

SHAPLEIGH PLANNING BOARD MINUTES

Tuesday, January 8, 2008

Members in attendance: Roger Allaire (Chairman), Roland Legere, Lauren Meek (Vice Chairman), Diane Srebnick, Madge Baker (Alternate) and Barbara Gilbride (Secretary). Code Enforcement Officer, Steven McDonough also attended the meeting.

Public Hearing Began at 7:00 p.m.

- **Conditional Use Permit – *Hair, Nail & Tanning Salon* – Map 18, Lot 32A (120 Emery Mills Road) – Dawna Dumont, Applicant; Paul Muse, Owner**

Ms. Dumont was in attendance for the Public Hearing. She began by stating she wanted to open a hair salon which also provided manicures, massage, tanning and waxing. Ms. Dumont said there would be four hair booths, one for herself and three to rent.

Lauren M. asked what the hours of operation would be?

Roger A. stated that when setting hours of operations it is best to use the widest range that someone might be in the salon so if a neighbor called about the building being open, there would be approval. An audience member asked if it would be alright for Ms. Dumont to be inside cleaning or doing paperwork after hours? Roger stated that that would not be a problem. Roger said there should not be customer cars in the parking lot after hours.

Ms. Dumont decided to have the hours of operation from 8:30 a.m. thru 7 p.m., Monday through Friday and 10:00 a.m. thru 2:00 p.m. on Sunday. She believed this would leave enough time for all customers to be off premise.

Diane S. asked how many employees would be working on site in addition to Ms. Dumont? Ms. Dumont stated she thought there might be between five or six other employees, three hair specialist, a massage therapist and someone doing nails.

Roger A. asked about hazardous materials? Roger questioned whether or not the hair perming solution was hazardous? Ms. Dumont stated the perm solutions were not hazardous and perfectly safe to place in the septic system. She said she would have a separate receptacle for the bottles used for perm solution.

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

The Public Hearing was closed at 7:07 p.m.

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

The minutes from Tuesday, December 11, 2007 were accepted as read.

Conditional Use Permit – Hair, Nail & Tanning Salon – Map 18, Lot 32A (120 Emery Mills Road) – Dawna Dumont, Applicant; Paul Muse, Owner

Ms. Dumont was present for the review of her application.

Roger A. asked Ms. Dumont to once again state what she intended to do with her business.

Ms. Dumont stated she would like to open a hair salon at 120 Emery Mills Road, in the building owned by Paul Muse. Ms. Dumont stated there would also be an area for a tanning bed, an area for a massage table, and an area for manicures and pedicures, in addition to four booths for doing hair.

Ms. Dumont stated any waste on site she would remove. She said the only item on site that might be hazardous would be the lights for the tanning bed. Ms. Dumont said she would look into how to best dispose of them.

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

Roger A. reviewed the following ordinance standards:

- 105-17 - Land Uses. *A hair salon is a permitted use in this district with a Conditional Use Permit. This location has been used as a business location prior to this application.***
- 105-19 – Notes to table on dimensional requirements. *The building has been a permitted business location prior to this application.***
- 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 245’, as approved on the original CUP.***
- 105-22 – Noise. *The changes proposed to this business shall not create any additional noise.***
- 105-23 – Dust, fumes, vapors and gases. *There will be no emissions created by this business outside of the existing building that would be a detriment to the surrounding area.***
- 105-24 – Odors. *The will be no odors emitted from this business other than vapors from the hair products and this does not pose a hazard to the area.***
- 105-25 – Glare. *There will be no additional lighting added to the building.***
- 105-26 – Stormwater runoff. *The building has been in existence and used for an approved business location for many years with no apparent stormwater issues.***
- 105-27 – Erosion control. *The building has been in existence and used for an approved business location for many years with no apparent erosion problems on site. The parking area is paved and the area that surrounds the building is established grass.***
- 105-28 – Setbacks and screening. *There are no exposed storage areas.***
- 105-29 – Explosive materials. *There are no explosive materials on site.***
- 105-30 – Water quality. *There shall be no outside storage of any materials that could affect water quality.***
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *There shall be no disturbance to the surrounding landscape, and the existing parking area will remain unchanged.***
- 105-32 - Relation of proposed building to the environment. *The existing building fits in well with the surrounding area and has been in existence for many years.***
- 105-33 – Refuse disposal. *All waste shall be removed by the applicant to the proper location.***

- 105-34 – Access control on Routes 109 and 11. *The access to Rte. 109 will not change and has been approved on the original CUP.*
- 105-43 – Off-street parking and loading. *The parking / turnaround area is adequate for the number of employees and patrons of this business.*
- 105-46 – Sanitary provisions. *There is an existing working septic system on site and the addition of this business should not have a great impact. A letter from Don-Rite Plumbing, Inc. further states the waste system is in good working order.*
- 105-47 – Signs and billboards. *Any signage shall be obtained through the Code Enforcement Office.*
- 105-52 – Water quality protection. *There is no hazardous waste created by this business. There is an existing working septic system on site and the addition of this business should not have a great impact.*

An audience member asked if Ms. Dumont could have a banner on the building to advertise the grand opening? Roger A. stated she would need to discuss any signage with CEO McDonough. CEO McDonough stated to Ms. Dumont that she should come into his office to discuss the matter.

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, the building has been in existence for many years with no impact on wildlife habitat.*
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. *N/A*
- 3) The use is consistent with the Comprehensive Plan. *It is, the Comprehensive Plan encourages businesses along Route 109.*
- 4) Traffic access to the site is safe. *It is, the site distances, which were approved on the original CUP, exceeds the minimum requirement in the ordinance.*
- 5) The site design is in conformance with all municipal flood hazard protection regulations. *It is, the building is not in a flood zone.*
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. *A state approved septic system is in existence. Solid waste (trash) will be minimal and it 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 produced by this business.*
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. *The existing building has been previously approved for a business and has been in existence for many years with no stormwater issues. No changes are being made to the surrounding area which includes the parking area.*
- 9) Adequate provisions to control soil erosion and sedimentation have been made. *The existing building has been previously approved for a business and has been in existence for many years with no erosion issues. No changes are being made to the surrounding area or existing parking area.*
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. *There is an existing water source for fire protection within 1000 feet of this business and the existing well is in working order.*

- 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 is in existence and no additional lighting is being added. There shall not be an increase in noise from what exists at this time. There are no fumes or odors generated that would be a detriment to the surrounding area.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

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

Lauren made the motion approve the Conditional Use Permit to open a family hair salon providing hair care, tanning, manicures and massage with the following condition(s):

- 1) ***The hours of operation shall be 8:30 a.m. thru 7:00 p.m., Monday thru Friday and 10:00 a.m. thru 2:00 p.m. on Sunday.***
- 2) ***Any signage shall be permitted through the Code Enforcement Office.***
- 3) ***The approval for the natural food store in this location will no longer be valid.***

Roland L. 2nd the motion. All members were in favor.

Nothing further was discussed.

Conditional Use Permit – Replace Wood Retaining Wall – Map 28, Lot 44 (27 18th Street – Richard & Anna Griffin

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

Mr. Griffin spoke to the Planning Board members stating he wanted to replace a wooden retaining wall that was failing with a new concrete block wall. Mr. Griffin stated the length of the existing wall is 58' and the new wall would be 52'. Mr. Griffin provided a new sketch plan which depicted square corners on the wall instead of curved. Mr. Griffin, an engineer, believed the curved would not only be easier to put up but also stronger but the DEP did not agree with his plan so he had to change to the square corners.

Lauren M. asked how tall the new wall would be? Mr. Griffin stated 48" to ground level then 8" below ground. Lauren asked if an engineered plan was necessary? Roger A. stated that yes it was. (Note: Mr. Griffin drafted the plan and he is a licensed engineer.)

Roland L. asked Mr. Griffin what he would be doing with the existing wooden wall once removed? Mr. Griffin stated he would take it to the transfer station. Roger A. stated that the Town of Shapleigh did not accept the debris from retaining walls so he would need to make another provision and let the Planning Board know at the next meeting of his intentions. Mr. Griffin stated he would bring the material to the transfer station in his home town of Alton, NH.

Diane S. asked Mr. Griffin when he intended on putting in the new wall? Mr. Griffin stated not until the fall when the water level drops but he wanted to have his permit in place so when this happened he could begin.

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

Roger A. stated there would be individual site inspections due to light constraints and a Notice to Abutters would be mailed as well.

Nothing further was discussed.

GROWTH PERMIT(S) – The following Growth Permits were issued:

NAME	Map / Lot	Address	Growth Permit #
1. Debra St. Laurent / Bruce Picard	7 / 16-3	34 Stone Post Road	01
2. Kenneth & Stacy Tapscott	4 / 7K-1	Fern Drive	Pending
3. William Elwell	40 / 5*	23 Mallard Way	03
4. Leonor Carpenito	31 / 22P	Dogwood Lane	04
5. Wendy Walters	40 / 38*	19 Osprey Lane	Pending
6. Daniel and Debra Williams / Karin & Richard Gauthier	17 / 9A	30 th Street	06
7. Jean Paul Guillemette	1 / 20C	78 Lebanon Road	Pending
8. Daniel Lavigne	39 / 39*	8 Heron Way	08
9. Keith Lindquist	4 / 5-3	48 Coley Trafton Road	09
10. North Country Land Inc.	5 / 20	Lot 3 Whitetail Lane	Pending
11. North Country Land Inc.	5 / 20	Lot 6 Whitetail Lane	Pending
12. David & Marcia Ferguson	4 / 19B	Ferguson Road	12
13. Amy Jones	3 / 24E	Hooper Road	Pending
14. Karl & Barbara Robinson	Part of 6 / 30	Nason Road	14
15. Darlene Breton	39 / 75	Swan Circle	15
16. Jason Roy	29 / 31***	860 Goose Pond Road	16
17. Steven & Susan Bickford	8 / 57A	353 Ross Corner Road	Pending
18. Roger T. Ridley, Jr.	6 / 27D	Nason Road	18
19. Warren Cummings	25 / 12	Sachem's Way	19
20. Shawn Young	32 / 14*	83 Dogwood Drive	Pending
21. Robert MacDougall	Part of 12 / 21	724 Newfield Road	Pending
22. Howard Wheeler, Jr.	10 / 12	Mann Road	22

***Seasonal Conversion ** Apartment**

*****Multifamily**

NAME	Map / Lot	Address	Growth Permit #
23. Paul Muse	18 / 32A**	120 Emery Mills Road	23
24. Kenneth Moody	40 / 29A	Granny Kent Pond Road	24
25. Violet Dube-Moody	40 / 29B	Granny Kent Pond Road	25
26. Frasier Property Development LLC	12 / 32-7	Silver Lake Road	26
27. Frasier Property Development LLC	12 / 32-7	Silver Lake Road	27
28. Jeffrey & Jaclyn Chaplin	24 / 20*	53 Channel Circle	28
29. Kenneth West	25 / 23*	181 23 rd Street	29
30. Beth Ellen Shea	41 / 18*	386 Pine Springs Road	30
31. Pat Frasier	11 / 23H	Newfield / Gray Rd.	31
32. Pat Frasier	12 / 32	Silver Lake Road	32
33. Frasier Property Development, LLC	11 / 23H	Gray Road	
34. Frasier Property Development, LLC	12 / 32	Silver Lake Road	

***Seasonal Conversion ** Apartment ***Multifamily**

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

Respectively submitted,
 Barbara Gilbride, Land Use Secretary
planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES

Tuesday, January 22, 2008

Members in attendance: Roger Allaire (Chairman), Roland Legere, Lauren Meek (Vice Chairman), Diane Srebnick, Madge Baker (Alternate) and Barbara Gilbride (Secretary). Code Enforcement Officer, Steven McDonough also attended the meeting.

Note: Madge B. was a regular member for this evenings meeting.

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

The minutes from Tuesday, January 8, 2008 were accepted as read.

Conditional Use Permit – Replace Wood Retaining Wall – Map 28, Lot 44 (27 18th Street – Richard & Anna Griffin

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

Mr. Griffin was before the Planning Board to replace a wooden retaining wall that was failing with a new concrete block wall. Roland L., after looking at the wall on a site inspection, did not believe the existing wall was 58 feet in length as stated in the application. Roland asked Mr. Griffin if he was taking into consideration the stones and brick alongside the wooden wall? Mr. Griffin stated the length of wall to be replaced did include the stone area; this was at the request of the DEP during his permitting process. The State wanted all the dimensions of what existed as a wall at this time.

Roland L. asked if the new wall was going where the railroad tie wall was? Mr. Griffin stated yes, the length of wall, 52 feet, included the wrap around dimension. Roland asked if the stairs would remain where they are now? Mr. Griffin stated yes. Roland asked if the 8" white pine on the far right from the water, would be removed? Mr. Griffin stated it would likely be a casualty of the construction process. Roger A. agreed. Mr. Griffin stated he would replace it if requested.

Roland L. noted that he saw some materials on site. He asked if they were for the new wall? Mr. Griffin stated yes, he got a good price on them last fall but did not get his permit in time to do the project in the fall.

Madge B. asked if there was a planting plan and if there was any vegetation behind the existing wall at this time? Roger A. stated there was no landscaping plan and asked Mr. Griffin what would be placed behind the new wall? Mr. Griffin stated it would be as it is now; it's a level sandy area. There is no vegetation at this time. Mr. Griffin showed board members a picture of what the area looked like presently before the snow covered it.

Madge B. asked where the stormwater goes? Mr. Griffin stated at this time it settles on the flat area and permeates into the ground because it is so sandy and some goes into the lake. Madge asked if there was a way to divert the water? Roland L. believed if it stayed on the landing (flat area) then it would permeate into the sand. Roland stated that if the wall was above ground level this would help to prevent water from going over the top of the wall. Mr. Griffin stated the cap stone was about 3" high. Roger A. stated he would like to see the ground lower than the wall cap. Lauren M. and Mr. Griffin stated that it might not be best to prevent water from going over the top in a heavy rain otherwise it would follow the wall and lead to greater erosion, creating a gully and taking sand with it.

Roger A. reviewed Shapleigh Zoning Ordinance 105-4.D "Nonconforming structures." Roger stated the plan for the new wall met the criteria in the ordinance.

Madge B. stated that it was very important silt fencing and Best Management Practices be used until the project was completed. The entire board agreed.

The board members discussed the date of completion. Mr. Griffin had stated he would not begin the project until the fall of 2008 so a completion date was set for June 15, 2009.

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

Madge B. moved for approval of the plan presented to replace the existing wooden retaining wall with a new 52' concrete block wall and replacement of the existing stairs with the following conditions:

- 1) Best Management Practices shall be used, including silt fencing until the project is completed.**
- 2) The Code Enforcement Officer shall be given the information as to where the old wooden wall will be disposed of prior to demolition. It shall not be brought to the Shapleigh Transfer Station.**
- 3) The construction shall be completed by June 15, 2009.**

Lauren M. 2nd the motion. All members were in favor.

Nothing further was discussed.

Northwoods Country Land, Inc. – Discussion regarding White Tail Lane of Evergreen Overlook Subdivision – Map 5, Lot 20 (State Rte. 11)

Mr. Russ Hughes was present to represent Northwoods Country Land, Inc.

Mr. Hughes stated that he was advised by the Planning Board the Letter of Credit for \$120,000 for the construction of White Tail Lane had expired in July of 2007. Mr. Hughes stated he had a new Letter of Credit for \$120,000 which would be good until February of 2009 to give to the Town of Shapleigh. Mr. Hughes stated he also had another \$50 for the second Growth Permit application he had on file.

Roger A. stated that before the Planning Board could approve the Growth Permits the subdivision must be completed which included the construction of White Tail Lane. Roger stated that at this time the pavement was not down. Roger asked what other work needed to be done? Mr. Hughes stated the three dry swales had not been done or the riprap put down.

Roger A. stated the subdivision as approved is incomplete and the board members could in fact make it null and void but it would take legal work to do so. Roger stated he would rather the applicant complete the project and the board could amend the subdivision. Roger said the board would need a date of completion for the road and the road would need to be done by the new date. In addition, the Letter of Credit would need to be reviewed by the Road Commissioner to make certain the amount of \$120,000 was still valid. Lauren M. and Madge B. agreed stating paving costs have gone up in the past two years.

Mr. Hughes stated that Northwoods wanted to be able to sell one lot to gain some capital before paving White Tail Lane. Roger A. stated the board could not give a Growth Permit for any of the lots because at this time the subdivision is incomplete until all the conditions of the approval are met, which includes the completion of the road.

Roger A. wanted to be sure the Letter of Credit went beyond the new proposed completion date so if the Town of Shapleigh had to finish the road they could do so with the funds. Member agreed the completion date for White Tail Lane should not go beyond mid summer of 2008. This would give the town until fall to complete the road if they chose to do so. Mr. Hughes stated the Letter of Credit he held was good until February 2009.

Board members agreed the Road Commissioner would need to look at the road plan once again to make certain the Letter of Credit was enough to cover any town expenses should the road have to be completed by the town. Roland L. asked how the Road Commissioner could do this when he could not see the road at this time because of the snow. Lauren M. stated he would just need to know the length of road and what had been completed to date to estimate what was left. Lauren asked the length of the road? Roger A. stated 1800 feet.

It was concluded the board members would table this discussion until the next meeting. Barbara G. would draft a letter to Road Commissioner Burnell to ask him to give an estimate to complete the road to be certain the \$120,000 was enough to cover the cost. When the information is received from R.C. Burnell Barbara will contact Mr. Hughes with the information.

The board members told Mr. Hughes a completion date for mid summer would be best.

Mr. Hughes asked if it would be possible to use correspondence between all the parties instead of him having to come to the Planning Board meeting. The board members did not have a problem with this. Roger reiterated that at this time they needed a date of completion for the road and a Letter of Credit in order to amend the subdivision.

Note: Mr. Hughes drafted a letter addressed to Roger Allaire as Chairman of the Planning Board, dated January 24, 2008. In it he expressed the willingness of Northwoods to work with the Town of Shapleigh and it stated they intended to complete the project. Also, they presented a completion date for White Tail Lane of July 1, 2008.

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

Nothing further was discussed.

GROWTH PERMIT(S) – The following Growth Permits were issued:

NAME	Map / Lot	Address	Growth Permit #
1. Kenneth & Stacy Tapscott	4 / 7K-1	Fern Drive	02-08
2. Ellen Glynn	10 / 3A	Town Farm Road	05-08

***Seasonal Conversion ** Apartment**

*****Multifamily**

GROWTH PERMIT(S) – The following Growth Permits were *denied*:

NAME	Map / Lot	Address	Reason
1. Wendy Walters	40 / 38*	19 Osprey Lane	No Waiting List Fee Received After 3 Attempts to Contact
2. Jean Paul Guillemette	1 / 20C	78 Lebanon Road	No Waiting List Fee Received After 3 Attempts to Contact
3. North Country Land Inc.	5 / 20	Lot 3 Whitetail Lane	Subdivision Road Not Completed as Approved
4. North Country Land Inc.	5 / 20	Lot 6 Whitetail Lane	Subdivision Road Not Completed as Approved
5. Amy Jones	3 / 24E	Hooper Road	No Waiting List Fee Received After 3 Attempts to Contact
6. Steven & Susan Bickford	8 / 57A	353 Ross Corner Road	No Waiting List Fee Received After 3 Attempts to Contact
7. Shawn Young	32 / 14*	83 Dogwood Drive	No Waiting List Fee Received After 3 Attempts to Contact
8. Robert MacDougall	Part of 12 / 21	724 Newfield Road	No Waiting List Fee Received After 3 Attempts to Contact

Seasonal Conversion ** Apartment****Multifamily*****The Planning Board meeting ended at 8:35 p.m.***

Respectively submitted,
Barbara Gilbride, Land Use Secretary
planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES

Tuesday, February 12, 2008

Members in attendance: Roger Allaire (Chairman), Roland Legere, Diane Srebnick, Madge Baker (Alternate) and Barbara Gilbride (Secretary). Code Enforcement Officer, Steven McDonough was unable to attend the meeting.

Note: Madge B. was a regular member for this evenings meeting.

Public Hearing began at 7:10 p.m.

• Final Hearing on the Proposed Zoning Change to 105-47. Signs and billboards.

Roger A. opened the Public Hearing by reading the proposed changes to the ordinance, it read as follows:

105-47. Signs and billboards.

- (3) Home occupations ~~exempt from a conditional use permit~~ may display a single sign not over eight square feet in area with their name on it, with information about goods or services rendered on the premises or with information concerning the sale, rental or lease of the premises.

Roger noted that there were no citizens in the audience. Roger asked if the board members had any questions. There were none. Roger stated the zoning change would be brought before the citizens of Shapleigh at the Town Meeting on March 8th for a vote as to whether or not the change would be made to the existing zoning ordinance.

The Public Hearing closed at 7:12 p.m.

Nothing further was discussed.

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

The minutes from Tuesday, January 22, 2008 were accepted as read.

Northwoods Country Land, Inc. – Amendment to Evergreen Overlook Subdivision – Map 5, Lot 20 (State Rte. 11) – Russ Hughes, Representative

Mr. Russ Hughes was not present. At the previous meeting Planning Board Chairman Roger A. agreed that this issue could be taken care of via the mail because all parties agree that the Planning Boards decision would be final.

At the previous meeting Mr. Hughes stated that he had drafted a new Letter of Credit in the amount of \$120,000 for the construction of White Tail Lane, because the original letter of credit had expired in July of 2007. Mr. Hughes stated the new Letter of Credit would be good until February of 2009. Mr. Hughes was also present for review of two Growth Permit Applications.

Roger A. stated that the Planning Board could not approve the two Growth Permits applied for because the subdivision was not completed as approved due to the fact that White Tail Lane was not constructed by the approval date which was July 1, 2007. Roger noted that at this time the pavement was not down, nor were the three dry swales in place.

Board members, in light of this, discussed whether or not to proceed with legal action to make the subdivision null and void because it was not completed as approved. Members agreed that it would be in the towns' best interest, as well as the applicant's, to allow the applicant an extension of time to complete White Tail Lane.

The Planning Board also wanted to be certain a new Letter of Credit would be in the proper amount so a letter would be drafted to Road Commissioner Burnell to ask if \$120,000 would be enough to complete White Tail Lane. R.C. Burnell stated that based on the fact part of the road was completed, though he could not be totally certain being unable to see the road at this time (because of the snow cover), \$120,000 should be sufficient for the paving and dry swales.

R.C. Burnell noted to Land Use Secretary Barbara Gilbride, that he was not sure it would be in the towns' best interest to complete the road if the subdivision became null and void. White Tail Lane would not access anything that would benefit the town.

The Planning Board received a letter from Mr. Hughes, dated January 24, 2008, it read in part as follows:

"The purpose of this memo is twofold:

1. We absolutely do not want to do anything to jeopardize the subdivision or our (both town and landowner) achievements to date. Our goal is now to review all conditions of approval and do whatever is needed to complete the project.
2. Set a new date for completion of the road; we intend to complete the road in its entirety by July 1, 2008 or before. This date, if acceptable to you, should allow ample time to deal efficiently with disruption conditions such as weather."

Roger A. voiced concerns with the towns' involvement with completing White Tail Lane should it not be completed by the new amended date. He believed this type of project would have to go out to bid.

Barbara G. asked why the road would need to be completed by the town should the applicant not finish the road and the subdivision becomes null and void. Barbara stated in her opinion this would then be a road to nowhere. It did not access any town property or any other homes. It would revert to being one lot again and there wouldn't be a need for a road at that time. Board members agreed it would be something to discuss with the Board of Selectmen should the road not be completed by the approved date.

Roger A. asked if there were anymore questions? There were none. Roger asked the board if they wanted to make a motion to approve an amendment to the existing subdivision approval.

Diane S. made the motion, taking into consideration the time of year, the subdivision known as Evergreen Overlook would be amended as follows:

- 1) The new date of completion for White Tail Lane shall be July 1, 2008 or before.**
- 2) There shall be a Letter of Credit drafted in the amount of \$120,000 payable to the**

Town of Shapleigh for the construction of the private road to be known as White Tail Lane as well as the completion of three dry swales. This Letter of Credit must be received by February 29, 2008 by the Planning Board.

- 3) The Letter of Credit shall not expire before February 15, 2009.**
- 4) If all conditions of this amendment are not met as specified, the subdivision approval shall become null and void.**
- 5) All other conditions of the subdivision approval dated July 11, 2006, remain in effect and must be completed as specified or the subdivision approval shall become null and void.**

Roland L. 2nd the motion. All members were in favor.

Barbara G. shall draft the amendment and mail it to North Country Land, Inc.

Nothing further was discussed.

GROWTH PERMIT(S) – The following Growth Permits were issued:

NAME	Map / Lot	Address	Growth Permit #
1. Pat Frasier	12 / 32A	Silver Lake Road	07-08
2. Pat Frasier	12 / 32A	Silver Lake Road	10-08
3. Dale Johnson	32 / 31*	120 Dogwood Drive	11-08
4. Frasier Property Development	11 / 23H	Gray Road	33-08
5. Frasier Property Development	12 / 32	Silver Lake Road	34-08

***Seasonal Conversion ** Apartment ***Multifamily**

The following permits need more information before they can be issued:

1. Dennis Glover	Part of 9 / 12A	Town Farm Road
2. Cornelius Stewart	Part of 9 / 12B	Town Farm Road

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

Respectively submitted,
Barbara Gilbride, Land Use Secretary
planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES

Tuesday, March 11, 2008

Members in attendance: Roger Allaire (Chairman), Roland Legere, Lauren Meek, Madge Baker (Alternate) and Barbara Gilbride (Secretary). Code Enforcement Officer, Steven McDonough also attended the meeting.

Note: Madge B. was a regular member for this evenings meeting.

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

The minutes from Tuesday, February 12, 2008 were accepted as read.

Best Possible Location – Put Foundation Under Existing Structure – Map 25, Lot 20 (53 Channel Circle) – Jeffrey & Jaclyn Chaplin

Ms. Chaplin was present for review of the application.

Ms. Chaplin presented the board members with a boundary survey done by Austin Land Surveying, LLC of New Gloucester, Maine, William Austin – State of Maine Professional Land Surveyor 2174. The survey depicted the lot, structures and retaining walls on the lot and the distance between the building and the lot lines. Also depicted was the neighbor's, Jeffrey and Marlene Bergart (Map 24, lot 19) dwelling and garage in relationship to the adjoining lot line.

Roger A. reviewed the minutes of the meeting of the last review of this application. In these minutes it was written that a neighbor Mr. Bergart posed concerns with the project because of the close proximity of the work to be accomplished to his lot line and well. Roger added that it was also noted at the site inspection there was little distance between the existing structure and the side lot line.

Roger A. read a letter received by Barbara G. in February 2008, from Mr. Bergart. In the letter Mr. Bergart expressed the following:

“Thank you for notifying me of the next meeting of the Planning Board to review the best possible location for the Chaplin home/foundation.

The Chaplins have sent me a copy of the plot plan and kept me informed of their current plans to locate a foundation on the property.

As any homeowner would, I was concerned about possible disruption to our well and/or damage to surrounding trees. But I am thankful that the Chaplins have listened to my concerns and that they will try their best to minimize the above possible adverse impacts.

Therefore, based on their plans as outlined in their letter to me dated February 13, **I am withdrawing my objections to their application.** I wish the Chaplins every success in this, their next big undertaking.”

Roger A. asked if there were any questions for Ms. Chaplin? Roland L. asked if they would be using a crane to move the building. The answer was yes.

Roger A. reviewed the boundary survey plan presented. Ms. Chaplin stated because she was moving her building farther from the side lot line and reducing the size of the screen porch overall, she asked if she could add one foot to the width of the screen porch. This would change the size of the porch from 12' x 20' to 13' x 18'. Roger stated that would not be an issue because it does not cause the building closest to the lot line to be moved, the building closest to the lot line is the camp and it is not going to encroach any closer to the lot line.

Roger A. reviewed Shapleigh Zoning Ordinance 105-4.D (1) (2) and (3) "Nonconforming structures. Foundations." Roger stated the plan as presented met all the criteria of the ordinance. All board members agreed.

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

Lauren M. made the motion to approve the Best Possible Location for placing a foundation under the existing structure with the following conditions:

- 1) Best Management Practices shall be used during the project.**
- 2) The new foundation shall be placed per the approved plan and it shall not be any closer than 16' 2" to the side lot line which abuts Map 24, Lot 19.**
- 3) The porch shall be placed per the plan and reduced in size from 12' x 20' to 13' x 18'.**
- 4) The area disturbed during construction shall be stabilized / revegetated as soon as possible after construction is completed.**
- 5) Any necessary changes to the approved plan shall have to come back before the Planning Board for approval prior to construction.**

Roland 2nd the motion. All members were in favor.

Nothing further was discussed.

OTHER:

Letter dated 2/15/08 from Philip Gannon to the Board of Selectmen regarding Dahlia Street, originally drafted to the Planning Board 6/21/02.

The Planning Board received a letter from Mr. Gannon which read as follows:

"I had sent you the attached letter back in 2002 to the Planning Board and had called to see if any action would be taken and have had no response.

There is a major problem with run off down to the lake because of the problem and it should be addressed.

Please review my letter and advise me if any action will be taken to correct the road problem."

Mr. Gannon's original letter dated Friday, June 21, 2002 read as follows:

"I have a problem with the application for the 8 lot Major subdivision plan.

When the company cleared the land and took out the trees they used heavy trucks and were turning around in Dahlia Street. They destroyed the road entrance to Dahlia off Dogwood and the hot top got broken up. I pointed this out to the crew foreman and he said they had a bond with the city and it would be repaired. The repair was never done.

I think that the company should not be allowed a permit based on past performance."

Roger A. reviewed the minutes of meetings that pertained to the subdivision that Mr. Gannon was referring to, now known as Goose Pond Overlook, which got final board approval in April of 2004.

Roger A. read the minutes from the Public Hearing regarding Goose Pond Overlook (Map 7, Lot 5); they read in part as follows:

"Ms. Dearden (a representative of the applicant for the subdivision) answered this letter stating that the logger responsible is a 3rd party. The applicant, Northwoods, had no control over the cutting and removal activity. John C. (Vice Chairman conducting the meeting) stated that Bob Libby had the rights to the trees. Once those trees were removed his rights are subdued and he no longer has any claim upon the land. Unfortunately Northwoods Company now has to come in and clean up the mess created by the logging company, after-the fact. The logger and Northwoods are two separate entities. Ms. Dearden agreed that Bob Libby had the rights to the trees and now Northwoods holds the land. Northwoods is not responsible for what Mr. Libby did, but the Board has every right to ask Northwoods to make provisions to try to restore some of what has taken place. John C. also told the townspeople that the town has no provisions in our ordinance to regulate tree removal. It has been brought up in the past at Town Meeting, but the citizens did not want it made into law. The only area the town can control with respect to logging is any area in the Shoreland Zone."

Roger A. also noted that the applicant did do some repair work to the roads used to access the subdivision roads in Goose Pond Overlook, which was seen during one of the site inspections. This was not a Planning Board requirement but was suggested to the applicant so he did some grading and ditching.

Roger A. believed that based on the fact the damage to the road Mr. Gannon was talking about was not done by the applicant but by a logging company, which the Planning Board does not regulate and the fact Dahlia is a private way, he did not believe the board members had any authority to ask anyone to repair the damage to the area. Madge B. agreed citing that this is a private road, used by the citizens that live on the road, and that the damage was allegedly done by the logging company which the board has no jurisdiction over; she said it would appear it is a civil matter between private parties.

The Planning Board agreed that in conclusion the Town of Shapleigh did not and cannot regulate who may or may not use a private road such as Dahlia Street. It appears to be a matter between the entity that did the damage and the citizens who live on the private way. Therefore, the Planning Board will take not action on this matter.

Nothing further was discussed.

Roger A. noted the various workshops in the area that board members could attend on Boardmanship and Subdivision.

GROWTH PERMIT(S) – The following Growth Permits were issued:

NAME	Map / Lot	Address	Growth Permit #
1. Cornelius Stewart	9 / Part of 12B	Town Farm Road	13-08
2. Dennis Glover	9 / Part of 12A	Town Farm Road	17-08

***Seasonal Conversion ** Apartment ***Multifamily**

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

Respectively submitted,
Barbara Gilbride, Land Use Secretary
planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES

Tuesday, March 25, 2008

Members in attendance: Roger Allaire (Chairman), Roland Legere, Lauren Meek (Vice Chairman), Madge Baker (Alternate) and Barbara Gilbride (Secretary). Code Enforcement Officer, Steven McDonough was unable to attend the meeting.

Note: Madge B. was a regular member for this evenings meeting.

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

The minutes from Tuesday, March 11, 2008 were accepted as read.

Discuss Mobile Vendor Permit – Issuance through Board of Selectmen / Executive Secretary

Roger A. began by stating this would be something that the Board of Selectmen would be issuing. Roger stated that the Planning Board had spoke years ago with the BOS about this type of permit, that it should be addressed by the BOS and not the Planning Board. Roger said this would allow mobile food carts to operate as well as give the town some authority to make sure there is adequate parking and the ability to limit the number of mobile units in town at any one time.

Lauren M. asked why the Board of Selectmen would handle this instead of the Planning Board? Roger A. stated that normally a vendor's license is issued by the Town Counsel or Board of Selectmen of the town. Madge B. agreed stating this is a health permit and it is usually issued by the town.

Lauren M. asked whether or not there would be a public hearing for this type of permit? Roger A. stated no, the BOS would make the decision. Lauren asked if it was subjective with respect to location? Roger stated yes, they could dictate the location and/or how many units would be allowed in any one area. Roger gave examples of surrounding towns and how they regulate the number of food vendors and their location, citing Sanford vendors and the sausage carts at Home Depot in various towns. Roger added that the permit was good for one year only so the town could disallow the renewal if the vendor did not adhere to any conditions of the permit or for any other valid reason.

Barbara G. asked Madge B. about the necessity of having an ordinance before issuing this type of permit. Madge stated this type of ordinance did not belong with the Planning Board because it isn't a property issue; it is attached to the person requesting the permit. Madge said yes there should be a town ordinance to address restrictions and conditions of the permit so the town would have recourse should the permit holder not abide by conditions of the permit. Madge stated the BOS could contact MMA to see if they had an example of an ordinance. Roger A. said that he believed Sanford might have such an ordinance, Biddeford and Old Orchard Beach. Madge agreed because those towns had outdoor vendors.

Note: Executive Secretary Karla Bergeron contacted MMA but they did not have an example of the vendor ordinance so at present she is contacting Old Orchard Beach and Biddeford. She did contact Sanford but they no longer have a vendor ordinance in place.

Roland L. asked about community day, would the vendors there fall under this permit? Madge B. stated only if the town needed a way to regulate the vendors at that function, their location, etc. Roger A. stated to date there has not been a need to issue any permits for Community Day.

Roger A. noted there was a space on the application for the BOS to write conditions of the permit after they know the location and what would be sold. Roger and Madge B. thought it was a good measure to give the town the ability to regulate the vendors and give the townspeople another permit option outside of the Conditional Use Permit. The CUP is a lengthy process and there would need to be one approved for each location of the mobile unit, whereas with the Vendor Permit it could be issued in a matter of a day or week and one permit would be valid for the entire year at various locations.

Madge B. stated that if the Planning Board were to issue this permit there would still need to be an ordinance created because at this time the Zoning Ordinance does not apply to this type of business. Madge added that after the BOS got information with respect to an ordinance to address the permit she would be willing to review the content of the ordinance. Barbara G. stated she would tell Executive Secretary Karla B. Madge's offer.

Nothing further was discussed.

GROWTH PERMIT(S) – The following Growth Permits were issued:

NAME	Map / Lot	Address	Growth Permit #
Lori Foley	40 / 46*	186 Granny Kent Pond Road	20-08
Carol & Richard Levesque	32 / 21*	3 Daisy Drive	21-08

***Seasonal Conversion ** Apartment ***Multifamily**

Other:

Roger A. talked briefly about the current building code and that the State was going to make the towns use one specific code and if we were not using that code we would need to adopt it at the next town meeting. Roland L. asked if the Maine code would be more strict than what we used now? Roger stated no, it may be more lenient than what we use now.

Roger A. also noted that the legislature was discussing allowing any town with less than 2000 people to do away with the building code. Roger thought this made no sense because it's a minimum standard to protect people, the other board members agreed.

Note: CEO Steve M. has attended classes with respect to this issue and ultimately the changes if necessary will come through his office.

The Shoreland Zoning changes will be discussed at the next board meeting.

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

Respectively submitted,

Barbara Gilbride, Land Use Secretary
planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES

Tuesday, April 8, 2008

Members in attendance: Roger Allaire (Chairman), Roland Legere, Lauren Meek (Vice Chairman), Diane Srebnick, Madge Baker (Alternate) and Barbara Gilbride (Secretary). Code Enforcement Officer, Steven McDonough was unable to attend the meeting.

Note: Madge B. was a regular member for this evenings meeting.

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

The minutes from Tuesday, March 25, 2008 were accepted as read.

Review suggested and/or mandatory Shoreland Zoning changes from the State of Maine

Planning Board members reviewed the State of Maine Guidelines for Municipal Shoreland Zoning Ordinances. Changes and/or additions were made to the following ordinances: 105-4 "Nonconformance."; 105-10 "Zoning districts."; 105-27 "Erosion control."; 105-47 "Signs and billboards."; 105-49 "Agriculture."; 105-51 "Clearing of vegetation for development"; 105-59 "Roads and water crossings."

The review process is in its initial stages. Board members will continue to meet to compare what exists in the Town of Shapleigh Zoning Ordinance with the recommended and mandatory changes the State is proposing. The process is likely to go on throughout the year. The Planning Board is hoping to have the process completed by the end of the year so the changes can be presented to the townspeople in March of 2009. Prior to town meeting there will be two Public Hearings held to present the changes.

The Planning Board discussed the need, mandated by the State, to update the Zoning Map for the town. Barbara G. was asked to contact SMRPC to see if they provide this service and how much the new map would cost.

The townspeople are welcome to attend any Planning Board meeting to follow regular Planning Board business as well as the changes being made to Shoreland Zoning.

Nothing further was discussed.

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

Respectively submitted,

Barbara Gilbride, Land Use Secretary
planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES

Tuesday, April 22, 2008

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

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

The minutes from Tuesday, April 8, 2008 were accepted as read.

GROWTH PERMIT(S) – The following Growth Permit(s) was issued:

NAME	Map / Lot	Address	Growth Permit #
Roger Berube	19 / 13**	Emery Mills Road	01A-08

***Seasonal Conversion**

**** Apartment**

*****Multifamily**

Discuss Private Way Requirements – Jim George & Calvin Beaumier

Jim George and Calvin Beaumier of Industrial Communications, Engineering Division, were present to ask the board members questions with respect to their proposed project which is to put up a telecommunications tower. Also present was the Vice President of Operations, Mr. Cody. Mr. George said they wanted to have some questions answered before they did the engineering for the road that they believed they needed.

Mr. George provided members with a copy of a general survey of the lot they would like to put a tower on, Map 5, Lot 23, located on Owl's Nest Road. He also provided a copy of the property plan done by John Rossborough, State of Maine Licensed Surveyor #231, and an aerial picture of the property.

Mr. George stated his company were developers of cellular towers / facilities and he said they were presently doing a lot of work in this area of Maine. Currently, applications are in Newfield, Waterboro, Limerick, etc. He said there is a need for coverage in this area. Mr. George stated his company was trying to make seamless coverage of York County. He believed the Shapleigh area had a dire need for this facility.

Mr. George showed the map of the property and noted it only had 140 feet of road frontage. Mr. George stated the company wanted to put in a Private Way to create the road frontage required. It would have a 50 foot right-of-way with a 12' gravel drive.

Mr. George stated the application would be for a 180' tower which takes care of downtown Shapleigh all the way to the tower at the foot of the lake. Mr. George stated that they would show board members how towers connected signals to each other so there is seamless communication. Mr. George stated there were proposed towers in Newfield on Route 11 that would connect with the tower on Owl's Nest Road and on into Limerick.

Mr. George stated he wanted to see what was acceptable for the road. He was proposing a 200' Private Way to the facility. The lot is 12.6 acres in size; he wanted to know if the proposed right-of-way would be acceptable?

Roger A. asked what type of building would be on the ground for power? Mr. Cody stated various carriers had different structures they used. Mr. Cody stated in order to get a facility to accommodate different carriers the structure needs to be open for different options to be competitive. The tower proposed is known as a regional tower. Mr. Cody stated there are many changes in telecommunications and the technology used has changed. Mr. Cody stated in the past they put up a huge building but now each carrier has their own building or shelter, each is different. Mr. Cody stated his company put up the tower and brought in electrical power after finding locations that will work.

Roger A. asked if the land used was being leased. Mr. Cody stated no, it was purchased. He said it was a privately owned company and the company wanted to own the land it invested in. Mr. Cody stated at first he didn't understand this idea but because property changes hands, the lease can change, so he realized if the company owns the property they have more control.

Mr. Cody asked about the creation of road frontage, if a Private Way would create the necessary road frontage since the actual lot frontage currently was only 140 feet. Roger A. stated yes, the Private Way would create the necessary road frontage.

Roger A. asked if the tower would interfere with any two-way radios that currently exist in the area? Mr. Cody stated no, all the carriers use a different frequency than fire, sheriff, etc.

Lauren M. asked if they owned the tower at the foot of the lake? Mr. Beaumier stated no, at this time it was owned by Global Communications. He said that he believed AT & T was going onto the Global tower. Mr. Beaumier showed the board members current cellular coverage in the area and what his company was proposing to cover. Mr. Beaumier showed what areas have no coverage at this time. Mr. Beaumier stated his company wanted to cover all of Rte. 11 in Shapleigh to Newfield, etc.

Roger A. asked if the total height would not be greater than 180 feet? Mr. Cody stated that he believed it would be 180 feet and he knew that 190 feet was maximum. Mr. Cody stated he was trying to put up what was reasonable and would give the coverage required. Mr. Cody stated a lot of analysis goes on before determining location and size of the tower. Mr. Cody stated his company had to do a lot of research before investing in a piece of land and tower.

Roger A. asked if there were any carriers interested in his tower at this time? Mr. Cody stated it was difficult to get a commitment from a carrier because often projects get bogged down and the carriers cannot tie up a lot of money for a long period of time waiting for the tower to get approved. Mr. Cody stated once permits are acquired then carriers will be interested. Mr. Cody stated presently AT & T has been looking into Shapleigh and has agreed to put up signal on the tower at the foot of the lake. Mr. Cody stated there are more and more wireless services available and these require the towers. Mr. Cody was confident once the tower was put into place it would be used.

Roger A. stated that after this evenings presentation he did not see any problem with the plans. Roger noted a bond would be required to be kept current in case the town would ever have to remove the tower in the future. Mr. Cody stated that was not unusual.

Mr. Cody asked if the board required a State of Maine licensed engineer or if any licensed engineer could be used to design the road? The ordinance did not specify it had to be a State of Maine engineer. Mr. Cody stated he had specific individuals to do each step of the project so they could control quality and time, as well as cover liability issues. Roger A. stated although the ordinance did not specify the engineer be Maine certified, he would personally feel better if a Maine engineer at least looked at and okayed the plans because he/she would know the Maine requirements. Roger again said it was his personal feeling but it was not a requirement. Mr. Cody stated he did have a Maine Certified engineer but he was not local.

Mr. Beaumier asked if the road as proposed looked adequate? Roger A. stated the current plan did not show any engineering. Mr. Beaumier understood he just wanted to know if the road location was adequate. The board noted the road location seemed fine but the turnaround did not appear adequate, a traditional hammerhead would be best for snow removal. CEO Steve M. noted that the dimensions for the turnaround do not include the roadway, the turnaround is usually off to the side and the 24' x 24' required is in addition to the road width.

Lauren M. asked if the road would be gated at the end of the 200 feet or at the road? Mr. Cody stated he would like to do it within 40 feet of the roadway so it doesn't become a dumping spot and so they will be able to see if someone is parked there.

The gentlemen thanked the board members for their time and stated they would be back when they had completed the application.

Nothing further was discussed.

Amendment to a Conditional Use Permit – Flea Market – Map 7, Lot 3-2 (926 Shapleigh Corner Road) – Janet Dow

Ms. Dow was present to review her application.

Ms. Dow began by stating she would like to make a few changes based on the results of last year and suggestions from the vendors who attended or who wanted to attend. Ms. Dow stated that she would like to hold much of her flea market inside the building while still maintaining ten tables outside for those who prefer to be outside.

Ms. Dow also wanted to extend her hours. Presently she was only open on Sunday's and she found that some people could not attend on a Sunday, but stated they would use her facility if she was opened on Saturday. Ms. Dow stated she would like to be able to be open four days in the long run but initially Saturday and Sunday.

Ms. Dow stated another suggestion by vendors was she should be open longer, closer to Thanksgiving instead of closing in October. Ms. Dow said especially the craft people would like to be able to sell their products for Christmas. Ms. Dow stated she would still open in May as she does now but would like to be open into December.

Roger A. asked if the hours of operation would change? Ms. Dow stated no, she still wanted to be open from 9 a.m. to 3 p.m. but she would just like to extend through December.

Ms. Dow asked if she could keep the picnic tables outside, noting there is a limited amount of tables. Ms. Dow stated often she was the only one trying to move the tables and it was very difficult. Ms. Dow said she would be sure to keep them on the lawn, off the roadway after hours.

Ms. Dow was asked for a plan on how the tables would be set up in the building and a parking plan.

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

Roger A. stated a Public Hearing would be held on Tuesday, May 13th at 7:00 p.m. Also, a Notice to Abutters would be mailed.

Ms. Dow stated she would bring in her parking plan prior to the next meeting.

Nothing further was discussed.

OTHER:

Changes to date to Shoreland Zoning Ordinance

Barbara G. asked board members to review the changes made to date. She asked board members to review for typographical errors as well as content, comparing the changes made to what the State's mandated changes are.

Barbara G. noted she added the new definitions for Timber Harvesting even though the board members opted to have Timber Harvesting revert to the state. At this time, the town does not know whether or not the state will in fact take over the harvesting or if it will revert back to the Town of Shapleigh.

Barbara G. stated she would continue to retype the Zoning Ordinance adding the states changes, and giving those changes to members to review. Barbara stated it was likely there would be at least another meeting between Madge B., Roger A., CEO Steve M. and herself prior to a final review by the board members. After changes are agreed upon by the entire board, it will be mailed to Mike Morse at the DEP for his department to review.

Nothing further was discussed.

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

Respectively submitted,

Barbara Gilbride, Land Use Secretary
planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES

Tuesday, May 13, 2008

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

Public Hearing Began at 7:00 p.m.

- ***Amendment to a Conditional Use Permit – Flea Market – Map 7, Lot 3-2 (926 Shapleigh Corner Road – Janet Dow***

Ms. Dow was present for the public hearing. *Lauren M. was Chair for the Public Hearing.*

Ms. Dow began by stating she was before the board because she would like to have the flea market open more days of the week, presently it is only open on Sunday. She stated her vendors have expressed a desire for more days and also some vendors are not available on Sunday's so she would like them to be able to come in on Saturdays.

A citizen asked if she was open every Sunday or every other Sunday at this time?

Ms. Dow stated she was open every Sunday now and would most probably start with just being open on Saturday and Sunday initially but she would like the option of being able to be open from Thursday through Monday.

Ms. Dow stated she would also like to have tables inside the existing building.

A citizen asked if she was going to have everything inside the building?

Ms. Dow stated that she would still like to have up to 10 tables outside because several vendors prefer to be outside.

A citizen asked if there were going to be any food related tables?

Ms. Dow stated that she might use one or two tables for anyone wanting a hot dog. She is currently permitted to sell hot dogs on site and would like to continue to do so.

Ms. Dow stated the tables would no longer be in the parking lot near the ATV club building. The tables would be in the front of the large building.

Roger A. asked if there were going to be 12 tables outside, 10 for vendors and 2 for the hot dog area?

Ms. Dow stated no, there would be a total of 10 and if they were all filled by vendors then people would have to stand to eat their hot dogs.

Lauren M. asked if there were going to be 28 vendor tables and 2 picnic tables total?

Ms. Dow stated she would like to have what she is approved for at this time which is a total of 40 tables. Ms. Dow stated she would not be having 40 tables to start but would like the option for the future.

Lauren M. asked if she would still be opening mid-May as she is approved for now?

Ms. Dow stated yes, and added that she was approved to stay open until mid-October at this time but would like to extend her hours to the first week of December so the vendors would be able to sell their products for Christmas.

Roger A. stated he believed the second week of December would be better for business but it was up to her. Roger said it would not be mandatory that she stayed open until the second week but she would have the option if it was a condition of her approval.

Ms. Dow agreed, and said she would like the option.

A citizen asked about the electric and plumbing in the building, was it adequate?

Ms. Dow stated the patrons and vendors would continue to use the bathroom in the ATV Club and the electric was adequate in the building for the intended use.

Roland L. asked Ms. Dow if there would be a sign on the road to discourage people from driving into the Kettle Pond development?

Ms. Dow stated that yes, just as last year, there would be a sign.

Lauren M. asked if there were any additional 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, April 22, 2008 were accepted as read.

Election of Officers

Lauren M. nominated Roger A. for Chairman.

Roger A. accepted the nomination.

Roland L. 2nd the motion.

All members were in favor. ***Roger A. will remain Chairman of the Planning Board.***

Diane S. nominated Lauren M. as Vice Chairman.

Lauren M. accepted the nomination.

Roland L. 2nd the motion.

All members were in favor. ***Lauren M. will remain Vice Chairman of the Planning Board.***

Roger A. appointed Barbara G. as Secretary.
All members were in agreement.

Roger A. was Chairman for the rest of the meeting.

Amendment to a Conditional Use Permit – Flea Market – Map 7, Lot 3-2 (926 Shapleigh Corner Road) – Janet Dow

Ms. Dow was present for the final review of her application.

Roger A. asked Ms. Dow again to explain to the audience what she was requesting in her application. Ms. Dow stated she wanted to extend the days of the week she was open from Sunday's only to Thursday thru Monday. Ms. Dow said that she also wanted to have most of the vendor tables inside the existing building, leaving only 10 tables outside. Ms. Dow stated she would also like to be open from mid-May through mid-December for the Christmas shoppers.

Roger A. said that he has driven by the flea market in the past and noted there were no cars parked along Rte. 11 which had been a worry and he noticed there were people from the ATV Club helping Ms. Dow as they had promised during the original approval. Ms. Dow concurred.

Lauren M. asked if the hours opened would be the same? Ms. Dow stated yes, from 8 a.m. to 3 p.m.

Lauren M. asked about Condition #9 on the original approval, which read as follows: All tables shall be cleared from the site by 4:00 p.m. Tables are only allowed outside of the building during the allowed operation hours. Lauren wanted to know if this would still be true.

Ms. Dow stated she wanted to be able to leave the 10 tables outside because it was too hard for her to move the tables every day. She stated she would be certain not to leave them in the roadway. Board members did not have an issue with this.

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

Roger A. read 105-73.B "Existing conditional use of structure". It read as follows:

- (1) A conditional use which existed prior to the effective date of this chapter may not be changed to another conditional use nor substantially expanded or altered except in conformity with all regulations of this chapter pertaining to conditional uses. Substantial expansion shall be defined as:
 - (a) Floor space increase of 25% or;
 - (b) New materials or processes not previously associated with the existing use.
- (2) No changes shall be made in any approved conditional use without approval of the change by the Planning Board.
- (3) A conditional use which is discontinued for a period of one year shall not be resumed.

Roger stated this is why Ms. Dow is before the Planning Board with her application.

Roger A. reviewed Shapleigh Zoning Ordinance 105-73.G “Standards applicable to conditional uses”.

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. ***It will not, per the plans received by the Planning Board on the original CUP for the existing structure.***
- 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 Route 11.***
- 4) Traffic access to the site is safe. ***It is, the site distances, which were approved on the original CUP, 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, per the engineered stormwater plan presented on the original CUP.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***A state approved septic system is in existence and was approved on the original CUP for this location. Solid waste which will consist of consumer trash will be removed by the applicant and this was addressed on the previous CUP, condition #8, letter dated 6/15/2007.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***There are no hazardous materials produced by this business.***
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***There is an approved engineered stormwater report for this location from the original CUP for this building.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***There is an approved engineered stormwater report for this location from the original CUP for this building.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***There is an existing water holding tank on site for fire protection.***
- 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 building or the surrounding area.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

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

Roland L. made the motion to ***approve the Amendment to the Conditional Use Permit with the following condition(s):***

- 1) ***The days of operation may now be Thursday thru Monday, and the hours of operation shall remain 8:00 a.m. thru 3:00 p.m.***
- 2) ***There shall be up to 10 tables allowed outside of the existing building, and up to 30 tables allowed inside the building for a total of 40 tables.***
- 3) ***The flea market shall be allowed to be open from mid-May through mid-December.***
- 4) ***All other conditions of the original permit approval letter, dated June 15, 2007, shall remain in effect.***

Lauren M. 2nd the motion. All members were in favor. The motion passed unanimously. Nothing further was discussed.

Conditional Use Permit – Home Office for Consulting Work – Map 40, Lot 29 (233 Granny Kent Pond Road) – Carole Mahoney

Ms. Mahoney was present to review her application.

Ms. Mahoney stated she would like to finish a room in her home to create a home office for an internet marketing business. Ms. Mahoney stated there would be no traffic coming to her home; she would travel to her clients when needed.

Roland L. asked if she was going to remodel an existing room in her home? Ms. Mahoney stated yes.

Roger A. asked if she was going to have a sign? Ms. Mahoney stated yes she would probably put one up.

Roger A. asked if she would add any additional lighting to her home? Ms. Mahoney stated no.

Lauren M. asked if all her work was over the telephone or if she would go to her clients site? Ms. Mahoney stated she did both. She said at this time she does a lot of traveling in addition to working on the internet.

Ms. Mahoney stated she was before the Planning Board because she wanted to be able to register her business in Maine and put up a sign.

Roland L. asked if there needed to be a public hearing? Roger A. stated yes, the Planning Board has made it a policy to hold a public hearing for all businesses, not just certain types of business. Roger stated this seemed to work best. Other board members agreed.

CEO Steve M. asked Ms. Mahoney if she wanted to say on record that no one would ever go to her house? Ms. Mahoney stated she could not say that no one ever would but she did not foresee it. Steve stated he asked because if there was a possibility someone would go to her home, the board members would like to see a parking plan or that there was a place on site that people could pull in and turn around without backing onto the road. Ms. Mahoney stated that the plan she presented to the board members depicted her driveway location and the fact there was loop so no one would have to back onto the road. Steve stated that was excellent, this way in the future should there be a complaint the board has a plan on file. Steve stated to Ms. Mahoney she had the right to say no one would ever be on site. Ms. Mahoney stated she would rather say there is a possibility.

Roger A. stated the Public Hearing would be on Tuesday, May 27th at 7:00 p.m. He told Ms. Mahoney that her final review would be after the public hearing during the regular meeting at 7:30 p.m. A Notice to Abutters will be mailed as well.

Nothing further was discussed.

Best Possible Location – Replace Existing Mobile with New Home – Map 1, Lot 18A (145 Lebanon Road) – Leonard Lantagne

Mr. Lantagne was present for the review of his application.

Mr. Lantagne stated he wanted to replace the existing mobile home with a new stick built home. Mr. Lantagne presented two surveyed plans to the board members. One plan was for the lot showing the location of the existing mobile home, the location of the stream protection setback, and the location of the setback to the road. The building envelope was also depicted which would meet the setback requirements and it was noted no home could fit into the small building envelope.

On the second plan the setback locations were also depicted along with the proposed location of the new home. The surveyor, Dana Libby, of Corner Post Land Surveying, Inc., placed the home in what he thought was the best possible location on site taking into consideration the setback requirements and composition of the land.

Mr. Lantagne noted that if board members looked at the right side of the property it appeared there was a building envelope but in fact this area was extremely wet because a culvert dumped on this part of the property.

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

Roger A. stated a site inspection would take place at 6:15 p.m. on Tuesday, May 27th. He asked member if they wanted to meet at the Town Hall and they stated yes. A Notice to Abutters will be mailed as well.

Nothing further was discussed.

OTHER:

Questions from CEO regarding Davis Farm (Blueberry Fields on Rte. 11)

CEO Steve M. spoke with planning board members about a building that was permitted on Tax Map 10, Lot 10, belonging to Davis Farm, LLC. Steve stated the building was permitted as a structure for personal use. Steve said after the structure was put into place, Inland Fisheries and Wildlife contacted him stating the building was in close proximity to an endangered species (Edward's Hairstreak). Philip DeMaynadier of IF&W stated the endangered species program was a voluntary program.

CEO Steve M. stated that because the building was for private use it never went before the Planning Board for review or to DEP for approval, so no one from the town explained to the property owner about the endangered species. Mr. DeMaynadier did state he has contacted the owner and would be meeting with him to discuss the owners' future plans and perhaps work something out to benefit the Edward's Hairstreak's habitat. Mr. DeMaynadier had been in the area doing research when he saw the new building so he contacted the owner and Steve.

CEO Steve M stated that recently the owners of the property contacted him to say they would like to put up a wind generator and wanted to know what they needed for permits. Steve stated while discussing the wind generator the owner said they would be leasing the property and the property would be used for a blueberry farm. Steve stated now the building was going to be a commercial use.

CEO Steve M. said his first thought was that anything commercial needed to go before the Planning Board but while reviewing the ordinance it states under 105-17 Land uses, that "Agriculture, commercial gardening" is exempt from a permit in the General Purpose District. Steve stated he just wanted to be certain the Planning Board agreed with his conclusion. Board members reviewed the ordinance and concluded that Steve was correct, a permit was not necessary for the blueberry farm.

CEO Steve M. also asked board members to review the ordinance to be certain the wind generator did not need Planning Board review. Diane S. asked if the wind generator was going to be for personal power or for commercial use? Steve stated it was commercial agricultural but that was not an issue based on the previous conversation. He said the only thing he could find in the ordinance that might pertain would be the building height restriction.

CEO Steve M. added that the general consensus at the state level was that agriculture was a benefit to the state so there were many exemptions from restrictions because it was the best use of space. Steve believed this is probably why in the town's ordinance commercial gardening was exempt. Steve stated the state said agriculture was not a nuisance, and therefore it is afforded many exemptions.

Diane S. asked if IF&W would be overseeing the blueberry production now that they are aware of what is taking place? CEO Steve M. said Mr. DeMaynadier stated that all the town could do is tell them they could be in violation of the endangered species act and then give them their permit. Steve said it was then the property owners obligation to comply or contact IF&W. Steve said at that point IF&W could possibly choose to enforce restrictions. Steve added he was told by Mr. DeMaynadier that the owner is going to meeting with IF&W in June to discuss the situation.

Roland L. stated he felt it was likely a commercial agricultural operation would be using pesticides or herbicides that might harm the moth. Barbara G. stated that IF&W did know about the operation so it was up to them to discuss what should or should not take place. Diane S. thought the Dept. of Agriculture would be involved because it was a food product being grown. Barbara stated she believed that was up to the property owner, because it doesn't go through the planning board.

Roland L. asked how tall the wind generator would be? Roland stated that a structure was not supposed to be greater than 35 feet in height. CEO Steve M. stated that was his other question. He referred the board members to review Ordinance 105-19 "Notes to table on dimensional requirements", (H) which read as follows: Building height. No building shall exceed 2 1/2 stories or 35 feet in height, as measured from the eaves to the lowest ground grade at the foundation. *Features of building and structures, such as chimneys, towers, ventilators and spires, may exceed 35 feet in height but shall be set back from the nearest lot line a distance not less than the height of such feature or structures, unless a greater setback is required by other provisions of this chapter.* Steve believed the last sentence pertained to the wind generator. Diane S. agreed stating the building itself could only be 35 feet tall but a tower on the top could be taller as long as it was the same distance from the property line.

Roland L. stated he would like more discussion in the future regarding wind towers. He did not feel just because you had a large piece of land you should be able to put up a tower. Roland did not think they were always esthetically pleasing and perhaps there should be additional regulation. Roger A. stated that it possibly could be added after the ordinance for telecommunication towers. It was agreed in the future the board would discuss this further.

CEO Steve M. asked board members if they knew of anything else in the ordinance that pertained to either the blueberry farm or the wind tower. Roger A. stated he did not see anything that would further regulate either. The entire board agreed.

Diane S. asked if the board should reconsider requiring a CUP for commercial agriculture in the general purpose district? CEO Steve M. said if the board wanted to have further discussion they could, but he wanted board members to understand changing it would be going against the grain of the tone of what the state wanted for agriculture. The board members reviewed the definition of agriculture. Roger A. also noted 105-49 "Agriculture". Stating that there was one farm in town that had a Conditional Use Permit under this chapter for spreading manure. Roger stated the applicant was not required to have the permit but wanted one in place in case someone questioned the farming practices taking place.

A note taken from the new Shoreland zoning amendments from the State: *NOTE: 17 M.R.S.A. section 2805(4) requires a municipality to provide the Commissioner of Agriculture, Food and Rural Resources with a copy of any proposed ordinance that impacts farm operations. The law further requires the Commissioner to review the proposed ordinance and advise the municipality if the proposed ordinance would restrict or prohibit the use of best management practices. A copy of a Shoreland zoning ordinance that regulates no more restrictively than contained in these Guidelines need not be provided to the Commissioner of Agriculture, Food and Rural Resources.*

CEO Steve M. asked if this ordinance was mainly for the spreading of manure? Roger A. stated no, it also covered soil erosion and the grazing of livestock in the Shoreland district. Roger noted there was an approved CUP for an applicant that wanted to graze sheep not far from a river.

Everyone present concluded at this time a Conditional Use Permit was not required for the blueberry farm and as long as the wind tower met the ordinance requirements it could be built without CUP as well.

Nothing further was discussed.

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

Respectively submitted,

Barbara Gilbride, Land Use Secretary
planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES

Tuesday, May 27, 2008

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

Public Hearing Began at 7:05 p.m.

• Conditional Use Permit – *Home Office for Internet Based Business* – Map 40, Lot 29 (233 Granny Kent Pond Road) – Carole Mahoney

Ms. Mahoney was present for the public hearing.

Ms. Mahoney began by stating she wanted to operate a consulting business in her home. Ms. Mahoney stated she did not perceive that there would be any customers coming to her home, but if anyone did come to the home there was a circular driveway so no one would have to back out onto Granny Kent Pond Road. Ms. Mahoney said the room she would use was going to be in the existing basement. Ms. Mahoney stated she would also be doing work off-site for clients.

Roland L. asked if she were going to have a sign at the road for her business? Ms. Mahoney stated no. She did not believe she needed one because clients would not be going to her house, she would go to them if needed.

Ms. Mahoney was asked what the hours of operation would be and she stated very often she began at 9:00 a.m. and could be still working at midnight on the computer. Ms. Mahoney wanted the option of 24 / 7 because she also dealt with different time zones so it was possible she could be working at any hour of any day.

Roger A. asked if there were any additional 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, May 13, 2008, were accepted as read.

Conditional Use Permit – *Home Office for Internet Based Business* – Map 40, Lot 29 (233 Granny Kent Pond Road) – Carole Mahoney

Ms. Mahoney was present for the final review of her application.

Roger A. began by asking board members if they had any questions for Ms. Mahoney. There were none. *As a note, during the break between the public hearing and the regular meeting Ms. Mahoney did speak about some of the work she did which included helping individuals and companies with most types of internet interface including website creation and management. She also would be giving seminars in the area, renting office space off site, for those that wanted to learn how to create their own website.*

Roger A. reviewed the following ordinance standards:

- 105-17 - Land Uses. *A home occupation is a permitted use in the Shoreland zone when reviewed as a Conditional Use Permit.*
- 105-19 – Notes to table on dimensional requirements. *The existing home meets all the dimensional requirements for the Shoreland zone.*
- 105-20 – Applicability of standards; prohibited uses. *This application is a permitted use within the Shoreland zone and it meets all state and federal law regulations.*
- 105-21 – Traffic. *Traffic will have safe access. The driveway design provides for on-site turn-around, as well as parking should it be required.*
- 105-22 – Noise. *There are no noises outside of the home for this business.*
- 105-23 – Dust, fumes, vapors and gases. *There will be no emissions created by this business.*
- 105-24 – Odors. *There will be no odors emitted from this business.*
- 105-25 – Glare. *There will be no additional lighting added to the home.*
- 105-26 – Stormwater runoff. *The home has been in existence and has all the proper permits for its location. No existing vegetation will be disturbed for this business.*
- 105-27 – Erosion control. *The home has been in existence and has all the proper permits for its location. There are no changes being made to the parking area or driveway.*
- 105-28 – Setbacks and screening. *All the existing vegetation is in place and no changes are being made to the landscape.*
- 105-29 – Explosive materials. *There are no explosive materials associated with this business.*
- 105-30 – Water quality. *There is nothing associated with this business to affect water quality.*
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *There shall be no disturbance to the surrounding landscape and the existing driveway / parking area will remain unchanged.*
- 105-32 - Relation of proposed building to the environment. *The existing home fits in well with the surrounding area.*
- 105-33 – Refuse disposal. *All waste, which will be minimal, shall be removed by the applicant to the proper location.*
- 105-40. Home occupations. *This business application meets all the required criteria of a home occupation.*
- 105-46 – Sanitary provisions. *There is an existing approved septic system on site.*
- 105-47 – Signs and billboards. *Any signage shall be obtained through the Code Enforcement Office.*
- 105-52 - Water quality protection. *There is no hazardous waste created by this business. There is an existing working septic system on site and the addition of this business shall not have any impact on water quality.*

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 nothing taking place outside of the existing home.*
- 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 based business.*
- 4) Traffic access to the site is safe. *It is, there is an existing circular driveway so no traffic will have to back onto Goose Pond Road and there is minimal traffic expected.*

- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***It is, the home was permitted through the building permit process.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***A state approved septic system is in existence.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***There are no hazardous materials produced by this business.***
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***The home is in existence and was approved through the building permit process. All vegetation on site will remain in place.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***The home is in existence and was approved through the building permit process. All vegetation on site will remain in place.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***There is, the property abuts Granny Kent Pond.***
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. ***There are no changes being made to the existing home or the surrounding area.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

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

Diane S. made the motion to approve the Conditional Use Permit to open a home based internet consulting business with the following condition(s):

- 1) ***The hours of operation may be 24 hours a day, up to seven days a week.***
- 2) ***Any signage shall be permitted through the Code Enforcement Office.***

Lauren M. 2nd the motion. All members were in favor. The motion passed unanimously.

Nothing further was discussed.

Best Possible Location – Replace Existing Mobile with New Home – Map 1, Lot 18A (145 Lebanon Road) – Leonard Lantagne

Mr. Lantagne was present for the review of his application. Planning Board members did a site inspection prior to this evenings meeting.

Mr. Lantagne was before the Planning Board in order to replace the existing mobile home with a new stick built home. Mr. Lantagne provided the board members with a surveyed plan depicting the existing mobile homes location on the lot, including all setbacks to the water and lot lines, as well as a plan showing the proposed location of the new home. Mr. Lantagne had told board members the proposed location was best possible according to the surveyor due to the topography of the land and setback requirements.

Roger A. began the final review by reading Zoning Ordinance 105-4.D(5) “Non-conforming structures; Removal, reconstruction or replacement.” Roger also reviewed 105-4.D(7) “Relocation”.

Board members reviewed the survey plans once again. Diane S. asked if there was a copy of the new septic design. Mr. Lantagne gave the board members a copy. Diane S. how far from the stream the new home would be placed? Mr. Lantagne showed board members the 75' setback from the high water mark on the plan as well as the 100' DEP building setback notation. Mr. Lantagne stated the house would be at the 100' setback.

Roland L. asked if a surveyor would have to actually set the pins for the new foundation? CEO Steve M. stated he did not; all that was required was the surveyor to state in writing the foundation was placed where approved by the planning board. Steve said he could put pins in prior to installation but it was not necessary. Steve noted 105-4.D(7)(c) stating that it was in effect for this application and it states "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 added that it did not specify pins had to be placed.

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

Diane S. made the motion to approve the Best Possible Location per the plans known as "Proposed Building Location for Leonard C. Lantagne of 60 Deering Ridge Road, Shapleigh Maine", signed by Dana Libby, PLS 1350, of Corner Post Land Surveying, Inc., dated 5/9/2008.

Roland L. 2nd the motion. All members were in favor. The motion passed unanimously.

Nothing further was discussed.

Best Possible Location – Replace Existing Structure with New Home – Map 30, Lot 9 (23 Totte Road) – Christina Langone, Applicant; Carol Bento, Owner

Ms. Langone was present for the review of her application.

Ms. Langone began by stating she wanted to make an offer on the property being reviewed, but only if she would be able to replace the existing structure with something with more suitable living space. Ms. Langone stated she was before the board to discuss her proposed changes to the property and if in fact they would be allowed.

Ms. Langone stated she wanted to remove the existing mobile home and replace it with a new stick built home. She stated her father was a builder and would be doing the work. Ms. Langone stated that the existing shed would be removed from the property as well.

Ms. Langone gave board members a copy of a proposed house design which showed the new home to be two stories in height; it would have two bedrooms, living room, kitchen and bathroom. The building would also have a full basement with a walkout door. There was a proposed deck on the plan but Ms. Langone did not know if she was allowed to have a deck because there was not one at this time on the existing structure. Roger A. stated if the deck would be closer to the water than the existing structure then it would not be allowed.

Roger A. began by asking what the square footage was of the existing structure(s)? Ms. Langone's father who was present stated the existing structures were 8' x 30' and 10' by 20', for a total of 440 square feet. Ms. Langone's father stated the new structure would be 19' x 24', for a total of 456 square feet. He noted

this moved the new structure farther from the side lot line but going no closer to the water. Roger stated that because the lot coverage already exceeded the 10% allowed as noted on the application, he did not feel the homes footprint could be expanded anymore than the 440 square feet.

Roger A. noted the distance to the water was not on the plan, nor was the distance to the road. Roger stated the board cannot make a decision on BPL without those figures. Ms. Langone asked if a surveyor needed to put them on the plan or if she could? Roger stated anyone can put them on the plan, but the applicant must know if the figure on the plan gets approved, the surveyor will then have to state the location of the foundation is per the approved plan.

Diane S. asked if there was a septic design for this property. CEO Steve M. stated there was a septic plan in his file and he would get the Planning Board a copy for their file. Steve stated that it would also be helpful to board members to have a copy of the assessor's card to see what the town has listed for dimensions.

Ms. Langone asked about the abutting property which is listed on the town map as a right-of-way. Ms. Langone stated it was in need of work to stop the erosion and a general clean up of the area was needed. She said she was willing to do the work with the town's permission. She also noted a neighbor talked about putting up a fence so the walkway would only be four feet wide preventing vehicles from using it which was causing much of the erosion problem. Roger A. and CEO Steve M. noted that it was not town property so the Planning Board had no jurisdiction over what did or did not place on the property. Roland L. thought that it was a right-of-way for several lots in the area but he did not know who. It was concluded the Planning Board could not make any decisions for this property; it did not even appear to be numbered by the town so finding out who owned it would be difficult at best.

Roger A. and Roland L. asked if the new home would be able to meet the 30% expansion requirement because it looked much larger than what existed at this time. Barbara G. noted that it was the CEO's job to determine whether or not it would meet this criteria. Roger agreed stating the board members job was to approve the best possible location for the footprint of the home.

Ms. Langone and her father asked again about how to calculate the 30% volume for the new home. Roger A. stated that if the existing home was one story, you take the length times the width times the height to reach your figure. Then the new home cannot be more than 30% of that figure. CEO Steve M. stated this would include the basement of the existing structure. In the new structure the basement does not count in your calculation.

Ms. Langone and her father did not believe they would be able to expand the existing structures enough to accommodate their needs. They thanked the Planning Board for their time.

Note: Ms. Langone called Barbara G. on Wednesday, May 28th and stated she would like to come back before the Planning Board. She would also like to meet with the CEO to once again go over the 30% expansion calculations. Barbara therefore mailed the Notice to Abutter's out and will place Ms. Langone on the agenda for June 11th. 24th.

Nothing further was discussed.

Preliminary Review of Large Scale Pumping or Extraction of Groundwater from Aquifer's Ordinance

Planning Board members reviewed the following:

Add to §105-15. Definitions

AQUIFER – means a saturated permeable geologic unit that can transmit significant quantities of water under ordinary hydraulic gradients.

WATER EXTRACTION – mean withdrawal, removal, diversion, taking, or collection by any means of water from ground water sources, aquifers, springs, wells, pumps or similar.

EXTRACTION POINT – means the physical location where water is extracted, whether by well, pump, pipeline, catchment, or other similar method.

LARGE SCALE WATER EXTRACTION – means extraction of water from ground water sources, aquifers, springs, wells or similar in a total daily amount on any given day of 5000 gallons or more, as extracted by the same individual or entity, or consortium or association of individuals or entities, regardless of the number of extraction facilities utilized.

§ 105- Large scale pumping or extraction of groundwater from aquifers.

- A. General. The following provisions shall insure the ongoing sustainability and quality of said water supplies and the avoidance of any interruption or degradation of water quality and quantity to members of the general public within the town, and generally to protect the health, safety and welfare of persons dependent upon such water supplies.
- B. Permit required. The daily (meaning any given day) extraction of more than 5000 gallons of ground water, spring water and/or water from aquifers or their recharge areas by any one entity or person, or consortium or association of entities or person acting in concert, regardless of the number of extraction facilities utilized, shall require a Conditional Use Permit issued by the Planning Board.
- C. Water extraction not requiring a permit. A conditional use permit shall not be required for water extraction within the Town of Shapleigh for standard agricultural purposes; drinking water and domestic water supply to private residences within the Town of Shapleigh; water supply for public facilities such as schools within the Town of Shapleigh; fire suppression; or for on site residential, commercial and industrial purposes within the Town of Shapleigh to the limit of their historical use of water which exist as of the date of the adoption of Section 105- .
- D. Application for permit. Application for a permit from the Planning Board for Large Scale Water Extraction shall be in writing and be accompanied by site plans prepared by a licensed State of Maine surveyor, licensed engineer, or similar appropriately licensed professional. The application shall include the following.
 - (1) Evidence of applicant's right, title and interest in and to the property(ies) from which the water is to be extracted. If such evidence is other than outright ownership and title as evidenced by a deed duly recorded in the York County Registry of Deeds, the entire document/documentation (other than reference(s) to purchase price and financing terms) whether by lease, option, contractor otherwise establishing right, title and interest shall be submitted with the application.
 - (2) A statement of the total maximum daily quantity of water to be extracted, from all extraction points operated by the same individual or entity, or consortium or association of individuals or entities.
 - (3) The location(s) of the points of extraction.
 - (4) The methods of extraction.

- (5) The proposed use for which the water is to be extracted including the identity of any end user of the extracted water whose facilities for use, processing, transporting, storage, bottling, sales or other similar activities are located outside the Town of Shapleigh.
- (6) The proposed number of daily trips to and from the site. The Planning Board may require a traffic study done by a registered traffic or transportation engineer, at a cost to the applicant.
- (7) A written report, certified to the Town of Shapleigh procured and paid for by the applicant, of a hydrogeologic investigation and study, conducted and prepared by a licensed State of Maine professional hydrogeologist, geologist, hydrologist, registered professional engineer or other appropriately licensed professional possessing in the judgment of the Planning Board comparable credentials and qualifications. The report must address at least the following:
 - (a) The rates of draw down and recharge of any aquifer or other ground water source as may have been established by a pumping or "stress test" or other similar testing regime in accordance with accepted standards within the geology and engineering professions.
 - (b) The characteristics of the aquifer or other ground water source, including rates of draw down and recharge, sustainable extraction rates, aquifer boundaries, recharge areas, impacts on the water table, and impacts on any and all existing water bodies including but not limited to lakes, ponds, rivers, streams and wetland areas and private wells or other existing extraction locations within the zone of contribution.
 - (c) The possible effects on the aquifer or other ground water resources which might result in the disturbance of existing minerals such as, but not limited to, iron, manganese, arsenic, and uranium, and any health hazards raised by such disturbance(s) or other impacts including issues such as drinking water turbidity, clarity and aroma.
- (8) A site plan depicting the following:
 - (a) The limits (outside perimeter) of the aquifer or other water source cited in the application, and the bounds of the land of the applicant.
 - (b) The location of all water bodies located within 500 feet of the outside perimeter of the aquifer or other water source.
 - (c) The existing network of public or private roads leading to or by the extraction point(s).
 - (d) Any proposed new roads or driveways to be constructed for access to and egress from the extraction point(s), and the point(s) of intersection of such proposed roads or driveways with existing roads.
 - (e) Any existing or proposed utility lines to be utilized in the extraction operation(s).
 - (f) The extraction point(s) including without limitation well heads, pumping facilities, monitoring or test wells, buildings, and/or sheds, utility lines, fencing, access roads or driveways, elevation, and contour lines.
 - (g) Any existing or proposed pipes, pipelines, aqueducts or similar that are intended to facilitate transport of extracted water from the extraction point(s) towards the intended end user, if any part of the extracted water is ultimately to be transported outside the geographic limits of the Town of Shapleigh.
 - (h) Any other relevant and material detail(s) bearing on the proposed extraction process the omission of which would tend to hinder the ability of the reviewing authority, affected land owners or the public from developing a full understanding of the scope and impact of the proposal.

E. Conditions of permit. The Planning Board may issue a permit, provided that the following conditions shall be met:

- (1) The quantity of water to be extracted will not cause undesirable changes in the ground water flow patterns relating to the aquifer, its recharge areas, or other ground water sources within the Town of Shapleigh.
- (2) The quantity of water to be extracted will not negatively impact, diminish, or alter any surface waters within the Town of Shapleigh, including during any periods of drought.
- (3) The quantity of water to be extracted will not cause any ground subsidence beyond the property lines of applicant's property.
- (4) The quantity of water to be extracted will not adversely affect the long term sustainability of the aquifer, or its recharge areas, or other groundwater source, including during period of drought.
- (5) The proposed extraction will not create a health risk or issues such as drinking water turbidity, clarity or aroma resulting from the disturbance of existing minerals, or from any other cause, with ongoing follow up monthly testing for this purpose, results to be provided in writing to the Shapleigh Board of Selectmen on at least a monthly basis.
- (6) The establishment of an ongoing follow up monitoring system and development of a system of recording and documenting extraction and recharge data, within the zone of contribution, to be reported in writing to the Shapleigh Board of Selectmen on at least a monthly basis. At least 25% of monitoring locations shall be at private wells located within the zone of contribution, provided applicant obtains landowner permission for such testing.
- (7) The applicant assumes any and all liability for the loss, interruption, degradation or interference with the preexisting beneficial domestic use of groundwater by a land owner or lawful land occupant, or other public or private water supply, caused by applicant's withdrawal or extraction of water.

For the purposes of this section "beneficial domestic use", "groundwater" and "preexisting use" shall be as defined by 38 M.R.S.A. 404-1A-C.

For the purposes of this section liability of applicant shall be for compensatory damages only, and shall be limited to the following:

- (a) All costs necessary to restore the landowner or lawful land occupant to a status which is reasonably equivalent in terms of quantity and quality of ground water, made available on a similarly accessible and economic basis;
- (b) Compensatory damages for loss or damage to property, including, without limitation, the loss of habitability of residence, caused to the landowner or lawful land occupant by reason of the interference prior to restoration of the status provided for in subparagraph (a); and
- (c) Reasonable costs, including expert witness and attorney fees incurred in initiating and prosecuting an action when necessary to secure a judgment granting the relief provided for under this section.

The Planning Board shall require the furnishing of a bond or other performance guaranty it deems of equivalent security to secure the applicant's obligations under this section.

- (8) Additional vehicular demand on existing town roads or public easements occasioned by the operation of the extraction facility(ies) will not exceed the capacity of those roads, or cause the premature failure, aging or diminished utility of those roads.

Barbara G. noted that she did have Madge B. review the ordinance. Barbara stated the ordinance was created by using ordinances that were in existence in Maine at this time, which included an ordinance given to her by the Board of Selectmen. The BOS had received a copy of the ordinance at their 11-Town Group meeting.

Roger A. thought the ordinance was well constructed. He wanted to be certain there was a way to make certain all the conditions listed were adhered to. Roger said he believed the board could make it a condition of approval of the Conditional Use Permit that all the above conditions were carried out. Barbara A. believed that any additional conditions were not necessary because this ordinance stated it could not be approved unless they were followed. Barbara said she would see if there was any additional language necessary to ensure it.

Roland L. had concerns with the following:

- (6) The establishment of an ongoing follow up monitoring system and development of a system of recording and documenting extraction and recharge data, within the zone of contribution, to be reported in writing to the Shapleigh Board of Selectmen on at least a monthly basis. At least 25% of monitoring locations shall be at private wells located within the zone of contribution, provided applicant obtains landowner permission for such testing.

Roland wanted to know what would happen if there weren't enough wells in the area to make up the 25% as stated? Would there be any consequences to the review and approval process. Would there be a loophole for the applicant?

Barbara G. stated she did not know. Barbara said she would also review other ordinances for their language to see if there was anything further she could add to this requirement.

Board members asked about the process, when the public hearings should be held and when this could be brought before the townspeople? Barbara G. thought there was going to be a special town meeting in the fall but there would have to be two public hearings prior to that meeting before it could be put before the townspeople. Barbara said she would get more information from the Executive Secretary with respect to the next possible town meeting.

Diane S. asked if any applicants for large water extraction had been before the Board of Selectmen at this time. Barbara G. stated she did not know but would ask the Executive Secretary.

Board members agreed it would be good to begin the Public Hearing process. A Public Hearing will be held on Wednesday, June 11th at 7 p.m. for the proposed new ordinance.

Nothing further was discussed.

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

Respectively submitted,

Barbara Felong, Land Use Secretary
planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES

Wednesday, June 11, 2008

Members in attendance: Roger Allaire (Chairman), Roland Legere, Lauren Meek (Vice Chairman), and Barbara Felong (Secretary). Code Enforcement Officer, Steven McDonough was also in attendance.

The following words are not verbatim unless accompanied by quotation marks “ ”. In addition, when known the actual name of the speaker was used, if not known, the speaker will be known as ‘citizen’.

Public Hearing Began at 7:05 p.m.

• Proposed Addition to the Zoning Ordinance - Large scale pumping or extraction of groundwater from aquifers.

Chairman Allaire opened the public hearing by stating everyone would be given three minutes to speak after he read the proposed ordinance in its entirety. It read as follows:

“Add to **§105-15. Definitions**

AQUIFER – means a saturated permeable geologic unit that can transmit significant quantities of water under ordinary hydraulic gradients.

WATER EXTRACTION – mean withdrawal, removal, diversion, taking, or collection by any means of water from ground water sources, aquifers, springs, wells, pumps or similar.

EXTRACTION POINT – means the physical location where water is extracted, whether by well, pump, pipeline, catchment, or other similar method.

LARGE SCALE WATER EXTRACTION – means extraction of water from ground water sources, aquifers, springs, wells or similar in a total daily amount on any given day of 5000 gallons or more, as extracted by the same individual or entity, or consortium or association of individuals or entities, regardless of the number of extraction facilities utilized.

§ 105- Large scale pumping or extraction of groundwater from aquifers.

- A. General. The following provisions shall insure the ongoing sustainability and quality of said water supplies and the avoidance of any interruption or degradation of water quality and quantity to members of the general public within the town, and generally to protect the health, safety and welfare of persons dependent upon such water supplies.
- B. Permit required. The daily (meaning any given day) extraction of more than 5000 gallons of ground water, spring water and/or water from aquifers or their recharge areas by any one entity or person, or consortium or association of entities or person acting in concert, regardless of the number of extraction facilities utilized, shall require a Conditional Use Permit issued by the Planning Board.
- C. Water extraction not requiring a permit. A conditional use permit shall not be required for water extraction within the Town of Shapleigh for standard agricultural purposes; drinking water and domestic water supply to private residences within the Town of Shapleigh; water supply for public facilities such as schools within the Town of Shapleigh; fire suppression; or for on site residential, commercial and industrial purposes within the Town of Shapleigh to the limit of their historical use of water which exist as of the date of the adoption of Section 105- .
- D. Application for permit. Application for a permit from the Planning Board for Large Scale Water Extraction shall be in writing and be accompanied by site plans prepared by a licensed State of Maine surveyor, licensed engineer, or similar appropriately licensed professional. The application shall include the following.

- (1) Evidence of applicant's right, title and interest in and to the property(ies) from which the water is to be extracted. If such evidence is other than outright ownership and title as evidenced by a deed duly recorded in the York County Registry of Deeds, the entire document/documentation (other than reference(s) to purchase price and financing terms) whether by lease, option, contractor otherwise establishing right, title and interest shall be submitted with the application.
- (2) A statement of the total maximum daily quantity of water to be extracted, from all extraction points operated by the same individual or entity, or consortium or association of individuals or entities.
- (3) The location(s) of the points of extraction.
- (4) The methods of extraction.
- (5) The proposed use for which the water is to be extracted including the identity of any end user of the extracted water whose facilities for use, processing, transporting, storage, bottling, sales or other similar activities are located outside the Town of Shapleigh.
- (6) The proposed number of daily trips to and from the site. The Planning Board may require a traffic study done by a registered traffic or transportation engineer, at a cost to the applicant.
- (7) A written report, certified to the Town of Shapleigh procured and paid for by the applicant, of a hydrogeologic investigation and study, conducted and prepared by a licensed State of Maine professional hydrogeologist, geologist, hydrologist, registered professional engineer or other appropriately licensed professional possessing in the judgment of the Planning Board comparable credentials and qualifications. The report must address at least the following:
 - (a) The rates of draw down and recharge of any aquifer or other ground water source as may have been established by a pumping or "stress test" or other similar testing regime in accordance with accepted standards within the geology and engineering professions.
 - (b) The characteristics of the aquifer or other ground water source, including rates of draw down and recharge, sustainable extraction rates, aquifer boundaries, recharge areas, impacts on the water table, and impacts on any and all existing water bodies including but not limited to lakes, ponds, rivers, streams and wetland areas and private wells or other existing extraction locations within the zone of contribution.
 - (c) The possible effects on the aquifer or other ground water resources which might result in the disturbance of existing minerals such as, but not limited to, iron, manganese, arsenic, and uranium, and any health hazards raised by such disturbance(s) or other impacts including issues such as drinking water turbidity, clarity and aroma.
- (8) A site plan depicting the following:
 - (a) The limits (outside perimeter) of the aquifer or other water source cited in the application, and the bounds of the land of the applicant.
 - (b) The location of all water bodies located within 500 feet of the outside perimeter of the aquifer or other water source.
 - (c) The existing network of public or private roads leading to or by the extraction point(s).
 - (d) Any proposed new roads or driveways to be constructed for access to and egress from the extraction point(s), and the point(s) of intersection of such proposed roads or driveways with existing roads.
 - (e) Any existing or proposed utility lines to be utilized in the extraction operation(s).
 - (f) The extraction point(s) including without limitation well heads, pumping facilities, monitoring or test wells, buildings, and/or sheds, utility lines, fencing, access roads or driveways, elevation, and contour lines.

- (g) Any existing or proposed pipes, pipelines, aqueducts or similar that are intended to facilitate transport of extracted water from the extraction point(s) towards the intended end user, if any part of the extracted water is ultimately to be transported outside the geographic limits of the Town of Shapleigh.
- (h) Any other relevant and material detail(s) bearing on the proposed extraction process the omission of which would tend to hinder the ability of the reviewing authority, affected land owners or the public from developing a full understanding of the scope and impact of the proposal.

E. Conditions of permit. No approval shall be granted any application until and unless the Planning Board shall have affirmatively found that each of the following performance standards has been or will be met. The burden of proof is on the applicant. Applicant must also demonstrate to the reviewing authority that it possesses the expertise and financial resources to provide continuing adherence to these standards.

- (1) The quantity of water to be extracted will not cause undesirable changes in the ground water flow patterns relating to the aquifer, its recharge areas, or other ground water sources within the Town of Shapleigh.
- (2) The quantity of water to be extracted will not negatively impact, diminish, or alter any surface waters within the Town of Shapleigh, including during any periods of drought.
- (3) The quantity of water to be extracted will not cause any ground subsidence beyond the property lines of applicant's property.
- (4) The quantity of water to be extracted will not adversely affect the long term sustainability of the aquifer, or its recharge areas, or other groundwater source, including during period of drought.
- (5) The proposed extraction will not create a health risk or issues such as drinking water turbidity, clarity or aroma resulting from the disturbance of existing minerals, or from any other cause, with ongoing follow up monthly testing for this purpose, results to be provided in writing to the Shapleigh Board of Selectmen on at least a monthly basis.
- (6) The establishment of an ongoing follow up monitoring system and development of a system of recording and documenting extraction and recharge data, within the zone of contribution, to be reported in writing to the Shapleigh Board of Selectmen on at least a monthly basis. At least 25% of monitoring locations shall be at private wells located within the zone of contribution, provided applicant obtains landowner permission for such testing. Should there not be enough private wells to make up the 25% to be monitored, the Planning Board may ask for additional monitoring stations be provided on the public or state land to be used.
- (7) The applicant assumes any and all liability for the loss, interruption, degradation or interference with the preexisting beneficial domestic use of groundwater by a land owner or lawful land occupant, or other public or private water supply, caused by applicant's withdrawal or extraction of water.

For the purposes of this section "beneficial domestic use", "groundwater" and "preexisting use" shall be as defined by 38 M.R.S.A. 404-1A-C.

For the purposes of this section liability of applicant shall be for compensatory damages only, and shall be limited to the following:

- (a) All costs necessary to restore the landowner or lawful land occupant to a status which is reasonably equivalent in terms of quantity and quality of ground water, made available on a similarly accessible and economic basis;
- (b) Compensatory damages for loss or damage to property, including, without limitation, the loss of habitability of residence, caused to the landowner or lawful land occupant by reason of the interference prior to restoration of the status provided for in subparagraph (a); and

- (c) Reasonable costs, including expert witness and attorney fees incurred in initiating and prosecuting an action when necessary to secure a judgment granting the relief provided for under this section.

The Planning Board shall require the furnishing of a bond or other performance guaranty it deems of equivalent security to secure the applicant's obligations under this section.

- (8) Additional vehicular demand on existing town roads or public easements occasioned by the operation of the extraction facility(ies) will not exceed the capacity of those roads, or cause the premature failure, aging or diminished utility of those roads."

The audience was asked by Chairman Allaire to keep their comments to three minutes so everyone would get a chance to speak.

Martin Britton of 129 Granny Kent – Mr. Britton spoke about when he moved to this location he had a point well with water that was o.k. but it had a slight odor so he decided to put in a drilled well. He stated he put in a drilled well of about 170 feet in depth that has plenty of water but upon testing it was revealed he had arsenic in his well. He stated it was a minute quantity so he put in a reverse osmosis filter. He thought it was the result of the drilling process, going through bedrock. He stated even with filtration he did not feel comfortable consuming the water.

Mr. Britton stated his concern was in the process of extracting water, the company will disturb something and will cause a problem such as this on a larger scale. He stated he did some research and found that about 40 miles from Shapleigh, in New Hampshire, they mined arsenic. He concluded he was against large water extraction.

CEO Steven McDonough – CEO McDonough stated, "I am sure we all have concerns about our drinking water and water extraction and so forth. Tonight's meeting is about adopting this ordinance and how you feel about this ordinance." He stated he was not a lawyer but he said, "You cannot discriminate against anybody. You can set up rules to regulate them and possibly squeeze them into a minute area where they may or may not be able to operate but you can't say we don't want this." He believed that was against the law. He concluded that the town could do its best to regulate anything but to say the Town of Shapleigh says 'no' he did not believe this was possible.

Gloria Dyer of Newfield – Ms. Dyer stated this was the time to make comments on the ordinance but she didn't feel everyone present understood that.

Citizen – A citizen was concerned with the fact there were no hours of operation listed specifically in the water extraction ordinance. The citizen thought the water company should only be able to operate during daylight hours.

Chairman Allaire – Chairman Allaire explained that when an applicant came before the Planning Board to obtain a Conditional Use Permit, at that time, hours of operation are addressed.

CEO McDonough – CEO McDonough agreed stating the hours of operation are currently addressed in the existing Zoning ordinance. He stated that the water extraction ordinance states you need to get a Conditional Use Permit. If you read the existing ordinance with respect to rules governing a Conditional Use Permit, hours of operation are addressed.

Citizen – This means they do not have to be addressed in the new ordinance?

Chairman Allaire and CEO McDonough – Both agreed this was true. Chairman Allaire stated that the hours of operation are always reviewed during the CUP process.

Paul Cormier of 713 Ross Corner Road – Mr. Cormier stated he was concerned that the CEO stated that Shapleigh could not restrict people from coming into Shapleigh. He felt that it was a corporation vs. private citizens and their water supply. Mr. Cormier wanted to know if the water supply was to be reduced, who would help the citizens?

Vice Chairman Meek and Chairman Allaire – Both board members tried to explain the new ordinance was meant to protect the citizens of Shapleigh's water supply.

Paul Cormier – Mr. Cormier stated he had concerns with who came into Shapleigh, selling water for profit.

Chairman Allaire – Chairman Allaire stated that was one area being addressed in the ordinance, there is a section of the ordinance that addresses compensatory damages.

Paul Cormier – Mr. Cormier asked where in Shapleigh the drilling could take place? Mr. Cormier wanted to be sure Shapleigh had some protection.

Chairman Allaire – Chairman Allaire stated a company could drill anywhere provided they had enough water.

George Landry of 275 Nason Road – Mr. Landry stated that this was a democracy so why couldn't the town vote to keep a company out.

Chairman Allaire – Chairman Allaire explained you could not prevent a business from coming in if it was an allowed use.

George Landry – Mr. Landry addressed the definition of "large scale water extraction", which is defined as 5000 gallons or more a day. He asked if the board members could tell how many sites would be running at one time?

Chairman Allaire – Chairman Allaire stated the Planning Board did not have an application before them at this time. He stated the board was trying to put some standards into the ordinance prior to receiving an application so the board would have more criteria to follow during the review process. He stated that at the present time the board members review each application with respect to the safety, health and welfare of the community but the board members do not know the specifics of water extraction. This ordinance gives them more information for the review process.

George Landry – Mr. Landry had a concern with the weight of the trucks used for the transportation of the water. He asked if there was anything that could be put into the ordinance for a fund to help the town rebuild the roads.

Chairman Allaire – Chairman Allaire stated the board had the ability to do this depending on the use. Chairman Allaire noted that if a state road was used, the board had no jurisdiction.

Ann Wentworth of Wakefield Road in Newfield – Ms. Wentworth stated she had reviewed the ordinance. Ms. Wentworth wanted to share that in 2007 the State of Maine passed a bill that says the legislation “ensure that commercial water extractions are regulated with their impact on the whole watershed in mind, and set sustainability standards.” She did not feel that the proposed ordinance addressed abutting properties.

Ms. Wentworth reviewed section E(3) which states “The quantity of water to be extracted will not cause any ground subsidence beyond the property lines of the applicant’s property.” She did not feel it mentioned “caring” about your neighbor. She stated that in most towns there was at least a 30 foot minimum from the property line. She felt it was loosely written because there was no footage.

Ms. Wentworth also voiced concerns with the land preserve. She stated the Federal Government had passed rulings regarding wetlands, submerged property and vernal pools. She stated she did not feel the ordinance looked out for those lands.

Ms. Wentworth stated that the rules in the State of Maine would be changing in July of 2009. She suggested a moratorium until the Planning Board figured out the federal and state mandated changes.

Chairman Allaire – Chairman Allaire stated that he understood the new rules and that they were supposed to be enacted in July of 2008 and have been extended to July of 2009. Chairman Allaire stated the Planning Board was well aware of the new rules.

Ann Wentworth – Ms. Wentworth stated that the entire wetland must be taken into consideration not just what is in Shapleigh. She also mentioned the Natural Resources Protection Act.

Chairman Allaire – Chairman Allaire noted that the Natural Resources Protection Act is in the existing Zoning ordinance. He also stated that when the hydrogeological survey is done, the affected wetlands will be reviewed.

Ann Wentworth – Ms. Wentworth stated that “the Town of Shapleigh should be having the studies paid for by the purchaser, whoever is purchasing water. They should be paying for the studies you want.”

Chairman Allaire – Chairman Allaire replied that “they do”. The Planning Board requires the applicant to pay and the board *at this time* has every right to ask for who they want to do the study.

Ann. Wentworth – Ms. Wentworth stated the Zone of Contribution was never mentioned under definitions. She felt this should be included. She stated that “ground water” or “water bodies” was also not mentioned.

Note: “groundwater” is listed under E(7) and defined by 38 M.R.S.A. 404-1A-C. “water bodies” is already defined in the existing ordinance and shall be defined per the new definition under the Shoreland zoning changes in 2009.

Ann. Wentworth – Ms. Wentworth again stated there should be footage with respect to abutters.

Chairman Allaire – Chairman Allaire replied that per the Maine Revised Statutes Annotated and the Conditional Use Permit ordinance, all abutters within 500 feet of the applicant's boundary line shall be notified.

Ann Wentworth – Ms. Wentworth stated that under Section E(6), the line "the Planning Board may ask for additional monitoring stations be provided on the public or state land to be used." She recommended the use of the word "will" instead of may.

Ms. Wentworth stated that under E(7) "or other public or private water supply" she felt "or state" should be added as well.

Ms. Wentworth stated under E(7)(a), "which is reasonably equivalent in terms of quantity and quality of ground water,..." Ms. Wentworth felt it should read "the same as or superior".

Ms. Wentworth stated "Lastly, my suggestion is to put a moratorium on this until it can be worked out. You should not be run over with a bulldozer."

Eric Johnson of Hollis – Mr. Johnson stated that the town would be dealing with "a monstrous company, a huge company that has vast resources." He stated that the company would walk all over the Town of Shapleigh if not now within a few years. He said that when the CEO said you cannot prevent big corporations there was a town in NH that did. He concluded that if you can stall it might help.

Fay Greenleaf – Ms. Greenleaf stated under definitions she felt the definition for large water extraction should read "more than one thousand gallons per acres per day, or more than an aggregate of ten thousand gallon per day (from an aggregate of sites more than 10 acres of groundwater, spring water and/or water from aquifers or their recharge areas by any one entity or person, or consortium or association of entities or person acting in concert, regardless of the number of extraction facilities utilized."

Ms. Greenleaf stated under the conditions of permit, E, she felt "area" should be added as follows, "The land area (in acres) owned by the applicant plus that for which the applicant has a water extraction lease less an allowance of one-half acre for each housing unit on land owned or leased less one acre for each one thousand gal/day extracted for other purposes within the owned and leased lands.

Ms. Greenleaf felt the hours of operation should be added to state not before 6:00 a.m. and after 9:00 p.m. She felt this would also go under "E". In addition she wanted, "The Planning Board may add additional restrictions on time periods of truck traffic depending on the roads used (e.g. for safety at school opening/closing times; location relative to residential areas) or on hours of operation depending on the potential impact on neighboring properties. Hours of operation refers to hours when employees or trucks are at the facility."

Mary Taylor - Ms Taylor is the town's representative for the Saco River Corridor Commission – Ms. Taylor stated she lived in Pine Springs (Shapleigh). She stated she was speaking because of her relationship with the water in the area. She did testing for the Saco River, which is regulated by law by the State of Maine. It was legislated in 1973. She urged everyone to become

familiar with the legislation and the protection it affords. Ms. Taylor stated, “It does not deal with the extraction of the water. It deals with the purity, quality and the sustainability of the water in all of our areas.” She urged the citizens to please become more aware of it.

Emily Posner – Ms. Posner stated she was a small scale farmer from mid-coast Maine. She stated she was troubled by the water crisis. She said there were some books available in the town library regarding the existing water crisis. She stated, “I am troubled because this is being moved forward before the town has had a chance to vote on whether or not they want Nestle to come in and test.” She felt this was counter democratic.

Ms. Posner stated that climate change is an issue and water is very intricate. She spoke of other areas and their water table problems. She stated many scientists, including at the University of Maine, thought drought was going to change the way society deals with water extraction. She recommended an immediate moratorium on water extraction until the town can get an independent analysis on how commercial water extraction is going to affect the area, including future climate change. She concluded that the town needs to think about future generations.

Citizen of Shapleigh – Ms. Citizen stated she lived in Shapleigh for 16 years and had three children. She felt the world was in crisis and was concerned with draining the town’s water supply and the increase in traffic this type of company would bring. She also spoke about the size of the trucks to be used and the damage it would cause to the roads. She was also concerned with small children living on the road and the danger to them. She concluded that she felt we were in a drought situation and could not afford to lose any water.

Citizen of Shapleigh – Ms. Citizen stated that it was a sensitive issue and she realized the ordinance was being written not just for Poland Springs but for any water extraction company. Her concern was that it be as strong worded as possible. She spoke about the section on “conditions of permit”. She stated she understood that if they didn’t follow the conditions their permit would be taken from them. She thought it would make sense to have an independent study done at least yearly so the town can make certain they are achieving the conditions. She was also concerned with large farming, how that could affect the water supply. She concluded that she loved living in Shapleigh and she wanted it to remain as it is now, a great place to live.

Eileen Hennessey of Newfield – Ms. Hennessey felt the water extraction ordinance should have cross references to the other pertinent town ordinances. She did not see where a lot size was specified, so she thought someone could sublease the size of a shed and they could put in pumps and extract water from it. She thought “Anyone who would be a large user of water, which this is supposed to be for, have a cross reference to your codes that your code enforcement officer is telling you would be in play”.

Eric Davis – Mr. Davis referred to Section E (1) and E (2). These refer to the aquifer, recharge areas or other ground water sources within the Town of Shapleigh. He asked if Shapleigh was going to be concerned beyond the town line if the aquifer extends beyond the town line?

Chairman Allaire – Chairman Allaire stated the Planning Board had to look at the total aquifer and the total impact of the project.

Eric Davis – Mr. Davis stated that it said “within the Town of Shapleigh” so he felt this should be addressed in those sections. He stated under C “Water extraction not requiring a permit.”, he said it

talked about those things that did not require a permit. He asked if a new commercial property came in requiring more than 5000 gallons of water a day, would they need to follow this code? He also asked if an old company was using less than 5000 gallons but now needed to use more than 5000, does Shapleigh have a method of policing this aspect so we know they have followed this ordinance?

Chairman Allaire – Chairman Allaire stated if anyone with an existing CUP exceeds the conditions greater than 25% they need to come back before the Planning Board. Chairman Allaire stated if this new language got adopted they would need to abide by the new language.

Citizen – Ms. Citizen asked about the 5000 gallons, was that written in stone? Could it state not to exceed?

Chairman Allaire – Chairman Allaire stated there had to be a minimum amount to be exceeded to be able to start regulating it. This is the 5000 gallons. It could be reduced lower. He stated a maximum amount can be put as a condition but that cannot be determined without a study. The board at this time does not know what the recharge of any given area is. He stated this was the reason for monitoring wells and if the recharge drops then the extraction must stop based on the study for the area. By use of the monitoring wells an entity cannot take all the water out of the aquifer because it is being monitored.

Citizen – Ms. Citizen asked how often the wells would be monitored?

Chairman Allaire – “Monthly”.

Andrea Silva from Newfield – Ms. Silva stated that the Codes Officer stated the town could not stop corporations from coming into Shapleigh.

CEO McDonough – CEO McDonough replied, “I did not say that, I said you cannot discriminate. Discrimination is against the law.”

At this moment the Planning Board and CEO were listening to some uncalled for language from the audience.

Andrea Silva - Ms. Silva believed the proposed ordinance was an invitation for large corporations to come into Shapleigh. She asked if there was any town in Maine that had a low extraction ordinance, so the amount to be allowed was so low the company would not come in. She did not know what the benefit was to have a large corporation come into the town.

Several audience members stated money for the town was the reason.

Chairman Allaire – Chairman Allaire stated the 5000 gallons was there to set a point of review. He stated a large company other than a water bottling company could come into the town and would need to be reviewed under this ordinance.

Andrea Silva - Ms. Silva said that type of company would have to go to a town vote.

Chairman Allaire - Chairman Allaire stated this would go through Planning Board review. Any manufacturing company would be reviewed by the Planning Board. And the company did not necessarily have to move the water offsite.

Chairman Allaire - Chairman Allaire stated that the only reason for tonight's meeting was to review a proposed ordinance that will be voted on at Town Meeting in March 2009. This meeting was to solicit input regarding the ordinance. He stated the board was trying to be proactive prior to receiving an application for water extraction.

Andrea Silva - Ms. Silva asked if there would be another Public Hearing before town meeting?

Chairman Allaire - Chairman Allaire stated yes, there will be one for any changes the board may make after this evening's meeting. Then it will go to town vote. Either it will be voted in or not.

There were questions posed to the board regarding piping, tankers, etc. The Planning Board stated once again there was no application before the board. Chairman Allaire stated when an applicant comes before the Planning Board then these types of questions will be answered.

Gloria Dyer of Newfield – Ms. Dyer stated she was concerned that both the aquifer and river are shared between Newfield and Shapleigh.

Ms. Dyer explained that an ordinance sets rules but they needed to be firm rules. She stated, "This is mush." "I have had experience with ordinances, Newfield just passed a water extraction ordinance, it is modeled after Parsonsfield." She said she reviewed the proposed ordinance and the Parsonsfield ordinance and she said a lot of the proposed ordinance was verbatim so she knew it was Shapleigh's template.

Ms. Dyer stated things were left out of the proposed ordinance, there were limits to the amount of extraction and she stated, "You guys have it because you have Parsonsfield's ordinance because that is where you got this from." She stated there are ways to limit hours of operation and to limit traffic, putting it directly into the ordinance so the Planning Board cannot decide that for you.

Ms. Dyer stated that she's read DEP permits, transportation reports, information from Inland Fisheries and Wildlife Management. She told the Planning Board she hoped they did their homework and got the information. She stated, "They are a large corporation, the minimum they are looking for to run their operation is probably, on a large operation, it says we are talking a large operation, would be 80 million gallons a year. They have several that are 180 to 200 million."

Ms. Dyer stated the local aquifer is very pure water and there is no arsenic in it. She said it is the big aquifer. She stated again Shapleigh has no ordinance at this time and it needs to be strict. Newfield ordinance is exactly like Parsonsfield which she felt was better than what was presented. She accused Shapleigh of omitting items from the Parsonsfield's ordinance.

Ms. Dyer felt the Planning Board should obtain independent information prior to any extraction, not during, not a year after.

Ms. Dyer again stated she believed the ordinance was taken from Parsonsfield but stated the definition of large scale water extraction was not from that ordinance, she thinks somebody picked the number. She felt Shapleigh left out words deliberately from the ordinance.

Note: Shapleigh used the ordinance from Denmark, as it was given to the Board of Selectmen at the 11 Town Group Meeting as a good template for a water protection ordinance.

Michelle Landry of Nason Road in Shapleigh – Ms. Landry began by stating her and her husband moved to Shapleigh four years ago. She stated the first weekend she moved in her well went dry. She stated she had six kids. She said she did not want to pay another 10,000 for a new well. She said wells are expensive. She wanted to know what could be put into the ordinance so the citizens of this town would not have to worry about their wells going dry.

Chairman Allaire – Chairman Allaire stated there was language in the ordinance for compensatory damages.

Michelle Landry - Ms. Landry stated there was legislation in court and lawsuits and they don't care.

Sue Cormier of 713 Ross Corner Road – Ms. Cormier stated she has seen her neighbor's well go dry every year; another neighbor also needed a new well. She felt she was not protected. She stated "While we run out of water you'll sit there for months saying how do you prove that you had the water before. We are the little guys we don't have the money to get a lawyer to fight this, the town doesn't want to spend the money, based on things in the past."

Ms. Cormier spoke of Shapleigh being a "dry town and heaven forbid if you have a restaurant you can't get a liquor license." She believed if a beer making company came in, the town would be shutting them down. She believed the town wanted this company and they were going to slide it under all the people. She stated it was wrong, the town should vote for it.

Ms. Cormier thought this should go to the state level but she feels someone is sneaking this in. She thought more research should be done. She said she was angry and afraid but wanted it noted she liked living in the Town of Shapleigh.

Bob Fisher from Pine Springs in Shapleigh – Mr. Fisher stated he agreed a moratorium was needed for a year. He felt the York County Municipal Association could draw it up. He stated the townspeople should go to them.

Citizen from Silver Lake, Shapleigh – Mr. Citizen asked if he were a person coming in to draw water and was abiding by all the rules, under E, what if he started to violate all of these. He asked, under E(7)(c), what was "other performance guaranty"?

Chairman Allaire – Chairman Allaire stated it could be cash. He stated there were multiple guarantees.

Citizen from Silver Lake, Shapleigh - Mr. Citizen asked what the amount would be?

Chairman Allaire - Chairman Allaire stated it would depend on what information the Planning Board solicited from outside sources as to what the amount should be.

Citizen from Silver Lake, Shapleigh - Mr. Citizen asked who would pay for this information?

Chairman Allaire - Chairman Allaire replied, the applicant would. He added that at this time during the review of any CUP the applicant always foots the bill for research on his/her project.

Citizen from Silver Lake, Shapleigh - Mr. Citizen was concerned that if this were to end up in court, the bond would need to cover the resident of Shapleigh's court cost.

Citizen from Silver Lake, Shapleigh - Mr. Citizen stated the townspeople were at the meeting tonight making suggestions; he wanted to know if the board had to consider and make the suggestions?

Chairman Allaire - Chairman Allaire stated that the board did not, but Shapleigh's Planning Board has never ignored the concerns of the townspeople and solicits input to create an ordinance.

Citizen from Silver Lake, Shapleigh - Mr. Citizen asked if there could be a cap and if Chairman Allaire would solicit his personal opinion?

Members in the audience alluded that the board members were on the side of Poland Springs for money.

Chairman Allaire - Chairman Allaire stated that the Planning Board takes in no money from any applicant outside of the application fee for the CUP. He stated the town would receive money but it had nothing to do with the Planning Board. The board reviews the criteria in the ordinance and makes certain it gets fulfilled then after that it's turned over to the town.

Citizen from Silver Lake, Shapleigh - Mr. Citizen said if an ordinance was created it would not be up for vote until town meeting (March 2009) and if this is the case if someone came in prior to the ordinance being enacted the applicant could start the process. Is there no way we can stop this?

Chairman Allaire - Chairman Allaire stated the Selectmen could put in a moratorium.

Ms. Citizen asked if a moratorium were put into place would this stop water extraction?

Chairman Allaire - Chairman Allaire stated he thought a moratorium would put a halt to anything that wanted to come into Shapleigh.

Questions were asked as to how to put into a place a moratorium. Chairman Allaire stated the townspeople could petition the selectmen. A member of the audience stated it would take 10% of the people who voted at the last town vote to take up a petition. Then they take it to the Selectmen, which have three to six weeks to act on it. Then it comes up to a vote at the next Town Meeting. The audience member said the town would then have a year to work on the ordinance.

Ms. Citizen stated that it was in the newspaper months ago that Poland Springs was thinking about coming into the town. There were figures given about how the town would benefit. She wanted to know what this figure was?

Chairman Allaire - Chairman Allaire stated there was no application before the board at this time so he did not know.

Ann Wentworth - Ms. Wentworth stated that the hearing was advertised as Tuesday, June 11th so she called the newspaper because she wanted to know what the date was. The newspaper replied they did not have the proper time to put in the correct information. She said she did not feel this Public

Hearing qualified as a preliminary hearing because of this. She stated that from here there needed to be another preliminary hearing, then another Public Hearing. From there it goes to the Town Meeting. She said again she did not feel this qualified as a preliminary hearing.

Note: The Public Hearing was advertised three weeks prior to the Public Hearing in the Sanford Journal Tribune and the Smart Shopper. The Smart Shopper had the incorrect "day" listed and because they only publish their newspaper weekly, the second notice was not printed until Tuesday, June 10th with the correct date of Wednesday, June 11th. The Public Hearing Notice was also posted in five locations in town including the Town Hall, as required by the Planning Board manual and the State of Maine Statutes.

Chairman Allaire - Chairman Allaire stated he understood it was confusing because one newspaper made an error.

Chairman Allaire - Chairman Allaire stated this was not a problem; there was plenty of time prior to the Town meeting for additional review and Public Hearings. He stated the board could also stop the process if they felt the townspeople were opposed to the ordinance.

The audience asked where the ordinance came from? The Planning Board stated an ordinance was presented to them by the Selectmen to review and consider. An audience member stated she had gone to the Board of Selectmen after learning that Parsonsfield had a water extraction ordinance. She stated the Board of Selectmen are looking at the ordinance.

Chairman Allaire - Chairman Allaire stated the Planning Board has always been proactive. He stated he has been on the board for many years and has always been for the community's best interest. He agrees he did not want to see a big business come in and roll over the town. He stated there needed to be conditions to be met and it didn't matter what type of business it was.

Gloria Dyer – Ms. Dyer felt the Planning Board needed to put more information in the ordinance to protect Shapleigh and Newfield.

Chairman Allaire - Chairman Allaire stated the Shapleigh Planning Board has always looked at the aquifers, the Saco River Corridor, all lakes, streams, wetlands, etc.; also the board contacts the school system if that is effected by a project; the fire chief on fire protection; for all applications the general welfare of the community is always looked at. Chairman Allaire stated that the ordinance will be reviewed again and it can be modified but the town does need something more than what we have at this time in his opinion.

Martin Britton - Mr. Britton spoke again about the arsenic in his well and he felt the drilling process caused the arsenic problem. He is concerned with arsenic.

Gloria Dyer – Ms. Dyer stated the site is sand, he probably had bedrock, arsenic should not be a problem.

Chairman Allaire - Chairman Allaire added that there wasn't going to be drilling low, it was spring water taken from an aquifer that is much more surface. Chairman Allaire stated the water would be labeled according to what type it was, processed or spring.

Ms. Citizen asked about road standards, is there a capacity the roads are designed to handle?

Chairman Allaire - Chairman Allaire stated the D.O.T. manages all the state owned roads. The town roads would be reviewed by the road commissioner. He stated the board always has the road commissioner review any application involving the town roads in Shapleigh.

Ms. Citizen asked about the depth of asphalt, did that determine the strength of the road?

Chairman Allaire - Chairman Allaire mentioned that in the spring many of the town roads were closed. Chairman Allaire stated that any company would have to abide by the posted roads.

Gloria Dyer – Ms. Dyer stated they would just pipe the water to the state road.

Ms. Citizen asked if a moratorium would be any good if someone had already started drilling/testing on the site?

Chairman Allaire - Chairman Allaire stated that at this time no one had any permit to do any testing. He stated the Board of Selectmen would bring this up at a town meeting for a town vote prior to anyone testing (on town land).

Ann Wentworth – Ms. Wentworth stated she contacted the DEP and they were not aware of any wells in place but she had documentation that there were 14.

Chairman Allaire - Chairman Allaire stated he did not know what Poland Springs was doing at this time, nor did any other board member. There was no application or discussion regarding Poland Springs by the board at this time. Townspeople would need to speak with the Board of Selectmen.

Gloria Dyer – Ms. Dyer suggested the audience go before the Board of Selectmen at their next meeting to ask the same questions of them. She spoke of money proposed to Poland Spring by the state and that the state was asking for more than Poland Springs was willing to give so they are now coming to Shapleigh.

Chairman Allaire - Chairman Allaire noted that the ordinance had nothing to do with money received by a business; it only gives criteria for the business.

Emily Posner – Ms. Posner reiterated that an ordinance can be created to stop the business from the “get-go”, with a strong framework. Gloria Dyer agreed.

Chairman Allaire - Chairman Allaire asked if there were any additional questions with respect to the ordinance. There were none.

The Public Hearing ended at 8:30 p.m.

The Planning Board meeting started at 8:32 p.m.

The minutes from Tuesday, May 27, 2008, were accepted as read.

Conditional Use Permit – Use existing building for classrooms & possibly “clothes closet” and church library. – Map 45, Lot 4 (606 Shapleigh Corner Road) – Shapleigh First Baptist Church

Carrolous Verrill, Chairman of Trustees of the First Baptist Church, was before the board to review the application.

Mr. Verrill stated the church would like to use the existing building for a “clothes closet” and possibly classrooms and a library in the future if more room was needed in the existing church.

Chairman Allaire asked if there was going to be bathroom facilities in the building? Mr. Verrill stated there was a bathroom in the building now but the water needed to be turned on.

Chairman Allaire stated he believed the water was turned off because when the Growth Permit and Conditional Use Permit were given for the new pastor’s home, a condition of the permit was that the existing parsonage would have to be rendered uninhabitable. Chairman Allaire added that the only reason the building was allowed to remain was for historical value.

Chairman Allaire stated that the existing parsonage was also deemed to be “unsafe” by the contractor for the new parsonage, which is why the church members voted to build a new parsonage and close the building.

Mr. Verrill stated he thought that was debatable. Mr. Verrill stated he would live in it if he had to. He stated he had been to the Fire Marshal for a construction permit and there were only two things they had to do. The first was that level style door knobs needed to be added, this was completed; the other will not be done unless the church gets a CUP from the board.

Mr. Verrill stated it was an old home and a lot of work was done to date.

CEO McDonough stated the Town of Shapleigh does not have a building code that addresses existing structures, there is one, but the town has not adopted it. He said the code we use only applies to new buildings. He stated he would recommend the applicant hire a professional to show the Planning Board the building was adequate for what was being proposed.

Mr. Verrill showed the Planning Board pictures of the existing structure.

Roland L. stated that for safety reasons, in light of what the board was told in May of 2005 regarding this building, and the fact the minutes stated the building was unsafe; he agreed a professional opinion was necessary.

Mr. Verrill stated no one was going to be sleeping in the building, the upstairs was not going to be used, and it will be used for just the classroom and clothes closet.

Roland L. felt this was all the more reason the Planning Board must be certain the building is safe. Roland said with the classroom you are not talking about one or two people coming in but potentially a group of individuals located in one area. Roland said he could not support approval without an engineer or some qualified person going in stating the building was safe for this type of use.

It was asked if anyone said exactly why it was unsafe? Chairman Allaire stated he recalled the contractor, Mr. Dezan, had spoke of floor joists not being able to support the parsonage. Barbara G. could not find specifics in the minutes.

Mr. Verrill stated there have been several volunteers that have done work on the building; he also thought there was some prejudice with respect to the opinion that it was unsafe.

Chairman Allaire stated because of the existing conditions placed on the new structure which rendered the building “uninhabitable” three years ago, he felt an engineer would need to look at it.

A member in the audience with Mr. Verrill asked if the review would have to be for the house and barn or just the house. Chairman Allaire stated just for the house, unless the barn is going to be used. Mr. Verrill thought both would be used.

Chairman Allaire stated that when Mr. Verrill had the engineering information for the Planning Board he could contact Barbara F. and the application would be placed back on the agenda. All board members agreed.

Chairman Allaire reiterated what had taken place in 2005, that in fact the building was being condemned. Chairman Allaire stated now the board would need to see that it was safe to be used.

Chairman Allaire stated again the only reason the building was not torn down at the time was for the historical value.

Chairman Allaire told Mr. Verrill to be certain whoever he retains is a licensed engineer.

Nothing further was discussed.

Amendment to a Conditional Use Permit – Change existing use from a Day-Care to Antique Shop. – Map 7, Lot 55 (779 Shapleigh Corner Road) – Jennifer Dube

Ms. Dube was present for the review of her application.

Ms. Dube stated that she would now like to change the existing use, a day care, to the prior use which was an antique shop. Ms. Dube stated the day care was used to bring in income so that she could have the antique shop she had envisioned previously, by finishing the inside of the shop.

Ms. Dube stated nothing was going to change with respect to the building to be used, the parking area, etc. She presented the board with a copy of the existing plan from the previous CUP approval.

Chairman Allaire stated there would be a Public Hearing on June 24th and a Notice to Abutters would be mailed as well. Because the board members have been to the site twice there was not a need for another site visit but Chairman Allaire stated if they had time prior to the meeting they might stop in. Ms. Dube stated that was not a problem.

Note: The Public Hearing was rescheduled for Tuesday, July 8th due to the lack of a Chairman or Vice Chairman on June 24th.

Chairman Allaire told Ms. Dube to be sure she had the days she wanted to be open and hours of operation for the next meeting. The board already had a site plan on file, which included a parking plan. The site distance has already been approved.

Nothing further was discussed.

Proposed Addition to Zoning Ordinance – Large scale pumping or extraction of groundwater from aquifers.

Chairman Allaire felt that some of the people present did not understand that the entire Zoning ordinance is used when reviewing a CUP. They do not know that many of their concerns are already addressed, not understanding the process of CUP review. Chairman Allaire noted specifically hours of operation, vehicle traffic, speed limit, etc.

Roland A. felt the audience was not dealing with the fact the board was doing an ordinance; they thought it was a rubber stamp for an operation.

CEO McDonough felt the citizens thought the board was trying to do something underhanded and the board members were going to put money in their pockets.

Roland L. agreed and he said he was very insulted at the inference there were “dollar signs in his eyes”. He realized it would have been pointless to say anything but he would have liked to. Lauren M. agreed it was an insult.

The board members concluded they would consider the valid points brought up at the meeting and add anything additional to the ordinance that was pertinent and not redundant with the existing ordinance. There will likely be two more public hearings prior to the Town meeting in March of 2009.

Nothing further was discussed.

The Planning Board meeting ended at 9:30 p.m.

Respectively submitted,

Barbara Felong, Land Use Secretary
planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES

Wednesday, June 25, 2008

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

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

The minutes from Wednesday, June 11, 2008, were accepted as read.

Best Possible Location – Replace Existing Structure with New Home – Map 30, Lot 9 (23 Totte Road) – Christina Langone

Ms. Langone was present for the final review of her application. Planning Board members did a site inspection prior to this evenings meeting.

Ms. Langone presented a plan showing what the property's footprint was now and provided were pictures of the existing property. Ms. Langone also presented a plan of the proposed structure which included the setbacks to the lot lines and to Goose Pond.

Ms. Langone stated the existing lot coverage was 25%. She stated existing square footage of structures on the lot is 1198 sq. ft and the volume is 5594. Ms. Langone stated the proposed lot coverage, after removing the existing shed would be 24%. She said the amount allowed for the 30% expansion would be 1556 square footage and 7272 for volume and she said the proposed structure would not exceed either.

Ms. Langone stated the proposed location would be no closer to the water than the existing but would be 28 feet from the road whereas the existing is 30 feet since the house needed to be moved because of the location of the existing septic system.

Ms. Langone explained that from the road the new structure would look like the existing being a single story but in the back it would have a daylight basement so it would appear to be two stories.

Roland L. asked, after looking at the plans, if she would be encroaching toward her neighbor (Map 30, Lot 10)? Ms. Langone stated yes because the existing is 19.8 feet and the proposed is 11.5 feet. Ms. Langone stated she was told by the CEO she needed to be 10 feet from the side lot line. Roger A. agreed but stated there needed to be a cumulative total of 30 feet in the Shoreland district, this being the combined width of both side yards. Diane S. agreed stating she could have 10 feet on one side but the opposite side would need 20 feet. Board members noted with the proposed plan she would only have a cumulative total of 22.6 feet.

Barbara F. asked what the existing total was? Ms. Langone replied 11.7 feet and 19.8 feet. Ms. Langone stated that if she removed the proposed deck she would have the same dimensions as the existing and she would do this in order to meet the criteria of the ordinance.

Diane S. asked what the dimensions were for the existing structure(s)? Ms. Langone said the existing camp is 29' x 9' and 9' x 19'. The basement dimension is 16' x 19'. The shed is 6' x 10' and the existing patio has a total of 462 square feet on the ground.

Diane S. asked if the patio was going to remain? Ms. Langone stated yes but the shed will be removed.

Diane S. asked if Ms. Langone was taking the square footage of the patio and adding it to the square footage for the house? Ms. Langone stated the patio square footage is used only for the lot coverage calculation. Ms. Langone noted that the reason lot coverage decreased for the proposed plan was because the shed was being removed.

Ms. Langone said she asked what was “habitable space” and she was told it had to have a 7 foot ceiling and had to be at least 70 square feet.

Roger A. reviewed Zoning Ordinance 105-4.D “Nonconforming structures”.

Roger A. stated that it was noted at the site inspection that the best possible location would be to keep it in the same location because of the topography on site and the adjacent property, along with the location of the existing septic system.

Roger A. said the only issue he could see with the plan as presented would be under 105-18, the side lot setbacks, there needed to be a combination of 30 feet. Roger said one side had to be at least 10 feet, which it is but again the cumulative total needed to be 30 feet. Roger said, therefore, the deck would need to be removed from the plan. Madge B. agreed. She said they could apply for a variance if they really wanted the deck but she did not feel the variance would be granted.

Ms. Langone stated she had no problem with removing the deck from the plan.

Diane S. asked if there was a septic plan on file. CEO Steve M. stated he had it on file and he made a copy for the Planning Board. The design was done by John Large, SE #7, on July 14, 1991.

Roland L. asked if there was a time table for the project? Ms. Langone stated she already had an appointment with the Code Enforcement Officer to get her permit. They would be starting right away.

Roland L. made the motion to approve the Best Possible Location per the adjustment to the plan, removing the proposed deck so the side lot setbacks are met, along with the following conditions:

- 1) A licensed surveyor shall locate the footing location, prior to the building being constructed. This information shall be given to the Code Enforcement Officer.**
- 2) Best Management Practices shall be used during the project, including hay bales and/or silt fencing.**
- 3) The new building shall be placed per the approved plan and it shall not be any closer than 54.6’ from the high water mark, 11.5’ from the Jacob’s property line (Map 30, Lot 10) and no closer than 19.8’ from the abutting lot known as R/W on the Shapleigh Tax Map.**
- 4) The area disturbed during construction shall be stabilized / revegetated as soon as possible after construction is completed**

Diane S. seconded the motion. All members were in favor. The motion passed unanimously.

Roger A. talked about Best Management Practices. Ms. Langone stated her DEP Permit by Rule had been approved and they suggested the use of hay bales for this area. Roger stated that was fine.

Nothing further was discussed.

Conditional Use Permit – Coffee Shop and Pastry Take-out – Map 8, Lot 26C (8 Newfield Road) – Wayne Miller

Mr. Miller was present for the review of his application.

Mr. Miller stated there were currently two buildings on the property. He said the larger is for a generator sales and service business which has been there for over five years. Mr. Miller stated he was before the board at this time because he wanted to renovate the smaller building into a kitchen and storage area for a coffee and pastry take-out service. The coffee and pastries would actually be sold through a trailer he would place on site. Mr. Miller stated he owned the trailer and has renovated it per the existing Maine food code.

Mr. Miller stated he would be selling coffee, pastries and possibly made to order breakfast sandwiches. Mr. Miller stated if it worked out he may branch out into soups and chowders. He said it was going to be strictly a drive-thru service.

Roland L. asked if there would be any outdoor seating? Mr. Miller stated no, no seating, no parking, just a drive-thru at this time. Mr. Miller said if this works out he may renovate the smaller building into a dining room but he didn't want to do it until he was sure it would work out.

Roger A. asked Mr. Miller if he owned the property? Mr. Miller said yes, it is owned by Miller Property Management, of which he is the owner.

Roger A. asked Mr. Miller for his hours of operation? Mr. Miller replied he would like to have them 5:00 a.m. through 10:00 p.m., seven days a week. He stated to begin with he probably would only be open from 6:00 a.m. through 2:00 p.m. but would like the ability to expand his hours if it was feasible.

Roland L. asked how large the trailer would be? Mr. Miller stated 8' x 12'. Mr. Miller did provide site plans for the board members to review that depicted the location and size of the existing buildings along with the proposed location for the trailer.

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

Roger A. stated a Public Hearing would be held on July 8th. The hearings would begin at 7:00 p.m. (There are two other hearings to be held on July 8th). A Notice to Abutters will be mailed as well. Roger noted there was no need for a site inspection because all of the members knew of the property.

Nothing further was discussed.

OTHER:

Karl Robinson spoke to board members regarding work to be done at the Shapleigh town beach.

Mr. Robinson handed out a site map for the proposed work to be down on the town beach. Mr. Robinson stated he got a telephone call from Joe Anderson of York County Soils and Water Conservation. Mr. Robinson said they have received a grant from the DEP to remediate some erosion problems around Square Pond and this would include the area around the town beach.

Mr. Robinson stated they would be using the York County Youth Corp. and they will plant some shrubs, put mulch down and set some designated walkways to the stairs and also create wheelchair access. Mr. Robinson stated it would be of no cost to the Town.

Mr. Robinson stated they wanted to do it next week (4th of July weekend) so people may not be able to use the beach while they are working. Mr. Robinson stated Mr. Anderson had spoken with CEO Steve M. and Steve did not believe there would be any permits required because there will be no machinery work, no vegetation moved (some will be added), everything will be done by hand.

Mr. Robinson stated he had pictures which had what they would be doing superimposed over the existing pictures. He showed the pictures to the board members. Mr. Robinson stated that five years ago work was going to be done but it was going to cost about \$18,000 and the money never materialized at that time.

Roger A. stated the only thing that might trigger the requirement of a permit would be if more than 10 yards of soil would be moved. Mr. Roberson stated no. He said there was one small berm to be created with stone and a small catch basin. Mr. Robinson stated they would also be putting in a rain garden, a shallow spot to plant vegetation to absorb some of the water to prevent it from reaching the beach.

Mr. Robinson stated about three years ago Ralph Ridley and himself put up another layer of wall, 4", to prevent sand from washing into the lake. Mr. Robinson said in three years the sand is almost to the top of the new rail. Mr. Robinson said this work would be great to prevent the beach from being washed away.

Mr. Robinson said that he spoke with the Board of Selectmen about the project and they felt it was a good idea.

Roger A. stated again the only application needed would be for the amount of soil to be moved. Mr. Robinson stated there would be several wheelbarrows of dirt moved around. Mr. Robinson said that he thought six or seven yards at the most. This included the stone to be added along the walkways. Roger said as long as they don't go above 10 yards of earthmoving they will not need a permit.

Mr. Robinson stated he spoke with the DEP and they did not require a permit because no machinery was going to be used. Mr. Robinson stated DEP were the ones paying for the project.

Mr. Robinson thanked the board for their time. Madge B. and Roger A. thanked him and said now if any calls come into the Planning Board they will be able to say what is taking place.

Nothing further was discussed.

Barbara F. asked if the board members had any changes with respect to the Large Water Extraction Ordinance based on the comments from the public hearing.

Barbara F. stated she did add the definition for Zone of Contribution which is specified in the ordinance.

Barbara F. asked Madge B. if a reference should be made in the ordinance to the Natural Resource Protection Act (board members were given a copy of the latest publication from the State). Madge stated that the board could not be sure an applicant would impact or trigger the N.R.P.A. so unless DEP wants it specifically added to the ordinance she did not feel it should be added.

Barbara F. agreed stating that when the board reviews an application at this time and sees the application is in the resource district, the applicant is required to get the proper permitting through the DEP prior to any further review. Madge B. agreed. Barbara added that Dawn Hallowell from the DEP highlighted the fact the applicant would need DEP approval if in resource protection as a note to us. Barbara said again this is what the board does per the existing ordinance; the board already has this ability. Madge stated correct.

Madge B. stated also that it would be difficult to phrase it because not all applicants would need DEP approval. Madge stated you don't usually put into an ordinance a word of advice, you put in things that apply. Barbara agreed.

Barbara F. noted that she thought some of the confusion was because people in general do not know how the Planning Board works. Barbara said the board consistently asks for the studies needed and required DEP permits. If people reviewed the requirements the board now has in place they would not be so worried. Roger A. agreed that everything in the new ordinance can be requested now. The new ordinance just acts as something to guide the board, studies, monies from the applicant, DEP permits, etc. are all in the existing zoning ordinance for the Conditional Use Permit. Madge B. agreed but noted that any new ordinance needed to be addressed under 105-17 Land Uses. Madge thought it could be added under commercial and industrial. Roger noted it falls under commercial and industrial now. Madge agreed but it would make it clearer.

Barbara F. stated that the Board of Selectmen wanted the Planning Board to present the new ordinance to the townspeople at the town meeting in August. Barbara asked if the board members felt this was appropriate. If not she needed to tell the Board of Selectmen it would not be ready. Barbara added that if it would be presented in August there needed to be additional Public Hearings.

Madge B. asked what would be on the warrant for the town meeting in August with respect to water extraction. Barbara F. believed there would be a vote as to whether or not the townspeople wanted to allow Poland Springs to do test wells on town land. Barbara thought the town meeting would be August 23rd but she was not certain.

Madge B. stated that if the Board of Selectmen were going to have the vote for water testing that perhaps the ordinance should be put on the warrant in August as well.

Diane S. thought the town was moving too fast for her comfort. Diane felt it would be better if the vote for testing was done in November or March 2009. Diane thought there would be a larger turnout as well. Roger A. thought the regular town meeting was the best idea.

Board members were not sure at this time whether or not to put the ordinance on the warrant in August but felt another Public Hearing should be scheduled. Roger A. stated the next Public Hearing would be Tuesday, July 8th.

Nothing else was discussed.

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

Respectively submitted,
Barbara Felong, Land Use Secretary
planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES

Tuesday, July 8, 2008

Page 1 and page 12 were amended by the PB.

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

Note: Madge Baker was a regular member for this evenings meeting.

The Public Hearing was videotaped by Gloria Dyer.

The following words are not verbatim unless accompanied by quotation marks “ ”. In addition, when known the actual name of the speaker was used, if not known, the speaker will be known as ‘citizen’.

Chairman Allaire stated a list was being passed around for anyone that would like to speak at the public hearing. He asked that they put their name on the list and they would be heard. Chairman Allaire asked audience members to keep their comments to three minutes so everyone would get a chance to speak.

Chairman Allaire stated with respect to Poland Springs he believed there was going to be a special town meeting in August and at this meeting there would be a vote as to whether or not the townspeople want Poland Springs to be able to use town land to drill test holes. Chairman Allaire again stated this was for information only, it had nothing to do with tonight’s meeting, it was a separate issue.

Chairman Allaire stated there has been no testing done on town land at this time that he is aware of. He said, Poland Springs does not have permission at this time to use town land. Chairman Allaire stated if anyone believed otherwise it was hearsay and false.

Public Hearing Began at 7:03 p.m.

• Proposed Addition to the Zoning Ordinance - Large scale pumping or extraction of groundwater from aquifers.

(Additions from the previous meeting are in bold.) Chairman Allaire read the following:

Add to §105-15. Definitions

AQUIFER – means a saturated permeable geologic unit that can transmit significant quantities of water under ordinary hydraulic gradients.

WATER EXTRACTION – mean withdrawal, removal, diversion, taking, or collection by any means of water from ground water sources, aquifers, springs, wells, pumps or similar.

EXTRACTION POINT – means the physical location where water is extracted, whether by well, pump, pipeline, catchment, or other similar method.

LARGE SCALE WATER EXTRACTION – means extraction of water from ground water sources, aquifers, springs, wells or similar in a total daily amount on any given day of 5000 gallons or more, as extracted by the same individual or entity, or consortium or association of individuals or entities, regardless of the number of extraction facilities utilized.

ZONE OF CONTRIBUTION – That area of an aquifer that contributes water to a well or other extraction point under the most severe pumping and recharge conditions that can be realistically anticipated (180 day so pumping at approved yield with no recharge from precipitation). It is bounded by the

groundwater divides that result from pumping the well and by the contact of the aquifer with less permeable materials such as till or bedrock. In some cases, streams or lakes may act as recharge boundaries. In all cases the zone of contribution shall extend up gradient to its point of intersection with prevailing hydro geologic boundaries (a groundwater flow divide, a contact with till or bedrock, or a recharge boundary).

§ 105- Large scale pumping or extraction of groundwater from aquifers.

- A. General. The following provisions shall insure the ongoing sustainability and quality of said water supplies and the avoidance of any interruption or degradation of water quality and quantity to members of the general public within the town, and generally to protect the health, safety and welfare of persons dependent upon such water supplies.
- B. Permit required. The daily (meaning any given day) extraction of more than 5000 gallons of ground water, spring water and/or water from aquifers or their recharge areas by any one entity or person, or consortium or association of entities or person acting in concert, regardless of the number of extraction facilities utilized, shall require a Conditional Use Permit issued by the Planning Board.
- C. Water extraction not requiring a permit. A conditional use permit shall not be required for water extraction within the Town of Shapleigh for standard agricultural purposes; drinking water and domestic water supply to private residences within the Town of Shapleigh; water supply for public facilities such as schools within the Town of Shapleigh; fire suppression; or for on site residential, commercial and industrial purposes within the Town of Shapleigh to the limit of their historical use of water which exist as of the date of the adoption of Section 105- .
- D. Application for permit. Application for a permit from the Planning Board for Large Scale Water Extraction shall be in writing and be accompanied by site plans prepared by a licensed State of Maine surveyor, licensed engineer, or similar appropriately licensed professional. The application shall include the following.
 - (1) Evidence of applicant's right, title and interest in and to the property(ies) from which the water is to be extracted. If such evidence is other than outright ownership and title as evidenced by a deed duly recorded in the York County Registry of Deeds, the entire document/documentation (other than reference(s) to purchase price and financing terms) whether by lease, option, contractor otherwise establishing right, title and interest shall be submitted with the application.
 - (2) A statement of the total maximum daily quantity of water to be extracted, from all extraction points operated by the same individual or entity, or consortium or association of individuals or entities.
 - (3) The location(s) of the points of extraction.
 - (4) The methods of extraction.
 - (5) The proposed use for which the water is to be extracted including the identity of any end user of the extracted water whose facilities for use, processing, transporting, storage, bottling, sales or other similar activities are located outside the Town of Shapleigh.
 - (6) The proposed number of daily trips to and from the site. The Planning Board may require a traffic study done by a registered traffic or transportation engineer, at a cost to the applicant.
 - (7) A written report, certified to the Town of Shapleigh procured and paid for by the applicant, of a hydrogeologic investigation and study, conducted and prepared by a licensed State of Maine professional hydrogeologist, geologist, hydrologist, registered professional engineer or other appropriately licensed professional possessing in the judgment of the Planning Board comparable credentials and qualifications. The report must address at least the following:
 - (a) The rates of draw down and recharge of any aquifer or other ground water source as may have been established by a pumping or "stress test" or other similar testing regime in accordance with accepted standards within the geology and engineering professions.
 - (b) The characteristics of the aquifer or other ground water source, including rates of draw down and

recharge, sustainable extraction rates, aquifer boundaries, recharge areas, impacts on the water table, and impacts on any and all existing water bodies including but not limited to lakes, ponds, rivers, streams and wetland areas and private wells or other existing extraction locations within the zone of contribution.

- (c) The possible effects on the aquifer or other ground water resources which might result in the disturbance of existing minerals such as, but not limited to, iron, manganese, arsenic, and uranium, and any health hazards raised by such disturbance(s) or other impacts including issues such as drinking water turbidity, clarity and aroma.

(8) A site plan depicting the following:

- (a) The limits (outside perimeter) of the aquifer or other water source cited in the application, and the bounds of the land of the applicant.
- (b) The location of all water bodies located within 500 feet of the outside perimeter of the aquifer or other water source.
- (c) The existing network of public or private roads leading to or by the extraction point(s).
- (d) Any proposed new roads or driveways to be constructed for access to and egress from the extraction point(s), and the point(s) of intersection of such proposed roads or driveways with existing roads.
- (e) Any existing or proposed utility lines to be utilized in the extraction operation(s).

(f) The location and type of monitoring and test wells.

- (g) The extraction point(s) including without limitation well heads, pumping facilities, monitoring or test wells, buildings, and/or sheds, utility lines, fencing, access roads or driveways, elevation, and contour lines.
- (h) Any existing or proposed pipes, pipelines, aqueducts or similar that are intended to facilitate transport of extracted water from the extraction point(s) towards the intended end user, if any part of the extracted water is ultimately to be transported outside the geographic limits of the Town of Shapleigh.
- (i) Any other relevant and material detail(s) bearing on the proposed extraction process the omission of which would tend to hinder the ability of the reviewing authority, affected land owners or the public from developing a full understanding of the scope and impact of the proposal.

E. Conditions of permit. No approval shall be granted any application until and unless the Planning Board shall have affirmatively found that each of the following performance standards has been or will be met. The burden of proof is on the applicant. Applicant must also demonstrate to the reviewing authority that it possesses the expertise and financial resources to provide continuing adherence to these standards.

- (1) The quantity of water to be extracted will not cause undesirable changes in the ground water flow patterns relating to the aquifer, its recharge areas, or other ground water sources within the Town of Shapleigh.
- (2) The quantity of water to be extracted will not negatively impact, diminish, or alter any surface waters within the Town of Shapleigh, including during any periods of drought.
- (3) The quantity of water to be extracted will not cause any ground subsidence beyond the property lines of applicant's property.
- (4) The quantity of water to be extracted will not adversely affect the long term sustainability of the aquifer, or its recharge areas, or other groundwater source, including during period of drought.
- (5) The proposed extraction will not create a health risk or issues such as drinking water turbidity, clarity or

aroma resulting from the disturbance of existing minerals, or from any other cause, with ongoing follow up monthly testing for this purpose, results to be provided in writing to the Shapleigh Board of Selectmen on at least a monthly basis.

- (6) The establishment of an ongoing follow up monitoring system and development of a system of recording and documenting extraction and recharge data, within the zone of contribution, to be reported in writing to the Shapleigh Board of Selectmen on at least a monthly basis. At least 25% of monitoring locations shall be at private wells located within the zone of contribution, provided applicant obtains landowner permission for such testing. Should there not be enough private wells to make up the 25% to be monitored, the Planning Board may ask for additional monitoring stations be provided on the public or state land to be used.
- (7) The applicant assumes any and all liability for the loss, interruption, degradation or interference with the preexisting beneficial domestic use of groundwater by a land owner or lawful land occupant, or other public or private water supply, caused by applicant's withdrawal or extraction of water.

For the purposes of this section "beneficial domestic use", "groundwater" and "preexisting use" shall be as defined by 38 M.R.S.A. 404-1A-C.

For the purposes of this section liability of applicant shall be for compensatory damages only, and shall be limited to the following:

- (a) All costs necessary to restore the landowner or lawful land occupant to a status which is reasonably equivalent in terms of quantity and quality of ground water, made available on a similarly accessible and economic basis;
- (b) Compensatory damages for loss or damage to property, including, without limitation, the loss of habitability of residence, caused to the landowner or lawful land occupant by reason of the interference prior to restoration of the status provided for in subparagraph (a); and
- (c) Reasonable costs, including expert witness and attorney fees incurred in initiating and prosecuting an action when necessary to secure a judgment granting the relief provided for under this section.

The Planning Board shall require the furnishing of a bond or other performance guaranty it deems of equivalent security to secure the applicant's obligations under this section.

- (8) Additional vehicular demand on existing town roads or public easements occasioned by the operation of the extraction facility(ies) will not exceed the capacity of those roads, or cause the premature failure, aging or diminished utility of those roads.
- (9) If extraction facility(ies) will be served by pipes, pipelines, aqueducts or similar devices such installations will be sited and constructed in a manner which shall not interrupt the public's use of any existing roadway, interrupt the public's access to any public facility, great pond, interrupt private access to private property; or pose the risk of damage to any property along or through which installation traverses as a result of any failure or malfunction which might cause ponding, erosion, run-off, or similar.**

- F. If the Planning Board reasonably determines it requires independent expert assistance to assist in its preliminary review of the application, or in evaluation the substance of the application or in developing appropriate conditions of approval, it may engage the service of an expert to assist the Board. The applicant shall pay to the Town, in advance of the scheduling of any public hearing, a sum equal to said project or estimated cost, the failure to which payment shall excuse the reviewing authority from scheduling any further review of the application by the Planning Board until such payment is made in full.**

Chairman Allaire stated this was the language the board would like to add into the existing Zoning ordinance to have more review criteria than exists at this time.

Bob Murphy of Shapleigh – Mr. Murphy asked if a corporation came before the board to request to draw excess water, does the Planning Board have a public hearing?

Chairman Allaire stated if they want to draw excess water, if they already had a permit, then there would be a public hearing. Chairman Allaire explained any changes to an approved Conditional Use Permit for a business automatically goes to a public hearing.

Mr. Murphy asked if a special election should be called because of an issue such as this, does the Planning Board make any recommendations?

Chairman Allaire stated a special election is not a Planning Board decision.

Mr. Murphy asked again if the board made any recommendations to the Board of Selectmen on this issue (water extraction from town land)?

Chairman Allaire stated no, the Selectmen have the authority.

Mr. Murphy did not understand why the Planning Board didn't have the authority to voice their opinion with respect to water extraction.

Chairman Allaire spoke again about adding the ordinance to have more tools to work with but the decision about Poland Springs is through the Selectmen.

Liz McMahon of Shapleigh – Ms. McMahon stated she had lived in Shapleigh many years. She stated years ago she served on the Zoning Board of Appeals, she also served on the school committee for six years and chaired for two.

Ms. McMahon noted she reviewed the existing Zoning ordinance 105-73 "Conditional use permits" and made mention of the fact that in this ordinance it states, "The board shall notify by regular United States mail, first class, postage prepaid, the applicant and the owners of all property within 500 feet of the property involved at least 10 days in advance of the hearing, of the nature of the application and of the time and place of the public hearing." Ms. McMahon stated at this time those notices come certified mail. Ms. McMahon asked if the town would be following that procedure in relation to the proposed ordinance?

Chairman Allaire stated that the new ordinance was an addition to the existing ordinance but everything already in the existing Zoning ordinance would need to be complied with as well.

Ms. McMahon stated in some town ordinances they refer in the water extraction ordinance that all other town ordinances apply. Ms. McMahon stated that other ordinances have stand alone language that states this applies.

Chairman Allaire stated this addition is not a "stand alone", it will be part of the Zoning ordinance and just another tool to use in addition but the entire Zoning ordinance will be used.

Ms. McMahon said in the proposed ordinance, under Section C, it was stated “A conditional use permit shall not be required for water extraction within the Town of Shapleigh for standard agricultural purposes”. Ms. McMahon said in the existing ordinance agriculture is defined as “The cultivation of soil, producing or raising crops, including gardening as a commercial operation. The term shall also include greenhouses, nurseries and versions thereof where flowers, plants, shrubs and/or trees are grown for sale. The term shall also include spreading of manure, sludge or other organic conditioners.” Ms. McMahon stated that currently under the Maine State Statute it includes animals. Ms. McMahon asked if the new definition of agriculture could be put into the proposed ordinance so we have the current definition.

Chairman Allaire stated any changes to the definitions have to be done at town meeting. Chairman Allaire stated it could be addressed in March (2009).

Note: The entire Zoning Ordinance is being changed at this time to reflect all required changes by the State of Maine. The new definition of agriculture is addressed in those changes. Any towns person wishing to gain a copy of the mandatory changes by the State can contact the Maine Department of Environmental Protection. They can send you a copy of those changes. All changes made by all the towns in Maine must be approved by the MDEP prior to final adoption.

Ms. McMahon stated it was time the Town of Shapleigh had a Code Enforcement Officer full time. She felt we should not be sharing the position with another town (Acton). Ms. McMahon stated she did not know what the job paid but she felt it needed to be looked into at the town meeting in March and she added she would be speaking with the Selectmen to do that.

Note: The CEO is considered a full time position, and he is the alternate for the Town of Acton, which means he fills in when the Acton CEO is on vacation. The CEO hours in Acton are minimal.

Bill Epperly of Shapleigh – Mr. Epperly stated he was at the last public hearing and it was mentioned that limits to the hours of operation should be added or limits to extraction?

Chairman Allaire stated it was in the existing ordinance.

Mr. Epperly said, “So there are hours of operation in the regular ordinance?”

Chairman Allaire stated any Conditional Use Permit has to meet the existing standards including hours of operation.

Mr. Epperly stated there should be restricted hours of operation.

Chairman Allaire stated the board could restrict hours of operation.

Mr. Epperly asked if the board considered doing that.

Chairman Allaire stated when an application is submitted then hours will be reviewed. Chairman Allaire stated the board had the entire ordinance Zoning they could use now.

Mr. Epperly stated there were no actual hours written in the ordinance.

Chairman Allaire stated it was up to the Planning Board to set the hours.

Mr. Epperly stated other towns put the hours into the specific ordinance and limits on extraction. Mr. Epperly stated it was spoken about at the last meeting and he did not see people at this evenings meeting in favor of this trim ordinance. Mr. Epperly stated people were here asking the board to change the ordinance.

Chairman Allaire stated the board reviewed the comments from the last meeting and decided they did not want to put redundant material into this ordinance. Chairman Allaire stated it was already in the book (hours are addressed in the existing Zoning ordinance).

Chairman Allaire stated the board would look at a proposal and see what the impact was and then see what would be allowed.

Diane S. stated there were restrictions with respect to noise at this time where businesses were not allowed to operate before 7 a.m. because of the impact.

Mr. Epperly believed hours of operation and noise were two different things.

Diane S. stated that the noise ordinance was one way you restricted the hours of operation.

Mr. Epperly did not feel this made any sense, what if a business didn't make any noise." Mr. Epperly did not feel the board was listening to the townspeople.

Russell Day of Shapleigh – Mr. Day read some comments to the board and audience, they read as follows:

"I have an article in todays Smart Shopper regarding this subject. I hope you all will have a chance to read it. People realize the serious magnitude and far-reaching implications that are involved. They want to be heard. They are afraid that through some cozy and crafty procedure this water extraction business will be railroaded. We have been labeled as being uninformed, hype and living in a world of myth. On the contrary, all of the people that I have talked to are straight-forward, honest and have a good perspective of the situation. What we really want and insist upon, is the democratic right to say Yes or No, and that means no ands, if, or maybe. Thus, we the people have spoken. We see what could be a very dismal situation somewhere down the road. I hope we are not flirting with disaster. There is such a thing as preventive medicine-maintenance. I believe the time for that is now."

Note: The people will be allowed to vote on the proposed ordinance as well as the ability of Poland Springs to drill test wells in Shapleigh. The meeting for these votes will be posted townwide and in the newspaper when the date is set by the Selectmen.

Bill Goodwin of Acton – Mr. Goodwin stated he felt there were too many unknowns about large scale water extraction. Mr. Goodwin read the following:

"How do we know that the extraction won't pollute the source. How can you be assured that the quality of the water will not be compromised? How do we know that the level of our lakes will not be reduced? Is it even possible to know how large scale water extraction would change the size, structure, chemistry or capacity of our aquifers or underground water sources? What are the terms and conditions which would accompany any permission for large scale water extraction?"

Mr. Goodwin complimented the board on addressing some of these issues but he wanted to know what the penalties would be for not abiding by it? “Might these penalties be seen by the extractor as the cost of doing business? Which governmental bodies police the activities of the extractor to enforce the terms and conditions of the permit that might be granted? And exactly how would they conduct their policing? If violations occur how are they prosecuted? Who initiates the action? Who collects the fines and compensatory damages? There are so many unknowns in this that proceeding, it seems to me, that to not proceed with it, seems to be the only reasonable action. If and when and only if and when your knowns can be truly known should any permit for large scale water extraction be considered. And if it is, then it must be granted with significant terms and conditions which would guarantee no harm to the environment or diminishment of the quality of life for Shapleigh residents.”

Chairman Allaire stated the board agreed with Mr. Goodwin and it was why they were proposing the ordinance for additional assistance.

Walter Bailer of Parsonsfield – Mr. Baily stated that for 16 months he volunteered for the Planning Board in Parsonsfield to construct an ordinance. Mr. Baily stated that his ordinance does state there will be no activity whatsoever between the hours of 9:00 p.m. and 6:00 a.m., so this point was put into the ordinance.

Mr. Baily felt the proposed ordinance was a weak ordinance. Mr. Baily stated he got his ordinance from Hiram and Cornish and along with the Planning Board he believed they nailed down every single possibility to gain control over an extractor. Mr. Baily felt the boards in Shapleigh must be in charge of extracting. Mr. Baily said the extraction cannot be permitted to be done willy nilly by the extractor. Otherwise, he said the town would run into all kinds of problems.

Mr. Baily felt the proposed ordinance was very hard to read. Mr. Baily wanted there to be no surprises from the extractor. Mr. Baily stated you had to watch over the traffic pattern and control it. Mr. Baily said there was nothing in the ordinance to suggest the town had control.

Mr. Baily was concerned over words such as “may be done” in the ordinance, it should be replaced with “must be done” or it will be done. Mr. Baily again stated that gave the town control.

Mr. Baily spoke about the test to be done. Mr. Baily stated there should be specifics with respect to length and locations and period of time.

Mr. Baily spoke about proposed Section E(1) “The quantity of water to be extracted will not cause undesirable changes in the ground water flow patterns relating to the aquifer”; he felt undesirable was a word that could incite endless fights. Mr. Baily felt it should be changed to “will not cause changes different from that observed and recorded during the testing period in relation to the ground water flow patterns.

Mr. Baily spoke about proposed Section E(4) “The quantity of water to be extracted will not adversely affect the long term sustainability of the aquifer, or its recharge areas,....” Mr. Baily stated the quantity in his ordinance was 3” which is measurable.

Mr. Baily believed some of the words just needed to be more specific.

Mr. Baily believed under proposed Section E(6) “Should there not be enough private wells to make up the 25% to be monitored, the Planning Board may ask for additional monitoring stations to be provided on the public or state land to be used.” Mr. Baily thought it should read “will ask for additional monitoring stations”. Mr. Baily did add that you may put may / will as a possible choice.

Mr. Baily believed the power needed to be in the town’s hands. Mr. Baily did not want the power in the hands of the extractor. Mr. Baily stated, “Do not leave the power in the hands of the extractor because we know what this particular organization, we know what we are talking about here, does. They just go do a lawsuit and you find yourself in court the next day.”

Mr. Baily stated there should be an amount they have to pay for all the various test, by an independent geologist. Mr. Baily stated that the fees needed to be set.

Mr. Baily believed there should be a clause for termination of their services. Mr. Baily stated it should say they must cease and desist because they have not followed the rules of performance. Mr. Baily stated by doing this when the extractor comes in it states to them “this is how I will have to perform and I will have to perform it right because the boards and CEO are going to watch me and I know what I am going to have to do”.

Mr. Baily concluded by congratulating the Planning Board for working on the ordinance and he just felt it was weak. Mr. Baily stated he wanted the people protected not the extractor.

Fay Greenleaf of Shapleigh – Ms. Greenleaf wanted to make a suggestion that a small group of citizen’s work with the Planning Board to put together an adequate ordinance with respect to large scale water extraction. Ms. Greenleaf stated other towns have done this and she said the way the ordinance is written right now the public will never vote to accept it. She believed it was inadequate.

Earl Reed of Newfield – Mr. Reed stated, “Well I guess they have covered all my questions but what’s he going to do to our wells around here. I don’t think there is any need of letting them in here anyway. If they want to haul the water somewhere in the country let it be someplace else. Simple as that.”

Bob Hawkes of Shapleigh – Mr. Hawkes spoke about the section that refers to the use of a hydrogeologist, it should say “independent” hydrogeologist. Mr. Hawkes stated also he didn’t see what kind of money they would pay the town for the water extracted.

Chairman Allaire stated this has nothing to do with the ordinance. Chairman Allaire stated any money exchanged would be dealt with by the Selectmen.

Mr. Hawkes stated there were people from Parsonsfield that have worked hard on their ordinance. Mr. Hawkes felt the Shapleigh Planning Board should be talking with them while working on theirs.

Donna Herbert of Shapleigh – Ms. Herbert stated she was not a Maine resident but she owned land in Shapleigh. Ms. Herbert wanted to know if people that were non-residents could have a say?

Chairman Allaire stated they could be heard tonight. Diane S. stated they could also voice their concerns to the Selectmen.

Ann Wynn Wentworth of Newfield – Ms. Wentworth stated, “First of all she had a concern with this hearing. I know normally with boards when you meet all members are present and could you state the names of the Planning Board members that are present here now.”

Chairman Allaire introduced Diane Srebnick (regular member), Madge Baker (Alternate) and he is Chairman Roger Allaire.

Note: Vice Chairman Lauren Meek was home because she just had a beautiful baby girl one week ago. Regular member Roland Legere was in Alaska on a very important anniversary for he and his wife that took a year to plan. Mr. Legere in his dedication even emailed board members to state he felt terrible missing his “first” Planning Board meeting. Rest assured members are and always have been very dedicated to the Town of Shapleigh.

Ms. Wentworth stated, “That for one half hour of this meeting there were only two members present and I was very disappointed with that in that this is the biggest factor that has come into this town and I am disappointed with your board members for not being here to hear the public. It’s a public hearing.”

Chairman Allaire stated it was a public hearing and there was no vote being taken on this item this evening.

Diane S. stated, “In defense of the Vice Chairman she just had a baby so that is why she is not here.”

Chairman Allaire agreed it was a very important issue.

Ms. Wentworth stated, “Secondly, I am appreciative the ‘Zone of Contribution’ is mentioned but what I’ve learned from some of the outside experts is ‘Zone of Influence’ affects many towns and the elevation affects the feeder streams running into the Ossipee River and this actually, this proposal, what we are looking at here is going to affect all the way to the ocean. If water is tapped out here, if its tapped out downstream, by the time it gets to the ocean how much is going to be left down there. This town can say take this much. This town can say take that much and my concern is there is no mention at all of feeder streams or where the water is coming in. Yes there will be monthly monitoring but who is going to look at it by the time it gets to the ocean to see what is left. In Newfield we have seven lakes. I respect the people who come up to those lakes. We value them greatly. They are a major asset to our town and what are we going to have to say to them if Shapleigh decides to move forward, things are a little lose on the beginning and you sign an agreement for 30 years. Where is that going to leave all of us. And I certainly hope you think about all of that. Thank you.”

John Roberts of Shapleigh – Mr. Roberts stated he was at the last board meeting on this issue. Mr. Roberts said he read the initial reiteration and he read tonight’s reiteration and he felt it was inadequate and weak. Mr. Roberts stated, added was the Zone of Contribution but Zone of Influence was not added. Mr. Roberts stated he understood the Zone of Contribution to be the area around the wellhead upstream. He stated the Zone of Influence is the area around the wellhead downstream.

Mr. Roberts referred to E(6) which referred to the Zone of Contribution but there is no reference to the Zone of Influence. Mr. Robert felt that could be critical.

Mr. Roberts believed under D(7) and (8) it needed to be strengthened to include requiring impact analysis to include site development and infrastructure impact.

Mr. Roberts stated there was no mention of remediation. He asked should there be at some point where the town allows water extraction, what happens when it terminates. What are the provisions the extractor come in and remediate the site?

Martin Britten of Shapleigh – Mr. Britten stated he sent an email to Mr. Campbell the State Representative. Mr. Britten stated it was the first time in his life he called him on the telephone. Mr. Britten stated Mr. Campbell was very supportive and he urged others to contact him.

Erik Johnson of Hollis – Mr. Johnson stated he was from Hollis and it was the center to where all the water was going. Mr. Johnson stated Shapleigh should look at their ordinance. Mr. Johnson stated when his board was up against the company that nobody talks about, as it turns out it is the only company authorized to carry water in this state. Mr. Johnson stated for every other person it is illegal. The state passed a law against any other company except Poland Springs.

Mr. Johnson said they were having a hell of a time with Poland Springs. He stated five or six high powered people show up at their meetings and they are making \$80,000, \$90,000 a year, compete with that. He said, you won't be able to, they will run over you. Mr. Johnson also said the state would not help you, it wants Poland Springs here. Mr. Johnson stated he would bring a copy of their Planning Board minutes, he said it might help.

Shelly G. (Could not read last name on sign-up sheet) of Shapleigh? – Shelly started by thanking Chairman Allaire for listening and conducting the meeting well.

Shelly stated that to begin with for large water extraction it should be 1000 gallons of water per acre per day. She said it is what Newfield, Parsonsfield and Hollis have stated. Shelly stated we needed to look at other towns, the neighbors.

Shelly stated with respect to ground water subsidence, it should state, "30 feet from a property line". Shelly stated she did not care what any other ordinance said; with respect to traffic, she wanted this water extraction ordinance to say from 9:00 p.m. to 6:00 a.m. no operation.

Shelly referred to the groundwater levels, it should read if the ground water level drops below "3" of the groundwater level" operation must stop.

Shelly stated the town needed control and it needed to be in writing. She believed that because these companies (water extraction) were so much bigger than the town. Shelly wanted the Planning Board to work with the townspeople. Shelly stated there were volunteers that wanted to be a team and not fight. Shelly stated if anyone wasn't a team player it would not work out.

Shelly agreed the town could not discriminate against a company but many people didn't realize it. She said, the ordinance can, however, be tough and if the company wants to come into the town they had to listen to the town's ordinance or go elsewhere.

John Tamaro of Newfield – Mr. Tamaro stated with some calculations you could determine the amount of water in the local lakes. Mr. Tamaro stated at 400,000 gallons of water a day, it comes out to so many million gallons of water a year. Mr. Tamaro stated Granny Kent pond was 70 acres in size.

Little Poverty Pond is 10 acres. Mr. Tamaro stated the amount of water in Granny Kent Pond was 1 ½ times the amount of water that they want to take out of the ground on a yearly basis. Mr. Tamaro stated six times a year they would empty Little Poverty Pond.

Mr. Tamaro stated the water would not come out of the lakes but he wanted people to know the amount of water they were talking about.

Barbara Britten of Shapleigh – Mrs. Britten stated she read an email about water rights in Barnstead New Hampshire. Mrs. Britten said the email stated that no corporation could come into Barnstead to extract water. Mrs. Britten asked if the Planning Board had looked at this ordinance.

Chairman Allaire stated that anyone can look at another towns ordinance it is open to the public. Chairman Allaire stated that he did not believe in the State of Maine you could discriminate against a type of business.

Mrs. Britten referred to Shapleigh's Comprehensive Plan where it described the size of the company that could come into Shapleigh. Mrs. Britten thought a large scale operation did not fall within the boundaries of the Comprehensive Plan.

Liz McMahon of Shapleigh - Ms. McMahon stated she also reviewed the Comprehensive Plan and it talked about light industry and preserving the rural character of the Town of Shapleigh. Ms. McMahon stated it also spoke of the concern with business moving in rapidly to the town which could be a threat to the infrastructure which she believed referred to roads. Ms. McMahon stated anyone could view the Comprehensive Plan on the town's website.

Chairman Allaire stated the Comprehensive Plan was a guideline to help the Planning Board look at a 10 year plan but it wasn't the existing ordinance.

Mrs. Britten stated that earlier in the evening Chairman Allaire stated the board must go by the book which she perceived was the Comprehensive Plan.

Chairman Allaire stated the book he was referring to was the Zoning Ordinance.

Dan Lavigne of Shapleigh – Mr. Lavigne asked why would the town go 30 years for something like this? Where did the 30 years come up?

Chairman Allaire replied that a Conditional Use Permit, when granted, goes on until the use has not been conducted for one full year. Chairman Allaire stated there was no way to know how long the use would be.

Mr. Lavigne asked if the town could limit it? Diane S. replied that the Selectmen would be the people entering into the contract so they could limit it.

Mr. Lavigne asked if there was a way the townspeople could force the Planning Board to look at other ordinances? How can we force this issue?

Chairman Allaire stated his main concern was that it was his understanding there was going to be a town vote on whether or not to allow Poland Springs to drill on town land in August.

Chairman Allaire stated at this time there are no additional standards for water extraction in the ordinance. He stated he would like to have something in place by then. Chairman Allaire stated the standards could be amended for town meeting in March but at this time he wanted something put into place.

Mr. Baily of Parsonsfield – Mr. Baily stated that Parsonsfield did set the amount of water to be taken out according to the acreage so that puts a limit upon it. Mr. Baily said by doing this it allows another business to take a real supply of water also. Mr. Baily believed the way the ordinance is written he believed one person could take all the water. Mr. Baily stated with a limit another person down the road could take some of the water.

Mr. Baily stated that Shelly brought up a good point regarding subsidence. Mr. Baily said you needed to protect your neighbor's property. Mr. Baily said the Board of Selectmen received a letter stating he was willing to help the town with their ordinance and he was still willing to do so.

Madge B. asked if the Selectmen were going to hold Public Hearings regarding Poland Springs? Chairman Allaire stated he did not know. Chairman Allaire stated he had asked to postpone this issue until town meeting in March 2009. Chairman Allaire said he did not think it was going to be postponed but would take place in August. He said, in August townspeople would be asked if they wanted Poland Springs to drill on town property. Chairman Allaire said this is why he is pushing to get an ordinance in place.

Shelly G. (Could not read last name on sign-up sheet) of Shapleigh – Shelly asked if the Planning Board was aware the townspeople has presented to the Board of Selectmen that they wanted a moratorium on the ordinance in order to get the townspeople more educated.

Chairman Allaire stated he did not feel the ordinance should be slowed down, he believed it could be amended in the future but something should be in place.

More questions were asked about what happens next?

Diane S. stated the only way to slow things down was to ask the Selectmen to postpone the vote in August. Diane said the Town of Shapleigh was going to be asked whether or not they wanted to give Poland Springs the right to drill test wells. Diane said if the Town of Shapleigh votes no, it is dead in the water. Diane said if they vote yes, then they do the test wells, then they come back with a proposal.

A townspeople stated he thought they already had test wells? Diane S. replied, no, that is incorrect there are no test wells on town land.

A citizen stated there were test wells on Shapleigh's property.

Note: There were test wells drilled on the State owned land in Shapleigh.

Ann Wynn Wentworth – Ms. Wentworth stated that the whole concept of a public hearing was for the board to get input from the public. Ms. Wentworth stated that Chairman Allaire said the Selectmen were going to have the hearing. Ms. Wentworth said the Planning Board must evaluate what was presented tonight. Ms. Wentworth said she hoped that changes would be made.

Chairman Allaire stated if a vote was going to take place to allow Poland Springs to drill, he wanted to have an ordinance in place. Chairman Allaire stated an entirely new ordinance could not be drafted.

A citizen stated two more hearings would be required for any major changes and there was a time constraint so this could not take place. The citizen stated the Planning Board was not saying they were not willing to rewrite the ordinance but could not do so and hold the necessary meetings prior to town meeting. Chairman Allaire stated correct.

Diane S. stated that at the last Planning Board meeting she said she felt the Board of Selectmen were moving too fast thus putting a burden on the Planning Board. Diane felt the board should have until March to create the new ordinance. Diane stated the vote in August needs to be slowed down. Diane told the citizens they needed to discuss the time table with the Board of Selectmen.

The citizen agreed stating that is why they wanted a moratorium on everything so there was more time.

The citizen asked when the town meeting was to be held. The board members did not have the date.

The Public Hearing for the ordinance ended at 8:15 p.m.

Public Hearing Began at 8:20 p.m.

Amendment to a Conditional Use Permit – Change existing use from a Day-Care to Antique Shop. – Map 7, Lot 55 (779 Shapleigh Corner Road) – Jennifer Dube

Ms. Dube was present for the Public Hearing.

Ms. Dube stated she would like to use the existing building for an antique shop to sell vintage items on eBay and on site. Ms. Dube stated the day-care was a means to save money in order to be able to open the antique business the way she wanted to initially.

Note: Mr. Dube opened an antique business on this site prior to the day-care but at that time it was not profitable so he did not continue.

Roger A. asked if anyone had any questions for Ms. Dube. There were no questions.

The Public Hearing for Ms. Dube closed at 8:25 p.m.

Conditional Use Permit – Coffee Shop and Pastry Take-out – Map 8, Lot 26C (8 Newfield Road) – Wayne Miller

Mr. Miller was present for the Public Hearing.

Mr. Miller stated he wanted to open a coffee and pastry drive-thru at Ross Corner. Mr. Miller stated he runs a generator business out of the larger building on site and has been for approximately six years. He stated he would renovate the existing small building, which used to be an ice cream shop, to use as a kitchen. Mr. Miller stated he would be selling his products out of a trailer as a drive-thru that

he has renovated per the state standards. Mr. Miller stated he would have hot and cold drinks, breakfast sandwiches, pastry, and typical breakfast fare. Mr. Miller added that if the business worked he would probably come back to the board to expand.

Mr. Miller stated initially he would be open from 6:00 a.m. to noon but he would add hours if it was feasible.

Mr. Miller's neighbor, David Delapp (Map 8, Lot 26) stated he was concerned with the possible increase of traffic and the traffic pattern.

Mr. Miller did not expect to increase the traffic and he said the traffic flow pattern submitted to the Planning Board showed the traffic entering closest to the stop sign and exiting at the upper end of the parking so as not to be pulling out at the intersection. Mr. Miller believed by doing this no traffic would be bottlenecked. Mr. Miller explained where the location would be for the trailer and that five to seven cars could be on site easily, waiting.

Mr. Delapp was also concerned that come February at 6:00 a.m. it would be dark so people would be using their headlights. He said, these headlights would be panning across his house / bedroom as they pulled onto the site. Mr. Delapp asked if a barrier of trees could be planted to prevent this?

Mr. Miller believed there was a stand of trees existing now on Mr. Delapp's property. Mr. Delapp stated that several in the winter allowed light through because there were no leaves. Mr. Delapp stated a stand of evergreens would be best.

Mr. Delapp stated his last concern was with respect to the trash. He didn't want to see rodents or larger animals coming to the site. Mr. Miller stated the trash had to be sealed per the State of Maine food code.

Mr. Delapp asked the board members if there would be another review process should Mr. Miller want to expand? Chairman Allaire stated that any change in products sold or a 25% expansion requires that the applicant come back before the Planning Board for re-approval as an Amendment to a Conditional Use Permit.

Chairman Allaire asked what the hours of operation requested would be? Mr. Miller stated 5:00 a.m. thru 10:00 p.m.

Chairman Allaire asked if there were any additional questions? There were none.

The Public Hearing Ended at 8:35 p.m.

The Planning Board meeting started at 8:37 p.m.

The minutes from Wednesday, June 25, 2008, were accepted as read.

Amendment to a Conditional Use Permit – Change existing use from a Day-Care to Antique Shop. – Map 7, Lot 55 (779 Shapleigh Corner Road) – Jennifer Dube

Ms. Dube was present for the review of her application.

At the previous meeting Ms. Dube stated she would now like to change the existing use, a day care, to the prior use which was an antique shop. Ms. Dube stated nothing was going to change with respect to the building to be used, the parking area, etc.

Ms. Dube stated her hours of operation would be 8:00 a.m. thru 8:00 p.m., 7 days a week.

Chairman Allaire noted that during the daycare approval a turn-around area on site was required and it has been put in. He said because of this he felt traffic access to the site is safe. Chairman Allaire noted there would be no new construction on site for this business.

Madge B. asked if there would be any additional lighting? Ms. Dube stated no. Madge stated any change in signage would be through the CEO. Madge stated there should be no additional waste disposal. Ms. Dube stated there would be less than the day care.

Diane S. asked if she would only be selling antiques? Ms. Dube stated she would be selling on eBay as well and perhaps some items would be on consignment.

Roger A. reviewed the following ordinance standards:

- 105-17 - Land Uses. *An antique business is a permitted use through a Conditional Use Permit.***
- 105-19 – Notes to table on dimensional requirements. *The existing building met all the dimensional requirements per the building permit process through the Code Enforcement Office.***
- 105-20 – Applicability of standards; prohibited uses. *This application is a permitted use within the General Purpose Zone and it meets all state and federal law regulations.***
- 105-21 – Traffic. *Traffic will have safe access. The driveway design provides for on-site turn-around, as well as parking should it be required. There shall be no parking allowed on Rte. 11 or backing out onto Rte. 11.***
- 105-22 – Noise. *There are no noises outside of the building for this business.***
- 105-23 – Dust, fumes, vapors and gases. *There will be no emissions created by this business.***
- 105-24 – Odors. *The will be no odors emitted from this business.***
- 105-25 – Glare. *There will be no additional lighting added to the building.***
- 105-26 – Stormwater runoff. *The building has been in existence and has all the proper permits for its location. No change shall be made to the building and existing vegetation will not be disturbed for this business.***
- 105-27 – Erosion control. *The building has been in existence and has all the proper permits for its location. No change shall be made to the building and existing vegetation will not be disturbed for this business.***
- 105-28 – Setbacks and screening. *All the existing vegetation is in place and no changes are being made to the landscape.***
- 105-29 – Explosive materials. *There are no explosive materials associated with this business.***
- 105-30 – Water quality. *There is nothing associated with this business to affect water quality.***
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *There shall be no disturbance to the surrounding landscape and the existing driveway / parking area will remain unchanged.***
- 105-32 - Relation of proposed building to the environment. *The existing building fits in well with the surrounding area.***

- 105-33 – Refuse disposal. *All waste, which will be minimal, shall be removed by the applicant to the proper location.*
- 105-46 – Sanitary provisions. *There is an existing approved septic system on site but there shall be no bathroom facilities for patrons.*
- 105-47 – Signs and billboards. *Any signage shall be obtained through the Code Enforcement Office.*
- 105-52 - Water quality protection. *There is no hazardous waste created by this business. There is an existing working septic system on site.*

Madge B. asked how many cars would be associated with this business. Chairman Allaire and Ms. Dube agreed there would be less traffic for this business than the in-home day care. Chairman Allaire stated there was an approved parking plan for the antique shop on file from the original approval. Ms. Dube noted that since that approval a turn-around area had been created. Madge agreed that the number of vehicles would be less and because there was adequate parking for the day care no additional parking would be needed. Ms. Dube noted that when the original antique shop was open there were never more than two vehicles on site at one time and this was infrequent.

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 nothing taking place outside of 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 small businesses.*
- 4) Traffic access to the site is safe. *It is, there is an existing parking area and place to turn-around on site. No traffic will be allowed to back out onto Rte. 11.*
- 5) The site design is in conformance with all municipal flood hazard protection regulations. *It is, the building was permitted through the building permit process.*
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. *A state approved septic system is in existence.*
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. *There are no hazardous materials produced by this business.*
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. *The building is in existence and was approved through the building permit process and previous Conditional Use Permits. All vegetation on site will remain in place.*
Chairman Allaire noted that during the site inspection the topography / land was reviewed and the site was adequate with respect to handling storm water runoff.
- 9) Adequate provisions to control soil erosion and sedimentation have been made. *The building is in existence and was approved through the building permit process and previous Conditional Use Permits. All vegetation on site will remain in place.*
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. *There is, the property is in close proximity to the water holding tank on Rte. 11.*
- 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 building or the surrounding area.*

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

Diane S. made the motion approve the Amendment to the Conditional Use Permit to open an Antique Business in the existing 22' x 28' building with the following condition(s):

- 1) Hours of operation shall be Monday thru Friday, 8:00 a.m. to 8:00 p.m.; seven days a week.
- 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) There shall be no cars allowed to back onto Rte. 11.
- 4) Any signage must be approved by the Code Enforcement Officer.

Madge B. 2nd the motion. All members were in favor, therefore, the motion passed unanimously.

Nothing further was discussed.

Conditional Use Permit – Coffee Shop and Pastry Take-out – Map 8, Lot 26C (8 Newfield Road) – Wayne Miller

Mr. Miller was present for the review of his application.

Chairman Allaire asked if there was going to be any additional lighting? Mr. Miller stated there would be security lighting on the building facing the street / parking area.

Diane S. asked if there would be a public restroom in the existing building? Mr. Miller stated no, not at this time.

Roger A. reviewed the following ordinance standards:

- 105-17 - Land Uses. *A restaurant is a permitted use in the General Purpose Zone through a Conditional Use Permit.*
- 105-19 – Notes to table on dimensional requirements. *The existing buildings meet the dimensional requirements per the building permit process through the Code Enforcement Office.*
- 105-20 – Applicability of standards; prohibited uses. *This application is a permitted use within the General Purpose Zone and it meets all state and federal law regulations.*
- 105-21 – Traffic. *Traffic will have safe access. There will be a specific entrance and exit from the site and there is adequate area for waiting vehicles and parking should it be necessary per the plan presented.*
- 105-22 – Noise. *There will be no noise other than the idling of automobiles for this business.*
- 105-23 – Dust, fumes, vapors and gases. *There will be no emissions created by this business other than odors from the baking on site.*
- 105-24 – Odors. *The will be no obnoxious odors emitted from this business.*
- 105-25 – Glare. *No lighting shall be allowed to glare beyond the property lines. A tree / shrub line shall be established between the lot line of the applicant and Map 8, Lot 26 to prevent headlight glare. No occupancy permit shall be given until the tree / shrub line has been planted.*

- 105-26 – Stormwater runoff. *The building has been in existence and has all the proper permits for its location. No change shall be made to the building and existing vegetation will not be disturbed for this business.*
- 105-27 – Erosion control. *The building has been in existence and has all the proper permits for its location. No change shall be made to the building and existing vegetation will not be disturbed for this business.*
- 105-28 – Setbacks and screening. *All the existing vegetation shall remain and additional vegetation shall be added between the applicant's property and Map 8, Lot 26 prior to receiving an occupancy permit.*
- 105-29 – Explosive materials. *All propane tanks shall be installed per the existing state and town code.*
- 105-30 – Water quality. *There is nothing associated with this business to affect water quality.*
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *There shall be no disturbance to the surrounding landscape and the existing driveway will remain unchanged.*
- 105-32 – Relation of proposed building to the environment. *The existing building fits in well with the surrounding area.*
- 105-33 – Refuse disposal. *All waste shall be removed by the applicant to the proper location and per the State of Maine Dept. of Health Food Code. If a dumpster becomes required there shall be screening provided so it cannot be seen by the public.*
- 105-46 – Sanitary provisions. *There is an existing approved septic system on site but there shall be no bathroom facilities for patrons.*
- 105-47 – Signs and billboards. *Any signage shall be obtained through the Code Enforcement Office.*
- 105-52 – Water quality protection. *There is no hazardous waste created by this business. There is an existing working septic system on site.*

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, no changes are being made to the existing parking / drive-thru area and the existing vegetation shall remain in place.*
- 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 small businesses.*
- 4) Traffic access to the site is safe. *It is, there is an existing parking area / drive-thru area and all traffic shall enter and exit the site per the plan presented.*
- 5) The site design is in conformance with all municipal flood hazard protection regulations. *It is, the building was permitted through the building permit process.*
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. *A state approved septic system is in existence and all waste from the kitchen shall be disposed of per the State of Maine Dept. of Health Food Code.*
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. *There are no hazardous materials produced by this business.*

- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***The building is in existence and was approved through the building permit process and previous Conditional Use Permit. All vegetation on site will remain in place.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***The building is in existence and was approved through the building permit process and previous Conditional Use Permit. All vegetation on site will remain in place.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***There is, the property is in close proximity to Ross Corner Fire Department.***
- 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 building or the surrounding area except for the addition of a buffer strip between the applicant's lot and Map 8, Lot 26 to prevent glare from vehicle headlights. The area to be planted is shown on the applicant's site plan.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

Diane S. made the motion to approve the Conditional Use Permit to open a coffee, pastry and breakfast sandwich take-out service with the following condition(s):

- 1) ***The hours of operation shall be 5:00 a.m. thru 10:00 p.m., seven days a week.***
- 2) ***A row of evergreen trees or shrubs shall be planted that will grow large enough to become a visual barrier between the business and the abutting neighbor, Map 8, Lot 26. This will be done per the plan presented; the trees / shrubs shall initially be at least 4 ½ feet in height and the row will be approximately 40 feet in width.***
- 3) ***No occupancy permit will be given until the trees and/or shrubs are put into place.***
- 4) ***Any signage shall be permitted through the Code Enforcement Office.***

Madge B. 2nd the motion. All members were in favor, therefore, the motion passed unanimously.

Nothing further was discussed.

Conditional Use Permit – Use existing building for classrooms & possibly “clothes closet” and church library. – Map 45, Lot 4 (606 Shapleigh Corner Road) – Shapleigh First Baptist Church

Carrolous Verrill, Chairman of Trustees of the First Baptist Church, was present to discuss the application as well as Melissa Conner, the woman who would be running the “clothes closet”.

Mr. Verrill stated he had an engineer look at the building per the Planning Boards request. The engineer thought it would be very expensive to bring the building up to today's standards and it would have to be in order for him to state it was safe to use for the public.

Mr. Verrill stated that the engineer suggested having the clothes give-away out in the parking lot so there wouldn't be any patrons in the building and just use the building to store the clothing.

Mr. Verrill stated the church thought this was a good idea and stated they would put something across the entrance to the old parsonage to prevent anyone from going inside.

Ms. Conner stated they would like to open the clothes closet twice a month, on Saturdays, from about 9:00 a.m. to noon. Ms. Conner stated that if it was popular she would expand her hours. Madge B. asked to what days? Ms. Conner stated just to every Saturday.

Ms. Conner and Mr. Verrill stated it would be weather permitting.

Madge B. discussed the traffic pattern, how would vehicles enter and exit. Mr. Verrill stated there was plenty of parking area to enter and exit, even with the clothes in the parking lot.

Chairman Allaire asked Ms. Conner about the hours of operation and told her to be sure she asked for all the hours she thought she would need. Ms. Conner thought to start 9:00 a.m. to noon would be good. Chairman Allaire stated if she needed more hours she would need to come back unless she listed all the possible hours she might want.

Ms. Conner stated 9:00 a.m. thru 2:00 p.m. would be sufficient. She did not want to spend anymore time than that holding it open.

Mr. Verrill stated on rainy days they may use the church for the clothes closet, as they do on Shapleigh Community Day.

Chairman Allaire asked if there was an issue with the clothes being stored in the old parsonage? Mr. Verrill stated the only concern expressed by the engineer was housing alot of people in the structure.

Diane S. asked if there needed to be a Public Hearing. Chairman Allaire did not believe so because there is already a clothes closet on site. The only difference is it would be held outside on sunny days. The other board members agreed. Madge B. added it was not a business.

Diane S. made the motion to approve the Conditional Use Permit to hold a clothes closet in the church parking lot and store the clothes in the existing old parsonage with the following condition(s):

- 1) The hours of operation will be Saturday; 9:00 a.m. thru 2:00 p.m.***
- 2) There shall be no public use of the existing structure / old parsonage. It shall be used for storage only with a limited number of persons / church members allowed to access the building.***
- 3) Any additional use of the existing building / old parsonage shall have to be approved by the Planning Board.***

Madge B. 2nd the motion. All members were in favor, therefore, the motion passed unanimously.

Nothing further was discussed.

Former Best Possible Location Applicant would like to speak with the Planning Board - Jackie Chaplin – Map 24, Lot 20 (53 Channel Circle)

Ms. Chaplin was present for review of her application.

Ms. Chaplin explained that she was approved for a best possible location. She said, it was noted by the contractor there would be no outside access to the basement so a bulkhead would be needed. Ms. Chaplin stated she was before the board to try to find an area that would work best for the bulkhead.

Ms. Chaplin stated that she had discussed a location with CEO McDonough but what he perceived as best possible was too close to the existing septic chamber system according to her contractor.

Ms. Chaplin stated because they moved the proposed location of the home per Mr. Bergart's agreement (Map 24, Lot 19), she did not want to put the bulkhead between the foundation and his property line.

Ms. Chaplin's contractor spoke and stated the bulkhead was 4' x 6' in size. He showed two possible locations for the bulkhead. The contractor stated he spoke with Mr. Phinney, Map 24, Lot 21 and he had no issue with them putting the bulkhead on the side of the house facing his lot. The contractor stated there was an old pump house in this location that was going to be removed.

Chairman Allaire asked about the chamber system because this is the area the CEO suggested be used because it would not encroach on lot lines as much. The contractor stated he only had approximately 7 feet to the chamber system and believed it would disturb the septic system putting it in that location because of the amount of earth he would have to move for the excavation for the foundation.

After review of the existing approved plan, and possible locations of the bulkhead the board members agreed the best possible location would be facing Map 24, Lot 21. This would not encroach upon the road setback or setback to the high water line.

Diane S. made the motion to amend the original approval and allow the addition of a 4 foot by 6 foot bulkhead adjacent to the existing structure with the following conditions:

- 1) The bulkhead shall be placed on the southerly side of the approved foundation, where the old pump house was located, facing the side lot line of Map 24, Lot 21.**
- 2) All other conditions from the original approval remain in effect.**

Madge B. 2nd the motion. All members were in favor, therefore, the motion passed unanimously.

Nothing further was discussed.

Proposed Addition to Zoning Ordinance – Large scale pumping or extraction of groundwater from aquifers.

Madge B. stated someone came up to her and said the town vote on drilling test holes on town property was postponed to September 20th. Madge stated this gives the board time to make changes to the ordinance.

Madge B. stated some of what townspeople were asking for would mean changing things that have been approved in the Zoning ordinance and she said all the enforcement is in the Zoning ordinance. Madge stated therefore the board did not want to do that.

Madge B. stated the townspeople were asking the board to throw out the proposed ordinance and use one from another town. Diane S. stated she would not mind reviewing other towns to compare. Madge agreed that members should review and find what specifics needed to be added that would not affect the existing Zoning ordinance.

Board members agreed another Public Hearing on the proposed ordinance would be Tuesday, August 12, 2008 at 7:00 p.m. which would contain the last set of changes prior to town meeting.

Nothing further was discussed.

The Planning Board meeting ended at 9:30 p.m.

Respectively submitted,

Barbara Felong, Land Use Secretary
planningboard@shapleigh.net

**Shapleigh Planning Board
Minutes
Wednesday, July 23, 2008**

Members in Attendance: Roger Allaire (Chairman), Roland Legere, Diane Srebnick, Madge Baker (Alternate) and Barbara Felong (Secretary). Code Enforcement Officer Steven McDonough also attended the meeting.

6:30 p.m. - Workshop - Meet with Corner Post Land Surveyors to Discuss New Zoning Map

Corner Post Land Surveyors and the Planning Board members discussed the necessary changes to the existing Zoning map, updating it with the latest State of Maine Shoreland Zoning. Corner Post will draft a letter to the Board of Selectmen stating what these changes will cost the Town of Shapleigh. The Planning Board told Corner Post these changes will need to be done as soon as possible so they can be presented to the townspeople at a Public Hearing prior to the end of the year.

Nothing further was discussed.

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

The minutes from Tuesday, July 8, 2008, were accepted as amended. The fact the meeting was videotaped will be noted on page 1 and on page 12, the word rule will be replaced with rural.

**Construction of a Private Way – Map 10, Lot 6B – Carl and Barbara Fowler, Representatives;
Charles Fowler, Owner**

Carl and Barbara Fowler were present for the review of the application. They submitted a letter from Charles Fowler which stated they could represent him for the review of this application. Road Commissioner Dave Winchell was also present as he was the person who constructed the Private Way.

The Planning Board initially reviewed this application in November 2006. At that time the applicant, Charles Fowler, was asked to provide the following:

- 1. A street plan, cross section and drainage plan would need to be added to the existing ROW plan drawn up by Middle Branch Surveyors.**
- 2. A note shall be placed on the final plan noting 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.**
- 3. A maintenance agreement shall be required and recorded in the York County Registry of Deeds.**
- 4. An additional \$300 shall be paid to the Town of Shapleigh due to the fact this application is an after-the-fact permit. The ROW has already been put in.**

Mr. Carl Fowler began by showing a new plan that did state on the plan that the Town of Shapleigh would not be responsible for maintenance, repair or plowing of the right-of-way. Mr. Fowler also presented a road maintenance agreement.

Roger A. read the maintenance agreement and he was concerned that it referred to the years 2006 and 2007, it did not talk about the future. Roger noted this document would get recorded at the York County Registry of Deeds, so Roger stated it should state that people would agree to share equally in the cost of maintenance, snow plowing, grading and any necessary repair. Roger stated the amount of those cost and the season did not need to get recorded. Roger stated this made the agreement carry forward indefinitely. Mr. Fowler stated he understood.

Roger A. asked if there was a street plan. RC Winchell had given Barbara F. a copy of the original plan the Fowler's had presented. On this plan were color coded lines depicting the location of a culvert, width of the road and location of the drainage swales.

RC Winchell pointed to where the drainage swales were located along the road, pointed to location of the culvert and noted how the water ran off the property. Roger A. asked what the size of the culvert was? RC Winchell stated it was a 12" culvert by 40 feet and he stated it was plastic.

Roger A. stated the Fowler's were asked to have Middle Branch Surveyors (the company that drew up the survey plan) provide a street plan, cross section of the road and drainage plan as required in the ordinance. Roger stated that at the present time RC Winchell was stating what was done but it needed to be on the plan so it can be recorded at YCRD.

Mr. Winchell stated he put the roadway in to the Private Way standards in the ordinance.

Mr. Fowler asked Roger A. who needed to draft this plan. Roger stated that at the last review the Planning Board asked that the same company that drafted the original plan, Middle Branch Surveyors, provide the roadway plan. Mr. Fowler stated he went to Middle Branch and they said it was beyond what they were capable of doing. Mr. Fowler then stated Middle Branch said it would cost between \$7,000 and \$8,000 to draft the roadway plan.

RC Winchell stated Middle Branch would not know what was done unless they looked at the roadway. RC Winchell did not know how they would do this. Roger A. stated they would have to do some core samples. RC Winchell stated again he put the roadway in to the town's standards.

Roger A. stated in his opinion the street plan / drainage plan that was asked for is not done. Roger believed the plan as presented this evening was incomplete. Roger said that lines drawn on the survey map did not tell the board anything, there is no pitching, etc. RC Winchell stated that if there had been a plan designed initially he would bring that in but there wasn't a road profile provided. RC Winchell stated the houses were already in place.

RC Winchell noted that as road commissioner it is his job to view roadways, such as White Tail Lane, (a subdivision road seeking approval from the town) the town uses his opinion as to whether or not a road is completed per the plan. RC Winchell noted he had a plan for that road. RC Winchell did not see how having a piece of paper would change how the road was put in.

Roger A. stated there needed to be a plan for the file that states how the road was built. Madge B. stated that the road was built before they had a permit or design. Mr. Fowler stated yes, it was a misunderstanding on his behalf. He added that he did have the road done correctly. Madge stated that may be true but there needed to be a plan.

CEO McDonough stated that Mr. Fowler did not have to use Middle Branch, any engineering firm could draft the plan. Roger A. stated correct.

Madge B. stated she agreed with Roger A., in the future there needs to be a record that the town can refer to that states the road was built to the town's specifications. Diane S. read the Private Way ordinance which states in part, "A plan showing the private way shall be prepared by a registered land surveyor or land engineer." "A street plan, cross section, and drainage plan shall be submitted for each private way."

Roger A. stated that when the plan was approved it would need to get recorded at the York County Registry of Deeds within 90 days. Roger said that in the future, when other members are on the Planning Board and there is an issue with the private way, they can go to the courthouse and see what was approved in 2008.

Roger A. stated the plan as presented with a red and blue line with a black line depicting the culvert does nothing to donate slope, how the road was built, etc.

Mr. Fowler asked if an engineer would know what was needed. Roger A. stated yes, they would add slopes, drainage areas, what was needed to divert water, and the plan would show details of what was done.

Mr. Fowler stated that after the street plan and change to the maintenance agreement they could come back to the Planning Board for approval. Roger A. stated yes and noted again it would then need to get registered within 90 days otherwise the plan would become null and void.

Roger A. also noted an after-the-fact fee would need to be paid prior to approval (Mr. Fowler owes the PB \$300; he paid the initial application fee of \$100).

To summarize, Mr. Fowler was asked to provide the following:

- 1) **A street plan, cross section and drainage plan of the existing right-of-way, to be drawn up by a licensed State of Maine Engineer.**
- 2) **Due to the fact the permit is after-the-fact, a licensed State of Maine Engineer must certify the road is constructed as per the plan above.**
- 3) **A maintenance agreement that states the cost of maintenance, snow plowing, grading and any necessary repairs will be shared equally by the property owners that must adhere to this agreement.**
- 4) **The after-the-fact permit application fee of \$300.**

Mr. Fowler stated he would contact the board when he had the information ready.

Nothing further was discussed.

Amendment to a Conditional Use Permit – Add Building for Boat Storage at Lakes Region Marine – Map 5, Lot 20-1 (732 Shapleigh Corner Road) – Bill Turgeon Applicant

Mr. Turgeon was present for the review of his application.

Mr. Turgeon stated he wanted to erect a storage building to hold between 35 to 40 boats. Mr. Turgeon stated it would be a Morton Building, which are made of wood and metal.

Roger A. asked if there would be power in the building. Roger stated this could be an issue because of gasoline and batteries left in the boats. Roger stated even when drained some gas can remain. Roger stated

that egress from the building is very important. Roger said doors could be no more than 100 feet apart in case someone needed to get out. Roger stated Mr. Turgeon needed to check with the fire department. Mr. Turgeon noted Weaver Marine put up a building that was only 98 feet in length and this was probably why.

Mr. Turgeon stated his proposed building size was 50' x 102' so he might need an extra door in his plan. Roger A. stated yes, the width is fine but the length may be an issue.

Roland L. asked where the storage building would be placed in relation to the existing building/business? Mr. Turgeon stated if you were coming in from the main road it would be on the left behind the existing tree line.

Mr. Turgeon presented a plan showing the location of the existing building and proposed storage building in relation to the lot lines. In addition, a letter was received by Mr. Turgeon from Carl Beal, P.E. of Civil

Consultants which stated the proposed building would not generate an increase in the peak rate of runoff from a 50-year storm event. Mr. Beal had done the original stormwater plan for the Marina in April of 2006.

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

Roger A. stated a Public Hearing would be held on Tuesday, August 12th, after the hearing for the Large Water Extraction Ordinance. A Notice to Abutters would be mailed as well.

Roger A. told Mr. Turgeon not to come before 8:00 p.m. and that the hearing would be held at the Shapleigh Memorial School due to the high volume of people expected at the ordinance review.

Nothing further was discussed.

Derick Cate representing Kettle Pond Condo's – Questions with respect to driveway entrance and moorings.

Mr. Cate was before the Planning Board with several questions from Kettle Pond Condo owners.

Mr. Cate showed members the existing approved plan for the condominiums. Mr. Cate spoke about the right-of-way used to access Kettle Pond that was owned by Mr. Correggio. Mr. Cate asked what would need to be done to create an access onto Rte. 11 that was entirely on Kettle Pond land so it would be seen easier and owners would not need to go through the neighboring property. Mr. Cate stated it is not easy to see the entrance to Kettle Pond at this time so members would like to change that.

Roger A. noted that during the initial approval one person owned all the property and so there was limited access allowed onto Rte. 11. Diane S. stated initially Kettle Pond was a resort and the building owned by Mr. Correggio was used as a check-in, then you would go to the cabins.

Roger A. stated the Kettle Pond Association would need to go to the State to get permission for another curb cut onto Rte. 11. Mr. Cate noted this would be the first access for Kettle Pond.

Roger A. noted that the right-of-way being used by Kettle Pond at this time probably should be eliminated if a new curb cut was approved by the State. Roger said it was best to do both at the same time. Roger said then this proposal would need to come back to the Planning Board as an amendment to the subdivision. Roger noted the new road would need to be done to the subdivision standards.

CEO McDonough provided the State application to Mr. Cate for the curb cut.

Mr. Cate spoke about the existing dictates from the Planning Board regarding no motorboats to be at the existing dock. Roger A. added no moorings would be allowed either.

Mr. Cate asked why moorings were not allowed? Roger A. stated that during the approval process, the public was concerned because of the location and limited area, if all condo owners had a boat/mooring there would not be enough room.

Mr. Cate stated there was 1600 feet of waterfront for the condominiums and there are no moorings allowed yet there are much smaller properties adjacent that can have boats or moorings in front of their houses. Madge B. stated the association could ask the Planning Board for moorings. Mr. Cate asked how this could be done?

Barbara F. stated it would be an amendment to the subdivision. CEO McDonough stated both could be requested at the same time. Mr. Cate asked what if one was turned down. Barbara F. stated if one is not accepted the other still could be.

Mr. Cate asked what the board members felt would be a reasonable number of moorings to request? Roger A. stated that it was not up to the board to state a number. Madge B. said the association could present a number they would like then the board could either accept that number or decrease it. Mr. Cate stated they would like to limit the number and perhaps have a lottery for the weekends.

Mr. Cate added that if a number was approved it would be in the condo association rules and it would be adhered to.

Roger A. noted that the State will look at their idea for a curb cut and may approve it or move it. Roger said there may need to be a culvert put in depending on the location of the entrance. Roger also told Mr. Cate that if a plan was approved it would have to be recorded at York County Registry of Deeds within 90 days of approval. The board members told Mr. Cate it would probably be easiest to have whoever drafted the original plan for the subdivision do any changes because it would be less costly due to the fact they would already have the existing information on file. Barbara F. gave Mr. Cate a copy of the Findings of Fact that were approved by the Planning Board. Roger A. stated the Findings were also recorded at the registry and an amendment to those would need to be recorded.

Mr. Cate thanked the Planning Board for their time and the information provided.

Nothing further was discussed.

Other:

Roger A. stated Barbara F. was asked by Annette Brown of the Shapleigh Recreation Committee if they would need a permit to show the children movies one night a week. There would be no fee for the movie. Ms. Brown stated they would be using the concession stand.

Roger A. did not see anything in the ordinance that requires a permit. Barbara F. stated the Recreation Fields have been approved as well as the concession stand. Barbara stated CEO McDonough could not find anything that required a permit but wanted the Planning Board to make the final decision.

Madge B. asked if the screen was temporary and if there would be no permanent seating added? Madge thought the only thing that could be an issue would be a noise issue, so they needed to be mindful of that. Madge added glare from the screen could possibly be an issue as well, because there were neighbors. Madge agreed nothing needed to be done at this time.

Nothing further was discussed.

Roger A. stated another item was the fact White Tail Lane had been completed except for the topcoat. Roger stated that Russ Hughes told Barbara F. that he had spoken with Road Commissioner Dave Winchell and he and Dave agreed it would be best to wait to add the topcoat so heavy equipment would not ruin it. Mr.

Hughes said RC Winchell said what has been done to date on the road was to the towns standards. Barbara stated RC Winchell noted the same to her. Board members agreed it would be best to wait for the topcoat.

Roger A. stated Mr. Hughes asked about how to handle the release of the Letter of Credit, and if it would be possible at this time to receive Growth Permits? Roger said he thought there should be a new Letter of Credit drafted based on what it would cost for the final layer of topcoat. When the new amount was known and a new Letter of Credit was drafted, Roger thought Growth Permits could be allowed. The other board members agreed. Barbara F. will contact Mr. Hughes and draft a letter stating the above.

Nothing further was discussed.

GROWTH PERMIT(S) – *There are permits available.*

The Planning Board meeting ended at 8:40 p.m.

Respectively submitted,
Barbara Felong
Land Use Secretary planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES

Tuesday, August 12, 2008

Members in attendance: Roger Allaire (Chairman), Roland Legere, Lauren Meek, Diane Srebnick, Madge Baker (Alternate) and Barbara Felong (Secretary). Code Enforcement Officer, Steven McDonough was also in attendance.

Note: The Public Hearing was held at the Shapleigh Memorial School. There were approximately 200+ people in attendance. Some of the citizens were from Shapleigh, some were from neighboring towns.

The following words are not verbatim unless accompanied by quotation marks “ ”.

Public Hearing Began at 7:10 p.m.

Chairman Allaire began by discussing the protocol of the evening; he explained how the public hearing would be conducted. Chairman Allaire also told the citizens that this ordinance did not stand alone that the entire Zoning Ordinance is used while reviewing an application. He said all criteria in the Zoning Ordinance are used during the review process.

Chairman Allaire then introduced Mr. John D. Tewhey, PH.D., of Tewhey Associates, Environmental Consultants. Chairman Allaire stated that the Board of Selectmen had hired a hydrogeologist to assist the Planning Board with the ordinance. Chairman Allaire stated that Mr. Tewhey would give a brief presentation on aquifers.

Note: Mr. Tewhey received his PH. D. in Geochemistry from Brown University, 1975; his M.S. in Geological Sciences, from the University of South Carolina, 1968; and his B.A. in Chemistry and Geology from Colby College in 1965. Mr. Tewhey is a certified geologist in both Maine and California. Mr. Tewhey has worked as Tewhey Associates since 1987 to present; was on the Maine Board of Environmental Protection from 1995 to 2003; worked for E.C. Jordan Company from 1981 to 1987 and for Lawrence Livermore National Laboratory at the University of California from 1974 to 1981. A copy of Mr. Tewhey's resume can be obtained at the town hall during regular office hours.

Chairman Allaire stated that the water extraction ordinance as presented tonight, except for any typographical errors, would be the one presented at the special town meeting in September. Chairman Allaire stated there would probably be changes to this ordinance in the future but because of time constraints there would be no major changes prior to the September vote.

Chairman Allaire then gave the floor to Mr. Tewhey for his brief presentation on aquifers.

Mr. Tewhey began by stating he was a hydrogeologist, geologist, and geochemist. He stated he had been in business as Tewhey Associates for 32 years. Mr. Tewhey stated that he has worked with towns on similar projects such as this.

Mr. Tewhey stated he was going to give an overview of sand and gravel aquifers and the distribution of precipitation. Mr. Tewhey stated he worked on a similar project in Kingfield. Mr. Tewhey said Poland Springs came to the town requesting to extract water. Mr. Tewhey stated he worked for the Town of Kingfield to do quality control, to give a technical resource to the town.

Mr. Tewhey brought two geological maps which showed the three different types of soils, glacier generated soils, and he would focus on the sand and gravel which houses groundwater.

Mr. Tewhey went on to speak about the ice cap that is currently in Greenland and explained that Maine was covered in this type of ice at one time and that the glacier started to recede around 14,000 years ago. He explained that the retreat of the glacier was slow and it created volumes of water and that sediment was swept toward the coast.

Mr. Tewhey talked about how the glacier depressed the land and that at one time Shapleigh was along the shoreline. Mr. Tewhey spoke of the glacial sediments, glacial till, and marine clay. He explained glacial till was very permeable and from it eventually became the sand and gravel aquifers of Shapleigh. Mr. Tewhey stated that till was very permeable and not a good aquifer because the water runs right through it. He said sand and gravel was a very good aquifer, it holds water and produces water. He said marine mud covers some of Maine; it is a blue/green dense clay which is not an aquifer.

Mr. Tewhey showed, using maps he provided, where the glacial till was located in Maine, the sand and gravel aquifers and the marine mud. He explained that in some areas there is sand and gravel under the marine mud. He said in Shapleigh there was never marine mud covering the aquifers, so they are exposed at the surface.

Mr. Tewhey explained ground water. He stated that it was not underground rivers but water flowing very slowly through coarse materials. He stated groundwater could flow through cracks in bedrock, and sand and gravel material. Mr. Tewhey said that the rate that groundwater flows in sand and gravel aquifers can range from ten to a thousand feet per year which is slow but this rate is fast in relation to how it would flow in clay, which is inches per year. He stated the groundwater table continues into surface water and that it continues beneath the soil on the same plane that surface water is on. He stated the surface of the groundwater table tends to mimic the elevation of the land. He said as the land gets higher the water table gets higher. He stated groundwater always wants to flow toward surface water and discharge into surface water.

Mr. Tewhey talked about different types of water supply, pointing out areas in Maine that are or could be used for a water supply. He talked about surface water such as Lake Sebago, Lake Auburn, and other lakes in Maine that are major sources of water supply. He showed sand and gravel aquifer locations, stating they were high yield very porous aquifers and a good producer of water. Mr. Tewhey stated sand and gravel aquifers are very prolific and you can get water at the rate of hundreds of gallons of water per minute. He explained water flows very easily through the unconsolidated sand.

Mr. Tewhey showed a slide depicting the water table in a sand and gravel aquifer, and it showed that when the water in the aquifer is raised a spring appears on the surface. Mr. Tewhey stated that springs are very important to anyone wanting to extract water. Mr. Tewhey stated that a spring was the groundwater intersecting the surface of the land. Mr. Tewhey stated that like lakes, which have water tables that rise and fall, groundwater also has a water table that rises and falls with the seasons.

Mr. Tewhey spoke about the average amount of rainfall in Maine over the course of a year. He stated in Fryeburg they receive about 48 inches a year, in Sanford approximately 47 inches a year. He said in Shapleigh it can be assumed between 47 and 48 inches per year are received. Mr. Tewhey stated that that translated into 3.9 cubic feet. Mr. Tewhey showed what 3.9 feet would look like on a slide. Mr. Tewhey explained it equated into 270 gallons per square yard per year. Mr. Tewhey said that if you expand that figure it equals 1.3 million gallons of water per acre or 825,000,000 gallons per square mile. Mr. Tewhey stated that Shapleigh had approximately 20,000 acres which was 30+ square miles. Mr. Tewhey stated that Shapleigh consequently received approximately 825,000,000 gallons x 30+ of precipitation per year.

Mr. Tewhey talked about the fact that groundwater is in fact a renewable resource. Mr. Tewhey stated that on average in the State of Maine, 25% of rainwater was lost through evaporation (both from the ground and evapotranspiration through the foliage of trees and plants), 50% of the water was lost to runoff and 25% of the water is infiltrated into the ground. Mr. Tewhey stated that if the soil was sandy, more water would go into the groundwater table. He said based on this, there is approximately 200,000,000 gallons going into the soil to replenish the groundwater table.

Mr. Tewhey stated in Maine the rainfall ranged from the high 30's in Aroostook County to over 50 inches in the mountains a year.

Mr. Tewhey said that he interacted with the Board of Selectmen on Friday, August 8th. The BOS stated that they wanted him to do a brief presentation at the Planning Board meeting to show how ground water aquifers worked. Mr. Tewhey said that he hasn't looked at the details of the aquifers in Shapleigh at this time, or any technical data.

Mr. Tewhey stated again he had worked with the town of Kingfield, with the Kingfield Planning Board over a period of seven or eight months, as the ordinances were being developed. Mr. Tewhey spoke of the aquifer in Kingfield and how it worked. He spoke of their aquifer and the surface springs. Mr. Tewhey stated that Poland Springs at this time is in the process of extracting water from the springs. Mr. Tewhey stated that one of the important restrictions Kingfield has is that the spring always has to be operative. Mr. Tewhey stated an extractor could not take an amount of water that would cause the spring to dry up. Mr. Tewhey stated that because of this, there is an elaborate monitoring system to know what the level of the groundwater is. Mr. Tewhey stated that if the spring does not dry up then the down gradient river or lake or water body is not going to be affected because the water level of the aquifer would be maintained at the spring.

Mr. Tewhey stated, therefore, maintaining the spring is a very important restriction. Mr. Tewhey stated that while extracting water in the State of Maine you cannot disturb the natural environment that is existing. This was the conclusion of Mr. Tewhey's presentation.

Chairman Allaire stated after the reading of the ordinance citizens could make comments. Chairman Allaire stated Shapleigh residents would be heard first, then people from neighboring towns. The ordinance reads as follows:

Large Scale Water Extraction - DRAFT 8-8-08

Add to §105-15. Definitions

AQUIFER – means a saturated permeable geologic unit that can transmit significant quantities of water under ordinary hydraulic gradients.

WATER EXTRACTION – means withdrawal, removal, diversion, taking, or collection by any means of water from ground water sources, aquifers, springs, wells, pumps or similar.

EXTRACTION POINT – means the physical location where water is extracted, whether by well, pump, pipeline, catchment, or other similar method.

LARGE SCALE WATER EXTRACTION – means extraction of water from ground water sources, aquifers, springs, wells or similar in a total daily amount on any given day of 5000 gallons or more, as extracted by the same individual or entity, or consortium or association of individuals or entities, regardless of the number of extraction facilities utilized.

ZONE OF CONTRIBUTION – That area of an aquifer that contributes water to a well or other extraction point under the most severe pumping and recharge conditions that can be realistically anticipated (180 days of pumping at approved yield with no recharge from precipitation). It is bounded by the groundwater divides that result from pumping the well and by the contact of the aquifer with less permeable materials such as till or bedrock. In some cases, streams or lakes may act as recharge boundaries. In all cases the zone of contribution shall extend up gradient to its point of intersection with prevailing hydro geologic boundaries (a groundwater flow divide, a contact with till or bedrock, or a recharge boundary).

ISOTOPE HYDROLOGY – A scientific method to discover the age of groundwater, defined as the last time it had contact with the atmosphere.

ZONE OF INFLUENCE – The area surrounding a pumping well within which the water table or Potentiometric Surfaces change due to ground-water withdrawal.

§ 105- Large scale pumping or extraction of groundwater from aquifers.

- A. General. The following provisions shall insure the ongoing sustainability and quality of said water supplies and the avoidance of any interruption or degradation of water quality and quantity to members of the general public within the town, and generally to protect the health, safety and welfare of persons dependent upon such water supplies.
- B. Permit required. The daily (meaning any given day) extraction of more than 5000 gallons of ground water, spring water and/or water from aquifers or their recharge areas by any one entity or person, or consortium or association of entities or person acting in concert, regardless of the number of extraction facilities utilized, shall require a Conditional Use Permit issued by the Planning Board.
- C. Water extraction not requiring a permit. A conditional use permit shall not be required for water extraction within the Town of Shapleigh for standard agricultural purposes; drinking water and domestic water supply to private residences within the Town of Shapleigh; water supply for public facilities such as schools within the Town of Shapleigh; fire suppression; or for on site residential, commercial and industrial purposes within the Town of Shapleigh to the limit of their historical use of water which exist as of the date of the adoption of Section 105- .
- D. Application for permit. Application for a permit from the Planning Board for Large Scale Water Extraction shall be in writing and be accompanied by site plans prepared by a licensed State of Maine **geologist**, or similar appropriately licensed professional. The application shall include the following.
 - (1) Evidence of applicant's right, title and interest in and to the property(ies) from which the water is to be extracted. If such evidence is other than outright ownership and title as evidenced by a deed duly recorded in the York County Registry of Deeds, the entire document/documentation (other than reference(s) to purchase price and financing terms) whether by lease, option, contractor otherwise establishing right, title and interest shall be submitted with the application.

- (2) A statement of the total maximum daily quantity of water to be extracted, from all extraction points operated by the same individual or entity, or consortium or association of individuals or entities.
- (3) The location(s) of the points of extraction.
- (4) The methods of extraction.
- (5) The proposed use for which the water is to be extracted including the identity of any end user of the extracted water whose facilities for use, processing, transporting, storage, bottling, sales or other similar activities are located outside the Town of Shapleigh.
- (6) The proposed number of daily trips to and from the site. The Planning Board may require a traffic study done by a registered traffic or transportation engineer, **paid for by** the applicant.
- (7) **A copy of any related application and exhibits and reports for such extraction filed or to be filed with any other municipal authority or any agency or department of the State of Maine or Federal government, including, but not limited to, as required by 22 M.R.S.A. 2660 et seq. (transport of water for commercial purposes) or under applicable Department of Health and Human Services rules and regulations.**
- (8) **A written report to the Shapleigh Planning Board, procured and paid for by the applicant, of a hydro geological investigation and study, conducted and prepared by a Maine Certified Geologist. The report shall be based on a hydro geological investigation of sufficient detail to provide, but not be limited to the following information:**
 - (a) **A map of the entire topographic drainage basin both up gradient of the water extraction site(s) as well as the Zone of Influence downstream of the extraction site(s). Topographic contours shall be shown at an interval of twenty (20) feet or less.**
 - (b) **Two maps of the aquifer showing the spring(s), well(s), or excavation(s) from which water is to be extracted, wetlands and surface water bodies within two thousand (2,000) feet of the extraction site(s). These maps shall be at a scale of one hundred (100) feet to an inch or better and include surface topographic contours as in (a), above. The two maps shall show the following information respectively: (i) Water Table contours and the range of those under ambient conditions as determined over at least a two (b) year period prior to any water extraction; and (ii) Water Table contours under actual pumping conditions at completion of a five day constant rate pumping test at a rate at or above that proposed for operation. These maps shall be based on Water Table elevation measurements from monitoring wells and surface water bodies in the vicinity of the extraction site(s), and must include surface water elevations for more distant locations. The applicant shall take reasonable measures to obtain such data from land not owned, leased, or to be leased by the applicant but the applicant is not required to include such data from land whose owners do not allow access. Graphs of precipitation flow of water in related streams, brooks, or rivers and Water Table elevation over the two-year period prior to any water extraction shall be provided as well as an explanation of the significance of the data. Similarly graphs of precipitation, flow of water in related streams, brooks, or rivers, and Water Table elevations shall be provided for the period of the pumping test and ten days afterward.**
 - (c) **At least two geologic cross-sections showing geologic structure, ground water, and surface water elevations for each of the maps provided in (b), above. The locations of said cross-sections to be indicated on said maps.**
 - (d) **A map showing the long-term Zone of Contribution and Zone of Influence of the extraction site(s) based on maximum proposed extraction rates, and a quantitative water budget analysis that includes precipitation input, evaporation losses, surface water runoff, ground water flux, and discharge-recharge relationships between surface water and ground water and their relationship to the soil types in the drainage basin. Such maps shall also indicate the areas of owned and leased lands.**

- (e) **An explanation of the ability of the aquifer or other ground water source to deliver the water desired to be extracted by the applicant based on the geologic structure and material properties (e.g. conductivity and transmissivity); such explanation to include rates of draw down and recharge, sustainable extraction rates, aquifer boundaries, recharge areas, possible changes in the Zone of Contribution and Zone of Influence over time, prediction of the effects of long-term water extraction on the water table and impacts on any and all existing water bodies including but not limited to lakes, ponds, rivers, streams and wetland areas, Town wells, and private wells or other existing extraction locations within the Zone of Contribution.**
 - (f) **The chemical and biological characteristics of the aquifer or other groundwater source and a baseline chemical fingerprint of the water (taken for one (1) year on a monthly basis before testing for draw down).**
 - (g) **The possible effects on the aquifer or other ground water resources which might result in the disturbance of existing minerals such as, but not limited to iron, manganese, arsenic, or uranium, and any health hazards raised by such disturbance(s) or other impacts including issues such as drinking water turbidity, clarity and odor.**
 - (h) **Isotope hydrology testing to be conducted to determine the age, origin, size and flow of the water in order to determine if the water is replenishable.**
- (9) A site plan depicting the following:
- (a) The limits (outside perimeter) of the aquifer or other water source cited in the application, and the bounds of the land of the applicant.
 - (b) The location of all water bodies within 500 feet of the outside perimeter of the aquifer or other water source.
 - (c) The existing network of public or private roads leading to or by the extraction point(s).
 - (d) Any proposed new roads or driveways to be constructed for access to and egress from the extraction point(s), and the point(s) of intersection of such proposed roads or driveways with existing roads.
 - (e) Any existing or proposed utility lines to be utilized in the extraction operation(s).
 - (f) The location and type of monitoring and test wells.
 - (g) The extraction point(s) including without limitation well heads, pumping facilities, monitoring or test wells, buildings, and/or sheds, utility lines, fencing, access roads or driveways, elevation, and contour lines.
 - (h) Any existing or proposed pipes, pipelines, aqueducts or similar that are intended to facilitate transport of extracted water from the extraction point(s) towards the intended end user, if any part of the extracted water is ultimately to be transported outside the geographic limits of the Town of Shapleigh.
 - (i) Any other relevant and material detail(s) bearing on the proposed extraction process the omission of which would tend to hinder the ability of the reviewing authority, affected land owners or the public from developing a full understanding of the scope and impact of the proposal.
 - (j) **All information the Shapleigh Zoning Ordinance requires with a Conditional Use Permit Application.**

E. Conditions of permit. No application shall be approved until and unless the Planning Board shall have affirmatively found that each of the following performance standards has been or will be met **and that all other Shapleigh Zoning Ordinance requirements are met.** The burden of proof is on the applicant. Applicant must also demonstrate to the reviewing authority that it possesses the expertise and financial resources to provide continuing adherence to these standards.

- (1) The quantity of water to be extracted will not cause significant changes in the ground water flow patterns relating to the aquifer, its recharge areas, or other ground water sources within the Town of Shapleigh.
- (2) The quantity of water to be extracted will not negatively impact, diminish, or alter any surface waters within the Town of Shapleigh, including during any period of drought.
- (3) The quantity of water to be extracted will not cause any ground subsidence beyond the property lines **where the extraction is taking place.**
- (4) The quantity of water to be extracted will not adversely affect the long term sustainability of the aquifer, or its recharge areas, or other groundwater source, including during a period of drought.
- (5) The proposed extraction will not create a health risk or issues such as drinking water turbidity, clarity or odor resulting from the disturbance of existing minerals, or from any other cause, with ongoing follow up monthly testing for this purpose, results to be provided in writing to the Shapleigh Board of Selectmen on at least a monthly basis.
- (6) The establishment of an ongoing follow up monitoring system and development of a system of recording and documenting extraction and recharge data, within the zone of contribution, to be reported in writing to the Shapleigh Board of Selectmen on at least a monthly basis. At least 25% of monitoring locations shall be at private wells located within the zone of contribution, provided applicant obtains landowner permission for such testing. Should there not be enough private wells to make up the 25% to be monitored, the Planning Board may ask that additional monitoring stations be provided on the public or state land to be used.
- (7) The applicant assumes any and all liability for the loss, interruption, degradation or interference with the preexisting beneficial domestic use of groundwater by a land owner or lawful land occupant, or other public or private water supply, caused by applicant's withdrawal or extraction of water.

For the purposes of this section "beneficial domestic use", "groundwater" and "preexisting use" shall be as defined by 38 M.R.S.A. § 404-1A-C.

For the purposes of this section liability of applicant shall be for compensatory damages in accordance with 38 M.R.S.A. § 404.

- (8) The Planning Board shall require the furnishing of a bond or other performance guaranty it deems of equivalent security to secure the applicant's obligations under this section.
- (9) Additional vehicular demand on existing town roads or public easements occasioned by the operation of the extraction facility(ies) will not exceed the capacity of those roads, or cause the premature failure, aging or diminished utility of those roads **as determined by the Town Road Commissioner, and/or State of Maine DOT.**
- (10) If extraction facility(ies) will be served by pipes, pipelines, aqueducts or similar devices such installations will be sited and constructed in a manner which shall not interrupt the public's use of any existing roadway, the public's access to any public facility, great pond, and private access to private property; or pose the risk of damage to any property along or through which installation traverses as a result of any failure or malfunction which might cause ponding, erosion, run-off, or similar.
- (11) **The applicant has complied with the requirements of 38 M.R.S.A. § 480-D-3, Harm to habitats; fisheries.**

- F. If the Planning Board reasonably determines it requires independent expert assistance to assist in its review of the application, or in evaluating the substance of the application or in developing appropriate conditions of approval, it may engage the service of an expert to assist the Board. The applicant shall pay to the Town, in advance of the scheduling of any public hearing, a sum equal to the estimated cost **of the independent expert**, the failure to which payment shall excuse the reviewing authority from scheduling any further review of the application by the Planning Board until such payment is made in full.
- G. **Surety and terms of permit.**
- a. **No permit shall be issued without a surety bond or other equivalent security to ensure compliance with such conditions as the Planning Board may impose. The bond or surety shall be in an amount recommended by the Board of Selectmen and approved by the Planning Board, as sufficient to guarantee conformity with the conditions of approval, taking inflation into account.**
- (2) **No permit shall be issued for a period to exceed three years, although such permits may be renewed for additional periods in the same manner.**
- (3) **Discontinuance of any existing operation for a period of more than one year shall require application for a new permit. Continuation of any existing operation for more than three years shall require a permit from the Planning Board.**
- (4) **Applicant shall pay Shapleigh for on-going independent monitoring of extraction operations.**

This is the list of the names of citizens who spoke at the public hearing. The following were either residents or property owners from the Town of Shapleigh: Robert Hawkes, John Roberts, Marylyn Hinterleiter, Bill Tito, Barbara Ham, Mary Taylor, Fay Greenleaf, Bill Taylor, Eric Davis, David McKecknie, Liz McMahon, Susan Ferguson, Shelly Gobeill

The following were citizens that were not from Shapleigh: Walter Baily, Mark Dubois (Poland Springs), Eric Johnson, Gloria Dyer

(If your name was not listed it was because it could not be read from the sign-up sheet.)

Chairman Allaire opened the public hearing. The comments from citizens are summarized in the order heard.

- “There must be a specific limit of extraction.”
- “The applicant must provide a traffic impact analysis by a registered traffic or transportation engineer.”
- “There should be sections that establish jurisdiction, enforcement, and severability that specifically insures the town has control of the right to extract water at all times. This should include performance standards that must be met by the applicant.”
- “Hours of operation must be restricted.”
- “The town’s charge per gallon of water extracted should be allowed to be changed annually at the town’s discretion.”

- Why is the town moving so fast? The town needs to insure there is a viable ordinance put into place.

Chairman Allaire noted again, as in the previous public hearings, that hours of operation and traffic is already addressed during the Conditional Use Permit application process which is in the existing Zoning Ordinance. Chairman Allaire stated adding it to another ordinance would be redundant.

Chairman Allaire also noted that he has never requested an ordinance change at a special town meeting. Chairman Allaire stated that the only reason that this ordinance was being proposed at this time was because there was a possible applicant being put on the September Town Meeting agenda and he wanted to insure an ordinance was in place in case an application comes before the Planning Board between now and the March 2009 town meeting. Chairman Allaire stated that amendments to the ordinance can be made and presented at the town meeting in March 2009.

- Question was asked if the aquifer was rechargeable? The citizen stated his question was answered by the hydrogeologist that in fact it was.
- Citizens volunteered to help if the board needed them.

Note: There are two open positions on the Planning Board at this time. The term for a Planning Board member is five years. The board meets the second and fourth Tuesday of every month. If you can be available for those two days please see the Executive Secretary or Land Use Secretary for an application.

- There is a concern with the weight of the trucks on the roads as well as the number of trucks.
- There is a concern with the possibility of a drought. Will there be enough water?
- Question was posed as to whether or not there would be a town vote with respect to test wells on town land?

Chairman Allaire stated that yes; the final decision with respect to drilling on town land goes to the voters.

- Citizen asked if any roads would be off limits to large trucks?

Chairman Allaire stated the town could limit traffic on town roads. He noted that there were times of the year all town roads are closed to heavy truck traffic. Chairman Allaire did not believe town roads would even be used for the trucks by an applicant because of the weight of them and the fact there were certain times of the year the roads are closed; the company would want to use state roads.

- Concern over the possibility of a drought such as in 1947.
- Citizens want it noted the parent company of Poland Springs is Nestle which is not a Maine based company.
- Citizens want hours of operation in water extraction ordinance.

Chairman Allaire stated again under the CUP process hours of operation were reviewed.

- Citizen concerned that the ordinary person cannot understand what many of the definitions mean nor can the ordinance be easily followed. Several typographical errors were also noted.

Board members will address the typographical errors as noted. The board has requested that a hydrogeologist work with them to draft future changes to the ordinance.

- Citizen wanted to know what the chain of events would be if the test drilling was allowed. How long between then and actually extracting water from the ground? Would there be time between now and the operation of the facility to make necessary changes to the ordinance?

Chairman Allaire was not certain. He did not believe that the actual extraction of water and full operation would be until 2010. This was based on the process with the town voters, the permitting process and setting up the facility. Chairman Allaire believed there was time to amend the proposed ordinance prior to an application being presented.

- Citizen wanted “may require a traffic study” to say “shall require a traffic study”.
- Citizen wanted traffic to be limited during school hours when children were being dropped off or picked up from school.
- Citizen asked others to review the existing Comprehensive Plan to make sure the Zoning Ordinance addresses what is brought forth in the Comp. Plan.
- Citizen concerned with arsenic in her well and how water extraction would affect her well and the wells of others. Citizen felt overall water quality in Shapleigh was declining.
- Citizen felt ordinance was hard to follow and it does not protect the town.
- Citizen addressed ground subsidence and thought a figure should be put into the ordinance such as no ground subsidence within 30 feet from the boundary line.
- Mark Dubois of Poland Springs addressed the fact that although Poland Springs has a parent company, it employs over 800 Maine citizens and it continues to add additional employees. He stated he and his family were from Sanford and also the fact that Poland Springs is a good employer paying its employees very well.
- Mark Dubois gave a letter to the Planning Board members with some suggestions for the ordinance. *Citizens can obtain a copy of the letter at the town hall.*
- Mark Dubois stated Poland Springs could work with the town with respect to hours of trucking. He understood the concern with schools and has addressed this with other towns. Mr. Dubois noted that if you concentrate all your traffic in limited hours you have twice the amount of traffic on the road, whereas if you spread it out there are fewer trucks per hour.
- Citizen thought a group of people should be assembled to study large corporations and how they work.
- Citizen believed Shapleigh and the State needs to address who owns the water in the town/state.

- Citizen stated the need for a moratorium to slow the process down. A strong ordinance was needed and more time was needed to create one.

Chairman Allaire asked Mr. Tewhey if there was anything he wanted to address. Mr. Tewhey stated that after meeting the Board of Selectmen, as well as seeing the large turnout for the meeting, he concluded there were many who cared about the Town of Shapleigh. Mr. Tewhey stated that was something to be proud of.

Mr. Tewhey stated also that after reading a brief biography of the Planning Board members, collectively there were decades of service by the members.

Mr. Tewhey thought it was appropriate to not draft an ordinance from scratch but to go to other towns for the information. Mr. Tewhey agreed there needed to be clarity and he thought the definitions could be user friendly or town friendly and not as technical to be understandable by all people.

Mr. Tewhey stated that in an ordinance things moved in steps. He said there is a series of steps and each is approved before you go onto the next step. This creates a check and balance in an ordinance. Mr. Tewhey stated that oversight by the town usually doesn't come out of the town budget but it is the burden of the applicant and that is in this ordinance. Mr. Tewhey stated that traffic and hours should be compatible with the comprehensive plan.

Mr. Tewhey stated that he had sympathy for the person with arsenic in her well, because he too had the same condition. Mr. Tewhey stated there was a large area in Maine that is rich in sulfide which is also rich in arsenic. He stated it is not a sand and gravel aquifer but a bedrock aquifer that has arsenic. Mr. Tewhey stated again it was something that is found in Maine.

Mr. Tewhey said it was a pleasure to speak with the citizens here tonight.

The Public Hearing for the water extraction ordinance concluded at 8:45 p.m.

Chairman Allaire explained that the ordinance read this evening, outside of typographical errors would be what was presented at the special town meeting in September. Chairman Allaire noted it was due to the time limitations for scheduled public hearings.

Nothing further was discussed.

Public Hearing Began at 8:55 p.m.

Amendment to a Conditional Use Permit – Add Building for Boat Storage at Lakes Region Marine – Map 5, Lot 20-1 (732 Shapleigh Corner Road) – Bill Turgeon Applicant

Mr. Turgeon was present for the Public Hearing.

Mr. Turgeon stated he was before the board because he wanted to put up a boat storage building, 102' by 60' in size which will be used to store approximately 35 boats.

Mr. Turgeon stated that the Fire Chief stated the size of the building was fine. Chairman Allaire read a letter received by Fire Chief Duane Romano. It read as follows:

“I have reviewed the building plans from Bill Turgeon of Lakes Region Marine at 739 Shapleigh Corner Road in Shapleigh. He is proposing a 60 x 102 foot wood construction building with metal siding and roofing for boat storage.

I have recommended that the building have both end doors open for at least 5 minutes prior to starting any type of motor inside that building in order to allow the fumes to escape the building and fresh air to circulate.

I have also recommended a Knox Box be installed on the exterior of the building to allow the Fire Department access in case of emergency.”

Chairman Allaire asked if there was anyone who wanted to speak in the audience. An Abutter, Mr. Bill Mageary, stated that he was a neighbor and he was in favor of the application. Mr. Mageary stated that Mr. Turgeon started the business about a year ago and they have done a tremendous job with the property. Mr. Mageary stated that he wanted the Town of Shapleigh to be business friendly.

Eric Davis asked if there was going to be any outside lighting on the building and if so what kind? Mr. Turgeon stated he wasn't going to add any outside lighting on the building. Mr. Turgeon stated that for security reasons he was thinking of adding a small light on the property to light up part of the parking lot. He stated again he wouldn't be adding any lights to the new building.

Mr. Turgeon asked if he wanted to add a light onto the existing building would he need to come before the Planning Board? Mrs. Turgeon, who was also present, stated that a light on the existing building was approved on their original approval. Mr. Turgeon stated that he had a security camera and more light would be helpful.

Chairman Allaire stated he would have to come back before the Planning Board if it wasn't in the original approval.

Chairman Allaire asked if there were any other comments? There were none. **The Public Hearing was closed at 9:00 p.m.**

Madge B. and Lauren M. had to leave the meeting after the Public Hearing.

The Planning Board meeting started at 9:01 p.m.

The minutes from Wednesday, July 23, 2008, were accepted as read.

Amendment to a Conditional Use Permit – Add Building for Boat Storage at Lakes Region Marine – Map 5, Lot 20-1 (732 Shapleigh Corner Road) – Bill Turgeon Applicant

Mr. Turgeon was present for the review of his application.

Chairman Allaire stated Mr. Turgeon was here because under Section 105-73 “Conditional use permits.” B(a) any change in an existing conditional use which includes “floor space increase of 25%” has to come back to the Planning Board for additional review.

Chairman Allaire asked board members if they had any additional questions? There were none.

Roger A. reviewed the following ordinance standards:

- 105-20 – Applicability of standards; prohibited uses. *This application is a permitted use within the General Purpose Zone and it meets all state and federal law regulations.*
- 105-21 – Traffic. *Traffic will have safe access. The entrance to the business will not change from the original approval for the Marine Service business, dated May 12, 2006.*
- 105-22 – Noise. *There are no noises outside of the building for the boat storage.*
- 105-23 – Dust, fumes, vapors and gases. *There will be no emissions created by the boat storage. There shall be no open containers of fuel.*
- 105-24 – Odors. *There will be no odors emitted from the boat storage.*
- 105-25 – Glare. *There will be no additional lighting added to the building.*
- 105-26 – Stormwater runoff. *A stormwater plan was drafted by Carl Beal, P.E. of Civil Consultants for the original Marine Service business. A letter was received, dated July 9, 2008, stating that the addition of the new building would not generate an increase in the peak rate of stormwater runoff leaving the site.*
- 105-27 – Erosion control. *During the construction of the new building Best Management Practices shall be used to prevent stormwater erosion.*
- 105-28 – Setbacks and screening. *All the existing vegetation is in place and no changes are being made to the landscape.*
- 105-29 – Explosive materials. *All batteries shall be disconnected from the boats stored inside the building. All gasoline containers shall be closed at all times.*
- 105-30 – Water quality. *There is nothing associated with this business to affect water quality, there is no outside storage of any materials.*
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *There shall be no disturbance to the surrounding landscape outside of the area cleared to accommodate the new building and the existing driveway / parking area will remain unchanged.*
- 105-32 – Relation of proposed building to the environment. *The existing building fits in well with the surrounding area.*
- 105-33 – Refuse disposal. *There is no refuse associated with the boat storage.*
- 105-46 – Sanitary provisions. *There are no sanitary provisions required for the boat storage.*
- 105-47 – Signs and billboards. *Any signage shall be obtained through the Code Enforcement Office but at this time the applicant states he requires no additional signage.*
- 105-52 – Water quality protection. *There is nothing to be stored outside of the new building.*

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 nothing taking place outside of the proposed 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 small businesses.*
- 4) Traffic access to the site is safe. *It is, there is an existing parking area and place to turn-around on site. The entrance onto Rte. 11 was approved on the original approval for the Marine Service business.*
- 5) The site design is in conformance with all municipal flood hazard protection regulations. *It is, this was determined during the original approval for the Marine Service business.*

- 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 only hazardous waste will be inside the gasoline tanks on the boats and they will remain closed at all times.***
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***A stormwater plan was drafted by Carl Beal, P.E. of Civil Consultants for the original Marine Service business. A letter was received, dated July 9, 2008, stating that the addition of the new building would not generate an increase in the peak rate of stormwater runoff leaving the site.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***Best Management Practices shall be used during the construction of the new building. Also, a stormwater plan for the property was received from Carl Beal, P.E. of Civil Consultants for the original Marine Service business. An additional letter dated July 9, 2008, states that the addition of the new building would not generate an increase in the peak rate of stormwater runoff leaving the site.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***There is, the property is in close proximity to the water holding tank on Rte. 11.***
- 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 area. The landscaping was approved on the original CUP for the Marine Service business.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

Chairman Allaire asked Mr. Turgeon what he would be doing with the batteries and gas tanks on the boats? Mr. Turgeon stated that he usually recommended the customers leave the gas tank half full, filling it does not make it any safer. Mr. Turgeon stated that batteries could be removed and stored. Chairman Allaire asked where they would be stored and what type of room would they be stored in?

Mr. Turgeon asked if the batteries were left on the boat disconnected, would this be acceptable? Chairman Allaire stated it was up to the board members. Chairman Allaire expressed past applications and what was required of them such as removal of the batteries, draining the gas tanks or having them full at all times.

Mr. Turgeon believed that as long as the battery was disconnected there would be no spark so there would be no chance of igniting fumes. Roland L. thought this would be the best idea rather than removing the batteries, having batteries stored in a closed location where hydrogen gas can be released. Chairman Allaire stated at other locations the boat owner was responsible to remove the batteries so no batteries were stored on sight.

Diane S. stated that she believed leaving the batteries on board, disconnected was safe. Chairman Allaire had no issue with this. Diane S. stated another condition would be to have no boats or vehicles parked next to the building per the letter from the Fire Chief.

Chairman Allaire asked if there were any additional concerns? There were none.

Roland L. made the motion to approve the Amendment to the Conditional Use Permit to allow for the addition of a 60 x 102 foot boat storage building with the following condition(s):

- 1) *There shall be no vehicles or boats parked next to the boat storage building so there is easy access in case of fire or any other emergency.*
- 2) *All batteries shall be disconnected from the boats stored inside the new building.*
- 3) *Best Management Practices shall be used during the construction of the new building.*
- 4) *The recommendations in the letter dated July 24, 2008, from Fire Chief Duane Romano, shall be adhered to.*
- 5) *All other conditions of the original permit approval letter, dated May 12, 2006, shall remain in effect.*

Diane S. 2nd the motion. All members were in favor. The motion passed unanimously.

Nothing further was discussed.

Conditional Use Permit – Home Occupation - Landscaping Business Request's Sign – Map 3, Lot 5 (299 Shapleigh Corner Road) – Marc & Cara Boisse, Applicants

Mr. and Mrs. Boisse were in attendance to review their application.

Chairman Allaire asked the applicants why they were before the board. Mr. Boisse stated he wanted to put up a sign to advertise his business.

Chairman Allaire asked what type of business it was. Mr. Boisse stated it was a property maintenance business, which included landscaping.

Chairman Allaire asked what else his business entailed? Mr. Boisse stated light carpentry.

Chairman Allaire stated that the actual sign would be processed through the Code Enforcement Office and the business fell under the criteria for a home occupation. Chairman Allaire asked if any customers would come onto the sight? Mr. Boisse stated no, he did all his work offsite.

Chairman Allaire read Zoning Ordinance 105-40 "Home occupations".

Chairman Allaire stated a Notice to Abutters would be mailed and a Public Hearing would be held on Tuesday, August 26th.

Nothing further was discussed.

Other:

Signature Required to Release Existing Letter of Credit for White Tail Lane in the amount of \$120,000. Review New Letter of Credit for Topcoat. Map 5, Lot 20 – Evergreen Overlook, Owner North Country Land, Inc.

Chairman Allaire asked if the Road Commissioner had signed off his copy of the agreement. Barbara F. stated she had mailed RC Winchell a copy of the release letter but he had not returned it to her as yet. Chairman Allaire stated he did not want to sign his copy until RC Winchell approved of the new letter of credit. He also was going to go to White Tail Lane to view it. Barbara F. will let Chairman Allaire know when and if she receives the signed letter from RC Winchell.

Nothing further was discussed.

Growth Permit(s)

A Growth Permit was issue to: Pat Frasier – Map 12, Lot 32A (Silver Lake Road)
Permit #10A-08

The Planning Board meeting ended at 9:30 p.m.

Respectively submitted,

Barbara Felong, Land Use Secretary
planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES

Tuesday, August 26, 2008

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

Note: Madge B. was unable to attend the public hearing.

The following words are not verbatim unless accompanied by quotation marks “ ”.

Public Hearing Began at 7:20 p.m.

Conditional Use Permit – Home Occupation – Property Maintenance Business – Map 3, Lot 5 (299 Shapleigh Corner Road) – Marc & Cara Boisse’, Applicants

Mr. and Mrs. Boisse’ arrived for the Public Hearing at 7:18 p.m.

Mr. Boisse’ stated that he was doing property maintenance at other people houses; nothing would take place at his home. Mr. Boisse’ stated the only thing stored at his home was his tools and his truck.

Roger A. asked if there was any storage of hazardous materials on site? Mr. Boisse’ replied, no. Roger A. stated there were no hours of operation for the business on site. Mr. Boisse’ concurred.

Mr. Boisse’ asked if he wanted to store materials on site in the future or have customers come to the house, would he have to come back before the Planning Board. Roger A. stated yes, unless he wanted to add it to his permit at this time as something that would be possible in the future. Mr. Boisse’ asked if that would require more information from him. Roger said yes, it would require a parking plan, a plan for where things would be stored, etc.

Roger A. asked if there was going to be any mulch or shrubs / trees stored on site. Mr. Boisse’ stated no, he usually bought material from a supplier and brought it directly to the customer’s house.

There were no other 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, August 12, 2008, were accepted as read.

Conditional Use Permit – Home Occupation – Property Maintenance Business – Map 3, Lot 5 (299 Shapleigh Corner Road) – Marc & Cara Boisse’, Applicants

Mr. and Mrs. Boisse’ attended the final review of their application.

Roger A. reviewed the following ordinance standards:

- 105-20 – Applicability of standards; prohibited uses. *This application is a permitted use within the General Purpose Zone and it meets all state and federal law regulations.*
- 105-21 – Traffic. *Traffic will have safe access. The entrance to the business exceeds the minimum required for 45 m.p.h. which is 315 feet.*
- 105-22 – Noise. *There is no noise other than vehicles being started.*
- 105-23 – Dust, fumes, vapors and gases. *There will be no storage of materials on site outside of tools and business vehicle.*
- 105-24 – Odors. *None generated by this business, all work is done off-site.*
- 105-25 – Glare. *There will be no additional lighting added to the home.*
- 105-26 – Stormwater runoff. *There are no changes being made to the existing property.*
- 105-27 – Erosion control. *There are no changes being made to the existing property.*
- 105-28 – Setbacks and screening. *All the existing vegetation is in place and no changes are being made to the landscape. The landscaping trailer will be parked to the side of the building.*
- 105-29 – Explosive materials. *There is nothing associated with this business stored on site.*
- 105-30 – Water quality. *There is nothing associated with this business stored on site.*
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *There shall be no disturbance to the surrounding landscape, the existing driveway / parking area will remain unchanged.*
- 105-32 - Relation of proposed building to the environment. *The existing building fits in well with the surrounding area.*
- 105-33 – Refuse disposal. *Any refuse will be disposed of by the applicant; nothing hazardous will be stored on site.*
- 105-34 – Access control on Routes 109 and 11. *The existing approved driveway is in existence.*
- 105-43 – Off-street parking and loading. *There will be nothing stored / loaded on site.*
- 105-46 – Sanitary provisions. *There are no sanitary provisions required for this business; there is an existing state approved septic system on site for the home.*
- 105-47 – Signs and billboards. *The existing signage shall require a permit by the Code Enforcement Officer.*
- 105-52 - Water quality protection. *There is nothing to be stored on site to affect water quality.*

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 nothing stored at the home.*
- 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 small businesses as well as business along Rte 11.*
- 4) Traffic access to the site is safe. *It is, the site distance meets the minimum required for the posted speed limit of 45 m.p.h.*
- 5) The site design is in conformance with all municipal flood hazard protection regulations. *It is, the existing structure was permitted through the Code Enforcement Office and the home is not in a 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. ***There will be no hazardous materials stored on site.***
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***The existing home has been on site for a great period of time with no history of storm water issues. There are no changes being made to the existing home or landscape for this business.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***There are no changes being made to the site for the new business. N/A***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***There is, the property is in close proximity to a fire pond.***
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. ***There are no changes being made to the surrounding area. There is no additional lighting being added and no materials outside of tools will be stored on site.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

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

Mr. Boisse' asked that the board define what 'materials' could not be stored on site. Mr. Boisse' wanted to know what constituted holding material for a few days and what constituted storage.

Roger A. stated that if any material was on site for more than 24 hours it would be considered storage. Mr. Boisse' stated he had no plans to store material but wanted to know what storage meant. CEO McDonough stated that a CUP could be amended at a future date. Roger noted that some businesses have stockpiled material for a customer then the customer decides they don't want the material. Now you are storing the material on site and it needs to be in proper containment. Mr. Boisse' stated he would not be storing materials at this time.

Diane S. made the motion to approve running the property maintenance business from a home office with the following condition(s):

- 1) ***There shall be no storage of any material incidental to the approved business stored on site (Map 3, Lot 5).***
- 2) ***Any signage shall be permitted through the Code Enforcement Office.****

Roland L. 2nd the motion. All members were in favor. The motion passed unanimously.

*Mr. Boisse' shall be notified that he needs to get a permit for his existing signage.

Nothing further was discussed.

Amendment to a Conditional Use Permit – Emery Mills Redemption Center – Map 7, Lot 3-2 (926 Shapleigh Corner Road) – Carol and Robert Berube, Applicants; James Correggio, Owner

Mr. and Mrs. Berube were in attendance for the review of their application.

Roger A. asked the applicants to explain what they would like to do.

Mr. Berube stated he wanted to move the existing redemption center from its location on Rte. 109 to Mr. Correggio's property on Rte. 11. Mr. Berube stated there were several reasons, the first being a safety issue at the existing location. He said it was very hard for trucks to pull out onto Rte. 109 in this location because of limited visibility. Mr. Berube stated the facility at Mr. Correggio's was more modern, had more storage and again would be easier for the trucks and patrons. It is a much easier and safer access.

Diane S. asked if the hours of operation would be the same as what they have now? Mr. Berube stated yes.

Madge B. agreed the location on Rte. 11 would be a safer location for the trucks and patrons. Diane Laitres, the owner of the property he rents from now, agreed it would be best for the redemption center as well as her patrons.

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

Roger A. stated a Notice to Abutter's would be mailed and a Public Hearing held on Tuesday, September 9th at 7:00 p.m.

Nothing further was discussed.

Conditional Use Permit & Construction of a Private Way – 180 Foot Telecommunications Facility – Map 5, Lot 23 – Industrial Tower and Wireless, LLC, Applicant; Sharon and Stephen Clark, Owners

Mr. Calvin Beaumier was present to explain the project, along with Jim George.

Industrial Tower and Wireless presented the Planning Board with an application for a Conditional Use Permit for a Telecommunications Facility along with an application for a Private Way. In addition, engineered plans were received for: Plan of Property; Plan of Private Way; Aerial Overlay; Proposed Site Plan; Site Construction Details; Tower Elevation & Details; Site Details; Equipment Room Details; Utility & Grounding Plan; Electrical Diagram & Details; Power Lighting & Grounding Plan; Electrical Details. Also received was the tower manufacturer standards and FAA application, propagation studies, site photographs, tower color board and facility photographs.

During the course of the meeting Mr. Beaumier gave the board members a copy of ITW's proposed coverage goals which included the towns of Limerick, Newfield, Shapleigh and Wakefield NH. Mr. Beaumier also gave the Planning Board a letter from the Maine Dept. of Inland Fisheries and Wildlife which stated in part "there were no known essential or significant wildlife habitats, nor any documented occurrences of rare, threatened or endangered species at or adjacent to this property".

Mr. Beaumier, upon presenting the letter from Inland Fisheries, stated they contacted the department because they were aware they might be in the Mousam Lake Watershed and ITW wanted to make sure they took every precaution. Mr. Beaumier stated they also wanted to be sure they were in compliance with the DEP so they hired a soil scientist as well.

Mr. Beaumier explained why they needed to apply for a private way, due to the lack of road frontage on the lot they were going to purchase for the tower.

Mr. Beaumier asked what phase this meeting was at. Roger A. stated it was a preliminary review. Mr. George asked what the next stage was? Roger A. stated it would be a public hearing. He said at that time there could be issues brought up that needed to be addressed. Roger stated that at this time the only thing he could see, after reviewing the material presented, is the fact no bond or surety had been offered to remove the tower.

Mr. George stated that in other towns the bond is placed as a condition of approval. Mr. George stated they usually provide the town with a removal bond. Mr. George stated that before they are allowed a building permit from the town they need to present the bond.

Mr. Beaumier stated that it is usually up to the town to the amount they want for the bond. Roger A. stated that the board usually asked the applicant to present a figure and they would either accept the figure or get additional information to come up with an accurate figure from what was presented.

Roger A. stated that the bond had to be written in such a way that it never lapsed. The applicants stated they understood.

Roger A. asked if there would be a fence surrounding the facility. Mr. Beaumier stated the fence would be either 80' x 80' or 75' x 75', surrounding the entire area. Mr. Beaumier stated the fence itself would be eight feet tall with three rows of either barbed wire or razor wire tilted out. Mr. George added that the area would enclose all carrier equipment. Mr. Beaumier stated there would be a gate at the entrance to the driveway as well.

Roger A. stated that the carrier building would not be there until the tower was leased. Mr. George stated that was correct. Mr. George said the concrete pad will be in place.

Mr. George stated that because the tower would be 180', they did not have to light it. He explained the FAA requires any tower over 201 feet would have to be lit. Madge B. agreed stating that is one reason the ordinance limits the size of the tower to 190 feet maximum.

Roland L. said, other than the tower above the tree line, would there be anything visible from the road? Will the building be seen? Mr. George did not believe so. Mr. George stated the building will be in the woods, quite a distance in from the road. Mr. George stated that from the road the only thing you would probably see would be the tower.

Mr. Beaumier stated they would be purchasing the land instead of leasing because when you lease land and owners change, the lease could change and it could be a problem. Mr. Beaumier stated that they also like to be able to make certain the property is well maintained. Mr. George stated they did not remove many trees on site; they were not in the tree cutting business. Mr. George stated the land and trees would remain as they are to create a buffer, other than the area they needed for the tower and building itself.

Roland L. asked about the illustration received of the proposed area to be covered by the new tower. Mr. Beaumier explained existing coverage, sites that the company has been approved for, areas they are applying for new towers, and the coverage this tower will provide. Mr. Beaumier stated the location for this tower will provide service for area around the town hall, church, etc. Other locations they looked at still would not have provided coverage for this area. Mr. George added that his company was trying to provide seamless coverage for Rte 11 to Rte 110. Mr. George spoke about the towers to be located in

Newfield, Limerick, Shapleigh and Wakefield NH. He believed this would provide the coverage cell phone customers were looking for. Mr. George stated that to find the right location for the tower has taken over a year of two people canvassing the area.

Mr. George stated the tower would be a lattice structure. Madge B. asked how long the road in would be. Mr. Beaumier stated it would be over 800 feet. He said the right-of-way would be 150’.

Mr. George stated that once the facility is up there is minimal traffic, perhaps two vehicles a month.

Mr. Beaumier stated they received a letter from the Maine Dept. of Inland Fisheries and Wildlife which stated in part, “Installation of a tower at this site with as little site modification as feasible would have negligible impact on regional wildlife goals and management objective.”

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

Roger A. stated a site inspection would be at 6:30 p.m. September 9th. A Notice to Abutters will be mailed and a Public Hearing held after the public hearing for the redemption center, which will begin at 7:00 p.m.

Nothing further was discussed.

Approved 10/26/07 - Best Possible Location – Replace Retaining Wall – Re-Review, Wall was not Built - Map 28, Lot 46 (33 Carpenter’s Cove Road) – Michael Gullikson, Applicant; Russell Lowe, Owner

Mr. Gullikson was in attendance for the review of the application.

Mr. Gullikson stated he had been before the board in October of 2007 to replace the existing telephone pole wall with a wall made of precast concrete. Mr. Gullikson stated he was unable do the wall last fall and his approval stated he had to have it completed by January 15, 2008. Mr. Gullikson asked what he needed to do in order to replace the wall this fall.

Mr. Gullikson noted that his DEP approval would be good until October of 2009.

Roger A. stated that the approval is now null and void and he would need a new permit because of the expiration date. Madge B. asked why the board couldn’t just amend the existing approval and change the date? Roger thought because it was almost a year old it needed to be looked at as a new application. Madge asked if the wall was ever started? Roger said no. Madge stated the expiration date was set because they didn’t want construction extended out over a long period time. Madge said since they never started it, what would they need now? Roger thought it should be a new application? Barbara F. asked what he would need with the new application? Roger said he just needed to resubmit what the board has, and redate the application. Madge asked what were the expenses incurred by the board to re-review? Roger stated the abutters would need to be re-notified. Madge stated then a fee would need to be applied.

Roland L. asked the applicant if he could re-visit the site. He did not see how the applicant could remove the existing material and bring in new material based on the lay of the land. Mr. Gullikson stated that he would be laying tracks from the top of the hill to the bottom. On these tracks would be a cart. The cart would be used for the transportation of all material.

Diane S. noted that the water, because of all the rain, probably would not be dropped as low as it was last year. Mr. Gullikson understood this.

Roland L. stated he was concerned that should there be a big rain event during construction, there could be a lot of material going into the water. Mr. Gullikson noted that in May 2008 he took a DEP sponsored class in Best Management Practices to be certified in stormwater runoff. Mr. Gullikson stated he was educated in this area. Roland asked again if he could go to the site. Mr. Gullikson said that would be fine.

Diane S. asked if everything would be the same from the original application? Mr. Gullikson stated yes.

Roger A. stated a Notice to Abutters would be mailed.

Mr. Gullikson asked if there was a customary amount of time for the length of a permit? Roger A. stated that had Mr. Gullikson renewed it before the time period had passed he would not have to re-apply. Because a time period has passed since the expiration it needs to be looked at again, it had been eight months.

Roger A. stated that the reason the board usually requires a small window to replace a wall is so that earth isn't exposed for a long period of time, which could create an erosion problem. Roger said the ordinance also specifies it is important to have a project done as soon as possible to prevent erosion and earth from going into the lake.

Nothing further was discussed.

Conditional Use Permit – Home Occupation – Run Existing Business from Home – Map 14, Lot 15 & 16 (177 Emery Mills Road) – John Gallant, Applicant

Mr. Gallant was in attendance to review his application.

Mr. Gallant stated he was proposing to build a 26' x 28' shed-type addition next to his garage. Mr. Gallant stated half of the building would be for his personal use and the remainder for an office for his business. He stated he wanted to move his office from across the street to his property. Mr. Gallant showed where the entrance to the office would be should anyone come to the office.

Diane S. asked if the office across the street would be closed? Mr. Gallant stated he did not own the office building across the street his parents did. He said he assumed they would rent it out to someone else. Mr. Gallant stated at this time he was renting it from his parents.

Madge B. asked if there was going to be any vehicle traffic? Mr. Gallant stated 95% of the customers were over the telephone.

Diane S. asked if he was still going to do the portable toilet business? Mr. Gallant stated yes. Diane asked where they would be stored? Mr. Gallant stated there was an area on his property that he would like to use to store the portable toilets. It would be over the area to be used for a new large leach field. Mr. Gallant stated the area would be 20' x 70' in size.

Diane S. asked if the property was on the water / in the Shoreland zone? Mr. Gallant stated the Town of Sanford had a three rod area between him and the water. Madge B. wanted to know how close the leach

field would be to the water? Diane stated the board members would need to see the new septic design. Mr. Gallant stated you could not see the water; it was 331 feet to the water from his property line. Mr. Gallant stated he would meet all the setbacks.

Mr. Gallant stated he would have a parking area that would hold two customer vehicles. He showed a new entrance that he was proposing. Roger A. stated that the entrance onto Rte. 109 could not be more than 26 feet in width.

Diane Laitres, an abutter to Mr. Gallant's property, stated she was not happy with his proposal. Ms. Laitres stated there were issues presently at his location. Mr. Gallant stated nothing would change from the existing operations.

Ms. Laitres stated the existing business was supposed to be held across the street at this time, not in his home now. Mr. Gallant stated he parked the trucks on his property.

Ms. Laitres stated Mr. Gallant conducted business at his home as well. Ms. Laitres stated the portable toilets were supposed to be housed across the street and they have been on his property. Also, she did not think he was allowed to clean anything on site (at his home). Mr. Gallant stated he did not remove the sewerage from the portables but if they get destroyed or damaged he fixes them.

Ms. Laitres stated again Mr. Gallant was permitted for across the street. Ms. Laitres also asked Mr. Gallant about why she smelled an odor coming from his home? Mr. Gallant stated he didn't do any pumping at his home. Mr. Gallant stated that perhaps she was getting an odor when he transferred sewerage from one truck to another. Ms. Laitres said, "I thought you weren't supposed to store anything on site?" Mr. Gallant said again when he transferred from one truck to the other is when you get an odor. Diane said that was on his home site not his permitted site. Mr. Gallant said he's been there since 1989. Ms. Laitres stated she understood but it was not his permitted business site. Ms. Laitres stated she would not be allowed to sell groceries out of her house without a permit. Mr. Gallant stated that he would have to get a permit.

Roger A. stated a Notice to Abutters would be mailed and a Public Hearing would be held on September 9th. Roger stated the site visit would be at 6:00 p.m. Board members will meet at the town hall.

Mr. Gallant stated he was not going to replace his existing septic system, because it was working at this time, if he did not get the approval for the home office.

Nothing further was discussed.

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

Respectively submitted,

Barbara Felong, Land Use Secretary
planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES

Tuesday, September 9, 2008

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

Note: Madge B. was a voting member for this evenings meeting.

Planning Board Meetings Being Videotaped – Person taping must inform the Planning Board prior to the meeting.

The following words are not verbatim unless accompanied by quotation marks “ ”.

Public Hearing Began at 7:05 p.m.

Roger A. began the meeting by introducing the Planning Board members.

Conditional Use Permit – Home Occupation – *Run Existing Business from Home* – Map 14, Lot 15 & 16 (177 Emery Mills Road) – John Gallant, Applicant

Mr. Gallant was present for the public hearing. Note: Planning Board members did a site visit prior to the meeting.

Mr. Gallant began by stating he was currently running his business from 184 Emery Mills Road. Mr. Gallant stated he wanted to add a 26' x 28' addition to his home located at 177 Emery Mills Road, moving the office from across the street to the new addition. Mr. Gallant stated the business would be run the same as it is now.

Roger A. asked if there were any questions? Diane Laitres, an abutter of Mr. Gallant, asked if Roger would read the letter she submitted to the board. The letter was written by Robert and Diane Laitres, Timothy Aballo and Alissa Laitres. It read as follows:

“Stoney Road septic is located across the road from our store, One Earth Natural Food, to the left, on Rte. 109. The Conditional Use Permit on file for John Gallant at the Town Hall is for 184 Emery Mills Road and states Stoney Road Septic and Stoney Road Portables, in the minutes, dated Tuesday, April 27, 2004. In the spring of 2008, every day, we began to see a large pumping truck parked in John's front yard at 177 Emery Mills Road. He started cutting trees in his back yard. Then he moved the truck to the side yard by our storage shed and brought another large pumping truck to the front yard. After cutting more trees in back, he began parking the trucks to the back of his garage, right beside Alissa and Tim's bedroom window. Now, they hear the trucks start, smell the diesel while they idle and listen to them idle. They also idle while he is pumping at the side of his garage. We also started to see portables loaded and unloaded in John's front yard at this home. Then we saw men hosing down and cleaning multiple portables, in his front yard. We have seen men transfer raw sewerage from one truck to another at John's home, we have seen hoses going into a pipe in the ground, we have watched men tending the hose and truck while pumping raw sewerage. We smell sewerage on any given day, during the day as well as during the evening at different times on no particular schedule. So have our customers. We feel this is a very serious and unhealthy situation that needs to be addressed and stopped.

Addressing the Board, we'd like to respectfully remind you that if you do not grant this Conditional Use Permit, it will most likely have no affect on John Gallant's business or his livelihood, business will continue as usual for him at this current location. But, if you do give him the permit, One Earth Natural Food Store's business will be negatively affected daily. Also, by potentially reducing the value of our business and the store's property. We sell food; our location has sold food since the late 1800's and we have plans to continue to sell food. Tim and Alissa's resale property value will definitely be affected, as he is pretty much in their backyard. The value of other people's homes in the neighborhood will be affected as well. This is definitely not a home occupation (105-40) or a business suitable to a neighborhood. Stoney Road Septic is no longer one (1) truck and John, and if he decides to grow and expand even more, the situation gets worse. We have serious issues here, odor (105-24) (raw sewerage smell), dust, fumes, vapors and gases (105-23) (methane gas?), noise (105-22) (trucks), traffic (105-21) (pulling in and out of location with large trucks is unsafe), refuse disposal (105-33) (sewerage on site, even when just sitting in a truck). If you look at the Codes closer, in your experience, you may find more reasons than these to not permit him to move and to look closer at his operation. What are the regulations at the State level? We'd also like to say to John that in no way are we trying to hurt his business. We understand how he may perceive this, but we need to protect our livelihood and we sincerely believe he is desensitized to the nature of his business. Our question to him is "Why would you want a septic business at your home? Think about it, this is your home!"

Mr. and Mrs. Laitres, Timothy Aballo and Alissa Laitres also submitted to the board members pictures of Mr. Gallant's property showing the number of trucks on site, a holding tank, and what appears to be a trucks contents being pumped either into or out of the holding tank. In addition, 19 signatures were submitted on a form that read in part as follows: "When on the premises of 191 Emery Mills Road in Shapleigh, ME or in the general vicinity of the above location I have smelled a strong odor of raw sewerage. This smell occurs at different times of the day with no consistency as to the day or time."

Roger A. also read a letter received from Robert and Elizabeth Moore of 11 First Street, Shapleigh, ME. It read as follows:

"Dear Sir,

We are writing to request the board deny the Conditional Use Permit for Stoney Road Septic and Portables.

The proximity to Mousam Lake and the possibility of leakage of on site portables and subsequent damage to the water table would seem self evident.

In recent years, the owners of lakeshore property have by regulation and at considerable expense converted to septic systems to improve the quality of lake water.

We are confident the Planning Board will continue to protect the environmental concerns of the residents of Shapleigh and reject this application."

Roger A. was asked to read one additional letter from Alan and Paulette Courage of 195 Emery Mills Road, Shapleigh Maine. It read as follows:

"Thank you for the notification of application for a Conditional Use Permit from Stoney Road Septic. As you know we have always been interested and sometime somewhat vocal as what is going on in our neighborhood. Having lived in our home for twenty-two years and being located "two doors down" from John Gallant we certainly would be aware of any unwelcome issues. We have never experienced any inconvenience, odors, noise or any other problems from his operation and over the years have certainly depended on his expertise with our complicated pump-up septic system. We spend many days working in our yard, evenings are enjoyed sitting on our rear deck and numerous trips walking our dog several times daily through our back woods to the lake or up to Route 109 as far as the boat launch and back and have never experience any odor. On two occasions, 12/14/98 and 12/14/04 our septic system failed but John

Gallant came to our home in freezing cold temperatures to pump our septic tank and replace the pump. That is what is great about living in Shapleigh, Maine. You can depend on your local plumber, heating contractor, electrician and septic person. We have always supported our local craftspeople and will continue to do so. The residents of this neighborhood have always been concerned for each other, plowing snow for each other, sharing vegetables from their gardens, firewood during the icestorm, providing transportation for doctors' appointments, yardwork, etc. Yes, sometimes there are minor inconveniences but we always make it work! Septic system maintenance is something we need to enforce as we live so close to the lake and we are certainly grateful to John Gallant for his profession. Thank you for this opportunity."

Roger A. asked if there were anymore comments.

Mr. Rodrigue stated that he used to own the property now owned by Diane Laitres. Mr. Rodrigue stated that Ms. Laitres ran a very good business. She has a passion for natural foods and she does it well. Mr. Rodrigue stated that he understood her concerns. Mr. Rodrigue stated that Mr. Gallant ran a very good business as well and it was a "shitty job". Mr. Rodrigue stated that if you go through Mr. Gallant's garage he always keeps things neat and orderly. Mr. Rodrigue stated that the portable toilets are usually lined up neat in a row.

Pat Baldwin, an abutter within 500 feet of Mr. Gallant's property spoke. Ms. Baldwin stated that she has used Mr. Gallant to pump out her septic system and she stated he had done very well by her. Ms. Baldwin stated Mr. Gallant explained how her septic system worked and he also has gone to the lakes "septic socials" and talked to the group and has been very helpful to everyone. Ms. Baldwin stated she has not had a problem with Mr. Gallant with respect to odor or traffic. Ms. Baldwin stated she had known Mr. Gallant for a long time and found him to be a very nice young man.

Ms. Baldwin stated that in light of some of the issues that have been brought up and the implications, and not knowing the zoning ordinance well herself, she would hope the board might wish to continue the process until the issues can be resolved. Ms. Baldwin stated that an outside opinion might be warranted.

Robert Berube, owner of Emery Mills Redemption Center, asked to speak. He currently rents space from Ms. Laitres adjacent to her business, One Earth Natural Foods. Mr. Berube stated that Mr. Gallant had provided him with a portable toilet for the last five and one half years. Mr. Berube stated that he always provided a good service. Mr. Berube stated that when you pump a tank you are going to have smell. Mr. Berube stated that he did not feel inconvenienced from him.

Bob ? spoke. Bob asked if pumping raw sewerage into a tank in the ground was normal procedure? Roger A. stated that onsite was a 2000 gallon tank that is in the ground. Roger said that when a truck came on site and was partially loaded they would off-load it so then they could take a run somewhere else. Roger asked Mr. Gallant if he wanted to finish explaining it.

Mr. Gallant stated he had an arrangement worked out with South Berwick sewerage. He stated he was allowed to go in at 7:00 a.m. or 4:15 in the afternoon. Mr. Gallant stated that many different haulers use South Berwick. Mr. Gallant stated that South Berwick requested that in order to haul in you had to have a full load. Mr. Gallant stated it is also the only way he could run his business. He stated it cost a dollar a mile to run the trucks so he could not afford to go to South Berwick with a half load. Mr. Gallant stated if he went to South Berwick with half loads he would have to go six times a day instead of three. Mr. Gallant stated the South Berwick arrangement was good for the Town of Shapleigh. Mr. Gallant stated that he has worked very hard to have a good relationship with South Berwick.

Pat Baldwin asked Mr. Gallant if the odor that Ms. Laitres was noticing was from when he was pumping from the truck into the holding tank and then back into the truck the next day? Mr. Gallant replied stating that the trucks run off a vacuum, so taking air off the truck gets displaced and that is most likely the smell she is receiving.

Ms. Baldwin asked if there was a reason he was loading and unloading it, rather than leaving it on the truck until the next day? Mr. Gallant stated that if he was back for the night it remained on the truck. He stated the only time he offloaded it is if he had to go to another town or in the winter because there is a freeze problem. Mr. Gallant stated that it had to be pumped into a holding tank for the weekend.

Ms. Baldwin asked with respect to the holding tank, who regulated the business? Ms. Baldwin asked if it was in the town's zoning ordinance or was it state regulated? Ms. Baldwin asked who gave him the permission for the holding tank? Mr. Gallant stated he had a license from the State of Maine. Ms. Baldwin stated, "Then the state regulated the holding tank." Mr. Gallant stated it was recommended by Code Enforcement in the early 90's. Ms. Baldwin stated, "Then the CEO of Shapleigh knows the state regulations." Mr. Gallant said his license is through the state. Ms. Baldwin asked if someone from the state came to see what he was doing? Mr. Gallant stated that he has never had anyone from the state check his tank.

Ms. Laitres asked Mr. Gallant if he had a license from the state for the holding tank in the ground? Mr. Gallant stated he was never required to get a license from the state for his holding tank. Ms. Laitres stated the Department of Human Services said that his business was required to have a permit from the state to have a holding tank and she stated the department emailed her the compliance for a holding tank and she did not believe Mr. Gallant met those requirements.

Mr. Gallant stated that the requirements were not in place 12 or 13 years ago. Mr. Gallant stated he was allowed to put the tank in.

Ms. Laitres asked that the board do a continuance. Roger A. stated that this was just a public hearing, it would continue. Ms. Laitres thanked the board.

Roger A. asked if there were any additional questions? There were none. The public hearing for Mr. Gallant closed at 7:20 p.m.

Conditional Use Permit & Construction of a Private Way – 180 Foot Telecommunications Facility – Map 5, Lot 23 – Industrial Tower and Wireless, LLC, Applicant; Sharon and Stephen Clark, Owners

Mr. Calvin Beaumier and Mr. Jim George were present for the public hearing. Note: Planning Board members did a site visit prior to the meeting.

Mr. Beaumier stated they were before the board for a private way permit off of Owl's Nest Road and it would be 150 feet long and would be an access road to the lattice telecommunication tower and facility. Mr. Beaumier stated the tower itself would set 927 feet back from the Owl's Nest Road. Mr. Beaumier explained the location of the property. Mr. Beaumier asked if there were any questions?

Bob ? asked if the cell tower would service different companies. Mr. Beaumier stated they were a platform carrier who worked with various carriers. Mr. Beaumier stated that their customers were all of the major carriers. Mr. Beaumier stated their company motto was "build it and they will come".

Joan Dyer stated she owned property abutting the Clark property. She wanted to know how close the tower would be to her property? The board members pulled out the town map and Mr. Beaumier showed Ms. Dyer the location of the tower.

Al Briggs, an abutter to the Clark's property, was concerned about the water drainage with respect to the road and property. Roger A. stated there was a drainage plan and the water would be brought toward the new road.

Charles Gruber, a citizen of Shapleigh, asked if there were any other towers that were constructed in York County by the applicant? Mr. Beaumier stated there were currently five permitted towers. Mr. Beaumier stated there were two in Newfield, one in Limerick and one in Limington. He stated there was also one under construction in Lisbon. Mr. Beaumier stated there was a regional plan for this area.

Mr. Gruber asked how tall the tower would be? Mr. Beaumier stated 180 feet.

Bob ? asked if the tower at the foot of Mousam Lake was operable? Roger A. stated that it could be. Roger stated that when the Planning Board permitted the tower, they too were going to lease space. Roger believed that at this time there is only one person leasing space on the tower. Roger added someone comes in and sets the tower, then people come in and lease a spot. Mr. Beaumier stated AT & T acquired a building permit recently to be placed on the Rte 109 tower.

Mr. Beaumier stated that what has taken two years to accomplish is now taking approximately six months, making it easier to solicit companies to use the tower.

Roger A. asked if there were any additional questions. There were none. The public hearing for Industrial Tower and Wireless closed at 7:30 p.m.

Amendment to a Conditional Use Permit – Emery Mills Redemption Center – Map 7, Lot 3-2 (926 Shapleigh Corner Road) – Carol and Robert Berube, Applicants; James Correggio, Owner, Janet Dow, Property Manager

Mr. and Mrs. Berube were present for the public hearing. Note: Planning Board members are all aware of the new location the applicants are applying for. They have been to the site several times.

Mr. Berube began by stating he had been in business in Shapleigh for six years and his business is known as Emery Mills Redemption Center. He stated he provided a service for people to return their bottles and cans. Mr. Berube stated he would like to relocate the business to Mr. Correggio's property.

Mr. Berube stated there were no environmental hazards, chemicals and the like. He stated he did bottle returns presently for the Shapleigh Memorial School, the Shapleigh Library, etc. Mr. Berube stated his current location was not safe for his trucks to pull in and out onto Rte. 109.

Mr. Berube stated there were four or five trucks a week that came to his business. Mr. Berube stated there were two on Monday, one on Wednesday and one every other Wednesday. Mr. Berube stated the entrance to the proposed location is much safer to pull in and out of.

Mr. Berube added that at his current location the area he used for storage is full. Mr. Berube stated he needed additional space and he would have this at the proposed location.

Pat Baldwin asked if they would have the same hours of operation? Mr. Berube stated yes.

Mrs. Berube wanted to add that the trucks they used were the same ones that were used at Boonies across the street from Mr. Correggio's establishment. Mrs. Berube stated they only used one additional box truck than what Boonies used for their deliveries for the return of juice containers. Mrs. Berube stated again the pick-ups are the same days.

Bob ? asked what part of Mr. Correggio's building they would be using? Mrs. Berube stated the back, where the kitchen used to be. Mrs. Berube stated Ms. Dow spoke with the adjacent marina and she got permission to have the trucks enter by way of their entrance and go around the back of the building. Mrs. Berube stated they would not have to use the entrance for Kettle Pond Condo's.

Pat Baldwin asked how customers would enter the building? Mrs. Berube stated that they would either use the current side entrance or Ms. Dow talked about adding a small back door onto the building for their use.

A gentlemen asked if it was just going to be bottles and cans? Mrs. Berube stated yes. Mr. Rodrigue stated he has known the applicants for some time and he agrees they need more room. Mr. Rodrigue stated it was dangerous pulling out with the trucks.

A gentleman asked how many people would come to the redemption center a day? Mr. Berube stated 40 or 50 people a day which is why they would use the entrance farthest from the Kettle Pond Condo entrance.

Mrs. Berube asked if they had to do something special with signage so people knew where their entrance was located? Roger A. stated signage got handled by the Code Enforcement Office. Roger added that the size and location of the sign would be directed by the CEO. Roger stated that any signage pertaining to Kettle Pond, including "private way" would need to be put up by the Kettle Pond Association.

Roger A. asked if there were any other questions? There were none. The public hearing closed at 7:38 p.m.

The Planning Board meeting started at 7:40 p.m.

The minutes from Tuesday, August 26, 2008, were accepted as read.

Amendment to a Conditional Use Permit – Emery Mills Redemption Center – Map 7, Lot 3-2 (926 Shapleigh Corner Road) – Carol and Robert Berube, Applicants; James Correggio, Owner

Mr. and Mrs. Berube were present for the review of their application.

Roger A. began by stating the board received a letter from Paulette and Alan Courage of 195 Emery Mills Road. It read as follows:

We understand Carol and Robert Berube are looking to relocate their business, Emery Mills Redemption to

a new location. As we are currently on vacation out of the area we would like our feelings on the Berube's business known. We were extremely concerned a few years ago when they presented their plan to open a redemption center very close to our home. Our concerns quickly became unfounded. Our home is located within fifty feet of Robert and Carol's business and if anyone would feel any effect it would be us. We spend many hours on our rear deck which is in view of Emery Mills Redemption. We have never experienced any noise, trash, rodents or inconvenience of any manner. Carol and Robert Berube are friendly hardworking people that are providing a great service to the people of this town. We often think if all those containers were disposed of in the compactor at the transfer station how much it would cost the town in increased disposal fees and increased taxes. These people are providing a terrific environmental service to the community. If anyone in this town has any concerns we wish they would contact us. They have been "great" neighbors!

Roger A. stated the redemption center has been in business for six years and it is a place to bring your returnables. Roger stated the hours of operation are Monday to Sunday 9:00 a.m. thru 3:30 p.m. Mr. Berube stated he wasn't certain to begin with if they would be open seven days a week but he wanted to have the opportunity for the seven days if it becomes necessary.

Roger A. reviewed the application which stated the applicants felt the new location would be much safer for the trucks and patrons. The application also states that the distributor's (trucks that pick up the returnables) all come during the day. Mr. Berube corrected that by saying some trucks do not come until 5:00 p.m. at times.

Mr. Berube talked about his wife's car getting hit at the current location trying to pull out, the car was totaled.

Roger A. stated the reason Mr. Berube was before the board is because Mr. Correggio's building was never permitted for a redemption center.

Madge B. asked what the square footage was of the area to be occupied by the redemption center? Roger A. could not find the information on the application. Mr. Berube stated he did not know the exact area at this time. He stated they were told he could have the area that he needed.

Madge B. asked if there was a parking plan for this business? Madge asked if it were written down for this application? Roger A. stated we did not have it for this application. He said we have a parking plan for the flea market. Madge thought it was necessary a plan be attached to this permit showing how many spaces would be allotted to this business and what spaces were for the flea market.

Diane Laitres stated that they did not usually have more than three or four cars on site at one time. Madge B. stated she understood but when a plan is approved, there needs to be a designated area for parking and the size of the area occupied by the business. Madge stated they didn't need an engineered plan, just a plot plan. Roland L. agreed there needed to be something on file to delineate between the flea market and this business.

Mrs. Berube stated Ms. Dow showed them the area they could use for their business. It was toward the back of the parking lot and against the building.

Madge B. stated the parking is based on the size of the business so the board needs a parking plan and the size of the business. Madge stated that down the road when the application is pulled the board needs to know exactly what was approved.

Mr. Berube believed there were at least 10 parking spots designated for his business. Roger stated they needed to be sure designated parking spaces weren't already designated for vendors.

Madge B. also was concerned with future expansions. Mr. Berube showed the board the area he was told he could use. The board understood but concluded they needed a designated parking plan on paper along with the size of the area to be used for the redemption center.

Madge B. made the motion to table the application until the next meeting until the board reviews the parking plan, flea market plan and area to be used by the redemption center. Diane S. 2nd the motion. All members were in favor. The motion passed unanimously.

Barbara F. told the applicants Ms. Dow could contact her and review her existing file to see what area she would designate for the applicants.

Nothing further was discussed.

Conditional Use Permit & Construction of a Private Way – 180 Foot Telecommunications Facility – Map 5, Lot 23 – Industrial Tower and Wireless, LLC, Applicant; Sharon and Stephen Clark, Owners

Mr. Calvin Beaumier and Mr. Jim George were present for the final review of their application.

Board members opened the plans to review once again the proposed road and the tower. They invited audience members to also review the plan in case they had any questions.

The property plan for Map 5, Lot 23, showing the lot to be purchased from Industrial Tower and Wireless, LLC from Sharon and Stephen Clark was done using a survey by John Rossborough, RLS #231, plan dated 7/30/08.

The plan of the Private Way was drawn up by Sebago Technics of Westbrook, Maine, dated 6/11/08.

Also provided was an aerial overlay, site plan, construction details, tower elevation and details, site details, equipment room details, utility and ground plans, electrical diagram and details, power lighting and grounding plan, dated 7/30/08, done by Industrial Communications Engineering Division, Marshfield, MA.

Documentation was provided by Nello Corporation which stated the tower design would meet or exceed industry standards. This letter was written by Dan Ianello, PE #9802, State of Maine.

Current telecommunication coverage was provided along with projected coverage by the new tower.

Site photographs and photographs of similar towers were provided.

At the previous meeting a letter was given to the board from Inland Fisheries and Wildlife, dated 8/26/08, which stated in part, "Based upon a review of the most current data available, there are no known essential or significant wildlife habitats, nor any documented occurrences of rare, threatened or endangered species at or adjacent to this property."

Roger A. explained that the applicants were before the board to get a conditional use permit based on the zoning ordinance requirement for a cellular tower as well as the need for a private way because of the lack of road frontage. Roger said both requirements can be found under 105-17, Land uses.

Roger A. reviewed the following zoning ordinance standards:

- 105-20** – Applicability of standards; prohibited uses. *This application is a permitted use within the General Purpose Zone and it will meet all state and federal law regulations. A letter was received from the Department of Inland Fisheries and Wildlife stating the tower would have negligible impact on regional wildlife.*
- 105-21** – Traffic. *Traffic will have safe access. In addition, there will be minimal traffic at the site. The access road will be gated and only authorized personnel will be admitted.*
- 105-22** – Noise. *There is no noise generated on site. There will be a propane generator on site in case of a loss of power but this produces minimal noise.*
- 105-23** – Dust, fumes, vapors and gases. *There will be none emitted from the site.*
- 105-24** – Odors. *None generated by this business.*
- 105-25** – Glare. *There will be no lighting on the tower. Only a motion detecting light will be placed on the service building.*
- 105-26** – Stormwater runoff. *An erosion control plan was provided by Sebago Technics, of Westbrook, Maine, dated 6/11/08, for the Private Way.*
- 105-27** – Erosion control. *An erosion control plan was provided by Sebago Technics, of Westbrook, Maine, dated 6/11/08, for the Private Way.*
- 105-28** – Setbacks and screening. *There shall be only enough vegetation removed to build the roadway and erect the telecommunications tower. The rest of the site shall remain as is.*
- 105-29** – Explosive materials. *There are no explosive materials associated with this business.*
- 105-30** – Water quality. *There is nothing associated with this business to affect water quality.*
- 105-31** – Preservation of landscape; landscaping of parking and storage areas. *There shall be only enough vegetation removed to build the roadway and erect the telecommunications tower. The rest of the site shall remain as is.*
- 105-32** - Relation of proposed building to the environment. *The telecommunication tower and service building will be set over 900 feet from the roadway. The tower, antenna and foundation will be gray in color to blend better with the environment.*
- 105-33** – Refuse disposal. *There is no refuse associated with this business.*
- 105-34** – Access control on Routes 109 and 11. *N/A*
- 105-39** – Earth removal and filling. *All earth removal and filling will be handled through the building permit process and is incidental to construction.*
- 105-46** – Sanitary provisions. *There are no sanitary provisions required for this business; there is no waste and no bathroom facilities on site.*
- 105-47** – Signs and billboards. *The signage shall be limited to what is required by the FCC on the fencing showing who the owner is in case of emergency. Signage in general is handled through the Code Enforcement Officer.*
- 105-52** - Water quality protection. *There is nothing to be stored on site to affect water quality. There shall be no use of herbicides for vegetation growth.*
- 105-60.1** – Private Ways. *The minimum roadway width shall be 12 feet, the minimum subbase of heavy road gravel shall be 12 inches in depth; the wearing surface shall be 2 inches in depth, using reclaimed asphalt to prevent dust; improve erosion control and it blends in well with the environment; there shall be a hammerhead turnaround.*

There shall be a gate placed approximately 30 feet in from the road. The Town of Shapleigh will not be responsible for the care and maintenance of the private way.

Mr. Beaumier asked about the name of the road and how it is addressed with respect to 911. Roger A. stated he needed to contact the person in charge of road names. (Gretchen Wood currently approves road names and assigns the number.)

Diane S. asked about allowing the town to have a signal on the tower in case of emergencies (fire and rescue). Mr. George stated if it did not interfere with paying tenants they would have no issue with providing a spot for the towns rescue and fire at no cost. Mr. George did state that they would not provide service for the Sheriff's department. Mr. George reiterated it would be used only for Shapleigh, not for county use.

Madge B. asked about the fall zone of the tower. Mr. George stated that the tower was situated such that it would fall within the property lines.

Madge B. asked if the Road Commissioner had to give permission for the location of the curb cut? Roger A. stated yes, they would need to talk to the Road Commissioner prior to putting in the private way. Roger stated the R.C. would also oversee the building of the private way.

Roger A. reminded the applicant that the approved private way plan needed to be recorded at the York County Registry of Deeds within 90 days.

105-61.2 – Telecommunications facilities. ***The tower or antenna shall not exceed 180 feet in height; the tower shall not be lighted; the tower shall have a neutral color (grey); the tower itself shall meet the setback requirements; the Town of Shapleigh's Rescue and Fire department shall be allowed to have space on the tower if requested; the tower shall be constructed and maintained in conformance with all federal, state and town building, electrical and safety codes; there shall be no signage or advertising outside of FCC requirements; there shall be a bond for tower removal which shall not have an expiration date, made payable to the Town of Shapleigh should the town have to remove the tower; the lot more than meets the minimum lot requirement of 80,000 square feet (over 500,000 sq. ft.).***

It was asked by a member of the audience if another tower would be going up in the same location? Mr. Beaumier stated no additional tower could be placed on the property without Planning Board approval. He added that at this time they have no intent to add an additional tower.

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, and the letter provided by the Dept. of Inland Fisheries and Wildlife states the facility will have negligible impact on the area to wildlife.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. *N/A*

- 3) The use is consistent with the Comprehensive Plan. ***It is, the Comprehensive Plan encourages business that will benefit the Town of Shapleigh.***
- 4) Traffic access to the site is safe. ***It is, the site distance meets the minimum required and there will be minimal traffic once the tower has been completed. The applicant states there will be two trucks per month at most when carriers need to check their equipment on site. The site is completely automated.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***It is, there is an engineered stormwater / erosion plan on file and the tower is not located in the flood hazard 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. ***There will be no hazardous materials stored on site.***
Roger A. asked about weed control. Mr. Beaumier stated that the area would have a thick mesh placed down prior to crushed gravel. There would be no herbicide used on site. There may be someone brought in to use a weed whacker if need be.
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***There is an erosion control plan provided by Sebago Technics of Westbrook Maine, dated 6/11/08.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***There is an erosion control plan provided by Sebago Technics of Westbrook Maine, dated 6/11/08.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***There is, the property is in close proximity to a fire pond. The service building will be placed on a concrete pad with crushed stone surrounding it.***
- 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 tower and service building shall be placed over 900 feet from Owl's Nest Road. The existing vegetation shall remain in place outside of what is needed to be cleared for the roadway and tower / service building.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

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

Diane S. made the motion to approve the application for a telecommunications facility and private way with the following condition(s):

- 1) ***There shall be a performance guaranty provided for 125% of the projected removal costs of the tower, made payable to the Town of Shapleigh. The amount to be determined and approved by the Board of Selectmen.***
- 2) ***No building permit shall be given by the Code Enforcement Office until the performance guaranty is provided.***
- 3) ***A locked gate shall be erected at the best possible location within 50 feet of Owl's Nest Road.***
- 4) ***A spot on the tower shall be made available for the Town of Shapleigh's Fire and Rescue Department. Note: This does not include the County Sheriff's Department.***
- 5) ***The Road Commissioner shall inspect and ensure the private way is built to the specifications provided and the driveway entrance shall be approved by the Road Commissioner.***

Madge B. 2nd the motion. All members were in favor. The motion passed unanimously.

Members signed the private way plan provided.

Nothing further was discussed.

Approved 10/26/07 - Best Possible Location – Replace Retaining Wall – Re-Review, Wall was not Built - Map 28, Lot 46 (33 Carpenter’s Cove Road) – Michael Gullikson, Applicant; Russell Lowe, Owner

Mr. Gullikson was in attendance for the review of the application. Note: Board members did a site inspection prior to this evenings meeting.

Mr. Gullikson had been before the board in October of 2007 to replace the existing telephone pole wall with a wall made of precast concrete. He was unable to do the wall last fall and his Planning Board approval stated he had to have it completed by January 15, 2008. Mr. Gullikson has DEP approval for the new wall until October of 2009.

Roger A. asked if there were any changes from the original engineered plan. Mr. Gullikson stated no, but they are considering employing someone to put up the wall itself. Mr. Gullikson stated they were still dealing with a lot of water in the lake so the time table was not known as to when the project would begin and end at this point. Roger stated the DEP permit expired October 14, 2009 so the project would have to be completed by that date, otherwise Mr. Gullikson would need to resubmit his project plan to the DEP. Mr. Gullikson stated he understood.

Roger A. stated the board was concerned with the height of the existing wall, the slope of the land, and how the earth would be maintained during the project. Roland L. stated that after being onsite, and the fact there was no formal plan, he could not vote to support the project without seeing how the project was going to be handled. Roland did not understand how Mr. Gullikson was going to move material. Roland was concerned with the proximity to the neighbor’s property line. Roland also wanted to know what material was going to be used to replace the existing wall.

Mr. Gullikson stated he was going to build the new wall to the plans he already provided. (Mr. Gullikson provided the board with an engineered wall plan in October of 2007. The plan was provided by Civil Consultants, dated 9/24/07.)

Mr. Gullikson stated in terms of access to the site, tracks were going to be placed on the ground, and a cart would be used on those tracks for material removal as well as bringing new material in. Roland L. asked about the hole in the bank on site, how would it be addressed? Mr. Gullikson stated it would be filled in prior to the tracks being layed. Roland asked about the trees close to the existing wall? Mr. Gullikson stated some trees would need to be removed. Roger A. agreed, even though Mr. Gullikson wanted to save the trees he didn’t see how it would be possible.

Madge B. reviewed the original approved plan and believed the same conditions apply at this time. Madge read the original conditions.

Madge B. asked Mr. Gullikson if he was located near the water (his home) because one of the original conditions of approval stated some of the existing wall would be taken to his home in Denmark. Mr. Gullikson stated he did not live on any water body. Madge asked what his address was? Mr. Gullikson stated, 166 Denmark Road, Denmark, Maine.

Madge B. asked about the replanting plan, when should it be completed? Roger A. stated the plan wouldn't be determined until the number of trees to be removed was established. Roger and Madge thought the revegetation should be completed by October 2009 as well as the wall.

Madge B. made the motion to approve the replacement of the existing retaining wall with precast concrete blocks per the engineered plan received, with the following conditions:

- 1) Best Management Practices shall be used.**
- 2) A replanting plan shall be directed by the Code Enforcement Officer, which will be based on the number of large trees to be removed.**
- 3) The revegetation shall be completed by October 24, 2009.**
- 4) A railing shall be placed on top of the new retaining wall, due to the height of the wall, for safety reasons. The railing must be approved by the Code Enforcement Officer.**
- 5) The existing telephone pole wall shall be removed from site. Disposal shall be to Mr. Gullikson's home located at 166 Denmark Road, Denmark or the Rochester Landfill in Rochester, NH. Should these locations change the applicant would you need to notify the Code Enforcement Officer of the new location to be used and it must meet his approval.**
- 6) The new wall shall be completed by October 24, 2009.**

Diane S. 2nd the motion. All members were in favor. The motion passed unanimously.

Nothing further was discussed.

Conditional Use Permit – Home Occupation – Run Existing Business from Home – Map 14, Lot 15 & 16 (177 Emery Mills Road) – John Gallant, Applicant

Mr. Gallant was in attendance to review his application.

Roger A. began by stating he believed the application should be tabled based on the fact the Dept. of Environmental Protection contacted the Land Use Secretary today and stated there may be a problem on site with respect to the existing underground waste storage tank.

Madge B. asked if there was approval for the holding tank on file? Barbara F. stated that there is no permit on file in the Code Enforcement Office for a holding tank on Mr. Gallant's property. Madge stated in light of that she would join in a motion to table the application.

Roger A. stated to Mr. Gallant that if he had a record of his approval it would be a big help to both the Planning Board and the DEP. Mr. Gallant stated the tank agreement was a verbal agreement between him and the code enforcement officer at that time. Mr. Gallant stated the code enforcement officer explained how he wanted it done and that is how he did it. Mr. Gallant stated that it was a sealed tank, and it has been water tested. Mr. Gallant stated he would do what needed to be done because he was confident there was nothing wrong with the tank, it would not hurt the environment. Mr. Gallant stated it was needed to operate the business the way it needs to be operated; it is required by his business.

Roger A. stated that he did not disagree but the Planning Board has been contacted by the DEP and they said they were going to check the property to see if there is anything else that needed to be done in order to be able to operate the tank or if there needed to be a different system that needed to be used. Roger said in light of that he thinks the application should be tabled until the board hears back from the DEP.

Mr. Gallant asked what was meant by tabling his application. Roger A. stated that the DEP would contact him shortly. Roger stated that when the board heard back from the DEP with their findings, the application review process would continue.

Roger A. made the motion to table the application pending DEP approval of the project. Diane S. 2nd the motion. All members were in favor. The motion passed unanimously.

Mr. Gallant asked for the name of the gentlemen who contacted the Planning Board. Barbara F. stated she would give Mr. Gallant the name and telephone number tomorrow. Roger A. said that the Planning Board would contact him when they were ready to continue the process.

Nothing further was discussed.

Stephen Quartarone – Propose Changes to Sign Ordinance

Mr. Quartarone was present and gave the Planning Board some proposed changes to the existing sign ordinance (105-47). Also present was Mr. Roger Berube and Mr. John Mavrakos, both local business owners.

The proposed changes are written as follows:

September 9, 2008

Proposed sign code changes.

- #1 (a) Increase the square footage of allowed signs to (2) 32 square foot signs.
(b) Allow to add one 32 square foot sign per property when another conditional use permit is needed, with the total square feet not to exceed 96 square feet per property.
- #2 There shall be one sign allowed attached to the building per approved conditional use permit not to exceed 24 square feet, provided the total square footage does not exceed 25% of frontal façade of building.
- #7 Steady white lights shall be required on signs to be illuminated. Plastic signs to be internally lit shall be allowed with either a white or dark background.

Roger A. and Madge B. discussed the different ways a zoning change could be placed on the warrant. Madge said the Board of Selectmen have the option of placing it on the warrant, or if they would not, Mr. Quartarone would need to get together a petition and bring it to the BOS. Roger stated that the Planning Board could hold the necessary public hearings and it could be placed on the warrant per the Planning Board process.

Roger A. stated that he had tried to increase signage for multiple businesses but the townspeople voted down the increase in signage. Roger stated he has done it three times and finally gave up. Roger said the Planning Board could present it again, but he could not promise the townspeople would approve it. Madge agreed a public hearing would at least show if there was any opposition. Diane S. stated it was important Mr. Quartarone attend the public hearings to explain the problem. He said he would be happy to do so.

Mr. Mavrakos asked if there was a record of past votes. Roger A. stated there was a record of all town meetings. Barbara F. stated she believed Town Clerk JoAnne Rankin would know the location of the town meeting records, he could speak with her.

Diane Laitres asked about if each business was allowed a 32 square foot sign? Roger A. stated no, it was one sign per property. Roger said that is why he wanted larger signs for strip malls; he felt 32 square feet isn't large enough for multiple businesses. Ms. Laitres asked if you have multiple businesses do you have to share the 32 square feet? Mr. Quartarone stated yes.

It was concluded the Planning Board would hold the required public hearings for the sign changes. Roger A. stated it would be at the end of the year and then again after the first of the year. Barbara F. told Mr. Quartarone she would contact him of the dates.

Nothing further was discussed.

Conditional Use Permit – Store Oil Trucks in New Garage for Business – Map 9, Lot 3 (216 Town Farm Road) – Richard Labbe

Mr. Labbe was present for the review of his application.

Mr. Labbe stated he was applying to be able to have a home office for his oil business and he wanted to build a 30' x 50' garage to park his oil trucks inside.

Madge B. stated the board would need to schedule a site visit and hold a public hearing.

Roger A. asked Mr. Labbe if he lived at this location? Mr. Labbe stated yes. Roger was concerned there was a lot size issue? Roger thought Mr. Labbe would need four acres. Madge B. reviewed the ordinance and did not see where four acres were required. Madge reviewed 105-18 and stated there was only one principal building so there was no issue. There appeared to be enough land.

Roger A. stated a Notice to Abutters would be done, a site visit would be held at 6:00 p.m., and a Public Hearing would be held at 7:00 p.m. on Tuesday, September 23rd.

Nothing further was discussed.

Conditional Use Permit – Earth Moving and Farm Pond – Map 10, Lot 22 (State Rte. 11) – Robert W. Ferrera, Jr., Applicant

Mr. Ferrera was present for the review of his application.

Mr. Ferrera presented the board members with his proposed plans for what he termed an irrigation / fire / trout pond. Mr. Ferrera stated there was approximately 40 feet of sand on top of the land prior to getting to the existing water. Mr. Ferrera stated that was why he needed the earth moving permit. Mr. Ferrera stated he was working with the DEP presently. Mr. Ferrera stated Inland Fisheries did not have an issue with his project but he still needed to work with a department within the DEP prior to beginning his project.

Mr. Ferrera stated he was going to do the project in five acre areas. Once an area was done (earth removal) then it would be revegetated. He said he did not mind if there was a condition to inspect each phase of the project prior to moving onto the next.

Mr. Ferrera stated he was contacting ME D.O.T. to try to get another entrance onto Rte. 11 for a temporary entrance. He did not feel it made sense to use the existing entrance for his current customers or to be near the ballfield entrance. The location he was considering does meet the site distance for 50 m.p.h.

Roland L. asked the size of the pond? Mr. Ferrera stated approximately 300' x 400'. Mr. Ferrera stated he might want to make it larger depending on the depth of the water table but until he determines that he could not give an exact size. Mr. Ferrera stated if the pond would increase in size he would come back before the board. Mr. Ferrera stated the cost of excavation was very expensive as well and he would be charged per the month so money limited the size.

Roland L. asked what the depth would be? Mr. Ferrera stated he wanted it to be 20 to 30 feet deep so it would be cold enough to house trout. Roland asked if there would be a stream going in and out of the pond. Mr. Ferrera stated it would be self contained. Mr. Ferrera stated if you have a stream you need to go to the DEP for additional permits.

Diane S. asked if it was a fishing pond for his own personal use or for others to use. Mr. Ferrera stated he would like to open it up to the public in the future. Mr. Ferrera stated he was considering a driving range and maybe a few RV camping spaces in the future. He understood he would have to come back to the Planning Board for any changes to his Conditional Use Permit.

Mr. Ferrera stated he was trying to make tax money and keep it earth friendly.

Roger A. asked if there was going to be a spillway? Mr. Ferrera stated not at this time. Roger asked what would happen if the water got extremely high? Mr. Ferrera stated there would be at least a 20 foot high wall around the pond and the reason for the long grading plan was to keep the visual appearance as well as a gradual slope to the depth he needed. Roger mentioned the limitation of a 2 to 1 slope. Mr. Ferrera stated it was too steep at 2 to 1, perhaps 6 to 1. He stated he preferred 8 to 1 but did not know if he could achieve this.

Roland L. asked if he was taking a lot of material offsite? Mr. Ferrera stated yes and it could take up to a year. Roger A. asked where it would go? Mr. Ferrera stated to Massachusetts. He said much of the sand is septic quality sand.

Roger A. asked the number of gallons in the pond? Mr. Ferrera stated he didn't know but he could have the engineer come up with an estimated number.

Barbara F. asked if there was going to be a site visit prior to the next meeting. Roger A. stated yes.

Barbara F. asked if a Notice to Abutters should be mailed out now or wait until Mr. Ferrera had DEP approval? Mr. Ferrera stated because he didn't know how long it would take for the approval it would be best to wait.

Planning Board members will do a site inspection prior to the next meeting on September 23rd. The final review will be scheduled once DEP approval has been given to Mr. Ferrera.

Nothing further was discussed.

Amendment to a Subdivision – Single Division of Existing Lot – Map 11, Lot 33-6 (156 Newfield Road) – Janet Junkins

Ms. Junkins was present for the review of her application. Realtor Cathy Hill was also present to help explain what the applicant was proposing to do.

Ms. Junkins began by stating she owned a 13 acre lot on the Newfield Road. She said she wanted to sell her existing house along with 80,000 square feet and keep the rest of the property for herself.

Board members reviewed the subdivision plan which was originally done by Mario Nicosia of Boston, Massachusetts in July of 1977. Board members read the final approval letter which read as follows:

“At the regular meeting of the Shapleigh Planning Board held June 23, 1977 the board voted unanimously to approve your final plan as presented with the following stipulations:

1. No lots will be further sub-divided.
2. Lots 1, 2, 3 and 4 shall not be sold until roads are rebuilt as showing on plan.
3. Dry hydrant system must be installed as presented.
4. No lots shall be sold until permanent corner markers are set.

At least five duplicate copies of your signed final plan must be presented to the board for filing.”

Ms. Junkins stated there have been lots split from the original subdivision already. Mr. Berube was present and agreed there have been lots split from the original subdivision.

Realtor Cathy Hill stated she could not find any record of any of the split lots as going before the Planning Board for review.

Board members noted that lot #8 appeared to be divided illegally. Diane S. noted the lots were not even shaped in such a way the board would approve of. Board members also noted that there may have been several other changes from the original approved plan.

Madge B. thought the applicant needed to have a legal opinion that states the lot can be split legally. Madge thought it was in the applicant’s best interest to do it legally as well.

Roger A. stated that all the provisions of the original plan also need to be addressed, i.e. the dry hydrant and that the road is rebuilt. Roger added that every owner within in the subdivision needed to agree to the change from the original approved plan.

Madge B. stated again a legal opinion was necessary stating Ms. Junkins could legally split her lot or showing how it could legally be done.

Ms. Junkins asked how the stipulations for the subdivisions were done, did the developer or town do it. The board members stated it could be either or both.

Ms. Junkins stated that nowhere in her deed did it state the lot could not be divided. Barbara F. stated the original subdivision plan was noted in the deed. Unfortunately it appears no one read the plan.

Board members agreed Ms. Junkins needed to get a legal opinion as to whether or not she could legally split a lot from this subdivision and if she can, what the process is to accomplish it.

Nothing further was discussed.

Growth Permits – There are permits available.

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

Respectively submitted,

Barbara Felong, Land Use Secretary
planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES

Tuesday, September 23, 2008

Members in attendance: Roger Allaire (Chairman), Roland Legere, Lauren Meek, Madge Baker (Alternate) and Barbara Felong (Secretary). Code Enforcement Officer, Steven McDonough was also in attendance.

Note: Madge B. was a voting member for this evenings meeting.

Planning Board Meetings Being Videotaped – Person taping must inform the Planning Board prior to the meeting.

The following words are not verbatim unless accompanied by quotation marks “ ”.

Public Hearing Began at 7:00 p.m.

Conditional Use Permit – Store Oil Trucks in New Garage for Business – Map 9, Lot 3 (216 Town Farm Road) – Richard Labbe

Mr. Labbe was present for the public hearing. Note: Planning Board members did a site inspection prior to this evenings meeting.

Mr. Labbe stated he was applying to be able to have a home office for his oil business and he wanted to build a 30' x 50' garage to park his oil trucks inside.

Roger A. asked how many trucks would be on site? Mr. Labbe stated two.

Roger A. asked if there would be additional trucks in the future, and if so, Mr. Labbe might want to state that now, otherwise he would have to come back before the Planning Board to add the additional trucks in the future. Mr. Labbe stated he would like to apply for three.

Madge B. asked if the new building would have enough room for three trucks? Mr. Labbe stated that right now there was room for two trucks across the front and his personal vehicles across the back. If a third truck was needed, some of the personal vehicles would have to stay outside.

Madge B. stated that at the site visit, noted was the size of the foundation for the new building. Madge stated also at the site visit Mr. Labbe explained about how the trucks were constructed and the fact they were tested periodically to ensure there would be no oil spillage. Madge said she understood that Mr. Labbe would not like them to leak as well because not only would it affect his property but he would lose money.

Madge B. asked for the sake of the audience, if Mr. Labbe could explain the construction of the oil trucks. Mr. Labbe said they were double wall construction with baffle tanks. Mr. Labbe stated the tanks were made of aluminum.

Madge B. asked if he knew what the useful life was? Mr. Labbe stated that he didn't know but he suspected the fact they were aluminum the useful life had to very a very long time. Audience member Patrick Frasier (who owns Frasier Oil) stated regardless of the location of the truck they had to be inspected by Maine D.O.T. on a regular basis.

Roland L. asked if Mr. Labbe had intentions of connecting the new building to his existing home? Mr. Labbe stated no.

Madge B. said that she assumed there would be electrical in the new building. She asked if there would be any plumbing? Mr. Labbe stated no, there would be no plumbing.

Madge B. asked what the size of the property was? According to the tax map the property has 2.25 acres. Madge noted that because the size of the property there could not be another dwelling on the lot. Mr. Labbe stated that he understood.

Madge B. stated that at the site visit she asked Mr. Labbe if he was going to have a paved surface on the property? Mr. Labbe replied not at this time. Madge asked about lot coverage, if there was an issue if he wanted to put in an impervious surface, such as a paved driveway? Roger A. stated that including the proposed building there wouldn't be an issue with lot coverage.

Roger A. asked if the trucks would be inside the building when they were on site? Mr. Labbe stated yes.

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

Public Hearing closed at 7:10 p.m.

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

The minutes from Tuesday, September 9, 2008, were accepted as read.

Amendment to a Conditional Use Permit – Emery Mills Redemption Center – Map 7, Lot 3-2 (926 Shapleigh Corner Road) – Carol and Robert Berube, Applicants; James Correggio, Owner

Mrs. Berube was present for the review of the application.

The applicants were asked at the last meeting to bring in a parking plan and show where in the existing building they would be located and how many square feet their business would use. Barbara F. stated Ms. Janet Dow brought in a plan showing the Berube's would have 1200 square feet inside the building and the location for their parking would be the upper right hand corner of the property. The area to be used was highlighted on the plan and it was noted by Barbara that the parking area was more than adequate based on the number of parking spaces required. There was also space for the trucks that pick up the bottles and cans to park near the rear of the building.

Roger A. agreed there was adequate parking for the size of the building, based on the prior application and review for the structure. Roger stated that the new plan was fine because it designated an area for the redemption center.

Roland L. asked if the access road would be used between the marina and the Correggio property. Mrs. Berube stated yes, Ms. Dow got permission from the owners of the boat storage facility. Roger A. added that when the marina was built it was noted on the plan the access road could be used as a right-of-way for both businesses, (Kelsey Lynne's and the boat storage).

Roger A. reviewed the following zoning ordinance standards:

- 105-20 – Applicability of standards; prohibited uses. *This application is a permitted use within the General Purpose Zone and it will meet all state and federal law regulations.*
- 105-21 – Traffic. *Traffic will have safe access. During previous reviews for Condition Use Permits for the property it was noted site distance requirements were met.*
- 105-22 – Noise. *There shall be no noise generated by this business.*
- 105-23 – Dust, fumes, vapors and gases. *There shall be none emitted from this business.*
- 105-24 – Odors. *There shall be none generated by this business.*
- 105-25 – Glare. *There shall be no additional lighting added for this business and the hours of operation are limited to 3:30 p.m. for patrons.*
- 105-26 – Stormwater runoff. *The approved building is in existence and a stormwater plan was provided on the original C.U.P. for this site.*
- 105-27 – Erosion control. *The approved building is in existence and an erosion control plan was provided on the original C.U.P. for this site.*
- 105-28 – Setbacks and screening. *There shall be no changes to the existing vegetation surrounding the building. There shall be no changes with respect to the existing building and parking area.*
- 105-29 – Explosive materials. *There are no explosive materials associated with this business.*
- 105-30 – Water quality. *There is nothing associated with this business to affect water quality.*
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *There shall be no changes to the existing landscaping or parking area. There shall be no outside storage.*
- 105-32 – Relation of proposed building to the environment. *The existing building fits in well with the surrounding area.*
- 105-33 – Refuse disposal. *There shall be minimal refuse associated with this business. The applicant shall dispose of it at the transfer station.*
- 105-34 – Access control on Routes 109 and 11. *The existing building has the state approval for its curb cuts onto Rte. 11. The site distances are met in both directions.*
- 105-46 – Sanitary provisions. *There are existing bathroom facilities on site for the applicants. The bathroom will not be used by the patrons.*
- 105-47 – Signs and billboards. *The signage shall be approved by the Code Enforcement Officer.*
- 105-52 – Water quality protection. *There is nothing to be stored on site to affect water quality.*

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 building or 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 business along Route 11.*
- 4) Traffic access to the site is safe. *It is, the site distance meets both the minimum required for the existing speed limit and the recommended site distance. In addition, all trucks shall use the right-of-way between Mr. Correggio’s building and the adjacent boat storage facility.*
- 5) The site design is in conformance with all municipal flood hazard protection regulations. *It is, there is an engineered stormwater / erosion plan on file for the original building plan at this location.*

- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***There is an approved septic system on site and trash shall be removed by the applicant.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***There shall be no hazardous materials stored on site.***
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***There is a stormwater plan on file for the original approved building plan for this location.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***There is an erosion control plan on file for the original approved building plan for this location.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***There is, the property has an approved water holding tank within 500 feet of the building.***
- 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 will be no new lights added to the existing building for this business. There will be no noise, glare, fumes dust or odors produced by this business. The existing landscaping will remain undisturbed.***
- 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 bottle redemption center for the storage and recycling of bottles and cans, to be located at Map 7, Lot 3-2, with the following conditions:

- 1) **The hours of operation shall be 9:00 a.m. thru 3:30 p.m., seven days a week, for patrons.**
- 2) **The access to the bottle redemption center for patrons and bottle/can pick-up trucks shall be through the northern access to the property, adjacent to the boat storage facility located at Map 7, Lot 3-2B.**
- 3) **The area to be occupied by the bottle redemption center shall be 1,200 square feet per the plan provided.**
- 4) **There shall be eight parking spaces designated for the bottle redemption center, per the plan provided.**
- 5) **Any signage shall be through the Code Enforcement Office.**
- 6) **Any changes to the approval shall have to come back before the Planning Board.**

Roland L. 2nd the motion. All members were in favor. The motion passed unanimously.

Nothing further was discussed.

Mr. Beaumier of Industrial Tower and Wireless, LLC, presented the Planning Board with the mylars for the approved telecommunications tower to be located on Map 5, Lot 23 (Owl's Nest Road). The board members signed the plans for Mr. Beaumier. Roger A. reminded Mr. Beaumier he had only 90 days from approval to return the registered mylar to the town hall or his plan would become null and void.

Conditional Use Permit – Home Office & Store Oil Trucks in New Garage for Business – Map 9, Lot 3 (216 Town Farm Road) – Richard Labbe

Mr. Labbe was present for the final review of his application.

Madge B. asked if it was a business that would have patrons? Mr. Labbe stated not at this time, but he believed some people may come to pay their bills eventually.

Madge B. asked about hours of operation. Roger A. stated that the hours of operation would probably be separated between the office and the trucks which would operate 24 / 7.

Madge B. asked about site distances. Roland L. stated when he backed out onto Town Farm Road from Mr. Labbe's home there was plenty of visibility in both directions. Roland stated Mr. Labbe might want to trim back some of the trees on the edge of his property but the road itself was straight.

Mr. Labbe denoted on his plan the location of the office and a proposed parking plan. Madge B. stated it was important that the trucks had an area to turn around on site as opposed to backing out onto the road.

Madge B. asked about outside lighting. Mr. Labbe stated there would be a motion detecting light on the garage only.

Roger A. reviewed the following zoning ordinance standards:

- 105-20** – Applicability of standards; prohibited uses. *This application is a permitted use within the General Purpose Zone and it will meet all state and federal law regulations.*
- 105-21** – Traffic. *Traffic will have safe access. The site distance can be met in both directions.*
- 105-22** – Noise. *There shall be no noise generated by this business other than the starting of the oil trucks.*
- 105-23** – Dust, fumes, vapors and gases. *There shall be none emitted from this business.*
- 105-24** – Odors. *There shall be none generated by this business.*
- 105-25** – Glare. *There shall be minimal additional lighting, that being a motion detection light on the new building. The proposed building will be set a great distance from the road.*
- 105-26** – Stormwater runoff. *The proposed building will be in a sandy flat area. The board concluded, after a site inspection, that with the size of the property and soils on site, stormwater would remain on site.*
- 105-27** – Erosion control. *The proposed building will be on flat ground with sandy soil. The board concluded after a site inspection, erosion at this location should not be an issue.*
- 105-28** – Setbacks and screening. *There shall be no changes to the existing vegetation on site. There is adequate vegetation between the proposed building and the surrounding neighbors.*
- 105-29** – Explosive materials. *There are no explosive materials associated with this business.*
- 105-30** – Water quality. *There is nothing associated with this business to affect water quality. The oil trucks will be parked inside the new building which will have a concrete floor.*
- 105-31** – Preservation of landscape; landscaping of parking and storage areas. *There shall be no changes to the existing landscaping which is adequate. The parking area is a great distance from the road. There shall be no outside storage.*
- 105-32** - Relation of proposed building to the environment. *The proposed building will fit in well with the surrounding area.*
- 105-33** – Refuse disposal. *There shall be minimal refuse associated with this business. The applicant shall dispose of it at the transfer station.*
- 105-46** – Sanitary provisions. *There shall be no bathroom in the proposed new building. There is a state approved septic system on site for the applicant's home.*
- 105-47** – Signs and billboards. *The signage shall be approved by the Code Enforcement Officer.*
- 105-52** - Water quality protection. *There is nothing to be stored outside to affect water quality.*

Roland L. asked about the hours of operation for the office. Mr. Labbe stated that at this time they received telephone calls from 7:00 a.m. thru 5:00 p.m. so he would like the hours for the office to be the same. Madge B. stated the Planning Board understood the oil truck delivery service would be 24 hours a day, 7 days a week.

Roger A. asked if there was any maintenance done to the trucks on site. Mr. Labbe stated no, he brought the trucks to a shop for maintenance.

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 outside of the area to be used for the proposed new building and 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 small businesses.***
- 4) Traffic access to the site is safe. ***It is, the site distance meets the minimum required for the existing speed limit. In addition, an area for the oil trucks and customers to turn around shall be created on site.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***It is, this property is not in a flood hazard zone.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***There is an approved septic system on site for the applicants and there shall be no bathroom placed in the new building. Office trash shall be minimal and removed by the applicant.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***There shall be no hazardous materials stored outside. The oil trucks shall be parked inside the proposed building. The oil trucks themselves are inspected on a regular basis for safety.***
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***The site for the proposed new building has sandy soil and is flat. All stormwater should remain on site. There are no paved surfaces proposed at this time. This area has never had a stormwater issue.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***The proposed area for the new building has sandy soil and is flat. There should be no erosion issue at this location.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***There is, the Kelsey Lynn’s tank would be used for property in this area.***
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. ***There will be a motion detection light added to the proposed building. This building will set well over 200 feet from Town Farm Road. There will be no noise, glare, fumes dust or odors produced by this business. The existing landscaping will remain undisturbed.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

Roland L. made the motion to approve the application for an office and storage of oil trucks on site in a proposed 30' x 50' building for Labbe Oil with the following conditions:

- 1) The hours of operation shall be 7:00 a.m. thru 5:00 p.m. for the office. The hours of operation for the oil delivery service shall be 24 hours a day, seven days a week.**
- 2) No vehicles shall be allowed to back out onto Town Farm Road. An area shall be provided to turn around on site.**
- 3) Up to three oil trucks shall be allowed on site.**
- 4) No routine maintenance of the oil trucks shall be done on site.**
- 5) Any signage shall be done through the Code Enforcement Office.**
- 6) Any changes to the approved application shall have to come back before the Planning Board.**

Madge B. 2nd the motion. All members were in favor. The motion passed unanimously.

Nothing further was discussed.

Amendment to a Subdivision – Single Division of Existing Lot – Map 11, Lot 33-6 (156 Newfield Road) – Janet Junkins

Ms. Junkins was present for the review of her application. Cathy Hill, a local Realtor was also present to discuss the application.

Ms. Junkins began by stating she had gone to a lawyer, at the Planning Boards suggestion, to see if she could break a piece of land off from her property.

Ms. Hill stated that the lawyer said Ms. Junkins would need to have the piece of land she wanted to break off surveyed and then she would do an amendment to the subdivision. Barbara F. asked what the law firm was that she went to? Ms. Hill stated the firm of Bourque and Clegg.

Ms. Hill stated the attorney said the Planning Board had the ability to waive any previous requirements imposed on the subdivision. (The original subdivision approval was as follows: 1) No lots will be further sub-divided. 2) Lots 1, 2, 3 and 4 shall not be sold until roads are rebuilt as shown on plan. 3) Dry hydrant system must be installed as presented. 4) No lots shall be sold until permanent corner markers are set.)

Ms. Hill stated before she spends money for the survey they would like to see if the board would entertain her plan.

Roger A. asked the exact size of the proposed new lot. Ms. Hill stated exactly 80,000 square feet, with 200 feet of road frontage.

Roger A. stated they would have to hold a public hearing on the amended plan. Madge B. stated the board would have to notify everyone in the subdivision as well because they are the ones that could complain about any change to the conditions of the original subdivision. Roger explained why the abutters had to be notified. Roger explained that even if some abutters complained it did not mean the division could not take place but the abutters would need to be heard. Roger stated that after the plan was pre-approved, mylars would need to be drafted. Roger explained about submitting the mylars to the registry, etc.

Note: Ms. Junkins contacted Barbara F. and stated that due to finances she would not be ready this month to hold the public hearing. She would get back to Barbara when she had a specific date to move forward.

Nothing further was discussed.

Conditional Use Permit – Home Occupation – Run Existing Business from Home – Map 14, Lot 15 & 16 (177 Emery Mills Road) – John Gallant, Applicant

Mr. Gallant was present for the review of his application.

Mr. Gallant stated that at the last meeting he was told a gentleman from the DEP wanted to speak with him and discuss the holding tank he had on site. Mr. Gallant stated he spoke with the gentlemen that originally contacted the town office and that person gave him the name of the person who dealt with holding tanks, a Mr. Mike Clark. Mr. Gallant stated Mr. Clark visited the site. Mr. Clark noted that the tank could not be permitted through his office to be used for waste storage because it did not meet the property line setbacks to Map 14, Lot 15C.

Mr. Gallant stated that Mr. Clark recommended he go back to the town to see if there was anything in the town ordinance that would allow him to keep the tank. Mr. Gallant stated that when he put the tank in he got permission from the Code Enforcement Officer at that time. (Note: There is no record of a permit for the holding tank on file in the Code Enforcement Office. During the meeting held September 9th, Mr. Gallant stated he had a “verbal agreement” to put in the hold tank from the CEO.)

Mr. Gallant stated that the current CEO reviewed the zoning ordinance and building codes and he could not find where this type of tank could be permitted to be used for septic storage. Mr. Gallant stated he had several options. Mr. Gallant said one option was he could apply for an after-the-fact permit through the DEP. Mr. Gallant stated instead what he was going to propose was that he would discontinue using the holding tank for household septic storage.

Mr. Gallant stated that he did have contracts with individuals and towns stating he would pump holding tanks and septic systems if they should backup or fail and he was a 24 hour / 7 day a week business. Mr. Gallant stated he worked in the winter. Mr. Gallant, therefore, wanted another addition to his garage to put a truck inside to keep it from freezing. It would be a 30’ x 14’ addition, big enough to put a truck in, and be able to heat it. Mr. Gallant showed the proposed plans for the garage, the proposed office, and parking area.

Mr. Gallant stated he wanted to keep the water holding tank. He stated he would pressure wash it and use it for fresh water storage for the portable toilet truck.

The board members reviewed the plan he presented. Roger A. asked if the new building would set on the holding tank. Mr. Gallant stated no.

Alyssa Laitres asked if the water would freeze in the water holding tank in the winter? Mr. Gallant stated the top of the water would freeze but he didn’t think he would use it much in the winter.

Diane Laitres was concerned with there being such a large operation on a small piece of land. Ms. Laitres thought this business would continue to grow. Mr. Gallant stated he didn’t want it to be much larger.

Roger A. stated another public hearing would need to be held because of the change to the building. Abutters would be notified as well.

Diane Laitres asked how the odor problem could be addressed. Mr. Gallant did not feel there was an odor problem. Ms. Laitres stated perhaps when the business was smaller there was no issue but she had customers commenting on the smell of sewerage while at her business.

CEO McDonough mentioned putting a dry hydrant on the tank for fire protection use. Mr. Gallant stated that he had talked to the CEO about this and had no problem putting one on the tank. Roger A. didn't think the fire dept. would need to use it; there was another dry hydrant in the area. CEO McDonough stated he liked the idea because it guarantees there would be only water in the tank.

Diane Laitres asked what the size of the holding tank was? Mr. Gallant stated 2000 gallons. Ms. Laitres asked if the tank ever got filled. Mr. Gallant stated at times it was almost full. Ms. Laitres asked how many gallons his truck held. Mr. Gallant stated one held 3,300 and one 3,400 gallons. Ms. Laitres stated that they could store the septic in the one truck instead of the tank.

Madge B. asked if the board had an adequate plan on file. Barbara F. stated no, there was no plan on file. Barbara made a copy of the plan Mr. Gallant had in hand.

Ms. Laitres asked about the portable's storage, if he was planning on having them on site. CEO McDonough stated he needed to have the portable storage area on the plan as well as the new building and holding tank, etc. Madge B. wanted to know how many portable toilets would be on site. Mr. Gallant stated he had 84 portables. There have been times when they are all off-site but he owns 84.

Ms. Laitres asked about the ordinance provisions such as traffic, setbacks and screening, odor, etc. Roger A. and CEO McDonough both stated they would review the ordinance and each had to be addressed at that time.

Roger A. concluded a Public Hearing would be held on October 14th. Another Notice to Abutters will be mailed as well.

Nothing further was discussed.

OTHER:

- Roger A. noted the following - Notice of Free Professional Planning Training Opportunity at SMRPC in Springvale on October 8, 2008 at 4:00 p.m.
- Board members discussed having a public hearing for the proposed sign changes, presented by Mr. Stephen Quartarone, to see if there were any other suggestions or comments from townspeople. One will be scheduled prior to the end of the year.
- Barbara F. passed out the proposed changes to the existing Zoning ordinance with respect to Shoreland zoning. She also passed out the changes mandated by the State. Barbara asked the board members to review the Zoning ordinance with respect to both the mandated changes and

typographical errors. Barbara stated this needed to be completed as soon as possible so she could mail a copy to Mike Morris at the DEP, for his review. Barbara noted the “appeals” section was not changed at this time.

- Barbara F. passed out a copy of the Large Water Extraction Ordinance, changes done by Hydrogeologist John Tewhey, hired by the Town of Shapleigh to develop an appropriate ordinance based on his knowledge of water extraction and previous comments at public hearings. Barbara asked members to review the ordinance and make comments for Mr. Tewhey so he can make any necessary changes prior to holding a public hearing. The ordinance will also be reviewed by the town’s attorney. A public hearing will be scheduled prior to the end of the year to present the ordinance to the townspeople.
- Patrick Frasier showed the board members a piece of property that he wanted to split a lot from. He wanted their advice on what would be the best way to split the property and he gave several options. CEO McDonough asked if the property was ever subject to subdivision before? Mr. Frasier stated no. It was noted that the parent lot had been split once before, a year ago, so this third cut would create a minor subdivision.

One of Mr. Frasier’s options was to split the frontage for the best possible building envelope but he wasn’t sure it was possible. Madge reviewed the definition of lot frontage. Roger A. also noted the board avoided lots with multiple frontages whenever possible. Roger did say that because there is an existing home and taking into consideration its location on the property to be divided, perhaps the multiple frontages would be best overall. The board members concluded that both of Mr. Frasier’s proposals could work, but they would prefer to have the entire road frontage contiguous. Mr. Frasier would draft plans and try to have them ready for the next meeting.

- CEO McDonough reviewed Section § 105-73. Conditional use permits. He specifically wanted to note that “any” change to a conditional use permit approved after the ordinance for CUP was adopted must come back before the Planning Board. CEO McDonough stated that only CUP’s that existed prior to the adoption of the ordinance were exempt for “any” changes, instead if they have a 25% increase in floor space or new materials or have processes not previously associated with the existing use, then they too have to come back before the board. CEO McDonough asked if everyone agreed that a CUP approved after the adoption of 105-73 had to come back before the board if “any” changes were made to their approval? Board members agreed he was correct.
- Margaret Moody asked about being a member on the Planning Board. Barbara F. explained the process and all members stated they would be happy to have her on the board.
- **Growth Permit(s) – #02A-09 – Map 32, Lot 27 – Seasonal Conversation – 104 Dogwood Drive**

Note: There are still Growth Permits available.

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

Respectively submitted,

Barbara Felong, Land Use Secretary

SHAPLEIGH PLANNING BOARD MINUTES

Tuesday, October 14, 2008

Members in attendance: Roger Allaire (Chairman), Madge Baker (Vice Chairman), Roland Legere, Lauren Meek (Alternate), Margaret Moody, Diane Srebnick and Barbara Felong (Secretary). Code Enforcement Officer, Steven McDonough was also in attendance.

Note: We would like to welcome Margaret (Maggy) Moody as a new member to the Planning Board.

Planning Board Meetings Being Videotaped – Person taping must inform the Planning Board prior to the meeting.

The following words are not verbatim unless accompanied by quotation marks “ ”.

Public Hearing Began at 7:00 p.m.

Conditional Use Permit – Home Occupation – Run Existing Business from Home – Map 14, Lot 15 & 16 (177 Emery Mills Road) – John Gallant, Applicant

Mr. Gallant was present for the public hearing.

Roger A. stated this was a second public hearing due to the fact Mr. Gallant wanted to put a second addition onto the existing garage, this addition was not discussed or noted at the first public hearing.

Mr. Gallant presented a new sketch plan of his property noting two proposed additions to the existing garage, an equipment parking area for the service trucks, an area to house the portable toilets and a parking plan in the front of the existing garage.

Mr. Gallant stated he would be putting his office on his property, and he would no longer be using the existing 2000 gallon holding tank for sewerage (*Mr. Gallant chose not to apply for an after-the-fact permit for the tank from the Dept. of Environmental Protection*). He said he was going to put an addition on the garage to be able to park his service truck inside so it wouldn't freeze.

Mr. Gallant read a letter he had written for the board members. In the letter he stated that Stoney Road Septic was not a new business. He stated he started building a pumper truck from a truck he bought from Oakhurst Dairy in the fall of 1988. Mr. Gallant stated from 1989 through June of 1992 he ran a part time business from 177 Emery Mills Road. Mr. Gallant stated from June of 1992 right up to present he has been running Stoney Road Septic from 177 Emery Mills Road.

Mr. Gallant believed it was not a secret from anyone in the town that he was doing so. Mr. Gallant stated that since he has been in business, he believed there has been at least four Code Enforcement Officers over the years that he has had previous conversations with. Bill Sergeant, Jim Gerrish, and Steven McDonough. Mr. Gallant stated he has gotten along well with all of them.

Mr. Gallant stated that during the time Jim Gerrish was the CEO, he felt his business was at a disadvantage. He said he had many long time customers who told him that they felt bad but they weren't going to give him the work because CEO Gerrish did the same work and they didn't want to upset him. Mr. Gallant stated that even though it hurt his business he never said a word.

Mr. Gallant stated that over the years he had done work for the Town of Shapleigh. Mr. Gallant stated he had pumped tanks for some in the audience, planning board members and some of the selectmen. Mr. Gallant stated that all that time he was running Stoney Road Septic from 177 Emery Mills Road. Mr. Gallant stated in 2004 Stoney Road Septic moved its office and started Stoney Road Portables at 184 Emery Mills Road. Mr. Gallant stated that Stoney Road Septic still operated from 177 Emery Mills Road.

(Note: According to Planning Board files Mr. Gallant's Conditional Use Permit Application, dated 4/08/04, was for an office for Stoney Road Septic & Stoney Road Portables. There are no other Conditional Use Permits on file for this business.)

Mr. Gallant stated that during a conversation with CEO McDonough in 2004, he was told that if he wanted a sign at 177 Emery Mills Road he would have to get a Conditional Use Permit.

Mr. Gallant stated that over a decade ago, he received permission verbally, to put in a 2000 gallon storage tank for household waste behind his shop. Mr. Gallant stated it has been a great tool and he has used it properly over the years.

Mr. Gallant stated that over the course of the last eight weeks he's been asked by customers about the trouble he was in with the DEP. Mr. Gallant stated that he was not in trouble with the DEP. Mr. Gallant stated that the Planning Board said they received a call from Matt Height of the DEP. He stated Mr. Height claimed he did not call.

Note: On September 9th, Mr. Height of the DEP Portland office left a message for Land Use Secretary, Barbara Felong, asking her to call him regarding a proposed Conditional Use Permit for a septic service. Barbara returned his call and read him the application, as well as what was discussed regarding this application, based on the minutes of August 26th. Barbara then gave Mr. Height the telephone number for Stoney Road Septic so he could discuss this with Mr. Gallant personally. On September 10th Barbara also gave Mr. Gallant's secretary the telephone number for Mr. Height at Mr. Gallant's request at the September 9th planning board meeting. Mr. Height also spoke with CEO McDonough regarding the tank. Mr. Height stated that based on DEP regulations he could not permit the tank in its current location but thought perhaps the town could under the local plumbing code. CEO McDonough, after reviewing the plumbing code, told Mr. Gallant he could not permit the tank to hold septic waste.

Mr. Gallant stated that the rumors have been damaging to his business and his character.

Mr. Gallant asked if there were any questions?

Mrs. Diane Laitres, the direct abutter to Mr. Gallant's property, stated she wanted to respond to his letter. She said there was no question regarding his character or business practices. She stated all she was trying to do was protect her business. Mrs. Laitres stated her business was located next to a potentially hazardous business and she felt he was desensitized to what he did. She asked Mr. Gallant if he would have dinner next to a toilet. Mrs. Laitres stated that was how it felt to us. Mrs. Laitres stated he did not think she was being unreasonable, she was trying to protect her business. Mrs. Laitres stated that she thought Mr. Gallant was a very nice man and this was not personal.

Ms. Citizen stated, "You knew that the business was there. You are not a dumb person."

Mrs. Laitres replied stating that she knew the business was across the street and she agreed she was not a dumb person.

Ms. Citizen stated she should have taken this into consideration before buying her property and she believed Mrs. Laitres was insulting Mr. Gallant. Ms. Citizen thought she was also insulting the many citizens who bought food at Emery Mills Market for years.

Mr. Citizen stated that Mr. Gallant had an established business going on 20 years. Mr. Citizen thought Mrs. Laitres wanted everything to evolve around her. Mrs. Laitres stated that it wasn't true. Alissa Laitres stated they were looking for a good business relationship. Mr. Citizen stated they were going about it in the wrong way.

Mr. Citizen stated that the previous owner, Mr. Rodrique, worked there for years and had a good relationship with Mr. Gallant. Mr. Citizen stated he would like this matter resolved because it was irritating a lot of people. Mrs. Laitres stated there were only three people with her to discuss this matter; she did not have an army. She agreed she would like the matter resolved and she stated she tried to work with Mr. Gallant one on one but it was impossible.

Mr. Gallant's brother stated he saw a new individual moving next door to his brothers business. He stated that he watched his brother work out of his house since 1977. Mr. Gallant's brother stated that Mrs. Laitres bought the neighboring store and house. He said that due diligence should have been accomplished before she bought the property if she felt anything was close by that wasn't in her best interest. Mr. Gallant's brother stated that Mrs. Laitres said she talked to her appraiser and the appraiser said there was a business across the street. He thought the business across the street was even closer to her business. He asked if Mrs. Laitres would prefer the portable toilets parked within 50 feet of her business? (Note: *Currently Stoney Road Portables has approval to house all portable toilets behind a fenced in an area located on the Simon Ricker Road only. This location was approved because the portables would not be seen from Route 109 and the fence would hide them from the neighboring property on Simon Ricker Road.*)

Mr. Citizen believed Mrs. Laitres received bad information from her appraiser and she should go back to her appraiser, he is insured. He thought she should go at it from a legal point of view. Mr. Citizen believed Mrs. Laitres made a mistake.

Alissa Laitres stated she had lived in the town for a very long time and she said she knew Mr. Gallant's business was there. Ms. Laitres stated that when the application was presented their concern was why is Mr. Gallant pumping into a tank in the ground they did not know about. Ms. Laitres stated also she didn't know he operated his business from 177 Emery Mills Road. She thought his business was across the street at 184 Emery Mills Road. Mrs. Laitres added that in the approval for the business at 184 Emery Mills Road it states all the portable toilets are to be hidden from the road. Mrs. Laitres stated that everything was supposed to be behind a fence in the field (off Simon Ricker Road). Mrs. Laitres stated that this was not visible to her store or anybody but the neighbors on the Simon Ricker Road. Mrs. Laitres stated she was not given bad information.

Mrs. Laitres stated that her appraiser stated that given the size of Mr. Gallant's current property, topographically, due to the hill, it is not the right piece of land for what he is proposing / doing so she didn't expect it. Mrs. Laitres stated she was not given bad information. She did not think this would be happening based on what she knew.

Alissa Laitres stated that when she purchased her home and did the walk-thru, she never saw any portable toilets located at 177 Emery Mills Road. Ms. Laitres stated she therefore didn't realize he was actually practicing his business from his home. Ms. Laitres stated it was assumed it was at 184 Emery Mills Road.

Citizens kept talking out of term so CEO McDonough asked that the citizens raise their hand and address the Planning Board through the Chairman.

Madge B. asked if there was anything new that the board members had not heard about this application? Roger A. didn't believe so. Madge didn't feel the board members needed to hear neighbors dispute. Madge asked the citizens if there was any new information about Mr. Gallant's application that the board hadn't heard.

Roland L. asked if in the eyes of the town, they recognize Mr. Gallant operating in two separate locations? Barbara F. asked if he meant was there a permit for two separate locations? She said, if that is the question, the answer is no, there is only an approved permit for 184 Emery Mills Road.

Mr. Gallant stated that was correct, he was running the office from 184 Emery Mills Road. Mr. Gallant stated he has run Stoney Road Septic from 177 Emery Mills Road for a long time. Mr. Gallant stated that CEO McDonough, in 2004, stated if he wanted to put a sign up he needed to get a Conditional Use Permit. Mr. Gallants stated that at the time CEO McDonough did not say he was going to close his business down or that he had to move his trucks. Mr. Gallant stated that Stoney Road Portables was run by his brother and when he didn't want to do it anymore he took it over.

Mr. Gallant stated that if he had to get a Conditional Use Permit that is why he is here.

Public Hearing closed at 7:20 p.m.

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

The minutes from Tuesday, September 23, 2008, were accepted as read.

Conditional Use Permit – Home Occupation – Run Existing Business from Home – Map 14, Lot 15B & 16 (177 Emery Mills Road) – John Gallant, Applicant

Mr. Gallant was present for the review of his application.

Madge B. asked if CEO McDonough could tell the board what happened to bring Mr. Gallant to this point. Madge asked if Mr. Gallant came to his office proposing an addition to his garage? CEO McDonough stated that was correct. Madge asked what happened next? CEO McDonough stated that Mr. Gallant proposed an office and so he said to Mr. Gallant that he needed a Conditional Use Permit.

Madge B. asked if there wasn't anything on file about this business (at 177 Emery Mills Road). CEO McDonough stated that was correct. Madge stated that she was on the board when the property across the street was issued a CUP. Madge stated again for the record, there isn't anything on the file for 177 Emery Mills Road for this business? CEO McDonough stated again, "That is correct."

Diane S. asked what the status was with respect to the Dept. of Environmental Protection, have they been to Mr. Gallant's property? CEO McDonough stated yes and that Mr. Gallant was told he would need to apply for an after-the-fact permit from the DEP. Mr. Gallant said yes for septic use, he was going to use the tank for a water supply.

Madge B. asked if there was a permit required for a holding tank for water? CEO McDonough stated that he was not aware of any. CEO McDonough stated a water holding tank in his eyes was no different than a cistern to hold water. Madge agreed.

Madge B. stated the application is to put two additions on the existing building. Madge stated also he needs a CUP for his business. Madge asked if the board had all the information they needed for the business? Roger A. stated that with the plan and knowing what the business is, he thought so.

Madge B. asked if the board knew how many trucks would be on site? Madge asked if the board knew the size of the area to be used and the fact no one could back out onto Route 109. Roger A. stated that was the reason for the horseshoe driveway, so the trucks could go in one side and come out the other.

Diane S. asked how many trucks were on site? Mr. Gallant stated he had two pumpers and two for portables. Mr. Gallant stated he would like approval for up to three pumper trucks and three for portables. Diane looked at the sketch plan Mr. Gallant gave to the board. Mr. Gallant explained the trucks would be parked in the rear of the property, along with the portable toilets. Customer parking would be in the front.

Madge B. asked if there was any earth moving? Mr. Gallant stated yes, he wanted to level out the rear of the property for the truck parking area. Madge asked if he would be bringing in any gravel. Mr. Gallant stated not right now.

Diane S. asked if he was going to be giving up the CUP across the street? Mr. Gallant stated eventually but not at this time because he did not know when he would be moving the business. Roger A. explained the CUP runs with the land, not Mr. Gallant, so it would be in effect until the business closes for a year.

Madge B. asked how portables are serviced? Roger A. stated they were emptied wherever they were located, they are not transported full. Madge asked if they were emptied into the pumper truck? Mr. Gallant's brother stated the portables are cleaned when stored. They are cleaned on the site. He stated there was a tank on the portables truck that held sewerage and water. He stated when he went to the site the material was removed.

Roger A. read another letter from Alan and Paulette Courage of 195 Emery Mills Road. This letter addressed once again the fact they believed Mr. Gallant's property posed no problems for the community. The letter also stated at times trucks from other businesses blocked their driveway and a picture of a truck was supplied. It was noted that the truck in the picture was located on Rte. 109, not on Emery Mills Road where their driveway was located.

Roger A. reviewed and read the following zoning ordinance standards:

- 105-17 – Land uses. *This business is a permitted use in the General Purpose Zone. The applicant shall show evidence to the Code Enforcement Officer the property used for this business is not in the Shoreland Zone.***
- 105-20 – Applicability of standards; prohibited uses. *Roger A. said this business shall no longer use the 2000 gallon holding tank on site for septic waste.***
- 105-21 – Traffic. *Traffic will have safe access due to a horseshoe driveway. Roger A. noted the site distance requirement in this location was 245'. (No actual site distance calculations were submitted by Mr. Gallant.)***

- 105-22 – Noise. *There shall be no excessive noise generated by this business. The only noise will be when the trucks are operating.***

Roger A. noted that there would be no pumping of waste into the existing holding tank so noise would be minimal. Roger stated there would be noise while using the portable water. Mr. Gallant stated he would be transferring waste from one truck to another. Roger asked how much time that would take? Mr. Gallant stated less than an hour a day.

Mrs. Laitres asked Mr. Gallant if he would pull the trucks forward when starting to reduce the noise at Alissa Laitres's home. Mr. Gallant stated the trucks would not move until they were warmed up.

Roland L. asked if the pump was a separate motor from the truck? Mr. Gallant stated it ran from a power take-off the engine. Roland asked if the trucks would be running outside of the hours of operation? Mr. Gallant replied that the trucks start around 7:00 a.m. and go to 5:00 p.m. Mr. Gallant did state there were times they had an emergency at other hours.

Roger A. noted the noise rating so everyone would be aware what was allowed.

- 105-23 – Dust, fumes, vapors and gases. *Roger A. believed there would be none generated once the 2000 septic holding tank was no longer used to transfer household waste.***
- 105-24 – Odors. *Roger A. and Diane S. expressed the belief there would be none generated once the 2000 septic holding tank is no longer used to transfer household waste.***

Mrs. Laitres wanted it noted that the Planning Board had on file 19 signatures attesting to the fact that at her place of business, 191 Emery Mills Road, "I have smelled a strong odor of raw sewerage. This smell occurs at different times of the day with no consistency as to the day or time." Mrs. Laitres asked if discontinuing the use of the tank would stop the odors? Roger A. stated yes.

- 105-25 – Glare. *There is an existing light on the front of the building.***

Mr. Gallant stated he wanted a night-light on the rear of the building and a light over his sign. Roger A. read the ordinance noting to Mr. Gallant no strong light can go beyond his lots lines.

- 105-26 – Stormwater runoff. *Roger A. noted that where the new buildings would be is a flat area, there would be no excavating to create a runoff problem and the portable toilet area would be over the leach field. Mr. Gallant stated he would put grass over the leachfield area or try to.***
- 105-27 – Erosion control. *Roger A. stated that due to the topography there would be no runoff going toward Mousam Lake. Roger believed it would be contained on site.***
- 105-28 – Setbacks and screening. *Roger A. stated trees along the edge of the property created screening.***

Alissa Laitres stated that there were not many trees in the back of his lot. Ms. Laitres stated she felt some type of screening needed to be put up. Mrs. Laitres thought a fence.

Diane S. read 105-43, Off-street parking and loading, under D, “Landscaping. Required parking and loading spaces for residential uses, where not enclosed within a building, shall be effectively screened from view by a continuous landscaped area not less than eight feet in width containing evergreen shrubs, trees, fences, walls, berms or any combination thereof forming a visual barrier not less than six feet in height along exterior lot lines adjoining all residential properties, except that driveways shall be kept open to provide visibility for vehicles entering and leaving.”

In Diane’s opinion if there wasn’t adequate screening Mr. Gallant would have to put some in. Diane stated it was his choice what he would like to do.

Mrs. Laitres asked what Mr. Gallant was going to do. Roger A. stated it would be addressed when he got to that section of the ordinance.

- 105-29** – Explosive materials. ***There are no explosive materials associated with this business.***
- 105-30** – Water quality. ***N/A***
- 105-31** – Preservation of landscape; landscaping of parking and storage areas.
- 105-32** - Relation of proposed building to the environment. ***The proposed building will fit in well with the surrounding area.***
- 105-33** – Refuse disposal. ***Roger A. stated there was none proposed for this business, there was the transfer of waste and it will be deposited in South Berwick.***
- 105-34** – Access control on Routes 109 and 11. ***The entrance to the property is in existence.***
- 105-35** – Accessory building. ***Madge B. asked if the required side setbacks would be met? Roger A. stated yes. Mrs. Laitres asked Roger if the proposed shed was considered an accessory building instead of part of the garage? Roger stated it was going to be an addition onto the shop. Madge stated after looking at the sketch plan, it met the setback, it was going to be 36 feet from the lot line so it meets all the setback requirements. CEO McDonough stated the setback was 25 feet for the primary structure and 10 feet for an accessory.***
- 105-39** – Earth removal and filling. ***Roger A. stated this would pertain to the parking area for the service trucks. Roger asked Mr. Gallant how much higher he would be building it up? Mr. Gallant stated the area in question would be tapered down, not higher.***

Madge B. asked if this area was in the shoreland zone? Madge asked if the shoreland zone came into any area used for this business? CEO McDonough pulled out the town map. CEO McDonough stated after reviewing the map that the board would need the applicant to determine where the 250 foot mark was. CEO McDonough stated at a minimum Mr. Gallant needed to explain how it is he is assured he is in the General Purpose District.

Note: Part of Mr. Gallant’s property is within 250 feet of the water and it could not be determined looking at the map where the 250 foot line was and if the proposed service truck parking area or portable toilet storage area would be within the 250 feet.

Madge B. explained to Mr. Gallant that the board needed to know if any of the property within 250 feet of the normal high water line would be impacted by his business. Madge did not feel the building was an issue but she was concerned about the parking area.

Madge B. read 195-39.D “Earthmoving in the Shoreland District. Any filling, dredging or excavation of land above or below the normal high watermark, except earthmoving of less than 10 cubic yards which shall require a permit from the CEO to ensure proper erosion and sedimentation, shall require a conditional use permit from the Planning Board.”

Madge B. stated she felt the board had to make sure there would be no runoff. Madge said that Roger noted there would be no runoff toward the lake because of topography but she wondered if the board could be equally assured there would be no runoff toward neighboring properties?

Madge B. stated she was not an engineer, she didn’t know. Roger A. stated there was a stone wall between Mr. Gallant and Alissa Laitres. Madge stated that the board had to find that proper erosion and sedimentation control would be in place. Madge stated she was not willing to say those measures exist. Roger continued to talk about the stone wall and he believed the wall would keep sediment from going onto neighboring property. He did state water could pass over property lines but not sediment.

Madge B. asked Mr. Gallant if he knew how much material (earth) he would be moving? Would it be less than 10 cubic yards? CEO McDonough still thought the bigger question was whether or not part of the property to be used for the business was in the shoreland zone. No commercial activity is allowed in the shoreland zone.

Roger A. stated the actual business was outside of the shoreland zone. Madge B. stated correct. Roger agreed the parking area and the portable toilet storage area could be in question.

Madge B. wasn’t certain she wanted to approve the application without having this figure.

105-43 – Off-street parking and loading. *There shall be adequate parking area for patrons and employees per the plan provided, a minimum of six spaces are required and they are shown on the plan.*

105-46 – Sanitary provisions. *There shall be a bathroom in the new office for employees along with a new septic system.* Madge B. noted another reason to measure the 250 foot mark was with respect to the new septic system. Roger A. stated it would meet the criteria, it would be a new system and the setback was 100 feet. Madge agreed.

Madge B. stated it would be a good idea to establish the 250 foot mark because it would help with future use of the property with respect to 105-51 “Clearing of vegetation for development.” in the shoreland zone. Madge stated the board has to assume at this time he will not clear vegetation within 100 feet of the shoreland zone. Roger A. read 105-51.A of the ordinance so Mr. Gallant would be aware of the restrictions.

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. ***Roger stated, it will not.***

- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. **Roger A. stated Mr. Gallant was going to allow the Town of Sanford to access the existing dam over his property, thus allowing access to the Mousam Lake.**
- 3) The use is consistent with the Comprehensive Plan. **It is, the Comprehensive Plan encourages business along Route 109.**
- 4) Traffic access to the site is safe. **It is, Roger A. stated the minimum site distance of 245 feet could be met in both directions.**
- 5) The site design is in conformance with all municipal flood hazard protection regulations. **Roger A. stated, it is.**
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. **Roger A. stated the waste brought onto the site shall be deposited in South Berwick.**
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. **Roger A. stated the only hazardous material would be the sewerage and it would be contained in the trucks to be transported from one vehicle to another only, then on to South Berwick. Mr. Gallant noted sewerage is not a hazardous material. Madge B. agreed.**
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. **Roger A. noted there was no actual design on file.**
- 9) Adequate provisions to control soil erosion and sedimentation have been made. **Roger A. stated Best Management Practices would be used during the building of the additions.**
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. **There is an existing dry hydrant located within 1000 feet of the property. Madge B. noted there would also be a 2000 gallon water holding tank on site.**
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. **Madge B. asked if there needed to be a buffer plan? Do we have a proposal from Mr. Gallant? Mr. Gallant stated he would do either trees or a fence. Mr. Gallant asked if it needed to be decided this evening? The board answered yes unless you want the board to table the application until the next meeting. Diane S. noted it had to be no less than six feet in height. Mr. Gallant stated he would put up an eight foot fence. Board member agreed this would be adequate.**
- 12) All performance standards in this chapter applicable to the proposed use will be met. **Roger A. believed they would with attached conditions.**

Roger A. said one of the conditions was there would be three pumper trucks and three portables trucks on site. Another, the holding tank will be for portable water only.

Diane S. stated a fence would be constructed between Mr. Gallant's property and Mrs. Laitres's property. In addition, no construction shall begin on the truck parking area until the 250 foot mark is determined.

Alissa Laitres asked what the height of the fence would be? Diane S. said no less than six feet according to the ordinance. Ms. Laitres asked if she could request the fence be eight feet in height so they could not see over it. Ms. Laitres asked if the height of the fence was between her and Mr. Gallant or if the board would determine it. Roger A. stated it was between her and Mr. Gallant to determine. CEO McDonough said that the ordinance states the fence has to do the job of effectively screening the area so it's up to the planning board to determine if the six foot fence would be adequate.

Alissa Laitres stated that her partner Tim Aballo was over six feet tall and so he would be able to see over

a six foot fence so again she was requesting an eight foot fence. Roger A. didn't think Mr. Aballo would be going up to the fence to look over it. Mrs. Laitres stated she talked to several people regarding screening and another alternative is to put up a short run of fence then add trees so you have a visual barrier but it looks natural. Mrs. Laitres stated she spoke with Mr. Gallant about this idea on Saturday.

Mr. Gallant stated he was willing to work with Mrs. Laitres. Diane S. stated he could use trees. Mrs. Laitres stated that would cost Mr. Gallant more. Mr. Gallant stated he could get fence prices and perhaps Mrs. Laitres could chip in on it. Mrs. Laitres stated her business didn't have an impact on his so she didn't feel she had to create the screening.

Mr. Gallant's brother believed the area they were talking about screening was next to Ms. Laitres's house and not Mrs. Laitres's business. He did not see why there needed to be a fence there. Diane S. stated it did not matter if the neighboring property was a business or a house, according to the ordinance there had to be an effective screening from view to the neighboring properties, period.

Madge B. stated the fence didn't need to be from the road back, just from Mrs. Laitres's storage sheds to the rear of the property. Roger A. stated yes. Diane S. read 105-43.D once again.

Roland L. asked what the height of the fence would be? Madge B. stated eight feet in height to create a visual barrier. Roger A. believed that because the application was dealing with commercial and not residential, Zoning Ordinance 105-28 "Setbacks and screening" applied. This ordinance also deals with visual screening; it reads in part, "shall have sufficient setbacks and screening to provide a visual buffer sufficient to minimize their adverse impact on other land uses within the development area and surrounding properties (a dense evergreen hedge, six feet or more in height).

Roland L. asked if it was an 'either / or' situation, either dense vegetation or a fence? Roger A. believed the fence would be effective, taking the place of dense evergreens. Mrs. Laitres stated it was suggested to her that doing a short run of fence mixed with evergreens would create a visual barrier as well as clean the air. Mrs. Laitres said if the trucks are parked along the boundary line between Alissa's house and his property it would help take some of the odor from the diesel trucks running away or when he has to transfer sewerage from one truck to another, it would help with that odor as well. Mrs. Laitres stated she got this information from the secretary of George Robert's in Sanford, a business that sells septic tanks. Mrs. Laitres stated she wasn't sure trees alone would create a visual barrier unless arborvitaes were used. Roger stated the ordinance specifies evergreens, but the board is looking at having him use a fence in lieu of the evergreens.

Madge B. stated it would be best if Mr. Gallant and Mrs. Laitres decide what would work best. She said if they have an agreement, then we can see if the board agrees it will be an effective screen. Mr. Gallant agreed to a fence, he wanted to know how high. Roland L. asked, "If the ordinance says six feet why would we ask for more?" CEO McDonough stated the ordinance doesn't say six feet, it says a "minimum" of six feet. Roger A. agreed. Diane S. stated the board could require twelve if that was best. CEO McDonough agreed and added that it doesn't say six feet is effective screen it says a minimum of six to effectively screen. CEO McDonough stated that is why the board has to review the application / location to determine if the six foot fence is an effective screen. Roger stated you had to consider topography, etc. CEO McDonough agreed, he said if you were standing on top of a hill and looking at a six foot fence it would not be adequate and if on the board I would say that absolutely is not an effective screen. Roland asked if the board needed to do another site visit to determine it. CEO McDonough said no, I think everyone can come to an agreement on what would be an effective screen. CEO McDonough stated, I am just saying you cannot say the book says 'six foot fence' so that is what is required. Roland

stated his interpretation was that if a minimum of six feet is acceptable then that is what he would support. He also added if the abutters wanted to have trees they could put it on their side of the fence.

Roger A. asked the applicant and Mrs. Laitres if they decided what they want to do for the screening. Diane S. asked if they wanted trees or a fence? Mr. Gallant asked if he had the choice. Roger and Diane stated yes. Mr. Gallant stated he wanted to put up a fence. Mrs. Laitres stated she understood Mr. Gallant was concerned about the cost and she knew trees would be more expensive. Mrs. Laitres asked what type of fence he would put up? She added that if he could only afford a six foot fence he could raise it a foot or so off the ground which would make the fence higher. Roger and Diane agreed a minimum of eight feet for a fence would be adequate.

Barbara F. stated the conditions she had noted are as follows: hours of operation, parking for six patrons, parking for service trucks, holding tank for water only, construct an eight foot fence and no construction of the rear parking area until 250 feet from the high water mark can be determined. Diane S. added that this information needed to be given to the CEO. Roger A. agreed.

Madge B. stated the board still had one standard that wasn't concluded, 105-26 "Stormwater runoff." Madge read the ordinance; "Surface water runoff shall be minimized and shall be detained on-site if possible and practicable. If it is not possible to detain water on-site, downstream improvements to the channel may be required of the developer to prevent flooding caused by this project. The natural state of watercourses, swales, floodways or rights-of-way shall be maintained as nearly as possible. The design period is the fifty-year storm (the largest storm which would be likely to occur during a fifty-year period)."

Madge B. stated it has not been determined how this applicant will meet the standard. Roger A. stated up until this date there has been no issues on the property. Roger said that there has been a 50 year storm and a 100 year storm and there was no issue. Roger stated he did not feel the buildings he was adding would create an impact. Roger said the parking area might be the only concern but Mr. Gallant said the grade isn't going to be any higher than what is currently there.

Mrs. Laitres asked if there were going to be shed roofs on the additions. Madge B. asked about the runoff from the new roofs. Roger A. stated it would be the same amount of area. Madge stated it would not; the roof area was going to be increased in two locations on the property. Madge stated she was unable to say the board has found there would not be any runoff.

Mr. Gallant's brother stated with respect to the water holding tank he used approximately 150 to 200 gallons of water a day. The gentleman stated if there was a runoff he was looking at about 800 or 900 gallons coming off the roof so he said to consider that in the normal flow. (Assuming he meant he would be using roof water for the tank) the gentleman stated that would be water that didn't go onto the ground. He stated that the holding tank created a 2000 gallon catch basin.

Mrs. Laitres asked if there was a downspout to the holding tank? Mr. Gallant stated he was going to try to capture the water from the roof. Mrs. Laitres asked if he was telling the board he was going to have a pipe going into the tank to capture the water? Mr. Gallant stated, eventually.

Roger A. asked if the roof was going to be a shed roof? Roland L. asked if there would be a gutter directing the water into the area? Mr. Gallant said yes, a gutter to the area.

Roger A. again said he could not see where there would be an issue with a fifty year storm. Madge B. still did not see that it was determined.

Diane S. made the motion to approve the operation of Stoney Road Septic and Stoney Road Portables from 177 Emery Mills Road, with the following conditions:

- 1) All sewerage in the existing 2000 gallon holding tank shall be removed immediately. From this approval forward there shall be no sewerage placed in the 2000 gallon holding tank. The tank shall be used for water only.*
- 2) A fence shall be constructed along the boundary with Tax Map 14, Lot 15C, starting at the rear of your property, Map 14, Lot 15B, extending to the existing storage shed(s), located on Map 14, Lot 15C. The fence shall be a minimum of eight feet in height.*
- 3) No construction shall commence on the parking area for the pumper and portables trucks until it is determined by you that you are not within 250' of the normal of water line of Mousam Lake. This information shall be given to the Code Enforcement Officer as soon as possible.*
- 4) A parking area shall be created for a minimum of six patrons per the plan presented.*
- 5) There shall be no more than three (3) septic pumper trucks and three (3) portable service trucks on site at any one time.*
- 6) The hours of operation for the office / patrons shall be 7:00 a.m. thru 5:00 p.m., Monday through Saturday. The hours of operation for the service trucks shall be 7:00 a.m. thru 10:00 p.m., seven days a week.*

Roland L. wanted it noted he felt the eight foot fence put an unnecessary burden on the applicant.

Roland L. 2nd the motion. All members were in favor. The motion passed unanimously.

Nothing further was discussed.

Application for a Minor Subdivision – Map 12, Lot 32A-1 (Newfield Road) – Patrick Frasier, Applicant

Mr. Frasier was present for the review of his application.

Mr. Frasier presented the board with a sketch plan to split a lot from Map 12, Lot 32A-1. Mr. Frasier explained that the odd shape of the lot was due to the fact there was only a small area on the property that was buildable. In the buildable area the road frontage is limited to 132 feet so he had to extend the proposed lot behind the existing home, wrapping it around, in order to meet the 200 foot road frontage requirement for the new lot.

Roger A. asked how many lots were being created. Mr. Frasier showed two existing lots and he wanted to do a third split, thus creating a minor subdivision.

Roger A. stated the board tried to stay away from odd shaped lots, per the ordinance, but due to the topography and to obtain the necessary frontage it may be acceptable.

Roger A. stated the board would need to do a site inspection. Roger said at that time the board could determine what contours should be on the plan.

The board agreed to meet on site, Saturday October 25th at 9:30 p.m. Mr. Frasier stated he would meet members there if they preferred.

Mr. Frasier asked what the board required for a minor subdivision. Roger A. told Mr. Frasier to read the ordinance and decide what he would want for waivers, the board could not determine that.

Roger A. stated some typical waivers were for underground utilities, sidewalks, and granite markers. Nothing further was discussed.

OTHER:

- **Board members welcomed Maggie Moody to the board!**
- Lauren Meek had to step down as a regular member and Vice Chairman due to her schedule.
Diane Srebnick nominated Madge Baker to be Vice Chairman of the Planning Board. Madge accepted the nomination. Roland Legere 2nd the motion. All members were in favor.
- **Board of Appeals Section of the new Shoreland Zoning changes.** Barbara F. explained that Madge B. and the Zoning Board of Appeals reviewed the State's version for the appeals board and it was decided the State's version was acceptable and easy to follow. Barbara stated that after typing up the State's version she noticed Shapleigh had a section in the ordinance called "Appeals procedure" and another named "Appeal procedures". Because the State's version does not separate into individual sections, Barbara requested that members review the State's vs. Shapleigh's and see what if anything we needed to add to the State's version to satisfy both the planning board and the zoning board of appeals. Madge B. stated she would contact Charles Gruber of the ZBA and discuss the issue with him.
- **Growth Ordinance Information Received from Southern Maine Regional and Bill Brockman the Business Mgr. for SAD #57.** Barbara F. explained what areas needed to be revised and asked members to review and have comments for the next meeting. Members would need to determine the number of growth permits allowed. Southern Maine Regional gave the suggested growth numbers based on their assessment of growth in the region. Barbara also said there needed to be a public hearing on any changes made, prior to the end of the year.

Diane S. said that SMRPC thought 35 growth permits per year would be adequate. She noted at this time there were still nine available growth permits. Diane believed housing was definitely tied to the economy. Because of this, past growth data, and the fact there were available growth permits, she believed 35 permits was adequate. Roger A. reminded members that there were also two permits available for Habitat for Humanity, which would make the total number of permits available 37. Roger stated he would not have minded reducing the existing number allowed based on the number of permits available at this time. He said he had no issue increasing by one however. Roger added that the number of 35 suggested by SMRPC was based on the 105% criteria mandated by the State, allowing for growth.

The other board members will review the data and it will be discussed at the next planning board meeting.

- **Growth Permit(s) – #13A-08 – Map 8, Part of Lot 62-1 – Ross Corner Road
#04A-08 – Map 32, Lot 10 – Seasonal Conversion – 19 Dahlia Road**

Note: There are still Growth Permits available.

- **Board members were given the Shoreland Zoning Ordinance changes.** Barbara F. asked the members to please review for the next meeting. Maggy Moody after reviewing section 105-4.D(1), noted the following (double underline): (1) Expansions. A nonconforming structure may be added to or expanded if such addition or expansion does not increase the nonconformity of the structure. If proposed addition or expansion of a nonconforming structure cannot meet the dimensional requirements of this chapter, a variance shall be applied for in accordance with the procedures set forth in this chapter. If any portion of a structure is less than the required setback from the normal high-water line of a water body, or tributary stream, or the upland edge of a wetland, that portion of a structure shall not be expanded as measured in floor area or volume by 30% or more during the lifetime of the structure. ~~No structure which is less than the required setback from the normal high-water line of a water body, tributary stream or upland edge of a wetland shall be expanded toward the water body, tributary stream or wetland.~~ **If replacement structure conforms with the requirements of Section 105-4.D(5) and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date.**

Maggy M. stated that as she understood the rule, that you can expand a structure 30% but not more. She thought the ordinance as written would lead you to believe you can't do 30% or more. Maggy thought it should be worded as by more than 30%. CEO McDonough agreed, as it is written someone could assume the expansion allowed was only to 29%. Maggy said yes, if someone wanted to get really picky about how it is worded.

It was noted this notation is most probably in more than one place so it needs to be changed wherever it reads as above.

The board will continue to review the changes to the Zoning Ordinance for content and typos. The ordinance will then have to be reviewed by the Maine DEP and a public hearing will need to be held prior to the end of the year.

- **Large Scale Water Extraction Ordinance** – Roger A. stated the only issue he had with the new version of the ordinance was a lack of ability by the town to stop the operation if all criteria isn't met. Roger said that when the required paperwork is provided to the town, it needs to come on a timely basis and if it doesn't, the town should be able to shut them down. Roger A. stated if the information isn't provided on a timely basis, the town cannot monitor the operation.

Roger A. stated another issue he had was if they have an extraction point that they no longer want to use, the town should be notified where it is and why it isn't being used.

Roger A. stated he also wanted it noted that no new extraction points go in without PB approval. Roger didn't want a number of points to get approved and have the company be able to go to another location based on a number. They should only be able to move a point after explaining why to the board.

Maggy M. thought a condition could read if one extraction point goes dry you cannot drop another point without coming back before the PB. Roger said yes.

Roger A. stated he wanted to pass this information along to John Tewhey. Barbara F. will do so. Roger A. noted Lauren Meek's comment regarding the three year renewal, "does the applicant

have to renew the CUP through the same process”. Roger thought it would be good to have the applicant give the PB a summary of the previous three years production. Roger did not think the three year review should have to review 100% of the initial requirements, just a review of what has taken place the previous three years. Madge B. agreed, the PB doesn’t need all the information all over again.

Madge B. stated also the trucking and condition of the roads should be looked at. Roland L. asked if the applicant initiates the review or the board? Roger A. stated it is up to the applicant to present the information prior to the three years being up. Roger stated it is the same at this time with gravel pits. It is up to them to come back before us on their own. If they do not, they lose their permit. Roger said as long as the board has a review application before them and the time period expires, they are still ok because they notified the board. Roger said if they do not contact us within the three years, the permit will become null and void and they will have to start over with a new permit.

Nothing further was discussed.

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

Respectively submitted,

Barbara Felong, Land Use Secretary

SHAPLEIGH PLANNING BOARD MINUTES

Tuesday, October 28, 2008

Members in attendance: Roger Allaire (Chairman), Madge Baker (Vice Chair), Roland Legere, Lauren Meek, Maggie Moody and Barbara Felong (Secretary). Code Enforcement Officer, Steven McDonough was also in attendance. Note: Roland Legere was unable to attend the meeting until after 8:00 p.m.

The following words are not verbatim unless accompanied by quotation marks “ ”.

Public Hearing Began at 7:20 p.m.

Application for a Minor Subdivision – Map 12, Lot 32A-1 (Newfield Road) – Patrick Frasier, Applicant

Mr. Frasier was in attendance for the Public Hearing.

Mr. Frasier showed board members the preliminary plans which included the parent lot, and the proposed two additional lots. Two lots will have houses on them at the time of the division, the third lot, known as “remaining land”, consisting of 161,273 sq. ft. will not at this time. This third lot has a test pit shown and Mr. Frasier noted that where the test pit is located is the only place on the lot that is suitable for a septic system due to the high water table and stream that exists on the property.

Mr. Frasier noted that the third lot would have 234+ feet of road frontage on one side and an additional 120+ on the other side. (Note: The lot has road frontage that is broken up due to the fact that one side of the lot cannot house a septic system so in order to have the required road frontage, the new lot is wrapped around one of the built-on lots.)

There were several abutters in the audience that reviewed the plans. They had no questions for Mr. Frasier.

Lauren M. asked the location of the septic system for the existing home. Mr. Frasier pointed it out on the plan.

Chairman Allaire noted the reason for the odd shaped lot for the abutters. Mr. Frasier also noted the existing brook and why the lot isn't buildable in that location. Mr. Frasier told the abutters that they were welcome to walk the lot and he would meet them there to explain the location of lot lines if they would like him too.

Chairman Allaire stated the plan still needed the soils for the area.

Mr. Frasier asked if the board was going to require the topography. Chairman Allaire stated yes, it was a requirement for a minor subdivision. Chairman Allaire stated the 7 ½ minute USGS map was sufficient. Chairman Allaire noted the area was very flat.

Chairman Allaire reminded Mr. Frasier the final plans needed to be mailed to board members seven days prior to the scheduled meeting he wanted to attend.

Madge B. asked the history of the parent lot. She asked if he acquired the whole lot and divided it into two lots? Mr. Frasier stated, yes. Mr. Frasier stated that he bought one piece under Frasier Property Development then the second lot was owned by Pat Frasier. Mr. Frasier stated that he built one house and sold the lot, then built a second house and it is sold. Mr. Frasier stated he is trying to get one more lot to put a house on. Madge thanked Mr. Frasier for his explanation.

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

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

The minutes from Tuesday, October 14, 2008, were accepted as read.

Chairman Allaire stated he was unable to attend the next board meeting scheduled for November 11th. Chairman Allaire noted that the 11th was Veteran's day. Madge B. (Vice Chairman) was unable to attend the 11th or the 12th so the board members agreed to postpone the meeting to Tuesday, November 25th. It was noted that there was nothing on the agenda for November 11th at this time.

Shoreland Zoning Changes

Barbara F. stated that she would like to send the Shoreland Zoning changes to Mike Morse of the DEP unless board members found any changes they would like to make. In addition, a public hearing needed to be scheduled for the proposed changes as well as the new shoreland zoning map.

Madge B. spoke about the changes to the appeals board section of the zoning ordinance, § 105-71 & § 105-72. (The Planning Board opted to adopt the State's version for the appeals boards, as well as leaving in some of what currently exist in Shapleigh's ordinance today.)

Madge B. stated with respect to 105-72.C(1) "Decision by Board of Appeals" the last sentence should read as follows:

- (1) A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal. **A majority vote of the full voting membership is required to grant a variance or approve an administrative appeal.**

Madge thought this is what the State had in mind. Chairman Allaire agreed, citing this is what the Planning Board did as well. It had to be a majority of the voting members. CEO McDonough stated that is what he believed should be in place, thus if only three appeals members were at the meeting they would all have to vote in favor of the appeal for it to pass.

CEO McDonough asked if it was in the Planning Board Ordinance? Madge B. stated she wasn't sure and thought it should be. Chairman Allaire stated Robert's Rule of Order stated it had to be a majority vote of the full voting members. Madge again stated it should also be in the Planning Board Ordinance because that is what the board members turn to. They don't carry Robert's Rule of Order around with them.

Madge B. and CEO McDonough stated they felt there needed to be a “Purpose” section in “Chapter 57 Planning Board”, just as in the Zoning Ordinance. Madge also felt the sentence “**A majority vote of the full voting membership is required**” should also be in the planning board ordinance just as in the appeals section of the zoning ordinance.

It was concluded that a “purpose” was most important at this time to add to the ordinance.

Madge B. asked about 105-28 “Setbacks and screening” and 105-43.D “Landscaping” where there was confusion during the last CUP review. She wanted to know if there needed to be any clarification.

Chairman Allaire stated the confusion is when you have a commercial use in a residential area. Madge B. agreed. CEO McDonough stated he thought the ordinance was fine but perhaps there needed to be a checklist attached to an application so the applicant knew ahead of time what was required reducing the confusion during the meeting. Madge thought that would be an excellent idea. CEO McDonough thought 105-73.G “Stands applicable to conditional uses” along with the basic performance standards should be in a form the board could review easily with each application. Barbara F. agreed and stated she had a checklist she gave with subdivision applications but seldom does the applicant use the checklist. Barbara said she would create one but it would most probably benefit the board members instead of the applicant because the applicant may not read it. Madge stated if the checklist is used by the board members and the board makes no decisions prior to going through the checklist, it would be a benefit. Lauren M. stated it would also be good to have a checklist at the site visit so you know exactly what needs to be reviewed.

Chairman Allaire stated that he goes through every section in the book with the review of a conditional use permit. CEO McDonough stated that the review was fine most of the time but some of the time the board is so used to the review some things are missed.

Barbara F. asked if this could be further discussed during the workshop scheduled for later in the evening so she could finish with the Shoreland Zoning. Barbara asked if there were any further changes for the Shoreland Zoning prior to her sending it to the State for review? Madge stated the change to the appeals sections was the only thing she could see at this time.

Barbara F. also wanted the board to review the sign ordinance to be certain the changes are as Mr. Quartarone suggested, the change suggested by Chairman Allaire, and the change required under the Shoreland Zoning. Board members agreed to the changes to § 105-47 Signs and billboards as follows:

§ 105-47. Signs and billboards.

- A. General. Billboards are prohibited in the Town of Shapleigh in all zones. The following provisions shall apply to signs in all districts where permitted:
- (1) Freestanding signs with conditional use permit.
 - (a) With an approved conditional use permit, ~~one~~ **two** freestanding signs shall be permitted per lot. The freestanding signs 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.
 - (b) ~~Only one freestanding sign is allowed per lot, regardless of the number of approved conditional use permits for the lot.~~

With one additional conditional use permit allowed per lot, one additional 32 square foot freestanding sign shall be permitted. The total of all freestanding signs per lot shall not exceed 96 square feet.

- (2) There shall be one sign attached to the building allowed per approved conditional use, each sign not to exceed ~~six~~ **24** square feet in area. ~~The combined size of all attached signs shall not exceed 25% of the total frontal façade area of the building or storefront.~~

(a) Signs in the Resource Protection and Stream Protection Districts relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.

- (3) Home occupations may display a single sign not over eight square feet in area with their name on it, with information about goods or services rendered on the premises or with information concerning the sale, rental or lease of the premises.
- (4) Signs shall be placed at least 10 feet from any side lot line and shall be placed so as not to obstruct the view of traffic.
- (5) The maximum height for any freestanding sign shall be ~~25~~ **20** feet.
- (6) Signs shall not be mounted to extend above the roofline unless mounted on a parapet wall which extends above the roofline.
- (7) Steady white light shall be required on signs to be illuminated. Plastic signs which are internally lit shall be allowed ~~provided that they contain dark backgrounds with light colored letters or symbols (to reduce roadside glare).~~ **with either a white or dark background.** When plastic signs are to be externally illuminated, they may be any color.
- (8) Flashing, moving or animated signs shall be prohibited.
- (9) Strings of light bulbs, pennants, propellers, etc. shall not be permitted, except as a part of a holiday celebration.
- (10) Freestanding signs shall be required to be attached to permanent posts to be hung vertically above the ground. So-called "A-Frame" signs shall be prohibited.
- (11) Signs advertising defunct businesses or premises shall be removed by the property owner within three months after the advertised activity cease.
- (12) Mobile signs, such as those mounted on a movable chassis (with or without wheels), may be displayed for up to 15 days at a time, and no more than two times in any twelve-month period.
- (13) Signs shall be maintained in good condition at all times.
- (14) One temporary sign, attached to the building or freestanding, may be erected to announce a new business or a relocated business, provided such sign shall be limited to eight square feet and be removed within 30 days from the time of issuance. A permit is required for a temporary business sign.

B. Exceptions. For the purposes of this section the term "sign" shall not include:

- (1) Signs erected for public safety and welfare or pursuant to any governmental function.
- (2) Directional signs solely indicating entrance and exit placed at driveway locations, containing no advertising material and where the display area does not exceed three square feet or extend higher than seven feet above ground level.

- (3) Signs relating to trespassing and hunting, not exceeding two square feet in area.
- (4) Other signs, including memorial tablets, public notices, flats and insignia except when displayed in connection with a commercial promotion.
- (5) Religious symbols or insignia, house numbers, political signs, signs on vending machines or newspaper racks and signs within or on a public structure or facility which is not directed at persons outside or off the premises.

C. Nonconforming signs.

- (1) Continuance. A nonconforming sign, lawfully existing at the time of adoption or amendment of this chapter, may continue although such sign does not conform to the provisions of this section.
- (2) Maintenance. Any lawfully existing sign may be maintained, repaired or repainted, but shall not be enlarged, except in conformance with the provisions of this section.
- (3) Replacement. Any new sign replacing a nonconforming sign shall conform to the provisions of this section, and the non-conforming sign shall not thereafter be displayed.

Barbara F. stated the Growth Ordinance would also have to be addressed at a public hearing. Barbara stated the changes made were at the suggestion of Southern Maine Regional Planning Commission and also used were the growth figures given to the board by Southern Maine Regional and Bill Brockman the Business Mgr. for MSAD #57. Madge B. added that the information that was removed from the ordinance was done so because the recommendation from SMRPC was that the town didn't need it and because State law didn't say it needed to be in the ordinance. She said if you add things that can't be justified it makes it easier for someone to attack the ordinance. The board members agreed.

Note: A copy of the Growth Ordinance and Shoreland Zoning changes can be viewed at the town hall during regular office hours.

Barbara F. stated she would like to hold the Public Hearing on Tuesday, November 25th for the following:

Residential Growth Ordinance

§ 105-47 Signs and billboards.

§ 105-71 Board of Appeals & § 105-72 Appeal Procedure

Chapter 57 Planning Board Ordinance

State Mandated Shoreland Zoning Changes

Shoreland Zoning Map

The board members agreed to the public hearing.

Growth Permit Issued: #14A-08 – Seasonal Conversion – Map 28, Lot 22 (42 17th Street)

Workshop on the Decision Making Process

Madge B. stated she, after a recent board meeting was concerned with the decision making process, as was CEO McDonough. Madge stated she pulled together some court cases regarding planning board decisions for board members to review. Madge stated she agreed with CEO McDonough that a checklist should be created for the applicant and the board members. Madge stated she also agreed Chairman Allaire went through the ordinance but she felt the board members did not. Madge said she thought the checklist would make sure each board member did go through the ordinance requirements before the decision was made on the application.

Madge B. stated State law requires that the board members make findings and conclusions on every issue, so Madge thought unless the board had a checklist the board would tend to forget whether or not a finding was made on a particular point. Madge stated she had copies of some court cases regarding findings and conclusions, where courts have overturned the planning board or board of appeals decision because they did not make the proper findings.

Madge B. said that if a party decides to sue and there are no findings and conclusions, the application will have to come back to the board for the board to do it properly. Madge stated it would save the town money, not that the conclusion of the board would be any different but the town would have to be required to go through the process of the court. Madge again said a checklist would help the board go through the process. Madge agreed at the site visit the board could use the list and also the board would know what further information the applicant would need to present to the board. Madge stated the board could then ask the applicant for the required information. Madge added that she thought the board members were assuming too much of the applicant's job at times and eventually end up with things that are not in the record.

Madge B. noted one of the court cases she gave to the board was a case in Kittery, in 2007, Lisa Comeau vs. the Town of Kittery. Madge said it was a case that went on for quite awhile. Madge said with this case she didn't know whether the board did or did not remember all that took place, but they made a decision that the court looked at and said, "Wait a minute you have pages and pages of minutes, we aren't going to go look for your findings and conclusions. That is your job."

Madge B. stated what the board has relied on was the secretary's minutes in her opinion. Madge said the minutes are great; the secretary gets everything down, so we, the board, assume the job is done. Madge said the secretary can't make up the minutes and if the board forgets to get something in, then the board is at fault. Madge thought if we had a list, even if the applicant doesn't follow it, the board would follow it.

Chairman Allaire agreed. Chairman Allaire stated that not everything on the checklist would apply for each conditional use permit. Madge stated that when you get to things like site distance, you would know whether or not it is in the record because you would need to check it off that you actually have the site distance. Madge said that it should also be easy to find, not have to look through previous minutes. Madge stated it's the applicant's job to provide the information.

CEO McDonough stated it would be in the boards best interest to read the material provided by Madge B. He stated he would like to read one section of the court findings of the Kittery case, it read as follows:

"We review the Planning Board's decision directly. When the appellants contend, as here, that an administrative agency's findings are inadequate for judicial review, we examine the findings to determine if they are "sufficient to show the parties, the public, and an appellate court the basis for its decision."

When an administrative board “fails to make sufficient and clear findings of fact and such findings are necessary for judicial review, we will remand the matter to the . . . board to make the findings.”

Instead of issuing written findings, the Board designated the minutes of the meetings to serve as findings. The minutes of each meeting are lengthy narratives of the discussions, with details of who said what. As would be expected, the discussion is wide-ranging and not always in a logical progression. The Board members expressed their individual views to various points of the proposed project and their views on the issues raised by the individuals opposing it. It is impossible to discern what the Board found as facts.”

CEO McDonough stated often meetings are as stated above in most towns. CEO McDonough went on to read notation 5 of the court case, it stated, *“We do not rule out the possibility that findings of fact could be memorialized in the minutes of a meeting. Such findings, however, would have to be explicitly stated as individual factual findings and voted on individually.”*

CEO McDonough stated that although he hates to propose that each item in the checklist should be voted on individually, it is guaranteed that there would be a rock solid case should the decision ever be disputed. CEO McDonough stated it would also insure all members were involved in the process. Madge B. agreed. CEO McDonough thought initially it would be a slow process but as the board got used to the process he felt it would get easier to do.

Barbara F. asked if they were speaking of § 105-73(G)? Madge B. stated that would be a good base. Lauren M. stated that SMRPC workshops spoke of this, voting on each item individually. CEO McDonough stated it was his intention that each member addresses each issue individually.

CEO McDonough stated that with respect to the list there were two issues. He said there is 105-73(G) the standards and also 105-20 through 105-34, which are really the criteria for all 12 items in 105-73(G). CEO McDonough thought the checklist should somehow be created to merge both areas in the ordinance together for easy reference.

An individual in the audience stated she was a member of the Saco River Corridor Commission and she said they too used a checklist and the applicant must meet the standards of A – K. She said this made the meetings must easier.

Madge B. stated the applicant should have a copy of the Zoning Ordinance, they should purchase one, it is in their best interest. Madge said at this time the process isn’t working quite right. Madge said the list would be more for the board members, to make sure we *all* go through the list. Madge believed Roger went through the list but the members do not do it with him. She stated if Chairman Allaire is satisfied the application goes through and she didn’t think that was the way to do it. Madge believed all board members needed to be satisfied.

Madge B. stated she did not care which list was used 105-73 or the basic standards. Madge just wanted to be certain all members go through the list. Madge stated it was too easy to get distracted when she knows that Chairman Allaire is going through the list of standards. She said at times she could be on a different item in the ordinance than Chairman Allaire altogether. Madge thought she wasn’t always doing her job because Chairman Allaire has made it too easy for members.

Lauren M. stated again she had been to a seminar that addressed this fact and agreed this was needed. Maggy M. stated that perhaps there could be a list that someone wrote down the findings as stated and put it in the file, and then the board would have them. Madge B. agreed it would be a good idea.

Roland L. came to the meeting at this time; he was unable to attend earlier because of his job. Chairman Allaire explained what had been discussed, in part, to Roland L.

Madge B. stated that board members needed to make sure all items were discussed at the meeting, even if something was seen at a site inspection. She said it has to be addressed so it can become part of the findings. Chairman Allaire agreed.

Board members discussed how to address this issue in the future. Barbara F. will create a checklist and let members decide if it is sufficient. CEO McDonough stated that he felt board members should vote on 105-20 – 105-34, individually, and that would be the findings. CEO McDonough stated if you want to combine this with 105-73(G) that would work as well. Madge B. agreed.

Nothing further was discussed.

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

Respectively submitted,

Barbara Felong, Land Use Secretary
planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES

Tuesday, November 25, 2008

Members in attendance: Roger Allaire (Chairman), Madge Baker (Vice Chair), Roland Legere, Maggie Moody, Diane Srebnick and Barbara Felong (Secretary). Code Enforcement Officer, Steven McDonough was also in attendance.

The following words are not verbatim unless accompanied by quotation marks “ ”.

Public Hearing Began at 7:00 p.m.

- **§ 105-47 Signs and billboards.**

Chairman Allaire read the changes to the sign ordinance. They were as follows:

§ 105-47. Signs and billboards.

- A. General. Billboards are prohibited in the Town of Shapleigh in all zones. The following provisions shall apply to signs in all districts where permitted:
- (b) ~~Only one freestanding sign is allowed per lot, regardless of the number of approved conditional use permits for the lot.~~
With one additional conditional use permit allowed per lot, one additional 32 square foot freestanding sign shall be permitted. The total of all freestanding signs per lot shall not exceed 96 square feet.
 - (2) There shall be one sign attached to the building allowed per approved conditional use, each sign not to exceed ~~six 24~~ square feet in area. ~~The combined size of all attached signs shall not exceed 25% of the total frontal façade area of the building or storefront.~~
 - (a) **Signs in the Resource Protection and Stream Protection Districts relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.**
 - (5) The maximum height for any freestanding sign shall be ~~25~~ **20** feet.
 - (7) Steady white light shall be required on signs to be illuminated. Plastic signs which are internally lit shall be allowed ~~provided that they contain dark backgrounds with light colored letters or symbols (to reduce roadside glare).~~ **with either a white or dark background.** When plastic signs are to be externally illuminated, they may be any color.

Chairman Allaire asked if there were any comments from the audience. Mr. Stephen Quartarone, Mr. John Mavrakos and Mr. Roger Berube were present as sponsors of this ordinance change. All three gentlemen were in agreement that the changes were as they had requested. Planning Board members thought the changes would not be a detriment to the town and would allow business owners greater flexibility to advertise their business.

There were no further comments. *Barbara F. told the audience there would be one additional public hearing after the first of the year, prior to Town Meeting in March 2009.*

- **Residential Growth Ordinance**

Chairman Allaire read the changes to the Growth Ordinance, they were as follows:

- (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 2008, the Education system accounts for 65% of the cost to taxpayers. The figure calculated per child per year for 2008 is \$6,650.22.** 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 **2000 and 2008. During this time period, the compounded annual growth rate for the sub-region was a population of 2.65% and housing of 3.05% growth. With the projected need for housing growth of 3.05%, the maximum annual number of Growth Permits should be 35 dwelling units.**
- (h) **To guide Shapleigh's expansion so that the increases in education costs are predictable and manageable. The current cost per child in the educational system averages over \$5,000, and the cost per family averages \$6,500. This creates an increased tax burden of \$221,000 annually with a growth cap of 34 units, and amounts to roughly an 11.5% increase annually in the municipal education bill. Therefore, in view of the increase in education costs, the maximum annual increase in housing shall be 34 units. This annual total shall be subject to the issuance procedure in Section 1.8 below, and to the exceptions noted in 1.5. The number of growth permits to be issued in any one year may be amended only by the town's legislative body.**

1.8 Growth Permit Selection System

- (a) 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 35 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.**

Chairman Allaire asked if there were any comments.

Roland L. stated he was concerned about adding an additional permit, in the light of the State's projected budget shortfall. He said that already in a neighboring district where he works they are having to cut their budget. Roland thought the board would have to take seriously the impact of increasing by one new home would have on the tax burden of the residents of Shapleigh. Roland thought it was a false assumption that adding just one new home would increase the educational cost by \$6,500 because the house could have more than one school age child.

Chairman Allaire stated that the board can only use the data based on the past and try to predict the future. Chairman Allaire stated that because of the fuel savings at this time, towns will use that money to offset cuts for this year. Chairman Allaire stated again we cannot predict the future but have to look at what the State mandates and use the information provided by Southern Maine Regional Planning Commission (SMRPC) to come up with a figure. Chairman Allaire stated that the State dictates the towns use the figure of 105% each time the ordinance is reviewed.

Roland L. asked if the board was required, regardless of the fact it may not be in the best interest of the community, to increase the number allowed. Chairman Allaire stated after reviewing the information received by SMRPC, using their figures, the town then comes up with a figure. Chairman Allaire stated it is hard to say if all the permits would be issued regardless of the number in this economy. He said this year there are still seven available permits. Chairman Allaire stated based on this he felt comfortable going with the 35 units. Chairman Allaire added that the ordinance gets reviewed every three years. Roland L. asked if the number could remain at 34 units if the board members chose? Chairman Allaire stated, yes.

Chairman Allaire noted that surrounding towns in the school district also have a growth ordinance but allow for many more dwelling units than Shapleigh. Chairman Allaire stated that Shapleigh has the least amount of growth allowed in the county. Even with this, Chairman Allaire noted that the cost per student for residents of Shapleigh was highest in the district based on the assessed value of the town. Chairman Allaire attributed this to the many lakefront properties. Chairman Allaire stated based on this, adding one new dwelling was not going to add significantly to the tax burden.

CEO McDonough pointed out that growth isn't always negative for a town. CEO McDonough noted that growth was good for builders, plumbers, local businesses, etc. CEO McDonough stated this helped balance some of the cost associated with that growth. Roland L. still was worried about the cost to the town with respect to the additional load on the school system.

Maggie M. stated that she would like to see more business in Shapleigh because that would help to offset the cost of the school system. She realized the growth ordinance dealt with residential dwellings but she just wanted it known that the town should encourage businesses to come to the town.

Roland L. asked if the growth ordinance dealt with duplexes? Chairman Allaire stated, yes. Chairman Allaire said that a growth permit was required for each dwelling unit. Diane S. noted that even an apartment required a growth permit and spoke about a growth permit given out this year for an apartment in an existing building that currently was used as a business. Roland asked with a duplex if you got one building permit but would need two growth permits? CEO McDonough and Diane stated, correct.

Madge B. stated that she had been told by SMRPC when drafting a growth ordinance education costs were not relevant. Madge stated that the education costs were managed by the school districts and not by the town. Madge agreed with Chairman Allaire's point that children have to go to school somewhere and the town has no right to state they cannot locate here. Madge stated that was the reason a lot of the existing ordinance is being removed based on the information she received from SMRPC.

Roland L. asked about item (1) that was added which deals with the school costs. Madge B. and Chairman Allaire both stated this was just a fact.

All the board members present with the exception of Roland L. agreed the increase of one dwelling unit to the growth ordinance was appropriate based on the information received.

There were no further comments.

- **Chapter 57 Planning Board Ordinance**

Chairman Allaire read the addition to the Planning Board ordinance, it read as follows:

Chapter 57
PLANNING BOARD

- | | |
|--|----------------------------|
| § 57-1 Establishment of Planning Board | § 57-4. Duties and powers. |
| § 57-1.1. Purpose. | § 57-5. Decisions. |
| § 57-2. Appointments. | § 57-6. Appeals. |
| § 57-3. Organization and rules. | |

§ 57-1. Establishment of Planning Board.

Pursuant to Article VII, Pt. 2, Section 1 of the Maine Constitution and 30-A M.R.S.A. § 3001, the Town of Shapleigh hereby establishes a Planning Board.

§ 57-1.1 Purpose

The purpose of the Planning Board is to administer the priorities of the Town of Shapleigh Zoning Ordinance, Subdivision Ordinance and Growth Ordinance in order to maintain the safe and healthful conditions and the general welfare, prevent and control water pollution, protect spawning grounds, fish, aquatic life, bird and other wildlife habitat, control building sites, placement of structures and land uses and conserve shore cover, visual as well as actual points of access to inland and coastal water and natural beauty, and to encourage the preservation of farmland.

Chairman Allaire asked if there were any questions? Diane S. asked where this ordinance came from? CEO McDonough stated the establishment of the planning board could be found in a book entitled Codes of the Town of Shapleigh. Barbara F. stated if at any time Diane wanted to view the book she could come to the town hall and take a look at it. The Growth Ordinance could also be found in this book.

Nothing further was discussed.

- **State Mandated Shoreland Zoning Changes**

Chairman Allaire read the State mandated Shoreland Zoning Changes to the existing Zoning Ordinance. A copy of all the changes can be viewed at the Shapleigh Town Hall during regular town office hours.

- **§ 105-71 Board of Appeals & § 105-72 Appeal Procedures**

A copy of these changes can also be reviewed at the Shapleigh Town Hall. These changes were also reviewed by the Zoning Board of Appeals for their approval.

- **Shoreland Zoning Map**

A copy of the shoreland zoning map can be viewed in the Shapleigh Town Hall as well. Board members discussed that they want to be certain the shoreland zoning changes to the map and the existing definitions of “shoreland zone” and “stream” in the Shapleigh’s Zoning Ordinance reflect the setbacks correctly. Barbara F. will contact Corner Post Land Surveyors, the company that drafted the map, to be certain the map and ordinance reflect the same setback determinations. If not, the board will have to make the necessary changes to either the ordinance or the map.

Nothing further was discussed.

The Planning Board meeting started at 9:00 p.m.

The minutes from Tuesday, October 28, 2008 were accepted as read.

There are currently Growth Permits available.

Barbara F. stated a date needed to be set in December for the public hearing for the water extraction ordinance. Chairman Allaire stated he would contact the Shapleigh Memorial School and see what Tuesday would be available for the public hearing.

Note: Chairman Allaire contacted Barbara F. on Tuesday, December 2nd to say the school is reserved for 7:00 p.m. on Tuesday, December 16th for the public hearing.

Nothing further was discussed.

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

Respectively submitted,

Barbara Felong, Land Use Secretary
planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD MINUTES

Tuesday, December 9, 2008

Members in attendance: Roger Allaire (Chairman), Madge Baker (Vice Chair), Roland Legere, Diane Srebneck, Maggie Moody and Barbara Felong (Secretary). Code Enforcement Officer, Steven McDonough was unable to attend.

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

The minutes from Tuesday, November 25, 2008, were accepted as amended.

The following words are not verbatim unless accompanied by quotation marks “ ”.

Conditional Use Permit – Construct a Telecommunications Facility (190' Tower) – Map 7, Lot 31 (State Route 11) – KJK Wireless (US Cellular) Applicant; Randy Kafka, Owner

Robert Gashlin, a representative for US Cellular; Dick Trafton, an attorney for US Cellular and Dan Guilette, a radio frequency engineer were present to review the application.

Mr. Gashlin stated the reason KJK Wireless, also known as US Cellular was before the board is because their service coverage is inadequate in the area proposed. Mr. Gashlin stated the site was selected to help increase the coverage area and to help link towers that are being used now along with proposed sites.

Mr. Gashlin began by reviewing site plans that were attached to the application.

Mr. Gashlin stated their tower locations were driven by radio frequency criteria. Mr. Gashlin stated US Cellular currently has antennas on a tower on the Emery Mills site on the corner of Rte. 109 and Rte. 11. Mr. Gashlin said it does provide coverage for Rte. 109 north and south and some coverage on Rte. 11 near the intersection. He said there was no coverage Rte. 11 north so that is the objective for this new site.

Mr. Gashlin stated that the new tower also has to be in a location that will connect with the Emery Mills site. Mr. Gashlin stated Mr. Guilette reviewed the Emery Mills site and how far the existing signals went and then selected the Rte. 11 site so they would connect. Mr. Gashlin stated the tower location was selected through a computer process that Mr. Guilette reviews.

Chairman Allaire asked if US Cellular looked at co-location on the tower on Mousam Lake. Mr. Gashlin stated that was the Rte. 109 and Rte. 11 tower where they have the existing antenna. Chairman Allaire also asked if they looked into using the tower that was just approved on Owl's Nest Road vs. selecting a new site that appears to be only a half mile away?

Mr. Gashlin stated Mr. Guilette would address this issue along with the plans they would present to the board. Mr. Gashlin stated that US Cellular was using a PCS System which are signals that propagate on a very limited basis so they have to pinpoint the best location. Mr. Gashlin stated the signals propagate in the vicinity of two miles.

Mr. Gashlin explained the Emery Mills tower was the basis for the new location. Diane S. asked about the new approved tower (Owl's Nest Road), did they know where that was going?

Mr. Guilette reviewed the plans showing the current PCS coverage for US Cellular in Shapleigh. Mr. Guilette stated PCS was different from cellular which was 800 megahertz; with PCS the FCC allocated 1,900 megahertz. Mr. Guilette stated the significance of that was that the footprint at 800 is twice as large as the footprint of 1,900. Mr. Guilette stated at 1,900 things like pine needles and oak leaves approximate a wavelength and so there is a lot of signal lost. Mr. Guilette showed existing coverage in the area. Mr. Guilette also showed on the plan the areas that they wanted to bring coverage to along Rte. 11, Mousam Lake, etc.

Mr. Guilette stated US Cellular pinpointed the optimum location for new and future signals. Mr. Guilette stated terrain and clutter are taken into consideration when choosing a site. He said clutter is anything that will block a signal. He said it was broken down into trees, buildings, deciduous, coniferous, wood structures, etc. Mr. Guilette stated they also looked at in-vehicle coverage and reliable in-home coverage. Mr. Guilette stated people want to be able to use their wireless laptops, cell phones, etc., people don't use land line telephones anymore.

Mr. Guilette showed the hilltops and how signals would travel across them and the areas that would be covered. Mr. Guilette showed a plan with the existing signals and the proposed signal area to illustrate the entire area to be covered by US Cellular with the addition of this tower.

Mr. Guilette also showed areas that would have overlapping signals because of existing coverage. Mr. Guilette stated with the proposed tower there would not be a huge amount of overlap. He said there would be just enough to hand off to the next site (tower). Mr. Guilette stated that too much overlap was a waste because there is only so much money to expend on tower sites. Mr. Guilette stated the site was designed for the needed overlap.

Mr. Guilette went on to show the coverage area for the proposed Industrial Tower and Wireless facility and that it is too close to the existing antenna at the Emery Mills site. Mr. Guilette stated there was too much overlap and it wouldn't fill the corridor and they would end up with a lot of weak gaps of coverage with building and in-vehicle coverage. Mr. Guilette compared the coverage area they were proposing with their tower and the coverage area if they used the proposed IT&W tower. He said the coverage shifted south, with a lot of overlap and to the north US Cellular would have to build an additional site that they had not planned on. Mr. Guilette stated they would need three sites vs. four to get the same coverage.

Mr. Guilette stated he did not feel IT&W were targeting the same search range as US Cellular. Mr. Guilette stated the IT&W tower would leave gaps along Rte. 11.

Roland L. asked if having towers in such close proximity would cause a potential for signal interference? Mr. Guilette stated no, the FCC gives them different bands. Mr. Guilette stated all the wireless companies each have frequency bands that they are allowed to operate under. Mr. Guilette stated in many areas the major carriers have antenna's right next to each other.

Mr. Guilette stated the FCC added spectrum to 1,900 megahertz and now there is another band coming out at 2,170 which gets more frequency and spectrum which means people who don't have current licenses will have a smaller footprint than what exists now. Mr. Guilette stated in the future you might see a new carrier needing to put an antenna on their tower and the IT&W tower. Mr. Guilette stated they are having to put towers every one-half mile in some areas.

Mr. Gashlin stated he wanted it stated for the record that a letter was drafted by Industrial Tower and Wireless, LLC which stated the following:

“Industrial Tower and Wireless, LLC presently has an application for a communications facility at Owl’s Nest Road before the Planning Board and US Cellular has an inquiry before you for a communication facility utilizing town owned property at the Town Gravel Pit on Town Farm Road.

This letter is to clear up any confusion the board may have. Due to the distance between the two locations, these proposed sites would provide different distinct coverage objectives and should be reviewed individually and judged on their own merits.”

Note: This letter, dated 8/22/08, was placed in the file for IT&W during their review process.

Mr. Gashlin showed the board plans for the facility. Board members received a copy and a copy of the plan is in the application file.

Mr. Gashlin, while reviewing page G-1, stated the tower would comply with all state, federal and local codes. Mr. Gashlin stated the work would conform to the U.S. Cellular Wireless Specifications including EIA/TIA 222-F, which is the tower construction standard. Mr. Gashlin said what it stands for is Electronics Industries Association and Telecommunications Industries Association. He added that 222-F is the most up-to-date standard.

Mr. Gashlin stated that US Cellular had a comprehensive erosion and sedimentation control plan. Mr. Gashlin stated at this location he did not think there would be much needed due to the topography.

Mr. Gashlin stated on page C-1, it noted the abutters within 500 feet and the size of the property is approximately eight acres. Mr. Gashlin stated they are utilizing/leasing 127,682 sq. ft. of the eight acres. He said they are leasing this amount to accommodate the minimum lot size requirement, the road frontage requirement, and the tower set-back requirement.

Maggie M. stated there were several typographical errors on the page and she noted she was one of the abutters. Maggie stated her address on the map and the abutters list provided was incorrect. Mr. Gashlin stated the reason for the abutters list was to notify the abutters. Maggie stated, “Correct, and he would not be able to contact her with the address they have on the plan.”

Mr. Gashlin asked who mailed the abutters notices. Barbara F. stated she was responsible for sending out the notices. She would make certain Maggie’s address was correct when she mailed it out.

Maggie M. noted the person who drafted the plan put the same address (which is incorrect) under her name as that of the owner of this property, Mr. Kafka.

Mr. Gashlin stated the site distance was also noted on the plan and it was 500 feet which was well within the required distance in the ordinance.

Mr. Gashlin, reviewing C-2, stated they would need to put two power poles on Rte. 11 and they would have overhead utility lines to the tower. Mr. Gashlin noted there was existing foliage on the site to help to hide the facility. Mr. Gashlin also noted that the Land Fill was an abutter so he felt this area was suitable for another commercial type operation.

Mr. Gashlin stated the road / entrance would not be straight in order to somewhat hide the facility from the road. Mr. Gashlin stated they would be cutting only enough trees for the road and facility.

Mr. Gashlin stated the gated compound would be 75' x 75' in size and the parking area would be 20' wide by 75' long. Mr. Gashlin stated this was adequate; trucks can also be parked within the compound. Mr. Gashlin stated after the compound was completed there would only be one vehicle at a time on site and in the winter the area isn't plowed so there would be times with no vehicle traffic.

Mr. Gashlin stated the tower would meet the 190 foot setback requirement. Mr. Gashlin stated on the plan it showed where erosion control measures may be needed.

Mr. Gashlin stated on page C-3, it showed the proposed 190' tower. He stated US Cellular would be on the top and there would be space for three additional carriers. Mr. Gashlin stated there would be a 12' x 20' equipment shelter, he said it was a prefabricated building. Mr. Gashlin noted there was room for three additional equipment shelter's for additional carriers. Chairman Allaire noted that on page C-3 it stated the tower would be 190 + or -, Chairman Allaire stated it would have to read 190 (-). Not plus.

Mr. Gashlin stated page C-4 described the gate and fence in detail. The fence will be 8 feet tall with an additional 3 feet of barbed wired on top. Mr. Gashlin stated the utilities would be underground at the compound.

Mr. Gashlin stated page C-5 showed more details, which included the road cross section, erosion control plan, cell site cabinet detail, and meter & disconnect mounting rack.

Mr. Gashlin reviewed page C-6, which gave specifications for the concrete pad foundation, pad for minor equipment and foundation slab detail.

Chairman Allaire noted that the plan refers to IBC 2006; Chairman Allaire stated the Town of Shapleigh uses the BOCA Code. Chairman Allaire stated that if there are any differences BOCA must be used. Chairman Allaire stated this was a town requirement, not a State requirement. Mr. Gashlin asked if he would be working with the Code Enforcement Officer on this? Chairman Allaire stated correct.

Mr. Gashlin stated page C-7 dealt with the equipment shelter which was 12' x 20' in size and 11' tall. Mr. Gashlin stated it was earth tone in color. Mr. Gashlin stated there would be a light by the door, and it would be a downward reflected motion detected service light which can be turned off once the person is inside the building so it won't be on all the time. Mr. Gashlin stated the light was inside the compound so animals shouldn't trigger it.

Mr. Gashlin stated pages E-1 and E-2 dealt with grounding the structure.

Mr. Gashlin reviewed a letter he wrote that addressed the zoning requirements noting the proposal met the requirements of the ordinance. The letter read in part as follows:

- A. US Cellular agrees with the provisions contained herein to the extent they are relevant.
- B. US Cellular understands it will be reviewed under Article VII (Administration) and all other relevant standards contained in this chapter. Additionally, Applicant conforms to the following standards:
 - 1. The tower will be 190' tall.

2. The Facility will not be lighted. *(Mr. Gashlin noted this referred to the tower not the security light on the maintenance building.)*
3. The tower will have a galvanized steel finish to reduce visual obtrusiveness.
4. The tower and accessory facilities will meet minimum General Purpose district setback requirements including 75' front, 25' side, and 30' rear.
5. US Cellular agrees to allow other future wireless service carriers and public agencies to collocate at the Facility pursuant to practices commonly accepted within the wireless industry. *(Mr. Gashlin noted that there was room for three additional carriers. Roland L. asked if they would allow local public agencies to use the tower and if so would there be a fee imposed or would it be a complimentary access? Mr. Gashlin stated if the town was interested they would have to make out a formal application with US Cellular and he stated he would assist with that process. Mr. Gashlin stated he could not speak for US Cellular but he knew that they have provided space in the past for a greatly reduced price. Mr. Gashlin stated there needed to be a nominal fee to make it a legal binding contract. Chairman Allaire stated that the Fire Dept. was always looking for a place to transmit if possible. Chairman Allaire noted that Industrial Communications would allow Shapleigh Fire and Rescue to use the tower for free but not the County, they would incur a charge. Chairman Allaire said that because Shapleigh is tied in with the County they would therefore probably have to have a fee assessed. Mr. Gashlin stated that because of the frequency range for the carriers the high spots on the tower were important for the cellular companies but public safety equipment, running at a lower megahertz didn't need to be as high on the tower. Mr. Gashlin stated therefore, the lower end of the tower would probably be available for local agencies leaving the higher end for cellular.)*
6. The Facility is designed and will be constructed and maintained in conformance with applicable federal, state, and town codes. This is noted on page 2 of the attached site plan (see "General Construction Notes") and evidenced by an engineers stamp (Bradford Mills, State of Maine engineer license #5052) *(Mr. Gashlin noted they would be complying with all cell tower standards as well as any local codes imposed through the Code Enforcement Office.)*
7. US Cellular proposes a 12" x 16" sign that will provide FCC identification and emergency contact information. *(Chairman Allaire stated the only sign the town would like to see is a sign stating who to contact in case of an emergency. Mr. Gashlin stated the sign states the FCC I.D. number, and it also states the US Cellular emergency contact number, which is a 1-800 number and it labels the site. Chairman Allaire stated that was fine, just no advertising of any kind is allowed. Roland L. asked where it was located? Mr. Gashlin stated it would be inside the compound.)*
8. US Cellular agrees to the Facility removal provisions contained herein including a performance guarantee to the extent they are relevant. *(Mr. Gashlin stated they would provide it in whatever manner the board dictates.)*
9. The minimum lot side for the Facility is 127,662 square feet.

Mr. Gashlin stated he believes US Cellular has met all the criteria in the ordinance. Mr. Gashlin introduced Attorney Dick Trafton. Attorney Trafton stated he was an attorney who worked for US Cellular. Attorney Trafton stated he wanted to summarize what had been presented. He stated, US Cellular was asking for a Conditional Use Permit because with any communications facility taller than 70 feet it is required. Attorney Trafton stated Mr. Gashlin reviewed the requirements of § 105-61.2 "Telecommunications facilities". Attorney Trafton noted that they were aware you also have to go through the basic performance standards in the ordinance. Attorney Trafton stated he would like to address two sections specifically but he said most do not apply to this application.

Attorney Trafton stated he did not believe the following standards applied, (1) traffic – because approximately only one vehicle would come to the site per month; (2) noise – the facility does not generate noise; he noted there was a backup generator that would cycle about once a week to run the generator; (3) dust, fumes, vapors and gases – none are emitted (4) odors – none are emitted; (5) glare – there is none; (6) stormwater runoff – the site is relatively flat and there is erosion control measures; (7) erosion control – this is addressed on the plan; (8) setbacks and screening – this applies to exposed storage area and machinery operations, sand and gravel operations, and storage collections of automobiles and the like – this does not apply; (9) explosive materials – none on site; (10) water quality – no impact at the site.

Attorney Trafton stated the following apply: § 105-31 “Preservation of the landscape” – he stated they recognize a 190’ tower doesn’t necessarily preserve a landscape as it exists today. Attorney Trafton read, “The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas.” Attorney Trafton stated that there would be a minimum of tree cutting and it would be just enough for the tower compound. Attorney Trafton stated therefore he believed they met this criterion.

Attorney Trafton stated the other section that did apply was § 150-32 “Relation of proposed building to environment” – Attorney Trafton read, “Proposed structures shall be related harmoniously to the terrain and to existing buildings in the vicinity that have a visual relationship to the proposed buildings.” Attorney Trafton stated they did not believe there were any existing buildings near the site and a tower it could be argued doesn’t fit harmoniously to the terrain but it will be setback from Rte. 11, 190’ and as much of the trees as possible will be preserved. Attorney Trafton hoped this would help them meet this section.

Attorney Trafton stated they would not have any refuse disposal and the site distances are well within the allowed range.

Attorney Trafton hoped the board would consider the application in its present form with minor changes such as the address to the abutters and the specific height addressed as not higher than 190 feet. Attorney Trafton asked the board to consider approval based on the application submitted.

Chairman Allaire stated once a conditional use has been presented, then the board has 10 days to notify the abutters and a public hearing will be held. Chairman Allaire stated the public hearing, due to the holiday schedule, will be heard on January 13th.

Attorney Trafton stated he noted that the ordinance states “you may have a public hearing” but it isn’t required. Chairman Allaire stated he has been on the board for over 20 years and in that time frame all businesses have had a public hearing. Chairman Allaire stated that even though the ordinance says “may”, the board concluded if you do it for one applicant you do it for all, otherwise an applicant will come back and ask why they did or did not have a hearing when so-in-so did. Attorney Trafton stated he understood.

Attorney Trafton stated in preparation for the public hearing if any additional information is required they would gladly present it in advance of the public hearing so the board would have it. Chairman Allaire stated he felt they had what they needed.

Roland L. asked, if because the property is located on Rte. 11, will they have to get permission from the State for a curb cut (for the entrance)? Chairman Allaire stated yes.

Chairman Allaire stated he would like a statement saying why they could not collocate on the Owl's Nest Road tower. Attorney Trafton asked where in the ordinance it requires collocation? Chairman Allaire stated he thought in the ordinance collocation was to be tried first. Attorney Trafton stated the ordinance said an applicant must provide for collocation, but it didn't require proof that they couldn't collocate on something else. Chairman Allaire was referring to § 105-61.2.B(5) which reads in part, "The owner shall allow other future wireless service carriers, including providing space to public agencies, using functionally equivalent personal wireless technology to collocate antennas...unless satisfactory evidence is presented, and the Planning Board concurs, that technical constraints prohibit collocation." Attorney Trafton stated he thought this meant that future wireless carriers can collocate but it doesn't say it's required. Attorney Trafton stated they can provide the information because it was provided this evening. Chairman Allaire thought when it was put into the ordinance it was the intent so there wouldn't be a tower every one hundred feet.

Attorney Trafton asked if the board would like an example of a removal bond? Chairman Allaire stated that would be convenient.

Chairman Allaire stated he would like more detail with respect to the road design. Chairman Allaire stated it was noted 18" of gravel was going to be put down but the 18" isn't shown on the plan.

Madge B. stated that if Maggie M. was an abutter then she might want to step down and not participate in the final review. Maggie stated she was an abutter. Madge therefore recommended that as long as there is quorum that she not participate so she isn't in the awkward position of either being pro or con based on the fact she was a neighbor. Maggie stated she understood.

Attorney Trafton asked what the proposed date for the public hearing would be. Barbara F. stated Tuesday, January 13th at 7:00 p.m. Chairman Allaire stated the regular meeting would start at 7:30 p.m. Barbara F. explained again that she did the notice to abutters and posted the public hearing notice.

Chairman Allaire also noted that on the plan the electrical code to be used would be the latest edition of the National Electrical Code (NEC). Attorney Trafton stated that many towns with BOCA approved these facilities. He didn't think the BOCA code applied directly to the tower itself but to the equipment building. Chairman Allaire stated, correct.

Mr. Gashlin asked about the State permit for the road entrance. Chairman Allaire stated you got the permit through the D.O.T. (Dept. of Transportation). Mr. Gashlin stated they would do that but how will this impact the board's decision. Barbara F. stated they would not be able to get a building permit from the Code Enforcement Office without the D.O.T. permit.

Attorney Trafton asked again which electrical code needed to be on the plan. Chairman Allaire stated the NEC 2008.

Diane S. noted that if there was a snow date the meeting would be the following evening.

Nothing further was discussed.

OTHER:

Patrick Frasier presented a subdivision plan for a property located on the Garland Road. He asked their opinion on the number lots that would be allowed, how to create the road frontage, etc.

The board members explained what he was proposing was a major subdivision, he would need an internal road, and he had to think about fire protection. The board members stated if he kept it to three lots, it would be a minor.

Chairman Allaire stated he was concerned with who kept track of the bond for the towers to be certain they were renewed. Barbara F. stated the tower on Rte. 109 was written such that the bond cannot be removed from any owner, only the Town of Shapleigh can remove the bond. Chairman Allaire stated the five year renewal was so the bond amount could be reviewed.

Roland L. asked if there was a provision for reclaiming the land? Chairman Allaire stated no, the tower is removed but the pad remains. Chairman Allaire stated the town's concern is to be sure the entire tower is removed.

Barbara F. stated she would review the bond for Rte. 109 to get the specifics for board members for the final review of US Cellular.

Nothing further was discussed.

Board members discussed the Parsonsfield ordinance with respect to the Water Extraction Ordinance and Madge B. stated she liked the fee structure. She said the applicant pays up front prior to review. Madge stated our ordinance didn't have to be changed because as it stands now we can ask for this as well. Madge also stated that she thought the number of copies of information was requested up front so the town would not have to foot the bill for making copies. Madge thought Parsonsfield covered all the potential expenses.

Madge B. asked if there was a mechanism to charge the applicant at this time? Roland L. addressed the cost of notifying the abutters. Barbara F. stated the application fee was based on the average cost for mailing the notification and doing the public hearing notices. Barbara said that during the fee review process, to date, there hasn't been an application where the cost to notify abutters has exceeded the application fee.

Roland L. stated the difference between the Parsonsfield ordinance and Shapleigh's is there is money up front to draw down from. Barbara F. asked if money can be asked for up front with a Conditional Use Permit? Chairman Allaire stated yes, Madge agreed but said you could also ask it in the Water Extraction Ordinance. Madge said the only difference is they collect the money up front and draw down, we ask for it when it is needed. Roland said the balance is returned to the applicant when the application is approved.

Chairman Allaire noted under § 105-73.J "Fees", it states:

The fee structure shall include for conditional use permit applications the following fees for the Planning Board to use to hire independent consulting service to review the application: The applicant shall pay into a special account the cost to the Town of hiring independent consulting services. The fee shall be determined after the Planning Board has secured an estimate of the cost of the services and the applicant has seen the estimate. If the balance in the special account is

drawn down by 75%, the Board shall notify the applicant and require an additional amount. Any balance in the account remaining after a final decision on the application shall be returned to the applicant.”

Chairman Allaire stated that with any CUP permit the board can require appropriate fees. Chairman Allaire stated that perhaps the board needs to expand on this section. Madge B. stated she likes what Parsonsfield has done because the fees are up front, they pay for the copies, etc. Madge was worried we didn't have the cost covered. Barbara F. stated it surely could be something to add at a later date. Barbara stated also, if additional copies are required, the town does charge a 25 cent per copy mandate at this time. Barbara thought that if the board requested monies for a CUP based on additional copies it would be appropriate.

Madge B. agreed it wasn't something that needed to be addressed at this time but perhaps in the future to make it more clear that money was needed up front. But she said we can ask for monies at this time based on § 105-73.J as well as § 105-73.C(4) which allows the board to ask for “appropriate fees”. Chairman Allaire agreed and said the fees were on a case by case basis.

Nothing further was discussed.

The Public Hearing for the Water Extraction Ordinance will be held next Tuesday, December 16th at the Shapleigh Memorial School.

The Planning Board meeting ended at 9:00 p.m.

Respectively submitted,

Barbara Felong, Land Use Secretary
planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD

Public Hearing for: Ordinance Governing the Large-scale Pumping or Extraction of Groundwater, Spring water and/ or Water from Aquifers within the Municipality of Shapleigh, Maine

Tuesday, December 16, 2008

Members in attendance: Roger Allaire (Chairman), Roland Legere, Lauren Meek, Maggie Moody, and Barbara Felong (Secretary). Code Enforcement Officer, Steven McDonough was also in attendance.

NOTE: A representative of Channel 2 – Public Access Channel was present filming the meeting.

Mr. John Tewhey, Ph. D., of Tewhey Associates Environmental Consultants was present. Mr. Tewhey drafted the current version of the large water extraction ordinance.

Selectman Bill Hayes was present.

The following words are not verbatim unless accompanied by quotation marks “ ”.

Public Hearing Began at 7:00 p.m.

This is the list of the names of citizens who spoke at the public hearing. The following were either residents or property owners from the Town of Shapleigh: Mary Taylor, Eric Davis, Charles Mullins, Alexander Cole, Jim Brown, Richard Curren, Roger Gagne, Mark Britton and Carl Robinson.

The following were citizens that were not from Shapleigh: Andrea Silva (Newfield), Mark Dubois (Poland Springs – Portland), Jamilla El-Shaflei (Kennebunk), Cynthia Howard (Biddeford Pool), Shelly Gobeil (Newfield), Eileen Hennessey (Newfield) and Virginia Woodwell (Newfield)

(If your name was not listed it was because it was not on the sign-up sheet or clearly understood on tape.)

Chairman Allaire opened the public hearing introducing the board members and Selectman Bill Hayes.

Mr. Hayes stated he was present because he wanted to address how Mr. John Tewhey was hired by the Town of Shapleigh.

Mr. Hayes stated that he had recently read that if you are at one extreme you generally can't see the other side. Mr. Hayes stated that he believed this situation (regarding water extraction) was a situation of extremes. Mr. Hayes said, "One extreme would be the attitude about just let them do what they want without a lot of oversight, the other extreme would be don't let them do anything, not a drop of water." Mr. Hayes thought that if you were on either one of the extremes you probably wouldn't be happy with the water extraction ordinance. Mr. Hayes said the water extraction ordinance was developed to protect the

Town of Shapleigh in a water extraction process to give the town lots of protection to make sure nobody's well went dry, no water body was adversely affected and to limit time / duration on permits, etc. Mr. Hayes stated a lot of thought went into the process.

Mr. Hayes stated that the Planning Board would address the ordinance, what he wanted to do was address Mr. John Tewhey. Mr. Hayes mentioned that he had seen in some local papers that there were some disparaging comments written about Mr. Tewhey being in the pocket of Poland Springs, that he was bought and paid for by them.

Mr. Hayes stated he wanted to share how the Board of Selectmen came about hiring Mr. Tewhey. Mr. Hayes stated that he also wanted to add that the work on the ordinance was entirely paid for by the townspeople of Shapleigh, there wasn't any money from Poland Springs helping the town develop a water extraction ordinance.

Mr. Hayes stated he thought it was a stroke of luck that the town was able to hire someone with Mr. Tewhey's capability. Mr. Hayes stated Mr. Tewhey's name appeared along with several other hydrogeologists on a document the Board of Selectmen received from the State of Maine. Mr. Hayes stated that Mr. Tewhey's name came forward because a contractor to Poland Spring's, Elizabeth, recognized the polarization that was taking place in Shapleigh over water extraction, and she pointed out that where there had been polarization in other communities, Mr. Tewhey was extremely helpful. Mr. Hayes spoke of the expansion of Bath Ironworks and how Mr. Tewhey was able to bring both sides together on a compromise for the project, which involved ecological concerns with the Kennebec River.

Mr. Hayes noted that Mr. Tewhey has never worked for Poland Springs; he has worked on the other side of the table on several projects. Mr. Hayes stated that it would be hard to find a hydrogeologist in the State of Maine that has not worked with Poland Springs on a project either for Poland Springs or on the other side of the table. Mr. Hayes stated again Mr. Tewhey has never worked for Poland Springs, but for those reviewing the contract.

Mr. Hayes stated that it was explained to the Board of Selectmen that with his listening skills, his ability to discern the issues and read both sides, Mr. Tewhey was able to find common ground in a sound way. Mr. Hayes stated he felt that superceded his technical skills as a hydrogeologist, because it seemed that was what was needed in Shapleigh. Mr. Hayes stated he wanted someone who could hear both sides of the issues, have knowledge of water extraction, and could navigate the way so the concerns would be met. Mr. Hayes stated that was why Mr. Tewhey's name rose to the top over several other hydrogeologists.

Mr. Hayes stated at the very first meeting where Mr. Tewhey's name was being discussed, Mary Taylor was present, and she was asked what her opinion was of Mr. Tewhey, along with another hydrogeologist recommended named Keith Taylor. Mr. Hayes said Mrs. Taylor stated the town could not go wrong with either man, but she felt Mr. Tewhey was the best candidate. Mrs. Taylor stated that she said, "He was the best facilitator." Mr. Hayes stated that was quite important. Mr. Hayes stated the Board of Selectmen interviewed Mr. Tewhey and agreed that with his knowledge and personality, he was the best candidate for the job.

Mr. Hayes wanted it understood all work that Mr. Tewhey does on behalf of the Town of Shapleigh is reviewed by the town's attorney, Ron Bourque.

Mr. Hayes concluded that the Board of Selectmen and Planning Board have tried to use good judgment to

develop a good path and plan and to be certain there was lots of oversight. Mr. Hayes stated that over a year and a half ago he had no idea what an aquifer was or what it did. Mr. Hayes stated the Board of Selectmen were not qualified to make recommendations on water extraction. Mr. Hayes stated that was why Mr. Tewhey was here today, and Mr. Hayes felt he was a very capable and honest person.

Shelly Gobeille - Ms. Gobeille stated that she had looked over all the paperwork at the town hall regarding Poland Springs and she said that Poland Springs had recommended five different hydrogeologists and Mr. Tewhey was one of the people on the list.

Mr. Hayes stated that was true, Mr. Tewhey's name initially came through one of Poland Springs contractors. Ms. Gobeille stated again he was recommended by Poland Springs along with four others. Mr. Hayes stated correct and that given the number of hydrogeologist in the state of Maine, there were probably few that haven't worked with Poland Springs.

Nothing further was discussed.

Chairman Allaire began by stating the ordinance to be reviewed tonight was not specific to Poland Springs but for any company wanting to extract greater than 5000 gallons of water a day, regardless of who they were.

Chairman Allaire read the proposed ordinance, dated December 1, 2008, in its entirety.

Section 1. TITLE

This Ordinance shall be known and cited as the Large-Scale Groundwater Extraction Ordinance of the Town of Shapleigh, Maine.

Section 2. PURPOSE

The intent and purposes of this Ordinance are as follows:

- To protect the short-term and long-term quality and quantity of groundwater, spring water and freshwater resources within aquifers and the recharge areas for these water bodies and related surface waters, including but not limited to lakes, ponds, wetlands, rivers and streams as may be located wholly or partially within the Town of Shapleigh;
- To ensure that any proposed large-scale water extraction activities are subject to appropriate review and approval by the Town of Shapleigh and the State of Maine;
- To establish a regulatory framework for the oversight and management of groundwater resources and groundwater extraction activities and to develop management practices governing groundwater extraction activities which will ensure the ongoing sustainability and quality and avoid interruption of supply or degradation in the quality of groundwater resources within the Town of Shapleigh;
- To protect the general health, safety and well-being of all persons dependent upon groundwater resources and supplies;
- To ensure that groundwater extraction activities do not adversely impact or impair plant or wildlife communities or the viability of wetlands, meadow areas or forested areas dependent on groundwater resources;
- To ensure the ongoing stability and to safeguard the environmental health of surface land proximate to and within groundwater extraction areas and to conserve topsoil and to promote conditions safeguarding agricultural and silvicultural activities as may be dependent on water resources;
- To protect private and public property proximate to and within groundwater extraction areas by regulating the structures, facilities, uses and activities associated with groundwater extraction so that there is no degradation of new and existing roadways due to extraction, processing, loading or transport of water resources;

- To minimize, limit and require mitigation and buffering of noise, vibration, dust, other adverse effects or pollution associated with groundwater extraction activities, including regulation of equipment and vehicles used in groundwater extraction, processing, loading or transport of groundwater resources; and
- To provide policies promoting fair use of and equitable access to groundwater resources and supplies.

Section 3. AUTHORITY

This Ordinance is adopted and enacted pursuant to the following authority:

- Title 38 M.R.S.A., Sections 401 et seq.
- Maine Constitution, article VIII and Title 30-A M.R.S.A., Sections 2101 et seq. (Municipal Home Rule);
- Title 30-A M.R.S.A., Sections 3001-3006 (Ordinance Power);
- Title 30-A M.R.S.A., Section 4311 (Growth Management); and
- Title 22 M.R.S.A., Sections 2611 et seq. (Drinking Water Regulations).

Section 4. DEFINITIONS

In this Ordinance, the words and phrases listed below have the following meanings unless a contrary meaning is required by the context or is specially prescribed. Terms related to groundwater extraction that are not listed below shall be defined in accordance to the following order: (1) as defined by State of Maine Statutes; (2) in accordance with their generally accepted technical meaning within the applicable scientific disciplines; and (3) their common dictionary definition.

Aquifer: An underground body of water and earth, sand, gravel, or rock that contains sufficient saturated permeable geologic material to hold, conduct and yield significant quantities of groundwater to wells and springs. The term “aquifer” as used in this Ordinance includes all areas specifically mapped or identified (deleted) on the current maps issued by the Maine Geological Survey as the colored map series identified as Significant Sand and Gravel Aquifer Maps.

Drought: A period of abnormally dry weather that is sufficiently prolonged to cause serious hydrologic imbalance in the affected area. It is possible to index the severity of a drought by an impact grading system. One such system – the Palmer Index - uses a zero for normal conditions, a plus scale of 1 to 4 to measure or index the degrees of wetness of a region, and a minus scale of -1 to -4 to index the degree of dryness of a region. In the fall of 2008, the State of Maine is 14 inches above normal in the year-to-date precipitation. The Palmer Drought Index for Maine in the Fall of 2008 is + 4 (extremely moist).

Extraction Point or Extraction Facility: The physical location where groundwater is extracted from the ground by the use or development of springs, wells, pumps piping apparatus, catchments, weirs or other extractive devices, methods or technologies.

Groundwater: Underground water resources located at or below the water table and within the pore space of unconsolidated sediments or in fractures in bedrock.

Large-Scale Water Extraction Activities: Extraction of five thousand (5,000) or more gallons of groundwater from a single or multiple Extraction Points located within the Town of Shapleigh within any twenty-four (24) hour period by any individual, business association or entity, consortium or association of related individuals or related business entities.

Water Bodies or Surface Waters. Lakes, ponds, rivers, streams, wetlands, and similar surficial water bodies.

Water Extraction Activities: The withdrawal, removal, diversion, taking or collection of groundwater by any means from aquifers, springs, wells or other groundwater resources through the use of wells, pumps, piping apparatus, catchments, weirs or other extractive devices, methods or technologies.

Watershed or Drainage Basin. The area of land in which all precipitation (rainfall, snow melt, etc.) drains towards a single location or area and water body or water course. Ridges of higher ground generally form the boundaries between watersheds. At the linear boundaries of a drainage basin, precipitation falling on one side flows towards the low point of one drainage basin while precipitation falling on the other side of the boundary flows towards the single location or area and water body or water course of the adjacent drainage basin.

Water Table. The level of the surface of groundwater or the water saturated zone within the underground substrate. The location of a water table is revealed by the level at which water stands in a well open along its length and which penetrates into adjacent groundwater resources.

Zone of Contribution. The area of an aquifer that is capable of contributing groundwater to a well or other Extraction Point under the most severe pumping and limited recharge conditions that can be realistically anticipated, (i.e., 180 days of pumping

at the maximum approved yield rate with no recharge of the groundwater resources from precipitation). A Zone of Contribution is bounded by groundwater divides which are evidenced by the pumping of the well and/or by the contact zones of supplying aquifers with adjacent low-permeable geologic materials such as glacial till or bedrock. Depending on local geologic and hydrologic conditions, surface water bodies such as rivers, streams, wetlands, ponds or lakes, may act as recharge boundaries and define a Zone of Contribution. In all cases, a Zone of Contribution will extend upgradient within the related aquifer areas to the point of intersection of the aquifer with prevailing site-specific hydrogeologic boundaries such as (1) a groundwater divide, (2) a contact zone with low-permeable geologic materials such as glacial till or bedrock, or (3) a recharge boundary which may be demarcated by a surface water body.

Zone of Influence. The area surrounding a pumping well within which there are or will be physical changes in the water table due to groundwater relocation, extraction or withdrawal or the interruption of groundwater recharge conditions.

Section 5. APPLICATIONS AND PERMITS

A. General. The following provisions are intended to ensure the ongoing sustainability and quality of water supplies and the avoidance of any interruption or degradation of water quality and quantity in groundwater resources to members of the general public within the Town of Shapleigh, and to protect the health, safety and well-being of all persons dependent upon aquifers and groundwater resources located in the Town of Shapleigh.

B. Permit Required. Any person seeking to develop or engage in Large-Scale Water Extraction Activities must first apply for and obtain a Conditional Use Permit issued by the Planning Board of the Town of Shapleigh.

C. Water Extraction Activities Not Requiring a Permit. The following Water Extraction Activities and uses do not require a Conditional Use Permit:

- (1) Water extraction for use in agricultural activities and used on farmlands, agricultural or on silvicultural lands for such purposes in the immediate vicinity of an Extraction Point developed for such
- (2) Water extraction for use as drinking and domestic water by private residences located within the Town of Shapleigh;
- (3) Water extraction for use by public facilities such as schools, wastewater treatment facilities, public water utilities, public athletic fields or similar facilities or uses located within the Town of Shapleigh
- (4) Water extraction used to support public safety or fire suppression; or
- (5) Existing water extraction used to support ongoing residential, commercial and industrial activities within the Town of Shapleigh to the limit of the historic level of water use existing as of the date of the adoption of this Ordinance.

D. Application for Permit. Applications for Conditional Use Permits shall be subject to the provisions set forth in the Town of Shapleigh Zoning Ordinances, Chapter 105 and the following additional application and performance standards. Application forms and instructions for completion of a Conditional Use Permit are available in the Shapleigh Town Office.

- (1) Additional Application and Performance Standards.
 - a. Written Application Required. Applications for a permit from the Planning Board to conduct Large-Scale Groundwater Extraction activities shall be in writing and accompanied by detailed site plans and project descriptions prepared by a qualified and Licensed State of Maine geologist, hydrogeologist or engineer.
 - b. Right, Title and Interest. Applicants must submit with an application adequate evidence of the applicant's right, title and interest in and to the property or properties on which any Water Extraction Activity is proposed. Applicants may show sufficient right, title and interest by providing a copy of a deed duly recorded in the York County Registry of Deeds or a copy of the lease, option, contract or other instrument establishing their right, title and interest. In all cases, such instruments must be provided in their entirety and must be submitted with the application. References to purchase price and specific business sensitive financing terms may be redacted from the documentation provided.
 - c. Extraction Methods and Quantity. Applications shall include a detailed statement describing the extraction methods proposed and the total maximum quantity of water to be extracted within any twenty-four (24) hour period from the aggregate of all Extraction Points as operated by and proposed to be operated by the same individual/entity, or consortium/association of individuals or entities. The description and submissions shall include a detailed summary and maps describing and showing the locations of all existing and proposed Points of Extraction and the proposed and existing methods of extraction, the depth of the extraction methods and a summary description of the characteristics and type of aquifer resource.

- d. Water Use. Applications shall include detailed description of the proposed uses for which the water is to be extracted, including the identity of any end user of the extracted water and a description of the facilities for the use, processing, transport, storage, bottling, sales or other similar activities associated with the proposed Water Extraction Activity.
- e. Water Transport. Applications shall include a description detailing the means of transportation, transportation vehicles and the proposed number of daily trips of the water transportation vehicles on specific routes to and from the Extraction Site and/or water pipeline terminus from which water transport vehicles will be loaded, transferred or discharged. The Planning Board may require a traffic study to be completed by a qualified, registered traffic or transportation engineer, retained by the Town of Shapleigh, and paid for by the applicant.
- f. Related Applications and Documents. Applications shall include copies of all related applications, exhibits and reports for such extraction project filed or to be filed with any other municipal authority or any agency or department of the State of Maine or United States government, including, but not limited to, as required under 22 M.R.S.A Sections 2660 et seq. (transport of water for commercial purposes) or under applicable Maine Department of Health and Human Services rules and regulations.
- g. Hydrogeologic Investigation. Applications shall include a written report addressed to the Shapleigh Planning Board, procured by and paid for by the applicant, of a hydrogeological investigation. The report investigation must be conducted and prepared by a Maine Certified Hydrogeologist, Geologist or Engineer. The report shall be based on a hydrogeological investigation of sufficient detail to provide, but not be limited to, the following information:
 - (a) Watershed Map. A map of the proposed entire topographic watershed both upgradient and downgradient of the proposed Water Extraction Point(s). Topographic contours shall be shown on the map at intervals of twenty (20) feet or less.
 - (b) Aquifer Maps. Two maps of the aquifer showing the location of the spring(s), well(s), or excavation(s) from which water is currently extracted and proposed to be extracted and all wetlands and surface water bodies located within two thousand (2,000) feet of the Extraction Point(s). The maps shall be at a scale of one hundred (100) feet or less to an inch and include topographic contours at an interval of twenty (20) feet or less. The two maps shall show the following information respectively:
 - (i) (Map 1) Water table contours and their range under ambient conditions as determined over at least a two (2) year period prior to any water extraction;
 - (ii) (Map 2) Water table contours under actual pumping conditions at completion of a five day constant rate pumping test at a rate at or above that proposed for operation;
 - (iii) The maps shall be based on Water Table elevation measurements from monitoring wells and Surface Water bodies in the vicinity of the extraction site(s), and must include surface water elevations for more distant locations. The applicant shall undertake all reasonable measures to obtain such data from land not owned, leased, or to be leased by the applicant, but the applicant is not required to include such data from land areas whose owners do not allow access;
 - (iv) Graphs and charts of precipitation and flow of water in related springs, streams, brooks, or rivers and water table elevation over the two-year period prior to any water extraction shall be provided as well as an explanation of the significance of the data; and
 - (v) Graphs and charts of precipitation and flow of water in related springs, streams, brooks, or rivers, and water table elevations shall also be provided for the period of the pumping test and ten days afterward.
 - (c) Geologic Cross-Sections. At least two geologic cross-sections showing geologic structure and stratigraphy, groundwater and surface water elevations for two Aquifer Maps required in (b), above. The locations of these cross-sections shall be indicated on the Aquifer Maps.
 - (d) Zones of Contribution and Zones of Influence. A map showing and narrative describing the long-term Zone of Contribution and Zone of Influence of each Extraction Point(s) based on maximum proposed extraction rates, and a quantitative water budget analysis that includes analysis of precipitation inputs, evaporation losses, surface water runoff, infiltration rates of precipitation into groundwater, analysis of discharge-recharge relationships

between surface water and groundwater and the relationship of such factors to the soil types in the drainage basin. Such maps shall also provide dedication of owned and leased land areas and indicate the current owner's or lessee's name.

- (e) Aquifer Characteristics. A narrative explaining the ability and capacity of the aquifer or other groundwater resource to provide the quantity of water desired to be extracted by the applicant based on the geologic conditions and relevant properties of the site and hydrogeologic conditions (e.g. hydraulic conductivity and transmissivity). Such explanation shall address but not be limited to the following issues:
 - (i) rates of groundwater drawdown and recharge;
 - (ii) sustainable groundwater extraction rates;
 - (iii) details regarding the location of aquifer boundaries;
 - (iv) details regarding the location of recharge areas;
 - (v) a review of possible changes in the zone of contribution and zone of influence over time and predicted impacts on the groundwater resources impacted; and
 - (vi) prediction of the effects of long-term water extraction on the Water Table and the impacts on any and all nearby water bodies including, but not limited to, springs, lakes, ponds, rivers, streams, wetland areas, Town wells, and private wells or other existing extraction locations within the zone of contribution.
- (f) Chemical/Biological Characteristics. A narrative explaining the chemical and biological characteristics of the aquifer or other groundwater resource and a baseline chemical analysis or fingerprint of the water resource characteristics, studied for one (1) year on a monthly basis.
- (g) Water Quality Issues. A narrative analyzing the possible effects or impacts on the aquifer or other groundwater resources from disturbances of existing Groundwater Extractive Activities causing potential groundwater chemistry or elements and/or minerals such as, but not limited to, iron, manganese, arsenic, or uranium, and reviewing any health hazards or water quality issues raised by such disturbances or other impacts as measured or otherwise ascertained of the specific conductance, turbidity, clarity, odor or taste associated with current groundwater conditions.
- (h) Site Plan. A detailed site plan depicting the following:
 - (i) Site Dimensions. The limits (outside perimeter) of the aquifer or other water source cited in the application, and the bounds of the land of the applicant.
 - (ii) Nearby Water Bodies. The location of all water bodies within 500 feet of the outside perimeter of the aquifer or other water resource.
 - (iii) Existing Road Network. The existing network of public or private roads leading to or by the Extraction Point(s).
 - (iv) Proposed New Roads. Any proposed new roads or driveways to be constructed for access to and egress from the Extraction Point(s), and the point(s) of intersection of such proposed roads or driveways with existing roads.
 - (v) Utility Lines. Any existing or proposed utility lines proposed for use in the Groundwater Extraction Activities.
 - (vi) Monitoring and Test Wells. The location and type proposed or required of monitoring and test wells.
 - (vii) Extraction Points. The location of all existing and proposed Extraction Point(s) including without limitation all associated existing and proposed well heads, pumping facilities, monitoring or test wells, buildings, and/or sheds, utility lines, fencing, access roads or driveways, with related elevation, and contour line information.

- (viii) Water Pipeline. The location of all existing and proposed pipes, pipelines, aqueducts or similar that are intended to facilitate transport of extracted water from Extraction Point(s) to all intended end users.
- (ix) Other Information Related to the Review of Groundwater Extraction Activities. All other relevant and material(s) bearing on the proposed groundwater Extraction Activities the omission of which would tend to hinder the ability of the reviewing authority, affected land owners or the public from developing a full understanding of the scope and impact of the proposal, or as may be required by the Planning Board.
- (x) Other Required Information. All other information the Shapleigh Zoning Ordinance requires with a Conditional Use Permit Application.

E. Traffic Impact Analysis (if required by Planning Board). A traffic impact analysis prepared, signed and sealed by a State of Maine Certified Engineer with experience in traffic engineering. The analysis shall include the following:

- (1) Routes to be used,
- (2) Access conditions at site,
- (3) Types and weights of water transport vehicles expected,
- (4) The expected daily water transport vehicle trips,
- (5) Peak-hour volumes,
- (6) Pre- and post-directional distribution of hourly and daily traffic volumes and level of service for the affected roads/streets and intersections,
- (7) Assessment of the load capability and volume capacity of the roads/streets to be used,
- (8) Effect upon the level of service of the roads/streets giving access to the site and the neighboring streets that may be affected, and
- (9) Recommended improvements to maintain the desired level of service on the affected Streets and mitigate the physical degradation of roads sooner than the anticipated life span.

F. Conditions of Permit. No application for Groundwater Extraction Activities shall be issued until and unless the Planning Board affirmatively finds that each of the following performance standards has been or will be met and that all other Shapleigh Zoning Ordinance requirements are met. The burden of proof is solely on the applicant.

- (1) **Technical Expertise and Financial Capability.** The applicant must demonstrate to the reviewing authority that it possesses the technical expertise and financial resources to provide continuing adherence and capacity to meet these performance standards.
- (2) **Sustainability of Aquifer Characteristics.** The quantity of groundwater proposed to be extracted will not cause significant changes in the groundwater flow patterns relating to the aquifer or its recharge areas, related springs or other groundwater resources within the Town of Shapleigh.
- (3) **Sustainability of Aquifer Production.** The quantity of groundwater proposed to be extracted will not adversely affect the long-term sustainability of the aquifer, groundwater resource recharge areas, or other groundwater resources, during periods of drought or due to reasonably anticipated changes in the recharge capacity of the effected groundwater resources.
- (4) **Sustainability of Surface Water Characteristics.** The quantity of groundwater to be extracted will not detrimentally impact, significantly diminish, or alter the characteristics of any surface waters within the Town of Shapleigh, including during periods of drought.
- (5) **Land Subsidence.** The quantity of water to be extracted will not cause any ground subsidence on the parcel on which groundwater extraction is taking place or in the vicinity of the parcel on which groundwater Extraction Activities are proposed.

- (6) **Sustainability of Water Quality.** The proposed extraction will not create a health risk or create adverse impacts such as drinking water turbidity, reduced clarity, or new odors within existing groundwater resources from the disturbance of existing geologic materials within the aquifer, or from any other cause related to the proposed Groundwater Extraction Activity.
- (7) **Monitoring System and Schedule.** Applicant must, in conjunction with the Town, establish an ongoing monitoring and recording and documenting extraction and recharge data and water quality characteristics within the zone of contribution. The data is to be reported in writing to the Shapleigh Board of Selectmen on at least a monthly basis. If an aquifer location allows, at least 25% of monitoring locations shall be at private wells located within the Zone of Contribution, provided the applicant is able to obtain landowner permission for such testing. In the event there are not enough private wells to attain the 25% threshold of wells to be monitored, the Planning Board may request the applicant to provide additional monitoring stations on adjacent public or State lands under which the aquifer or groundwater resource is located. The information to be gathered at each testing/monitoring well on water quality parameters shall include, at minimum, the following data:
- a. Water level;
 - b. Turbidity;
 - c. Temperature;
 - d. pH;
 - e. Conductivity;
 - f. Alkalinity;
 - g. Dissolved oxygen;
 - h. Aroma;
 - i. Total coliform;
 - j. Chlorophyll-a;
 - k. Total organic carbon;
 - l. Volatile organic compounds (VOCs);
 - m. Phosphorus;
 - o. Sodium;
 - p. Calcium;
 - q. Arsenic;
 - r. Iron;
 - s. Manganese;
 - t. Sulfur;
 - u. Lead;
 - v. Copper; and
 - w. Other parameters deemed appropriate by the Planning Board.
- (8) **Sustainability of Preexisting Domestic Use of Groundwater.** The applicant assumes and shall be individually responsible for any and all liability for the loss, interruption, degradation or interference with the preexisting use or beneficial domestic use of groundwater enjoyed by any person caused by applicant's participation in Groundwater Extraction Activities withdrawal or extraction of groundwater.
- For the purposes of this section "beneficial domestic use", "groundwater" and "preexisting use" shall be as defined by 38 M.R.S.A. § 404-1A-C and liability of applicant shall be for compensatory damages in accordance with 38 M.R.S.A. § 404.
- (9) **Surety.** The Planning Board shall require applicants permitted for Groundwater Extraction Activities to furnish a bond or other performance guaranty it deems in consultation with the Town Attorney of appropriate and adequate amount to secure the applicant's obligations hereunder.
- (10) **Road Use Restrictions.** Additional vehicular demand on existing town roads or public easements occasioned by the operation of the extraction facility(ies) will not exceed the capacity of those roads, or cause the premature failure, aging or diminished utility of those roads as determined by the Town Road Commissioner, and/or State of Maine DOT.
- (11) **Pipeline Use.** If extraction facility(ies) will be served by pipes, pipelines, aqueducts or similar devices, such installations will be sited and constructed in a manner which shall not unduly interrupt the public use of any existing roadway, the public's access to any public facility, great pond, and access to private property; or pose the risk of damage to any property along or through which installation traverses as a result of any failure or malfunction which might cause ponding, erosion, run-off, or similar conditions.
- (12) **Habitat Preservation.** The applicant has complied with the requirements of 38 M.R.S.A. § 480-D-3, harm to habitats and fisheries.

G. Independent Expert Assistance. If the Planning Board reasonably determines it requires independent expert assistance to assist in its review of the application, or in evaluating the substance of the application or in developing appropriate conditions of approval, it may engage the service of a technical expert to assist the Board. The applicant shall pay to the Town, in advance of the scheduling of any public hearing, a sum equal to the estimated cost of the independent expert. The failure to make payment shall excuse the reviewing authority from scheduling any further review of the application by the Planning Board until such payment is made in full.

H. Surety and Terms of Permit.

- a. **Surety.** No permit shall be issued without a surety bond or an equivalent and appropriate security, including anticipated inflation, as determined by the Planning Board in consultation with the Town Attorney to secure performance of the activities permitted to an applicant seeking to engage in Groundwater Extraction Activities and to ensure compliance with such conditions as the Planning Board may impose in connection with such authority. The bond or surety shall be in an amount recommended by the Board of Selectmen and approved by the Planning Board.
- (2) **Time Limit and Extensions of Permits.** Permits shall be issued for a period of three years, and may be extended for good cause shown for additional periods of up to three years by the Planning Board.
- (3) **Discontinuance of Permit.** The permit holder is required to inform the Town of Shapleigh if and when Groundwater Extraction Points are going to be non-functional for extended periods of time. If an existing or permitted Groundwater Extraction Activity is discontinued for more than one year, such activity shall require application for a new permit. Existing Groundwater Extraction Activities in operation before the date of this ordinance is adopted may continue such operations for three years from such date. At the expiration of the three year period, any such Groundwater Extraction Activities will be required to file for and receive a permit according to the application procedures, terms and performance standards of this ordinance. In addition, the Conditional Use Permit for Groundwater Extraction Activity may be discontinued by the Planning Board in consultation with the Town Attorney during the three-year term of the permit for significant violations and/or variations of the Conditions of Permit described in this document.
- (4) **Independent Monitoring.** Applicant shall pay the Town of Shapleigh for on-going independent monitoring of extraction operations.

I. Effective Date. This ordinance shall become effective immediately upon its adoption and enactment by vote of the legislative body of the Town of Shapleigh at a duly called Town Meeting.

Chairman Allaire noted that this ordinance would be used along with the entire Zoning Ordinance, Chapter 105, while reviewing an application. He said that all conditions in the zoning ordinance would have to be met as well as those presented this evening.

The comments from citizens are summarized in the order heard. Residents of the Town of Shapleigh began:

- Zoning laws are intended to promote the health, safety, welfare, convenience, morals, and prosperity of the people in the community. Ideally they aim to promote the welfare of the community as a whole, rather than to further the economic interest of any particular property. Zoning ordinances are designed to preserve the character of the community and to guide its growth. The power of a municipality to enact zoning regulations is derived from the State. Local zoning regulations are an exercise of the police power of the State. Authority to imposed zoning restrictions is conferred upon a municipality by a states enabling statute and those are listed in the document (water extraction ordinance). Generally it refers to and includes lessening congestion in the streets, securing safety, providing adequate light and air, preventing overcrowding, avoiding undue concentration, assuring adequate provision of transportation, water, sewage, schools and parks.

The Pennsylvania Supreme Court has said, zoning is the means by which a governmental body can plan for the future. It may not be used as a means to deny the future.

When the moratorium was first put out, it was necessary because of the lack of an ordinance for the Town of Shapleigh. The Planning Board and Mr. Tewhey have worked hard to develop this ordinance. This is a regulatory ordinance. This will be voted on if it meets our needs. What was requested was an ordinance for the Town of Shapleigh about the testing, pumping and transportation of Shapleigh's groundwater, surface water, aquifers, springs and well water. Such an ordinance was developed.

The ordinance is a set of rules and regulations that historically have been ignored, violated, moderated, or litigated. Keep those four steps in mind.

- Section 2, #6 & #7 – Is the word “proximate” the appropriate word? (*Webster's Dictionary - Means adjacent, neighboring, adjoining, etc.*)
Section 4, Definitions – The word “Drought”, mentions the Palmer Index, will this index be used? If not, why is it mentioned?
Section 4, - “Zone of Contribution”, use of terms (1) groundwater divide, (2) contact zone, (3) recharge boundary, words not defined could be confusing. (*See Zoning Ordinance 105-14(c)*)
Section D - (1)(b) – The word redacted, what does this mean? (*Webster's Dictionary – Means to put in writing; to obscure or remove from the document prior to publication or release*)
Section D – g.(b)(ii) – With respect to 5 day constant rate of pumping test, what permit allowed the test?
Section F – (1) What performance standards must be adhered to? (*All the standards under F*)
Section F – (3) Sustainability of aquifer groundwater resource recharge area, how can this be measured? (*See F(7)*)
Section H – (3) Discontinuance of Permit, The permit holder is required to inform the Town of Shapleigh if and when Groundwater Extraction Points are going to be non-functional for extended periods of time, thought this was vague. What is an extended period of time?
Did not feel there were conditions in the monitoring standard by which the town can order a stoppage of water extraction until monitoring shows an adequate recharge of the aquifer in use.
- The first page of the document says the purpose is for protection. Insure long and short term quality of groundwater. The only way to insure protection is to say no to Poland Springs. It is understood that under current law the Selectmen and Planning Board cannot say no to Poland Springs. They can't regulate it either because if there is any regulation it will be litigated. The only thing the town can do is vote yes on a self government warrant article and make it the law in Shapleigh.

Chairman Allaire stated there would be several articles dealing with water extraction on the ordinance. One would be for this ordinance and the other asking if the townspeople want to allow Poland Springs to test drill on Shapleigh's land. Chairman Allaire stated if the testing was allowed Poland Springs would have to abide by the ordinance. Chairman Allaire stated the ordinance was not a Nestlé's or Poland Springs contract it was specifically language for water extraction. He said any company using large quantities of water would use this ordinance, it could be Dasani, Pepsi, Coke, any of those would be under the ordinance.

- Section F(2) – Significant change, who determines that? Who determines if something is adversely affected? When do the citizens of Shapleigh have a chance to say yes or no to who takes water out of their ground?

Chairman Allaire stated it would be a question on the town warrant in March. Chairman Allaire stated it would be a vote at town meeting as to whether or not the citizens wanted to allow Poland Springs to extract water. He said it would be a yes or no question.

The resident thought it would be best by ballot vs. town meeting feeling many people are out of town in March. (Note: Only permanent residence are allowed to vote in Shapleigh.)

The resident believed if water was extracted from Shapleigh it would affect the lakes and groundwater.

Chairman Allaire stated that with respect to the vote for water extraction on town land it was up to the Board of Selectmen how it got presented, it had nothing to do with the Planning Board. The Planning Board only deals with the ordinances.

- The regulatory system is set up so you cannot say no if you follow the law. You cannot say no to anything the State determines to be an allowed use. The towns may have a hand in the regulating and use of zoning ordinances which regulates where the activities can occur but you cannot ban an allowed use. When people discuss available alternatives within the regulatory system it becomes a short discussion. There is no way you can say no. There is no alternative but to succumb to the permitting process. The DEP is organized to facilitate this process, permitting and operation within the State. The DEP does not protect the environment as its name suggest, it is only designed to do the permitting process. The regulatory law can control to what extent the environment is damaged but it cannot prevent the gradual destruction of the environment or ecosystem. When harm to that ecosystem occurs and that harm is addressed, fines may be imposed but the fines go into a general fund and that does not repair the damage. The ecosystem usually remains in a damaged state. This is the system of law under which we are working.

Non-Residents:

- Section H(3) – “Existing Groundwater Extraction Activities in operation before the date of this ordinance is adopted may continue such operations for three years from such date.” It was asked if there were any existing permits?

Chairman Allaire stated, “Not at this time.”

It was asked, “Why then was this sentence in the ordinance?”

Chairman Allaire stated that if something were to come to the Planning Board between now and March this would cover that. He said again there was nothing at this time.

- A representative of Poland Springs stated Poland Springs supports strong ordinances. Poland Springs has a long history of working within clear guidelines, so they support the Planning Boards efforts. Overall Poland Springs felt the board developed a good ordinance which should provide the type of regulation that the residents and municipal officials have worked to develop.

Several comments: (1) The ordinance calls for water quality monitoring initially for a one-year baseline period. Section 5(D)(1)(g)(f) and Section 5(F)(7). Poland Springs would suggest the board consider language related to monthly water quality data collection be modified to a frequency of every other month or quarterly during each year of required monitoring. Monthly monitoring, although possible, will not likely show substantive changes in quality since natural evolution of geochemistry in sand and gravel aquifers occurs as a relatively slow process over time.

(2) Section 5(F)(7). The ordinance states that at least 25% of the monitoring locations should be at private

wells located in the Zone of Contribution. On the Mann Road site there may be no private wells located in the Zone of Contribution. Although additional wells can be requested by the Planning Board it might be more helpful to introduce the idea of a “sentinel” well or record this idea in the record for future discussion.

Section 5(F)(9) and 5(H)(1). The ordinance mandates a bond or other performance guarantee. Poland Springs would like the PB to determine in each case if a bond or performance guarantee is required.

Section 5(H)(2). The ordinance states that a permit will be issued for a 3-year period and may be extended for good cause or an additional period of up to three years. Poland Springs feels “good cause” is essentially two words that could be explained further, to give future planning boards guides with regard to permit renewal.

(Given to board members was a copy of part of the water extraction ordinance from Denmark, Maine, which deals with the three year renewal period.)

- A non-resident stated she did a lot of research on this issue dealing with the Wells / Kennebunk water district and was with an organization called Save our Water. She stated she had a website that would be helpful. (SOH2O) She stated on the website people would find that even though a town prepares a set of rules and regulations, when dealing with a multi-national corporation it does not apply. The website will show countless stories of people in litigation with the Nestle Corporation. She advised people to do their homework because the ordinance would not protect them. She stated all over the country towns are going broke fighting with Nestle Corporation.
- A non-resident asked, “Why if selling water is such a good idea, where is the competition? Why don’t you invite Pepsi, Coca-cola?” She thought it was interesting and telling that only one person (Poland Springs) was here. She didn’t feel it was a fair market or in the interest of the people of the Town of Shapleigh.

Chairman Allaire wanted it known that the Planning Board does not invite applicants to the town nor do they negotiate contracts. Contracts are entered into by the Board of Selectmen. Chairman Allaire stated the only job of the Planning Board was to require the applicant to provide the appropriate information in order to get a permit. Chairman Allaire stated that was what the ordinance was designed to do.

- Another non-resident with Save our Water stated she was an architect and was familiar with regulations. She said with respect to the water issue, Nestle has the law on their side. In the course of business if Nestle wants to double or triple the number of trucks their rights allow them to do what they want. You cannot interfere with their rights to make a profit because they are an international company. NAFTA protects them. She said as more and more people gather information, you will understand. You need a rights based constitution, look into it.
- A non-resident stated there have been four plus meetings where Shapleigh taxpayers have given the Planning Board and Selectmen their advice on what they want in the ordinance. The townspeople want a much more strict ordinance. She believed this was written for the applicant and not the people.

The non-resident went on to say that the rights based ordinance basically protects the people of Shapleigh. The rights based ordinance is being presented to the Board of Selectmen this evening along with 200 signatures from the people of Shapleigh. The rights based will be more strict.

The non-resident said that at the last four meetings people have asked for: (1) Less than 5000 gallons per day (2) Hours of operation, yes it could be in the zoning ordinance but they want it in this one (3) Traffic (4) Vernon Walker, the State property, want it kept for wildlife and the aquifer. One of the largest aquifers in Maine.

Time of operations is important, we do not want it running 24 hours. This is going to be given to the Selectmen.

Also more specifics with the boundaries, I want it so many feet from the boundaries.

Waste water treatment facility. If a water company comes in they are going to want to have waste water treatment. That is something we don't want.

Conditional Use Permits are very vague.

Chairman Allaire asked John Tewhey if he had any comments.

Mr. Tewhey responded to the question regarding the fact there were no metrics by which to measure what Poland Springs was doing. Mr. Tewhey stated all aquifers were different. Mr. Tewhey stated during the application process, by way of the ordinance, the applicant has to understand the aquifer they are dealing with. He said aquifers can be understood by putting holes in the ground, knowing where the water is coming from, knowing where the water is going, all of that can be done precisely. Mr. Tewhey stated once the aquifer is characterized in that manner then the required parameters are available to measure the sustainable use of the aquifer. Mr. Tewhey stated the key thing is in Shapleigh there is a flowing spring in which water is coming out of the ground. Mr. Tewhey stated water companies like Poland Spring need to take their water from a spring and that spring has to be sustainable while water is being drawn from them. Mr. Tewhey said they cannot take an amount of water that would cause the spring to disappear and so that in a big sense is the metric or parameter that is important in this particular location for sustainability.

- A resident stated that he understood he (Mr. Tewhey) was a hydrologist who helped to write the ordinance. Mr. Tewhey stated correct. The resident stated that the Selectmen hired him. Mr. Tewhey stated correct. The resident stated Poland Springs recommended him to the Board of Selectmen, yes or no? Mr. Tewhey stated he never saw the document that was referred to by Bill Hayes earlier, but it was his understanding that a Poland Springs consultant, Elizabeth Swain, gave a list of five consultants. Mr. Tewhey stated there was also other input that the Selectmen used in order to evaluate people. The resident stated, "So you won't go yes or no." The resident asked Mark Dubois of Poland Springs if he knew.

Chairman Allaire stated this was not part of this discussion. Chairman Allaire stated we were here to discuss the ordinance. Chairman Allaire asked if there were anymore comments?

- Non-resident asked if there was an equation that the applicant had to follow that could be put into the ordinance for the public to see. If the equation is kept secret and is part of the applicant's knowledge, it seems secretive. Also shown should be what percentage was taken as a measurement for each month.

Mr. Tewhey stated the issue was more complex than a simple formula. Mr. Tewhey stated there was no single equation because of the many different types of aquifers. Mr. Tewhey said there were confined aquifers that were not directly communicative with the atmosphere. Mr. Tewhey stated there were open aquifers. Mr. Tewhey stated there were aquifers with different layers separated by clay. Mr. Tewhey said one equation does not fit all. Mr. Tewhey stated you had to understand the aquifer. Mr. Tewhey said it

was much like the fact there were no two rivers alike, they all have different water sheds that feed the rivers. They have different flood characteristics, each one is unique. Mr. Tewhey stated each water body is unique; each lake is unique with respect to how much it rises and falls with the rains and in the fall when there is less rain. Mr. Tewhey stated to be fair with the habitats that support an aquifer and the rights of the environment, you have to understand the particular aquifer and what equations would be applicable to that aquifer. There is not one size that fits all.

- Non-resident stated that she thought the reason that the above citizen didn't get a clear answer is because we are talking about a proposal that is unprecedented. She stated we were talking about large scale water extraction which really hadn't been done before and this is why it is so scary. This is also why people want a yes or no say in it. The citizen noted that corporations in the past have stated everything was fine when it fact it wasn't.
- Resident said that in the ordinance it stated the monitoring of 5000 gallons or more, she wanted it to state 5000 gallons or less. The resident talked about the ordinance mentioned earlier, not the one proposed by the Planning Board, it gives the people of Shapleigh the right to say yes or no. The resident stated she wanted the right to say yes or no. The resident wanted to be able to keep out large corporations. The resident stated that even the town attorney did not know about international law and she stated he was a good attorney but he wasn't experienced in this area. The resident stated there was no way to control Poland Springs if they got in the door because the Town of Shapleigh didn't have enough money to go up against them. The resident told others to read about what Poland Springs has done in other states. The resident stated she didn't want Shapleigh to change.
- A resident asked, "Is the Planning Board and the Board of Selectmen aware that the Federal Government put out a report that says that drinking water in the United States will go to crisis level in 10 years?" The Town of Shapleigh can sell its drinking water but in 10 years maybe they will be looking for some.
- A resident stated the town should have a rights based ordinance. He also asked about the people being able to vote yes or no? He asked if he had any rights.

Chairman Allaire stated there would be a vote on it. Chairman Allaire said they would vote whether or not to add the ordinance at the town meeting. Chairman Allaire stated from what he has been told by the Selectmen there would also be a warrant article as to whether or not to allow Poland Springs to engage in a contract with the town to be able to do test drilling on town property. Chairman Allaire stated there would be another vote at a later time to ask the townspeople if they want to engage in a contract to extract water. Chairman Allaire stated there would be voting and the Selectmen would be organizing that.

- Resident read in part Section D(1)(g)(e)(vi), "explanation shall address but not be limited to the prediction of the effects of long-term water extraction on the Water Table and the impacts on any and all nearby water bodies including, but not limited to, springs, lakes, ponds, rivers, streams, wetland areas, Town wells, and private wells or other existing extraction locations within the zone of contribution." He said the word "prediction" is very suggestive. He stated he was concerned.
- Non-resident asked what happened from here forward with the ordinance?

Chairman Allaire stated there would be one more public hearing probably in February. The ordinance would be presented as it stands this evening. Chairman Allaire stated there could be minor changes but

nothing major at this time. Chairman Allaire stated this would be what would be voted on at Town Meeting in March 2009.

- Non-resident stated that the town voted for a moratorium and also that the town did not want testing on town property. She stated it was her understanding the question would be posed again for testing. She asked if this was correct and if so why is it coming back again?

Chairman Allaire stated the proposed vote on drilling has to do with the Board of Selectmen; the Planning Board was not involved with that. Chairman Allaire stated the Planning Board only dealt with the ordinance.

Public Hearing closed at 8:40 p.m.

Nothing further was discussed.

Respectively submitted,

Barbara Felong, Land Use Secretary
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