Dezan and several church members all stated the building was not safe to be inhabited. Roger stated he understood, but if they chose to renovate they would need to get permission to do so.

Mr. Dezan stated some of the church members would like to tear the building down, but again others feel it has historical value which is why the church request it be able to remain at this time. Steve M., CEO, stated that was fine as long as any change to its use comes back before the Planning Board. Mr. Dezan stated he understood, as did the other church members.

Alex M. asked Steve M. what the rules were regarding an existing building and replacing it? Steve M., CEO, stated that you can replace an existing dwelling with another, as long as the original is no longer occupied. Roger A. added that you had to be certain the land could hold both dwellings without exceeding the 10% maximum lot coverage allowed. Steve concurred. Steve believed the lot was large enough to hold both dwellings. He was not sure of the lot frontage. Mr. Dezan stated there were approximately seven acres and over 800 feet of frontage. Roger agreed. Lot coverage will not be a problem.

Steve M., CEO, wanted to be sure the Planning Board had as a condition that the existing structure be rendered non-livable and that it would need approval for future use. Roger A. agreed.

There will be a garage and Mr. Dezan assured the board members it would meet all setback requirements.

Roger A. asked if there was a septic design. Barbara G. stated the Planning Board had received one. The Subsurface Wastewater Disposal System Application was done by Kenneth Garnder, SE #73, on 5/12/05.

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

Roger A. stated a Notice to Abutters would be mailed and a Public Hearing held at 7:00 p.m. on June 7, 2005.

Roger wanted the applicants as well as the board members to note this date. Due to a special election / town meeting on June 14th, the town hall is not available for use so the Planning Board meeting was moved to Tuesday, June 7th.

There was nothing further discussed at this time.

GROWTH PERMIT(S) – *There are no more Growth Permits available for the year 2005.*

The Planning Board meeting ended at 8:15 p.m.

Respectively submitted,

Barbara Gilbride

Planning Board Secretary planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES

Tuesday, June 7, 2005

Members in attendance: Roger Allaire (Chairman), Madge Baker (Vice Chairman), John Klimas, Alex MacPhail, Diane Srebnick and Barbara Gilbride (Member / Secretary). Code Enforcement Officer, Steven McDonough was also in attendance.

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

Conditional Use Permit – Construct a New Cape & Septic for Parsonage – Map 45, Lot 4 (600 Shapleigh Corner Road) – First Baptist Church – Lee Dezan Contractor Representing

Mr. Lee Dezan was present to discuss the application along with several other church members.

Mr. Dezan described the project to the Planning Board members and the audience. He stated a new parsonage would be built (a cape style home very similar to the existing parsonage), because the existing building was no longer safe to use as a home. Mr. Dezan stated there would be a new septic system placed on site, along with a new well. Mr. Dezan stated the plans for the new septic system were given to the Planning Board.

An abutter to the property stated that he had a shared right-of-way with this property. This right-of-way was used to access his property. The abutter asked if he would be able to use the right-of-way if this new parsonage needed the right-of-way as road frontage and / or access?

Mr. Dezan stated that the parsonage would not be utilizing the right-of-way for road frontage. Mr. Dezan asked the Planning Board members if the parsonage used the right-of-way for a driveway, would it need to be widened? Mr. Dezan stated the existing right-of-way was 28' wide as described in the deed. Roger A. stated you would need to have 50 feet of right-of-way if you were to create a right-of-way at this time and the roadway itself would need to be 26 feet wide. Roger stated that because the existing deed has the right-of-way in place, the Planning Board could not ask the church or abutter to increase the width. Roger added that all setbacks from the right-of-way would need to be adhered to. Mr. Dezan stated that would not be a problem.

The abutter stated his only concern for this project was whether or not two property owners could share the right-of-way. Since it would not be a problem, he had no objections to the new parsonage.

Steve M., CEO, asked if the abutter's property was an existing lot of record? The abutter replied, "Yes". Steve stated that the deeded right-of-way should not be a problem to access the back lot.

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

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

The minutes from Tuesday May 24, 2005 were accepted as written.

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

Conditional Use Permit – Construct a New Cape & Septic for Parsonage – Map 45, Lot 4 (600 Shapleigh Corner Road) – First Baptist Church – Lee Dezan Contractor Representing

Mr. Dezan was present to discuss the application along with several other church members.

During the Planning Board meeting on May 24th, the Planning Board reviewed the application which contained a sketch plan showing the location of the existing buildings on site and parking area, along with the proposed location of the parsonage, garage, and well. Direct abutters were also shown on the sketch plan. The Planning Board received a drawing of the new home, dated 5/24/05. The plans included elevation, front, side and rear; floor plan of first and second floors; foundation plan; and the details page showing the studs, sills, girder, rafter, joists, etc. In addition, received was the Subsurface Wastewater Disposal System Application done by Kenneth Garnder, SE #73, on 5/12/05.

Roger A. asked if the Planning Board had any further questions for the applicants? There were none.

Roger A. read the following applicable ordinances:

- 105-17 - Land Uses. *A church, parish or other religious building needs a Conditional Use Permit.*
- 105-18 – Dimensional requirements. *The buildings will meet all setback and road frontage requirements.*
- 105-19 – Notes to table on dimensional requirements. *The buildings will meet the required road frontage and meets the required setbacks.*
- 105-20 – Applicability of standards; prohibited uses. *This application is a permitted use within the zoning ordinance and it meets all state and federal law regulations.*
- 105-21 – Traffic. *Traffic will have safe access. The site distances are well in excess of the minimum required which is 315'. The new building will use an existing driveway that presently leads to the existing parking area.*
- 105-22 – Noise. *The parsonage shall not create excessive noise; used for living space only.*
- 105-26 – Stormwater runoff. *Best Management Practices shall be used during construction of the buildings to make certain no runoff goes into Pump Box Brook.*
- 105-27 – Erosion control. *Best Management Practices shall be used during construction of the buildings. When the buildings are completed the area will be replanted with grass or mulch to prevent erosion.*
- 105-28 – Setbacks and screening. *There is vegetation in existence, most of which will not be disturbed during construction. The site blends in well with the surrounding area.*
- 105-29 – Explosive materials. *There shall only be storage of oil and/or gas used to heat the home. It shall be installed to code in the proper containment.*
- 105-30 – Water quality. *There shall be no hazardous materials on site that could affect water quality.*
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *The surrounding landscape, which is trees and shrubs, shall not be disturbed.*
- 105-32 - Relation of proposed building to the environment. *The existing building fits in well with the surrounding area.*
- 105-33 – Refuse disposal. *The inhabitants of the parsonage shall remove any refuse from site.*
- 105-34. Access control on Routes 109 and 11. *Access onto Route 11 will be via the existing entrances and the site distances exceed the acceptable range.*
- 105-46 – Sanitary provisions. *There will be a new septic system placed on site. The subsurface wastewater disposal system design presented, was done by Kenneth R. Gardner, SE #73, dated 5/12/05.*

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, there are minimal changes being made to the existing property.***
- 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 encourages new buildings to blend in well with the surrounding area and the new parsonage will be in line with the physical features of the existing historic parsonage.***
- 4) Traffic access to the site is safe. ***It is, the site distances exceed both the minimum and maximum requirement in the ordinance.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***It is, the building will be at a high elevation, well above the flood plane.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***A state approved septic system will be installed, designed by Kenneth R. Garnder, SE #73, dated 5/12/05. Solid waste will be removed by the resident of the parsonage and disposed of at the transfer station.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***There are no hazardous materials on site.***
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***The new building is at a high enough elevation there should be no impact from storm water and it is far enough away from Pump Box Brook to warrant any additional stormwater measures.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***Best Management Practices shall be used during construction of the building to protect Pump Box Brook. Soil will be stabilized after construction is complete.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***There is, there are two fire hydrants within 300’ of this property.***
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. ***The site is surrounded by trees and brush. These will not be removed during construction.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

Roger asked if there were anymore questions. Alex M. asked if there needed to be a condition that the existing parsonage be rendered uninhabitable? Roger stated yes. There were no other questions from the Planning Board members or audience.

Alex M. made the motion to approve the Conditional Use Permit to construct a new parsonage and detached garage, drill a new well and install a new septic system per the plans received, with the following condition(s):

- 1) ***The existing parsonage is rendered uninhabitable prior to occupancy of the new parsonage and will remain so until a Growth Permit is obtained for the older existing structure and the building comes before the Planning Board as an Amendment to a Conditional Use Permit.***
- 2) ***Best management practices shall be used during construction, to protect Pump Box Brook from stormwater runoff contamination.***
- 3) ***No work shall begin without first receiving a permit from the Code Enforcement Officer.***

John K. 2nd the motion. All members were in favor.

There was nothing further discussed at this time.

OTHER:

Question posed by ZBA regarding non-conforming lots – why aren't developed and un-developed non-conforming lots combined when in a single ownership?

Members of the Zoning Board of Appeals asked why non-conforming lots in a single ownership were not joined, if one of the lots had a structure on it. At present adjoining non-conforming lots in a single ownership with no structures on them are joined automatically by the Assessors office.

Madge B. addressed this question, as she is an attorney and had dealt with land issues in the court system. Madge stated that the courts do not like them combined. If you have two lots and they both look buildable and you have a house on one, the courts hate to say they can't join them. Their feeling is, it is not fair to deny them the ability to build.

Madge B. said, "I do not know about Shapleigh, but very often you buy a house and you buy the lot next door thinking it was designed to be a buildable lot and then we say they can't use it? You get into a taking issue. The fact is the owner believes they bought a buildable lot and now you are telling them it isn't." So Madge believed that when writing an ordinance beware that it is not as easy as you think to get the court to go along with what you are doing.

Madge B. stated that back lots are the same thing. The courts don't like it when it looks like the lot was set up to be a buildable lot. They don't think it is right not to let someone build on it. The courts are pro homeowners. Madge believed in Shapleigh the big problem is regarding shore front property. There may be all sorts of good environmental reasons for not building on certain lots but the courts don't like to say you can't build.

Roger A. added that it also depends on when the land got divided and the lots created. If it has been divided recently, within the last 10 or 15 years, it stands a better chance in court to allow the lots to be combined than something that was divided a long time ago. The intent was to create a building lot, very often for a family member. Grandfathered lots of record are usually buildable lots.

Roger A. stated that the people who actually join the lots are the Selectmen / Assessor's office. The Planning Board does not make that decision.

Madge B. stated she understood why the Zoning Board of Appeals would like to have certain parcels joined but again the facts need to warrant it.

Nothing more was discussed.

Roland Legere asked questions about the 8-lot subdivision known as Goose Pond Overlook, Map 7, Lot 5

Mr. Legere stated that the high water mark on Goose Pond and Upper Goose Pond have moved to a much higher elevation. He wanted to know if this would affect the distance from the water that the new homes could be built at?

Steve M., CEO, stated that the surveyor for the subdivision would have used the normal high water mark, which takes into consideration spring rain.

Mr. Legere stated that because of the beaver dam on the property, the normal high water mark is higher than it has ever been and much higher than when the subdivision was approved. Steve M. stated that beaver dams do change, sometimes it takes years for the dam to start to let water through, but eventually it would and the high water mark will be as it was when surveyed.

Roger A. stated that taking into consideration the elevation of the property and the views to the water, which is what most people would like to see, it is unlikely they would want to build at the lower level.

Mr. Legere asked if the foundations for the new homes would have to be 100 feet from the high water mark? The Planning Board stated yes. Roger A. reminded Mr. Legere that per the approval of this subdivision, there were building envelopes marked on the plan as well as stakes placed on site to delineate the 100 foot mark and building envelope.

Steve M. stated that it would be very helpful to have the conditions imposed on subdivisions placed on the town maps so when giving out a building permit he would know what had been imposed. Steve stated that because he has been here for the past several approved subdivisions he knows to look for conditions but a new Code Enforcement Officer would not necessarily be aware of any. If they were on the town map he would know what is and isn't allowed.

There was nothing more discussed.

GROWTH PERMIT(S) – *There are no more Growth Permits available for the year 2005.*

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

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

SHAPLEIGH PLANNING BOARD MINUTES

Tuesday, June 28, 2005

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

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

The minutes from Tuesday June 6, 2005 were accepted as written.

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

Conditional Use Permit – Construct Storage Building – Map 5, Lot 37A (Shapleigh Corner Road) – Town of Shapleigh

Selectmen William “Bill” Hayes represented the Town of Shapleigh, the applicant, at this meeting.

Bill stated that the Town of Shapleigh appropriated the necessary funds at a town meeting to construct a four bay storage building. Bill stated that the town office building has no additional room to store anything and at present items such as computer boxes (that must be kept because the computers are a leased item), recreation committee items, and some fire and rescue items are stored here. Bill pointed to the stacked boxes in the meeting room, that are currently stacked almost to the ceiling.

Bill stated that the Board of Selectmen and townspeople agreed the best place to put up a storage building would be in the existing parking lot across the street from the fire station. The building would be able to meet all the towns zoning setback requirements. Bill did not feel it would affect the abutters as they were quite a distance from the property. The grade of the land would not be changed so there should not be a stormwater or erosion problem. The building would be 20’ x 30’ in size. There would be 3 - 10’ x 10’ storage bays and 1 – 10’ x 30’ bay. This bay would most likely be for fire department use because dry hydrant pipes would be able to be stored due to the length of the storage area. Bill stated that other town committees would be able to use the bays for storage, depending on who expressed a need. Bill stated the Board of Selectmen would then determine which need was the greatest at the time.

Bill added that the parking lot would still be able to be used, as the building was only going to use a small portion of the overall area. This was depicted on the sketch plan provided by the town. Also provided was a plan showing the building system to be used / floor plan; and a detailed plan of the footings and slab floor.

Roger A. asked if the recreation committee would continue to use the building at the Shapleigh School if they utilized one of these new storage bays? And if not, would they be removing the existing storage building at the school? Bill stated that he didn’t know anything about their current storage building.

Roger A. stated he felt this was a good idea but did not feel the size of the building was adequate for the immediate future. Roger asked if the Board of Selectmen thought of putting up a larger building? Bill stated that with the amount of funds appropriated at this time, this size was what was affordable, 600 sq. ft. The Board of Selectmen did not want to add a huge burden to the town’s budget and this will meet the immediate needs. Bill also added that it is possible this building could be added onto in the future.

Roger A. stated that the size issue was only his opinion but other than that he had no problem with the request for the new storage building.

John K. asked Bill if there would be any hazardous waste stored inside? Bill stated, "No".

Diane S. asked if Zoning Ordinance 105-31 "Preservation of landscape; landscaping of parking and storage area" would be met? Bill stated none of the existing vegetation would be removed. The building was going up on the parking lot which has already been cleared. Bill added the entire parking area is surrounded by trees and vegetation at this time. Roger A. concurred.

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

Roger A. stated there would be a Public Hearing at 7:00 p.m. on Tuesday July 12th. A Notice to Abutters would be mailed as well.

There was nothing further discussed at this time.

Conditional Use Permit – Replace Existing Railroad Tie Retaining Wall – Map 21, Lot 29 (93 - 24th Street) – Berthe H. Lajeunesse

The applicant, Ms. Lajeunesse, was present to discuss her application.

Along with the application, the Planning Board received a copy the DEP Permit by Rule Notification form, and pictures depicting the existing cement wall and railroad tie wall. Ms. Lajeunesse stated she only wanted to replace the section of the wall that was made of railroad ties. This part of the wall was falling into the lake. Ms. Lajeunesse said she would be using cement locking blocks as a replacement.

Roger A. asked the applicant how high the retaining wall would be? Looking at the pictures, it appeared the wall was greater than 4 feet in height. Roger stated that any wall greater than 4 feet needs to have an engineered plan to be certain it would retain the earth behind the wall and that proper drainage was put in behind the wall (Section 404.1.3 of the 2003 International Building Code). Roger A. said that due to the height of the embankment behind the wall he was concerned that the locking block system may not be sufficient.

Steve M., CEO, told Ms. Lajeunesse that the company that supplied the locking blocks may have an engineered plan that she could use for her project. If they cannot provide one they may have an idea of who she could use locally.

Roger A. stated that in light of the need for an engineered plan, this application would be tabled until the applicant contacts the Planning Board that she is ready to be heard again. At that time a site inspection will be set up and a Notice to Abutter's will be mailed.

Nothing further was discussed at this time.

Conditional Use Permit – Replace Existing Retaining Wall – Map 44, Lot 33 (214 Silver Lake Road) – Norman Belanger

Mr. Belanger was present to discuss his application.

Mr. Belanger stated he wanted to replace the existing field stone wall. He said the stones were loose so he wanted to rebuild the wall. He stated the wall would be 40" high and 3' wide. Behind the wall would be a drain pipe and crushed stone to divert the stormwater.

Mr. Belanger stated he had taken pictures but they were not ready for this evening's meeting. Roger A. stated that the Planning Board members would do a site inspection before the next meeting. Mr. Belanger stated he would like to attend.

Roger A. stated there would be a Notice to Abutters mailed and a site inspection scheduled for 6:00 p.m. on July 12th.

The Planning Board members had no further questions at this time.

Construction of a Private Way - Map 1, Lot 43A (Emery Mills Road) – Guilford Berube

Mr. Berube was present to discuss his application.

Mr. Berube stated that there was an existing road to a new home he built on a back lot, but it needed to be upgraded. Mr. Berube wanted to make it wider, bringing it up to the town's standard of 16' minimum width.

This improved / new road would be used to access a second back lot.

Roger A. was concerned with the fact that the lot did not appear on the town map for 1998. Roger believed it was an illegal lot. Roger stated that Mr. Berube would need to prove the lot had a deeded 50' right-of-way to meet today's zoning standards.

Mr. Berube provided a copy of the Maine Statutory Short Form Warranty Deed, dated June 15, 2005, which states in part, "Beginning at a 5/8" iron rod with plastic cap marked "CNR POST LAND SURV PLS 1350" set in the ground on the easterly side of a 50 foot wide right of way at land now or formerly of Josette M. Gagne...." This indicated the lot did have a deeded 50 foot right of way.

Roger A. asked what the length of the road was into the new home? Mr. Berube stated 690 feet. Roger stated that there would need to be a turnout created for the newly widened road. Roger stated that per Shapleigh Zoning Ordinance 105-60-1, there needs to be one turnout to provide space for 2 vehicles every 500 feet. Mr. Berube stated that would not be a problem. Roger added that the turnout had to be a Hammerhead or T and have a useable surface area that is a minimum of 24 feet deep and 24 feet wide. Mr. Berube stated that he understood. Roger stated that this was so emergency vehicles would be able to turn around safely.

Barbara G. made a copy of the "Private Ways" ordinance for Mr. Berube to follow.

Roger A. stated that the road plan needed to be prepared by a registered land surveyor or licensed engineer. Roger noted that all the provisions required were contained in the Private Way ordinance and Mr. Berube could give a copy of the ordinance to whomever he chose to use for the plan.

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

Roger A. stated this application would be tabled until Mr. Berube could supply the Planning Board with an engineered plan. The Notice to Abutters and site inspection would not be scheduled until that information is provided to the Planning Board.

Nothing further was discussed.

OTHER:

Southern Maine Regional Newsletter Article – Formula Businesses: Do You Smell the Coffee?

The Planning Board members received an article regarding “formula” businesses. The Town of York’s zoning ordinance defines a “formula restaurant” as follows:

Formula Restaurant shall mean a restaurant that stands alone or with other use(s), and which prepares food and beverages on site for sale to the public, and which is required by contractual or other arrangement to offer any of the following: standardized menu, employee uniforms, interior and/or exterior color scheme(s), architectural design, signage or similar standardized features, or which adopts a name or food presentation format which causes it to be substantially identical to another restaurant regardless of ownership or location.

The ordinance also defines a “fast food restaurant” as follows:

A restaurant with drive-up window service, or that otherwise receives payment and/or dispenses products to patrons while in their vehicles (such as a drive-in restaurant)

Diane S. stated that recently she attended a Planning Board meeting in Cornish. At this meeting there was a strong opposition to a formula restaurant and a board member actually stated that he hated franchises and didn’t want them in town. This board member actually started a coalition against the proposed Dunkin Donuts.

Diane S. stated that it was very important that board members do not express a “personal” opinion while reviewing an application. And that if they do, whether it be in a meeting or out in public, they need to step down as a voting member. In the Cornish case the developer said the Planning Board was biased and if his application had been denied, he would have likely won a lawsuit against the Town of Cornish Planning Board.

Diane S. also stated that if the Planning Board thought the Town of Shapleigh might want to adopt a similar ordinance as the one in York, they may want to hold a Public Hearing in September to discuss the matter further. Diane stated that another option to the York ordinance is one that is written in Ogunquit where a franchise can come into town; it only needs to fit in with the town’s landscape and building design. This is another option Shapleigh could look at. Roger mentioned that Freeport had a similar ordinance as Ogunquit.

Roger A. noted that the York Formula Restaurant ordinance did hold up in the court system when it was contested by a prospective applicant.

Diane S. stated that this type of ordinance would not prevent a business such as a Wal-Mart from coming into town. That could be another item to discuss with the townspeople as to whether or not they want an ordinance regulating business such as a Wal-Mart.

Roger A. agreed that this is something the Planning Board needed to explore further. He also agreed with Diane’s assessment that a Planning Board member who could be deemed as biased against an applicant due to strong personal feelings, should step down as a voting member.

There was nothing further discussed.

Roland Legere stated that there was a problem at the transfer station regarding railroad timbers from an old retaining wall that was recently removed to be rebuilt by the owner with newer materials.

Mr. Legere stated that he had discussed with Board of Selectman, Bill Hayes, the problem of railroad ties at the transfer station and the cost that would now be incurred by the town to remove the hazardous waste. Mr. Legere stated the Board of Selectmen would like the Planning Board to consider requiring the applicant to remove the hazardous waste offsite at his/her own expense, whether by a waste disposal company or by discussing the plans with the Town of Shapleigh and getting approval prior to dumping.

Roger A. stated that this would be discussed with future applications. The board members agreed this was a problem that should be addressed with each new applicant.

Nothing further was discussed.

GROWTH PERMIT(S) – *There are no more Growth Permits available for the year 2005.*

The Planning Board meeting ended at 8:15. p.m.

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

SHAPLEIGH PLANNING BOARD MINUTES

Tuesday, July 12, 2005

Members in attendance: Roger Allaire (Chairman), Madge Baker (Vice Chair), John Klimas, and Barbara Gilbride (Member / Secretary). Code Enforcement Officer, Steven McDonough was unable to attend. (Diane Srebnick sat out of the meeting and attended as a citizen.)

Public Hearing Began at 7:00 p.m.

Conditional Use Permit – Construct Storage Building – Map 5, Lot 37A (Shapleigh Corner Road) – Town of Shapleigh

Board of Selectman, William “Bill” Hayes, represented the Town of Shapleigh for the Public Hearing to construct a storage building.

Bill stated that the town needed additional storage so the townspeople voted to appropriate money for the construction of a 20’ x 30’ storage building. The building would be located in the parking lot across the street from the fire station. Bill stated the closest property line was also owned by the Town of Shapleigh.

Bill explained the storage unit would be separated into four units. Three would be 10 x 10’ in size; the fourth would be 10 x 20’ in size to accommodate the fire departments dry hydrant piping.

Roland Legere, a citizen of Shapleigh, asked if the building was going to be made of metal? Bill stated that yes it was, it would be made by the same company that built the storage building at Potbelly Junction owned by Mr. Stephen Quartarone.

Roland Legere asked if the building had expansion capabilities for future use? Bill stated the building’s width could not be expanded but the length could be added on to.

Madge B. asked if the building would be placed on a cement slab? Bill stated that yes, it would be on a floating slab, with 12” footings.

Madge B. asked if there would be electricity in the building? Bill stated that there would be electricity run underground from the closest utility pole to the building for lighting purposes only.

Roland Legere asked if there would be a security system on the building? Bill stated there would not. Roger A. noted that the doors on these buildings are lockable. Bill concurred. Bill also said that this building was not extremely visible so it would not be something vandals would easily notice.

Bill stated that the storage in this building would be for the town only, i.e. committees and groups associated with the Town of Shapleigh.

Roland Legere asked what the building would cost? Bill stated that \$25,000 had been approved by the townspeople to put up a storage building. Bill said that at this time the site preparation would cost approximately \$3000, the building itself would cost \$10,000, the concrete work and erection of the building would cost approximately \$4,000 for a total of \$17,000. Bill estimated the electrician used for the placement of the underground wiring and to hook up the lights would be approximately \$2,500. Bill believed the total cost would be in the neighborhood of \$20,000, coming in under budget.

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

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

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

The minutes from Tuesday June 28, 2005 were accepted as written.

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

Conditional Use Permit – Replace Existing Retaining Wall – Map 44, Lot 33 (214 Silver Lake Road) – Norman Belanger

Mr. Belanger was at the meeting to discuss his application.

Roger A. stated that the planning board members in attendance this evening did a site inspection prior to the meeting.

Roger A. asked Mr. Belanger at the site inspection and at the meeting what he would be doing with the soil behind the existing retaining wall? Mr. Belanger stated that he would use what he could for back fill and the rest place in another location on the property. Mr. Belanger explained the site work was going to be done by hand.

Roger A. stated that there needed to be silt fence at the lake level put into place prior to beginning any work. Mr. Belanger stated that he understood.

Mr. Belanger had stated that he would be placing a drain pipe and small stone behind the new wall for drainage. Roger A. asked Mr. Belanger if he had considered filter fabric as well to further prevent stormwater from moving the new wall? Mr. Belanger asked Roger to explain what filter fabric was. Roger stated that it was a water permeable fabric that comes in rolls. You place it low behind the wall and wrap it behind the entire wall to prevent pressure from the embankment from moving the wall. Mr. Belanger asked where you put the filter fabric in relationship to the drain pipe? Roger stated that the drain pipe would go behind the filter fabric. Roger stated that filter fabric could be bought at Genest Concrete Company. Roger said there were probably other places that carried it as well.

Roger A. asked if Mr. Belanger had an estimated time of completion for the project? Mr. Belanger stated late fall. Roger asked if Mr. Belanger had a DEP Permit by Rule approval for the project? Mr. Belanger stated that yes he had. Roger stated the Planning Board would need a copy for the file.

Roger A. asked if there were any additional questions? There were none.

Roger review Shapleigh Zoning Ordinance 105-39 “Earth removal and filling.”; G. “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.

Once the project was started it would be completed as soon as possible, including ground cover. A completion date of October 15, 2005 was designated.

- 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.

Best Management Practices shall be used and ground cover shall be placed behind the new wall, such as low bush juniper or honeysuckle.

- 3) Diversions, silting basins, terraces and other methods to trap sediment shall be used.

Silt fencing shall be used during the project; the land is terraced and shall remain terraced when the project is completed.

- 4) N/A

- 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 existing soil on site shall be used as well as stone for drainage.

- 6) Fill shall not restrict floodway, channel or natural drainage way. ***It will not.***

- 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.

Filter fabric shall be added behind the new wall to stabilize the embankment.

- 8) Where activities carried out under this article require the removal of existing ground cover, revegetation should be carried out.

There is presently no ground cover to replace. There shall be some placed on the embankment after the new wall is completed.

- 9) N/A

- 10) N/A

- 11) N/A

- 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 presently no ground cover or topsoil at this location. A ground cover will be placed on site, such as Juniper, after the project is completed.

- 13) N/A

Roland Legere asked what the new wall would be made of? Roger A. stated that it would be made up of the rock in the existing stone wall. Mr. Belanger concurred.

Madge B. asked if the wall would be done by hand? Mr. Belanger stated that yes it would. Madge told Mr. Belanger to make certain the wall is higher than the existing ground to prevent stormwater runoff. Mr. Belanger stated that he understood.

Roger A. asked if there were any additional questions there were none.

Madge B. made the motion to approve the Conditional Use Permit to replace the existing stone wall with the following condition(s):

- 1) Silt fencing shall be placed on site prior to beginning construction and Best Management Practices shall be used.
- 2) Filter fabric, small stone and a drain pipe, shall be installed behind the new wall to further stabilize the area.

- 3) The DEP Permit by Rule shall be given to the Planning Board for the file prior to beginning the project.
- 4) The area behind the new wall shall have some type of vegetation placed on site to prevent erosion such as Juniper or Honeysuckle.
- 5) The new wall shall be completed by October 15, 2005.

John K. 2nd the motion. All members were in favor.

There was nothing further discussed.

Conditional Use Permit – Antique Shop – Map 7, Lot 55 (Route 11) – Ryan Dube

Mr. Dube was present to discuss his application.

Mr. Dube stated he wanted to convert the existing building on site into an antique shop. It is the building located adjacent to his garage.

Madge B. asked if this was a home occupation? Madge asked whether or not Mr. Dube or another family member would be working in the antique shop and if he resided in the residence? Mr. Dube answered yes to all three questions.

Mr. Dube presented the Planning Board, along with the application, several pictures depicting the building to be used, the garage, existing house as well as the driveway that will be used to access the shop. Mr. Dube stated that the building will remain as-is, other than the addition of some shelving. Mr. Dube said the existing parking area is 33' x 40', which allows room for up to six cars. The parking area is approximately 165 feet back from Route 11.

Roger A. calculated the size of the building for the shop and stated that four parking spaces would be necessary. Mr. Dube appears to have more than the minimum required.

Mr. Dube stated that to start, the hours of operation would most likely be Saturday, 9 a.m. to 8 p.m., Sunday 12 p.m. to 5 p.m. and these hours may only be seasonal, perhaps closing during the winter months.

Roger A. asked if there were any further questions? There were none.

A Public Hearing was scheduled for Tuesday, July 26th at 7:00 p.m. A Notice to Abutters will be mailed as well.

Roger A stated that at that time site distances would be calculated. Nothing further was discussed.

Conditional Use Permit – Horseback Riding Facility – Map 7, Lot 56 (Route 11) – Jailene Fontaine

Ms. Fontaine was present to discuss her application.

Ms. Fontaine stated that she would like to build a 60' x 120' indoor horseback riding arena with a 32' x 36' manager and guest quarters attached, a 50' x 60' stable, and several fenced paddock areas. Ms. Fontaine said approximately three to five acres would be cleared to be used as turnout, round pens, etc.

Ms. Fontaine stated there would be a monitor system in the arena because she was dealing with very expensive horses and needed to be able to observe them.

Roger A. stated that a Growth Permit would need to be obtained for the Manager / Guest quarters, prior to construction. Roger explained that any residential unit needed one, regardless of what it was called.

Roger A. told Ms. Fontaine that the horse manure would need to be stored a minimum of 300' from any high water (Roger did not feel this would be an issue at this location). Ms. Fontaine stated that the manure would be removed by a gentlemen that she is currently using at her farm known as Lilac Ridge.

Roger A. read Shapleigh Zoning Ordinance 105-56 "Animal breeding or care". Roger stated that all pens, stables, barns, etc. needed to be 150' from any lot line. Ms. Fontaine stated that she understood.

Roger A. asked Ms. Fontaine if she wanted to move forward with her application or if she wanted to have it tabled pending the Growth Permit process? Madge B. stated that she could move forward with other aspects of the proposal such as the indoor arena or barn, just not the guest quarters. Ms. Fontaine stated that it was imperative she have someone stay on site to watch the animals. She would need to think about whether or not she would go forward. Ms. Fontaine wanted to speak with the contractor for the project as well. Ms. Fontaine thought it best to table the application at this time.

Madge B. moved to table the application. John K. 2nd the motion. All members were in favor.

Nothing further was discussed.

Conditional Use Permit – Convert Office into an Apartment – Map 18, Lot 32A (120 Emery Mills Road) – Paul Muse

Mr. Muse was present to review his application.

Mr. Muse stated that he bought the C21 building. Mr. Muse stated he wanted to turn the back office into an apartment to rent. Roger A. stated that this would require a Growth Permit prior to approval.

Mr. Muse asked when he could apply for a Growth Permit? Roger A. said the Planning Board was accepting Growth Permits on August 2nd and they would be reviewed at the 1st Planning Board meeting in January.

Roger A. asked Mr. Muse if he wanted to go through the Growth Permit process? If so, he would not have to come back before the Planning Board, the members could vote on his proposed change of use at this time. Mr. Muse would not however be able to convert the office into an apartment until he received his Growth Permit. Mr. Muse stated he would apply for the permit.

Madge B. made the motion to approve the change in the Conditional Use Permit from two offices in the existing building to one office and one dwelling unit, because the Planning Board finds that the change to one office will reduce the size of the commercial use, therefore, the impact of the commercial use on the affected lot and abutting properties will remain the same or diminish. John K. 2nd the motion. All members were in favor.

Nothing further was discussed.

Construction of a Private Way - Map 1, Lot 43A (Emery Mills Road) – Guilford Berube

Mr. Berube was present to discuss his application. He was not on this evening's agenda but was allowed to speak.

At the previous planning board meeting, Roger A. stated that the road plan needed to be prepared by a

Registered land surveyor or licensed engineer. Mr. Berube brought to the Planning Board meeting a copy of the plans for his private right-of-way, dated 7/12/05, designed by Middle Branch Professional Land Surveyors. The plan depicts the 50' right-of-way and a hammerhead turnaround as required per Shapleigh Zoning Ordinance 105-60.1 "Private ways."

Mr. Berube asked if a hammerhead turnaround can be used for road frontage? Roger replied, yes. Road frontage is lineal frontage; it does not have to be in a straight line.

Several Planning Board members noted that where the right-of-way intersects Rte. 109, it was only 34' in width, then widened out into the required 50' width. Roger A. stated that the right-of-way initially created was for 34' feet. The new lot, created in 1998, has a deeded 50' right-of-way.

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

Roger A. stated a Notice to Abutters would be mailed and a site inspection scheduled prior to the next meeting on July 26, 2005.

Nothing further was discussed.

**** Site inspections scheduled for July 26th will begin at 6:00 p.m. ****

Conditional Use Permit – Construct Storage Building – Map 5, Lot 37A (Shapleigh Corner Road) – Town of Shapleigh

Planning Board members reviewed the application to construct a storage building.

Members agreed the storage building was in a good location, not disturbing surrounding vegetation, it is not very visible from the roadway, there is more than adequate parking and the building would be able to meet all the towns zoning setback requirements. The grade of the land would not be changed so there will not be a stormwater or erosion problem. The size of the building was the only issue. There were several members that did not feel it was large enough to serve the community in the future, but they understood there were budget constraints.

Sketch plans were provided by the town. Also provided was a plan showing the building system to be used / floor plan; and a detailed plan of the footings and slab floor.

Roger A. reviewed applicable ordinances and noted that the site distances were more than adequate for this location. This building created no noise, dust, fumes, and there would be no outside lighting causing glare. There would be no earth moving, setbacks were well within the limits and the existing vegetation / screening would not be removed. There would be no explosive materials stored within the building.

Roger A. asked if there were any questions from members with respect to this project? 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, there are no changes being made to the surrounding landscape and there is good drainage in this area due to the sandy soil in the parking area.***
- 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 encourages buildings used for businesses, town business or otherwise to be located along Rte. 11.***
- 4) Traffic access to the site is safe. ***It is, the site distances exceed both the minimum and maximum requirement in the ordinance.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***It is, the existing parking lot has been in existence with no erosion or stormwater problems, due to proper drainage.***
- 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. ***There shall be no hazardous materials on site.***
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***It is not necessary, the existing parking lot has been in existence with no erosion or stormwater problems, due to proper drainage, and there shall be no changes made to the grade of the land.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***The existing parking lot has been in existence with no erosion or stormwater problems, due to proper drainage, and there shall be no changes made to the grade of the land.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***There is, it is located directly across the street from the fire station.***
- 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 vegetation is not being removed and shall act as a natural buffer. The adjacent land is also owned by the Town of Shapleigh.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

Madge B. made the motion to approve construction of the 20' x 30' storage building for the Town of Shapleigh as presented in the plan. John K. 2nd the motion. All members were in favor.

There was nothing further discussed at this time.

OTHER:

Margaret Moody, a citizen of the Town of Shapleigh, asked to speak before the Planning Board.

Mrs. Moody stated that she felt there were times when applicants were misinformed or not informed of what would be required of them during the review process. Mrs. Moody felt that at times details were not given which might prevent applicants from bringing in all the information necessary, or as was seen tonight, they were not told they might need a Growth Permit.

Barbara Gilbride stated that at least one of the applicants this evening was told of the possibility they would be required to get a Growth Permit prior to final review. Barbara stated she, as the Planning Board Secretary and the Code Enforcement Officer tried to review the applications prior to the meeting and gather additional information when necessary.

Roger A. stated that the other Planning Board members did not see the application until the night of the first review. Mrs. Moody stated she was not aware of this. She stated she was not trying to be critical just helpful. Roger thanked her for her input.

GROWTH PERMIT(S) – *There are no more Growth Permits available for the year 2005.*

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, July 26, 2005

Members in attendance: Roger Allaire (Chairman), Madge Baker (Vice Chair), Alex MacPhail and Barbara Gilbride (Member / Secretary). Code Enforcement Officer, Steven McDonough also attended the meeting.

Public Hearing Began at 7:00 p.m.

Conditional Use Permit – *Antique Shop* – Map 7, Lot 55 (Route 11) – Ryan Dube

Mr. Dube was present for the Public Hearing.

Mr. Dube stated there was a building on site that was formerly used as a wood working shop for the previous owner. He would like to use this building to open an antique shop. Mr. Dube stated there would be no changes to the property other than adding shelves in the building.

An abutter, Mr. John Townsend, asked what type of antiques would be sold?

Mr. Dube replied it would be upscale antiques, not yard sale items. He would be buying the products along with his mother-in-law. Also another gentleman would be buying items and would place his products in the building on consignment. Mr. Dube stated only he or his wife would actually be working in the building.

Mr. Townsend asked what the hours of operation would be?

Mr. Dube stated the hours of operation would be from 5:00 p.m. to 8:00 p.m. in the evenings after he got home from work, and 9:00 a.m. to 8:00 p.m. Saturday and Sunday.

Mr. Townsend asked if Mr. Dube expected a lot of traffic and would people be allowed to park in the road?

Mr. Dube stated that there most probably would never be more than three cars on site. He was using the antique shop up the road as an example. Also, Mr. Dube stated there was adequate parking on site so there should not be any cars parking along Rte. 11.

Mr. Townsend asked if there would be any noise generated?

Mr. Dube stated there would be a security system installed and if the alarm was triggered that would cause some noise. Mr. Townsend stated that he had no problem with the security system and would like to know if someone was in the neighborhood that shouldn't be.

Madge B. asked if there was going to be any outside lighting?

Mr. Dube stated there may be a lighted sign by the road and there was one light on the building at this time. Mr. Dube did not plan on adding additional lighting except for inside the building.

Mr. Townsend stated that the existing light did not bother him now so he had no objection to it.

Mr. Townsend asked what kind of people collected and sold antiques?

Mr. Dube laughed and stated he was a collector, as was his mother-in-law.

Madge B. told Mr. Dube he would need to speak with the Code Enforcement Officer before putting any sign(s) on his property. Madge stated it was very important the location of the sign does not block the view of oncoming traffic.

Madge B. asked if open flags were allowed? The board members did not come to a definite conclusion. Madge stated that Mr. Dube may want to have a removable "open" sign attached to his permanent sign. The board members agreed they would discuss the issue of an open flag at a later date. Many local businesses use them currently.

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

The Public Hearing closed at 7:15 p.m.

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

The minutes from Tuesday July 12, 2005 were accepted as written.

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

Conditional Use Permit – Antique Shop – Map 7, Lot 55 (Route 11) – Ryan Dube

Mr. Dube was present to discuss his application. Prior to the meeting the board members did a site review.

Roger asked if there were any additional questions for Mr. Dube. There were none.

Roger A. read the following applicable ordinances:

- 105-17 - Land Uses. *An antique shop is an allowed use in the General Purpose district with a Conditional Use Permit.***
- 105-19 – Notes to table on dimensional requirements. *The building meets the required road frontage and meets the required setbacks.***
- 105-20 – Applicability of standards; prohibited uses. *This application is a permitted use within the zoning ordinance and it meets all state and federal law regulations.***
- 105-21 – Traffic. *Traffic will have safe access. The site distances are well in excess of the minimum required which is 315’.***
- 105-22 – Noise. *This business shall not create excessive noise; all activity will take place inside the building.***
- 105-23 – Dust, fumes, vapors and gases. *There will be no emissions created by this business.***
- 105-25 – Glare. *There is currently only one outside light on the building. No additional lighting will be added.***
- 105-26 – Stormwater runoff. *This structure is already in existence with no changes being made to the surrounding area. The area is well landscaped with established plants and lawn.***

- 105-27 – Erosion control. *This structure is already in existence with no changes being made to the surrounding area. The area is well landscaped with established plants and lawn.*
- 105-28 – Setbacks and screening. *There are existing shrubs and trees in existence. The building is well off the road and screened from the neighbors with the existing vegetation.*
- 105-30 – Water quality. *There shall be no hazardous materials on site that could affect water quality, nor will any be produced by this business.*
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *The surrounding landscape, which is trees and shrubs, shall not be disturbed.*
- 105-32 – Relation of proposed building to the environment. *The existing building fits in well with the surrounding area.*
- 105-33 – Refuse disposal. *The applicant shall remove any refuse from site, which should be minimal with this business.*
- 105-34. Access control on Routes 109 and 11. *Access onto Route 11 will be via the existing driveway and the site distances exceed the acceptable range.*
- 105-43 – Off-street parking and loading. *The parking area is adequate for the size of the building which is 615 sq. ft. There are five spaces required. The turn around area shall be enlarged from its present size.*

Madge B. noted that there was adequate parking inside the existing garage for personal use so all of the parking area could be used for customer parking. It was also stated that the applicants must be certain not to allow anyone to block the turnaround area.

- 105-47 – Signs and billboards. *Any signage shall be obtained through the Code Enforcement Office.*

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 encourages businesses along Rte. 11.*
- 4) Traffic access to the site is safe. *It is, the site distances exceed both the minimum and maximum requirement in the ordinance.*
- 5) The site design is in conformance with all municipal flood hazard protection regulations. *It is, the building is in existence and there has been no indication of problems nor are any changes being made to the existing landscape that would create non-conformance.*
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. *Any solid waste generated by the business will be removed by the applicant.*
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. *There are no hazardous materials on site.*
- 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 landscape that would affect the flow of stormwater around this building.*
- 9) Adequate provisions to control soil erosion and sedimentation have been made. *There are no changes are being made to the landscape that would cause erosion on site.*

- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***There is a hydrant in close proximity to 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. ***This business will not produce anything detrimental to the neighboring properties. There will be only one light on the building, there are no odors being generated and the hours of operation shall be limited.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

Madge B. made the motion to approve the Conditional Use Permit to open an antique shop in the existing building with the following condition(s):

- 1) **Hours of operation shall be Monday thru Friday, 5 p.m. to 8 p.m.; Saturday and Sunday 9 a.m. to 8 p.m.**
- 2) **There shall be no parking allowed on Rte 11. If parking on site becomes inadequate, the issue must be addressed with the Planning Board.**
- 3) **The existing turnaround must be enlarged from its existing size, and it must be left available for use at all times. There shall be no cars allowed to back onto Rte. 11.**
- 4) **Any signage must be approved by the Code Enforcement Officer.**

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

Nothing further was discussed.

Construction of a Private Way - Map 1, Lot 43A (Emery Mills Road) – Guilford Berube

Mr. Berube was present to discuss his application. Prior to the meeting the board members did a site review.

Roger A. began by stating that at the site inspection, the board members present did not believe the existing roadway met the criteria for a private way. In Shapleigh Zoning Ordinance 105-60.1 “Private ways”, there is a minimum of 12 inches of subbase required with a maximum size of 4” of stone. It was Roger’s opinion that the Planning Board would need an engineer to confirm the road was put in to specifications. It did not appear the roadway, as it is now, was adequate. Madge B. agreed with Roger’s assessment.

Roger A. was also concerned with how stormwater runoff would be addressed. In Roger’s opinion the grade on part of the roadway was greater than 8%. Roger again stated there needed to be an engineered plan.

Madge B. added that the roadway needed to be passable by two cars. At this time, it is not the case.

Mr. Berube stated that the driveway for the back lot would be put in at approximately 300’ from Rte. 109. This area is relatively flat. Mr. Berube did not feel he needed this area engineered to be able to meet the town’s standards. Roger A. and Madge B. both stated that the entire 200’ of necessary road frontage for the lot in question would need to meet the minimum standards in the ordinance. This is the only way to create a legal lot of record.

All Planning Board members agreed an engineered plan was required for this project in order to meet the ordinance for a private way.

Roger A. made the motion to table the application until an engineered plan is received by the Planning Board. Madge B. 2nd the motion. All members were in favor.

Nothing further was discussed.

Conditional Use Permit – Grade Back Lot – Map 44, Lot 53 (226 Silver Lake Road) – James Bruno

Mr. Bruno was present to discuss his application.

Mr. Bruno presented a sketch plan along with his application. Mr. Bruno stated that he wanted to remove part of the existing hill on his property and use it to fill in a very low area, also on his property. Mr. Bruno stated he would also like to bring in additional fill to put in the low area. He would eventually like to put a garage up on the area to be filled.

Roger A. asked what type of fill he would be bringing in and how much? Mr. Bruno stated he did not know how much would be necessary and would not know until the fill on site was used. Mr. Bruno also did not know exactly what type of additional fill he would be using.

Steve M., CEO, told Mr. Bruno to be certain he did not add or remove fill within ten feet of his neighbor's property line.

There were no questions at this time.

Roger A. scheduled a site review for 6:00 p.m. on August 9th. A Notice to Abutters would be mailed out as well.

Nothing further was discussed.

Conditional Use Permit – Replace Retaining Wall – Map 44, Lot 57 (210 Silver Lake Road) – Joseph & Janet Lavoie

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

Mr. Lavoie stated the existing railroad tie retaining wall(s) collapsed so they want to replace them. There are two walls, one three foot wall at the waters edge and one five foot wall at a tier closer to the home. Mr. Lavoie stated that they had already applied to the Dept. of Environmental Protection for the project. Mr. Lavoie stated the existing stairway is also in need of repair as it is full of tree roots and sand.

Mr. Lavoie presented a picture of what the retaining wall(s) looked like 15 years ago. Mr. Lavoie stated that he wanted to replace the walls with walls no greater than four feet in height.

Madge B. asked if the earth would be moved by hand? Mr. Lavoie stated that yes it would.

Roger A. asked what would be done with any excess material? Mr. Lavoie stated that most of the material would be used and any leftover would remain on site.

Roger A. asked if there was a time table for this project. Roger told the Lavoie's that the Planning Board would set a deadline for completion. Mr. Lavoie stated it would not be a problem, he expected to be done by late fall.

Roger A. stated a Notice to Abutters would be mailed. Also, a site inspection would be scheduled for August 9th at approximately 6:15 p.m.

Nothing further was discussed.

Conditional Use Permit – Sales of Nutritional Foods & Gift Items – Map 18, Lot 32A (120 Emery Mills Road) – Diane Laitres & Kathy Travis

Diane Laitres and Kathy Travis were present to discuss their application.

Ms. Travis stated they would like to open a natural food store on Rte. 109 in the old Century 21 building. The building is owned by Paul Muse. (Mr. Muse was also in the audience to answer any questions if necessary.)

Roger A. asked if there would be any changes to the building? The applicants stated there would be new flooring, a retail counter built, and shelving added. They required no exterior changes other than adding a sign. Mr. Muse stated that he may remove one window.

Roger A. asked Mr. Muse if this change of use of the building would be in lieu of Mr. Muse requesting the board allow an apartment in one of the existing offices in the building? Mr. Muse stated yes. Roger asked if the new business would use the entire building? The applicants and Mr. Muse stated yes.

The applicants stated the actually hours of operation for patrons would be 10:00 a.m. thru 6 p.m. but they would like to be able to use the building from 6:00 a.m. thru 10:00 p.m. in order to restock, clean, etc.

Roger A. asked how many parking spaces were available on site? Mr. Muse stated there were at least 13 parking spaces using the town's requirement of 200 sq. ft. per vehicle. The building is (22' x 54') 1,188 square feet in size, requiring six spaces per the ordinance (105-43).

Madge B. asked what type of products would be offered for sale? Ms. Travis stated to start the items would be pre-packaged herbs, spices, vitamins, etc. Also, approximately 1/3 of the merchandise would be natural crafts, such as dried flower arrangements, soaps, etc. Ms. Travis stated that in the future they would like to sell food items they make themselves.

Madge B. asked if people would be eating on site? Ms. Travis stated no, it would be take-out only.

Roger A. asked about disposal of any waste? The applicants stated they would remove any waste themselves, and they believed it would be minimal.

There were no further questions at this time.

Roger A. scheduled a Public Hearing for 7:00 p.m. on August 9th. There would be a Notice to Abutters mailed as well.

Nothing further was discussed.

GROWTH PERMIT(S) – *There are no more Growth Permits available for the year 2005.*

The Planning Board meeting ended at 8:30. p.m.

Respectively submitted,

Barbara Gilbride

Planning Board Secretary planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES

Tuesday, August 9, 2005

Members in attendance: Madge Baker (Vice Chair), Alex MacPhail and Barbara Gilbride (Member / Secretary). Code Enforcement Officer, Steven McDonough also attended the meeting.

Public Hearing Began at 7:00 p.m.

Conditional Use Permit – Sales of Nutritional Foods & Gift Items – Map 18, Lot 32A (120 Emery Mills Road) – Diane Laitres & Kathy Travis

Diane Laitres and Kathy Travis were present for the Public Hearing.

The applicants stated that they were before the Planning Board for a permit to open a natural food store and gift shop. They would be renting a building located on Route 109, owned by Paul Muse. This building was last used for a real estate office.

Madge B. asked if there would be any changes to the exterior?

Ms. Laitres stated there would not.

Madge B. asked if the parking was adequate?

Ms. Laitres stated the existing parking area could accommodate 13 parking spaces using the town's requirement of 200 sq. ft. per vehicle. Ms. Laitres stated that they would increase the parking area if it was needed in the future.

Madge B. asked what type of items would be sold?

The applicants stated vitamins, grains, packaged natural foods, spices, organic milk, prepackaged sandwiches, etc. Also natural soaps, potpourri, candles, and other related craft items.

Alex M. asked if they were going to sell their own items or also sell items on consignment?

Ms. Laitres stated they would only be selling items they purchased or produced themselves, there would be no consignment.

Madge B. asked if there would be food for consumption on the premises and if so would they be preparing it?

Ms. Laitres stated that at this time it would be pre-packaged food only. Grab and go. Ms. Laitres stated they would like to be able to prep food on the premises eventually, such as soup and sandwiches. Ms. Laitres asked what they would need from the town if they decided to make food on site in the future?

Madge B. read Shapleigh Zoning Ordinance 105-73.B(1). Madge stated that they would need an amendment to the approved Conditional Use Permit if any substantial changes were made such as preparing food on site or an expansion to the building, etc. Ms. Laitres stated that she understood. She said that at this time it would be grab and go only and there would not be any customer seating at this time or in the future.

Madge B. stated if they wanted to prep food now the Planning Board could approve with the condition that no food be prepped until all State approvals were received. Ms. Laitres stated again they were not prepared to do food at this time. It is likely the building would have to be expanded and that would trigger any additional town permits including an amendment to the CUP.

Ms. Laitres stated there was existing lighting on the building and they did not plan on adding additional lighting. The building is handicap accessible. And Ms. Laitres stated she knew they would have to go through Code Enforcement to get their sign. She asked what the maximum size was for a sign? Steve M., CEO, stated 32 sq. ft.

Madge B. asked what type of septic system there was on site?

Ms. Laitres did not know, she only knew there was one. She said she could ask the owner, Mr. Muse, to see what information he had. Steve M., CEO, looked in his files but did not have any information and therefore he stated it is possible the septic system may be over 20 years old. Steve stated that because there are fewer people using the existing septic system than there were using it with the real estate office or the prior restaurant, he did not believe there would be a problem. Steve stated that if the number of employees increased or if additional waste water was created from food preparation, then the town may want to either have an engineer certify the system was functioning properly or ask for a new septic design.

Madge B. asked if there was a well on site?

Ms. Laitres stated yes.

Madge B. asked how many employees would be on site at any one time?

Ms. Laitres stated two. Ms. Laitres did add that they might want to have an open house, and if so, they would have her daughter help out for that day. Ms. Laitres stated that the limited retail space would not allow for a large number of employees. She said that if the business increased to the point they needed more employees they would also expand the building. Ms. Laitres stated she understood that at that time she would need additional permits and the owner would need to address the septic system.

There were no additional questions.

The Public Hearing closed at 7:20 p.m.

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

The minutes from Tuesday July 26, 2005 were accepted as written.

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

Conditional Use Permit – Grade Back Lot – Map 44, Lot 53 (226 Silver Lake Road) – James Bruno

Mr. Bruno was present to discuss his application. Planning Board members did a site inspection prior to this evenings meeting.

Mr. Bruno presented a sketch plan along with his application. Mr. Bruno explained at the last meeting as well as the site inspection that he wanted to remove part of the existing hill on his property and use it to fill in a very low area, also on his property. Mr. Bruno stated he would also like to bring in additional fill to put in the low area. He would eventually like to build a garage on the area to be filled. Mr. Bruno did not know how much additional fill would be required.

Alex M., one of the members on the site inspection, asked if any of the trees along the high embankment would be removed? Alex was concerned because he believed that these trees were instrumental in keeping the embankment from eroding away. Mr. Bruno stated that the trees Alex was referring to were not going to be removed.

Madge B. reviewed the standards applicable to this application. The following two ordinance standards were a concern for the board members, **105-26** – Stormwater runoff, and **105-27** – Erosion control. None of the board members believed they were qualified to ascertain whether or not stormwater and erosion could be controlled with Mr. Bruno's plan as presented. The Planning Board was concerned with how the stormwater would impact the neighbor's property that is located on the down slope (Couch).

Madge B. reviewed Ordinance **105-39** – Earth removal and filling, (G) Conditions of permit. Madge asked Mr. Bruno if he was going to remove any ground cover and if so, what would he replace it with? Mr. Bruno stated the existing grass would not be removed. Mr. Bruno stated that much of the area to be disturbed did not have any vegetation at this time.

Madge B. stated that under ordinance 105-27, Erosion Control, it was very important to use vegetation as a means to control erosion. Madge asked how long the project would take? How long would the land be exposed before some type of erosion control could be implemented?

Mr. Bruno stated it would take a day to cut the embankment down / spread the existing gravel. Mr. Bruno was hiring someone to do it. Mr. Bruno did not know how long it would take to bring in fill because he didn't know the amount he would need. He guessed that for 500 yards he would need a week, 1000 yards possibly two weeks.

Alex M. asked if a contractor was doing the work? Mr. Bruno stated yes.

Alex M. thought there should be at least a 10 foot buffer strip of some type between Mr. Bruno's property and the neighbors to prevent stormwater / erosion from taking place once the project is finished. Alex was concerned the movement of gravel may increase the water flow to the neighboring property. This is a large scale project.

Madge B. returned to the issue of stormwater, citing Zoning Ordinance 105-73.G(8), "A stormwater drainage system capable of handling a fifty-year storm without adverse impact on adjacent properties has been designed." The board members all agreed that they could not ascertain whether or not this criteria could be met. Madge asked Steve M., CEO, his opinion. Steve thought there should be an engineered stormwater plan.

Mr. Bruno stated that at this time water pooled in the natural retention area on site. Mr. Bruno did not feel the water would go anywhere else but in this location.

Madge B. 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 an improvement to the property which the Comprehensive Plan encourages.***
- 4) Traffic access to the site is safe. *N/A*

- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***Not in a designated flood zone.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. *N/A*
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. *N/A*
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***There was no plan presented at this time. The applicant stated he would make some provisions for stormwater such as a grass buffer strip but there were no details in writing. The Planning Board still feels this needs to be addressed.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***There was no plan presented at this time. The applicant stated he would make some provisions for stormwater such as a grass buffer strip but there were no details in writing. The Planning Board still feels this needs to be addressed.***
- 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 existing vegetation surrounding the property. The project will enhance the appearance of the property.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***Stormwater control is a concern and the Planning Board feels it has not been addressed property at this time.***

Madge B. asked if there were any additional questions? There were none.

Alex M. made the motion to table the application until an engineered stormwater plan is presented. Barbara G. 2nd the motion. All members were in favor.

Conditional Use Permit – Replace Retaining Wall – Map 44, Lot 57 (210 Silver Lake Road) – Joseph & Janet Lavoie

Mr. and Mrs. Lavoie were present to discuss their application. Planning Board members did a site inspection prior to this evenings meeting.

The Planning Board members viewed a railroad tie retaining wall that had collapsed. Also, the retaining wall at the waters edge appeared to be leaning toward the water.

Mr. Lavoie stated that the five foot wall that collapsed would be replaced by two 2 ½' walls using concrete locking blocks. Behind the new walls would be crushed stone, gravel and piping for stormwater control. Mr. Lavoie stated they would like to begin the project on August 22nd. There is approval by DEP. (A copy of the permit was received.)

Mr. Lavoie also noted that the project would be done by hand.

Alex M. asked if there was a vegetation plan? Mr. Lavoie stated there was no vegetation in this area at this time. He did not believe anything would grow because it was all fine sand. Mr. Lavoie stated they were going to place crushed gravel on the leveled area between the walls. Alex stated that he would prefer some type of vegetation whether it is Juniper, blueberries or some other type of vegetation that grows well in sandy soil.

Mr. Lavoie, during the site inspection, asked if he could remove two of the existing trees because he thought they may die after the project was completed because of their location. Steve M., CEO, had told him he would need to replant 4 trees for each tree he removed. Mr. Lavoie stated that if this were the case he probably would not remove the trees because there was limited space to plant the trees. Steve told Mr. Lavoie he may want to have a planting plan in case the trees die. Steve also addressed the board members stating he thought the applicants needed to have a planting plan for the area around the new walls. Steve cited **105-73.G(9)** "Adequate provisions to control soil erosion and sedimentation have been made." The Planning Board agreed soil erosion needed to be addressed in the form of plantings for the area.

Madge asked if there were any additional questions? There were none.

Madge B. 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. ***Replacing the existing railroad tie retaining walls will serve to protect the lake water and wildlife.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. ***New vegetation placed behind the new walls will conserve shore cover.***
- 3) The use is consistent with the Comprehensive Plan. ***It is an improvement to protect the lake water which the Comprehensive Plan encourages.***
- 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***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***The existing railroad ties shall be removed from site by a private waste removal company of the applicant's choice.***
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***There shall be a stormwater drainage system placed behind each new wall per the instructions given by the locking block manufacturer.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***Best Management Practices shall be followed. There shall be a planting plan given to the Code Enforcement Officer prior to issuance of a permit.***
- 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.***

Alex M. made the motion to approve the Conditional Use Permit to replace the existing railroad tie walls with concrete locking block walls, two being 26' x 2.75' in size and the wall at the water's edge being 50' x 3' in size, with the following condition(s):

- 1) ***A detailed landscaping design shall be provided to the Code Enforcement Officer prior to issuance of a permit.***
- 2) ***Best Management Practices shall be used during the project, including silt fencing.***

- 3) *The railroad ties from the existing retaining walls shall be removed from the site. The company / plan to remove the railroad ties shall be presented to the Code Enforcement Officer prior to issuance of a permit.*

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

Nothing further was discussed.

Conditional Use Permit – Sales of Natural Foods & Gift Items – Map 18, Lot 32A (120 Emery Mills Road) – Diane Laitres & Kathy Travis

Diane Laitres and Kathy Travis were present to discuss their application.

Received along with the application was a plan showing the location of the existing building and parking area in relationship to the lot lines. In addition, a second sketch showing the location of the existing septic system, well and building was presented. This was not an engineered sketch plan.

Madge B. asked if there were any additional questions for the applicants following the Public Hearing held earlier? Board members had no questions. Madge summarized, stating the applicants would be opening a natural health food store, and they would also be selling crafts. There would be no changes to the exterior of the existing building, which once housed Century 21, a real estate company. There would be no food prepared on site. The only food sold would be pre-packaged food. There would be no seating on site for customers to use.

Madge B. reviewed the following applicable ordinances:

- 105-17 - Land Uses. *A retail business is an allowed use in the General Purpose district with a Conditional Use Permit.***
- 105-19 – Notes to table on dimensional requirements. *The building meets the required road frontage and meets the required setbacks.***
- 105-20 – Applicability of standards; prohibited uses. *This application is a permitted use within the zoning ordinance and it meets all state and federal law regulations.***
- 105-21 – Traffic. *Traffic will have safe access. The site distances are well in excess of the minimum required which is 315’.***
- 105-22 – Noise. *This business shall not create excessive noise; all activity will take place inside the building.***
- 105-23 – Dust, fumes, vapors and gases. *There will be no emissions created by this business.***
- 105-25 – Glare. *No additional lighting will be added.***
- 105-26 – Stormwater runoff. *This structure is already in existence with no changes being made to the surrounding area. The area is well landscaped with established plants and lawn.***
- 105-27 – Erosion control. *This structure is already in existence with no changes being made to the surrounding area.***
- 105-28 – Setbacks and screening. *There are no changes being made to the landscape.***
- 105-30 – Water quality. *There shall be no hazardous materials on site that could affect water quality, nor will any be produced by this business.***
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *The surrounding landscape shall not be disturbed.***
- 105-32 - Relation of proposed building to the environment. *The existing building fits in well with the surrounding area.***

- 105-33 – Refuse disposal. *The applicant shall remove any refuse from site.*
- 105-34. Access control on Routes 109 and 11. *Access onto Route 109 will be via the existing entrance / exit and the site distances exceed the acceptable range.*
- 105-43 – Off-street parking and loading. *The parking area is adequate for the size of the building which is (22' x 54') 1,188 square feet in size. There are a minimum of 13 parking spaces using the town's requirement of 200 sq. ft. per vehicle.*
- 105-47 – Signs and billboards. *Any signage shall be obtained through the Code Enforcement Office.*

Madge G. 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 encourages businesses along Rte. 109.*
- 4) Traffic access to the site is safe. *It is, the site distances exceed both the minimum and maximum requirement in the ordinance.*
- 5) The site design is in conformance with all municipal flood hazard protection regulations. *It is not located in a flood zone.*
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. *Any solid waste generated by the business will be removed by the applicant. If the number of employees increase from two or the business expands substantially, the septic system will need to be re-addressed by the Planning Board and Code Enforcement Office.*
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. *There are no hazardous materials on site.*
- 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 landscape that would affect the flow of stormwater around this building.*
- 9) Adequate provisions to control soil erosion and sedimentation have been made. *There are no changes are being made to the landscape that would cause erosion on site.*
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. *There is a well on site. The property is in close proximity to lake access.*
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. *This business will not produce anything detrimental to the neighboring properties. There will be no additional lighting added to the building, there are no odors being generated and the hours of operation shall be limited.*
- 12) All performance standards in this chapter applicable to the proposed use will be met. *They shall.*

Madge B. asked the applicants if they needed additional State permits for the grab and go sandwiches? Ms. Laitres stated that they did not, the state considered pre-made sandwiches retail merchandise.

Steve M., CEO, stated again that should the number of employees increase, the septic system would need to be addressed.

Selectman, Bill Hayes, asked why the septic system wasn't grandfathered with the property, and the existing approved business application? Madge B. stated that once there is a change in a Conditional Use Permit, you begin all over again applying the conditions of a conditional use permit. The new business must meet each condition which includes a properly working waste disposal system.

Madge B. asked if there were any additional questions? There were none.

Alex M. made the motion to approve the Conditional Use Permit to operate a Natural Food Store and Craft Business, with the following condition(s):

- 1) The hours of operations shall be 10:00 a.m. thru 6 p.m. for patrons, seven days a week. The building may be accessed by the applicants from 6:00 a.m. thru 10:00 p.m., seven days a week, in order to restock, clean, etc.**

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

Nothing further was discussed.

Best Possible Location – Replace Existing Shed – Map 33, Lot 35 (149 Treasure Island) – John Dingle III

Mr. Dingle was in attendance for review of his application.

Mr. Dingle stated he would like to replace an existing metal shed with a new wood shed. The existing shed has been in existence since 1971 and is in poor condition. Mr. Dingle stated that he requested the new shed be the same size and dimensions as the existing, and that it be in the same location.

Mr. Dingle provided pictures of the existing shed as it appears now and as it appeared in 2/72. Also, Mr. Dingle provided a sketch plan of the existing shed's location on the property. The existing shed does not meet setbacks.

There were no questions from board members at this time.

Madge B. scheduled a site inspection for 5:30 p.m. on Tuesday, August 23rd.

Nothing further was discussed.

Conditional Use Permit – Selective Timber Cut Adjacent to Wetland – Map 8, Lot 5 (Owl's Nest Road) - Creisher / Owner – Peter Klachany, Applicant / Forester

Mr. Peter Klachany, Licensed Forester, was in attendance to represent the applicant.

Mr. Klachany stated the timber harvest to be done would be done in accordance with a written forest management plan he prepared for the Creisher's in June of 2004. Mr. Klachany stated some of the area to be harvested was located within 250 feet of Norton Brook and the open water wetlands adjacent to it. Mr. Klachany stated that this area was zoned Shoreland Protection according to the town's Shoreland Zoning map.

Mr. Klachany stated the reason for the cut was to improve productivity through sound forestry management practices while maintaining the suitability of the area as habitat for wildlife as well as keeping it aesthetically pleasing to the owners who enjoy walking in the woods.

Mr. Klachany provided the Planning Board with a sketch depicting the entire lot and the areas to be harvested at this time. Norton Brook was depicted on the sketch along with the wetland area, a stream, the type of trees that were located on the property, and the density of the forest.

Mr. Klachany said that the proposed cutting was part of a long term forest management program. Mr. Klachany stated that after the completion of the cutting, the better quality pole and small sawlog size white pine would be pruned to grow clear lumber. This would be done under the Maine Forest Service's "WoodsWISE" program, which provides cost-sharing assistance to landowners for woodland improvement projects.

Mr. Klachany stated that within the Shoreland Protection Zone, no more than 40 percent of the trees measuring 4 inches or more in diameter would be harvested and no clear cut openings greater than 10,000 sq. ft. would be created. Mr. Klachany stated that most of the tree limbs and branches would be chipped and sold for biomass fuel, so there would be no accumulation of slash bordering the stream or wetland.

Mr. Klachany stated he would be marking the trees and he would also supervise the project to its completion to ensure compliance with the terms of the cutting agreement and the Conditional Use Permit.

Mr. Klachany stated that at no time would they be crossing the brook.

Road Commissioner, John Burnell, asked where the logging trucks would be accessing the property? Mr. Klachany stated they would use the existing driveway and the back section of the existing field as a landing. There will be no new access created.

Mr. Klachany provided a copy of the approval by the Maine State Dept. of Conservation for the application for cost-sharing under the Maine Forest Service's WoodsWISE incentives program, dated 6/21/05.

Madge B. asked Mr. Klachany if he had a copy of the Zoning requirements for tree harvesting? Mr. Klachany stated that he did and his management plan addressing these requirements.

Madge B. asked if there were any questions, there were none.

A Public Hearing was scheduled for Tuesday, August 23rd at 7:00 p.m. A Notice to Abutters will be mailed as well.

Nothing further was discussed.

Best Possible Location – Replace Camp with 30% Expansion – Need to Review Lot Lines from Current Survey – Map 28, Lot 18 (17th Street) – Paul & Patricia Burbank

Mr. Burbank was in attendance to discuss his approved Best Possible Location.

Mr. Burbank stated that his approval to replace the existing camp had as a condition that he place the camp in the exact location approved by the Planning Board and that he have a survey to show its placement was correct. Mr. Burbank stated that based upon a new survey, not the original parent survey, all of the lot lines along 17th street are incorrect. For this reason, Mr. Burbank stated he could not place the camp in the location as approved because he could not meet the approved setbacks.

Mr. Burbank asked how he could resolve the problem? He cannot meet the approved setbacks as they were based on the original parent survey.

Madge B. stated the Planning Board would need to relook at the project based on the latest survey. The other board members agreed. Madge told Mr. Burbank to bring in a new plan for the replacement of the existing structure, based on this new information. She told him to contact Barbara G., the P.B. Secretary, when he had this information and the board members would review the project once again.

Mr. Burbank stated he would. Nothing further was discussed.

Conditional Use Permit – Repair / Replace Existing Wall – Map 23, Lot 2A (46 Portside) – Stephen Eastman

Mr. Eastman was in attendance to review his application.

Mr. Eastman stated he wanted to rebuild a 15 foot section of wall that has completely collapsed. In addition, he believes a repair is necessary on a section of the same wall that is approximately 30 feet in length.

Mr. Eastman provided the Planning Board with a copy of the Permit by Rule Notification Form, an outline of what the project would entail and how he proposed to do it, pictures of the existing collapsed wall and section needed to be repaired, the lot dimensions depicting the location of the wall needing to be replaced and repaired, and an engineered design of the proposed replacement.

Mr. Eastman stated he has placed some of the rocks that collapsed into the lake, in front of the exposed embankment, to try to prevent erosion. There is also a silt fence in place.

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

Madge B. and Alex M. knew the property and the condition of the wall. Barbara G. will do a site inspection with the Code Enforcement officer if possible, prior to the next meeting.

A Notice to Abutters will be mailed.

Nothing further was discussed.

Board of Selectmen – Question Regarding Earth Moving

Selectman Bill Hayes attended the meeting to represent the Town of Shapleigh.

Selectman Hayes began by stating that the town owned property bought from Mr. Ferguson, approximately 66 acres, is a good location to operate a gravel operation for the needs of the town.

Selectman Hayes stated the Board of Selectmen reviewed Shapleigh Zoning Ordinance 105-39 “Earth removal and filling”. Selectman Hayes stated the town believes B.(3) exempts the town from needing a Conditional Use Permit at this time to use the gravel on site. The ordinance reads “The removal and filling or transfer of material incidental to construction, alteration or repair of a public road or service or essential services”.

Selectman Hayes stated there would be less than five acres used for this operation and the gravel would be used for the public roads. Selectman Hayes stated the gravel would not be sold. He did add that there may be an exchange of gravel with Acton should they run out of gravel for their needs, with the agreement that they replace it when they had some available. Selectman Hayes asked if there was anything else required from the Planning Board?

Madge B. asked if there was any gravel extraction plans? Selectman Hayes stated there was some DEP compliance that the town would need to adhere too, and this would require a plan. Madge stated the town should give a copy of this plan, once created, to the Planning Board. Selectman Hayes agreed.

Steve M., CEO, asked what the difference was between the existing gravel pit and this new location? Selectman Hayes stated this location had a different type of material on site, material needed for the current projects.

Madge B. stated that if the town does not need a permit, it still needed to concern itself with a plan that was environmentally sound. Madge stated she was speaking as a citizen. Selectman Hayes agreed and stating that sloping and reclamation of these slopes would be addressed and a plan created for the DEP.

Road Commissioner Richard Goodwin stated it is possible they would use the entrance to the existing gravel pit to enter this new area in order to limit disturbance. Steve M., CEO, asked if by doing this the two lots would then be considered contiguous therefore possibly creating a disturbed area greater than five acres? Mr. Goodwin did not have an answer to that but stated it was a question they could ask the DEP.

Alex M. did not understand how starting a new gravel operation could be considered "incidental" to construction, alteration or repair of a public road. Alex stated he believed the Planning Board needed a definition of "incidental".

Alex M. agreed this was a good location for a gravel operation but again was not certain additional permitting was not necessary.

Madge B. told Selectman Hayes to contact the DEP to be certain the town would meet their standards. Madge stated the Planning Board would look at what decisions were made for the existing gravel operation to see how the decision was made that it did not need a Conditional Use Permit. Madge stated it was important the Planning Board be consistent in their decision making process.

Selectman Hayes stated the town would pull together a plan. Commissioner Richard Goodwin agreed a long term plan should be formulated. Steve M. reminded Selectman Hayes to be certain to find out whether or not these two operations did not count as contiguous creating five or more acres which would require additional permitting. Selectman Hayes stated he would look into this and when a plan was formulated, a copy would be given to the Planning Board.

Madge B. stated that the Planning Board would review the existing files to make certain this project does not need a Conditional Use Permit.

Nothing further was discussed.

Mr. H. Craig Higgins was present to represent Bill Small the owner of the parcel on this project. Mr. Small was also present at the meeting.

Mr. Higgins began by stating Mr. Small was proposing that on Lot #2 of Great Hollow Acres, a five lot subdivision previously approved, be divided into four lots, each being 80,000+ acres. Mr. Higgins showed the Planning Board members a Preliminary Plan dated 8/1/2005.

Road Commissioner John Burnell asked the Planning Board if the Great Hollow Acres Subdivision had final approval? Mr. Burnell stated the Town of Shapleigh was still holding \$25,000 of Development Services money, because the section of Town Farm Road that was to be improved had not been completed. Mr. Burnell did not see how the Planning Board could review further subdivision of this property when the road was not completed. Mr. Burnell stated in front of Lot #3 and Lot #4, the improvements were not finished.

Mr. Higgins stated he was not aware the improvements had not been done. Mr. Higgins stated that Mr. Small owned this piece of property under review, not Development Services. Mr. Higgins did agree the improvements should be done as soon as possible. Mr. Higgins asked board members if they thought he should step down as representative for Mr. Small because of this issue? Madge B. stated she did not feel this was necessary. She did state Mr. Higgins should clear up this issue prior to the Planning Board looking at any further division of the property. The other board members agreed.

Mr. Higgins continued pointing out features of the new plan. The access road for this project would be across from the existing Apple Road, making this a four way intersection. Mr. Higgins stated this would be much safer than having another road enter 50 feet up the road. Mr. Higgins stated the sketch for additional road was on the map because the road may be extended in the future with further subdivision of the adjacent property.

Mr. Higgins asked if the Planning Board members had any questions at this time or if there was anything further needed on the plan? Madge B. stated that there were contours on the sketch, test pits have been done and those locations are on the sketch. Topography is shown along with any water on the land. Madge stated that for the preliminary sketch plan phase it seemed to be complete.

Madge B. told Mr. Higgins that there could not be any lots that said 80,000±. A lot had to be 80,000+ as a minimum. Mr. Higgins stated that he understood.

Madge B. asked what type of fire protection would be in place? Mr. Higgins stated they would like to have in-home sprinkler systems required.

Mr. Higgins stated that in light of the additional work needed on Town Farm Road, he would like to postpone meeting again on this project until the second Tuesday in September. Madge B. agreed this would be best. Madge stated that at that time the board members could consider meeting with Mr. Higgins on site for a site inspection. Mr. Higgins will contact Barbara G. to confirm the next meeting date.

Nothing further was discussed.

14-Lot Major Subdivision – Country Side Estates – Preliminary Plan – Map 1, Lot(s) 17 & 17D (Shapleigh) / Map 3, Lot 8 (Acton) (Lebanon Road, Acton) - Dana Libby, Applicant; Richard & Carolyn Levesque, Owners

Mr. John Huckins from Corner Post Land Surveying, Inc. was in attendance to represent the owners. Mr. and Mr. Levesque, the owners, were present as well.

Preliminary plans were received by Planning Board members for their review. Mr. Huckins reviewed the 14-lot subdivision project briefly at the meeting. Mr. Huckins stated the entire piece of land consisted of 102+ Acres. 92.49 acres were located in Acton and 9.68 acres were located in Shapleigh. Mr. Huckins stated the land in Shapleigh would be considered open space and would not be built upon. The road located in Shapleigh would be built to Shapleigh's standards.

Mr. Huckins pointed out that this new plan is depicted as a cluster subdivision, vs. the original plan which was a traditional subdivision. Because of the wet areas on the property and topography, the applicants felt the clustering of the house lots would work much better. Madge B. agreed that this new design seems to suit the location.

Mr. Huckins asked how Shapleigh Planning Board members felt about the new plan? Mr. Huckins also wanted to know how much involvement board members wanted in the final review process?

Steve M., CEO, and Madge B. told Mr. Huckins that the "open space" on the Shapleigh property needed to be addressed as non-buildable *on the plan*. This will assure that these lots remain open in the future. Mr. Huckins stated he would make sure it was on the final plan. Madge stated it should also be in the subdivision covenants.

Road Commissioner, Richard Goodwin, stated the road should have a textile mat placed under the pavement to make certain the road holds up to the high water table in the area. Mr. Levesque did not think this would be necessary because they would be building the road up higher than it exists at this time. Mr. Goodwin still felt the mat was necessary, knowing the area as he does.

Madge B. asked Acton Planning Board Chairman, Chip Vennell, if they were going to use Southern Maine Regional Planning Commission to review this plan? Mr. Huckins stated that Jamie Saltmarsh at SMRPC had a copy of the plans at this time.

Mr. Vennell wanted to know if Shapleigh board members wanted to meet jointly on this project? Also, how would the Public Hearing(s) be conducted? Madge B. felt that the Shapleigh Planning Board should attend any public hearings, but that all discussions might not be necessary for both boards to meet together.

Mr. Vennell stated they were talking about possibly holding a public hearing on September 15th in Acton. Mr. Vennell asked if they should advertise along with Shapleigh, or would Acton's notice in the newspaper be sufficient? Mr. Vennell stated he would be including the fact that the subdivision was located both in Acton and Shapleigh. Acton would also be sending out a Notice to Abutter's, to abutters in both towns. Madge B. believed it was sufficient to allow Acton to advertise the public hearing as well as send out the notices. Alex M. and Barbara G. agreed.

Madge B. told Barbara G. to tell SMRPC the Town of Shapleigh's concerns over the roadway, i.e. the suggestion by Road Commissioner Richard Goodwin that the textile mats should be utilized. Mr. Goodwin did state that the site distances for the entrance/exit of the road were good in the location chosen.

(Barbara G. spoke with Jamie Saltmarsh regarding Shapleigh's concern with requiring textile mats under the roadway as well as making certain the "open space" was noted as being non-buildable on the final plan. Ms. Saltmarsh stated that Shapleigh should address both issues in writing to the Town of Acton Planning Board.)

There did not appear to be any other omissions from the plan at this time. Preliminary Subdivision requirements were provided on the plan.

Madge B. made the motion to accept the preliminary plan as presented. Barbara G. 2nd the motion. All members were in favor.

Mr. Huckins will contact the Shapleigh Planning Board when a definite Public Hearing date has been scheduled. Also, Shapleigh will be notified of any meetings held in Acton, for their attendance should they feel it is necessary. Shapleigh will also receive a copy of any materials presented for this subdivision.

Nothing further was discussed at this time.

GROWTH PERMIT(S) – *There are no more Growth Permits available for the year 2005.*

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, August 23, 2005

Members in attendance: Madge Baker (Vice Chair), John Klimas, Alex MacPhail, Diane Srebnick and Barbara Gilbride (Member / Secretary). Code Enforcement Officer, Steven McDonough also attended the meeting. *Note: With the absence of Roger Allaire, Diane S. was a voting member for this meeting.*

Public Hearing Began at 7:00 p.m.

Conditional Use Permit – *Selective Timber Cut Adjacent to Wetland – Map 8, Lot 5 (Owl's Nest Road)* - Creisher / Owner – Peter Klachany, Applicant / Forester

Mr. Peter Klachany, Licensed Forester, was in attendance to represent the owner.

Mr. Klachany reviewed the letter he had given the Planning Board at the previous meeting, which was an overview of the project. Mr. Klachany stated again that the timber harvest to be done would be done in accordance with the recommendations put forth in his written forest management plan he prepared for the Creisher's in June of 2004. Mr. Klachany stated some of the area to be harvested was located within 250 feet of Norton Brook and the open water wetlands adjacent to it. Mr. Klachany stated this area was zoned Shoreland Protection according to the town's Shoreland Zoning map.

Mr. Klachany stated the reason for the cut was to improve productivity through sound forestry management practices while maintaining the suitability of the area as habitat for wildlife as well as keeping it aesthetically pleasing to the owners who enjoy walking in the woods.

Mr. Klachany stated the proposed cutting was part of a long-term management program. "Following the completion of the cutting in Stand 4, the better quality pole and small sawlog size white pine will be pruned to grow clear lumber. The tree pruning work will be done under the Maine Forest Service's 'WoodsWISE' program, which provides cost-sharing assistance to landowners for woodland improvement projects such as tree pruning, precommercial weedings and thinnings, etc."

Mr. Klachany stated that the type of timber harvesting recommended in the forest management plan was a combination of thinning and improvement cutting. He stated the overmature, as well as some of the lower value trees would be harvested using whole-tree chipping machinery to promote the growth of the higher value trees. Also trees damaged during the ice storm of 1998 would be cut. Mr. Klachany stated that within the Shoreland Protection Zone, no more than 40 percent of the trees measuring 4 inches or more in diameter would be harvested and no clear cut openings greater than 10,000 sq. ft. would be created. Mr. Klachany stated that most of the tree limbs and branches would be chipped and sold for biomass fuel, so there would be no accumulation of slash bordering the stream or wetland.

Mr. Klachany stated that after the completion of the logging operation, water bars would be installed in areas where the main skid trails traverse moderately steep or steep sloping terrain. "Temporary bridges will be installed in those places where the skid trails cross intermittent streams. Once the logging operation is complete, the crossing devices will be removed. The proposed timber harvesting operation will not involve crossing Norton Brook, and no logging machinery will enter the open water wetland that lies adjacent to the brook."

Mr. Klachany stated that he estimated the time to complete the project would be 2 weeks.

Diane S. reviewed Zoning Ordinance 105-50.A, "In a shoreland area zoned for resource protection abutting a great pond, timber harvesting shall be limited to the following:

- (1) Within the strip of land extending 75 feet inland from the normal high-water line, there shall be no timber harvesting, except to remove safety hazards.

Diane S. asked the other board members if this ordinance pertained to this cutting and if the Planning Board should restrict cutting within 75 feet of the brook?

Madge B. and Steve M., CEO, stated the ordinance pertained to "resource protection areas" abutting a great pond, only. This area was not resource protection.

Mr. Klachany stated that the forest management plan was done in accordance with Shapleigh's Zoning Ordinance 105-50 "Timber harvesting".

Mr. Klachany stated that the boundary lines for this project are marked and established on the ground.

John K. asked Mr. Klachany if there was a plan to revegetate the area after the timber harvesting was completed? John also asked what would be done with the disturbed ground?

Mr. Klachany stated that for the white pine to re-establish itself the ground needed to be disturbed, so nothing would be done after the harvesting. The earth being moved during the project should present the perfect habitat for the forest to re-establish itself.

Madge B. asked how steep the land had to be before some type of erosion control measures would be used? Mr. Klachany stated that should the grade be greater than 15%, water bars would be put into place so water would travel at an angle into the woods and not create deep gullies.

Madge B. asked how the logging trucks and equipment would enter the property? Mr. Klachany stated they would use the applicant's driveway.

There were no additional questions.

The Public Hearing closed at 7:15 p.m.

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

The minutes from Tuesday August 9, 2005 were accepted as written.

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

Best Possible Location – Replace Existing Shed – Map 33, Lot 35 (149 Treasure Island) – John Dingle III

Mr. Dingle was in attendance for review of his application. The Planning Board members did a site inspection prior to the meeting this evening.

Mr. Dingle submitted an application to replace an existing metal shed with a new wood shed. Mr. Dingle previously stated that the new shed would be the same size as the existing and he thought it best it remain in the same location. Mr. Dingle had provided pictures of the existing shed as it appears at this time and how it appeared in 2/72. A sketch plan of the existing shed's location on the property was also received.

Madge B. reviewed Zoning Ordinance 105-4.D "Nonconforming structures" (5) "Removal, reconstruction or replacement" and (7) "Relocation" (a) which reads in part:

"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,..... In no case shall a structure be relocated in a manner that causes the structure to be more nonconforming."

Madge B. stated to those in attendance that planning board members had done a site inspection to determine the best possible location. Madge asked board members if they felt the shed should be moved from its present location?

Diane S. stated that after doing the site inspection, she felt moving the structure to a new location would disturb more earth, than leaving it where it is now. That could cause erosion. Madge B. agreed.

Madge B. stated that if the shed were moved away from the water, toward the home, it would encroach on the side lot setback more than it does at its present location.

John K. stated if the new shed was moved back, it would encroach upon the existing Treasure Island walking path. He believed the current location was the best possible.

Diane S. added that the current location does not interfere with the neighbor's view of the water.

Madge B. noted that on the site inspection the board members noted several portable sheds on site. Madge stated that the board members would like to see these removed once the new shed was in place. Mr. Dingle stated he would do so.

Madge B. read 105-4.D(7)(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." Madge asked if members thought this applied to a shed?

Diane S. stated that the shed did not have a foundation so she did not know. Madge B. believed the ordinance pertained to any non-conforming structure regardless of whether or not it had a foundation. Steve M., CEO, agreed. Steve stated that the surveyor had to locate the existing shed on paper, and then state the new one was located in the exact same location.

Madge B. added that the Planning Board could not waive anything in the Zoning Ordinance. Mr. Dingle asked if this was true for "grandfathered" buildings. He stated this shed had been in existence before the Zoning Ordinance was enacted. Madge stated that the Planning Board had to work with the ordinance before them at this time, and at this time it is a requirement.

A citizen asked if Mr. Dingle could get a surveyor to do a simple Class B survey, showing the location of the existing shed, using the landmarks on site such as trees, walkway, home, etc.? He stated this type of survey was inexpensive. Both Madge B. and Steve M. stated this would be sufficient as long as it was done by a "licensed" surveyor.

Madge B. asked if there were any more questions? There were none.

John K. made the motion to approve the *Best Possible Location to replace the existing metal shed with a new wooden shed, keeping it in the exact same location and the new shed shall be the same size as the existing (7' 2" x 10")*, with the following condition(s):

- 1) The additional portable structures on site shall be removed once the new shed is in place.**
- 2) The location of the shed shall be established by a licensed surveyor.**

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

Nothing further was discussed.

Conditional Use Permit – Selective Timber Cut Adjacent to Wetland – Map 8, Lot 5 (Owl's Nest Road) - Creisher / Owner – Peter Klachany, Applicant / Forester

Mr. Klachany was present for review of the application.

Madge B. reminded audience members that the Planning Board held a Public Hearing for this application at 7:00 pm. this evening. The application is for a selective timber harvest on a property on Owl's Nest Road which is part of a long term timberland improvement project. Madge stated the project would not only improve the standing timber but also benefit the wildlife in the area.

Madge B. stated this project fell under Shapleigh's Zoning Ordinance 105-50 "Timber harvesting". This project will be in compliance with the standards put forth in section B. Mr. Klachany agreed stating Norton Brook will not be crossed and the smaller streams would have temporary crossings built during the project. Mr. Klachany stated that at this time of year, most of the streams are dry.

Steve M., CEO, stated that in the past he has gotten calls regarding the noise from the chipping operation. He said the Planning Board should make certain the project does not start before 7 a.m., which adheres to Shapleigh's noise ordinance (105-22).

Mr. Klachany asked if Shoreland Zoning restrictions applied to all of Norton Brook or just the upper part of the brook where it widens out? Madge B. stated the Shoreland Zone is the entire length of the property so the timber harvesting standards apply.

Mr. Klachany stated that they may have to widen the existing driveway. He asked if that would be a problem? Madge B. replied that she did not think it would be because the driveway was more than 250 feet from Norton Brook. Steve M., CEO, did state Mr. Klachany should talk with the Road Commissioner prior to widening the driveway.

Madge B. 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. *As long as the project is done per the plan presented which adheres to the timber harvesting standards, it will not.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. *As long as the project is done per the plan presented which adheres to the timber harvesting standards, the shore cover will be protected.***

- 3) The use is consistent with the Comprehensive Plan. ***It is an improvement to protect the woodland which the Comprehensive Plan encourages.***
- 4) Traffic access to the site is safe. ***It is, all trucks shall enter and exit from the existing driveway.***
- 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. *N/A*
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. *N/A*
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***Timber harvesting shall be done in accordance with the timber harvesting standards to prevent erosion during and after the project is completed.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. *N/A*
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. *N/A*
- 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 Conditional Use Permit to harvest the standing timber per the management plan presented, using Best Management Practices, with the following condition(s):

- 1) Where necessary mulch shall be placed along the streambed where the equipment crosses, at the completion of the cutting to prevent erosion.
- 2) The hours of operation shall be 7:00 a.m. thru 10:00 p.m., seven days a week until the project is completed.
- 3) There shall be no more than 40% of the trees measuring 4 inches or more in diameter at breast height harvested per the plan.

John K. 2nd the motion. All members were in favor.

There were no additional questions.

Nothing further was discussed.

Conditional Use Permit – Repair / Replace Existing Wall – Map 23, Lot 2A (46 Portside) – Stephen Eastman

Mr. Eastman was present to discuss his application. The Planning Board did a site inspection prior to the planning board meeting this evening.

At the previous Planning Board meeting, Mr. Eastman stated he wanted to rebuild a 15 foot section of wall that has completely collapsed. In addition, he wanted to repair an adjacent section of the same wall that is approximately 30 feet in length.

Mr. Eastman provided the Planning Board with a copy of the Permit by Rule Notification Form, an outline of what the project would entail and how he proposed to do it, pictures of the existing collapsed wall and section needing to be repaired, the lot dimensions depicting the location of the wall needing to be replaced and repaired, and an engineered design of the proposed replacement.

At this evenings meeting, Mr. Eastman stated he was trying to obtain Mr. Thyng from Berwick to do the project. Mr. Eastman stated he was not sure if he could afford to do both the 15' section that collapsed and the additional 30' adjacent to it. If the price was too high, he would only do the 15 foot section at this time.

Madge B. asked Planning Board members if they had any questions for Mr. Eastman. There were none.

Madge B. reviewed the ordinances pertinent to this application.

105-26 – Stormwater runoff. *The existing vegetation which helps to retain the embankment has not been disturbed and if it is during reconstruction, the area will be revegetated. During construction of the new wall, Best Management Practices shall be used which will include silt fencing.*

105-27 – Erosion control. *The existing vegetation is adequate to retain the embankment. Should some of the vegetation be removed during reconstruction, new vegetation shall be planted. There shall be minimal soil disturbance on site.*

105-30 – Water quality. *The new wall shall help to preserve water quality from preventing storm water runoff from entering the lake.*

Madge B. added that there would be no cutting or filling of the embankment, as well as no grading.

105-44 – Piers, docks and other Shoreland construction. (C) Conditions of permit. The Planning Board may issue a permit, provided that the following conditions shall be met. The proposed activity shall not:

- (1) Unreasonably interfere with existing recreational and navigational uses, nor unreasonably alter scenic and aesthetic qualities. *The replacement of the collapsed wall will enhance the aesthetics in the area and protect the lake.*
- (2) Unreasonably interfere with or harm the natural environs of any lake, pond, tributary, stream or river nor harm any fish or wildlife habitat. *The replacement of the collapsed wall will protect the lake, fish and wildlife.*
- (3) Cause unreasonable soil erosion nor lower the quality of any waters. *The use of Best Management Practices during reconstruction will prevent soil erosion and the new wall will protect water quality.*
- (4) Unreasonably alter the natural flow or storage capacity of any water body. *N/A*
- (5) Create or cause to be created unreasonable noise or traffic of any nature. *N/A*

Madge B. also reviewed Zoning Ordinance **105-39** "Earth Removal and Filling". Madge reviewed the conditions of permit and stated all applicable conditions would be met.

Mr. Eastman stated all work would be done by hand due to the location. There was currently silt fencing in place and it would remain in place until the project was completed. Mr. Eastman noted the work would be done according to the engineered plan he provided (done by Robert T. Gore, JR., P.E.). The existing foundation would remain in place as it was stable. There would be filter fabric used, along with crushed stone. The wall would be a dry stacked wall which would be best for drainage and stability.

Mr. Eastman stated the existing large round rocks most probably would not be used for the new wall as they are not as stable as would be necessary for a dry stacked wall.

Madge B. asked if there were any questions? There were none.

Madge B. 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. ***Replacing the existing collapsed wall would protect the lake, fish and other wildlife in the area.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. ***New vegetation shall be placed behind the new wall if necessary.***
- 3) The use is consistent with the Comprehensive Plan. ***It is an improvement to protect the lake water which the Comprehensive Plan encourages.***
- 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***
- 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. ***There shall be a stormwater drainage system placed behind each new wall per the instructions in the engineered plan provided.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***Best Management Practices shall be followed. There is a silt fence in place at this time and it shall remain in place until the project is completed.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***N/A***
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. ***N/A***
- 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 Conditional Use Permit to repair the existing retaining wall using the engineered sketch plan by Robert T. Gore, Jr., P.E. with the following condition(s):

- 1) Should vegetation be disturbed behind the repaired wall, new vegetation indigenous to the area shall be put in its place to prevent future erosion.
- 2) Best Management Practices shall be used during the project, including silt fencing.

John K. 2nd the motion. All members were in favor.

Nothing further was discussed.

Conditional Use Permit – Replace Retaining Wall – Map 27, Lot 5 (188 16th Street Loop) – Jacques & Edwina Lemieux

Mr. Lemieux was present to discuss his application.

Mr. Lemieux stated the existing timber wall was falling down and needed to be replaced. He stated that currently his neighbor, Mike Roberts, was replacing his wall (with the approval of the Planning Board) and he would like to do his at the same time, using the same equipment.

Madge B. asked if Mr. Lemieux was going to wait until the lake was lowered before doing the project? Mr. Lemieux answered yes.

Madge B. asked if Mr. Lemieux had submitted his application to the DEP? Mr. Lemieux stated that he had but forgot to submit a set of pictures. He was going to resubmit the application along with pictures. Madge stated that the Planning Board would need a copy of the DEP Permit by Rule.

Diane S. asked how high the new wall would be? Mr. Lemieux stated 4 feet.

Madge B. told Mr. Lemieux if the new wall exceeded four feet in height, he would need an engineered plan. Mr. Lemieux stated he was certain it was going to be four feet in height.

There were no further questions at this time.

A Site Inspection was scheduled for Tuesday, September 13th at 7:00 p.m. A Notice to Abutters shall be mailed as well.

Nothing further was discussed.

Further Discussion Regarding the Board of Selectmen's Question Regarding Earth Moving

Barbara gave the members a copy of a previous decision made by the Planning Board to allow earth moving / gravel extraction at an existing town owned property located on Tax Map 7, Lot 22A. The Planning Board at that time reiterated what was written in Zoning Ordinance 105-39 "Earth removal and filling" and concluded that as long as the gravel was used for a public road, essential service, or transfer of material for the repair of an existing private way in the General Purpose district, as allowed per the ordinance, no Conditional Use Permit was required.

At this time the town has acquired another piece of property on which they wish to extract gravel for the "alteration or repair of public roads". Selectman Bill Hayes asked if the town would need a Conditional Permit to do so. The Planning Board members once again referred the BOS to the Zoning Ordinance and stated as long as they stayed within it's parameter's one would not be required. Alex. M. did have some concern with the word "incidental" being the term that allowed the gravel's use without a permit. As long as the gravel removal was "incidental to "construction, alteration or repair of a public road or essential service" then it was an allowed use without a permit. Alex was afraid the word incidental was not being used properly or could be misconstrued in the future.

Barbara gave the members a copy of the word incidental, taken from Webster's New World Dictionary, it read as follows: Incidental – 1. a) happening as a result of or in connection with something more important; b) likely to happen as a result or concomitant (to accompany) 2. secondary or minor, but usually associated

The Planning Board members once again discussed whether or not a Conditional Use Permit would be necessary to remove gravel from the new town owned property.

Diane S. was concerned as to how anyone could monitor whether or not gravel taken from the property was being used for personal use, or if money exchanged hands for the gravel. Alex M. was still concerned as to whether or not the gravel extraction would be seen as an incidental use by the townspeople in the area. Alex felt that because the gravel would be used for roads on a consistent basis, it did not seem incidental to him. Madge B. disagreed. She felt comfortable calling the use incidental to the construction of public roads.

Mrs. Moody was in the audience and asked about the fact the question was raised at a previous discussion that if the adjoining town owned properties created a gravel pit larger than five acres, what would be done? Steve M., CEO, stated that it was a State issue at that point and the town would have to deal with the Dept. of Environmental Protection to get the necessary permits.

Madge B. was concerned with the fact Selectman Hayes had stated some of the gravel could be used by the Town of Acton. Even though Acton would not be paying for this gravel, it still was not being used for public roads in Shapleigh.

Diane S. asked if there were any concerns with the fact this gravel pit was over a high yield water aquifer? She also asked if there were any issues of concern for the State such as, was it an area that might house an endangered species, etc? This area was close to the development that housed the Blanding's Turtle, where the State required an area be set aside for its protection.

Steve M. stated that even though the existing mapping from the State showed the area to be a rare natural community, the State would not disallow the project. They might make some suggestions as to how to best utilize the area. Barbara G. stated she could contact MDIFW and see if they had any concerns.

Diane S. stated that if the town were asked to obtain a Conditional Use Permit, then the Planning Board could place conditions on the gravel pit to make certain the aquifer, wildlife, etc. were protected.

Steve M. suggested the Planning Board members take a vote as to what the next step should be with respect to the decision as to whether or not the gravel pit should be allowed with or without a CUP. Madge B. agreed.

Diane S. made the motion that the Planning Board request a legal opinion from Attorney Durwood Parkinson, as to whether or not the Town of Shapleigh should obtain a Conditional Use Permit prior to extracting gravel from the newly acquired Ferguson property. There shall be no final decision from the Planning Board until a decision is rendered from the attorney. John K. 2nd the motion. All members were in favor.

Madge B. stated that this would tell the Board of Selectmen, in writing, what if anything is required by the town.

Nothing further was discussed.

GROWTH PERMIT(S) – *There are no more Growth Permits available for the year 2005.*

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

Respectively submitted,

Barbara Gilbride

Planning Board Secretary planningboard@shapleigh.net

Note: A site inspection shall be held at 6:00 p.m. on Town Farm Road for the 4-Lot division proposed by Mr. Small and presented by H. Craig Higgins of Development Services.

SHAPLEIGH PLANNING BOARD MINUTES
Tuesday, September 13, 2005

Members in attendance: Roger Allaire (Chairman), Madge Baker (Vice Chair), John Klimas, and Barbara Gilbride (Member / Secretary). Code Enforcement Officer, Steven McDonough also attended the meeting.

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

The minutes from Tuesday August 23, 2005 were accepted as written.

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

Conditional Use Permit – Replace Retaining Wall – Map 27, Lot 5 (188 16th Street Loop) – Jacques & Edwina Lemieux

Mr. and Mrs. Lemieux were present for the review of their application. Several Planning Board members did a site inspection prior to this evenings meeting.

At the previous meeting Mr. Lemieux stated the existing timber wall was falling down and needed to be replaced. He stated that he would like this project to coincide with his neighbor, Mike Roberts, wall replacement (with the approval of the Planning Board). Both walls would be replaced when the lake was lowered in the fall.

Roger A. at the site inspection noted there were two large trees near the wall. One of these trees was broken and needed to be removed. Roger did not think the other tree would survive with the wall replacement. Mr. Lemieux stated he did not want to remove the tree that was alive. Madge B. stated that the Planning Board preferred to keep all trees on site if possible. Roger agreed but stated that it was possible it would need to be removed if it died.

Roger A. asked where the rotting railroad ties would be placed after they are removed? Mr. Lemieux stated he would be using the same contractor as his neighbor, Mr. Roberts, and assumed he would use the same method of disposal. Mr. Lemieux did not know who Mr. Roberts was using or where the wood was being taken, but he understood there was a removal fee involved. Roger stated that Steve M., CEO, would need to know who Mr. Lemieux was using and what they were doing with the railroad ties before issuing a permit for the project.

Roger A. asked if there was a DEP Permit by Rule filed for this project. Mr. Lemieux stated there was a permit filed over two weeks ago and he had not heard back from the DEP so he assumed his project was approved. Barbara G. stated a copy of this permit would be filed with Steve M., CEO, and she could check to see if he had received it yet.

Madge B. asked how high the new wall would be? Mr. Lemieux stated it would be 4' high by 130' long. This was also indicated on the sketch plan received by the Planning Board.

Roger A. asked if there were any more questions? There were none.

Roger A. stated all conditions for a Conditional Use Permit would be met if the following condition(s) were required and implemented:

- 1) *The area behind the wall shall be re-vegetated by July, 2006.*
- 2) *Best Management Practices shall be used during the project, including silt fencing.*
- 3) *The railroad ties from the existing retaining walls shall be removed from the site. The company / disposal plan to remove the railroad ties shall be presented to and approved by the Code Enforcement Officer prior to issuance of a permit.*
- 4) *The tree on site that has split shall be removed prior to the new wall being put into place.*

Madge B. made the motion to approve the Conditional Use Permit to replace the existing 4' x 130' railroad tie wall with a concrete locking block wall with the above four conditions. John K. 2nd the motion. All members were in favor.

Nothing further was discussed.

4-Lot Subdivision – Lot #2 of Great Hollow Acres – Preliminary Plan – Map 10, Lot 2-2 (Town Farm Road) - H. Craig Higgins, Development Services, Inc., Applicant / Bill Small, Owner

Mr. Higgins was present for the review of this application. Several members did a site visit prior to this evenings meeting.

Roger A. noted during the site inspection the area was relatively flat, and although there was evidence of plants typically located in a wet area, at this time the area was dry. Roger also stated that because of the plants noted it didn't appear that the land was saturated for any extended period of time; therefore, he did not believe there was a high water table, even when the area was wet. Mr. Higgins agreed and stated the entire Great Hollow Acres subdivision had less than 10 acres that could be considered wetland.

Steve M., CEO, asked if the back lots were going to have 200' of road frontage (the plan shows the lots as having an area for "potential future road access"). Mr. Higgins stated these lots were remaining back land only and not going to be considered buildable.

Steve M., CEO, was concerned this would lead to a situation that the town had with the Fern Drive Subdivision where the courts ascertained it was against the law to state a lot was unbuildable if it met the criteria of a lot. Roger A. agreed stating if the lot could meet the criteria, it would be buildable. Roger A. stated he considered this plan a six lot subdivision even though the road was only a paper road.

Mr. Higgins asked the Planning Board members to give him some clarity with their interpretation of Subdivision Ordinance 89-17.A(4), which reads in part ".....The location map shall show:," "An outline of the proposed subdivision and any remaining portion of the owner's property if the preliminary plan submitted covers only a portion of the owner's entire contiguous holding."

Steve M., CEO, stated he did not believe this ordinance applied here because a lot is being created even though there is no road frontage.

Mr. Higgins stated that the owner was creating a road on paper to the town standards without getting a permit. He added that a permit would be needed for the 2nd phase of the road, i.e. the “potential future road”. Mr. Higgins stated the reason for not moving forward at this time for the entire road was for financial reasons as well as not wanting to have to get a stormwater management permit. Mr. Higgins asked if there was a way this could be accomplished?

Steve M., CEO, stated that yes, the applicant could make this project a four lot subdivision instead of a six lot subdivision. Mr. Higgins said he felt the two lots at the end of the road were open green space and not buildable lots. Madge B. asked why Mr. Higgins didn't just add them to Lots #3 and #4? Mr. Higgins stated he would discuss this idea with the applicant.

Mr. Higgins stated he would like to create a building envelope for Lot #3 on the plan to be certain there would be no construction near the designated wetland area. Mr. Higgins said that he was considering putting the turnaround on Lot #3 instead of Lot #4, this way allowing for more area for the building envelope. He would talk to Road Commissioner John Burnell prior to making this change.

John K. asked about the size of the hammerhead turnaround on the plan? What was the size of the turnaround, it did not appear to be to the ordinance standard? Mr. Higgins stated that the turnaround area was 26 feet wide when you included the 3' shoulders which were useable. Roger A. agreed this would meet the standard.

Madge B. asked Roger A. and Steve M. what happened with the Fern Drive Subdivision? Roger A. stated that the lots on Fern Drive were approved as wood lots only and the road was just an easement big enough to get logging equipment in and out of the properties. Roger stated that people wanted to build on these lots after it was approved and the Town of Shapleigh did not allow it because the subdivision was approved as wood lots only. It went to court and the court ruled that they were buildable lots because they met the basic criteria of a lot so it was against the law to not allow construction on these lots. Roger stated that the problem now is that the road is not up to a town standard, it is barely passable in places, so the town will not accept it as a town maintained road.

Madge B. agreed with Steve M., CEO, that Lots #5 and #6 shown as “remaining land and open green space” could become buildable lots in the future if approved.

Mr. Higgins stated he would not be able to attend the next meeting but Mike Haskell would be in attendance to represent him.

There were no further questions.

Note: Mr. Higgins stated that at the 30 acres donated to the Town of Shapleigh, located at Goose Pond Overlook subdivision (overseen by the Three Rivers Land Trust), it was noted the ATV traffic is causing severe damage along one of the trails on site. In light of this, Mr. Higgins would be blocking the area with trees and other debris, to try to protect the area.

Conditional Use Permit – Move Over 10 yards Fill – Map 44, Lot 44 & 45 (274 Silver Lake Road – John Eaton

Mr. Eaton was in attendance for review of his application.

Mr. Eaton stated he wanted to bring in fill from his neighbors lot (Tom Huckins, Map 44, Lot 47), to fill in an area that had been excavated years ago for the existing road. This area is approximately six feet in depth. Mr. Eaton stated he wanted to be able to put a garage on site one day and would need to level the land to do so. Mr. Eaton stated he also needed to be able to stop the erosion that takes place on site. He will leave the land several inches below the neighbor's lot line so all stormwater will remain on his property. He added that because the earth is gravel, there is no water problem at this time and he did not expect one with additional fill.

Mr. Eaton estimated the amount of fill needed to be 550 yards. He did not know if the amount of sand taken from Mr. Huckins property would equal 550 yards so he might have to purchase additional fill.

There were no questions at this time.

Roger A. scheduled a site inspection at 6:00 p.m. on Tuesday, September 27th. (Planning Board members will meet at the Town Hall at 5:45 p.m.) **Also a Notice to Abutters shall be mailed.**

Nothing further was discussed.

Conditional Use Permit – Native American Products Business – Map 6, Lot 7B (333 Back Road) – Rebecca LaFrance

Mrs. LaFrance was in attendance to review her application.

Mrs. LaFrance stated that she would like to open a business selling Native American products on her property. She was currently having a 12' x 19' shed built with a 6' x 9' porch, to house the business. She was going through the Code Enforcement Office for the permitting process for the shed.

Mrs. LaFrance stated that most items would be handmade by herself but there would also be items such as coffee mugs, books, greeting cards, etc. that she would purchase to sell.

Madge B. asked if she lived where the business would be located? Mrs. LaFrance said yes.

Roland Legere asked what constituted the term Native American? Mrs. LaFrance stated that she was MicMac (a Native American Heritage recognized by the Government of the United States). That seemed to answer Mr. Legere's question.

Madge B. asked exactly what type of products would be sold. Barbara G. showed Madge the list of items that were received along with the application.

Mrs. LaFrance stated that there was a paved area big enough for three vehicles to park at this time. She said that the family vehicles could park on the right side of the house during business hours (the paved area is on the left side). Steve M., CEO, did the calculations based on the size of the building and stated she needed only two parking spaces so the area was adequate. Roger A. agreed. (Ordinance 105-43)

Mrs. LaFrance stated that the site distance to the right was 300 + feet and to the left was 500+ feet. The Planning Board noted both are within the required minimum of 280' at 40 mph.

Mrs. LaFrance was asked if she was going to have any outside lighting. She stated she had an existing light on the pole at the end of the driveway and there were lights on her garage. She would like to have some additional lighting on the shed. Madge B. stated that was fine but to make certain the lights did not glare onto the road or neighboring properties.

Madge B. asked if there would be an outside display? Mrs. LaFrance stated the only thing on the front porch would be a bench.

John K. asked if she was going to have a sign. Mrs. LaFrance stated she was but that she knew she had to go through the Code Enforcement Office to get one.

Roger A. asked if the business would be handicap accessible? Mrs. LaFrance stated that she was thinking of having a ramp that she could put over the stairs if there was a need, but at this time she wasn't planning on a permanent ramp. Steve M., CEO, stated that one was not required by the town but she may want to consider putting a permanent one in for the sake of her business.

Mrs. LaFrance stated that she was going to have a 36" wide door so her business would be able to accommodate a wheelchair.

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

Roger A. scheduled a site inspection for approximately 6:45 on Tuesday, September 27th. A Notice to Abutters shall be mailed and a Public Hearing held at 7 p.m. on the same night.

Nothing further was discussed.

OTHER:

Roger A. reminded everyone there would be a Public Hearing on the Subdivision to be located on the Lebanon road, which borders both Acton and Shapleigh, at the Acton Town Hall at 7:00 p.m. on Thursday night. Madge B., Roger A. and John K. were all going to try to attend the meeting.

GROWTH PERMIT(S) – *There are no more Growth Permits available for the year 2005.*

The Planning Board meeting ended at 8:30 p.m.

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

SHAPLEIGH PLANNING BOARD MINUTES
Tuesday, September 27, 2005

Members in attendance: Roger Allaire (Chairman), Madge Baker (Vice Chair), John Klimas, and Barbara Gilbride (Member / Secretary). Code Enforcement Officer, Steven McDonough also attended the meeting.

Public Hearing Began at 7:00 p.m.

Conditional Use Permit – Native American Products Business – Map 6, Lot 7B (333 Back Road) – Rebecca LaFrance

Mrs. LaFrance was present to discuss her application. The Planning Board members did a site inspection prior to this evenings meeting.

Mrs. LaFrance began by stating she would be selling Native American products made mostly by her (her heritage is MicMac). She would also be purchasing some products to sell, items such as CD's, coffee mugs, and bumper stickers. Mrs. LaFrance stated she would be selling the Town of Shapleigh history books as well.

Mrs. LaFrance stated that she decided the hours of operations would be 8:00 a.m. thru 9:00 p.m., seven days a week. (At the previous meeting she was not certain of the hours of operation.)

Roger A. stated that at the site inspection, Mr. LaFrance was present, and he said that should there be a need for overflow parking, customers could park on the grassed area next to the paved parking area. Roger saw no problem with using the grassed area if necessary.

Roger A. asked if there were any questions for Mrs. LaFrance? There were none.

The Public Hearing was closed at 7:05 p.m.

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

The minutes from Tuesday September 13, 2005 were accepted as written.

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

Conditional Use Permit – Move Over 10 yards Fill – Map 44, Lot 44 & 45 (274 Silver Lake Road – John Eaton

Mr. Eaton was in attendance for review of his application. The Planning Board members did a site inspection prior to this evenings meeting.

Mr. Eaton stated he wanted to bring in fill to his back lot. The lot at this time is approximately six feet below the existing entrance to the property. The earth that had been there was used to build part of Silver Lake Road, leaving a deep hole. Mr. Eaton stated he would like to make the property more level so that some day he will be able to place a garage on the property.

Madge B. asked if the property was in the Shoreland zone? Steve M., CEO, stated that yes it was which is why any amount of fill being moved would need Planning Board approval (Zoning Ordinance 105-39.B). Mr. Eaton stated that the property line was 141 feet from the high water mark (anything within 250' of the high water mark is in the Shoreland Zone).

Madge B. asked Mr. Eaton when he planned on doing the project? Mr. Eaton stated he would begin when Mr. Huckins was ready to begin moving the earth for his new garage. Mr. Eaton believed it was going to be this fall. Madge was concerned that any planting to prevent erosion would not get established before winter. Mr. Eaton stated that he could bring in stump grindings to place around the perimeter of the project. He added that there was little erosion on the property because of the good drainage.

Noah Richard, a direct abutter to Mr. Eaton's property, asked if the earth to be removed from Mr. Huckins property was allowed because it went with Mr. Huckins building permit to put up a building? Steve M., CEO, stated that yes it was considered incidental to construction. Roger A. agreed.

Roger A. asked Mr. Eaton if he would need additional fill to what would be provided by Mr. Huckins excavation on his property? Mr. Eaton stated that he would use all Mr. Huckins could provide but he will not know if more is needed until after Mr. Huckins project is completed.

Madge B. asked if there was any topsoil on site at this time? Mr. Eaton stated he didn't think so. Madge stated that some would be needed after the project was complete in order to reseed the area to prevent erosion. Mr. Eaton asked if he could use existing topsoil if any could be found on site? Madge stated that was fine as long as there was enough to establish some plantings.

Roger A. read the following applicable conditions of permit from 105-39.G:

- (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 Planning Board agreed the project would need to be completed by July 2006.***
- (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. ***Mr. Eaton stated he would use what was necessary, including stump grindings, to prevent runoff to neighboring properties. The area shall be reseeded by July 2006.***
- (3) Diversions, silting basins, terraces and other methods to trap sediment shall be used. ***Mr. Eaton stated he would use whatever means necessary to keep stormwater and earth on his property.***
- (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. ***Mr. Eaton stated approximately 550 yards of earth would be necessary. The majority of fill will be from a neighboring property.***
- (8) Where activities carried out under this article require the removal of existing ground cover, revegetation should be carried out. ***Currently there is little existing ground cover but Mr. Eaton has agreed to do a planting when the project is completed to prevent erosion.***
- (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. ***Mr. Eaton stated that the grade would be .85" per foot when the project was completed, which would not create any future problems. The Planning Board agreed.***

- (12) Sufficient topsoil or loam shall be retained to cover all areas, so that they may be seeded and restored to natural conditions. ***Mr. Eaton stated he would try to retain any topsoil found on the property and would bring in more if needed to re-establish a ground cover.***

Madge B. stated her concern that the project might not be completed until the following spring, which could create an erosion problem. Mr. Eaton stated again that he would use stump grindings where necessary to prevent erosion. Madge stated that he should consider adding mulch hay as well.

Roger A. asked if there were any additional questions? There were none.

Roger reviewed Shapleigh Zoning Ordinance 105-73.G “Standards applicable to conditional uses”.

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. ***The project will protect the lake water and will not harm wildlife.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. ***When the project is completed it will protect the lake.***
- 3) The use is consistent with the Comprehensive Plan. ***It is an improvement to the property which the Comprehensive Plan encourages.***
- 4) Traffic access to the site is safe. ***N/A***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***Not in a designated flood zone.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***N/A***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***N/A***
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***The applicant will make certain all stormwater is contained on site by keeping the new fill graded below the lot line abutting the town line which is the only area that is low on the property.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***There will be a silt fence used during the project along the lot line that abuts the town line, which is the only low area on the property.***
- 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 existing vegetation surrounding the property. The project will enhance the appearance of the property.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall once the project is completed in July 2006, which will include revegetation of the area.***

Madge B. made the motion to approve the Conditional Use Permit to bring in over 500 yards of fill to better level the lot, with the following condition(s):

- 1) **When the project is completed the area will be seeded with a conservation grass mix to prevent soil erosion.**
- 2) **During the earth moving process there shall be a silt fence placed on the side of the property where the town line is located to prevent soil from going across the town property line.**

- 3) There shall be no fill placed on the abutting property.
- 4) Stump grindings may be used along the edge of the area to be filled to prevent soil from going onto the abutting properties.

John K. 2nd the motion. All members were in favor.

Nothing further was discussed.

Conditional Use Permit – Native American Products Business – Map 6, Lot 7B (333 Back Road) – Rebecca LaFrance

Mrs. LaFrance was in attendance to review her application.

Mrs. LaFrance explained to the Planning Board what her intentions were during the Public Hearing at 7:00 p.m. Along with the application the Planning Board received a sketch plan showing the location of the existing buildings (which included the home and a shed) and parking area in relationship to the lot lines, as well as the proposed location of the 12 x 19 building to be used for the business. In addition, pictures of the existing home and driveway were received and a list of items to be sold.

Roger A. asked if there were any questions for Mrs. LaFrance? There were none. Roger reviewed the applicable ordinances:

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, site distances exceed the minimum requirement of 280 feet.*
- 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 this business.*
- 105-24 – Odors. *There will be no odors emitted from this business.*
- 105-25 – Glare. *The only additional lighting will be on the building for security purposes.*
- 105-26 – Stormwater runoff. *There are no changes being made to the existing site that would cause stormwater runoff.*
- 105-27 – Erosion control. *There are no changes being made to the existing site that would cause an erosion problem.*
- 105-28 – Setbacks and screening. *There is none needed. The parking area is minimal and is in existence.*
- 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.*
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *None of the existing vegetation has been removed. The existing landscaping and parking area is adequate.*
- 105-32 – Relation of proposed building to environment. *The existing building is compatible with existing buildings in the surrounding area.*
- 105-33 – Refuse disposal. *The applicant shall bring any discarded waste to the transfer station.*
- 105-34 – Access control on Routes 109 and 11. *N/A*
- 105-35 – Accessory building. *The new building meets all zoning requirements.*
- 105-40 – Home Occupations. *The application meets all the requirements of a home occupation.*

105-43 - Off-street parking and loading. *The existing parking area exceeds the required number of parking spaces.*

105-47 – Signs and billboards. *The applicants shall go to the Code Enforcement Officer, prior to installing a sign on site.*

Roger reviewed **Shapleigh Zoning Ordinance 105-73.G** “Standards applicable to conditional uses”.

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. *It will not affect the wildlife and it is not near a water body.*
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. *N/A*
- 3) The use is consistent with the Comprehensive Plan. *The Comprehensive Plan encourages Home Occupations.*
- 4) Traffic access to the site is safe. *It is, the site distance requirement of a minimum of 280’ has been met or exceeded.*
- 5) The site design is in conformance with all municipal flood hazard protection regulations. *Not in a designated flood zone.*
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. *Any solid waste from the business shall be disposed of by the applicant.*
- 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. *There have been no changes to the existing site that would affect the flow of stormwater and the topography is such that all water would move toward the back of the property.*
- 9) Adequate provisions to control soil erosion and sedimentation have been made. *There have been no changes to the site that would cause erosion. The area has adequate ground cover in existence.*
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. *There is easy access to the fire hydrant near the Town Hall should it be needed.*
- 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 existing vegetation surrounding the property which shall not be disturbed.*
- 12) All performance standards in this chapter applicable to the proposed use will be met. *They shall.*

Madge B. made the motion to approve the Conditional Use Permit to open a business selling Native American products with the following condition:

- 1) The hours of operations shall be 8:00 a.m. thru 9:00 p.m., seven days a week.

John K. 2nd the motion. All members were in favor.

There was nothing further discussed.

Best Possible Location – Remove Existing Building and Replace with New Structure – Map 34, Lot 17 (153 Cedar Drive) – Roger Van Baarle, Owner

Mr. Van Baarle was present to discuss his application. Mr. Andrew Sevigny, the General Contractor for the project, was also present.

Roger A. asked Planning Board members if they would like him to step down for this review because he was related to Mr. Sevigny. The Planning Board members did not have a problem with Roger reviewing this application; they believed he would be impartial.

Mr. Sevigny stated that Mr. Van Baarle wanted to remove the existing structure and replace it with a more conforming structure. The new building would have the same square feet as the existing but the side setbacks would be met, where they are not at this time.

Roger A. asked Steve M., CEO, if the calculation for volume would be required? Steve stated that because the building is not within 100 feet of the water, it would not be necessary to calculate volume.

Mr. Van Baarle gave the Planning Board a copy of a sketch depicting the existing building with relation to the lots lines, as well as the proposed buildings location. A copy of the survey for the existing lot and building was also received. It was done by T.W. Bullard of Sanford Maine on July 2005.

There were no questions at this time. *A site inspection was scheduled for 6:30 on Tuesday, October 11th. A Notice to Abutters will be mailed as well.*

4-Lot Subdivision – Lot #2 of Great Hollow Acres – Preliminary Plan – Map 10, Lot 2-2 (Town Farm Road) - H. Craig Higgins, Development Services, Inc., Applicant / Bill Small, Owner

Mr. Higgins was unable to attend the meeting. Mr. Mike Haskell represented Mr. Small.

Mr. Haskell gave the Planning Board members a copy of the road maintenance agreement drafted for the proposed subdivision. There were no questions with respect to the maintenance agreement at this time.

The Planning Board reviewed the Preliminary Plans for both the subdivision lots and the proposed subdivision road. Roger A. stated that the only addition to the proposed subdivision road plan was the fact the road needed to be paved because the addition of these four lots to the original subdivision, created a major subdivision.

Roger A. also stated that the Planning Board needed to know if the lot known as “Remaining Land to be conveyed to Abutter Jeffrey Morrison” would be conveyed prior to final approval. This would determine the final application fee. This would not however affect the fact the road needed to be paved as the reduction of one lot would not change the fact this is now a major subdivision.

The following waivers were requested:

- 1) Waive Section 89-30.A to allow the installation of rebar survey monuments instead of stone monuments.
Reason: With respect to stone monuments, 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...

Moreover, the Maine Board of Registration of Land Surveyors requires the use of monuments that can be located by a metal detector.

- 2) Waive Section 89-36.M that requires “sidewalks shall be installed within all subdivisions within the urban compact area.”

Reason: It is unknown whether the project site, which is situated within the General Purpose District, is actually contained within the “urban compact area”. With respect to sidewalks, the project site is located in a rural setting along a section of Town Farm Road which has a paved travel surface. Vehicular travel along this section of Town Farm Road is very limited, generally destination related (travel to and from homes), not “through” traffic.

- 3) Waive Section 89-29 to allow the installation of overhead utilities to continue along Town Farm Road from the existing utility poles and to allow overhead utilities from the existing roadside utility poles to the homes.

Reason: It is Mr. Higgins professional opinion that the requirement for underground utilities generally applies only to new roads being created for a subdivision. For subdivisions created along existing roads, with overhead utilities already in place, it is common practice to waive underground utilities since no substantial benefit occurs (i.e., storm related line breakages occur along roadways far more frequently than they do on individual lots). Additionally, the elimination of overhead utilities in an entire subdivision featuring new roadways through an open area is generally considered an appealing feature, but the piecemeal use (from existing utility poles to a house) lacks that visual cohesiveness and benefit.

Roger A. asked if there were any questions with respect to the requested Waivers. There were none.

Madge B. made the motion to approve the waivers requested. John K. 2nd the motion. All members were in favor.

Madge B. asked if there was an erosion plan for the road? Mr. Haskell stated that yes, Mr. Higgins had mailed a copy to all Planning Board members. Roger A. agreed stating there was a plan dated 9/13/05, entitled “Erosion & Sedimentation Control Plan, Great Hollow Acres Lot #2.

Roger A. asked if there were any questions at this time on the Preliminary Plan presented. There were none.

Madge B. made the motion to accept the Preliminary Plan, dated 9/20/05, entitled Subdivision Plan, Great Hollow Acres Lot #2. John K. 2nd the motion. All members were in favor.

There were no further questions.

GROWTH PERMIT(S) – There are no more Growth Permits available for the year 2005.

The Planning Board meeting ended at 8:30 p.m.

Respectively submitted,

Barbara Gilbride

Planning Board Secretary planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES
Tuesday, October 11, 2005

Members in attendance: Roger Allaire (Chairman), John Klimas, and Barbara Gilbride (Member / Secretary). Code Enforcement Officer, Steven McDonough also attended the meeting.

Public Hearing Began at 7:00 p.m.

4-Lot Subdivision – Lot #2 of Great Hollow Acres – Preliminary Plan – Map 10, Lot 2-2 (Town Farm Road) - H. Craig Higgins, Development Services, Inc., Applicant / Bill Small, Owner

Mr. Higgins was in attendance to represent owner / applicant, Bill Small.

Mr. Higgins began by describing the project. The owner, Mr. Small, purchased Lot 2-2 of the previously approved Great Hollow Acres subdivision. Lot 2-2 consists of 11.77± acres. Mr. Small is proposing four lots each being a minimum of 1.84 acres and a “Remaining Land...” consisting of 3.58 acres to be conveyed to the abutting property owner Jeffery Morrison.

Mr. Higgins stated there would be a paved road built up to the current town specifications, which was a 20’ paved surface with 3’ shoulders, for a total of 26’ in width. There will be a hammerhead turnaround on Lot 4.

Mr. Higgins stated the area did not require a minimum setback to the wetland but the owner is going to impose a 25’ buffer around the designated area, regardless.

Mr. Higgins stated the following deed restrictions would be imposed:

- 1) Commercial Use Prohibited
- 2) One House Only
- 3) No Mobile Homes Allowed
- 4) Travel Trailers and Tents are allowed but are subject to local ordinances.
- 5) Household Animals Allowed Only
- 6) There shall be no further division of Lots 1-4.
- 7) Building construction limited to building envelopes depicted on the plan, subject to actual field location on the ground.
- 8) Dug wells are prohibited, only drilled wells may be installs.

Mr. Higgins stated sprinkler system compliant with the National Fire Protection Association standards shall be installed in all dwelling units constructed on Lots 1-4. In addition, the clearing and installation of driveways for Lots 1 & 2 is prohibited along the Town Farm Road frontage and within 100 feet of the intersection of Small Road and Town Farm Road.

Roland Legere asked if only Lots 1 thru 4 would be built on? Mr. Higgins stated yes, the remaining land would be conveyed to the abutting property owner. At this time he has no plans to build on the site, but may in the future.

Mr. Higgins stated that the land known as the “Remaining Land” cannot be conveyed until the plan was approved by the Planning Board.

Townsperson – A gentlemen stated he owned an abutting five acres to Lot 2-2. He would like the Planning Board to consider keeping the piece of property known as “remaining land” as an open area for recreation. He was concerned that because the proposed four lots were small, the owners may use his property for recreational activities such as the use of four wheelers. Perhaps having open area contained within the subdivision, people in the subdivision might use that parcel instead. The gentlemen stated he was trying to avoid potential problems in the future.

Mr. Higgins understood his concern but because Mr. Small had every right to convey this parcel as he wished, Mr. Higgins did not feel he would change his proposal.

Roger A. stated he understood the abutter’s concerns. He did add that although this development could have four new houses, they could only be single family homes. Because of the size of the lots, no duplex structures could be built.

Townsperson – The abutter asked Mr. Higgins if he was selling the lots only, or if the owner was going to put houses on them and if so what their value would be? Mr. Higgins stated the lots would be marketed as lots for second homes to people in the Boston area most likely. The lots would likely be advertised for between 45 and 50 thousand dollars and in his experience most people in that price range would build a nice home.

Townsperson – The abutter asked what the maximum lot coverage would be? Roger A. stated that 10% was the maximum area that could be covered by impervious materials. Roger stated that with 80,000 sq. ft., this was 8,000 sq. ft. which it is doubtful anyone would cover that much or their property with structures.

Townsperson – The abutter asked if people 55 and older needed a Growth Permit? Steve M., CEO, stated that at this time there were no age exemptions for Growth Permits. Steve added that a Growth Permit was only good for 90 days. Within 90 days a person has to apply for a building permit or lose the Growth Permit. The abutter asked if there were any Growth Permits available at this time. Steve stated no, all the permits for 2005 were given out in January.

There were no further questions.

The Public Hearing was closed at 7:25 p.m.

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

The minutes from Tuesday September 27, 2005 were accepted as written.

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

Best Possible Location – Remove Existing Building and Replace with New Structure – Map 34, Lot 17 (153 Cedar Drive) – Roger Van Baarle, Owner

Mr. Van Baarle was present to discuss his application. Mr. Andrew Sevigny, the General Contractor for the project, was also present.

Roger A. stated that a site inspection has been done by the Planning Board prior to this evenings meeting.

Mr. Sevigny stated once again that Mr. Van Baarle wanted to remove the existing structure and replace it with a more conforming structure. The new building would have the same square feet as the existing but the side setbacks would be met, where they are not at this time. At the previous meeting it was also determined that because the building was not within 100 feet of the water, it would not be necessary to calculate volume.

With his application Mr. Van Baarle gave the Planning Board a copy of a sketch depicting the existing building in relation to the lots lines, as well as the proposed building's location. A copy of the survey for the existing lot and building was also received. It was done by T.W. Bullard of Sanford Maine in July 2005.

Roger A. reviewed Shapleigh Zoning Ordinance 105-4.D(7) "Relocation of a non-conforming structure" and read the following:

- (b) In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems and the type and amount of vegetation to be removed to accomplish the 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.

Roger A. stated that he would like to see the building moved back at least 10 feet from the roadway. Roger noted at the site inspection that the building was very close to the road and adding 10 feet would ensure no one would have to back onto the road if parking on site. Roger stated he would rather see the building encroach onto the rear setback than be too close to the road for safety reasons. Roger said that because major construction was taking place, now would be the time to move the building.

Mr. Van Baarle stated that he was considering putting in a new well behind this building. It was one of the reasons he purchased the property. (Mr. Van Baarle has a waterfront home across the street and currently has a driven point for water.) Mr. Van Baarle wants to be certain there is enough room behind the building to put in a well.

Steve M., CEO, told Mr. Van Baarle to consider putting the well in now. Steve asked if there were any nearby septic systems to any of the lots lines? Mr. Van Baarle did not believe there were.

Roger A. believed that even if the building were moved back, there would be enough room to put in a well at a later time. Mr. Van Baarle stated that it could be more difficult to do so. Mr. Van Baarle pointed out the fact that the new building would conform to three out of the four setback requirements.

John K. asked Mr. Van Baarle if his only objection to moving the building back was the well issue? Mr. Van Baarle stated that yes, it again was one reason he bought the property.

Roger A. did the building square foot calculations and stated the new building as presented would be 68' larger than the existing which could not be allowed. Roger stated that if the building was reduced by 2 feet in length, it could be moved back 8 feet and then the front lot line would gain the 10 feet Roger felt was necessary for safety.

Mr. Van Baarle asked if he could move it back 6 feet and reduce the size of the structure by 2 feet. The Planning Board members agreed.

Roger A. asked if there were anymore questions, there were none.

John K. made the motion to approve the Best Possible Location to rebuild the existing structure per the plans presented, with the following changes / condition(s):

- 1) The new structure shall be no larger than 27' wide x 46' long.
- 2) The new structure shall be moved back 6 feet from the front lot line, from the existing structures current location. This moves the back of the new structure to 20 feet from the back lot line.
- 3) There shall be a survey for final placement of the structure per Shapleigh Zoning Ordinance 105-4.D(7)(c)

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

Nothing further was discussed.

Best Possible Location – Place a New Foundation Under Existing Cottage, Also Replace Existing Metal Shed – Map 44, Lot 27 (188 Silver Lake Road) – Scott & Patricia Phelan

Scott and Patricia Phelan were present to discuss their application.

Along with the application, a sketch plan was received showing the location of the existing home, screened porch and ramp in relation to the lots line. Also on the sketch was the location of the existing metal shed and a wood shed. A survey done by Middle Branch Land Surveyors was received, showing the same.

Mr. Phelan stated they wanted to put a foundation under the existing cottage, and raise the cottage approximately three feet to get it above the driveway. Mr. Phelan stated that at this time it is 18" below the driveway. The foundation would be the same size as the cottage, 22' x 38'6". The foundation would not be placed under the screened porch.

Mr. Phelan stated they would like to replace the metal shed which is on the verge of collapse. They would replace it with a new wooden shed.

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

A site inspection was scheduled. Roger A. and John K. would go on Sunday. Barbara G. would go with Steve M. during the work week. A Notice to Abutters would be mailed.

Nothing further was discussed.

Amendment to a Conditional Use Permit – Change Number of Children Allowed from Eight to Twelve - Map 13, Lot 21 (384 Emery Mills Rd.) – Deborah Cadigan

Mrs. Cadigan was present to discuss her application.

Mrs. Cadigan stated that she would like to increase the number of children allowed at her nursery school from eight to twelve. She added that the State of Maine allowed up to twelve children for her facility. At this time she was trying to renew her State license and needed the Planning Boards approval in order to raise the number of children from eight to twelve.

Mrs. Cadigan stated that her current license was expired but it was through no fault of her own, the State was behind on their paperwork. She stated she had 30 days to get a letter from the Planning Board in order to renew her license. (Mrs. Cadigan gave the Planning Board a copy of her expired license, which expired on August 30, 2005.)

There were no questions from the board members at this time.

Roger A. stated that because this was a business a Public Hearing would need to be held. He scheduled it for the next Planning Board meeting at 7:00 p.m. on October 25th. Also a Notice to Abutters will be mailed.

Nothing further was discussed.

Sarah Angeltun – Question regarding road on her property.

Mrs. Angeltun was present to discuss her question regarding Break Neck Hill Road, which runs through her property. Her lot is described on Shapleigh Tax Map 2, Lot 34A, which is shown as having 7.3 acres.

Mrs. Angeltun wanted to know if Break Neck Hill Road split the existing lot into two lots? And if so, could a home be built on each lot, both having road frontage on Break Neck Hill Road. Where Break Neck Hill Road ran approximately 200 feet in width, would one lot need an additional 200 feet of road frontage from Break Neck Hill Road to create the 2nd lot?

Roger A. believed that this lot was part of an old family subdivision, recorded at the York County Registry of Deeds and therefore, in his opinion, creating a new lot would be an amendment to a subdivision and require further review.

Steve M., CEO, disagreed stating that because this was exempt from subdivision as a gift to family when it was created; at the time of its creation it did not require subdivision review and does not need subdivision review at this time. In addition, Steve believed that, pursuant to MSRA 30A,4401-6, Break Neck Hill Road running through the property may automatically create two lots and as long as both lots meet the lot requirement in Shapleigh's Zoning Ordinance, they could be built upon after getting the appropriate permits (Growth Permit & Building Permit).

Roger A. once again disagreed because this lot was part of the family subdivision recorded at YCRD, so it is part of a subdivision.

Roger A. stated he would ask the opinion of town Attorney Ron Bourque to get some clarification. Steve M., CEO, agreed this would be the best course of action.

Nothing further was discussed.

4-Lot Subdivision – Lot #2 of Great Hollow Acres – Preliminary Plan – Map 10, Lot 2-2 (Town Farm Road) - H. Craig Higgins, Development Services, Inc., Applicant / Bill Small, Owner

Mr. Higgins was present to represent Mr. Small for this application.

Mr. Higgins began by stating that he would like to state he believed Mr. Small would not object to there being boulders placed along the old camp road that divides Lot #4 and the abutting property. Mr. Higgins believed this would help to prevent people from going onto the abutting property and perhaps alleviate some of the concerns expressed during the Public Hearing earlier in the evening.

Mr. Higgins asked why this project was being considered a major subdivision since according to Shapleigh's Subdivision Ordinance, four lots or less were a minor subdivision. Roger A. replied stating that Lot #2 is part of a previously existing subdivision. Adding four more lots to the original subdivision creates a major subdivision. Mr. Higgins stated that he understood.

Mr. Higgins stated his client was not proposing a fire pond because sprinkler systems would be used in all homes built on Lots 1 thru 4. Mr. Higgins stated the property known as the "remaining land" would not have this stipulation because it was likely if there was further development an underground storage tank would be put in because of the sandy soils in the area. It is unlikely a pond would retain enough water to be used for fire protection. (The remaining land is being sold to the abutter, who also has expressed an interest in developing his property in the future.)

Mr. Higgins stated that under Item #24 on the subdivision application his estimated cost for infrastructure improvements were as follows: 750 linear feet of road and underground utilities, \$35,000, this included \$7,500 for the overhead power lines. Roger A. and Barbara G. stated that they had spoken to Road Commissioner John Burnell and he stated that he would accept no less than \$40,000 for the road improvements alone.

Mr. Higgins stated that he would propose to the owner/applicant \$40,000 for the road improvements and \$7,500 for utilities for a total of \$47,500 to be held in escrow by the Town of Shapleigh until all improvements were completed.

Mr. Higgins asked if there were any additional questions or comments for this final presentation of the preliminary plan? There were none. Mr. Higgins stated that he would have the final plan ready for the next Planning Board meeting on October 25, 2005.

There was nothing further discussed.

Other:

Roger A. reminded Planning Board members that on Thursday October 20th there would be a Public Hearing for the Acton / Shapleigh subdivision proposal on the Lebanon road. Roger stated he was unable to attend as he would be out of town. Madge B. and John K. stated they would try to attend.

Roland Legere stated that at the last subdivision meeting there was concern with stormwater runoff and it was suggested the area be tested periodically for phosphates, etc. Mr. Legere asked if the Town of Shapleigh had the authority to ask for these test? Roger A. stated that the Planning Board could ask for anything if it had to do with protecting the townspeople or the environment.

Roger A. stated that his biggest concern was the impact the additional traffic would have on the Lebanon Road. Especially in this area because the road was not in good shape. Roger stated it might be in the best

interest of the Town of Shapleigh to ask for a fund be set aside to help defray the cost to upgrade this part of the Lebanon Road. Roger stated that there would be at least 114 trips to and from this subdivision, and most of the people would be traveling toward Rte. 109, using roads in Shapleigh. Roger stated it is hard to know what would be best, money set aside or asking the developer to help with road improvements at this time.

Roger A. stated that the Preliminary Plan for this subdivision had been approved. It is likely the Final Plan would be up for approval in the very near future.

There was nothing further discussed.

Margaret Moody asked the Planning Board to tell her the differences between a major and minor subdivision. Roger A. gave her examples of each, including the road requirements of a major vs. minor.

Gino Romano came before the Planning Board just prior to the meeting being adjourned. Mr. Romano stated that years ago he had presented the Planning Board with a proposal for a major subdivision on the Gore Road. Mr. Romano stated that at that time he was asked to bring in more information such as a design for a fire pond as well as engineering for the road. Mr. Romano never returned to the Planning Board with this information.

Mr. Romano showed Planning Board members a map showing Map 8, Lot 48 in its entirety. There were no lots shown on this map. Mr. Romano stated he wanted to put in 7 house lots.

Mr. Romano asked what he would need to do to have the Planning Board review his proposal. Barbara G. stated he would need to fill out a subdivision application and follow the requirements for a major subdivision. Mr. Romano stated that the Planning Board must have his old information. Barbara G. stated that at this time she could not locate it and because the application is over 10 years old, and none of the members on the Planning Board new of his proposal outside of Roger A., he would need to reapply. Roger A. agreed.

Roger A. told Mr. Romano to fill out an application and get it and all additional information to the Planning Board members seven days prior to the date he wished to come before the board. Roger told Mr. Romano the next Planning Board meeting would be on Tuesday, October 25th.

Nothing further was discussed.

GROWTH PERMIT(S) – *There are no more Growth Permits available for the year 2005.*

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

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

SHAPLEIGH PLANNING BOARD MINUTES
Tuesday, October 11, 2005

Members in attendance: Roger Allaire (Chairman), John Klimas, and Barbara Gilbride (Member / Secretary). Code Enforcement Officer, Steven McDonough also attended the meeting.

Public Hearing Began at 7:00 p.m.

4-Lot Subdivision – Lot #2 of Great Hollow Acres – Preliminary Plan – Map 10, Lot 2-2 (Town Farm Road) - H. Craig Higgins, Development Services, Inc., Applicant / Bill Small, Owner

Mr. Higgins was in attendance to represent owner / applicant, Bill Small.

Mr. Higgins began by describing the project. The owner, Mr. Small, purchased Lot 2-2 of the previously approved Great Hollow Acres subdivision. Lot 2-2 consists of 11.77± acres. Mr. Small is proposing four lots each being a minimum of 1.84 acres and “Remaining Land...” consisting of 3.58 acres to be conveyed to the abutting property owner Jeffery Morrison.

Mr. Higgins stated there would be a paved road built up to the current town specifications, which was a 20’ paved surface with 3’ shoulders, for a total of 26’ in width. There will be a hammerhead turnaround on Lot 4.

Mr. Higgins stated the area did not require a minimum setback to the wetland but the owner is going to impose a 25’ buffer around the designated area, regardless.

Mr. Higgins stated the following deed restrictions would be imposed:

- 1) Commercial Use Prohibited
- 2) One House Only
- 3) No Mobile Homes Allowed
- 4) Travel Trailers and Tents are allowed but are subject to local ordinances.
- 5) Household Animals Allowed Only
- 6) There shall be no further division of Lots 1-4.
- 7) Building construction limited to building envelopes depicted on the plan, subject to actual field location on the ground.
- 8) Dug wells are prohibited, only drilled wells may be installed.

Mr. Higgins stated sprinkler systems compliant with the National Fire Protection Association standards shall be installed in all dwelling units constructed on Lots 1-4. In addition, the clearing and installation of driveways for Lots 1 & 2 is prohibited along the Town Farm Road frontage and within 100 feet of the intersection of Small Road and Town Farm Road.

Roland Legere asked if only Lots 1 thru 4 would be built on? Mr. Higgins stated yes, the remaining land would be conveyed to the abutting property owner. At this time he has no plans to build on the site, but may in the future.

Mr. Higgins stated that the land known as the “Remaining Land” cannot be conveyed until the plan was approved by the Planning Board.

Townsperson – A gentlemen stated he owned an abutting five acres to Lot 2-2. He would like the Planning Board to consider keeping the piece of property known as “remaining land” as an open area for recreation. He was concerned that because the proposed four lots were small, the owners may use his property for recreational activities such as the use of four wheelers. Perhaps having open area contained within the subdivision, people in the subdivision might use that parcel instead. The gentlemen stated he was trying to avoid potential problems in the future.

Mr. Higgins understood his concern but because Mr. Small had every right to convey this parcel as he wished, Mr. Higgins did not feel he would change his proposal.

Roger A. stated he understood the abutter’s concerns. He did add that although this development could have four new houses, they could only be single family homes. Because of the size of the lots, no duplex structures could be built.

Townsperson – The abutting property owner asked Mr. Higgins if he was selling the lots only, or if the applicant was going to put houses on them and if so what would their value would be? Mr. Higgins stated the lots would be marketed as lots for second homes to people in the Boston area most likely. The lots would likely be advertised for between 45 and 50 thousand dollars and in his experience most people in that price range would build a nice home.

Townsperson – The abutting property owner asked what the maximum lot coverage would be? Roger A. stated that 10% was the maximum area that could be covered by impervious materials. Roger stated that with 80,000 sq. ft., this was 8,000 sq. ft., and it is doubtful anyone would cover that much or their property with structures.

Townsperson – The abutting property owner asked if people 55 and older needed a Growth Permit? Steve M., CEO, stated that at this time there were no age exemptions for Growth Permits. Steve added that a Growth Permit was only good for 90 days. Within 90 days a person has to apply for a building permit or lose the Growth Permit. The abutter asked if there were any Growth Permits available at this time. Steve stated no, all the permits for 2005 were given out in January.

There were no further questions.

The Public Hearing was closed at 7:25 p.m.

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

The minutes from Tuesday September 27, 2005 were accepted as written.

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

Best Possible Location – Remove Existing Building and Replace with New Structure – Map 34, Lot 17 (153 Cedar Drive) – Roger Van Baarle, Owner

Mr. Van Baarle was present to discuss his application. Mr. Andrew Sevigny, the General Contractor for the project, was also present.

Roger A. stated that a site inspection had been done by the Planning Board prior to this evenings meeting.

Mr. Sevigny stated once again that Mr. Van Baarle wanted to remove the existing structure and replace it with a more conforming structure. The new building would have the same square feet as the existing but the side setbacks would be met, where they are not at this time. At the previous meeting it was also determined that because the building was not within 100 feet of the water, it would not be necessary to calculate volume.

With his application Mr. Van Baarle gave the Planning Board a copy of a sketch depicting the existing building in relation to the lots lines, as well as the proposed building's location. A copy of the survey for the existing lot and building was also received. It was done by T.W. Bullard of Sanford Maine in July 2005.

Roger A. reviewed Shapleigh Zoning Ordinance 105-4.D(7) "Relocation of a non-conforming structure" and read the following:

- (b) In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems and the type and amount of vegetation to be removed to accomplish the 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.

Roger A. stated that he would like to see the building moved back at least 10 feet from the roadway. Roger noted at the site inspection that the building was very close to the road and adding 10 feet would ensure no one would have to back onto the road, if someone parked on site. Roger stated he would rather see the building encroach onto the rear setback than be too close to the road for safety reasons. Roger said that because major construction was taking place, now would be the time to move the building.

Mr. Van Baarle stated that he was considering putting in a new well behind this building. It was one of the reasons he purchased the property. (Mr. Van Baarle has a waterfront home across the street and currently has a driven point for water.) Mr. Van Baarle wants to be certain there is enough room behind the building to put in a well.

Steve M., CEO, told Mr. Van Baarle to consider putting the well in now. Steve asked if there were any nearby septic systems to any of the lots lines? Mr. Van Baarle did not believe there were.

Roger A. believed that even if the building was moved back, there would be enough room to put in a well at a later time. Mr. Van Baarle stated that it could be more difficult to do so. Mr. Van Baarle pointed out the fact that the new building would conform to three out of the four setback requirements.

John K. asked Mr. Van Baarle if his only objection to moving the building back was the well issue? Mr. Van Baarle stated that yes, it again was one reason he bought the property.

Roger A. did the building square foot calculations and stated the new building as presented would be 68' larger than the existing which could not be allowed. Roger stated that if the building was reduced by 2 feet in length, it could be moved back 8 feet and then the front lot line would gain the 10 feet Roger felt was necessary for safety.

Roger A. asked if there were anymore questions, there were none.

John K. made the motion to approve the Best Possible Location to rebuild the existing structure per the plans presented, with the following changes / condition(s):

- 1) The new structure shall be no larger than 27' wide x 46' long.**
- 2) The new structure shall be moved back 6 feet from the front lot line, from the existing structures current location. This moves the back of the new structure to 20 feet from the back lot line.**
- 3) There shall be a survey for final placement of the structure per Shapleigh Zoning Ordinance 105-4.D(7)(c)**

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

Nothing further was discussed.

Best Possible Location – Place a New Foundation Under Existing Cottage, Also Replace Existing Metal Shed – Map 44, Lot 27 (188 Silver Lake Road) – Scott & Patricia Phelan

Scott and Patricia Phelan were present to discuss their application.

Along with the application, a sketch plan was received showing the location of the existing home, screened porch and ramp in relation to the lots line. Also on the sketch was the location of the existing metal shed and a wood shed. A survey done by Middle Branch Land Surveyors was received, showing the same.

Mr. Phelan stated they wanted to put a foundation under the existing cottage, and raise the cottage approximately three feet to get it above the driveway. Mr. Phelan stated that at this time it is 18" below the driveway. The foundation would be the same size as the cottage, 22' x 38'6". The foundation would not be placed under the screened porch.

Mr. Phelan stated they would like to replace the metal shed which is on the verge of collapse. They would replace it with a new wooden shed.

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

A site inspection was scheduled. Roger A. and John K. would go on Sunday. Barbara G. would go with Steve M. during the work week. A Notice to Abutters would be mailed.

Nothing further was discussed.

Amendment to a Conditional Use Permit – Change Number of Children Allowed from Eight to Twelve - Map 13, Lot 21 (384 Emery Mills Rd.) – Deborah Cadigan

Mrs. Cadigan was present to discuss her application.

Mrs. Cadigan stated that she would like to increase the number of children allowed at her nursery school from eight to twelve. She added that the State of Maine allowed up to twelve children for her facility. At this time she was trying to renew her State license and needed the Planning Boards approval in order to raise the number of children from eight to twelve.

Mrs. Cadigan stated that her current license was expired but it was through no fault of her own, the State was behind on their paperwork. She stated she had 30 days to get a letter from the Planning Board in order to renew her license. (Mrs. Cadigan gave the Planning Board a copy of her expired license, which expired on August 30, 2005.)

There were no questions from the board members at this time.

Roger A. stated that because this was a business a Public Hearing would need to be held. He scheduled it for the next Planning Board meeting at 7:00 p.m. on October 25th. Also a Notice to Abutters will be mailed.

Nothing further was discussed.

Sarah Angeltun – Question regarding road on her property.

Mrs. Angeltun was present to discuss her question regarding Break Neck Hill Road, which runs through her property. Her lot is described on Shapleigh Tax Map 2, Lot 34A, which is shown as having 7.3 acres.

Mrs. Angeltun wanted to know if Break Neck Hill Road split the existing lot into two lots? And if so, could a home be built on each lot, both having road frontage on Break Neck Hill Road. Where Break Neck Hill Road ran approximately 200 feet in width, would one lot need an additional 200 feet of road frontage from Break Neck Hill Road for the 2nd lot?

Roger A. believed that this lot was part of an old family subdivision, recorded at the York County Registry of Deeds and therefore, in his opinion, creating a new lot would be an amendment to a subdivision and require further review.

Steve M., CEO, disagreed stating that because this was a gift to family when created it was exempt from subdivision; therefore, at the time of its creation it did not require subdivision review and does not need subdivision review at this time. In addition, Steve believed that, pursuant to MSRA 30A,4401-6, Break Neck Hill Road running through the property may automatically create two lots and as long as both lots meet the lot requirement in Shapleigh's Zoning Ordinance, they could be built upon after getting the appropriate permits (Growth Permit & Building Permit).

Roger A. once again disagreed because this lot was part of the family subdivision recorded at YCRD, so it is part of a subdivision.

Roger A. stated he would ask the opinion of town Attorney Ron Bourque to get some clarification. Steve M., CEO, agreed this would be the best course of action.

Nothing further was discussed.

4-Lot Subdivision – Lot #2 of Great Hollow Acres – Preliminary Plan – Map 10, Lot 2-2 (Town Farm Road) - H. Craig Higgins, Development Services, Inc., Applicant / Bill Small, Owner

Mr. Higgins was present to represent Mr. Small for this application.

Mr. Higgins began by stating that he would like to state he believed Mr. Small would not object to there being boulders placed along the old camp road that divides Lot #4 and the abutting property. Mr. Higgins believed this would help to prevent people from going onto the abutting property and perhaps alleviate some of the concerns expressed during the Public Hearing earlier in the evening by the abutting property owner.

Mr. Higgins asked why this project was being considered a major subdivision since according to Shapleigh's Subdivision Ordinance, four lots or less were a minor subdivision. Roger A. replied stating that Lot #2 is part of a previously existing subdivision. Adding four more lots to the original subdivision creates a major subdivision. Mr. Higgins stated that he understood.

Mr. Higgins stated his client was not proposing a fire pond because sprinkler systems would be used in all homes built on Lots 1 thru 4. Mr. Higgins stated the property known as the "remaining land" would not have this stipulation because it was likely if there was further development an underground storage tank would be put in. It is unlikely a pond would retain enough water to be used for fire protection because of the sandy soil in the area. (The remaining land is being sold to the abutter, who also has expressed an interest in developing his property in the future.)

Mr. Higgins stated that under Item #24 on the subdivision application his estimated cost for infrastructure improvements were as follows: 750 linear feet of road and underground utilities, \$35,000, this included \$7,500 for the overhead power lines. Roger A. and Barbara G. stated that they had spoken to Road Commissioner John Burnell and he said that he would accept no less than \$40,000 for the road improvements alone.

Mr. Higgins stated that he would propose to the owner/applicant \$40,000 for the road improvements and \$7,500 for utilities for a total of \$47,500 to be held in escrow by the Town of Shapleigh until all improvements were completed.

Mr. Higgins asked if there were any additional questions or comments for this final presentation of the preliminary plan? There were none. Mr. Higgins stated that he would have the final plan ready for the next Planning Board meeting on October 25, 2005.

There was nothing further discussed.

Other:

Roger A. reminded Planning Board members that on Thursday, October 20th there would be a Public Hearing for the Acton / Shapleigh subdivision proposal on the Lebanon road. Roger stated he was unable to attend as he would be out of town. Madge B. and John K. stated they would try to attend.

Roland Legere stated that at the last subdivision meeting there was concern with stormwater runoff and it was suggested the area be tested periodically for phosphates, etc. Mr. Legere asked if the Town of Shapleigh had the authority to ask for these test? Roger A. stated that the Planning Board could ask for anything if it had to do with protecting the townspeople or the environment. Roger A. stated that his biggest concern was the impact the additional traffic would have on the Lebanon Road. Especially in this area because the road was not in good shape. Roger stated it might be in the best

interest of the Town of Shapleigh to ask for a fund be set aside to help defray the cost to upgrade this part of the Lebanon Road. Roger stated that there would be at least 114 trips to and from this subdivision, and most of the people would be traveling toward Rte. 109, using roads in Shapleigh. Roger stated it is hard to know what would be best, money set aside or asking the developer to help with road improvements at this time.

Roger A. stated that the Preliminary Plan for this subdivision had been ~~approved~~ accepted. It is likely the Final Plan would be up for approval in the very near future.

There was nothing further discussed.

Margaret Moody asked the Planning Board to tell her the differences between a major and minor subdivision. Roger A. gave her examples of each, including the road requirements of a major vs. minor.

Gino Romano came before the Planning Board just prior to the meeting being adjourned. Mr. Romano stated that years ago he had presented the Planning Board with a proposal for a major subdivision on the Gore Road. Mr. Romano stated that at that time he was asked to bring in more information such as a design for a fire pond as well as engineering for the road. Mr. Romano never returned to the Planning Board with this information.

Mr. Romano showed Planning Board members a map showing Map 8, Lot 48 in its entirety. There were no lots shown on this map. Mr. Romano stated he wanted to put in 7 house lots.

Mr. Romano asked what he would need to do to have the Planning Board review his proposal. Barbara G. stated he would need to fill out a subdivision application and follow the requirements for a major subdivision. Mr. Romano stated that the Planning Board must have his old information. Barbara G. stated that at this time she could not locate it and because the application is over 10 years old, and none of the members on the Planning Board new of his proposal outside of Roger A., he would need to reapply. Roger A. agreed.

Roger A. told Mr. Romano to fill out an application and get it and all additional information to the Planning Board members seven days prior to the date he wished to come before the board. Roger told Mr. Romano the next Planning Board meeting would be on Tuesday, October 25th.

Nothing further was discussed.

GROWTH PERMIT(S) – *There are no more Growth Permits available for the year 2005.*

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

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

SHAPLEIGH PLANNING BOARD MINUTES*
Tuesday, October 25, 2005

Members in attendance: Roger Allaire (Chairman), Madge Baker (Vice Chairman), John Klimas, Lauren Meek (Alternate), Diane Srebnick (Alternate) and Barbara Gilbride (Member / Secretary). Code Enforcement Officer, Steven McDonough also attended the meeting.

Public Hearing Began at 7:10 p.m.

Amendment to a Conditional Use Permit – Change Number of Children Allowed from Eight to Twelve - Map 13, Lot 21 (384 Emery Mills Rd.) – Deborah Cadigan

Mrs. Cadigan was in attendance for the Public Hearing.

Mrs. Cadigan stated she was before the Planning Board to change the number of children allowed at her nursery school from eight to twelve. She stated she wanted no other changes.

Madge B. asked if all the conditions from the original Conditional Use Permit approval were met? Steve M., CEO, stated that yes they were.

(The following conditions set forth on the approval of August 18, 2004 continue to be in effect:

- 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 operation shall be 9:00 a.m. thru 4:00 p.m., Monday, Tuesday and Thursday during the normal school year.
- 9) Any signage shall be permitted through the Code Enforcement Officer.)

Roger A. asked if there were any additional questions? There were none.

The Public Hearing closed at 7:17 p.m.

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

The minutes from Tuesday October 11, 2005 were accepted as amended. (Change as follows on Page 7 of 7: Roger A. stated that the Preliminary Plan for this subdivision had been ~~approved~~ accepted.)

*** Minutes amended to add new member, Lauren Meek on page 1.**

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

Vote for Preliminary Plan for 14 Lot Acton / Shapleigh Subdivision - Country Side Estates – Richard & Carolyn Levesque Applicants

Mr. Levesque was present, as well as John Hutchins from Corner Post Land Surveying, Inc., who is representing the owners for this project.

Mr. Hutchins stated that the Town of Acton had approved the Preliminary Plan.

Roger A. asked if the Town of Acton was going to require any paving for the subdivision road? Mr. Hutchins stated they were not.

Road Commissioner Richard Goodwin was present for this discussion. Roger A. asked Mr. Goodwin and the other Planning Board members if they felt the Town of Shapleigh should ask that money be put into an escrow account to use to repair damage to the Lebanon road caused by the construction of the subdivision? Roger stated that there would be approximately an additional 114 car trips added to the Lebanon road after the subdivision is completed and this could cause damage since the road is not in good condition at this time.

Madge B. noted that the plan calls for only four new houses to be put in per year, so the 114 additional automobiles would be phased in over time. Madge did state that it might be good to consider holding money to repair the damage caused by construction equipment during the building of the new homes and roadway.

Mr. Goodwin stated that it was unlikely the damage to the road would be seen at the time it was done. The damage would happen over time. Mr. Goodwin stated the road was built over logs. Originally logs were placed down and gravel spread over them. These logs are still under the existing roadway. Mr. Goodwin stated that the road would eventually need to be replaced regardless of whether or not the subdivision was put in. Mr. Goodwin felt that the only area that might show wear initially is at the entrance to the subdivision where the construction vehicles turn in and out of the subdivision road.

Mr. Goodwin also stated that should the Lebanon road be improved in the future it would probably need to be raised five feet and that could become an issue where the subdivision road meets the Lebanon road. Mr. Hutchins asked what the town did with other roads with this type of situation? Mr. Goodwin stated they would match the roads. Mr. Goodwin stated there is a concern for the future but in reality there may not be any improvement to the Lebanon road in this area for another 10 years.

Roger A. asked Mr. Goodwin if he had any additional concerns or comments? Mr. Goodwin stated that the road was not in good shape at this time, and he did not feel the town had a right to hold the developer responsible for any needed improvements. Mr. Goodwin stated the damage to the road will happen during construction, not with the automobile traffic. Again, he said the Lebanon road was a bad road now.

Roger A. said the fact was that all the damage to the road would be done in Shapleigh, not in Acton, and that Shapleigh would not receive any benefits from this subdivision because all the homes were in Acton. He still felt the applicant should in some way help to defray the damage that would be incurred to the Lebanon road in Shapleigh. Madge B. stated that the only way the Town of Shapleigh could ask for money is if there was a verifiable link between the subdivision and any damage done to the road.

Roger A. stated he was concerned with the school bus traffic. He did not think the children should be picked up on the road in Shapleigh because they are not currently part of the SAD57 school system. Roger stated that if the Planning Board put as a condition the children needed to be picked up in Acton, then the bus would have to go into the subdivision to pick them up. Madge B. noted that this was Roger's opinion, the Planning Board as a whole has not decided this would be a requirement.

Roger A. stated one of his main concerns was the number of children that would be standing and waiting for the bus on a very narrow stretch of road, where people tend to travel at high speeds. He did not feel it would be safe. Madge B. noted that there were children waiting for buses on the Back road where there are 100 or more cars going by in an hour at high rates of speed. Madge stated that the school and the parents needed to make the decision on what was best. Mr. Goodwin noted that if there was a large group of children the school system makes sure the bus is going in the right direction, i.e. that it picks up the children on the same side of the road that they are waiting so they do not have to cross the road.

Roger A. stated that since the preliminary plan was redesigned, the turn-around in Acton was moved to the end of the subdivision road. Mr. Hutchins noted that there was still a paved turn-around in Shapleigh that the school bus could use.

Madge B. noted that the Planning Board now had a record that the Road Commissioner stated this subdivision was not going to make any difference to the Lebanon Road.

Madge B. reminded the Planning Board that Roland Legere raised the question at the last meeting that there was concern with testing the water quality from the impact of the subdivision. Madge stated the interest was regarding testing the water in the stream that flows in Shapleigh. The neighbors were concerned with water quality should septic systems on site fail.

Madge B. stated that even if the septic systems were to fail, very sophisticated monitoring would need to take place to determine the source of the pollution. Monitoring would have to start before the subdivision was built to make certain any contamination wasn't coming from the neighboring property. Mr. Hutchins stated that even if testing was done and the base line changed, it would be almost impossible to know the source of the pollution. Mr. Hutchins noted it was likely that the neighbor that had the concerns could be a source of pollution because it appeared his septic system was currently under water because of the recent high rain. Madge B. agreed, she just wanted to address the issue because the question was raised at the last meeting.

Madge B. moved to approve the Preliminary Plan as presented. John K. 2nd the motion. Roger A., Madge B., John K. and Barbara G. were in favor. No members were opposed.

Nothing further was discussed.

Amendment to a Conditional Use Permit – Change Number of Children Allowed from Eight to Twelve - Map 13, Lot 21 (384 Emery Mills Rd.) – Deborah Cadigan

Mrs. Cadigan was present to review her application.

Mrs. Cadigan's approved Conditional Use Permit dated 7/22/04, was to operate an in-home nursery school for up to 8 children at her residence, three days a week. The requested amendment is to increase the number of children allowed at any one time to 12, which is the maximum number of children allowed at the nursery school currently, by the State of Maine Dept. of Health and Human Services.

Roger A. stated he would like to request that the approval for the amendment be tied in with the license from the State of Maine which is “non-transferable”. This way, if Mrs. Cadigan moved, whoever bought the home could not just assume the business. Also, Roger wanted to make certain that the license be kept up to date. The other Planning Board members agreed to these conditions.

Mrs. Cadigan stated that she has asked parents to sign a paper stating that a turn-around was provided in her yard so that they would not turn around on Emery Mills Road (Rte. 109). She said that some parents were still parking on the street. Mrs. Cadigan was concerned with her liability and the safety factor. She asked the Planning Board how she could address this problem and if it was a big concern. Steve M., CEO, stated it was a huge concern and that she needed to stress that the turn-around must be used and there was NO parking on the street.

Madge B. stated that although it would not be Mrs. Cadigan’s fault if someone were to get hurt on Rte. 109, it would not be good for business. Madge told Mrs. Cadigan that she needed to keep stressing to her clients the importance of using the turn-around and the parking area.

Roger A. asked Mrs. Cadigan if there would be any change in the hours of operation? Mrs. Cadigan stated they would stay the same. The hours of operation are 9:00 a.m. thru 4:00 p.m., Monday, Tuesday and Thursday during the normal school year.

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

Madge B. made the motion to approve the Amendment to the Conditional Use Permit to operate an in-home nursery school, allowing up to a maximum of twelve children, with the following condition(s):

- 1) All previously approved conditions for this permit remain in effect.**
- 2) The approved Conditional Use Permit is non-transferable to another person. Only Deborah Cadigan, as stated on the State of Maine Nursery School license may operate the nursery school.**
- 3) The Nursery School cannot operate without an up-to-date State of Maine License.**

John K. 2nd the motion. Roger A., Madge B., John K. and Barbara G. were in favor. No members were opposed.

Nothing further was discussed.

Best Possible Location – Place a New Foundation Under Existing Cottage, Also Replace Existing Metal Shed – Map 44, Lot 27 (188 Silver Lake Road) – Scott & Patricia Phelan

Mr. Phelan was in attendance to review his application.

The Planning Board received the application which contained the location of the property, along with a sketch plan showing the location of the existing home, screened porch and ramp in relation to the lot line. Also on the sketch was the location of the existing metal shed and a wood shed. A survey done by Middle Branch Land Surveyors was received, showing the same.

Roger A. stated he did a site inspection and looking at the location of the existing septic system, parking area, and sheds, the cottage is in the best possible location. It would not be practical to move it.

Madge B. stated to Mr. Phelan that the foundation cannot extend beyond the exterior of the building and the cottage cannot be raised more than 3 feet.

Steve M., CEO, stated that he would like to have a landscaping plan submitted as a condition of approval.

Roger A. asked Steve M., CEO, if the existing wooden shed had a permit? Steve stated that it did. Roger did not have a problem with replacing the existing metal shed as long as it is kept the same size.

Madge B. asked when the project would be started and if there was an estimated time of completion? Mr. Phelan stated that he still did not have a contractor committed to the cottage replacement project, so he was not certain. He wanted to replace the shed as soon as possible.

Mr. Phelan asked if he could move the enclosed porch closer to the center of the house (it does not and will not have a foundation under it). Steve M., CEO, looked at the sketch and was concerned that he may encroach on the side lot line because the lot gets narrower the closer you get toward the road. Mr. Phelan stated that he was willing to make the porch smaller so he could have the entrance in the middle of the house instead of the end farthest from the parking area (this would also move the porch farther from the lake). Steve M. stated that Mr. Phelan could discuss this when he brought the building plans to him after the foundation location is certified.

Madge B. stated she was concerned with erosion especially during the winter months. Steve M., CEO, agreed and he stated it as very important that homeowners are made aware of the issue of erosion.

Mr. Phelan asked what would be best to prevent erosion. Steve M. stated that bark mulch and plantings work best. Things that do not need to be maintained. Steve stated grass was not a good option.

Roger A. asked if there were any additional questions? There were none.

Madge B. made the motion to *approve* the Best Possible Location for a new foundation under the existing cottage, along with a new wood shed to replace the metal shed, with the following condition(s):

- 1) The foundation shall be placed on site per the plan received and the placement of the structure must have confirmation by a licensed surveyor that the building is placed in the correct location per the approved plans. This confirmation must be given to the Code Enforcement Officer, and a copy to the Planning Board for the file.**
- 2) Erosion control measures prior to construction shall be by Best Management Practices. Additional erosion control measures shall be put in place as soon as practical after the new foundation is placed and prior to occupancy. These measures should include bark mulch and plantings.**

John K. 2nd the motion. Roger A., Madge B., John K. and Barbara G. were in favor. No members were opposed.

Nothing further was discussed.

Attorney Robert Ferguson would like to discuss the current Growth Permit Ordinance with respect to permits for Habitat for Humanity.

Mr. Ferguson began by stating he had read the letter from Attorney Ronald Bourque which addressed whether or not in his opinion there were any additional Growth Permits available in 2005. The letter read in part as follows:

Dear Karla: (Board of Selectmen Secretary)

Pursuant to your request I am writing to express my opinion as to whether the recent amendment to the Town of Shapleigh Growth ordinance (Section 1.8, subsection (d)) became effective at the time the amendment was adopted or becomes effective in 2006.

It is my opinion, given the procedure set forth in Section 1.8 of the Ordinance to obtain a growth permit, that Section 1.8 (d) is applicable beginning in 2006. Subsection (f) of this provision states that applications for growth permits may be submitted beginning in August of 2005 and that growth permits will be issued as received at the first Planning Board meeting in January of each year. Further, it is my understanding that the growth permits for 2005 were issued earlier this spring by the Town of Shapleigh pursuant to the procedure in the old Ordinance. It is my opinion that the revisions to the Growth Ordinance were intended to be applicable beginning in the 2006 calendar year, and not in 2005, given the language contained in Section 1.8 (f) (g) and (h). Therefore, I do not believe that two additional growth permits should be issued in 2005 for affordable housing constructed by Habitat for Humanity. I am of the opinion that Section (d), as amended, as well as the other provisions in Section 1.8 were intended to establish a procedure that begins in 2005, but does not substantively become effective until 2006.

If there are any questions regarding the contents of this letter please feel free to contact me.

Very truly yours, Ronald D. Bourque

Mr. Ferguson stated that in his opinion, Attorney Bourque took the sections noted “completely out of context”.

Mr. Ferguson stated he was before the Planning Board to try to secure the two 2005 Growth Permits for Habitat for Humanity. Mr. Ferguson believes there *are* two permits available at this time for Habitat for Humanity. Mr. Ferguson stated there was no transitional language placed in the ordinance getting from 2004 to 2005. Mr. Ferguson stated that the lead in states that the ordinance from 2004 was repealed and this ordinance is enacted as of town meeting. It states the effective date is the date of adoption by town vote. Mr. Ferguson stated that the maximum number of 34 dwelling units shall be granted each calendar year, plus 2 additional Growth Permits that shall be for affordable housing constructed by Habitat for Humanity. Mr. Ferguson added that this was for ‘05’. (‘05’ is not written in line 1.8(d) which Mr. Ferguson was referring to.)

Mr. Ferguson stated that if the Planning Board does not want to interpret it this way then he would have no choice but to take their decision in the form of a letter and attach Attorney Bourque’s letter, and he would take both to the Appeals board.

Mr. Ferguson stated that after town meeting Habitat for Humanity scheduled contractors to have a blitz build for a house for the first of June and unless they can get on to the site before the ground freezes and snow comes they are not going to have a blitz build in June, they will have to call it off. Mr. Ferguson stated that based on this Habitat for Humanity will press forward with the process to get two permits in 2005 and two in 2006.

Mr. Ferguson stated that he also did not feel that section 1.8(f) which states that applications can be submitted beginning in August 2005, applied to Habitat for Humanity.

Roger A. stated that the Planning Boards intention was that the Growth Permit selection would begin in 2006. Mr. Ferguson stated that in his opinion the ordinance did not state this. Roger A. added that all existing permits for 2005 were issued in January 2005.

Mr. Ferguson stated that in his opinion the new Growth Ordinance took place in March 2005, which includes two permits for Habitat for Humanity.

Madge B. read 1.8(f) which reads in part: Applications may be submitted, beginning in August 2005, in person, or by certified mail on each day the town office is normally open. Growth Permits will be issued as received at the first Planning Board meeting in January of each year. Applications will be reviewed at each Planning Board meeting thereafter until all permits have been issued for the calendar year.....

Mr. Ferguson asked what the Planning Board did in January 2005? Madge B. replied, "We issued the permits". Mr. Ferguson stated, "Not to Habitat you hadn't". Roger replied, "Because in January of 2005 they were not allowed". Mr. Ferguson agreed. But in Mr. Ferguson's opinion they were available as of the date of the adoption of the ordinance, this is '05'.

Diane S. asked what a "blitz build" was? Mr. Ferguson stated it was when a whole group of people come together and put the house up in a weekend, all the major components of the house.

Roger A. asked when the house was scheduled to go up, June of 2006? Mr. Ferguson stated yes. Roger said, "Then there should not be a problem they will get their permits in January of 2006". Mr. Ferguson stated that they needed to do site clearing, tree cutting and put the well and septic in so it will be ready for June.

The Planning Board did not understand what the problem was? Mr. Ferguson stated that Habitat wanted to get two this year and then two for next year. They feel they are entitled.

Madge B. believed the Board of Appeals is the correct group to interpret this.

Madge B. made the motion to turn down Habitat for Humanity's request to receive two growth permits for 2005, based on the opinion from Attorney Ronald Bourque. John K. 2nd the motion. Roger A., Madge B., John K. and Barbara G. were in favor. No members were opposed.

Nothing further was discussed.

4-Lot Subdivision – Lot #2 of Great Hollow Acres – Final Plan – Map 10, Lot 2-2 (Town Farm Road) - H. Craig Higgins, Development Services, Inc., Applicant / Bill Small, Owner

Mr. Higgins was present to review the final subdivision plan dated 10/12/05.

Mr. Higgins reviewed the final road plans and stated that the road would be built in accordance with the Maine DOT and the Shapleigh Standard specifications. He stated the only change to the road plan is now the road is shown as being paved instead of gravel and the typical cross section shows the surface and base course of pavement.

Mr. Higgins mentioned the abutter who expressed concern at the Public Hearing that people living in the subdivision might cross onto his property. The abutter was worried that ATV's might use the old logging road to pass onto his property. Mr. Higgins stated that property owner Mr. Small has agreed that during road construction he would put large boulders across this area to prevent ATV's from crossing over.

Mr. Higgins stated construction schedule "D" had changed to reflect the fact the plan has not been approved as yet.

Mr. Higgins stated that Mr. Small is looking to put in the gravel road first and set aside \$27,500 in an escrow account, which would cover the cost of the paving and overhead utilities. Mr. Higgins referred the Planning Board members to Subdivision Ordinance 89-47 "Conditional Agreement" asking them if this could apply to Mr. Small's situation so he did not have to put the entire \$47,500 in an escrow account. Mr. Higgins stated Mr. Small did not want to tie up such a large sum of money before any lots were sold.

Barbara G. and Roger A. both stated that the Road Commissioner and Board of Selectmen were not in favor of Mr. Higgins financial plan. All parties wanted the entire \$47,500 to be placed in an escrow account; they would not be in favor of a conditional agreement. The Planning Board members agreed that all monies for improvements needed to be placed in escrow.

Roger A. asked who would ensure the subdivision road was built to the town's standards? Mr. Higgins stated that it has been protocol with the Town of Shapleigh to have the Road Commissioner, Board of Selectmen and the Planning Board Chairman sign off on approval prior to the release of any funds. Barbara G. agreed.

Mr. Higgins asked if the Planning Board would consider prohibiting the sale of any lots while building the base road, unless the funds for a sold lot go into the escrow account? Mr. Higgins believed that as long as the base road is already done, the amount of money needed in the escrow account would only need to cover the utilities and pavement. Barbara G. stated that when speaking with Road Commissioner John Burnell, he felt the cost to the Town of Shapleigh to pave would be \$40,000 so she did not believe he would agree to a lesser amount even if the base road was put in. If the project stops the town still needs to pave the road and have the money to do so. Mr. Higgins stated that if the client is prohibited from selling lots, this would give him incentive to finish. Barbara and Diane S. asked how that would benefit the town? Mr. Higgins stated it would not benefit the town but unless he is selling lots he has no obligation to put the road in. Roger A. stated the road needs to come before the lots so he still feels like all the money needs to come up front but Roger would consider releasing funds incrementally as work was completed.

Mr. Higgins believed that his client may agree to this. Mr. Higgins suggested that possibly progression payments could be released back to Mr. Small in three stages, 1) Base road; 2) Overhead utilities and 3) Paving of road. Mr. Higgins stated that the cost of utilities is \$7,500. Mr. Higgins stated he would present to all parties that need to sign off for the release of funds, the paving bids to get agreement on the amount of funds to be released after the base road goes in.

Roger A. asked what would happen if one of the homes did not have enough water for a sprinkler system? Mr. Higgins stated that he would have to defer to the fire department for an opinion. Roger stated that it was likely if there wasn't enough water, they would need to get a tank large enough in the house for the water. Roger stated it wasn't a major concern in his opinion; he just wanted Mr. Small to be aware it could be an issue when selling his lots.

Roger A. noted that the State of Maine is looking into requiring all new homes to have sprinkler systems.

Roger A. asked if there were any additional questions for Mr. Higgins. There were none.

Roger A. went over the Subdivision Review Checklist for Major Subdivisions. Roger A. read each line of Final Plan Review and it was determined all required material has been received. Roger read the following:

Written notice to applicant of Board's decision and findings that the development meets or fails to meet the following guidelines as well as the standards in the Board's regulations:

The subdivision:

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 soil erosion or reduction in the capacity of land to hold water so that a dangerous or unhealthy condition results.

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 adversely affect the quality of surface water or shoreline of ponds, rivers, streams or tidal areas.

Will not alone or in conjunction with existing activities, adversely affect groundwater quality or quantity.

Will demonstrate adequate technical and financial capacity to meet the above.

Will have all buildings one foot above the base flood elevation.

Does have freshwater wetlands identified on maps.

Does have rivers, streams and brooks identified on maps.

Does have a stormwater management plan.

Will not have spaghetti lots.

Will not unreasonably increase a great pond's phosphorous concentration.

Madge B. made the motion to approve the final plan for the Great Hollow Acres Lot #2 4-Lot subdivision with the condition the applicant submit a check for \$47,500 to the Town of Shapleigh for improvements to be held in escrow. John K. 2nd the motion. Roger A., Madge B., John K. and Barbara G. in favor. No members opposed.

Roger A. noted that the release of funds from the escrow account in increments will be noted in the Final Findings of Facts. Madge B. noted that all money must be presented up front because we do not have a financial statement from the applicant.

John K. asked where on the final plan it is noted about the base flood elevation? Mr. Higgins stated that none of this subdivision lies in a flood zone based on the FEMA maps for a 100 year flood plan. Madge B. agreed. Roger A. showed John K. where the land elevation was located on the map.

Mr. Higgins stated he would bring the Mylar to the next meeting for signatures.

Nothing further was discussed.

Other:

9-Lot Major Subdivision – Map 8, Lot 48 (Gore Road) – Gino Romano & Melvin Leedburg, Jr. Applicants / Owners

The applicants were not present to review their preliminary application. Barbara G. stated that a preliminary application fee of \$450 needed to be paid to the Town of Shapleigh as well. Barbara will send Mr. Romano and Mr. Leedburg a letter stating this fact.

Roger A. stated that Mr. Romano asked if he could phase the road the in instead of completing the entire road up front and he would phase the selling of lots in order to have the money to complete the road. The Planning Board members agreed this subdivision needed to be reviewed with the same criteria as all subdivisions, therefore all road escrow monies must be held up front and work completed within a certain period of time. (Mr. Higgins had requested this type of escrow earlier in the evening and all parties agreed the money needed to be up front and the road completed.)

Madge B. added that there is no way the town would know if Mr. Romano could ever finish the project so money had to be up front. Again, all members agreed.

Nothing further was discussed.

Madge B. asked Planning Board members if they would consider making an improvement to the subdivision ordinance, possibly mandating all larger subdivisions to be clustered?

John K. asked what the advantage would be?

Madge B. replied stating two advantages. “One would be to protect open space. The other reduces the amount of improvements; you shorten roads, so down the road this mean fewer maybe even miles of road for the town to maintain. Because these roads do become town roads.”

John K. stated, “In a cluster subdivision you have x number of acres in open space which in a way limits growth in the town for habitat. On the other hand larger lots, people can do what they want.” Madge stated this was correct.

Madge B. stated that this isn’t trouble free because the open space can be trashed by the homeowners because there is no ultimate authority to keep an eye on the land. Madge stated that it is possible that we may lose the growth ordinance one day, so we need to find a way to protect the town with respect to road maintenance. Madge stated it is good to put an ordinance in place before we have to have it. Roger A. added that cluster subdivisions are in the ordinance now but not mandated. Madge agreed and said the Planning Board did make it easier on developers by making the zoning change to know longer mandate public water or sewer.

Madge B. stated she would try to draft some language for board members to review.

Nothing further was discussed.

Shapleigh Planning Board Meeting, Tuesday, October 25, 2005

Page 11 of 11

Diane S. stated that for the next meeting she would try to have language with regard to chain restaurants and stores. Diane said she would look at the language in York and see if the town could hold a public hearing to see if the townspeople are interested in regulating these. Roger A. stated that Ogunquit also just passed an ordinance for this.

Nothing further was discussed.

GROWTH PERMIT(S) – *There are no more Growth Permits available for the year 2005.*

The Planning Board meeting ended at 9:10 p.m.

Respectively submitted,

Barbara Gilbride

Planning Board Secretary planningboard@shapleigh.net

NOTE: Due to elections the next scheduled Planning Board meeting is scheduled for Wednesday, November 9th at 7:30 p.m.

SHAPLEIGH PLANNING BOARD MINUTES
Wednesday, November 9, 2005

Members in attendance: Roger Allaire (Chairman), John Klimas, Lauren Meek (Alternate), Diane Srebnick (Alternate) and Barbara Gilbride (Member / Secretary). Code Enforcement Officer, Steven McDonough also attended the meeting.

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

The minutes from Tuesday October 25, 2005 were accepted as amended. (Change as follows on Page 1 of 11: *Minutes amended to add new member, Lauren Meek to page 1.*)

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

4-Lot Subdivision – Lot #2 of Great Hollow Acres – Sign Approved Final Plan & Review Findings of Fact for Signature – Map 10, Lot 2-2 (Town Farm Road) - H. Craig Higgins, Development Services, Inc., Applicant / Bill Small, Owner

Mr. Higgins was present to represent owner/applicant Bill Small.

Barbara G. gave Mr. Higgins a copy of the Findings of Fact for his review. After reading them, Mr. Higgins stated the only necessary change was to change the name of the road from Small Road to White Pine. Mr. Higgins added that this name has been approved by the E911 manager, Gretchen Wood.

Below is a copy of the signed / approved draft of the Findings of Fact and Approval for Lot #2 of Great Hollow Acres:

TOWN OF SHAPLEIGH PLANNING BOARD

**FINDINGS OF FACT AND APPROVAL For Lot #2 of Great Hollow Acres
Shapleigh Tax Map 10, Lot 2-2**

| | |
|-----------|----------------------------|
| Applicant | William A. & Joan R. Small |
| & | 6 Fairbanks Road |
| Owner: | Lexington, MA 02421 |

| | |
|-------------------|----------------------------|
| Authorized Agent: | H. Craig Higgins |
| | Development Services, Inc. |
| | 31 Farms Edge Road |
| | North Yarmouth, ME 04097 |

BACKGROUND INFORMATION

William A. & Joan R. Small have demonstrated a legal interest in the property by providing a copy of the Warranty Deed dated July 1, 2005, registered as Book 14522, Page 619 - 621 at the York County Registry of Deeds. The applicant proposes to establish a 4 lot subdivision on the subject property, known at Lot #2 of the previously approved Great Hollow Acres subdivision on Town Farm Road. Great Hollow Acres 4-Lot Subdivision was approved on October 26, 2004, plan recorded in Plan Book 297, Page 7 of YCRD. The total land area for Lot # 2 is 11.82 acres; the total lot area to be developed is 7.41+ acres which consists of four building lots. The building lot sizes are as follows: Lot #1 = 1.84+; Lot #2 = 1.84+; Lot #3 = 1.89±; and Lot #4 = 1.84+. There will be a remaining lot which contains 3.58± acres to be conveyed to abutter Jeffery Morrison. The minimum lot size, street frontage and setbacks are in compliance with Shapleigh Zoning Ordinance 105-18 "Dimensional Requirements" for a major subdivision.

The Planning Board determined the preliminary application was completed on September 27, 2005. A Public Hearing was on October 11, 2005. Notification was sent to the Road Commissioner's and Fire Chief. The Planning Board received the Final Subdivision Plan on October 11, 2005 by representative, H. Craig Higgins. The Final Subdivision Plan was approved on October 25, 2005.

Water is to be supplied by private wells. Sewage is to be disposed of by individual subsurface disposal systems. Site evaluations for the lots, meeting the requirement of the Maine Plumbing Rules, were completed by James Logan, Licensed Site Evaluator #237, dated May 31, 2005 and July 8, 2005.

A stormwater plan dated September 13, 2005 was presented for ditching, silt basins and rip rap along the subdivision road and the intersection of Town Farm road. The subdivision road consists of .83 acres, beginning at Town Farm Road and continuing for a distance of 750 linear feet. The applicant shall create the subdivision road to the specifications under Shapleigh Subdivision Article XI "Street and Storm Drainage Design and Construction Standards. The applicant has submitted a check for

\$ 47,500 payable to the Town of Shapleigh and it shall be released when the improvements have been completed, which includes \$40,000 for road construction / paving and \$7,500 for overhead utility installation. The release of funds must be approved by the Planning Board Chairman, Board of Selectmen and Road Commissioner, prior to release of funds. There is an estimated time of completion of two years from the date of approval. The subdivision road shall remain a private way and there shall be a Road Maintenance Agreement established for all four lots.

WAIVERS REQUESTED

The Applicant has requested that the Board waive the requirement for Article 89-29, Utilities; Article 89-30.A, Stone monuments; and Article 89-36.M, Sidewalks.

BOARD'S FINDINGS OF FACT

Preliminary Findings

As a preliminary finding of fact, the Board finds that the proposed Subdivision falls under the provision of the Shapleigh Subdivision Code, which relates to Major Subdivision, this being "Subdivision of Land, Chapter 89, Town of Shapleigh".

Specific Findings

Based on the preliminary findings set forth above, the Board makes the following specific findings in accordance with Shapleigh Subdivision Ordinance 4404 "Review Criteria".

The Planning Board finds that Lot # 2 of Great Hollow Acres Subdivision:

1. Does not result in undue water or air pollution.
 - ***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 May 31, 2005 and July 8, 2005.***
 - ***There is a 20 foot wetland setback around the wetland areas on Lot #3.***
 - ***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 contain Skerry very stony fine sandy loam (SrB), Becket fine sandy loam (BcB), and Brayton/Westbury very stony fine sandy loam (BsB). 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 5/31/05 & 7/8/05.***
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 5/31/05 & 7/8/05.***
 - ***All wetlands have been delineated on the plan and there shall be a 25 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 25 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 5/31/05 & 7/8/05.***
12. Has demonstrated adequate technical and financial capacity to meet the above.
 - ***There shall be a check in the amount of \$47,500 payable to the Town of Shapleigh, for all improvements, which includes the road and utilities, as proposed on the plan.***
13. Does have all buildings one foot above the base flood elevation.
 - ***No portion of the property is within the 100-year flood plain 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.***
15. Does have rivers, streams and brooks identified on maps.
 - ***All water bodies 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 the new subdivision road to be known as White Pine Road, dated September 13, 2005.***
17. Lot #2 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.***

FINDING ON THE REQUESTED WAIVER(S)

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***. Mandating underground utilities in this location would provide no substantial benefit.

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 vehicular traffic along this section of Town Farm Road is very limited, and related generally to travel to and from home, not through traffic.

PLANNING BOARD ACTION

The Planning Board hereby approved the application of William A. & Joan R. Small, including the requested waivers, for the development of Lot #2 of Great Hollow Acres Subdivision with the following conditions:

1. The Applicant shall provide 750 linear feet of roadway to be built to town standards, which shall include pavement a minimum of 20 feet in width, with three foot shoulders on each side for a total width of 26 feet. A hammerhead turnaround to town standards shall be built on Lot #4. The Applicant shall provide riprap and ditching per the plan presented.
2. The Applicant shall place **\$47,500** in an escrow account as a performance guarantee for the Town of Shapleigh in accordance with Shapleigh Subdivision Ordinance 89-42, to be held by the Town of Shapleigh. Release of monies shall be made in the form of progression payments as follows: 1) Completion of base road; 2) Installation of overhead utilities; 3) Completion of road which includes pavement done to town standards. Money shall be released after the work is completed and approved by the Planning Board Chairman, Board of Selectmen and Road Commissioner, prior to release of funds. The estimated time of completion for all road improvements is two years from the date of approval.
3. Because the stormwater impact to the existing wetlands on Great Hollow Acres used the 4,300 sq. ft. exemption per NRPA, section 480A, no additional impact could take place on Great Hollow Acres without notification to the Dept. of Environmental Protection. According to the plan presented no additional impact will be made with the 4-Lot division of Lot #2.
4. Lot(s) 1 thru 4, and the "Remaining Land to be Conveyed to Abutter Jeffery W. Morrison" consisting of 3.58+ acres, shall install a sprinkler system in all dwelling units place on each lot, compliant with the National Fire Protection Association standards.
5. Any further division shall have to come back before the Planning Board.
6. Any subdivision not recorded at the York County Registry of Deeds ***within ninety days*** of the date upon which the plan is approved and signed by the Planning Board shall become null and void, unless an extension is granted by the Board in writing.
7. No changes, erasures, modification, or revisions shall be made in any final plan after approval has been given, unless the revised final plan is first submitted to the Planning Board and the Board approves any modifications.

.....

Mr. Higgins stated he had forgotten that the Planning Board meeting had been changed from Tuesday November 8th to Wednesday November 9th (due to elections). Therefore, Mr. Small was not available to present the Planning Board with the performance guarantee, in the amount of \$47,500. Mr. Small would

mail the check to the Town Hall. Mr. Higgins stated that he understood the fact that the plans could not be recorded until the check was deposited and cleared in the escrow account. Barbara G. stated she would call him when the plans could be filed / recorded.

There were no other questions for Mr. Higgins. Nothing further was discussed.

Conditional Use Permit – Earth Moving – Map 6, Lot 53 (89 County Road) – Ronald Gallant

Mr. Gallant was present to discuss his application.

Mr. Gallant stated he wanted to have Road Commissioner Richard Goodwin extend the right-of-way on his property another 475 feet in order to access a 2 acre back lot.

Roger A. asked if this lot was part of a recorded subdivision? Roger thought this was part of a subdivision because of the map and lot numbering as well as the fact he recalls reviewing a subdivision for the Gallant family in the past. Roger was not certain if this was part of that subdivision but if it is, to create a new lot, it would require subdivision review.

Roger A. stated that if this new lot required subdivision review, a road would be required to access it, so the application for earth moving could be reviewed by the Planning Board at this time.

Steve M., CEO, asked who did the original survey for this lot? He suggested Mr. Gallant contact them to see if this had gone through subdivision and if so, they would be the ones who could design a plan for the new lot. Mr. Gallant stated that Corner Post Land Surveyors did the original design for the Gallant family subdivision and that he had contacted them to survey this new lot. Steve said Mr. Gallant should have Corner Post contact him to discuss this further. Mr. Gallant stated he would do so.

Roger A. stated that this road would need to meet the standards for a private roadway. To serve one lot the standard is a road 12 feet in width, a minimum subbase of 12 inches with a 2 inch wearing surface. Roger stated the Planning Board would need some type of plan showing how the road was going to be built.

Roger A. asked what the length of the road would be? Mr. Gallant stated it would be approximately 1000 feet from the road into the back lot, which included the necessary 200 feet of road frontage. Roger said there would need to be a turnaround created due to the length of the roadway and the fact it was a dead end. Mr. Gallant stated that Mr. Goodwin was doing the project and he was certain Mr. Goodwin was aware of the standards. Roger agreed.

Steve M. stated again that Corner Post Land Surveyors should contact him on this matter. They could draw a plan for both the road and the new lot.

Roger A. reminded Mr. Gallant again that the Planning Board needed to know whether or not this lot was part of a recorded subdivision. Mr. Gallant would need to get this information.

There were no further questions at this time.

Roger A. stated a site inspection would be required. Several Planning Board members would do the inspection on Saturday, November 19th at 9:00 a.m. Those that could not attend would go individually. Also a Notice to Abutters would be mailed.

Nothing further was discussed.

Best Possible Location – Replace Existing Home – Map 23, Lot 14 (20 Long Way Road) – Robert & Cheryl Gaudet – Lee Dezan Builder

Mr. Lee Dezan was in attendance to represent the applicants.

In addition to the application, received was a copy of the subsurface wastewater disposal system application for a new system, done by John E. Large, SE #7, dated 10/11/05. Also received was a sketch plan done by Corner Post Land Surveying, Inc., dated 8/31/05, showing the existing home, concrete pad, pump house, shed and bunk house and a picture of the proposed 30' x 46' cape style home the Gaudet's would like to build.

Mr. Dezan began by stating the existing home does not meet the setback requirements to the water (Mousam Lake). The proposed new home would be moved further back from the high water mark, but this would still leave 40% of the new home within 100' of the high water mark.

Mr. Dezan stated the existing home is approximately 26'7" x 30'6" in size and the proposed new home is 30' x 46' in size.

Mr. Dezan stated there is currently an existing 22'4" x 13'4" bunkhouse on the property. The Gaudet's were thinking of replacing this structure as well if it is possible. This structure does not meet the setback to the high water mark, nor the roadway. Mr. Dezan asked if this structure could be expanded as well?

Steve M., CEO, asked if this was a legal bunkhouse? Mr. Dezan stated that it was originally a garage, but did not know if it had any additional permits. Steve stated he would need to look at his files to see what this structure was approved for. Steve stated that any structure could be expanded by no more than 30% in the Shoreland zone.

Mr. Dezan asked if the bunkhouse could be expanded and moved farther away from the existing roadway? Steve M., CEO, stated that the location would be determined by the Planning Board as this would also be a Best Possible Location review.

Roger A., after reviewing the existing structures vs. the size of the lot was concerned with the ability to add any addition square footage to the existing size of structures. Roger believed the existing structures may currently exceed the 10 percent lot coverage allowed. This is a very small lot. (The Town of Shapleigh has the lot size as .19 acres.) Mr. Dezan stated that Corner Post Land Surveyors had done the square foot calculations and they believed they did not exceed 10%. Roger stated that every structure counted, including the concrete pads. Roger stated the existing right-of-way reduced the size of the lot as well and needed to be taken into consideration when doing the calculations. Roger said that he believed a surveyor could give the Gaudet's an accurate measurement for both the size of lot and existing structures. Mr. Dezan agreed.

Mr. Dezan asked if the concrete pads were removed if that would help reduce the square foot lot coverage? Steve M., CEO, stated that yes all structures, including the cement pads count. Again, the lot and existing structures need to be calculated to know what can be done, existing structures can be replaced but they may not be able to be expanded. Steve stated that the Planning Board may move the structures to a better location if they feel it is necessary.

Diane S. asked if there had been any volume calculations for the existing structures? Mr. Dezan stated there had not been and that he wasn't certain what needed to be done to obtain these calculations. Steve M., CEO, told Mr. Dezan to call him and he would go over this with him. Diane told Mr. Dezan to make certain the volume calculations were done *before* any structures were removed.

Roger A. reviewed the septic design received and noted it was checked that this application required a first time system variance. Roger asked Mr. Dezan if the applicants had received the variance. Steve M., CEO, stated that this was not a problem, this was his jurisdiction to review, it was not a requirement at the State level, it is at the local level.

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

Roger A. stated a site inspection would be required. Several Planning Board members would do the inspection on Saturday, November 19th at 9:00 a.m. Those that could not attend would go individually. Also a Notice to Abutters would be mailed.

Nothing further was discussed.

Conditional Use Permit – Auto Sales and Service – Map 7, Lot 50D (909 Shapleigh Corner Road) – Steven DeoJay

Mr. DeoJay was present to discuss his application.

Mr. DeoJay stated he would like to open an auto repair business in the existing 30' x 40' garage he has on his property. He would also like to sell used cars in the future. Mr. DeoJay said the maximum number of vehicles for sale on site would not exceed 10 at any one time.

Mr. DeoJay stated the existing garage had enough room for 2 bays and a small office. There would be one bay for a lift and one bay to use for servicing vehicles.

Mr. DeoJay stated the waste oil would be stored in a 250 gallon drum and emptied by Clean Harbors of Portland. The used antifreeze would be stored in a 55 gallon drum and recycled by Antifreeze Recyclers of New Hampshire. The used tires would be hauled away by Fritz Tires of Arundel Maine. Any scrap metal he would bring to Gillis Lavigne. Steve M., CEO, stated that he may want to find another source for his scrap metal because Mr. Lavigne may be getting out of the scrap business. Roger A. stated some type of letter from each company was needed stating they would in fact take the waste products. Mr. DeoJay stated he had already asked the companies for a letter and was waiting for them at this time.

Roger A. asked if the parking area for the used cars would be gravel? Mr. DeoJay stated that yes it would. Roger said there would need to be a plan as to how Mr. DeoJay would prevent any leaking oil from the vehicles from going into the ground. Mr. DeoJay asked what type of plan? Steve M., CEO, stated that usually pavement is required to prevent groundwater contamination.

Roger A. explained how much of an area Mr. DeoJay would need for 10 vehicles, 2000 square feet based on the ordinance requirement of having an area 10' x 20' in size for each vehicle.

Roger A. stated that there would also need to be a way to screen the vehicles from the road and neighbors. Trees might need to be planted. Mr. DeoJay stated there was currently at least 40 feet of trees between the parking area and his neighbors.

Roger A. looked at the plan presented and asked Mr. DeoJay if the parking for his auto service area was 75' in length? Mr. DeoJay stated that it was, and this area was separate from the parking area for his own vehicles.

Roger A. asked what type of repairs would be done? Mr. DeoJay stated that all mechanical work. He had been a mechanic for 20 years working for someone else. Now he wanted to open a business doing the same thing, only working for himself.

Roger A. stated again that the parking area for the vehicles to be sold would need to be addressed. Steve M., CEO, stated that if the area was paved, then a stormwater runoff plan would be required for the area because an impervious surface was being added to the lot. Mr. DeoJay stated that he was not going to be selling vehicles at this time so he may wait to address this issue at a later date. Roger A. stated he could do just that, it would be an amendment to his original Conditional Use Permit.

On the application, Mr. DeoJay listed the hours of operation to be Monday thru Saturday, 8:00 a.m. to 5:00 p.m.

There were no further questions at this time.

Roger A. stated a Notice to Abutters would be mailed and a Public Hearing would need to be held. It will take place at 7:00 p.m. before the next Planning Board meeting. Several Planning Board members would do the inspection on Saturday, November 19th at 9:00 a.m. Those that could not attend would go individually.

Nothing further was discussed.

Other:

Definition of Formula Restaurant – Proposed Addition to Ordinance by Planning Board Member Diane Srebnick

Diane S. stated that she would like to introduce at a Public Hearing in December the idea of banning what is known as a “formula restaurant”. Diane drafted the following for the Public Hearing:

Do you want the Town of Shapleigh’s Zoning Ordinance to be amended so that fast food restaurants and formula restaurants, defined as a restaurant that stands alone or with other use(s), and which prepares food and beverage on site for sale to the public, and which is required by contractual or other arrangement to utilize any of the following: standardized menu, prescribed employee uniforms, interior and/or exterior color schemes, architectural design, signage, name, presentation format or similar standardized features which cause the restaurant to be substantially identical to another restaurant regardless of ownership or location; be prohibited in every zoning district in Shapleigh?

- Definition to be presented at town meeting after a public hearing.
- If approved, the use would be placed in the permitted use table in Shapleigh’s Zoning Ordinance. This use would be listed as prohibited in all zones within the Town of Shapleigh (for example, see “head shop” in zoning book). This addition to the Zoning Ordinance would not allow any fast food restaurants to be permitted in the Town of Shapleigh, such as a MacDonald’s, Subway, etc.
- Should the Town of Shapleigh also like to include chain or box stores, such as Wal-Mart, Home Depot, etc., there would need to be a definition created for a “formula store”.

Steve M., CEO, was concerned about not allowing formula restaurant's in "any" part of Shapleigh. He was afraid this might be viewed as discrimination to totally ban them. Steve asked if this was legal?

Diane S. replied that York Maine currently has this ordinance and it was contested but the Town of York won in court. Steve M. stated he would like to review the case law regarding the decision. Diane stated that Southern Maine Regional Planning Commission should be able to get that information for him.

Roger A. stated another idea could be to allow formula restaurants but they would need to have the exterior of the building blend with other buildings in the town and that would include signage as well. No loud colors, color schemes, etc.

John K. felt this new ordinance would be a good idea because as the Town of Sanford expands, these restaurants would be moving into surrounding towns like Shapleigh.

This will be introduced at a Public Hearing at the 1st Planning Board meeting in December.

Nothing further was discussed.

Proposed Change to Zoning Ordinance 105-45 "Planned Unit Development" – Proposed by Planning Board Member Madge Baker

Madge B. was unable to make the Planning Board meeting due to a prior commitment on Wednesday nights. During the last Planning Board meeting Madge Baker spoke of possibly introducing a zoning and / or subdivision change to encourage the clustering of subdivisions. This is what she proposed:

"Proposed changes to Shapleigh Zoning Section 105-45 "planed unit development and cluster developments".

- A. Purpose. The purpose of these provisions is" (1) to allow for new concepts of housing development, not to exclude manufactured housing units, where maximum variations of design may be allowed; (2) to protect natural resources, including but not limited to agricultural soils, unfragmented forests, undisturbed wetlands and vernal pools, and aquifers; and (3) to reduce new housing costs by reducing the costs of road and other improvements. Nevertheless, the net residential density shall be no greater in cluster developments than is permitted in the district in which the development is proposed.
- B. Subdivision procedure. The Planning Board shall require subdivision developments on reduced lot sizes in return for open space when 10 or more lots are proposed, unless the Board of Appeals rules that this requirement would result in an undue hardship as defined in section 105-71.C(2). The Planning Board may require smaller subdivisions to cluster where the Planning Board determines that the benefits of the cluster approach will both protect natural resources and reduce new housing costs, unless the Board of Appeals rules that clustering of lots would result in an undue hardship as defined in section 105-71.C(2). The subdivision application shall be accompanied by: written costs of infrastructure improvements; a written statement describing the natural features that will be preserved by the cluster approach, including prime agricultural soils if any; and a written statement comparing the financial impacts of the subdivision with and without cluster on the municipality and school district. Within 45 days of receiving a complete subdivision application the Planning Board shall determine if the subdivision must be clustered.

- C. Basic requirements: Planned unit developments and cluster developments shall meet all of the following criteria.... (no changes to the present subsection B which I have relabeled C.)

Steve M., CEO, asked why this wasn't going to be in the Subdivision Ordinance instead of the Zoning Ordinance? Roger A. stated that anything in the Subdivision Ordinance could be waived by the Planning Board at the request of the applicant whereas anything in the Zoning Ordinance could not. Steve asked why this wouldn't be placed in both Ordinances? Roger said it should be.

The Planning Board members agreed this proposal was a good idea and should be brought before the townspeople at a Public Hearing in December. Barbara G. will get a version of it written for the Subdivision Ordinance.

Nothing further was discussed.

Memo / Letters regarding the questions posed by the Angeltun's regarding property division, Shapleigh Tax Map 2, Lot 34A.

The following is correspondence regarding questions the Angeltun's had with respect to their property.

Letter to Attorney Ronald Bourque in part:

October 26, 2005

Bourque & Clegg LLC
Attorneys at Law
P.O. Box 1068
Sanford, ME 04073

**Subject: Question Regarding Property Split
Joachim & Sarah Angeltun Property Owners
Shapleigh Tax Map 2, Lot 34A**

Enclosed is a copy of page 5 of 7, from the Shapleigh Planning Board minutes. On this page is a section entitled "Sarah Angeltun – Question regarding road on her property."

Could you please read this section and help the Planning Board make a decision as to whether or not this property can be split into two properties by way of the existing road known as Break Neck Hill Road.

Also, does Mrs. Angeltun need to go through subdivision review as this was originally part of a family division, or because it was a family division, is she exempt from this process?

If you need any additional information or have any questions you may contact Code Enforcement Officer Steve McDonough as Planning Board Chairman Roger Allaire will be unavailable next week to answer questions.

We would like to have a letter of your decision by our next Planning Board meeting which is on Tuesday, November 9, 2005 if possible. Thank you.

A response from Attorney Ronald Bourque, via telephone conversation with Barbara Gilbride, Planning Board Secretary:

Members,

Attorney Ronald Bourque responded to a memo mailed to him asking his opinion with respect to a question asked by Mrs. Angeltun at our Planning Board meeting on Tuesday, October 11, 2005.

Attorney Bourque stated that with respect to the question as to whether or not a split to this lot would require subdivision review because it has originally been part of a family subdivision, his reply was no. Because the initial division was between family members and did not require Planning Board review, it does not require Planning Board subdivision review at this time. Attorney Bourque stated that this was not "even a close call".

As to whether or not Break Neck Hill Road running through Lot 34A created two lots, his answer was yes it did as long as Break Neck Hill Road had not reverted back to the land owner. We do not have a copy of the Angeltun deed in their file so it is my opinion we need to acquire a copy.

Email from Roger Allaire dated 11/8/05 in part:

I read the package (minutes and letters) and partially agree with Ron on Angeltun's issue. Speaking with Ron's partner Ms. Wallace, there is a need to know if there was a plan recorded at the registry (York County Registry of Deeds) as this would change Ron's decision. If deeds were issued to family members and no plan registered, then Ron's decision is correct. If a plan was recorded than that's a different issue.

I don't think there is any issue with the road except to ensure the road didn't revert back to the owners. I know I wasn't notified that it was reverted to owners and therefore believe its still town access. (Note: Roger also has Break Neck Hill Road running through his property.)

Memo from Barbara Gilbride, P.B. Secretary, dated 11/9/05 in part:

I have since spoken with Board of Selectman/Assessor Ruth Ham and had her investigate whether or not this parcel of property was part of a recorded family subdivision or a subdivision of any kind. Mrs. Ham contacted York County Registry of Deeds on Wednesday, November 9, 2005. After careful research, it is certain that no such subdivision is recorded. The property in question, Lot 34A, was given to a relative by the previous owner, and then sold to the Angeltun's.

Roger A. stated that in light of the above information, there should not be a problem with dividing the piece of land owned by the Angeltun's. In addition, because there appears to be no record of the Town of Shapleigh deeding Break Neck Hill Road to the property owners, it is deemed a road and does divide the Angeltun property into two parcels. The other Planning Board members agreed.

Roger A. did state that this could be a problem when it comes to issuing Growth Permits as there will be a safety issue for those traveling on Break Neck Hill Road, i.e. fire or ambulance. In the current condition of Break Neck Hill Road, it would be impassable by safety equipment.

Steve M., CEO, agreed that the road is a problem, but these are grandfathered lots of record so they can be issued a Growth Permit.

Barbara G. will give the Angeltun's a copy of these minutes once they are approved, for their records.

Nothing further was discussed.

GROWTH PERMIT(S) – *There are no more Growth Permits available for the year 2005.*

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, November 22, 2005

Members in attendance: Roger Allaire (Chairman), Madge Baker (Vice Chair), John Klimas, Lauren Meek (Alternate), and Barbara Gilbride (Member / Secretary). Code Enforcement Officer, Steven McDonough also attended the meeting.

Public Hearing Began at 7:00 p.m.

Conditional Use Permit – Auto Sales and Service – Map 7, Lot 50D (909 Shapleigh Corner Road) – Steven DeoJay

Mr. DeoJay was present for the Public Hearing.

Mr. DeoJay stated he was not going to pursue auto sales at this time. He just wanted to service cars, such as brake jobs, electrical work, and other engine repairs. Mr. DeoJay said he would not be doing tires, tire balancing or body work of any kind. He said he was going to be doing State Inspections and had sent in his application for the business to the State. He said he was licensed himself to do state inspections and has been for 17 years, but the business needed a license as well.

The hours of operation would be 8:00 a.m. to 5:00 p.m., Monday thru Saturday.

Tanya Goodwin, a citizen in attendance, stated that she lived with her parents which were a neighbor of Mr. DeoJay. She asked Mr. DeoJay, if by stating his hours of operation were to begin at 8:00 a.m., this meant he would not be making noise at 7:00 a.m., as he does at times now? Mr. DeoJay stated that that was correct.

Madge B. asked Ms. Goodwin if she could see Mr. DeoJay's house from her parent's property? Mr. DeoJay stated that there was an eight foot buffer between the two properties. Ms. Goodwin agreed.

It was asked by a member of the audience if they should be concerned with stormwater runoff from this business? There was a brook and pond behind this property and no one wanted these contaminated.

Mr. DeoJay replied, stating he would not be doing any work outside. All hazardous material, such as waste oil, and antifreeze would be put in proper containers and hauled off site. Mr. DeoJay stated he was not going to be hauling wrecked vehicles to his site, and any vehicles that leaked oil would be parked inside the garage.

Mr. DeoJay also added that he was going to be putting in a concrete container to house the barrel for the waste oil so nothing could leach into the ground.

John K. asked how far the water bodies were from the business? The citizen that was concerned with stormwater stated that they were at least 400 feet away.

The Planning Board asked Mr. DeoJay if he had a letter from the company he was going to use to haul the antifreeze off site? Mr. DeoJay stated he was waiting for a fax from the company and he had called them again today regarding the letter. But to date he has not received it. Roger A. stated the Planning Board would need this letter prior to Mr. DeoJay opening his business.

Madge B. asked if he was going to be having a sign. Mr. DeoJay stated he was and that he knew he had to go to the Code Enforcement Officer to obtain a permit for it.

Madge B. asked if he was going to be putting up any lighting for the business? Mr. DeoJay stated he had lights on the existing building at this time. There was a light over each door and two motion detection lights shining on the driveway. Mr. DeoJay stated he would add more if it was required. Madge stated it was not required, zoning required that the lighting not encroach onto the neighboring properties or shine onto Rte. 11.

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

Public Hearing closed at 7:13 p.m.

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

The minutes from Wednesday, November 9 were accepted as written.

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

Vote on Final Plan for 14 Lot Acton / Shapleigh Major Subdivision - Country Side Estates - Shapleigh Tax Map 1, Lot(s) 17 & 17D; Acton Tax Map 3, Lot 8 – Richard & Carolyn Levesque Applicants

John Hutchins from Corner Post Land Surveying, Inc., represented the owners for this project.

The Planning Board members reviewed the final subdivision plan.

Roger A. began by asking why Note #21 did not pertain to the Open Space in Shapleigh, as it did to the Conservation Area in Acton. Note #21 reads: The area shown hereon as “**Conservation Area**” is set aside for the protection and preservation of “**Isotria Medeoloides**” the Small Whorled Pogonia. No cutting of trees, brush or undergrowth is allowed. No motorized vehicles, walking paths, trails, roads, building, dumping of brush or other refuse are allowed. This area is to be left undisturbed and in a natural state for all time.

Mr. Hutchins stated that the applicants went with the recommendation of the Botanist as to what to do with respect to the orchard. Mr. Hutchins stated that the plants highest concentration is in Acton and because the area in Shapleigh cannot be built on, the numbers there should not be affected. Mr. Hutchins stated that the botanist stated the area in Acton was the most suitable for the orchid so again, this is why the area is being protected.

The letter from Botanist Paul Martin Brown read as follows:

10 October 2005

Acton

In inventorying the property of Richard Levesque known as Countryside Estates plants of the

federally listed (threatened) orchid *Isotria medeoloides*, the small whorled pogonia, were found in Acton. Although there are scattered plants (ca. 50) within the areas designated to be developed, few of the plants will actually be impacted by the development. The vast majority of plants (400+) are located within the portion surveyed of the Open Space parcel (65.50 acres in Acton). Mr. Levesque has indicated a desire to preserve this parcel in perpetuity to ensure the protection of the orchids. The preservation of these plants on the open space parcel more than offsets the possible loss of the few plants incurred during the construction of the roadway within the developed area.

Shapleigh

In inventorying the property of Richard Levesque known as Countryside Estates plants (ca.25) of the federally listed (threatened) orchid *Isotria medeoloides*, the small whorled pogonia, were found in Shapleigh. These plants are all located within the 5.38 acres indicated in Shapleigh as Open Space and therefore afforded protection from development.

Mr. Hutchins stated there was language in the protective covenants to further protect the plants. These read as follows:

Open Space.

The **Open Space** as shown on the Plan may be used for recreation by Owners and their families. However no one shall occupy or utilize this area in such a manner as to inhibit the use by others or detract from the enjoyment of its use by others. Except for the removal of hazardous trees and limbs, no further cutting of trees or clearing of brush is allowed within the Open Space. No further division of Open Space for building lots is allowed.

Conservation Area.

The **Conservation Area** as shown on the Plan is set aside for the protection and preservation of “*Isotria Medeoloides*” the Small Whorled Pogonia. No cutting of trees, brush or undergrowth is allowed. No motorized vehicles, walking paths, trails, roads, buildings, dumping of brush or other refuse shall be allowed. This area is to be left undisturbed and in a natural state for all time.

Madge B. asked why the Shapleigh land couldn't be turned into a Conservation Area as well? Roger A. wanted to know this also. Mr. Hutchins stated it was not necessary because the number of plants in this area was very limited and he believed the fact the Shapleigh land was “Open Space” would preserve what was there. Mr. Hutchins stated again they were following the recommendations of the Botanist. Madge did state that the less attention is given to a rare species the better because that way people aren't apt to disturb the plant. Madge wasn't sure what should be done as she did want the plant to be protected.

Mr. Hutchins referred back to the “Open Space” covenant which stated “. Except for the removal of hazardous trees and limbs, no further cutting of trees or clearing of brush is allowed within the Open Space. No further division of Open Space for building lots is allowed.” Mr. Hutchins believed this was best to protect this area. Madge B. agreed stating the less attention to the plants the better. Madge was concerned with nearby snowmobile trails. Mr. Hutchins stated that was an issue for the homeowners and their association. Madge agreed.

Mr. Hutchins stated he had the DEP Stormwater paperwork as well as the test pit logs that were initially omitted from the plan. The Planning Board reviewed them and they were in order.

Mr. Hutchins stated he did not have the letter of credit from the bank this evening but asked if the final plan Mylar's could be signed, with the stipulation that Acton would not sign until the letter was received.

All Planning Board members agreed they needed to have the letter of credit prior to signatures. This was a standard requirement for all subdivisions.

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

Roger A. went over the Subdivision Review Checklist for Major Subdivisions. Roger A. read each line of Final Plan Review and it was determined all required material has been received. Roger read the following:

Written notice to applicant of Board's decision and findings that the development meets or fails to meet the following guidelines as well as the standards in the Board's regulations:

The subdivision:

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 soil erosion or reduction in the capacity of land to hold water so that a dangerous or unhealthy condition results.

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 adversely affect the quality of surface water or shoreline of ponds, rivers, streams or tidal areas.

Will not alone or in conjunction with existing activities, adversely affect groundwater quality or quantity.

Will demonstrate adequate technical and financial capacity to meet the above.

Will have all buildings one foot above the base flood elevation.

Does have freshwater wetlands identified on maps.

Does have rivers, streams and brooks identified on maps.

Does have a stormwater management plan.

Will not have spaghetti lots.

Will not unreasonably increase a great pond's phosphorous concentration.

Madge B. made the motion to approve the final plan for the Country Side Estates 14 Lot subdivision with the condition the applicant submit a letter of credit for \$41,500 listing the Town of Shapleigh as beneficiary, prior to the Planning Board signing the final plan. John K. 2nd the motion. All Planning Board members were in favor.

Roger A. asked when the paving would begin for the road? Mr. Hutchins stated the paving would most probably begin soon but the finish top coat would not be down until the construction is done. Roger A. asked if this subdivision would be having sidewalk's since no waiver was requested? Mr. Hutchins stated it was an oversight; he would have the requested waiver for sidewalks on the final plan.

There were no further questions.

Barbara G. will contact members when the final plan, including the letter of credit is received.

Conditional Use Permit – Earth Moving – Map 6, Lot 53 (89 County Road) – Ronald Gallant

Mr. Gallant was present to review his application.

Mr. Gallant stated that he was before the Planning Board to extend the existing right-of-way another 475 feet in order to access the back of his lot and to create a two acre parcel from the back of the lot. Mr. Gallant stated he was having this parcel surveyed and the lot would be for sale.

The Planning Board reviewed a recorded boundary survey for Arthur J. Gallant Heirs and The Jones Family Trust. This was a signed plan by the Planning Board in June of 2000. It was noted this was not a subdivision but a boundary survey; therefore Mr. Ronald Gallant's property was not part of a subdivision and did not require subdivision review in order to create the 2 acre parcel on his property.

Steve M., CEO, stated that since this was not a subdivision, this application should be reviewed as the construction of a right-of-way as reviewed under Shapleigh Ordinance 105-60-1. The Planning Board members agreed.

Madge B. stated this being the case, the Planning Board would need an engineered plan, per the ordinance, for the road. Steve M., CEO, agreed. Barbara G. gave Mr. Gallant a copy of the application for the construction of a right of way. This application noted all the road requirements.

Roger A. asked Mr. Gallant to call Barbara G., P.B. Secretary, when he had the engineering plans completed and at that time he would be put back on the agenda. Until then, this application will be tabled. All Planning Board members agreed.

Nothing further was discussed.

Best Possible Location – Replace Existing Home – Map 23, Lot 14 (20 Long Way Road) – Robert & Cheryl Gaudet – Lee Dezan Builder

Mr. and Mrs. Gaudet were present to discuss his application along with Mr. Dezan, the contractor to be used for the new home.

At the last meeting, received along with the application was a copy of the subsurface wastewater disposal system application for a new septic system, done by John E. Large, SE #7, dated 10/11/05. Also received was a sketch plan done by Corner Post Land Surveying, Inc., dated 8/31/05, showing the existing home, concrete pad, pump house, shed and bunk house and a picture of the proposed 30' x 46' cape style home the Gaudet's would like to build.

Mr. Gaudet stated that he would like to remove the bunkhouse and build one the exact same size, setting it back further from the water. He added that the proposed new camp would also be set back further from the water, both benefiting the lake.

Mr. Gaudet stated that since it was noted at the last meeting that his land has a right-of-way on it, and that ROW cannot be used to calculate total land area, he would not be able to expand the new home 30% but instead only 20% as calculated by the surveyors. Mr. Gaudet did not understand why, since he pays taxes on the right-of-way? He also said again they wanted to move both the bunkhouse and home farther back from the water and added the fact that only a portion of the new home would be within 100 feet of the water.

Mr. Gaudet stated that the plumbing that is currently in the bunkhouse is in poor condition and is turned off because it is not known exactly what it drains in to, it may be the ground. He said they would like to plumb the new bunkhouse into the proposed new septic system.

Mr. Gaudet stated that when moving the new home back farther from the water he would need to cut into the hill behind the existing home, which created more work and cost, but again they would be moving it back farther from the water. He wanted to know if the Planning Board would consider allowing the full 30% expansion based on this fact. He added that if he could have included the right-of-way the lot would have 13,922 square feet, but he loses 1,277 square feet, making it only 12,645 feet of usable lot coverage to calculate from. The existing bunkhouse is 300 sq. ft. The new home would only be able to be 964 sq. ft. because of the right-of-way. They would like 1,050 to 1,100 sq. ft. for the new home.

Roger A. stated that because lot coverage was in Shapleigh's Zoning Ordinance the Planning Board could not grant the additional square footage for the new home. Roger stated that the Gaudet's could try to get a variance from the Zoning Board of Appeals.

Mr. Gaudet stated that it was not beneficial for him to move the new home back since it did not make any difference on the allowed size of the new home. Roger A. stated that the Planning Board had the right to place the new home in whatever location they felt was best for the lot and that may be to move it back farther from the water as the Gaudet's suggested.

Mrs. Gaudet asked if they needed to appeal to the State? Roger A. stated that no, their first step was to Shapleigh's Zoning Board of Appeals. Steve M., CEO, stated that if they applied now, they could get on the January agenda.

Mrs. Gaudet asked if they could rebuild the bunkhouse and the new home to the size allowed at present, which is 964 sq. ft, then go to the appeal board to get the extra square footage they wanted? Roger A. stated anyone has the right to apply for a variance.

Roger A. read three letters received from abutters. One from a Maxine Dragnich wanting to make certain any construction equipment or debris did not get placed on her property. She also wanted to be certain the new septic system / leach field was done properly. A letter was received from a Harold Beard and Florence Beard, and their concern was with lot coverage, making certain it wasn't exceeded. They also asked if the bunk house was being included in the 30% expansion proposal. Last, a letter from Jeanne Klump and Barbara Pegrum was received. They were also concerned with lot coverage, noting the parcel of land was only .19 of an acre. They also stated that the existing septic system had had problems in the past affecting the neighbors.

Mrs. Gaudet asked if they needed to reply or respond to any of these letters. Madge B. stated no, they were read for the Planning Board's benefit and so noted. Roger A. stated that the Planning Board could only review an application based on what the ordinance did or did not allow. Although, concerns were expressed, the Planning Board acts on an application based on whether or not an applicant meets the criteria of the ordinance. Madge agreed.

A Mr. Norman Baker, a year round neighbor, asked to speak. He stated that he believed the Gaudet's were good neighbors and he was happy they wanted to improve their property. He felt it would benefit the neighborhood as a whole.

The applicants were still not quite sure how the 30% expansion was calculated with respect to lot coverage.

Steve M., CEO, stated that the bunkhouse, shed and home counts toward the 10% lot coverage calculation but each building stands alone with respect to 30% expansion. Each building cannot be expanded by more than 30%. If the lot allowed the home could be expanded 30% and the bunkhouse. In this case however, it appears the lot isn't large enough to accommodate this.

Mr. and Mrs. Gaudet decided to have their application tabled until they decided exactly what they wanted to do, either expand to the size allowed or apply for a variance. They would contact the Planning Board when they had a new plan.

Nothing further was discussed.

Conditional Use Permit – Auto Sales and Service – Map 7, Lot 50D (909 Shapleigh Corner Road) – Steven DeoJay

Mr. DeoJay was present to discuss his application.

Mr. DeoJay, as previously stated, applied to open an auto repair business in the existing 30' x 40' garage he has on his property. He decided not to sell used cars at this time. Mr. DeoJay said the maximum number of vehicles on site would not exceed 10 at any one time. The existing garage would house 2 bays and a small office. There would be one bay for a lift and one bay to use for servicing vehicles.

Mr. DeoJay stated previously the waste oil would be stored in a 250 gallon drum and at tonight's meeting stated it would be removed by Advanced Liquid Recycling, Inc. The used antifreeze would be stored in a 55 gallon drum and recycled by Antifreeze Recyclers of New Hampshire. The used tires would be hauled away by Fritz Tires of Arundel Maine. Any scrap metal would be brought to Daney's Auto Salvage. Mr. DeoJay stated the hours of operation would be Monday thru Saturday, 8:00 a.m. to 5:00 p.m.

Roger A. asked if there were any further questions for Mr. DeoJay. (A Public Hearing was held at 7:00 p.m. for this application.) There were none.

Roger reviewed **Shapleigh Zoning Ordinance 105-73.G** "Standards applicable to conditional uses".

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. ***It will not affect the wildlife or the surrounding water bodies per the plan presented that all work shall be performed inside the building and all hazardous waste placed in proper containers and removed from site by licensed waste companies.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. *N/A*
- 3) The use is consistent with the Comprehensive Plan. ***The Comprehensive Plan encourages businesses along Rte. 11.***
- 4) Traffic access to the site is safe. ***It is, the site distance requirement of a minimum of 315' has been met or exceeded.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***Not in a designated flood zone.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***All waste shall be placed in proper containers and removed from site from licensed waste removal companies. Letters were received from Daney's Auto Salvage for the scrap metal; Antifreeze Technology Systems for the antifreeze; and a letter shall be received from Advanced Liquid Recycling for the waste oil, prior to the business opening.***

- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***All waste shall be placed in proper containers and removed from site from licensed waste removal companies. Letters were received from Daney's Auto Salvage for the scrap metal; Antifreeze Technology Systems for the antifreeze; and a letter shall be received from Advanced Liquid Recycling for the waste oil, prior to the business opening.***
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***There have been no changes to the existing site that would affect the flow of stormwater and the topography is such that all water would move toward the back of the property.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***There have been no changes to the site that would cause erosion. The area has adequate ground cover in existence.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***There is easy access to the fire hydrant within 500 feet of the property.***
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. ***There is existing vegetation surrounding the property which shall not be disturbed.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

Mr. DeoJay asked what he could do about trees that ran along Rte. 11 that did hamper visibility to some degree when pulling out of his driveway. He stated that he spoke with his neighbor about having the removed but they did not want to at this time. Steve M., CEO, asked how close they were to Rte. 11. Mr. DeoJay stated within 8 feet of Rte. 11. Steve said he needed to contact the Maine Dept. of Transportation. It was likely these trees were on state land since Rte. 11 was 66 feet in width. They may remove them if they are.

John K. asked when Mr. DeoJay was going to put in the cement container for the hazardous waste containers? Mr. DeoJay stated that he wanted to do it in the spring, after the ground thawed. Steve M., CEO, stated that there would need to be a cement pad placed down and the cement container placed on the pad. Mr. DeoJay stated that currently there was a cement pad for the barrel but he wanted to add additional containment. Steve told Mr. DeoJay to contact him if he had any questions.

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

Madge B. made the motion to approve the Conditional Use Permit to open and operate a auto repair facility, in the existing garage, with the following conditions:

- 1) **Hours of Operation shall be Monday thru Saturday, 8:00 a.m. thru 5:00 p.m.**
- 2) **A maximum of 10 vehicles shall be allowed on site for servicing.**
- 3) **All work done shall be done inside the garage.**
- 4) **Hazardous liquid waste shall be removed by Advanced Liquid Recycling, Inc. Used coolant shall be removed by Antifreeze Technology Systems. Daney's Auto Salvage shall take all scrap metal. Should you use another company, you shall notify either the Code Enforcement Officer or the Planning Board.**
- 5) **A letter from Advanced System Recycling must be received for the waste oil, prior to the business operating.**
- 6) **Any signage shall be permitted through the Code Enforcement Officer.**

John K. 2nd the motion. All members were in favor.

Nothing further was discussed.

Subdivision – Lot #4 of Great Hollow Acres – Preliminary Plan – Map 10, Lot 2-4 (Town Farm Road) - H. Craig Higgins, Development Services, Inc. Representative; Applicant / Owner, Thomas J. Small

Mr. Small was present to discuss his application, along with Project Engineer Mike Haskell who works closely with Mr. Higgins from Development Services.

Mr. Small described what he wanted to do. Mr. Small owns Lot 2-4 from the previously approved Great Hollow Acres Subdivision. This lot is 13.46+ acres in size. From this lot, Mr. Small would like to cut a 1.89+ acres lot, to be put up for sale, once approved by the Planning Board. Restrictive covenants will be imposed upon both lots which includes: Commercial uses Prohibited; One House Only per Lot; No Mobile Homes Allowed; Trailers and Tents Allowed but Subject to Local Ordinances; Only Ordinary Household Pets Allowed; Building Construction in Building Envelopes Only; Dug Wells Prohibited; and any other Plan Specific Notes placed on the final plan.

Mr. Small also noted the proposed driveway location and proposed location of his home, which will be placed on the larger lot (11.57+ acres).

Roger A. stated he had a problem with continually adding additional lots to the Great Hollow Acres Subdivision because it has become a major subdivision incrementally without the benefit of one internal road. This new division will be creating lot #9.

Madge B., after looking at the proposed lot, did not see where there would be a benefit to an internal road at this location, but she did add that the Planning Board members could look at the condition of the existing external road, i.e. Town Farm Road.

Mr. Haskell stated that he did not know what the future plans were for the remaining land, he would need to speak with Mr. Higgins. Mr. Haskell could see how Roger A. would be concerned with the additional lots but again he did not know what there were for future plans. He was only aware of Mr. Small's proposal to cut one lot from his property.

After looking at the proposed plan, Madge B. noted that part of the proposed 1.89 acre lot had a 50' x 100' drainage easement which was part of the lot frontage on Town Farm Road. Madge did not believe an easement could be counted as frontage and that maybe the lot configuration would need to be changed. Mr. Small stated that that would not be a problem because he had more than enough lot frontage to change proposed lot lines. The length and width could be changed as this is only the preliminary stage. Mr. Haskell agreed.

Because the covenants for this lot division were the same as what was approved on the original plan, and the Planning Board members had the original plan to review at this time, there were no additional questions for Mr. Small or Mr. Haskell.

Roger A. stated a Public Hearing would be scheduled for Tuesday, December 13 at 7:00 p.m. Also a Notice to Abutters would be mailed. A site inspection would be done by members at a time that was convenient for each member.

Mr. Haskell stated he would have the new plans, changing the lot dimensions, ready for that meeting.

There was no further discussion.

Other:

Roger A. noted the memo from Barbara G. that a workshop would be held with the Board of Selectmen at 6:00 p.m. on Tuesday, December 6th to discuss the Town of Shapleigh gravel pit. All members were encouraged to attend.

GROWTH PERMIT(S) – *There are no more Growth Permits available for the year 2005.*

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, December 13, 2005

Members in attendance: Roger Allaire (Chairman), Madge Baker (Vice Chair), John Klimas, Lauren Meek, Diane Srebnick (alternate) and Barbara Gilbride (Member / Secretary). Code Enforcement Officer, Steven McDonough also attended the meeting.

Public Hearing Began at 7:00 p.m.

Proposed Changes to the Zoning Ordinance to Regulate “Formula Restaurants

Roger A. stated that this was being presented to the townspeople to see if the town would like to regulate fast food and formula restaurants.

Roger A. reading the following:

Do you want the Town of Shapleigh’s Zoning Ordinance to be amended so that fast food restaurants and formula restaurants, defined as a restaurant that stands alone or with other use(s), and which prepares food and beverage on site for sale to the public, and which is required by contractual or other arrangement to utilize any of the following: standardized menu, prescribed employee uniforms, interior and/or exterior color schemes, architectural design, signage, name, presentation format or similar standardized features which cause the restaurant to be substantially identical to another restaurant regardless of ownership or location; be prohibited in every zoning district in Shapleigh?

Roger A. asked if there were any comments from the townspeople in attendance?

Citizen – Why do we need this? The Citizen stated that he did not see why a restaurant such as a Subway would be a problem for the town. He stated that there were currently zones in the town that were designated as light industry and retail such as routes 109 and 11.

Diane S. – We don’t have any designated zones in Shapleigh. In the zoning ordinance we do not have a commercial zone at this time, only General Purpose, Shoreland, etc.

Citizen – Why do we need an ordinance to specifically single out companies such as Subway or McDonalds or Duncan Donuts, etc.? Why should they be excluded from this town? He stated that he knew Ogunquit had passed this ordinance and York, but they also have Rte. 1 where there are restaurants, hotels, motels, etc. and these generate a good deal of revenue for the town. They have more leeway than Shapleigh.

Diane S. – The Planning Board isn’t saying they want this; the Planning Board is looking for feedback from the townspeople to see if they would be interested in doing this. If the majority of the town does not want formula restaurants, now would be the time to do something about it before there is an application before the board.

Citizen – Restaurants would need to meet certain requirements now before they can come into town, anyway so why ban them?

Diane S. – Stated again that the Planning Board just wanted to make certain that this is not something the town wants, because once there is an application, you can't go back and do anything about it. But if the townspeople do not care if formula restaurants come into town, then that is fine and this will not be presented at town meeting.

Citizen – This ordinance seems as bad as saying we don't want certain people in town of certain ethnic groups because 50 people in town don't want them. This makes no sense and it also would prevent additional tax revenue that is needed in this town. In the past we passed an ordinance saying we couldn't have restaurants in the Shoreland zone. We did this because of an individual that caused problems on Square Pond.

Madge B. & Roger A. – This is not true. This ordinance was in place before this person came to town.

Citizen – Because of this ordinance someone who wanted to open a coffee shop could not. So instead a fish market went in which has a much greater impact than the coffee shop would have. How did this ordinance make sense? Blanket ordinances cover everything. We need to be careful when we create a new ordinance.

Citizen – We have ordinances in place to regulate signs, traffic flow, etc. Why do we need to ban a formula restaurant?

Diane S. – This was brought to the Planning Board's attention at the time we were reviewing an application for a donut shop. Barbara G., the Planning Board secretary, received several telephone calls asking if the donut shop going in was a Duncan Donuts and if so they did not want to see one in their neighborhood. Also, in Cornish this year, they received an application for a Duncan Donuts and Subway and the majority of the townspeople came to the Public Hearing saying they did not want them in their town but they did not have an ordinance to stop it so we felt we needed to ask the townspeople of Shapleigh what they felt about this type of ordinance. The Planning Board has to plan for the future but if no one wants this, then it will not be added to the ordinance.

Citizen – I would like to comment on this statement. This approach is "two people were concerned a Duncan Donuts was coming into town", but instead the fact is 998 people were not concerned. Even if 50 people didn't want one, there are hundreds of people in this town that are not saying this. I respect what the Planning Board is trying to do; this is the easy approach to outlaw this completely. Maybe something more acceptable would be permitting this only in certain areas of town.

Diane S. – There are different approaches such as regulating the design of the buildings so it would fit in more with the character of the town. We could limit the size of the building, the areas where they could be located. Restrict to routes 109 and 11. So yes, there are different approaches which is why we are bringing this up to the townspeople to get their opinion.

Citizen – Yes, but as this is written, this is going to totally ban formula restaurants.

Diane S. – Correct, but this ordinance can be changed.

John K. – We are looking forward to the future. We want to make sure the people of Shapleigh can preserve the character of Shapleigh, whatever that is in their minds. We want to address this issue now, especially as Sanford expands, these businesses will move closer to our borders. The Planning Board is

just trying to lay the groundwork now for what the townspeople want for their town in the future. What should the town of Shapleigh be like in 15 or 20 years? This is why we are bringing this to everyone's attention.

Citizen – By presenting this ordinance now, this almost encourages people who don't care one way or the other to say they don't want formula restaurants. We might be better off to look at the comprehensive plan and say that we want businesses along areas of route 109 and 11 in certain zones. This should be presented and see if people want this. If they do not then we could look at this proposal or other ideas.

Diane S. – This is why we are presenting this, to get input for businesses.

Citizen - Asked about the three bullets that were listed below the definition of Formula Restaurant, they read as follows:

- Definition to be presented at town meeting after a public hearing.
- If approved, the use would be placed in the permitted use table in Shapleigh's Zoning Ordinance. This use would be listed as prohibited in all zones within the Town of Shapleigh (for example, see "head shop" in zoning book). This addition to the Zoning Ordinance would not allow any fast food restaurants to be permitted in the Town of Shapleigh, such as a MacDonald's, Subway, etc.
- Should the Town of Shapleigh also like to include chain or box stores, such as Wal-Mart, Home Depot, etc., there would need to be a definition created for a "formula store".

The citizen asked if he was correct that the third bullet had nothing to do with what was being discussed tonight. He asked if it was just to look for information from the townspeople.

Diane S. – That is correct.

Madge B. – When looking at route 109 as the obvious place to put businesses, so much of it is in the Shoreland zone. So there is a real limitation to using route 109. Also allowing business on all of route 11 might be a problem as well. There are possible areas along these roads, but to state all of route 11 or 109 might not be the best idea. We need to review this more closely.

Citizen – Route 11 is very narrow in some areas, and an increase in the volume of traffic could be an issue. Also there is a big difference between summer and winter traffic.

Everyone in the room agreed that commercial zoning would need to be looked at carefully, that a blanket statement that all of route 11 and 109 should be commercial, would not be a good idea.

Citizen – We need to look at this further instead of saying we do not want to allow formula restaurant's ever. Perhaps just having the buildings fit in with the landscape is a better approach. An example would be the town of Freeport, all the buildings blend in well with the town.

There were no further questions for this proposed ordinance change.

Proposal to amend Zoning Ordinance 105-45 "Planned unit development and cluster developments"

Roger A. read the proposal for a change to Zoning ordinance 105-45 "Planned unit development and cluster development". Roger stated this proposal was to try to create more cluster developments when large subdivisions were proposed.

The changes were as follows:

105-45. Planned unit development and cluster development.

A. Purpose. The purpose of these provisions is:

- (1) To allow for new concepts of housing development, including developments for manufactured housing units, where maximum variations of design may be allowed.**
- (2) To protect natural resources, including but not limited to agricultural soils, unfragmented forest, undisturbed wetlands and vernal pools, and aquifers.**
- (3) To reduce new housing costs by reducing the costs of roads and other improvements.**
 - (a) Nevertheless, the net residential density shall be no greater in cluster developments than is permitted in the district in which the development is proposed.**

B. Subdivision procedure. The Planning Board shall require all major subdivisions, as defined in Chapter 89 Subdivisions, on reduced lot sizes in return for open space, unless the Planning Board rules that clustering is not feasible due to topography, soils, or other immutable features of the property. The subdivision application shall be accompanied by:

- (1) Written costs of infrastructure improvements.**
- (2) A written statement describing the natural features that will be preserved by the cluster approach, including prime agricultural soils if any.**
- (3) A Written statement comparing the financial impacts of the subdivision with and without cluster on the municipality and school district.**
 - (a) Within 45 days of receiving a complete subdivision application the Planning Board shall determine if the subdivision must be clustered.**

Citizen – On change B(2), the attempt to preserve prime agricultural soils, it is a great idea. Will this area be farmed?

Roger A. – It depends on the area. For example, a development placed where the blueberry plains are now, if an area was kept open, the homeowners association could farm this.

Citizen – The people who own the clustered homes, they are the association, so they make the decision? The area could be left natural or farmed? It could be put in the subdivision restrictions?

Roger A. – Yes, each subdivision is looked at individually because the topography of the land dictates what would be best for the area.

Citizen – So the Planning Board could require the land be farmed?

Roger A. – Probably not. The association could look at whether they want to farm it, leave it open, or give it to a land preservation committee in the town. They have choices.

Citizen – If you have a 20 acre parcel and put 10 homes in on one half acre each, and you are conveying 15 acres to the town, how does this affect the taxing revenue? How is it assessed?

Madge B. – You aren't conveying the land to the town.

Steve M., CEO – You have 15 acres of open space forever where no houses can be built, but this land remains attached to the house lots, it isn't separate.

Citizen – I like the concept but how are these houses assessed?

Roger A. – This is a question for the Board of Selectmen. We do not know how property is assessed.

Steve M., CEO – The issue of taxes is going to come up with any changes to zoning ordinances; it came up on the issue of restaurants, now for Cluster developments. Somewhere you have to weigh the balance. What are we looking for? Are we looking for maximum tax value in this town or do we want to preserve some open space and quality of life to keep the natural characteristic of the town? I feel you would want both.

Roger A. explained that at the last town meeting the Planning Board proposed a change to the cluster subdivision ordinance that made it easier for a developer to choose a cluster subdivision. It is no longer mandatory for all cluster subdivisions to have central water and sewer. Instead it is looked at on a case by case basis and if it is not necessary for a central unit, it is not required. The Planning Board hoped this would make clustering of houses a preferred choice by developers.

Citizen – You want to make it a requirement to cluster houses but maybe the area isn't suitable for it.

Roger A. agreed, stating the board members would need to look at topography, soils, etc. to make certain this was a suitable area for a cluster development. If it can't be done then an alternative design will need to be presented.

Citizen - Isn't it smarter to have a developer with his team of topography experts, soils scientists, etc. look at the area and approach with the best use for the area? Instead of saying it has to be cluster housing.

Roger A. – Yes, we believe they would review it like this.

Citizen – Do we have to have them present it as a cluster development?

Roger A. – If they do not want to cluster, then they just need to tell us why it would not be feasible. As a board we do a site inspection as well to review the area. So along with the developer's information, we would make an assessment.

Madge B. – The fear is the very place you want to put 10 acre lots in because you think they are going to bring in the big dollars is the very place the town doesn't want them. So if you leave it up to the developers we lose the areas we want to preserve. The farther out in the country you go, the more likely a developer will think a larger lot is going to be cost effective.

Citizen – In section A.3 (a) **“Nevertheless, the net residential density shall be no greater in cluster developments than is permitted in the district in which the development is proposed.”**

Citizen – Right now it is two acre lots. So right now if you want a 10 unit cluster development, the developer would need a 20 acre parcel of land?

Roger A. – Yes, as a minimum.

Citizen – I am in favor of this because the urban sprawl, the larger lots, leaves more and more acreage to be lost. There are fewer areas for hunting and other recreation. It was mentioned earlier that some of this land could be turned over to the town. Wouldn't this have to remain as part of the subdivision?

Madge B. – Yes.

Citizen – The open space has to be part of the subdivision and it could not be turned over to the town.

Madge B. – Correct, the town isn't going to take the land.

Diane S. – Goose Pond Overlook Subdivision is a good example. 30 acres was set aside and a land trust is overseeing the area, but it still remains part of the subdivision.

There were no further questions for this proposed ordinance change.

Roger A. stated the last proposed change would be to the following:

§ 105-19. Notes to table on dimensional requirements.

- I. Additional detached dwelling units in excess of one on a single lot shall require review and approval by the Planning Board. A site plan certified by a registered land surveyor, licensed in the State of Maine, showing all existing and proposed structures, and other pertinent information relating to the possible division of land shall be submitted to the Planning Board. The Planning Board shall determine that the property and all structures can meet the current zoning and setback requirements if the property were to be divided.**

Steve M., CEO, who was proposing this ordinance change, asked if it would be preferable to place this under 105-17 Land Uses instead of 105-19. After some discussion board members agreed 105-17 might work best. It would read as follows:

105-17. Land uses.

Residential

| | RP | SD | GP | FD | SP |
|------------------------|-----|------------------|------------------|----|--------------------|
| Single-family dwelling | --- | CEO ⁴ | CEO ⁴ | CU | CEO ^{1,4} |

Notes:

- 4 Additional detached dwelling units in excess of one on a single lot shall require review and approval by the Planning Board. A site plan certified by a registered land surveyor, licensed in the State of Maine, showing all existing and proposed structures, and other pertinent information relating to the possible division of land shall be submitted to the Planning Board. The Planning Board shall determine that the property and all structures can meet the current zoning and setback requirements if the property were to be divided.**

Citizen – Is this ordinance for single lots that might already have multiple homes?

Steve M., CEO – In general, anytime you create an ordinance anything that already exists that may have fallen under the ordinance is grandfathered. You don't go back and require existing structures to meet the new requirement. But yes, this is for single lots with more than one dwelling on them.

Steve M., CEO – We don't have anything in place to ensure that if the lot is divided in the future, the structures or septic systems will meet setbacks. The reason I am concerned is that with current case law the courts opinion has been if you have two dwellings on one lot now, then it is functionally subdivided already, therefore the property owner has the right to divide it regardless of whether or not it meets setbacks.

Madge B. – Madge agreed that the courts do permit the property to be divided and she agreed with Steve it would be best if the dwellings did meet setbacks if the property was divided.

Roger A. – Stated again that this ordinance, if passed, would pertain only to new dwellings. Everything in existence today would be grandfathered.

Citizen – Why would a person need a certified plan done by a surveyor?

Roger A. – Very often people do not really know where their boundaries are. The survey will show where they are so again, the setbacks would be correct. Many properties today do not have a survey or property pins have been moved or cannot be found.

There were no further comments on the proposed zoning change.

Subdivision – Lot #4 of Great Hollow Acres – Preliminary Plan – Map 10, Lot 2-4 (Town Farm Road) - H. Craig Higgins, Development Services, Inc. Representative; Applicant / Owner, Thomas J. Small

Mr. Small was present to discuss his application, along with Project Engineer Mike Haskell who works closely with Mr. Higgins from Development Services.

Mr. Haskell began by stating Mr. Small owned Lot 10, Lot 2-4 of Great Hollow Acres Subdivision. Mr. Small wishes to cut out a 2 acre piece from his 13.46+ acre lot. There will be two entrances, one for each parcel. There is 200 feet of frontage on the new lot. The new lot contains an easement 50' x 100' in size so additional land was added to the new parcel to make up the difference. The new lot will now be 1.97 acres in size. This moves the rear lot line of the new parcel back 20 feet.

Roger A. asked if there were any questions?

Citizen – Why is this being reviewed as a subdivision where only one lot is being created from the existing lot?

Roger A. – The lot, known as lot 2-4 comes from a previously existing subdivision known as Great Hollow Acres on the Town Farm Road. This is an additional lot being added to the subdivision so this is being reviewed as an amendment to a subdivision.

Citizen – Why is the new lot 1.97 acres instead of 2 acres?

Mr. Haskell – In Shapleigh 80,000 square feet is required for a house lot, the 1.97 acres covers this requirement with additional acreage to make up for the easement on the property.

Roger A. agreed.

Roger A. – There are only two requested waivers, for sidewalks and stone monuments. The rest of Great Hollow Acres Subdivision also asked for a waiver for underground utilities. Did you omit this accidentally or do you intend on having underground utilities?

Mr. Small – Yes, I am going to have underground utilities for both lots. I prefer this.

Roger A. stated this was fine.

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

Public Hearing closed at 8:00 p.m.

The Planning Board meeting started at 8:06 p.m.

The minutes from Tuesday, November 22nd were accepted as amended. The following change was made to page 2 of 10: Mr. Hutchins stated that the botanist stated the area in Acton was the most suitable for the orchard orchid so again, this is why the area is being protected.

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

Subdivision – Lot #4 of Great Hollow Acres – Preliminary Plan – Map 10, Lot 2-4 (Town Farm Road) - H. Craig Higgins, Development Services, Inc. Representative; Applicant / Owner, Thomas J. Small

Mr. Small was present to discuss his application, along with Project Engineer Mike Haskell who works closely with Mr. Higgins from Development Services.

Roger A. stated that the road frontage for the new lot was 200 feet and even though there was an easement along Town Farm Road, because this was not a major road no additional road frontage was necessary to meet the zoning requirement.

Roger A. stated that the Planning Board did a site inspection and the land looked o.k. for what was being proposed.

Roger A. stated that having sprinkler systems in the proposed homes was acceptable by Planning Board members for fire protection. Roger stated that all the proposed Deed Restrictions were also acceptable to board members. The same conditions were proposed and approved on the original subdivision plan for Great Hollow Acres.

Roger A. asked Planning Board members if they had any additional comments regarding the Preliminary Plan or if they felt anything additional would be required for the Final Plan. All board members felt the applicant could present the final plan based on all material presented.

Mr. Haskell stated that the Final Plan would be ready for the next Planning Board meeting on Tuesday, December 27th.

Nothing further was discussed.

Best Possible Location – Replace Existing Home – Map 23, Lot 14 (20 Long Way Road) – Robert & Cheryl Gaudet – Lee Dezan Builder

Mr. and Mrs. Gaudet were present to discuss their application along with Mr. Dezan, the contractor to be used for the new home.

Received along with the application was a copy of the subsurface wastewater disposal system application for a new septic system, done by John E. Large, SE #7, dated 10/11/05. Also received was a sketch plan done by Corner Post Land Surveying, Inc., dated 8/31/05, showing the existing home, concrete pad, pump house, shed and bunk house and a picture of the proposed 30' x 46' cape style home the Gaudet's would like to build.

At the previous meeting Steve M., CEO, stated that the bunkhouse, shed and home counts toward the 10% lot coverage calculation but each building stands alone with respect to 30% expansion. Each building could not be expanded by more than 30%. If the lot allowed the home could be expanded 30% and the bunkhouse. In this case however, it appears the lot isn't large enough to accommodate this. The Planning Board asked the Gaudet's to decide how they would like to approach their application, either to redesign the home so it would meet the lot coverage requirement or go for a variance.

At this evening's meeting a new plan was presented which met the 10% lot coverage requirement. The new plan also showed the replacement structures would meet the 30% expansion requirement.

Diane S. asked if the existing bunk house would be torn down and replaced with a new structure? Mr. Gaudet stated, "Yes".

The applicants were asked if a new septic system was going in? Mr. Gaudet stated, yes, he had submitted the new design along with his application. Barbara G. confirmed his statement.

It was noted that the existing bunkhouse contained a kitchen and a bathroom so it could be replaced without a Growth Permit.

Several Planning Board members, along with the CEO, noted that the lot had an existing right-of-way bisecting the lot. The question was posed as to whether or not this created two lots. If it did, the new plan for the replacement structures may not meet the lot coverage requirement. After much discussion it was decided before the Planning Board could make a decision on the application they would have to consult with the town attorney to make certain the lot coverage maximum of 10% would not be exceeded. The following questions would be posed to Attorney Ronald Bourque:

The Planning Board would like to have your opinion on the following:

1. Because there is an existing right-of-way (row) on the property, are the applicants able to use the land on both sides of the row to calculate lot coverage or does the row create two lots, thereby reducing the existing square feet allowed to only that which is on the lot on which the home is located at this time?

2. If the applicants are only able to utilize the land on which the homes are located because of the fact the row splits the property into two lots, could the Planning Board still allow the applicants to use both parcels if they put a stipulation in their deed that both parcels are to always remain in one ownership?

As there were no additional questions, **Roger A. made the motion to table this application until the Planning Board received a decision from Attorney Ronald Bourque. Madge B. 2nd the motion. All members were in favor.**

Barbara G. will contact the applicants when the Planning Board receives information.

Nothing further was discussed.

Other:

- Madge B. stated that she was going to review the proposed change she presented regarding the clustering of homes in a major subdivision. She stated she may want to add the change to the subdivision ordinance only, instead of the zoning ordinance.
- In addition, Roger A. and Madge B. stated that Shapleigh Zoning Ordinance 105-45.B.2 should be changed to read as follows:

- (2) The minimum area of land in a planned unit development or cluster development shall be ~~six~~ **ten** acres.

This change is so both the subdivision ordinance and zoning ordinance reflect the same requirement. All board members agreed to this change.

Nothing further was discussed.

GROWTH PERMIT(S) – *There are no more Growth Permits available for the year 2005.*

The Planning Board meeting ended at 8:30 p.m.

Respectively submitted,

Barbara Gilbride

Planning Board Secretary planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES

Tuesday, December 27, 2005

Members in attendance: Roger Allaire (Chairman), Madge Baker (Vice Chair), John Klimas, Diane Srebnick (Alternate) and Barbara Gilbride (Member / Secretary). Code Enforcement Officer, Steven McDonough also attended the meeting.

Diane Srebnick was an acting regular member this evening replacing Lauren Meek who was unable to attend.

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

The minutes from Tuesday, December 13th were accepted as written.

The following is written in the order it was reviewed:

Subdivision – Lot #4 of Great Hollow Acres – Preliminary Plan – Map 10, Lot 2-4 (Town Farm Road) - H. Craig Higgins, Development Services, Inc. Representative; Applicant / Owner, Thomas J. Small

Project Engineer Mike Haskell who works closely with Mr. Higgins from Development Services was in attendance to represent the applicant.

This application was presented to cut a two acre parcel of land from Mr. Small's 13.46+ acre lot which is located on Map 10, Lot 2-4 of Great Hollow Acres Subdivision. During the Planning Board meeting on Tuesday, December 13th, the Planning Board reviewed the checklist for major subdivision and agreed that this division met all the requirements in the subdivision and zoning ordinance.

The following is the finding of facts for this new division based on all information presented to the Planning Board.

TOWN OF SHAPLEIGH PLANNING BOARD

FINDINGS OF FACT AND APPROVAL For Lot #4 of Great Hollow Acres Shapleigh Tax Map 10, Lot 2-4

| | |
|--------------------------|--|
| Applicant & Owner: | Thomas Small 128 Apple Road Shapleigh, ME 04076 (207) 636-2827 |
| Authorized Agent: | H. Craig Higgins Development Services, Inc. 31 Farms Edge Road North Yarmouth, ME 04097 (207) 846-6619 |

BACKGROUND INFORMATION

Thomas Small has demonstrated a legal interest in the property by providing a copy of the Warranty Deed dated June 20, 2005, registered as Book 14498, Page 276-279 at the York County Registry of Deeds. The applicant proposes to establish a single division of lot #4 of the previously approved Great Hollow Acres subdivision on Town Farm Road. Great Hollow Acres 4-Lot Subdivision was approved on October 26, 2004, plan recorded in Plan Book 297, Page 7 of YCRD. The total land area for lot #4 is 13.46 acres; the lot area to be divided from lot #4 shall be 1.97 acres, leaving 11.57+ acres for the remaining Small lot. The minimum lot size, street frontage and setbacks are in compliance with Shapleigh Zoning Ordinance 105-18 "Dimensional Requirements" for a major subdivision.

The Planning Board determined the preliminary application was completed on December 13, 2005. A Public Hearing was held on December 13, 2005. Notification was sent to the Road Commissioner's and Fire Chief. The Planning Board received the Final Subdivision Plan on December 27, 2005 by representative, H. Craig Higgins.

Water is to be supplied by private wells. Sewage is to be disposed of by individual subsurface disposal systems. Site evaluations for the lots, meeting the requirement of the Maine Plumbing Rules, were completed by James Logan, Licensed Site Evaluator #237, dated November 17, 2005.

The stormwater plan dated September 8, 2004 for the Great Hollow Acres subdivision presented for ditching, silt basins and rip rap placed along the Town Farm road was completed and is sufficient for the frontage of the division of land along Town Farm Road for this division. No additional information or road construction is necessary. There shall be two driveway entrances onto Town Farm road for each lot. Both entrances shall be approved by the Road Commissioner.

WAIVERS REQUESTED

The Applicant has requested that the Board waive the requirement for Article 89-30.A, Stone monuments; and Article 89-36.M, Sidewalks.

BOARD'S FINDINGS OF FACT

Preliminary Findings

As a preliminary finding of fact, the Board finds that the proposed Subdivision falls under the provision of the Shapleigh Subdivision Code, which relates to Major Subdivision, this being "Subdivision of Land, Chapter 89, Town of Shapleigh".

Specific Findings

Based on the preliminary findings set forth above, the Board makes the following specific findings in accordance with Shapleigh Subdivision Ordinance 4404 "Review Criteria".

The Planning Board finds that Lot #4 of Great Hollow Acres Subdivision:

1. Does not result in undue water or air pollution.
 - *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 November 11, 2005.*
 - *There is a 50 foot wetland setback around the wetland areas on Lot #4.*
 - *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 contain Skerry soils which consist of “Stony, sandy loam”, and Adams soil which consists 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 11/17/05.*
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 11/17/05.*
 - *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.*
10. Does not adversely affect the quality of surface water or shoreline of ponds, rivers, streams or tidal areas.
 - *There is currently 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 11/17/05.*
12. Has demonstrated adequate technical and financial capacity to meet the above.
 - *All road improvements as proposed on the original plan for the Great Hollow Acres Subdivision have been completed. This additional lot division required no road improvements therefore no monies were required from the applicant.*
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.*
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 original stormwater proposal for Town Farm Road in the final plan for Great Hollow Acres subdivision is sufficient for this proposed division. All stormwater plans were completed for Town Farm Road as proposed on the original plan.***
17. Lot #4 of 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.***

FINDING ON THE REQUESTED WAIVER(S)

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 vehicular traffic along this section of Town Farm Road is very limited, and related generally to travel to and from home, not through traffic.

PLANNING BOARD ACTION

The Planning Board hereby approved the application of Thomas Small, including the requested waivers, for the single division of Lot #4 of Great Hollow Acres Subdivision with the following conditions:

1. Because the stormwater impact to the existing wetlands on Great Hollow Acres used the 4,300 sq. ft. exemption per NRPA, section 480A, no additional impact could take place on Great Hollow Acres without notification to the Dept. of Environmental Protection. According to the plan presented no additional impact will be made with the single lot division of Lot #4.
2. Any further division shall have to come back before the Planning Board.
3. Any subdivision not recorded at the York County Registry of Deeds ***within ninety days*** of the date upon which the plan is approved and signed by the Planning Board shall become null and void, unless an extension is granted by the Board in writing.
4. No changes, erasures, modification, or revisions shall be made in any final plan after approval has been given, unless the revised final plan is first submitted to the Planning Board and the Board approves any modifications.

Madge B. noted that on page 3, line item #21 of the subdivision application, the year noted should be 2006 and not 2005. This also holds true for line item #22. Mr. Haskell stated he would have this changed and a copy would be given to the Planning Board for the file.

Roger asked if there were any additional questions or any additional changes that should be noted on the final plan. There were none.

Madge B. made the motion to approve the final plan dated 12/26/05, for the single division of Lot #4 of Great Hollow Acres subdivision, located on the Town Farm Road. John K. seconded the motion. All members were in favor.

Nothing further was discussed.

Best Possible Location – Replace Existing Home – Map 23, Lot 14 (20 Long Way Road) – Robert & Cheryl Gaudet – Lee Dezan Builder

Mr. and Mrs. Gaudet were present to discuss their application along with Mr. Dezan, the contractor to be used for the new home.

At the previous Planning Board meeting there was confusion as to whether or not the final plan presented to the Planning Board could be approved based on the fact a right-of-way bisected the property. The following questions were posed to Attorney Ronald Bourque:

The Planning Board would like to have your opinion on the following:

1. Because there is an existing right-of-way (row) on the property, are the applicants able to use the land on both sides of the row to calculate lot coverage or does the row create two lots, thereby reducing the existing square feet allowed to only that which is on the lot on which the home is located at this time?
2. If the applicants are only able to utilize the land on which the homes are located because of the fact the row splits the property into two lots, could the Planning Board still allow the applicants to use both parcels if they put a stipulation in their deed that both parcels are to always remain in one ownership?

This was Attorney Ronald Bourque's reply *in part*, dated 12/23/05:

In reviewing the Plan enclosed with your letter, it appears that the lot in question is divided by a right of way known as the Long Way Road, which is a road that was not constructed by the current land owners. I believe that the answer to your questions lies within the definition of a "lot" as contained in the Shapleigh Zoning Ordinance. The Ordinance defines a lot as "a parcel of land in single ownership described in a deed, plot or similar legal document." This definition does not require the land area to be contiguous, which is somewhat surprising. I would point out that for subdivision purposes land located on both sides of a roadway or right of way not constructed by the current owner or his predecessor-in-title would be considered two separate lots. However, for purposes of your inquiry, it does appear that, given the definition of a lot in the Zoning Ordinance, that the land on both sides of this right of way can be used to satisfy the coverage requirement. However, I believe that in order to avoid a future problem, the Planning Board should insist that both parcels remain in one ownership at all times. This restriction would prevent the land owner from making improvements to the buildings on the southerly side of the road using land on the opposite side of the roadway to satisfy the lot coverage requirements, and then subsequently conveying either parcel to a third person, thereby making it a nonconforming lot, which would be in violation of the Shapleigh Zoning Ordinance. For this reason I would urge the Board to insert a condition of approval that the parcel on both sides of the road cannot be conveyed separately but are considered one lot by the Town.

After reviewing the letter from Attorney Ronald Bourque, reviewing Shapleigh Zoning Ordinance 105-4.D "Non conforming structures", and looking once again at the plan presented to the Planning Board, dated 12/9/05, Roger asked if there were any further questions?

Steve M., CEO, stated that he wanted the Planning Board to be certain that all landscaping was completed prior to occupancy to prevent any issues with stormwater and / or erosion. The Planning Board agreed with Steve's suggestion.

Roger A. asked when the estimated time of completion was? Mr. Dezan stated that he believed the project would be completed in June 2006.

There were no further questions.

Madge B. made the motion to *approve* the **Best Possible Location to replace the existing home and bunkhouse with a new structure per the plan dated 12/9/05 with the following conditions:**

- 1) The new home shall be no larger than 29' wide x 34' long and shall be no closer than 72.33' from the high water mark.
- 2) The new bunkhouse shall be no larger than 16' wide x 18' long and shall be no closer than 66.37' from the high water mark.
- 3) Best Management Practices shall be used during construction with landscaping put into place prior to occupancy.
- 4) The parcel on both sides of the road cannot be conveyed separately and are considered one lot by the Town of Shapleigh.

John K. 2nd the motion. All members were in favor.

Nothing further was discussed.

Best Possible Location – Raise Camp – Map 40, Lot 24 (255 Granny Kent Pond Road) – Maribeth & Alfred DiVeglia

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

The applicants stated they would like to raise the foundation of the existing camp because currently during times when the water table is high they get water in the basement; it goes in under the existing sliding glass door. The applicants provided colored pictures of both the water up against the sliding glass door and also on the floor of the basement.

The applicants propose to raise the cottage three feet, using concrete blocks. Also they would like to raise the basement floor four inches, again to prevent water from coming across the floor.

Along with the application and pictures the applicants also provided a sketch plan of the property showing the location of the existing home, septic system and well, along with lot lines locations.

Steve M., CEO, asked the applicants if they currently had a concrete block foundation and if the basement floor was cement? They replied, "Yes". Steve asked how old the structure was? The applicants replied, "25+ years". Steve asked what the length of the lot was, Roger A. showed him the sketch plan. The lot was depicted as 110 feet deep.

Steve M., CEO, asked the applicants if they had anyone look at the existing foundation to make certain it was in good shape? The applicants stated that contractor Patrick Stevens stated the structure was sound and the foundation was solid. Steve asked if they were going to keep and use the existing foundation? They replied, "Yes".

Steve M., CEO, explained to the applicants that should they proceed with their plans thru the Best Possible Location application process, their expansion did not count against the 30% expansion rule for expanding homes within the Shoreland zone. Steve added that by going through the Best Possible Location process the Planning Board had the right to relocate the home to make certain it met the setback requirements to the greatest practical extent. Steve stated that if they got the permit for the addition to their foundation through the Code Enforcement Office, then the addition would count toward the 30% expansion with respect to volume but the cottage would not be moved. Steve stated they could get their permit by either means depending on what their future plans were.

Roger A. asked if there were any questions for the applicant at this time. There were none.

Roger A. stated there would be a site inspection done on an individual basis due to time constraints this time of year. There would be a Notice to Abutters mailed. The final review would be at the next Planning Board meeting on Tuesday, January 10, 2006.

There was nothing further discussed.

Other:

- Madge B. stated once again that she was going to review the proposed change to the Zoning Ordinance she presented regarding cluster development. She was not certain whether or not it should be placed in the Zoning Ordinance or not. If it was, then she wanted to be certain both the Zoning Ordinance and Subdivision Ordinance mirrored each other in content. Madge stated she would review her changes again and bring her proposed changes to the next Planning Board meeting.
- Diane S. asked Planning Board members if they wanted to pursue possibly adding restrictions to Formula Restaurants to the Zoning Ordinance or did the Planning Board feel the Town of Shapleigh was not in favor of regulating these at this time.

Several members believed that it might be best to restrict them to certain zones but at this time there were no designated zones for businesses in the Town of Shapleigh. Steve M., CEO, agreed stating a map was needed depicted zones, then you could refer to it in the ordinance.

Madge B. stated that you would also need to change the land use table once you designate zones. Madge stated that even though the town did not choose to regulate Formula Restaurants at this time, the definition could be placed in the Zoning Ordinance for future use.

John K. felt that the Planning Board should go forward with trying to regulate Formula Restaurants due to the fact that Sanford was expanding and it wouldn't be long before Formula Restaurants would be applying to come into Shapleigh. Madge B. stated that regardless of whether or not this ordinance passed, it would be educational for both the townspeople and the Planning Board. She was not against trying to present something to the townspeople.

Diane S. stated she would work on a proposal and present it to the Planning Board at the next meeting.

Nothing further was discussed.

GROWTH PERMIT(S) – *There are no more Growth Permits available for the year 2005.*

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

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

