

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, January 10, 2012

Members in attendance: Roger Allaire (Chairman), Madge Baker, Roland Legere, Maggie Moody, Diane Srebnick, and Barbara Felong, Land Use Secretary. Code Enforcement Officer Steven McDonough was also in attendance. Note: Alternate, Joseph Stanley was unable to attend.

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Public Hearing began at 7:03 p.m.

Conditional Use Permit – Temp. Use of Existing Church & Parking Area – Map 1, Lot 41 and Map 14, Lot 1 (192 Emery Mills Road) – Richard Gallant, Owner and Applicant, Peter Cutrer, Representative

Mr. Cutrer was present to represent Mr. Gallant for the public hearing. Note: Members did a site inspection prior to the public hearing.

Mr. Cutrer stated that he was not only representing the property owner but also the Springvale Congregation of Jehovah's Witnesses. He said they were looking to meet at a temporary location in the Town of Shapleigh on the Gallant's property, two times a week and there would be less than 100 people at the services. There would also be other administrative functions held.

Mr. Cutrer stated the congregation had purchased a piece of property and a new meeting house would be built on it later this year. He said they were fortunate to have sold their existing property but there is a stipulation that they have to be out of the building by January 19, so their challenge was to find a place where they could still meet as soon as possible.

Mr. Cutrer stated they were very happy Mr. Gallant was offering the use of the building he owned and it was also nice to see an old historic building being used. He noted Mr. Gallant was a member of their church and as such there would be no cost involved.

Roland L. asked if there would be any signage to identify the church? Mr. Cutrer stated there is no formal agreement among members with respect to a sign but they may want to affix a sign to the outside of the building. He pointed out that while using the Town's appraisal software the picture of the building shows a sign attached to the outside of the building that states "Christian Life Center". They may want to affix a temporary sign in that area but he wasn't sure.

Mr. Cutrer provided a letter from the property owner(s), Richard and Virginia Gallant stating he had permission to represent them for this application.

Madge B. noted she observed there was outside lighting, she thought there was enough but wasn't sure. Mr. Cutrer stated they were very concerned with safety; they did not want anyone to get hurt. He said they were able to change out the existing light fixture with a different bulb that provides more light. There was also a halogen light on the rear of the building that was on a photocell that came on as needed, this light shined into the parking area. He said they considered adding solar landscape lighting around the parking lot but they need to look further into whether or not it will work.

Mr. Cutrer provided the board members with what was called an 'Operations Manual' of the Springvale Congregation of Jehovah's Witnesses, Temporary Meeting Location – Shapleigh. He reviewed the manual which contained the following information:

Hours of Operation:

Sunday Morning Service: 9:30 – 11:15

Tuesday Evening Service: 7:00 – 8:45

Special meetings: Once in the spring, and once every 6 months on Thursday evening, 7:00 – 8:45

Mr. Cutrer noted that the spring meeting is similar to Easter Services and sometimes is held during a regular scheduled meeting.

****Please note that fellowship may take place for 1 ½ hours before and after services. Also, while no services are held outside the above stated, administrative meetings may take place with administration staff at other times.***

Mr. Cutrer stated the administrative meetings are for business purposes, to pay bills or discuss if someone needs help.

Mr. Cutrer stated that safety is paramount so the following was put into writing:

Pedestrian Safety:

Members and visitors shall be instructed to walk from the parking area, accessed from Simon Ricker Road to the Meeting House, via the walkway behind Richard Gallant's house. At no time shall pedestrian traffic be allowed along or across Route 109. Further, all vehicular traffic shall enter the parking area from Simon Ricker Road, and at no time shall traffic enter from Route 109 to the Meeting House site.

Mr. Cutrer stated members will have a formal announcement on this issue. He noted that the area delineated at the site inspection by caution tape was the area cars would park. He believed it was the best location as it is safe and there is ample parking.

Mr. Cutrer stated again he did not want people backing out onto Route 109 because people did not go slowly in the area. He said there was also some discussion that once the snow melted and the ground thawed, that they put up a small picket fence between the church and Route 109 so no children or person would want to go into the road. He said that the church had some good parents that watched their children carefully.

There was an area in the manual that addressed parking as follows:

Parking:

The parking area shall be within 300 feet of the site. The parking area and pedestrian walkway shall be maintained hazard free at all times. This includes snow removal and sanding.

Mr. Cutrer noted again there would be members delegated to make certain there was a safe walkway for all patrons and that any with special needs would get additional help if needed.

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

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

The planning board meeting began at 7:30 p.m.

The minutes from Tuesday, December 13, 2011 were accepted as read.

Unfinished Business:

Conditional Use Permit – Temp. Use of Existing Church & Parking Area – Map 1, Lot 41 and Map 14, Lot 1 (192 Emery Mills Road) – Richard Gallant, Owner and Applicant, Peter Cutrer, Representative
Mr. Cutrer was present to represent Mr. Gallant for the public hearing.

Roger A. began by stating everyone present this evening heard what the applicant's intentions were and board members did a site inspection. Roger believed all questions had been answered. The applicants were before the board to use the existing church and parking area, owned by Richard and Virginia Gallant, as a temporary meeting house and parking area for the Springvale Congregation of Jehovah's Witnesses. The applicants provided the board with an Operations Manual which stated the hours of operation, and how they would address pedestrian safety and parking. Also provided were pictures of the existing building to be used, parking area plan, along with a brief summary about the existing buildings past usage, condition of the structure, its size and number of members that will use the building.

Roger A. stated the reason the applicant was before the board was because under §105-17, 'Public, semipublic, institutional', church, parish home or other religious building, it requires a Conditional Use Permit.

Roger A. read §105-20 'Applicability of standards; prohibited uses', in its entirety.

Roger A. reviewed the pertinent ordinance standards and made findings of fact:

- 105-21 – Traffic.** *Traffic will have safe access from the Simon Ricker Road. The minimum site distance requirement was met on the previous CUP approval for Map 1, Lot 41, which was the office for Stoney Road Portables and the storage area for the portables.*
- 105-22 – Noise.** *There will be no loud noise generated by the proposed activity.*
- 105-23 – Dust, fumes, vapors and gases.** *There will be none generated for this activity.*
- 105-24 – Odors.** *There will be no obnoxious odors emitted from the activities on site. The outdoor portable toilet facility shall be well maintained as a service contract shall be obtained.*
- 105-25 – Glare.** *There shall be no additional lighting being placed on site that glares onto Route 109 or Simon Ricker Road. There is vegetation and a hillside between the parking area and Route 109.*
Roger A. asked if there was enough lighting for the parking area? He suggested one additional light be added, and if added to shine into the parking area, it would not glare onto any other residence. Mr. Cutrer stated one additional flood light could be erected.
- 105-26 – Stormwater runoff.** *There are no changes being made to the existing structure or property that would cause a stormwater problem. There is existing vegetation, which shall not be removed. The walkway shall be well maintained.*
- 105-27 – Erosion control.** *There are no changes being made to the existing structure and property that would cause an erosion problem.*
- 105-28 – Setbacks and screening.** *The existing vegetation is not going to be removed, screening is in place from the previous CUP on Map 1, Lot 41.*
- 105-29 – Explosive materials.** *There are none on site and none to be generated.*
- 105-30 – Water quality.** *There is no drinking water on site. There is no waste water to be disposed of on site for the proposed activity.*
- 105-31 – Preservation of landscape; landscaping of parking and storage areas.** *This is a temporary parking area so no additional screening is going to be required. Landscaping that is in place is not going to be removed making it well screened from Route 109.*

- 105-32 - Relation of proposed building to the environment. *The existing building fits in well with the surrounding area and it is a historic structure.*
- 105-33 – Refuse disposal. *There will be a minimal amount of trash and it shall be removed by the applicant / congregation.*
- 105-34 – Access control on Route 109. *There shall be no direct access onto Route 109 per the Operations Manual; the parking area shall be accessed via the Simon Ricker Road.*
- 105-43 – Off-street parking and loading. *There is more than adequate parking for the church patrons, the minimum requirement which is one space for each three seats is exceeded, there is room for 150 parking spaces as depicted on the plan. The minimum required is 30 spaces. The access onto Simon Ricker Road meets the site distance requirements of the Ordinance. There shall be no change to the site to affect stormwater.*
- 105-46 – Sanitary provisions. *There shall be portable toilets on site that shall be well maintained.*
- 105-47– Signs and billboards. *Any signage shall be obtained through the Code Enforcement Office.*

Roger A. reviewed Shapleigh Zoning Ordinance 105-73.G “Standards applicable to conditional uses” and made findings of fact.

- G. Standards applicable to conditional uses. It shall be the responsibility of the applicant to demonstrate that the proposed use meets all of the following criteria. The Board shall approve the application unless it makes written findings that one or more of these criteria have not been met.
 - 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. *It will not, the property is not near the water and no changes are being made on site to disturb 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 the preservation of historic sites and structures. The existing structure is a historic building.*
 - 4) Traffic access to the site is safe. *It is, the site distance can be met in both directions as stated on the previously approved CUP for Map 1, Lot 41. There shall be neither direct vehicular access from Route 109 nor any pedestrian access onto Route 109.*
 - 5) The site design is in conformance with all municipal flood hazard protection regulations. *It is, this location is not in a flood zone and no changes are being made on site to affect stormwater.*
 - 6) Adequate provision for the disposal of all wastewater and solid waste has been made. *There is, a well maintained portable toilet facility shall be placed on site and it shall be kept maintained.*
 - 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. *N/A*
 - 8) A stormwater drainage system capable of handling fifty-year storm without adverse impact on adjacent properties has been designed. *There are no changes being made to the site to affect stormwater. There is an existing swale on site that keeps stormwater on site. The activity of the new business will not affect stormwater movement.*
 - 9) Adequate provisions to control soil erosion and sedimentation have been made. *There are no changes being made to the site to create an erosion problem.*
 - 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 Emery Mills Fire Hydrant.*
 - 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. *The existing vegetation buffers the parking area from Route 109.*

There shall be no lighting glaring onto neighboring properties; there are no fumes, dust or odors from this business and there are limited hours of operation.

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

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

Roger stated the conditions of approval are as follows:

- 1) The hours of operation shall be as described in the Operations Manual of the Springvale Congregation of Jehovah's Witnesses, Temporary Meeting Location - Shapleigh.**
- 2) There shall be portable bathroom facilities placed on site as discussed during the Planning Board application review, which includes findings of facts, as well as the site inspection.**
- 3) All site access shall be as described in the Operations Manual of the Springvale Congregation of Jehovah's Witnesses, Temporary Meeting Location - Shapleigh.**

Diane S. made the motion to approve the temporary use of the existing structure on Map 14, Lot 1 as well as the parking area on Map 1, Lot 41 for the assembly of the Springvale Congregation of Jehovah's Witnesses with the above conditions; Madge B. 2nd the motion; all members were in favor. By a vote of 5 – 0, the decision was unanimous to approve the application.

Nothing further was discussed.

New Business:

Letter to Ashley Bailey, dated 12/28/11, regarding 'Conditions of Permit'

Barbara F. stated while doing the year end report she noticed that not all the conditions of approval for Ashley Bailey to operate an in-home day for up to 8 children, on Map 1, Lot 41A (344 Simon Ricker Road) had been met. She therefore mailed Ms. Bailey a reminder on December 28, 2011 and asked her to contact either herself or CEO McDonough to notify the town that the conditions had in fact been met. There has been no reply to date. The conditions that were not met are as follows:

Conditions in question from the original approval dated 7/22/11:

- #4 – There shall be a fence erected in the backyard, 4 feet in height, with no greater than 4" openings.**
- #6 – The fire pit shall be outside of the fenced area so the children do not have access to it.**
- #7 – The deck shall be brought up to code.**
- #8 – A copy of the State License and Fire Marshall Report shall be given to the Planning Board prior to operation.**

Barbara asked if the board should notify Ms. Bailey because she did not meet all the conditions of approval that her application is no longer valid? Board members agreed all conditions of approval had to be met in order for a CUP to be valid. CEO McDonough asked if the letter had been mailed certified. Barbara stated it had not. CEO McDonough stated in his opinion a certified letter needed to be mailed to Ms. Bailey asking one more time for compliance, giving her a deadline. If there is still no response, he agreed the permit is no longer valid. Roger A. agreed.

Note: A letter was mailed to Ms. Bailey on January 11, 2012 certified / return receipt, stating she had 30 days to show proof of compliance with the conditions of her permit approval.

Conditional Use Permit – Mineral Extraction – Map 7, Lot 28 (State Route 11) - Hissong Development Corporation

Barbara F. stated that the CUP for mineral extraction for the Hissong Development Corporation was about to expire due to inactivity on the permit for a period of two years. Barbara asked CEO McDonough if any permitting had been done through his office for this location that he was aware of or if he was aware of any activity on site? CEO McDonough did not believe anything had been done to date. Barbara also noted that they never provided a security bond which was one of the conditions of their permit which was approved January 12, 2010. She stated she had mailed them a reminder of their conditions of approval on June 23, 2010 but got no response with respect to the bond.

Madge B. asked if they could begin to operate without coming in to speak with CEO McDonough? CEO McDonough and Roger A. thought that might be possible. In light of this, the board members agreed Barbara should send Hissong a letter stating that the permit is null and void per §105-73.F(2) which states that a conditional use permit in which no work or change has taken place within two years of the date on which the CUP was approved is considered expired. Also, the condition requiring a security bond was never met, even after additional notice was given after the approval letter.

Barbara F. added that the letter will state they can re-apply for a new permit and that their information will be retained on file.

Nothing further was discussed.

Letter from Attorney Lenkowski to CEO & PB Chairman, dated 12/28/11, requesting further information on Map 30, Lot 39

Mr. Lenkowski mailed CEO McDonough and Chairman Allaire a letter requesting information about a division of Map 30, Lot 39. Diane S. noted after reading Mr. Lenkowski's letter that he had the wrong map and lot on the letter, it was Map 30 not 3 as the letter stated and she also noted that the street is named Hawthorne but at one time was referred to as Fir.

Roger A. talked about the previous conversation he had with Mr. Lenkowski and reminded the board they had agreed at a previous discussion that they did not want to make a suggested property division for an applicant which was what Mr. Lenkowski was requesting at the time. Roger said he was also told there were multiple deeds that date back to the 1940's and 1950's but since then the town joined the properties. Roger said now the family wants to separate the lots to give different family members a piece of the property. Roger said Mr. Lenkowski's client had different ideas on how they wanted to divide the property so Mr. Lenkowski was looking for direction. Roger said during the last discussion the board had decided to have Mr. Lenkowski speak with Assessing as they are the ones that originally joined the lots.

CEO McDonough stated Mr. Lenkowski did submit a plan to Assessing. CEO McDonough stated he has given Mr. Lenkowski his opinion on this matter which is that by State law if a road divides your lot and the road was put there prior to 1971 and you didn't put it there, it now constitutes two separate lots. Madge B. agreed. CEO McDonough stated that if they wanted to divide the lot that way they would get no resistance from him.

CEO McDonough stated that in the past he asked the homeowners to get an attorney to write him something to that effect and he would accept it. In doing it this way, they are telling him what the law states, so he isn't doing it for them. Legally he felt this is best. CEO McDonough stated he had said this to Mr. Lenkowski during their last conversation.

Maggie M. agreed, in her dealings with a similar situation on her property, if a road separated a property this created two properties, therefore, subdivision isn't necessary.

CEO McDonough drew a quick sketch of what he was presented with from Mr. Lenkowski, what his client was trying to do. It appeared the applicant was trying to not only create two lots due to the road division but also a third lot which did not meet the minimum lot size law. Roger A. agreed the road created two lots but the additional lot would be a problem. Madge B. agreed as well that it appeared their proposal may not be valid.

CEO McDonough stated if an attorney explained why what they were proposing was legal he would agree to it. Board members agreed it would be best to speak with Mr. Lenkowski in person. Barbara F. will draft a letter inviting him to attend a Planning Board meeting at his earliest convenience.

Nothing more was discussed.

Note: Mr. Lenkowski contacted Barbara F. and he will be attending the next scheduled meeting on Tuesday, January 24, 2012.

Growth Permits - There are growth permits available.

Planning Board meeting adjourned at 8:10 p.m.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, January 24, 2012

Members in attendance: Roger Allaire (Chairman), Roland Legere, Maggie Moody, Diane Srebnick, Joseph Stanley, Alternate and Barbara Felong, Land Use Secretary. Code Enforcement Officer Steven McDonough was also in attendance. Note: Madge Baker was unable to attend.

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The planning board meeting began at 7:30 p.m.

The minutes from Tuesday, January 10, 2012 were accepted as read.

Attorney Joseph Lenkowski Coming before the Board - Discussion on Dividing Map 30, Lot 39

Attorney Lenkowski was present to discuss a letter he wrote to Chairman Allaire and CEO McDonough regarding a proposed property split for Map 30, Lot 39 which at present is a non-conforming lot. The property owner(s), which is shown to be the Estate of Charlotte Clark, would like to divide the property.

Attorney Lenkowski provided a plan of a proposed property split which instead of dividing the lot along the existing roadway known at Hawthorne, the split would be a straight line between the two proposed lots thus creating not only the two new properties but because of the roadway possibly an additional two small lots for a total of four lots.

Attorney Lenkowski stated the original owners of the property had both passed away and now the property is owned by their daughters. The daughters want to split the property, one piece to be for the daughters and another for a niece. He stated that he realized it was going to create two non-conforming lots. He discussed this with CEO McDonough and Roger A. and he believed there were two ways the property could be divided. One way was based on using the road running through the property that has been there for many years, so this in actuality divides the lot at this time. He stated the other way his clients would prefer is to do it the way the property was originally established. He said the waterfront property came to the Clark's as joint tenants. The next property, on the other side of Hawthorne, was acquired by Mr. Clark only. It was made up of three lots but was documented as one lot owned by Mr. Clark. He stated that later both lots were merged into one lot, the waterfront and back lot.

Attorney Lenkowski stated the current owners would like the lots divided as they originally came into the owners, not via the roadway. The plan Attorney Lenkowski provided showed the lots divided in this manner.

Attorney Lenkowski asked his clients if it really mattered how it was divided? He stated that they said if it were to be divided by the existing roadway they believe the leachfield for the existing waterfront home was on the other side of the roadway, thus it would be on the back lot. CEO McDonough asked how old the septic system was? Attorney Lenkowski stated he was not sure but one of the current owners stated the system had been in its current location for as long as she could remember. Board members asked how old she was?

Roland L. asked if the location of the septic system had been verified? Attorney Lenkowski stated there was no independent verification of its location but the current owners did not seem to have any doubt of its location. Attorney Lenkowski stated this information was just provided to him today, prior to the meeting when discussing their preference for dividing the lots. He said his client seemed to know what she was talking about. He added that they believed the septic tank itself might be under the road.

Diane S. stated the Town files may tell the board its location? CEO McDonough stated the location of the septic system was irrelevant to the issue of dividing the lot.

Roland L. asked if the property owners accessed their property via the existing roadway. Attorney Lenkowski believed this was the only way to access the property. Diane S. agreed, she lives within 500 feet of the property and knows the area well.

Attorney Lenkowski stated when speaking with CEO McDonough, he had concerns over possibly creating a subdivision. CEO McDonough stated he would give his opinion. The Town has assessed this parcel as one lot for many years; as far back as his Town maps go, it was one lot. He said at one point it must have been separate lots when you review the old deeds but it was prior to zoning. Attorney Lenkowski stated he believed it was never two lots while the Clarks owned the property back in the 1950's, but at one point this was four lots.

CEO McDonough continued by stating when he discussed this with Attorney Lenkowski he was asked what could be done to divide the property. He said in an effort to help Attorney Lenkowski, per the subdivision law, it states that if a road divides the lot, it constitutes two separate lots. He said this has happened before, although he does not believe it is in the Town's best interest to create additional non-conforming lots. He said in the past he has asked property owners to go and get an attorney to tell him that the division meets the subdivision law allowing for the division and then the Town will accept the division as they have done so in the past.

CEO McDonough did not know if it would be legal to separate the lot into two lots by way of a new deed, as you will be taking a non-conforming lot and creating two non-conforming lots out of it. He believed this could create a dangerous precedence for the future. Attorney Lenkowski stated he agreed and said that in 99 times out of 100 he would say, "Let's look at the road and see if we can divide it just by the road". CEO McDonough stated, "I think you can in my opinion." Attorney Lenkowski stated, "The only difference here is the back 3 lots were always merged as the back lot was owned by Mr. Clark but the front lot has no commonality in title with the back lot. The front lot was owned by Mr. and Mrs. Clark and the back lot by Mr. Clark alone. Technically they did not merge."

CEO McDonough stated they did not get two separate tax bills. Attorney Lenkowski stated, correct, but he believed because the Town didn't treat them as a separate lot it doesn't mean they were not separate lots. Roger A. stated the owners did not contest the fact the lots were viewed as one lot. He said they should have come to the Town and stated the lots were in separate ownership. Attorney Lenkowski stated that they did not care. He said he was not trying to argue that the lots were anything other than what they are now. He said, "I am looking at this as if the Town looking at this did not say, 'Oh my God we don't want to do this', that being dividing the lot. If this isn't the case, then if the lot can be divided I believe there are two ways it could be legally done. One by way of the road dividing the lots or the other by way of using the deed descriptions, because the title didn't technically merge the lots." He stated that he agreed with CEO McDonough that if he was before the board and was pounding on the table and thought we were going to go to Superior Court over this, the road would be the way to go. But if everyone isn't up in arms about it he would like to divide the other way, using the old deeds.

CEO McDonough stated he was not an attorney and if Attorney Lenkowski stated what he was suggesting was legal, he would also want the Town's Attorney to tell him so. CEO McDonough stated he would explain why he didn't like it and it's not in the Town's best interest because if this happens, in the future the owners of the two new lots have the ability to say they also have another lot on the other side of the road, so now instead of two lots there are four lots. Note: By dividing the lot via the deed description and not the

roadway there is a small portion of land for each new lot on the other side of the roadway, thus technically creating two small additional parcels of land because of the subdivision law which states an existing roadway, not created by the property owner, creates another lot.

Attorney Lenkowski did not see an issue as both the small parcels were too small in his opinion to be able to do anything with them. CEO McDonough stated with the right Board of Appeals they may allow something to be done with it. Attorney Lenkowski stated that problem could be taken care of with a deed description. CEO McDonough stated someone could force the Town in the future to recognize this small portion of land as a separate parcel and he noted it has happened to the Town in the past by way of the subdivision law.

Attorney Lenkowski still didn't think the small parcels of land were big enough for someone to do something with them. CEO McDonough and several board members did not agree. CEO McDonough stated he could never say a lot is non-buildable as anyone has the ability to go before the Appeals Board for a variance. Diane S. noted it would have road frontage. CEO McDonough stated with the current Board of Appeals absolutely they would not be granted a variance to put a structure on it but he has seen a different Board of Appeals in the past that would grant a variance because at that time a court stated a vacant lot could not get a reasonable return. Boards and court decisions change and no one can speculate what could happen in the future, people's intentions change, property changes hands, etc. CEO McDonough stated that he was very confident that the subdivision law states the road splits these two lots and that will be allowed as it has been in the past. He stated if there is another way to do it, he was not aware of it.

Joseph S. stated he dealt with a similar case in Sanford with two buildings being on a lot, existing prior to 1970, there is a State law where you could divide the lot, something called a functional division. CEO McDonough agreed, it has happened in Shapleigh, it's called a functional division of property. He stated this was not the case before us. He said once again he would agree to the gift of dividing the property by way of the existing road but anything above and beyond that he would not be excited about, especially with the possibility of additional lots being created.

Diane S. spoke about the old septic system and thought it sounded like it had to be replaced, so it might not be an issue. She asked how old the person was that remembered the existing septic system being in the existing location? Attorney Lenkowski stated at a guess he would say she was in her 30's. Diane said, "In light of this fact, it sounds like they need a new septic system; they put the new one in a different location so the division being by way of the road would not be an issue and no additional lots would be created. Looking at the plan, using the road to divide the lot, the amount of land created is about the same as what they are asking for with their proposal, only it will be properly divided." Attorney Lenkowski agreed, it was just the issue of the existing septic system. CEO McDonough stated there are many septic systems on neighboring properties with easements. Roger A. agreed. Diane concurred stating the property owner of the back lot could give an easement to the owner of the front lot to be able to leave the septic system where it exists now. Board members noted a recent approval in which the property owner did just that, an easement was created to put the leach field on a back lot, on the other side of the roadway.

Attorney Lenkowski asked again if they could agree to his plan if there was a notation in the deed that the newly created lot could not be further divided, i.e. the road would not divide it. CEO McDonough stated he was not comfortable saying that the Town Attorney and Assessing will accept what he is proposing. He said in his opinion, anything beyond a division by way of the roadway it would have to go to Town council.

Maggie M. asked, "With the back lot was three separate lots; were there three separate tax bills?" Attorney Lenkowski stated he did not know as it was too long ago. Roger A. noted the dates on the plan for the three separate deeds. He said that back in the 1970's the Town had the ability to take non-conforming unbuilt upon lots in the same ownership and combine them, so they became one lot.

CEO McDonough stated he did not believe it was wise to come up with new ways to divide non-conforming lots other than what is written in the subdivision law. He said that could bring upon the Town a new set of problems.

Attorney Lenkowski asked who the Town's Attorney was? Roger A. stated Ronald Bourque.

CEO McDonough stated one of the major purposes of having an ordinance is to discourage non-conformities. The hope is that some day the lots get more and more conforming. He didn't think that trying to come up with way to circumvent this was in the Town's best interest.

Attorney Lenkowski asked again what the concern was with the division he was proposing, not using the road to divide the property? CEO McDonough and board members were worried that the small piece of each property that would be on the opposite side of the road could potentially become a separate lot by way of the subdivision law, thus creating two additional non-conforming parcels. Attorney Lenkowski asked how the two additional parcels would get grandfather status. Roger A. and CEO McDonough stated they wouldn't. Attorney Lenkowski did not see how it could ever become a buildable lot? CEO McDonough stated that he has seen it happen. He has seen a lot with one deed, shown as one big lot, get divided because the owners contested that Break Neck Hill Trail, which is on a map divided the lot. The Town Attorney agreed with them, they had two separate lots. Roger stated it was depicted in the deed at a road. CEO McDonough stated it was not deeded as two separate lots, it was one lot that became divided because of the road so they now had two separate lots. Attorney Lenkowski asked if both lots became buildable lots? CEO McDonough stated with respect to size they were but that is not the only criteria for a buildable lot. Attorney Lenkowski stated this new lot would be created under current zoning so it has no grandfather status for anyone to do anything with it. There would be no basis to ask for a variance.

After continued discussion on lots of record, what is and isn't a buildable lot, the potential for future sales of the lots created, it was concluded that in reality dividing the lot as presented instead by way of the roadway could potentially create four non-conforming lots instead of two and would not be in the best interest of the Town. Diane S. noted that if a new septic system was placed on the waterfront lot, dividing the lots by way of the roadway isn't even an issue and it did appear a new system may be warranted due to the age of the existing.

CEO McDonough concluded that the only division he was comfortable with agreeing to is by way of the road dividing the two properties. Anything beyond that, writing deeds to keep things together and the legalities of it was beyond him. He believed it was beyond any of the board members. And he was very concerned that the fact the owner of the new lots would have a good leg to stand on if they wanted to say the road that divided their lot created another lot by way of subdivision law.

Attorney Lenkowski would like to see what the Town Attorney said but he understood not wanting to spend the money on an opinion. Attorney Lenkowski did not agree that a separate parcel created by way of a road could be built upon. CEO McDonough stated he agreed, maybe it can't. Diane S. said, "Who said it has to be built upon, why can't someone just put a tent, camper, etc. on it. Someone could sell this lot to someone just for a tent, so you have created a saleable lot." Attorney Lenkowski stated only if the ordinance allowed it by permit to let someone do that. Diane asked why couldn't they apply? Roger A. stated a permit for a camper was not restricted by the size of the lot. CEO McDonough stated again that the owner of the property had the ability to be granted a variance to be able to do so. Diane said her point was the new lots could have a use other than putting a structure on them.

Attorney Lenkowski stated if the above is true, how does dividing it by the road stop that from happening? CEO McDonough stated that dividing by the road you are not creating a possible third or fourth lot.

Attorney Lenkowski stated the fundamental difference of opinion between his division and the road going through both new properties is you could consider the small portion of land on either side of the road a new lot. Roger A. agreed, there is a potential for four lots being created if his plan was to be used.

Attorney Lenkowski concluded by stating that if the property owners divided the lot by the existing road, it would be fine with the CEO McDonough and the board members. CEO McDonough stated that was his opinion and it has been the Town Attorney's opinion in previous cases.

Attorney Lenkowski asked CEO McDonough why he sent him to see Assessor Ruth Ham, he said neither he nor Ruth understood why. CEO McDonough stated that he had told him if he was going to divide the property by the roadway, he just had to inform assessing to assign each new lot a number.

Nothing further was discussed.

OTHER:

Roger A. reminded members that there would be a public hearing at the next meeting, Tuesday, February 14th on the proposed ordinance change to 105-4, the Growth Ordinance and the proposed adoption of the Maine Uniform Building and Energy Code.

Growth Permits - There are growth permits available.

Planning Board meeting adjourned at 8:00 p.m.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, February 14, 2012

Members in attendance: Roger Allaire (Chairman), Roland Legere, Maggie Moody, Diane Srebnick, Joseph Stanley, Alternate and Barbara Felong, Land Use Secretary. Code Enforcement Officer Steven McDonough was also in attendance. Note: Madge Baker was unable to attend.

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Public Hearing began at 7:05 p.m.

• State Mandated 3 Year Review and Update to the Growth Ordinance

Roger A. began the public hearing by noting there were no citizens in attendance. He did state he had several inquiries about the public hearing and discussed what was being presented this evening. He did not receive any negative comments.

Roger A. stated there would be no change in the number of permits allowed in the Town of Shapleigh for the next three years based on current conditions. The change to the ordinance is as follows:

Change to the Growth Ordinance after the mandatory three year review. Changes are in bold.

Growth Ordinance

- (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 **2011**, the Education system accounts for **63.63%** of the cost to taxpayers. **The figure calculated per child per year for 2011 is \$7,898.42. Although the number of children enrolled in the school system is not expected to rise dramatically in the next several years, the cost to Shapleigh taxpayers continues to have a slight increase each year. The most recent figures of cost increase to taxpayers projected for the year 2012 is 2.15%, creating a cost per child of \$8,281.64.** 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 2010. **During this time period, the change in the average annual growth rate for the sub-region for population was 1.38% and for housing 1.17%. With the current projected need for housing, the maximum annual number of Growth Permits should remain unchanged at 35 dwelling units.**

~~*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.*~~

Roger A. asked if there were any questions or comments from members. There were none.

• **Change to §105-4 Nonconformance, adding J. Expiry of Permits**

Roger A. stated the following was an addition to §105-4 ‘Nonconformance’, which places an expiration to the permit so it is not left open ended. The addition is as follows:

J. Expiry of Permits. Permits issued under this chapter shall expire after 90 days, unless a building permit is issued. This time period may be extended by the Code Enforcement Officer if issuance of a building permit is delayed due to a technical problem.

• **Adoption of the Maine Uniform Building and Energy Code**

Roger A. stated per State regulations towns with less than 4000 people, and who have a building code at this time, should adopt the Maine Uniform Building and Energy Code. The question shall be presented to the town’s people as follows:

Shall the Town of Shapleigh adopt the Maine Uniform Building and Energy Code (Residential Building Code, Commercial Building Code, Residential Energy Code, Commercial Energy Code, Residential Ventilation Code, Residential Radon Code) based on Sec. 5. 10 MRSA §9724, sub§1-A as enacted and on the recommendation of the Codes Enforcement Office.

Note: Sec. 5. 10 MRSA §9724, sub-§1-A is enacted to read:

1-A. Municipalities up to 4,000 residents. *A municipality of up to 4,000 residents may not adopt or enforce a building code other than the Maine Uniform Building Code, the Maine Uniform Energy Code or the Maine Uniform Building and Energy Code. Notwithstanding any other provision of this chapter or Title 25, chapter 314, the provisions of the Maine Uniform Building Code, the Maine Uniform Energy Code or the Maine Uniform Building and Energy Code do not apply in a municipality that has 4,000 or fewer residents except to the extent the municipality has adopted that code pursuant to this subsection.*

In conclusion if the Town of Shapleigh does not adopt MUBEC, it is the State’s opinion the town shall have no building code to enforce.

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

Nothing further was discussed.

The Public Hearing closed at 7:11 p.m.

The planning board meeting began at 7:30 p.m.

The minutes from Tuesday, January 24, 2012 were accepted as read.

Conditional Use Permit – Mineral Extraction – Re-applying for Expired Permit - Map 7, Lot 28 (Corner of State Rte. 11 & Square Pond Road) – Hissong Development Corp., Applicant

Jonathan Pizey was present to represent the applicant.

Roger A began by stating the applicant was before the board as their Conditional Use Permit for a mineral extraction operation had expired due to inactivity for two years. Roger asked Mr. Pizey to state why he was before the board.

Mr. Pizey stated the company wanted to be able to start mineral extraction within the next four to six months. Mr. Pizey stated they did not use the gravel pit to date because the economy was such that there was no call for material. He said they would be opening a new concrete facility in Westbrook and also a development was going up in Wells so there would be a need for the gravel pit in Shapleigh in the near future.

Roger A. asked if there would be any changes to the new permit from the previous approval? Mr. Pizey stated it would be exactly the same.

Roger A. stated the only thing that was required on the previous permit but was never submitted to the Town was the bond for the reclamation of the area. Mr. Pizey stated he understood and would get together an estimated cost of reclamation and post the appropriate bond with the Town.

Roger A. asked if the board had any questions for Mr. Pizey? There were none.

Roger A. stated that because the permit has expired the board would have to once again notify abutters.

Barbara F. asked because it is a business would the board want to hold another public hearing? Roger A. stated, yes. **The Public Hearing will be held on Tuesday, February 28, 2012 at 7:00 p.m.**

CEO McDonough reminded board members that the Town voted a change to the ordinance which now places a time limit on the amount of time the applicant has to present a required bond. Barbara F. thought it was 90 days. CEO McDonough told the applicant this new restriction was not in place the last time the permit was approved so he needed to be aware the bond did in fact need to be presented in a timely manner. CEO McDonough was referring to §105-73.I ‘Performance guaranties’, which reads in part: *“The bond shall be presented to the Planning Board within 45 days of application approval and, once approved, must be rendered to the Town of Shapleigh no later than 90 days from the date of bond approval, or the application shall be null and void.”* Mr. Pizey stated he understood.

Nothing further was discussed.

OTHER:

Roland L. asked if there would be any Planning Board involvement in the future with respect to the recent Zoning Board of Appeals hearing, the William Elwell and Patrick Frasier Violation cases on Map 3, Lot 17? CEO McDonough did not believe so. CEO McDonough stated the only Planning Board involvement on the property may be with respect to the expired Growth Permit. He stated that presently Mr. Elwell has three expired Growth Permits in total.

Nothing further was discussed.

Growth Permits - There are growth permits available.

Planning Board meeting adjourned at 7:40 p.m.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, February 28, 2012

Members in attendance: Madge Baker (Vice Chairman), Roland Legere, Maggie Moody, Joseph Stanley, Alternate and Barbara Felong, Land Use Secretary. Code Enforcement Officer Steven McDonough was also in attendance. Note: Chairman Roger Allaire and Diane Srebnick were unable to attend.

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Public Hearing began at 7:22 p.m.

Conditional Use Permit – Mineral Extraction – Re-applying for Expired Permit - Map 7, Lot 28 (Corner of State Rte. 11 & Square Pond Road) – Hissong Development Corp., Applicant

Jonathan Pizey was present to represent the applicant.

Madge B. asked Mr. Pizey to state to the board and citizens present why he was before the board. Mr. Pizey stated the original approved Conditional Use Permit for mineral extraction was granted 2 years ago and the Town Ordinance stated that if there is no activity on the permit within 2 years it expires. He stated therefore, they had to re-apply so he was back before the board to re-open the permit.

Madge B. asked if there were any questions from the citizens or board members?

Citizen – Is this for private use only?

Mr. Pizey stated, correct.

Citizen – You do not sell gravel as a commercial business?

Mr. Pizey stated it was for their own processing plant only, their own trucks will be carrying it.

Citizen – How many trucks to you operate?

Mr. Pizey stated they had a total of 7 trucks.

Citizen – The board stated you cannot operate during school hours?

Mr. Pizey stated it was one of the conditions.

Barbara F. stated it was during the hours of pick-up and drop-off of the children, 8:30 a.m. thru 9:00 a.m. and then again 3:00 p.m. thru 3:30 p.m. The board members agreed.

Madge B. speaking to Mr. Pizey stated that Hissong would be using Route 11, because a citizen asked if they would be using a road that is closed to heavy traffic at certain times of the year.

Mr. Pizey stated correct, it is most feasible to use State Route 11 and Route 109 as they are not subject to closing.

Madge B. asked if the board members had any other questions?

Roland L. stated no, he remembers at the previous review the applicant presented extensive documentation.

Madge B. agreed.

Citizen - How long will the permit be good for?

Mr. Pizey stated 3 years.

Madge B. stated correct, once they are approved the mineral extraction permit is good for a period of 3 years.

Madge B. asked if there were any additional questions? There were none.

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

The planning board meeting began at 7:30 p.m.

The minutes from Tuesday, February 14, 2012 were accepted as read.

Conditional Use Permit – Mineral Extraction – Re-applying for Expired Permit - Map 7, Lot 28 (Corner of State Rte. 11 & Square Pond Road) – Hissong Development Corp., Applicant

Jonathan Pizey was present to represent the applicant.

The application before the board is to re-establish approval of an expired permit to excavate approximately 343,200 cubic yards of material for the exclusive use of the Hissong Development Corporation. Previously provided to the Board were the following required documents:

- A copy of the letter from the Maine Historic Preservation Commission (MHPC), dated 7/27/09, which stated the project location could possibly contain one or more prehistoric archaeological sites so an archaeological survey was required prior to any ground disturbance.
- A copy of the Prehistoric Archaeological Investigation Report, dated October 2009, MHPC File No. 1310-98, prepared by Tetra Tech, Inc. of Portland Maine, which concluded there were no prehistoric archaeological sites recorded within the Project area.
- A copy of the letter from the MHPC, dated 11/16/09 which stated they reviewed the report provided by Tetra Tech Inc. and found the report acceptable as written and they agreed with the conclusions in the report.
- A copy of the letter from the Maine Dept. of Inland Fisheries and Wildlife (MDIFW), dated 8/27/09, which stated the proposed location likely supported one or more endangered species. MDIFW offered three options for the development of the property. Note: Your Company chose the third option which required the western side of the stream be put into a permanent conservation easement or deed restriction, and that the area to be mined be allowed to revert back to a Pitch Pine Scrub Oak community once the mining project is completed. Furthermore, upon completion of the mining the entire parcel would be subject to the same conservation easement/deed restrictions above, the terms of which need to be reviewed and approved by MDIFW.
- A copy of the Declaration of Restrictions drafted to satisfy MDIFW's development plan option three of the above letter. Note: The Declaration of Restrictions was approved by MDIFW & the Planning Board.
- A copy of the approval for the mineral extraction plan by the Maine Dept. of Environmental Protection and a copy of the placard to be placed on site, issued 12/29/09, Permit No. L-724.
- A copy of the Driveway/Entrance Permit by the Maine Dept. of Transportation, dated 11/30/09.
- The Survey / Reclamation Plan, dated 1/13/2010, drafted by Stephen Stearns, PE #4437, of Pinkham & Greer, located in Springvale, Maine. The survey plan included in addition to the reclamation plan the following: The calculated net gravel pit volume of 343,200 cubic yards; hours of operation; location of access road and refueling pad; wetland area; setbacks to gravel pit from high water mark, roadway and side lots lines; site distance on Route 11; size of borrow pit (approx. 7.7 acres); plans for dust control and disposition of stumps, brush and boulders; the soils legend; and noted was the requirement to restrict truck travel past the Shapleigh Memorial School during school hours of pick-up and drop-off of the children.
- The Survey / Reclamation Plan amended by MDIFW, dated June 7, 2010, signed by Stephen Stearns, PE #4437, of Pinkham & Greer. The plan satisfies the requirements imposed by MDIFW as stated in the email from Judy Camuso, Wildlife Biologist, MDIFW, dated April 27, 2010 forwarded to the Planning Board on June 7, 2010. (This action satisfied condition #4 of the original conditional use permit approval letter dated 1/15/2010.)

Madge B. began the final review by stating this was a Conditional Use Permit and a re-application for an expired permit for Map 7, Lot 28 for mineral extraction. They were re-applying with everything in the original application to be the same. She asked Mr. Pizey if he was asking for any changes from the original application? She asked if the hours would change? Mr. Pizey stated there were no changes.

Madge B. noted that since the initial approval the ordinance had had some changes to the earth moving and mineral extraction sections. She did not believe there were any significant changes; they were mostly to make each section more easily reviewed and understood and to straighten out the differences between the two. One ordinance was now more geared toward the homeowner and one for commercial purposes. Madge did not believe any of the substance was changed. CEO McDonough agreed.

Madge B. stated she would review the section in its entirety to show the new approval reflected the latest amendment to ordinance §105-61 ‘Mineral exploration and extraction’ which took place in March 2011. She did not believe it would affect the application as the standards are basically the same. She just wanted the record to reflect the current conditions were applied.

Madge B. reviewed the following and made findings for each:

§105-61.B. Mineral extraction may be permitted under the following conditions:

- 1) A reclamation plan shall be filed with and approved by the Planning Board before a permit is granted. ***The Reclamation Plan, C1, for Great Hollow Sand & Gravel, Shapleigh, ME - Tax Map 7, Lot 28, dated 11/5/2009 and revised per MDIFW specification on 6/7/2010 was approved by MDIFW on 6/10/2010 and the Planning Board on 6/22/2010.***
- 2) No part of any extraction operation including drainage and runoff control features, shall be permitted within 100 feet, horizontal distance, of the normal high-water line of a great pond classified GPA, or a river flowing to a great pond classified GPA, and within 75 feet, horizontal distance, of the normal high-water line of any other water body, tributary stream or the upland edge of a wetland. Extraction operations shall not be permitted within 75 feet, horizontal distance, of any property line without written permission of the owner of such adjacent property. ***Per Reclamation Plan, C1, under General Notes #12, setbacks to the wetland of special significance shall be 75 feet and to the nearest property line or public road shall be 100 feet. The project is not near a great pond or river flowing to a great pond.***
- 3) Developers of new gravel pits along significant river segments shall demonstrate that no reasonable mining site outside the shoreland zone exists. When gravel pits must be located within the zone, they shall be set back as far as practicable from the normal high-water line and no less than 75 feet and screened from the river by existing vegetation. ***This project is not near a great pond or river and the project is 75 feet from the designated wetland.***
- 4) The smallest amount of bare ground shall be exposed for the shortest time feasible. The Planning Board shall set a specific date after which bare ground shall not be exposed. ***The area shall be reclaimed per Reclamation Plan, C1, General Notes #15 and Reclamation Notes.***
- 5) Temporary ground cover (such as mulch) and temporary runoff filter (such as hay bales in swales) shall be used as required to prevent stream sedimentation. ***This shall be done per Note #11 and the Reclamation Notes on Reclamation Plan, C1.***
- 6) Diversions, silting basins, terraces and other methods to trap sediment shall be used. ***Sediment shall be trapped within the borrow pit then the topsoil that is retained shall cover the disturbed area to the greatest extent possible, see Note #4 of the Reclamation Notes on Reclamation Plan, C1, as suggested by MDIFW.***

7) Lagooning shall be conducted in such a manner as to avoid creation of fish trap conditions. The applicant shall submit written approval from the Department of Marine Resources or Department of Inland Fisheries and Wildlife, as applicable, prior to consideration by the Planning Board. ***N/A with regard to the fish trap conditions. The MDIFW was notified as required.***

8) The extent and type of fill shall be appropriate to the use intended. The applicant shall specify the type and amount of fill to be used. ***This has been addressed on Reclamation Plan, C1.***

9) Fill shall not restrict a floodway, channel or natural drainageway. ***This has been addressed on Reclamation Plan, C1.***

10) The sides and bottom of cuts, fills, channels and artificial watercourses shall be constructed and stabilized to prevent erosion or failure. Such structures are to be designed and built according to the Maine Soil and Water Conservation Commission, Technical Guide, Standards and Specifications. ***This application is for a borrow pit, the cuts, fills and erosion measures are addressed on Reclamation Plan, C1.***

11) Where activities carried out under this article require the removal of existing ground cover, revegetation shall be carried out. This is to be carried out per MDIFW standards. ***The revegetation plan is addressed both on Reclamation Plan, C1 and the Declaration of Restrictions (Restricted Buffer Area and Reclaimed Buffer Area, No Disturbance) which has been approved by both the Planning Board and MDIFW.***

12) Specific plans are established to avoid hazards from excessive slopes or standing water. Where embankment must be left upon the completion of operations, it shall be at a slope not steeper than one foot vertical to four feet horizontal. ***Slopes have been addressed in Reclamation Plan, C1, Reclamation Notes #3 and they can meet the standard. There shall be no excessive slopes after the Reclamation Plan has been completed and no standing water.***

13) No excavation shall be extended below the grade of an adjacent street, except for drainageways, unless 100 feet from the street line. No excavation below the grade of the surrounding land shall be allowed within 100 feet of any side or rear lot line. However, removal of earth material deposits from hills or knolls may be allowed within 50 feet of a side or rear lot line if no excavation below the grade of abutter's properties occurs. ***There shall be no excavation being done within 100 feet of any lot line or street line, see Note #1, of the Reclamation Plan.***

14) Topsoil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project. ***All existing topsoil shall be retained on site for the reclamation of the area, per the plan provided. The plan has been designed by MDIFW.***

15) Within 12 months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than 100 cubic yards of minerals are removed in any consecutive twelve-month period, ground levels and grades shall be established in accordance with the following:

(a) All debris, stumps and similar material shall be removed for disposal in an approved location or shall be buried on-site. Only materials generated on-site may be buried or covered on-site. (NOTE: The State of Maine Solid Waste Laws, 38 M.R.S.A. §1301, and the solid waste management rules, Chapters 400-419 of the Department of Environmental Protection's regulations may contain other applicable provisions regarding disposal of such materials.)

(b) The final graded slope shall be 2 1/2 to 1 slope or flatter.

(c) The Planning Board shall set a specific date by which permanent ground cover shall be planted.

The area shall be reclaimed per Reclamation Plan, C1, which was designed and approved by MDIFW. See 'Reclamation Notes', #1 thru #6.

16) No existing rock, gravel or sandpit will be extended or expanded until the operator has complied with the provisions of this chapter and obtained a permit therefore. ***This application shall be valid until February 28, 2015 as long as the conditions of approval are all met. A change to the approved plan or extension of time can only be granted by the Planning Board.***

Madge B. reviewed the optional conditions of permit and made findings of fact as follows:

C. Optional conditions of permit. The Planning Board may impose other reasonable conditions to safeguard the neighborhood and the municipality, which may include those relating to:

- (1) Methods of removal or processing. ***This has been addressed in the application and shall be conducted as presented in the plan and documentation provided.***
- (2) Days and hours of operation. ***Hours of operation are 7:00 a.m. thru 10 p.m., Monday through Friday, 7 a.m. thru 5:00 p.m. on Saturday.***
- (3) Type and location of temporary structures. ***There shall be no temporary structures on site.***
- (4) Routes for transporting material. ***State Route 11 to Route 109.***
- (5) Area and depth of excavations. ***This information is provided on Reclamation Plan, C1.***
- (6) Provision of temporary or permanent drainage. ***None is needed for the borrow pit, the stream is being protected per the plan provided which was approved by MDIFW.***
- (7) Cleaning, repair and/or resurfacing of streets used in removal activities which have been adversely affected by said activity. ***The applicant shall make certain Route 11 is clear of all sand and stone dust to prevent a hazardous condition.***
- (8) The need for written approval of soil and erosion and sedimentation plan by a State of Maine licensed civil engineer selected by the applicant for the Planning Board. ***A State of Maine licensed engineer provided the plan; Stephen Stearns, P.E. #4437, of Pinkham and Greer Consulting Eng.***

D. Surety and terms of permit.

1) No permit shall be issued without a surety bond or other equivalent security to ensure compliance with such conditions as the Planning Board may impose. The bond or surety shall be in an amount recommended by the Code Enforcement Officer and approved by the Planning Board, as sufficient to guarantee conformity with the conditions of approval, taking inflation into account. ***The bond has not yet been presented to the board for the initial approval so it still remains to be done.*** Madge B. wanted Mr. Pivey to understand no work could commence without the Town holding the bond. Mr. Pivey stated he understood and believed he had 90 days. Barbara F. read §105-73.I 'Performance guaranties', which reads in part: ***"The bond shall be presented to the Planning Board within 45 days of application approval and, once approved, must be rendered to the Town of Shapleigh no later than 90 days from the date of bond approval, or the application shall be null and void."***

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.

Madge B. then stated that the conditions of approval for the Condition Use Permit, §105-73.G would remain unchanged, therefore she did not feel it was necessary to re-review them.

Note: The findings on the original approval are as follows:

- 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 Reclamation Plan provided and by following Option 3 as written in the letter from MDIFW, dated 8/27/09.*
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. *N/A*
- 3) The use is consistent with the Comprehensive Plan. *It is, the Comprehensive Plan encourages businesses along Rte. 11.*
- 4) Traffic access to the site is safe. *The entrance to this location has been approved by the MDOT, permit #9703, dated 11/30/09. The applicants agree to use State Route 11 to Route 109.*
- 5) The site design is in conformance with all municipal flood hazard protection regulations. *It is, the site is not in a flood zone.*
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. *There is no wastewater being produced, all rocks and tree stumps shall be kept on site.*
- 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. *There are no changes being made to the site that would affect stormwater drainage, all stormwater will drain into the borrow pit.*
- 9) Adequate provisions to control soil erosion and sedimentation have been made. *There are no changes being made to the site that would affect erosion, all stormwater will drain into the borrow pit.*
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. *There are provisions not far from this location but there should not be any need for fire protection based on the operations 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. *The existing vegetation shall be kept in place within 100 feet of all property lines; there is no noise allowed between 10:00 p.m. and 7:00 a.m. seven days a week; there shall be no glare, fumes, or odors created by this business. Any stonedust or gravel on Rte. 11 shall be removed by the applicant to prevent a hazardous condition.*
- 12) All performance standards in this chapter applicable to the proposed use will be met. *They shall with the conditions imposed.*

Madge B. asked about finding #4 in which there was a question originally as to whether or not Back Road or Owl's Nest could be used. It was noted that Back Road was posted for no heavy trucks, and Owl's Nest was a secondary road that was unadvisable to use. It was agreed upon by the board members that they felt the trucks from the gravel pit should stay on State Route 11 to Route 109. Mr. Pivey had no objection to this.

Madge B. stated the conditions of the permit shall remain as originally approved, they are as follows:

- 1) The hours of operation shall be 7:00 a.m. thru 10:00 p.m. Monday through Friday, 7:00 a.m. thru 5:00 p.m. Saturday.
- 2) There shall be no trucks traveling past the Shapleigh Memorial School at the time of children drop-off in the morning or during children pickup in the afternoon throughout school season operating hours. (Drop-off, 8:30 a.m. thru 9:00 a.m., pick-up, 3:00 p.m. thru 3:30 p.m.)
- 3) It is the applicant's responsibility to make certain the entrance onto State Rte. 11 is clear of all sand and stone dust to prevent a hazardous situation.
- 4) Documentation showing MDIFW approved the deed restrictions submitted to the Planning Board on 1/12/09, required to satisfy option three of MDIFW's letter dated 8/27/09, for the protection of the endangered species in the project area. This

documentation must be provided prior to any earth moving on site. This documentation has been provided.

- 5) A security bond or equivalent security to guaranty the reclamation plan required by the Town of Shapleigh and MDIFW is carried out. The surety bond must be submitted to the Code Enforcement Officer along with the documentation to support the amount being offered within 45 days of approval. The bond shall be approved by the CEO, Board of Selectmen and Planning Board. The bond shall be rendered within 90 days from the date of bond approval, or the application shall be null and void. There shall be no earth moving on site until an approved bond has been received.**
- 6) Reclamation shall be done upon ceasing of operations, per the plans provided.**
- 7) As a note, this permit is valid for a period of three years from the date of approval per the ordinance.**

Madge B. asked if everyone was fine with the conditions and if the board wanted to make a motion.

Maggie M. made the motion to approve the plan for a mineral operation for private use only on Map 7, Lot 28, per the plans and town and state approvals provided, as well as the conditions stated above. Roland L. 2nd the motion; all members were in favor. By a vote of 4 – 0, the decision was unanimous to approve the application.

Mr. Pizey asked if he could begin construction of the entrance to the property prior to the bond approval? He knew he couldn't begin any extraction until the bond was in place. Madge B. asked CEO McDonough's opinion. CEO McDonough didn't have an issue with that as had he not come before the board for an application he would be able to create an entrance to the property after MDOT approval, which he has obtained. Board members agreed.

Barbara F. reminded Mr. Pivey to get the estimate for the bond to her within the next 45 and she would get it to the Board of Selectmen and Planning Board for their approval.

Nothing further was discussed.

Conditional Use Permit – Thrift Store – Map 5, Lot 39 (485 Shapleigh Corner Road) – Michelle Ham, Applicant; Barbara Ham, Property Owner

Michelle Ham was present for the initial review of the application.

Madge B. asked Ms. Ham to briefly tell the board what she was applying for.

Ms. Ham had provided members with a business plan for a thrift store to be called Hammie's Closet, as well as a site plan which depicted the existing structures on site and a proposed site plan for how she would like to expand in the future.

Ms. Ham stated she had a small building that she wanted to use for a thrift store or year round garage sale. She said she gets items in from various locations, sorts them out and 80 to 90% is donated out to various organizations. She stated she has 16 organizations that she is currently donating to.

Ms. Ham stated the building would be used to sell enough items to be able to cover the cost of transporting items and housing / sorting them.

Ms. Ham stated when the ground thawed there is a roof that needs to be removed, it came from a building they had to remove for safety reasons but currently it is frozen into the ground. She said there were some rocks that also needed to be moved and gravel needed to be brought in to create the parking area. She stated there was plenty of room for the amount of parking spaces required but again the area could not be created until after the spring thaw.

Ms. Ham stated she was currently applying for a loan as she wanted to put up an environmentally friendly green building. The building would have sky lights so you need minimal lighting / electricity. She added that she would only be operating during the daylight hours. She said in the front of the building would be the store and in the rear would be storage of the donations and an area to separate the items.

Ms. Ham stated in the future she would like to create gift certificates and distribute them to the local fire department and town office for general assistance. If there is a house fire, they could come for clothes for the family and other household items. She said if anyone qualifies for general assistance she wanted them to have a local place to go for supplies. Also, if someone has lost their job and needs school supplies for their children she hoped she would be able to provide them for low cost or no cost. She said most items she receives are new or like new. She said if she could sell enough to be able to process items at no cost to her that is what she would like to do.

Madge B. asked if there were any questions? There were none at this time.

Madge B. stated a site inspection would be required along with a Public Hearing? She asked members if they would like to do it before the next meeting? Because daylight savings time begins on the 11th members agreed to meet prior to the public hearing at 6:30 p.m. on Tuesday, March 13th.

Madge B. told Ms. Ham that the board would be looking at safe access to the site and if there was enough parking. Ms. Ham stated there was a fairly level area but she needed to remove several boulders then it would be more than adequate after some gravel was added. She noted again that the roof had to be removed.

Madge B. asked if anyone else would be employed at the business? Ms. Ham stated it would only be herself, her boyfriend and possibly her grandmother, who owns the property. Madge stated it was primarily family. Ms. Ham stated, yes.

CEO McDonough asked about a site plan? Barbara F. stated one was provided. One plan showed the current site plan and one plan showed what she was planning for in the future.

Madge B. stated the board would be concerned if there was any hazardous waste such as oil, gasoline, etc. Ms. Ham stated there would not be anything like that. It was basically shoes, clothing and some small appliances such as toasters.

Madge B. stated she would be asked about additional lighting. Madge asked Ms. Ham if she had any questions? She didn't at this time. Madge asked about hours of operations. Ms. Ham stated that was listed in the business plan she provided. (9:00 a.m. to 6:00 p.m.)

Madge B. stated once again that there would be a site inspection at 6:30 p.m., on Tuesday, March 13th, everyone to meet at the town hall. A notice to abutters will be mailed and a Public Hearing will be held at 7:00 p.m. also on March 13th prior to the regularly scheduled meeting.

Nothing further was discussed.

OTHER:

Madge B. noted that members had been mailed a copy of the Establishment of Planning Board Ordinance. Barbara F. asked members to review it and if they felt there needed to be changes to bring it up at a future meeting.

Barbara F. asked members to consider adding an expiration date to the Private Way application, for example if the private way isn't begun in a certain amount of time then the approval is no longer valid, such as with a Conditional Use Permit or Best Possible Location. Because the Zoning Ordinance itself is always subject to changes she thought the board should consider a 1 or 2 year expiration date. Possible 1 year to begin the road and 2 years to complete.

CEO McDonough stated another way would be to tie it in with the Conditional Use Permit, stating it's subject to the terms of a CUP.

Madge B. thought it was a good idea to have an expiration date. Barbara F. was concerned with leaving any permit open ended.

Barbara F. asked board members to think about it and she would bring it up again at a future meeting. She would also try to create some various ideas for members to review.

Barbara F. showed members a copy of Saco River Barrier Priority Atlas which was recently provided to the town. She said MDIFW in partnership with the United States Fish and Wildlife Service and NextEra Energy surveyed road-stream crossings in the entire Saco River drainage in 2010 to identify crossings that restrict or block fish from passing upstream. There is a map of Shapleigh showing the areas provided along with data showing further information of the identified crossings. Barbara thought this may be helpful in the future if the board has to regulate permits in these areas. The information will be kept in a file in her office. CEO McDonough has the original.

Growth Permits - Map 12, Lot 27 (Newfield Road) – Duplex – Growth Permit #01-12

Madge B. asked Barbara F. what if anything she knew about the growth permit application? Barbara asked CEO McDonough to explain as he had spoken with the applicant. CEO McDonough stated that currently there was one house on the existing lot. He stated the existing lot had more than enough acreage and road frontage to sustain a multifamily dwelling. He said they want to attach an additional structure to the existing home.

Madge B. asked if it had enough road frontage. CEO McDonough stated yes. He said you have to have at least 300 feet of road frontage and a minimum of 160,000 square feet of land. This property exceeds both; there is 650 feet of road frontage and 5.9 acres. Board members agreed the growth permit could be issued.

Planning Board meeting adjourned at 8:06 p.m.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, March 13, 2012

Members in attendance: Chairman Roger Allaire, Maggie Moody, Diane Srebnick, Joseph Stanley, Alternate and Barbara Felong, Land Use Secretary. Code Enforcement Officer Steven McDonough was also in attendance. Note: Vice Chairman Madge Baker and Roland Legere were unable to attend.

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Public Hearing began at 7:05p.m.

Conditional Use Permit – Thrift Store – Map 5, Lot 39 (485 Shapleigh Corner Road) – Michelle Ham, Applicant; Barbara Ham, Property Owner

Michelle Ham was present for the Public Hearing.

Note: A site inspection was held by the board members at 6:30 p.m. this evening.

Roger A. opened the public hearing by asking Ms. Ham to summarize what her application was for. Ms. Ham stated she wanted to open a Thrift Shop / Donation Center. She stated she would receive donations, sort them out and a portion of the donations would be set aside for sale in order to get enough money to be able to obtain and distribute more donations.

Roger A. asked Barbara F. if the board had received any letters regarding the proposed business? Barbara stated, no. Barbara noted there were no comments by telephone either.

Roger A. asked the board members if there were any questions for Ms. Ham. (There were no citizens in attendance for the public hearing.) There were none.

The public hearing was closed at 7:07 p.m.

The planning board meeting began at 7:30 p.m.

Roger A noted that Joe Stanley would sit in as a regular member this evening due to the fact two regular members were unable to attend.

The minutes from Tuesday, February 28, 2012 were accepted as read.

Conditional Use Permit – Thrift Store – Map 5, Lot 39 (485 Shapleigh Corner Road) – Michelle Ham, Applicant; Barbara Ham, Property Owner

Michelle Ham was present for the final review of her application.

Ms. Ham was before the board in order to be able to operate a Thrift Store on Map 5, Lot 39, property presently owned by Barbara Ham. Ms. Ham provided board members with a business plan, as well as a site plan of the current business proposal which showed the existing structures on site. This plan included the 12' x 23 foot structure to be used for the Thrift Shop. There was also a plan which showed a proposed future site plan. Board members stated Ms. Ham would have to return before the board for additional review in order to facilitate the future plan, as the structure to be used for the business would be much larger and would require additional parking, etc.

Roger A. stated since there were no questions for Ms. Ham he would go into the review of the ordinance(s) that pertain to this permit.

Roger A. reviewed the following ordinances and made findings of fact:

- 105-17 – Land uses. *This permit is before the board because thrift shops / garage sales require a Condition Use Permit.***
- 105-20 – Applicability of standards; prohibited uses. *Roger A. read this section in its entirety and noted the application was a permitted use and the use would create no health or safety concerns.***
- 105-21 – Traffic. *Traffic will have safe access. The site distance is greater than 350 feet in both directions which exceeds the minimum required.***
- 105-22 – Noise. *There will be no loud noise generated by the proposed activity. Also, the hours of operation are limited to 8:00 a.m. thru 6:00 p.m.***
- 105-23 – Dust, fumes, vapors and gases. *There will be none generated for this activity.***
- 105-24 – Odors. *There will be no obnoxious odors emitted from the activities on site.***
- 105-25 – Glare. *There shall be no additional lighting being placed on site.***
- 105-26 – Stormwater runoff. *There are no changes being made to the existing structure or property that would cause a stormwater problem. There is existing vegetation, which shall not be removed except for the parking area. The parking area will be gravel so the stormwater will be able to percolate into the ground.***
- 105-27 – Erosion control. *There are no changes being made to the existing structure and property that would cause an erosion problem. The parking area actually sits below State Route 11, therefore no stormwater will flow off site.***
- 105-28 – Setbacks and screening. *The existing vegetation is not going to be removed which runs along one side of the lot and to the rear. The existing home shields the neighboring property, which is the Shapleigh Memorial School on the other side of the lot.***
- 105-29 – Explosive materials. *There shall be are none on site and none to be generated.***
- 105-30 – Water quality. *There is no waste being stored on site. There is an existing home with a State approved septic system that the applicant will use.***
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *The existing vegetation on site is not to be removed. There is no outside storage of materials.***
- 105-32 – Relation of proposed building to the environment. *The existing building fits in well with the surrounding area.***
- 105-33 – Refuse disposal. *There will be a minimal amount of refuse and it shall be removed by the applicant and taken to the transfer station.***
- 105-34 – Access control on Route 11. *There is an existing entrance onto Route 11 at this time, so no DOT permit is required.***
- 105-39 – Earth removal and filling. *Any permit for earthmoving in the general purpose zone shall be obtained from the CEO as the amount will be less than 150 cubic yards.***
- 105-43 – Off-street parking and loading. *The existing structure to be used requires 3 parking spaces. Upon measuring the area to be used for parking, there is room for a minimum of 8 parking spaces. In addition, the applicant will keep her vehicle parked at the home.***
- 105-46 – Sanitary provisions. *The applicant shall use the existing home for the bathroom facilities.***
- 105-47– Signs and billboards. *Any signage shall be obtained through the Code Enforcement Office.***
- 105-57 – Garage sale business. *There is adequate off-street parking on site, no vehicles shall be parked along State Route 11. The signage shall be permitted thru the Code Enforcement Office. There shall be no display tables outside, they shall be placed inside the existing structure to be used.***

Roger A. and Joe S. noted that when the proposed phase two of this business, which will include another structure being erected on site, is undertaken, Ms. Ham will have to come back before the board for approval. The board must be certain the above provisions will be met with the expansion of the business.

Roger A. reviewed Shapleigh Zoning Ordinance 105-73.G “Standards applicable to conditional uses” and made findings of fact.

G. Standards applicable to conditional uses. It shall be the responsibility of the applicant to demonstrate that the proposed use meets all of the following criteria. The Board shall approve the application unless it makes written findings that one or more of these criteria have not been met.

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. ***It will not, the property is not near the water and no changes are being made on site to disturb 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 State Route 11.***
- 4) Traffic access to the site is safe. ***It is, the site distance can be met in both directions. It exceeds 325 feet.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***It is, this location is not in a flood zone and no changes are being made on site to affect stormwater.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***There is, the applicant shall use the existing bathroom facility in the home. All waste produced by the business shall be taken to the transfer station by the applicant.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***N/A***
- 8) A stormwater drainage system capable of handling fifty-year storm without adverse impact on adjacent properties has been designed. ***There are no changes being made to the site to affect stormwater. The existing structures have been on site for many years and have the necessary approvals.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***There are no changes being made to the site to create an erosion problem. The parking area shall be gravel and it sits below State Route 11, as a result all rainwater shall remain on 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 across the street from the Fire Station.***
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. ***The existing vegetation buffers the side and rear property line and the existing home buffers the Thrift Shop from Shapleigh Memorial School.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

Roger A. stated the conditions of approval are as follows:

- 1) The trees shall be trimmed on the left side of the property while existing to provide for better visibility.
- 2) The hours of operation shall be 8:00 a.m. thru 6:00 p.m., 7 days a week.
- 3) The business shall not operate until the roof that is on the ground is removed from site.
- 4) The business shall not operate until the gravel for the driveway / parking area is placed on site.

- 5) This permit approval is to be able to utilize the existing 12' x 23 foot building for the Thrift Shop; in order to use the proposed steel building for the business, additional Planning Board approval is required.
- 6) No hazardous material shall be brought onto the site.
- 7) Permission to operate must be obtained by the applicant through the Code Enforcement Officer prior to opening the business.

Maggie M. made the motion to approve the plan to operate the Thrift Shop on Map 5, Lot 39 per the plans provided, as well as the conditions stated above. Diane S. 2nd the motion; all members were in favor. By a vote of 4 – 0, the decision was unanimous to approve the application.

Note to members: Conditions 1 and 3 have been met as of 3/23/12.

Nothing further was discussed.

Planning Board meeting adjourned at 7:45 p.m.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, March 27, 2012

Members in attendance: Chairman Roger Allaire, Madge Baker, Roland Legere, Maggie Moody, Diane Srebnick, Joseph Stanley, Alternate and Barbara Felong, Land Use Secretary. Code Enforcement Officer Steven McDonough was also in attendance.

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The planning board meeting began at 7:30 p.m.

The minutes from Tuesday, March 13, 2012 were accepted as read.

Amendment to a Conditional Use Permit – Addition to Side of Building and Porch Cover on Front of Building for Motorcycle Repair Shop – Map 18, Lot 28 (146 Emery Mills Road) – Stephen Fleming, Applicant

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

Roger A. asked Mr. Fleming to explain why he was back before the board.

Mr. Fleming, using the plan he presented to the board, explained he wanted to place an 8' x 20 foot addition on the rear of the existing building to be able to put more equipment in the work area. Also, he wanted to extend a roof cover on the front of the building, making it like what exists now but extending it to go all the way to the end of the building.

Mr. Fleming also noted there were changes on site with respect to lot coverage. On a previous application the lot coverage was noted to be 6,816 sq. ft. But at this time the storage trailer, 320 sq. ft and the mini donut trailer, 96 sq. ft. are no longer on site. Because of this, Mr. Fleming believed the additions he was requesting would not create a problem with lot coverage.

Roger A. asked how the new area would be accessed? Mr. Fleming stated through the interior of the existing structure. Roger asked if there would be any outside access? Mr. Fleming stated, no.

Roland L. asked if the roof line in the rear would just be a continuation of what exists at this time? Mr. Fleming stated, yes. Roland asked if he was going to do the same on the front area, tying the new roof line with the existing porch, keeping the porch open? Mr. Fleming stated, yes.

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

Roger A. stated there would be a Public Hearing on Tuesday, April 10th. A notice to abutters will be mailed as well. Also, for members who wish to do a site inspection, they can meet on site at 6:30 p.m.

Nothing further was discussed.

Other:

Barbara F. had copies of a change to Ordinance §105-60.1 'Private ways', as discussed at a previous meeting.

Barbara offered two choices regarding the expiration of the permit for members to review. They are as follows:

1. **G. Once the private way plan has been approved, the applicant has one year to begin the project and two years to complete the private way. If construction of the private way has not begun within one year of the approval date, the application shall become null and void.**
2. **G. A private way permit secured under the provisions of this chapter by vote of the Planning Board shall expire if the work involved is not commenced within one year of the date on which the private way is approved.**

It was noted the 2nd option may be the easiest to enforce. Members will discuss the change at a future meeting.

Also, Barbara provided members with a possible addition to the Zoning Ordinance that was discussed about a year ago. The addition is found currently in the Subdivision Ordinance only. Members were not sure exactly where this should be placed in the Zoning Ordinance but believed it is necessary when reviewing applications for placing two homes on one lot. It may also have implications in other areas. This will also be discussed in the future.

Currently under §89-28.G of the Subdivision Ordinance it reads as follows:

Flag lots and other odd-shaped lots in which narrow strips are joined to other parcels in order to meet the minimum lot size requirements are prohibited. The ratio of lot length to width shall not be more than 3 to 1.

Barbara noted this would remain under §89.28 in the Subdivision Ordinance.

Joe S. wanted members to be aware that he's seen issues arise from the definition of 'narrow strips'. He stated the board wanted to be sure to have this under definitions so they don't run into future problems. Members asked Joe to bring his ideas on the definition of narrow strips when they discuss this further.

Roger A. stated if there wasn't anything further to discuss he would adjourn the meeting.

Nothing further was discussed.

Planning Board meeting adjourned at 7:45 p.m.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, April 10, 2012

Members in attendance: Chairman Roger Allaire, Madge Baker, Roland Legere, Maggie Moody, Diane Srebnick, and Barbara Felong, Land Use Secretary. Code Enforcement Officer Steven McDonough was also in attendance. Alternate, Joseph Stanley was unable to attend.

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Public Hearing began at 7:00 p.m.

Amendment to a Conditional Use Permit – Addition to Side of Building and Porch Cover on Front of Building for Motorcycle Repair Shop – Map 18, Lot 28 (146 Emery Mills Road) – Stephen Fleming, Applicant

Mr. Fleming was present for the public hearing. Note: Board members did a site inspection just prior to the public hearing.

Roger A. began by stating Mr. Fleming was before the board as he was proposing putting two additions onto the existing building / business. One addition is to increase the working area of the business; the other is a porch roof on the front of the building.

The only attendant of the public hearing outside of the applicant and board members was Wayne Pillsbury. Roger A. asked Mr. Pillsbury if he had any questions?

Mr. Pillsbury asked why Mr. Fleming had to come back before the board? Roger stated because any building change of 25% on a Conditional Use Permit had to come back before the board. Mr. Pillsbury stated he wasn't changing his business. Madge B. noted that the requirement did make sense, although in this circumstance it didn't seem necessary. Roger noted that the board cannot pick and choose which business had to come before the board when there is a change to their permit. Madge agreed, for some permits a change to the building, parking area, etc. could make a big difference. Madge noted that things such as stormwater runoff are looked at when you increase the size of the structure. She said in this case it had no affect.

Mr. Fleming did not believe he was increasing the size of the building by 25%. CEO McDonough stated that any change to a Conditional Use Permit had to come back before the board. He pointed out that under §105-73(B) not only would a floor space increase of 25% require Planning Board review but no changes shall be made in any approved conditional use without approval of the change by the Planning Board. This includes a change in the approved structure used for the business. The board members agreed and Roger A. read §105-73(B)(2) to the applicant. Barbara F. noted that one reason for this requirement is to be certain the lot coverage does not expand beyond the 10% allowed in the Ordinance. Roger said that lot coverage was looked at as this lot is at 7.8% coverage at this time which is close to the 10%. Roger added that the board also looks at lighting to see if additional light will be added and to make sure it doesn't shine into the road and beyond the lot lines. They also look at hazardous waste to be sure there isn't an increase in waste generated by the proposed change which in this case there is not. There are lots of things looked at when a business is making a change either to what they do or the building. Mr. Pillsbury was satisfied with the answer.

Roger A. asked if there were any other questions? There were not.

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

The planning board meeting began at 7:30 p.m.

The minutes from Tuesday, March 27, 2012 were accepted as read.

Amendment to a Conditional Use Permit – Addition to Side of Building and Porch Cover on Front of Building for Motorcycle Repair Shop – Map 18, Lot 28 (146 Emery Mills Road) – Stephen Fleming, Applicant

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

Mr. Fleming is currently permitted for motorcycle repair and the sales of accessories in the existing structure, along with the pre-existing approvals for a storage facility and Beadle's Bait Shop. The conditions of the original approval are as follows:

1. Used tires shall be kept in one of the empty storage facility containers.
2. The scrap metal shall be stored inside and removed from site at least three times a year.
3. The hours of operation shall be 8:00 a.m. thru 9:00 p.m., six days a week. Closed on Sunday.
4. There shall be no more than 30 vehicles for sale parked outside, which includes motorcycles, scooters, ATV's, dirt bikes, snowmobiles, trailers and utility trailers.
5. The conditions of approval for Beadles Bait and Tackle Shop and the Storage Facility shall remain in place.
6. Any signage shall be permitted thru the Code Enforcement Office.

At the preliminary review, Mr. Fleming presented the board with a plan depicting an 8' x 20 foot addition to the rear of the building to be used for additional work space and an 8' x 20 foot porch roof on the front of the building. He also provided a copy of existing lot coverage calculations noting that 2 structures, a storage trailer (320 sq. ft) and donut trailer (96 sq. ft), were no longer on site reducing the existing lot coverage by 416 sq. ft. Therefore, the proposed lot coverage proposal would not exceed the 10% allowed by the Ordinance.

Roger A. stated Mr. Fleming was before the board for two additions to the existing structure with no changes to the business. As there were no questions he began the final review process.

Roger A. reviewed the following ordinances and made findings of fact:

- 105-21 – Traffic. *This site distance has been previously approved, being over 500 feet in either direction.*
- 105-22 – Noise. *There is no change in the noise level of the motorcycle repair shop with the two proposed additions.*
- 105-23 – Dust, fumes, vapors and gases. *There shall be no excess dust, fumes, vapors and gases beyond the lot lines with the proposed additions to the building.*
- 105-24 – Odors. *There shall be no changes from the previous approval.*
- 105-25 – Glare. *There shall be no additional lighting added to the existing buildings.*
- 105-26 – Stormwater runoff. *There are no changes being made to the existing property that will create a problem with stormwater. The stormwater plan was previously provided and approved.*
- 105-27 – Erosion control. *There will no stripping of the existing vegetation and the erosion control plan was previously approved.*
- 105-28 – Setbacks and screening. *There shall be no removal of the existing vegetation with the proposed addition to affect neighboring properties with the two additions to the building.*
- 105-30 – Water quality. *There is no change to the existing property that would affect water quality with the additions to the existing structure.*

- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *The surrounding landscape, shall not be disturbed. No additional parking area is going to be created that would require screening.*
- 105-32 – Relation of proposed building to environment. *The addition to the existing building will fit in well with the surrounding buildings in the area.*
- 105-34 – Access control on Routes 109 and 11. *The site distance on Rte 109 is well in excess of the site distance requirement. The additions have no affect on the road access.*
- 105-46 – Sanitary Provisions. *There is an existing bathroom facility for employees, this will not be affected by the two additions.*
- 105-47 – Signs and billboards. *All signage shall be permitted through the Code Enforcement Office.*
- 105-52 – Water quality protection. *Water quality will not be affected by the two additions to the building.*

Roger A. reviewed Shapleigh Zoning Ordinance 105-73.G “Standards applicable to conditional uses” and made findings of fact.

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. *It will not, the two additions shall not affect the surrounding 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 and services to be located along Routes 109 and 11. The facility is located on State Rte. 109.*
- 4) Traffic access to the site is safe. *It is, there is entrance approval for the existing Conditional Use Permit. The distance exceeds the minimum required.*
- 5) The site design is in conformance with all municipal flood hazard protection regulations. *It is, this location is not in a flood zone and stormwater and erosion control measures have been provided to handle a 50 year storm.*
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. *There is a state approved septic system on site and all waste shall be removed from site by the proper facilities noted, per the previous approval for the motorcycle shop.*
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. *The hazardous materials have been addressed on the previous approval for the motorcycle shop.*
- 8) A stormwater drainage system capable of handling fifty-year storm without adverse impact on adjacent properties has been designed. *There has been a stormwater drainage system designed and approved for the previous application at this location. No changes are being made to the site that would require a new plan.*
- 9) Adequate provisions to control soil erosion and sedimentation have been made. *Erosion control measures have been designed and were provided for the previous approved application for the store / stove shop. No changes are being made on site to create erosion.*
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. *There is, this property has been previously approved.*
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. *There are no changes being made to the surrounding landscape, there shall be no additional lighting, work shall continue to be done inside the existing building and the noise ordinance shall be adhered to.*
Mr. Fleming noted there were several trees on the left-hand side that the neighbors requested that he remove. He said it had nothing to do with the additions. Would that be an issue? Roger did not believe so.
- 12) All performance standards in this chapter applicable to the proposed use will be met. *They shall.*

Roger A. stated all the conditions of the original approval for the motorcycle repair shop would remain in affect.

Roland L. made the motion to approve the two additions to the existing structure per the plans provided with the above noted condition. Maggie M. 2nd the motion. All members were in favor. The motion passed unanimously by a vote of 5-0.

Nothing further was discussed.

Best Possible Location – Replace Existing Structure – Map 30, Lot 44 (18 Hemlock Road) – Barbara & Brian Batson, Applicants

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

The applicants provided board members, in addition to the application, a copy of the Subsurface Wastewater Disposal System Application, done by Kenneth Gardner, SE #73, dated 7/22/11; a plan named Replacement of Existing Structures, Sheet 1, showing the scope of the project; a Grading Plan, Sheet 2; a plan for Existing Structures, Sheet 3; a plan for Proposed Structure, Sheet 4; and Proposed Landscape Plan, Sheet 5, all drafted by B.E. Batson – Design / Build in April 2012.

Members reviewed the plans presented.

Roger A. noted the application was for a Best Possible Location, removing the existing structure and replacing it with a new one. Mr. Batson said they began with wanting to replace the existing failed septic system and then decided to remove the existing building, and move the replacement structure back.

Madge B. stated that it looked like the new side setback would be a little better than the existing. Mr. Batson stated that it went from the existing which was 5 feet to a new side setback of 7 feet. He said the new structure would also be moved back approximately 8 feet from the high water mark. He stated the elevation above grade did not change much.

Roland L. asked if it was going to have a daylight basement access on the lower level. Mr. Batson stated, right. Roland asked what the distance was from the shoreline to the structure? Mr. Batson stated the existing was approximately 38 feet and the new would be 47 feet. Roger A. asked if this included the existing and proposed decks? Mr. Batson stated, no.

Madge asked how far out the deck is? Mr. Batson stated the existing deck comes out 8' 8"; the new deck comes out 10 feet. Mr. Batson showed this on the plans.

Roland L. asked if the new deck would be farther from the water than the existing? Mr. Batson stated the new structure would be farther from the high water mark, including the deck. Mr. Batson stated that when putting in the new leachfield and regarding the area they decided to move the existing structure back and to change the way the water runoff moves. He stated everything from the back of the building will now run away from the lake toward Hemlock Road instead of toward the lake as it does now. He believed it would be about a 50% reduction in stormwater flowing into the lake.

Mr. Batson noted that the roof pitch will be changed as well; there will be a gutter system where the water goes to a stone swale. This too will mitigate stormwater issues.

Roland L. asked if the existing structure was on sauna tubes, and if the new structure would have a full foundation with a walkout? Mr. Batson stated, correct.

Mr. Batson stated there is a wood retaining wall on site that was put in years ago, around 1960. He stated it was rotted and falling over. He said the wall needed to be replaced along with the leachfield and septic. He said by moving the new structure back and using part of the new foundation as a retaining wall, it will limit the amount of retaining wall that needs to be replaced. The foundation will accomplish much of what a retaining wall will.

Roger A. stated there would be a site inspection on Tuesday, April 24th. Members will meet at the town hall at 6:45 p.m. Diane S. and Roland L. may meet on site as they live near the site.

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

Nothing further was discussed.

Other:

Reclamation Bond Estimate from Hissong Development for Approved Mineral Extraction Operation

Barbara F. provided members a copy of the Estimate from Hissong for their approved operation on Map 7, Lot 28. The amount of the estimate for the bond provided by Jon Pizey, Vice President, Material Sales is \$35,500. Barbara noted past bonds provided were similar in amount. She asked members if they were comfortable with this figure? Members did not have an issue with the amount but noted not only did the Board of Selectmen have to approve it but they thought the Road Commissioners should review it since they would have the best idea as to whether or not the figure was realistic should the town have to close up the property.

Barbara F. stated she would give Karla a copy of the estimate for the next Selectmen meeting. She hoped the Planning Board would have an answer by the next meeting on the 24th so a final vote could take place and Mr. Pizey could be informed. Barbara reminded members there was a specific plan provided by Inland Fisheries and Wildlife that they would have to adhere to. CEO McDonough stated he had no expertise in this area but he did note it was a relatively small lot.

Nothing further was discussed.

Planning Board meeting adjourned at 7:55 p.m.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, April 24, 2012

Members in attendance: Chairman Roger Allaire, Madge Baker, Roland Legere, Maggie Moody, Diane Srebnick, Joseph Stanley, Alternate and Barbara Felong, Land Use Secretary. Code Enforcement Officer Steven McDonough was also in attendance.

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The planning board meeting began at 7:30 p.m.

The minutes from Tuesday, April 10, 2012 were accepted as read.

Best Possible Location – Replace Existing Structure – Map 30, Lot 44 (18 Hemlock Road) – Barbara & Brian Batson, Applicants

Mr. and Mrs. Batson were present for the review of their application. Board members did a site inspection prior to this evenings meeting. Member Diane Srebnick excused herself from the discussion as she is a direct abutter with the applicant and therefore did not feel comfortable making a decision on his application.

At the preliminary review the applicants provided board members with a copy of the Subsurface Wastewater Disposal System Application, done by Kenneth Gardner, SE #73, dated 7/22/11; a plan named Replacement of Existing Structures, Sheet 1, showing the scope of the project; a Grading Plan, Sheet 2; a plan for Existing Structures, Sheet 3; a plan for Proposed Structure, Sheet 4; and Proposed Landscape Plan, Sheet 5, all drafted by B.E. Batson – Design / Build in April 2012.

Members began the final review of the applicant's proposal by reviewing the plans presented.

Roger A. read §105-4.D(7) in its entirety which regulates the relocation of a non-conforming structures. Roger also read §105-D(3) Foundations. Madge B. asked if section (3)(b) applied, which read as follows:
(b) If the completed foundation does not extend beyond the exterior dimensions of the structure; except for expansion in conformity with Subsection D(1) above, and the foundation does not cause the structure to be elevated by more than three additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.

CEO McDonough stated the purpose of this section is to avoid allowing people to have subterranean foundations creating additional living space greater than what would normally be allowed. Madge B. stated, "Therefore, 3(b) doesn't apply." Joe S. thought it might depend on what was going to be done with the retaining wall. Roger A. stated the new foundation does not extend beyond the exterior dimensions of the new structure. CEO McDonough stated this section also makes certain the new structure isn't elevated by more than three additional feet than the existing. Madge stated this is an issue of concern.

Roger A. agreed, he believed the new building due to the existing slope would be higher than the existing structure measuring from the uphill side. CEO McDonough did not believe that was the case. He made a diagram depicting how the elevation is calculated when moving a structure on a slope. As the structure is moved back it will go uphill because of the terrain but as long as it remains at the same height out of the ground, not to exceed three additional feet, it can comply. He stated otherwise no one would be able to be moved back. Looking at the existing plan the structure is currently 6" above the existing sill. When the new structure is moved back it will be 8" above the existing grade so it will not be elevated more than three additional feet. Roland L. stated he never recalled a discussion such as this when moving a structure.

CEO McDonough stated the board never moves a structure back into a hillside. Roger stated the board usually takes an existing benchmark and the new building cannot go any higher than three additional feet. CEO McDonough stated his interpretation is what he was taught in Shoreland class. Barbara F. thought she had a diagram from the class CEO McDonough was speaking of. She will try to locate it and make a copy for members. Barbara remembered others in the class being confused with this issue, including herself.

CEO McDonough stated the benchmark theory works if the structure is staying in the same location but if it's being moved back on a hillside there is an issue and what the State wants is for new structures to be moved back if possible.

Roland L. believed the grade was created by the homeowner. The board could have theoretically asked the existing grade be left. CEO McDonough stated the plan is using the existing grade prior to excavation. Mr. Batson agreed, the grade on the plan was the existing grade.

Roger A. believed there would need to be some fill added when moving the structure back in order to get the 8" as on the plan. Mr. Batson stated the fill from the new location was removed when moving the existing wall, the original grade was higher. Roger stated the board did not see this. Mr. Batson stated he had pictures prior to the wall and the vegetation being removed. He stated the vegetation and the bank went all the way to the well and beyond.

Roger A. asked how high the retaining wall was? Mr. Batson stated approximately 3 feet and the soil went up from there at a 45 degree angle. CEO McDonough stated he concurred the wall was approximately 3 feet high and the earth sloped up from the wall as he had done a site inspection prior to any earthmoving when he permitted a new septic system.

Madge B. agreed with CEO McDonough's interpretation of building height. Roger A. agreed as well.

Madge B. stated the board had some concerns with the location and the size of the new deck. Mr. Batson stated the new deck was not as long as the existing. Madge stated that she understood that but the board has in the past said no to a front deck to keep the structure as far from the high water mark as possible.

Roger A. asked the width of the deck? Mr. Batson stated the existing deck is 8' 8". He stated the new deck is 10 feet in depth but the new deck is significantly shorter and away from the side lot line. Madge B. asked if there would be steps? Mr. Batson noted where the steps were located and they did in fact come off the front of the deck on the water side. Madge said that puts the structure closer to the water which is what the board usually did not want to happen. The goal is to move the structure back from the water. She asked what the distance from the edge of the stairs to the water was? Mr. Batson did not know exactly. He reviewed the plans and believed the stairs would be approximately 3 or 4 feet farther from the water than the existing deck.

Madge B. asked if the septic tank had to be a certain distance from the house? Mr. Batson stated, 8 feet. She asked if the new design for the house placement took this into consideration? Mr. Batson stated, yes. The parking area, wall and walkway were also taken into consideration. The location of the tank was designed so a pump system would not be required, they could use the natural elevation. He stated if the house was replaced in its existing location the tank would have been in a different location and a pump system would have been required. He said the height of the foundation was established in part to get the tank high enough to be able to gravity feed the leachfield. Madge stated in light of this they couldn't really move the house farther back than the new plans allows for. Roger A. stated the house could be moved over from the side lot

line. Roger thought it could be pulled back as well. Madge stated not 8 feet because of the location of the septic tank. Roger said the tank could be moved as well, if they went with a tank you could drive on. Mr. Batson stated that was very expensive. Roger said the board doesn't take cost into consideration.

Roger A. stated he would like to see the house moved over 8 feet? Madge B. thought that was excessive. Madge asked what the side setbacks were? CEO McDonough stated a minimum of 10 feet on one side and a cumulative of 30. Madge stated in light of this why would Mr. Batson have to move farther than the minimum of 10 feet? Mr. Batson stated he was already at 7 feet. Madge stated she thought he should only have to move it the additional 3 feet to make 10 feet. Madge didn't think they should have to move more than the minimum.

Mr. Batson stated the only thing that came into play is the clearance for the retaining walls. The grade difference has to be made up. Madge B. stated she didn't think he needed the proposed side exit from the home. Mr. Batson stated that was a maintenance exit, it wasn't an egress. He stated it was an entrance into the utility room.

Madge B. thought the board might want to consider looking at the proposed site one additional time with stakes in place. CEO McDonough asked if they were asking that Mr. Batson move the structure to the side three additional feet? Madge stated yes, it would make the new structure more conforming. Joe S. asked if there were any property pins in place? Mr. Batson stated yes, and noted their location on the plan. There were definitely 2 pins in place at this time. He new the past location of the third.

Roland L. asked if the stairs could possibly be placed in another location so they didn't encroach upon the lake? Board members reviewed the plan with Mr. Batson again. Mr. Batson stated if he turned them there might be an issue with the existing grade. Madge said he could also make the deck three feet narrower then he could keep the stairs in the existing location. Roger said they could reduce the deck from 10 feet to 7 feet. Mr. Batson asked about moving the entire structure back three feet and keeping the stairs in the same location? Madge stated they would prefer it moved back. Roland stated if the landing came off to the side not as many steps would be required because the grade is higher. He said as it is now a landing is required. Mr. Batson was concerned as this would put the stairs into the access area that runs along the side of the house. Roland said this area wasn't intended to be a driveway. Mr. Batson stated it's been a driveway since 1957. He said it was put in for access to the front of the cottage.

Mr. Batson stated he can't get front access for maintenance on the other side due to the slope. Roland stated it depended on what was being used to access the front, a lawn tractor or a vehicle. Roland agreed Mr. Batson was making significant changes. He said he was just looking at best possible location and keeping it as far from the water as possible. He would like to see the stairs to the side instead of the front.

Roger A. asked how far from the lake the existing stairs were? How far is the closest structure to the water? Mr. Batson believed the new structure would be three or four feet back farther from the water than the existing. Roger thought the structure could be moved back at least three additional feet and make the side lot line measurement a minimum of ten feet.

Roland L. asked CEO McDonough about the pavers that were shown on the plan that were placed under the deck, is that considered in the 30% calculation? CEO McDonough stated it was considered in the area calculation. Mr. Batson stated it did not exceed the coverage of the deck. CEO McDonough agreed it did not apply toward the 10% lot coverage because it was under the deck. He said as far as expanding the structure by more than 30%, pavers were no different than a patio, and being stacked didn't change the fact they had to be counted separately from the deck. Mr. Batson stated he would have to recalculate the existing

and proposed. Roland asked if this could affect the size of the deck? CEO McDonough did not understand why? Roland asked if the deck was considered in the 30% expansion? Mr. Batson stated, yes. CEO McDonough stated the patio blocks are not and they should be. Madge B. stated Mr. Batson said he would recalculate to be certain he meets the 30%. Mr. Batson stated there was not a lot coverage issue only possibly a 30% expansion issue. CEO McDonough stated he may have to reduce the size of the pavers area. Mr. Batson stated he could use crushed stone.

Roland L. asked if the calculations were on the plan. Mr. Batson showed the existing structure plan and where the calculations were and then on the proposed plan, there were also calculations for the 30% expansion. Members reviewed the calculations and believed they were accurate.

Madge B. thought the board should have Mr. Batson modify his plan and come back before the board. Roger A. agreed stating the new structure should be moved over three feet and back three feet. Mr. Batson stated he could make it work. CEO McDonough stated maybe a new plan would not be needed if he were moving to the side and back three feet toward the road. There could be a condition that the as-built plan from the surveyor would show the new building is 10 feet from the side lot line and another condition for the road. He asked, what should that figure be? Roger stated he didn't know as the exact calculation from the water to the deck is not known. Members reviewed the plan again.

Roger A. using the existing deck measurement from the water, said it appeared to be 50' 8" and the new seems to be 51' according to the plans presented. This is using the steps on the new plan. Roger said this doesn't pull the new structure back very much, only 4". Roger said this is using the closest points. Roger said if this isn't correct he wants it shown where the discrepancy is. If the board wasn't asking the new structure to be moved back it would end up being closer to the water than the existing on one corner. If this is the case he thought the new deck needed to be shortened up to 8' from the 10 feet proposed.

Mr. Batson stated he will go back on site, look at the grade and see how far the new structure can be shifted back. He said moving it over 3 feet from the side lot line may give him more leeway moving the structure back. Mr. Batson stated in the original plans he wasn't counting the steps because he hasn't had to on other projects in the past. The board stated they always count the steps as a structure, putting him closer to the water because they are in front of the deck. Roger said although they are pushing the new home back three feet because of the deck and steps it isn't being moved back much. CEO McDonough stated the steps aren't counted as part of the 30% expansion, they are exempt from that. Madge stated they are part of the structure for the setback issue. CEO McDonough stated this is different from what he normally permits. He said he permits a set of stairs many times in the Shoreland district, even down embankments, but he also didn't see why the stairs couldn't be turned to the side. He noted that stairs do not count toward lot coverage or the expansion. Roger agreed. CEO McDonough agreed in the past the board has tried to move the steps to the side instead of toward the water.

Mr. Batson stated he would reconsider his plan. He will make the new plan simple, placing the new footprint on the plan. He said he may find a way to move the proposed stairs as well.

Roger A. stated the application would be tabled until the next meeting on May 8th.

Nothing further was discussed.

Best Possible Location – Expand Existing Structure by 30% - Map 27, Lot 24 (Point Road) – William & Eileen Mageary, Applicants

Mr. and Mrs. Mageary were present for the review of their application.

Mr. Mageary stated he purchased a piece of property on Point Road which has a small structure on it. He said they want to replace it and expand by 30%. Mr. Mageary had provided the board with a sketch plan of the property which depicting the existing structure and the setbacks to the lots lines, along with the location of an existing septic system.

Madge B. asked if it met the setbacks at this time. She reviewed the plan and noted it does meet the side setbacks and possibly the one to the road, but not to the water.

Roger A. asked if there was a new septic system? Mr. Mageary stated no, it is an existing system. He said he was told it was working fine, it was just pumped out recently. Roger asked if he knew what year it was put in. Mr. Mageary stated he was speaking with Bob Weaver who said he had a mobile home on the property in the 80's that was attached to the existing system. Madge asked if they knew how old it was? Mr. Mageary stated no, it was a 500 gallon cement tank that appeared to be in good working order.

Barbara F. looked to see if there was a septic plan in the Code Enforcement files but there was not.

Madge asked if they were going to tear the structure down and was there a foundation? Mr. Mageary stated yes, they were going to tear it down and would be putting in a foundation, there is not one there now.

Roger A. read §105-46 'Sanitary provisions.', (E) 'Wastewater systems in the Shoreland District', (1) "All subsurface wastewater disposal systems that are in the Shoreland Zoning District and within 100 feet of the shoreline shall comply with the present Maine State plumbing laws effective January 1, 1998." Roger thought Mr. Mageary may have to replace the existing system. Mr. Mageary did not understand because the existing was in good working order. Roger said because it was in the ordinance.

CEO McDonough stated that there was a time the Town requested everyone in the Shoreland to replace their existing systems if they were put in prior to a specific date and he recalls it became a legal issue. At that time it was deemed to not be legal which is why there isn't 100% compliance in the Shoreland district. Diane S. thought there had to be a plan on file and if not they had to put in a replacement system. CEO McDonough stated this was not pursuant to §105-46 and not for just no reason. He said it would be like going to the homeowner, knocking on their door, and saying there is a change in the building code on how to build stairs so you have to rip the existing out and put in new ones.

Madge B. agreed but said that under relocation of a non-conforming structure it talks about septic systems. CEO McDonough said that was different. Madge read 105-4(D)(7) which refers to the relocation of a non-conforming structure, "A nonconforming structure may be relocated within the boundaries of the parcel on which the structure is located, provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, **and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of state law and the State of Maine Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with the law and said rules...**" Madge said that Mr. Mageary says it's functional but because the board has no plan we cannot be sure if it fails it can be replaced. CEO McDonough agreed. He stated at a minimum Mr. Mageary would need to provide the board with a septic design showing that a new one can be put in should the existing system fail. Roger agreed a plan was required.

CEO McDonough stated the new system would not have to be installed at this time as long as the existing is functioning properly.

Mr. Mageary was concerned whether or not a new one could be put in using today's standards. CEO McDonough stated that absolutely you can put one in. You do not have to meet new system criteria, you have to meet replacement plan criteria. Board members agreed. Roland L. stated it was up to the site planner to design the plan and find the location that would meet the criteria. Roger said it was possible that the location of the building may change depending on where the new system would have to go in. The best possible location for the replacement system might cause a change in the location of the building.

Mrs. Mageary asked if they get a new plan that shows a different location for the system from the existing system, how do they decide where the building should go? CEO McDonough stated they would deal with that when the plan was presented. CEO McDonough provided the applicants with a list of all the local septic site designers.

Roger A. stated a site inspections would be done before the next meeting on May 8th. Members will meet at the town hall at 6:45 p.m.

Nothing further was discussed.

OTHER:

Mineral Extraction Bond for Hissong Development, Map 7, Lot 28

Barbara F. stated she spoke with Road Commissioner John Burnell regarding the bond estimate from Jon Pizey of Hissong which was for a total of \$35,500. Mr. Burnell read over both the Planning Board minutes and Declaration of Restrictions for the project and he noted that there was a stipulation in the Declaration that read, "If within one year after complete reclamation native vegetative cover has not re-established over at least 75% of the reclaimed buffer area, plant with a native herbaceous seed mix adapted to dry soils for the purpose of soil stabilization." In light of this, Mr. Burnell believed an additional \$13,000 would be required to cover the possibility of the need to reseed. Barbara noted that if after a year the area does not need to be reseeded then Hissong would get the additional \$13,000 back.

Barbara F. stated Mr. Burnell would be speaking with the Board of Selectmen at this evenings meeting. Roger A. believed that stipulation was put in by the DEP. Barbara said she also thought Inland Fisheries was involved in the final decision.

Board members agreed with Mr. Burnell's finding. Barbara should have the information about the BOS decision by the meeting on May 8th.

Nothing further was discussed.

Note: Karla Bergeron emailed Barbara F. on Wednesday, April 25, 2012 and stated that at the BOS meeting the Selectmen made the motion to add \$13,000 to the bond estimate from Mr. Pizey. And that this \$13,000 will not be released until the one year has expired and growth is evident on site.

Planning Board meeting adjourned at 8:45 p.m.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, May 8, 2012

Members in attendance: Chairman Roger Allaire, Madge Baker, Roland Legere, Maggie Moody, Diane Srebnick, Joseph Stanley, Alternate and Barbara Felong, Land Use Secretary. Code Enforcement Officer Steven McDonough was also in attendance.

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The planning board meeting began at 7:30 p.m.

The minutes from Tuesday, April 24, 2012 were accepted as read.

Best Possible Location – Replace Existing Structure – Map 30, Lot 44 (18 Hemlock Road) – Barbara & Brian Batson, Applicants

Mr. and Mrs. Batson were present for the review of their application. Member Diane Srebnick excused herself from the discussion as she is a direct abutter with the applicants and therefore did not feel comfortable making a decision on their application.

Mr. Batson brought board members a copy of a new plan for Sheet 1, Replacement of Existing Structure, dated 5/8/2012 which delineated the existing and proposed structure, along with septic design in relation to the side lot lines and distance from Square Pond.

As a note, he had previously provided: Sheet 2, Grading Plan, dated 4/4/2012 which delineated the existing lot conditions and proposed including retaining walls, vegetation and noting a reduction in grades to reduce stormwater erosion; Sheet 3, Existing Structures, dated 4/4/2012 which delineated the existing area and volume calculations, lot coverage and existing floor plan; Sheet 4, Proposed Structure, dated 4/4/2012 which delineated the proposed area and volume calculations, lot coverage, floor plan above and below sill and perspective views of all sides; Sheet 5, Proposed Landscape Plan, dated 4/10/2012 which delineated the existing vegetation, what areas will not be disturbed and the new plantings that will restabilize the area after construction.

Board members reviewed the new plan page. Mr. Batson began by stating the board had requested at the last meeting that he move the structure over 3 feet from the side lot line to obtain a total of 10 feet and come back two feet from the high water mark. He showed on the plan there is now 10 feet on the side lot line that was once 7 feet and he moved the structure back 2 ½ feet from the high water mark.

Mr. Batson stated he also moved the steps from the deck to the side as requested by several board members instead of coming off the front of the deck on the water side. He noted that removing the stairs from the front of the deck did not gain any footage on the water side due to the angle of the structure on the lot.

The plan showed the distance from the existing structure to the high water mark to be 33 feet 6 inches. The proposed setback to the closest point of the new structure would be 10 feet farther back from the high water mark.

Madge B. asked Mr. Batson how he felt about the new building location and relocating the steps? He said he was fine with it. He said he would have preferred the steps to the front and the fact they would not encroach any further due to the angle but again said he was fine with the plan as proposed.

Madge asked where the exit doors were located. Mr. Batson pointed out their location. Madge noted the exits were fine. Madge believed the new plan was exactly what they asked for at the last meeting.

Roger A. read §105-4.D(7)(a)(b) and (c) in its entirety. Roger noted there were no trees to be removed or replaced. Roger believed all the conditions in this section of the ordinance shall be met by the plans provided.

Madge B. asked about a date of completion. Roger A. asked when the project would begin? Mr. Batson stated as soon as he could get a contractor to begin the work. Madge asked if the board set a completion date of October 1, 2012 for the replanting plan would this be o.k.? She added that if this date could not be met an extension could be asked for. Mr. Batson thought October 1st could be met. He said the replanting plan could be done once the foundation was in.

Roger A. stated the two conditions of approval would be as follows:

1. **A licensed surveyor must confirm the placement of the structure is correct per the plan specifications approved by the Planning Board.**
2. **The re-vegetation plan shall be completed by October 1, 2012. If this date cannot be met an extension shall be acquired through the Code Enforcement Office.**

Roger A. noted there was already a new approved septic design / system placed on site.

Madge B. moved for approval per the plans provided with the above stated conditions and on the grounds that the new location is best possible based on the location of the existing septic system and given the need for off-street parking. Maggie M. 2nd the motion. All voting members were in favor. The motion passed unanimously by a vote of 4-0. Diane S. had abstained from review and voting on this application.

Roger A. noted that Mr. Batson would now have to go the CEO McDonough for all the necessary building permits.

Nothing further was discussed.

Best Possible Location – Expand Existing Structure by 30% - Map 27, Lot 24 (Point Road) – William & Eileen Mageary, Applicants

Mr. and Mrs. Mageary were present for the review of their application. *Note: Board members did a site inspection prior to this evenings meeting.*

At the previous board meeting, members told the applicants that they would need a septic design showing a replacement system could be put on site should the existing system fail, because currently there is no septic design on file at the town office. Mr. Mageary provided the board with a Subsurface Wastewater Disposal System Application, dated 4/30/2012, done by John Large, SE #7, which stated a system can be placed on site for “a single bathroom for use when accessing the lake. The design flow used is for a park model trailer.”

The applicants were before the board to replace and expand the existing 12 x 12 ½ foot structure by 30% and put a foundation in as well.

Madge B. stated at the site inspection board members thought the distance from the existing structure to the road was approximately 60 feet. It is depicted as 57 feet on the sketch plan provided.

Diane S. thought it was about 68 feet from the structure to the road per Roger's pacing it off at the site inspection. Madge stated the board didn't agree with the figures provided. Roger stated the dimensions were fine if that is where he wanted to set the structure at present, which was to move it closer to the road.

Madge B. noted it was conforming to the side lots lines. Roger A. asked the applicants to explain again what they were requesting. Roger asked if they were requesting a 30% expansion only? He also wasn't sure the distance to the lot lines on the plan was correct unless they were planning to move it.

Mr. Mageary stated the road itself was 20 feet wide and the town has a five foot right-of-way on either side. He said this is how he came up with his figure. He did not plan on moving the structure back.

Madge B. asked if there was a foundation going in? Barbara F. stated yes, he said at the last meeting he was putting in a foundation. Madge read from the minutes and it stated he would be putting in an 8 foot foundation under the entire structure. Madge said it would be a walkout foundation on the water side. Mr. Mageary stated, correct. Madge asked how the earth will be held back as you walk into the foundation? She said the foundation would be down eight feet. She said at the site inspection they had talked about putting the foundation down only six feet. She still wanted to know how the earth would be retained. She was concerned about stormwater.

Mr. Mageary stated he would use rip rap and plantings to help retain the bankings. He said he could put in retaining walls. Roger A. stated retaining walls are considered a structure and you can't be more non-conforming than what is there now; therefore, you can not add additional structures such as retaining walls. Mr. Mageary thought the Planning Board had the authority to grant certain things based on land conditions. Roger said the board cannot allow more non-conforming structures. He said in this case a retaining wall would be a benefit but per the ordinance it is not allowed. The board does not have the option.

Roland L. thought the structure could remain where it is but without the daylight basement option because that is where the problem is with the earth removal. CEO McDonough asked why they couldn't have a daylight basement? Roger A. stated because of the slope / cut into the earth to get the daylight basement it creates an erosion issue. Lots of stabilization would be required.

CEO McDonough asked if there was a steep slope? Diane S. stated, yes. Roger A. thought if the building was lifted two to two and one half feet above the ground it would be advantageous because you wouldn't be going so deep into the ground. Roger said there would still be five feet or so in the ground. Madge B. was concerned that stormwater will run right down to the lake due to the topography. Diane said where the structure sits at this time, it is right on the edge of the slope.

CEO McDonough stated as long as it is sloped and stabilized without retaining walls it can be done. Madge B. said some very large trees will be removed to do the project so their root structure won't be helping to retain the earth. Ground cover will be removed. Diane S. said a large area on the hill will be removed. CEO McDonough reminded the board how much of an area is normally disturbed when a new foundation goes in. He was well aware of what will take place, therefore, it is just very important a stabilization plan be created.

Roland L. suggested moving the structure closer to the road to be less of an impact to the area. He said the area is very sandy so stabilizing will be a challenge. Madge B. was concerned about the tree removal. Diane S. said if they are going to replace the existing structure as they are proposing she thought the board needed a much more detailed plan as the board required of the previous applicant. A plan showing what the area will look like after the project is completed.

Madge B. stated she still thought the structure should be moved back toward the road. Mr. Mageary asked if it would be agreeable to the board if he moved the structure four feet back from the existing location, toward the road, and lift the structure 2 feet? Roger A. said it would be to their advantage so the slopes would be easier to control. He said by picking it up, it won't be so deep into the ground. There would be 2 or 3 steps needed to get into the camp but that outweighs the stabilization issues. Madge agreed, the cost to stabilize can be expensive so the less required the better.

Roger A. read §105-4.D(1) 'Expansions' and §105-4.D(7) 'Relocation' in its entirety. Roger noted they were not sure if any trees would need to be removed or not. If they do, they will need to be replaced. Roger also said that at present the only groundcover is pine spills.

Madge B. asked CEO McDonough if when an applicant comes to him for a building permit if he looks at the roof structure with respect to runoff. She was concerned with stormwater runoff causing an erosion issue if it were not pitched properly. CEO McDonough stated he did not as the roof pitch is usually determined by the time it gets to him. He said at this stage, under the planning board review, is the time to discuss stormwater issues with the new structure. Madge said with this location she had concerns. CEO McDonough said the existing and proposed structure was very small. Madge agreed but again said it's the location that has her concerned, it is a very steep area.

Barbara F. asked about a gutter system. She noted in the past a gutter system had been required to move the stormwater toward the roadway, away from the water. Roger A. agreed and noted a French drain would work as well, or both combined.

CEO McDonough said another issue is that if a designated path to the water is not created, people walking to the water can cause a huge problem. He said roots can become exposed. He is a proponent of stairs and walkways to the water.

Roland L. asked Mr. Mageary if the gable end would be facing the water? Mr. Mageary said the roof would be pitched so the roof goes to the side so the rain water isn't going toward the water. The board said that is what they would prefer.

Madge B. said she would like to see the structure moved back. She said Mr. Mageary had proposed four feet, but they were not sure what the exact measurement was. Roger A. said he would not have a problem with moving the structure back four feet. According to the plan provided, this would put the structure at 53" from the road.

Barbara F. asked Mr. Mageary if the new septic design would interfere with the proposed new location? The board reviewed the plan provided and it appeared moving the structure back would not interfere with the new septic location. Joe S. noted there were stakes placed where the proposed site was and it did not look like it would be a problem for the new structure location. A copy of the septic design was given to CEO McDonough.

Board members told Mr. Mageary that he needed the surveyor to show where the existing structure is located and to make sure the new structure is four feet back from the existing. Roland L. stated he felt it was important to note the new location is four feet back from the existing where they do not know if the measurements on the sketch plan are correct. This would be in the best interest of all parties. It would protect the applicants as well rather than using the dimensions on paper. Due to the existing slope it's hard to calculate the distance from the lot lines to the structure.

Roger A. told the applicants they can go as high as 3 feet to raise the camp. It was decided 2 ½ feet or 30” would be the height from the earth.

Roger A. asked the applicants if they could have a planting plan completed by October 1, 2012? Mr. Mageary stated, yes. Madge asked CEO McDonough if he would look at the planting plan and approve it. He stated, yes. Diane S. stated if any trees were removed they would have to be replaced. Roger said erosion control would be very important so Best Management Practices would need to be used. CEO McDonough stated a Permit by Rule would be required due to the proximity to the water.

Roger A. stated the conditions would be as follows:

- 1. Best Management Practices shall be used until the project is completed.**
- 2. The re-vegetation plan shall be provided to the Code Enforcement Officer for his approval. No work shall commence until the plan has been provided.**
- 3. Should any trees need to be removed, they shall be replaced per the Code Enforcement Officer’s recommendation.**
- 4. The approved re-vegetation plan shall be completed by October 1, 2012. If this date cannot be met an extension shall be acquired through the Code Enforcement Office.**
- 5. The new structure shall be placed four (4) feet closer to the road than the existing structure location.**
- 6. The new structure shall be raised 30 inches above the earth to the sill, to reduce the depth of the foundation, consequently reducing the height required for the bankings created for the walkout basement.**
- 7. A Permit by Rule from the Dept. of Environment Protection shall be submitted and approved prior to any work taking place.**
- 8. A licensed surveyor must place the existing structure per the approved plan and certify the new foundation location.**

Maggie M. made the motion to approve the Best Possible Location per the above stated conditions. Roland L. 2nd the motion. All members were in favor. The motion passed unanimously by a vote of 5-0.

CEO McDonough gave Mr. Mageary the telephone number to contact MDEP for the Permit by Rule application.

Nothing further was discussed.

ELECTION OF OFFICERS

Madge Baker nominated Roger Allaire as Chairman of the Planning Board.

Diane Srebnick 2nd the motion.

Roger Allaire accepted the nomination.

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

Maggie Moody nominated Madge Baker as Vice Chairman of the Planning Board.

Diane Srebnick 2nd the motion.

Madge Baker accepted the nomination.

All members were in favor. ***Madge Baker will remain Vice Chairman of the Planning Board.***

Everyone was pleased ☺

OTHER:

Members received a copy of two violation letters written by the Code Enforcement Office – Map 30, Lot 42 and Map 30, Lot 32A

Marc Lemelin of Map 30, Lot 42, was cited for earth moving in the Shoreland District without a permit from the Planning Board. He has until May 11, 2012 to apply for an after-the-fact permit or further action shall be taken.

Barbara Carlberg, Map 30, Lot 32A, was also cited for earth moving in the Shoreland District without a permit from the Planning Board. She has until May 11, 2012 to apply for an after-the-fact permit or further action shall be taken.

Planning Board meeting adjourned at 8:15 p.m.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, May 22, 2012 AMENDED COPY – Changes in Italic

Members in attendance: Chairman Roger Allaire, Madge Baker, Roland Legere, Maggie Moody, Diane Srebnick, and Barbara Felong, Land Use Secretary. Code Enforcement Officer Steven McDonough was also in attendance. Joe Stanley, Alternate member, was unable to attend.

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The planning board meeting began at 7:30 p.m.

The minutes from Tuesday, May 8, 2012 were accepted as read.

Conditional Use Permit – Archery and Fly Fishing Shop – Map 12, Lot 19 (666 Newfield Road) – Roland Johnson, Applicant

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

Roger A. asked Mr. Johnson to give a brief description of what he wanted to do.

Mr. Johnson began by stating he wanted to sell hunting bows and accessories, fly rods, reels and flies, as well. He said he may sell kayaks in the future and canoes. Roger asked if they would be hand built canoes? Mr. Johnson stated yes, hand made cedar strip canoes and kayaks, one of a kind.

Roger A. asked if there would be a shooting range for customers to try the bows? Mr. Johnson stated yes, 20 or 30 yard archery shots. He said the future plan was to possibly have a 20 yards indoor shooting range in a building closer to the road but for now it will be paper targets outside.

Roger A. asked if he would be selling fishing bait? Mr. Johnson said, no. He said he thought about it but it is too hard to maintain the tanks. He had supplied dealers with bait in the past and said it was hard to keep the bait alive for a period of time. He thought it was not worth the time and effort spent for it, he would rather do the archery, rods, etc.

Roger A. asked what the size of the shop is presently? Mr. Johnson said it is 16 feet long inner diameter by 10 feet wide. He said it should be sufficient for what he wants to do at this time. He reiterated that in the future a shop closer to the road would be best, along with a parking area closer to the road. He would like a building twice the width of the existing. He said he wasn't going as big as Brian's Archery (Barrington, NH).

Roger A. asked what the hours of operation would be? Mr. Johnson said to start the hours would be limited, as he still has a job doing tree work at present. He thought weekdays would be 5:00 p.m. thru 9:00 p.m., Saturday 9:00 a.m. thru 9:00 p.m. and Sunday's 1:00 p.m. thru 9:00 p.m.

Madge B. asked if Mr. Johnson was proposing a new building at this time? Roger A. said no, at present he will use the existing building. If the business does well then in the future he wants to expand into an additional building closer to the road.

Madge B. asked if there would be additional lighting? Mr. Johnson did not believe so. Madge asked about exterior lighting? Mr. Johnson thought he would want a floodlight on the front of the structure to light the area for patrons. Madge said the concern is glare on neighboring properties. Mr. Johnson said he could adjust the bulbs so they shine toward the ground and not toward the road. Madge said that is preferable and added that light shouldn't shine onto the neighbors.

Madge B. noted that the CEO does signage.

Roger A. asked if there were any additional questions before he scheduled the sight inspection? Madge B. did not think so. There wasn't any hazardous waste associated with the business.

Roger A. stated the site inspection would be Wednesday, June 13th due to voting on the 12th. Members will meet at the town hall at 6:00 p.m. In addition, a public hearing will be held at 7:00 p.m. prior to the meeting and a Notice to Abutters shall be mailed.

Roland L. asked if there was anything specific in the ordinance that pertained to archery or an archery range? Roger A. stated no, it is regulated as a business under §105-73. Safety issues shall be looked at such as where the archery range will be located.

Nothing further was discussed.

After-the-Fact Conditional Use Permit – Earth Moving in the Shoreland Zone – Map 30, Lot 42 & Map 30, Lot 32A – Marc & Sandy Lemelin, Applicants

Mr. and Mrs. Lemelin were present for the review of their application. *Member Diane Srebnick abstained from the discussion as she is a direct abutter with the applicants and therefore did not feel comfortable making a decision on their application.*

Roger A. began by stating Mr. and Mrs. Lemelin were before the board for earth moving in the Shoreland District without a permit.

Roger A. asked how much soil had been moved? Mr. Lemelin stated he brought in six yards and also moved other soil on site. He said he put about an inch or two of dirt down in an 11' x 80 foot area.

Roger A. asked if the earth moving was done entirely on the applicant's property? Mr. Lemelin said, no. Roger asked if they had permission to move soil over the abutting property? Mr. Lemelin said yes and gave a copy of a letter from Mrs. Barbara Carlberg, owner of Map 30, Lot 32A the lot equally affected by the project, which gave Mr. Lemelin permission to do some site work.

Roland L. asked the applicants if they currently had access from their property onto *Hemlock*? Mr. Lemelin stated, correct. Roland asked if they now have created a right-of-way onto Hawthorne? Mr. Lemelin stated, correct. Roland stated that this was done across someone else's property. Mr. Lemelin stated yes, with their permission. Roland stated that this was done without a permit. Mr. Lemelin stated, correct. Mr. Lemelin stated it was his understanding that he did not need a permit.

Roger A. asked about the additional gravel on site, not including the six additional yards he brought to the site. Mr. Lemelin said there was other gravel stockpiled on site that he used to maintain Hemlock Road. He said he had stockpiled gravel for future use.

Mrs. Lemelin asked if the permission from Mrs. Carlberg was sufficient? Roger A. stated yes, or else they would have needed an easement recorded at the registry stating it was o.k. to trespass across her property, otherwise it would be trespassing. Roger said as long as there is an agreement between the two parties, it is sufficient. Madge B. asked if there was a recorded easement? Mrs. Lemelin stated, no.

Madge B. asked Roger A. to read the letter from Mrs. Carlberg to the members. It read as follows:

10/11/11

To Mr. and Mrs. Marc Lemelin,

You have my permission to take down trees, plow snow, clear trees to let you have a rear driveway to your property.

This is not a bill of sale only a written agreement to use approximately 100 feet of the Carlberg property.

My children Judith and Kenneth are aware of this agreement and approve of same.

Mrs. Barbara Carlberg

Att: Planning Board

Please note the above letter. This is all I authorized. I will allow nothing added to this.

5/22/12 Barbara Carlberg

Roland L. asked why the applicants are before the Planning Board? Barbara F. stated it was earth moving greater than 10 yards in the Shoreland zone. Roger A. agreed. Roger added that the area affected was totally within 250 feet of the water when looking at the town map.

Roger A. asked if this was going to be the property access now? Mr. Lemelin stated, no. Roger asked if he would use both? Mr. Lemelin stated, absolutely.

CEO McDonough noted this fell under §105-39, Earth removal and filling other than activities regulated under 106-61. ***§105-39.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 (except as provided above) to ensure proper erosion and sedimentation, shall require a conditional use permit from the Planning Board.***

Madge B. thought Mr. Lemelin stated he only moved six yards. Mr. Lemelin stated that was what he purchased. Roger A. added that he moved additional soil that was already on site. Madge said that the amount now was only a guess. Barbara F. asked if Madge had a copy of CEO McDonough's violation to the Lemelins? Members had received a copy at the previous meeting.

Roland L. thought §105-39.B(1) and §105-39.D were contradictory. CEO McDonough understood upon first reading that it appeared that way but it is not. He told members to read it slowly. §105-39.B(1) read as follows:

B. Earthmoving not requiring a conditional use permit. The following earthmoving activity shall be allowed without a permit:

- (1) The removal and filling of less than 10 cubic yards of material from or on any lot in any one year, ***except within*** the Resource Protection District, the Floodplain District ***or the Shoreland District.***
- (2) The removal or filling of material incidental to construction, alteration or repair of a building, or in the grading and landscaping incidental thereto.
- (3) The removal and filling or transfer of material incidental to construction, alteration or repair of a ***public road or essential services.***
- (4) Removal and fill or transfer of material for the repair of an existing private way in the ***General Purpose District.***

Madge B. read the copy of the violation letter from CEO McDonough and better understood why the applicants were before the board.

Roger A. stated a site inspection would be conducted on the property on June 13th by 6:45 p.m. A Notice to Abutters would be mailed as well.

Mr. Lemelin asked if they needed to attend another meeting? Roger A. stated yes, the final review would be held during the regular meeting beginning at approximately 7:30 p.m. on June 13th.

Mr. Lemelin wanted the board aware that about four or five years ago he brought in 80 yards of gravel to place on Hemlock Road with CEO McDonough's permission along with Joe Anderson (YCSWCD) who stated no permits were needed. He said that he thought camp roads do not need permits. Roger A. stated this was not a camp road, its earth moving across private property to create a private driveway.

Mr. Lemelin asked if he was going to redo Hawthorne Road if he would be exempt from coming to the Planning Board? Roger A. stated yes, as long as it's is on Hawthorne and not personal property. Personal property requires a permit. Roger noted that when he gets permission for tonight's earth moving then in the future if he wants to move additional earth on his property or the neighbor's property he will need an additional permit for anything other than what he is getting permission to do at this time. Mr. Lemelin said, sure.

CEO McDonough noted that the Planning Board exempted roads from earth moving so the Road Commissioners would not have to come before the board to work on the roads in the Shoreland District. He read §105-39 B. Earthmoving not requiring a conditional use permit. The following earthmoving activity shall be allowed without a permit: (3) **The removal and filling or transfer of material incidental to construction, alteration or repair of a public road or essential services.** He said because the roads are for essential services and you have to have them for ingress and egress, and they exist and have to be maintained, the Town added the exemption. Mr. Lemelin said he thought that was what he was falling under.

Roger A. stated if he was working on Hemlock or Hawthorne it would not have been an issue. He said a driveway is not exempt. Mr. Lemelin stated he understood.

Nothing further was discussed.

Other:

Possible changes to §105-60.1 'Private Ways' & §105-19 'Notes to Table on Dimensional Requirements.'

Barbara F. gave members copies of proposed changes to the above ordinances. Barbara stated she placed the reference to flag lots and other odd-shaped lots under Notes to Table on Dimensional Requirements after discussing it with CEO McDonough. By placing it under (A) it should apply to all new building lots created. Barbara asked members to review the changes for a future meeting. Any ideas are welcome.

Barbara F. stated she chose the sentence for this addition to Private Ways regarding an expiration date for an approved permit because it was the most simplistic and easy to understand she could find. Again, she told members any comments on these changes are welcome. These will be discussed at a future meeting.

Nothing further was discussed.

Growth Permits

Map 43, Lot 26 (115 Pine Cone Drive) – New Home - **GP #02-12**

Map 12, Lot 15B (Corner of Granny Kent Pond Road & Newfield Road) – New Home – **GP #03-12**

Planning Board meeting adjourned at 8:25 p.m.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Wednesday, June 13, 2012

Members in attendance: Chairman Roger Allaire, Roland Legere, Maggie Moody, Diane Srebnick, Joe Stanley, Alternate, as well as Barbara Felong, Land Use Secretary. Code Enforcement Officer Steven McDonough and Member Madge Baker were unable to attend.

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

Conditional Use Permit – Archery and Fly Fishing Shop – Map 12, Lot 19 (666 Newfield Road) – Roland Johnson, Applicant

Roland and Amanda Johnson were present for the final review of the application. Note: Board members did a site inspection of the property prior to this evenings meeting.

Roger A. opened the public hearing by asking Mr. Johnson to state what he was applying for.

Mr. Johnson said his plans were to open an archery and fly fishing shop. He stated he would be selling archery and fly fishing equipment.

Roger A. asked if the business was going to be held in the 8' x 16 foot building the board members saw at the site inspection? Mr. Johnson stated, correct.

Roger A. asked if he would have fishing flies as well? Mr. Johnson stated, yes he would have flies, fly rods and reels.

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

The public hearing closed at 7:09 p.m.

The planning board meeting began at 7:30 p.m.

The minutes from Tuesday, May 22, 2012 were accepted as amended. The following changes were made to page 2 of 5. In the first paragraph of the Lemelin application review the following was added: *Member Diane Srebnick abstained from the discussion as she is a direct abutter with the applicants and therefore did not feel comfortable making a decision on their application.* In the first sentence of paragraph 5 of the same application review the word Dogwood was changed to *Hemlock*.

Conditional Use Permit – Archery and Fly Fishing Shop – Map 12, Lot 19 (666 Newfield Road) – Roland Johnson, Applicant

Roland and Amanda Johnson were present for the final review of the application.

Roger A. asked Mr. Johnson to give a brief description once again in case there were new people in the audience interested in his application.

Mr. Johnson stated that he was going to open an archery and fly fishing tackle shop as soon as possible. He stated he would be starting out with Bear archery equipment, tree stands and with respect to the fly fishing there would be a few rods and reels and his own hand tied flies. He said mostly it would be archery equipment.

Roger A. asked if he was planning on a lot of fly rods or just a few? Mr. Johnson stated, just a few. He said he would like to get into it but thought there was a lot of competition around for fly fishing equipment so he was going to focus more on the archery.

Roger A. asked if he would be carrying targets as well? Mr. Johnson stated, yes. Roger was wondering if all that Mr. Johnson wanted to do would fit in the existing building. Mr. Johnson agreed there is limited space and stated that the fly fishing may go on the back burner until he can expand.

Roger A. asked about the outside shooting area. Mr. Johnson stated it would be a 20 yard area.

Roger A. asked about the hours of operation? Mr. Johnson stated during the week it would be 5:00 p.m. to 9:00 p.m. Monday thru Friday; Saturday would be 9:00 a.m. to 9:00 p.m.; Sunday 1:00 p.m. to 9:00 p.m.

Roger A. asked if there would be any additional lighting on the building? Mr. Johnson said yes, to light the walkway during evening hours. He said there were lights on the house at this time but the lights at the shop were not sufficient.

Roger A. reviewed the following ordinances and made findings of fact:

- 105-21 – Traffic.** *The minimum site distance at 45 m.p.h. is 315 feet. It did not appear at the site inspection that the minimum could be met in this location.* Roger A. stated that not meeting this one item would not prevent the board from approving the application. Roger noted that site distance is not to be used as the sole criterion for rejecting an application. Mr. Johnson stated he could remove any vegetation that is causing the site distance to be impeded. Roger agreed this would be a good idea but also noted it was due to the curvature of the road and Mr. Johnson could not correct that issue.
- 105-22 – Noise.** *There will be no loud noise generated by the proposed activity.*
- 105-23 – Dust, fumes, vapors and gases.** *There will be none generated for this activity.*
- 105-24 – Odors.** *There will be no obnoxious odors emitted from the activities on site.*
- 105-25 – Glare.** *Lighting added to the business location will not reach State Rte. 11.* Mr. Johnson asked about lighting on a sign. Roger A. stated all signage is permitted thru the Code Enforcement Office and he would determine if a light would be allowed.
- 105-26 – Stormwater runoff.** *There are no changes being made to the existing structure or property that would cause a stormwater problem. The only stormwater issue is with the existing driveway. The addition of the business does not cause additional stormwater issues.*
- 105-27 – Erosion control.** *There are no changes being made to the existing structure and property that would cause an erosion problem. There are retaining walls in place to retain the earth and prevent stormwater erosion.*
- 105-28 – Setbacks and screening.** *The existing structure is well screened.*
- 105-29 – Explosive materials.** *There shall be none on site and none to be generated.*
- 105-30 – Water quality.** *There is no waste being stored on site. There is an existing home with a State approved septic system that the applicant will use.*
- 105-31 – Preservation of landscape; landscaping of parking and storage areas.** *The existing vegetation on site is not being removed. There is no outside storage of materials.*
- 105-32 – Relation of proposed building to the environment.** *The existing building fits in well with the surrounding area.*
- 105-33 – Refuse disposal.** *There will be a minimal amount of refuse and it shall be removed by the applicant and taken to the transfer station.*

- 105-34 – Access control on Route 11. *There is an existing entrance onto Route 11 at this time, so no DOT permit is required. There is no division of the lot taking place.*
- 105-40 – Home occupations. *The only employees shall be Mr. and Mrs. Johnson. The business shall be conducted in an existing structure on the property.*
- 105-43 – Off-street parking and loading. *The existing structure to be used requires 1 parking space. Two spaces are also required for the applicant and his wife. Roger A. noted that if there are multiple people using the shooting range in the future, the applicant would need to come back before the board to show where additional parking can be located.*
- 105-46 – Sanitary provisions. *The applicant shall use the existing home for the bathroom facilities.*
- 105-47– Signs and billboards. *Any signage shall be obtained through the Code Enforcement Office.*

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

Roger A. reviewed Shapleigh Zoning Ordinance 105-73.G “Standards applicable to conditional uses” and made findings of fact.

- G. Standards applicable to conditional uses. It shall be the responsibility of the applicant to demonstrate that the proposed use meets all of the following criteria. The Board shall approve the application unless it makes written findings that one or more of these criteria have not been met.**
- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. *It will not, the property is not near the water and no changes are being made on site to disturb 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 State Route 11.*
 - 4) Traffic access to the site is safe. *It is not. The applicant shall remove vegetation to increase visibility as much as possible.*
 - 5) The site design is in conformance with all municipal flood hazard protection regulations. *It is, this location is not in a flood zone and no changes are being made on site to affect stormwater.*
 - 6) Adequate provision for the disposal of all wastewater and solid waste has been made. *There is, the applicant shall use the existing bathroom facility in the home. All waste produced by the business shall be taken to the transfer station by the applicant.*
 - 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. *N/A*
 - 8) A stormwater drainage system capable of handling fifty-year storm without adverse impact on adjacent properties has been designed. *There are no changes being made to the site to affect stormwater. The existing structures have been on site for many years and have the necessary approvals.*
 - 9) Adequate provisions to control soil erosion and sedimentation have been made. *There are no changes being made to the site to create an erosion problem. There are retaining walls on site to help prevent erosion from heavy rain.*
 - 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 Silver Lake.*
 - 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. *The existing vegetation buffers the site from State Rte. 11 and adjoining properties.*

- 12) All performance standards in this chapter applicable to the proposed use will be met. *All standards are met except site distance.*

Roger A. stated the conditions of approval are as follows:

- 1) The trees/vegetation shall be trimmed on the property near the road to provide for better visibility.
- 2) The hours of operation shall be 5:00 p.m. to 9:00 p.m. Monday thru Friday; 9:00 a.m. thru 9:00 p.m. Saturdays, and 1:00 p.m. thru 9:00 p.m. on Sunday.
- 3) Any changes to your business proposal or the addition of another structure for the business shall have to come back before the Planning Board for review.

Maggie M. made the motion to approve the conditional use permit for Map 12, Lot 19 for an archery and fly fishing business with the above stated conditions. Diane S. 2nd the motion. 4 members voted for approval. 1 member abstained due to not being able to make the site inspection. The motion passed 4 – 0.

Nothing further was discussed.

After-the-Fact Conditional Use Permit – Earth Moving in the Shoreland Zone – Map 30, Lot 42 & Map 30, Lot 32A – Marc & Sandy Lemelin, Applicants

Mr. and Mrs. Lemelin were present for the review of their application. *Member Diane Srebnick abstained from the discussion as she is a direct abutter with the applicants and therefore did not feel comfortable making a decision on their application.*

Note: Board members did a site inspection prior to this evenings meeting.

The applicants are before the board for earthmoving in the Shoreland District without a permit. An 11' x 80 foot driveway extending from Map 30, Lot 42, over Map 30, Lot 32A (owned by Barbara Carlberg) to Hawthorne Road was created. The application falls under the following: §105-39.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 (except as provided above) to ensure proper erosion and sedimentation, shall require a conditional use permit from the Planning Board.*

The Planning Board received a letter from abutting property owners which Roger read allowed. As a note a copy was given to Mr. Lemelin as well. The letter read as follows:

*1020 Poplar Stream Road
Carrabassett Valley, Maine 04947
June 3, 2012*

*Land Use Secretary
Attention: Roger Allaire, Planning Board Chairman
P.O. Box 26
Shapleigh, ME 04076*

Greetings,

This letter is in regards to an “After-the-fact conditional use permit for reapplication for earthmoving in the Shoreland Zone to create an 11 x 80 ft. vehicle access way to Hawthorne Road from Marc and Sandy Lemelin, Map 30, Lot 42 (21 Hemlock Road) crossing over Lot 32A belonging to Barbara Carlberg”.

As abutters and co-owners of a summer camp at 30 Hawthorne Road, we are writing to let you know that we have questions and concerns about this application that is scheduled to be addressed at your Planning Board meeting on June 13, preceded by a site inspection. Our sister Dorothy Clark, who resides in Monroe, Washington, received a certified letter from your office this past week regarding this matter. She forwarded it to us so that we could follow through.

Unfortunately, none of us will be able to be in the Shapleigh area on June 13th or in the time immediately before or after, and if possible, would appreciate it if action could be delayed until one of us could be there any time in July through August 23. We do not completely understand what the Lemelin's have done or want to do regarding this road, as there has been no communication about it.

There are currently four camp owners who use Hawthorne Road and it may not be known by the Lemelin's that we have all signed a road maintenance agreement that was drawn up by a lawyer a few years ago. This should probably be brought to their attention. Our main question is why the Lemelin's need this new road when they currently already use Hemlock Road? How will it impact our use of Hawthorne Road due to additional wear and tear, traffic, and year round use?

Thank you for requesting our input.

Sincerely,

Janice Clark-Whatley, 1020 Poplar Stream Road, Carrabassett Valley, Maine 04947

Elaine Clark Mason, 300 Andover Road, Syracuse, NH 13210

Marguerite Clark, 8 Lincoln Street, Sanford, ME 04073

Roger A. was given a copy of the road maintenance agreement by an audience member named Cheri Hall. She also gave the board a copy of a letter from Betsey and Jerry Natale, one of the abutters of the Carlberg property. The letter read as follows:

Dear Neighbors,

Thank you so much for assistance in obtaining a "Road Maintenance Agreement" in order to satisfy the needs of the bank as we seek to purchase our cottage from our father. As we told you over the phone, the bank lawyers are requiring this and we have found this to be a need of more than one financial institution. This document will come in handy for any of us who seek a mortgage, home equity loan or seek to sell our property.

We have been working on the document, making it reflect the way we actually use the road. We found that bank lawyers really don't know about Maine camp roads so we rewrote their version of a maintenance agreement. It has been approved by bank lawyers as well as personal lawyers. When signatures are complete, the Phoenix Title Co. will file the document at the York County Registry of Deeds. Each of you will receive a copy for your records.

Please sign on the page where your name is indicated. Signatures must be notarized. You may return the signed, notarized page to us in the pre-paid envelope provided. We know this is a busy time of year for all of us, so thank-you so much for your assistance. If you have any questions, please email us at jbnatale@comcast.net or 978-521-1535.

Thanks again, and have a wonderful holiday season.

Sincerely,

Betsey and Jerry Natale

Roger A. then read the Road Maintenance Agreement, it read as follows:

- 1. Dorothy Clark, Janice Clark-Whatley, Elaine Mason
30 Hawthorne Road
Shapleigh, ME*
- 2. Sherilyn Higgins and Lindley Higgins
26 Hawthorne Road
Shapleigh, ME*

3. *Estate of Charlotte Clark*
Carmen Underwood, PR
38 Hawthorne Road
Shapleigh, ME
4. *Gerard J. Natale Jr. and Betsey C. Guest-Natale*
40 Hawthorne Road
Shapleigh, ME

Hawthorne Road is a small dirt road in Shapleigh, ME, enjoyed by the owners listed above as a right of way to their properties, agree to maintain and repair Hawthorne Road as needed for personal access to our properties. All repairs and improvements must be approved by the group in advance and be completed by a licensed and insured contractor. Any owner who voluntarily works on the road will do so at their own personal expense and will not hold the other owners liable for any monetary expense or personal injury. Payment for improvements / repairs done on the road up to the first driveway will be shared equally by each owner. Improvements and repairs beyond the first driveway will be shared by those who benefit by such repairs / improvements.

Hawthorne Road has always been a 3-season road, not accessible in winter months. Should any owner decide they want winter access, they will do so at their own personal expense and liability and will not hold other owners liable in any way.

This agreement shall be null and void if and when the Municipality provides repair and maintenance to said road.

This Agreement is for the mutual benefit of all of the above parties, their heirs and assigns, and for the benefit of any and all mortgagees whose interest may appear of record now or in the future and their successors and assigns as third party beneficiaries.

Upon execution by all parties, this agreement must be recorded at the York County Registry of Deeds for the State of Maine.

Date this 24 day of December 2010.

Dorothy Clark
State of Washington, ss.

The foregoing instrument was acknowledged before me this 24th day of December 2010 by Kim Leslie, Notary Public.

Roger A. stated the board did not know at this time whether or not Barbara Carlberg was part of this agreement or if the Lemelin's could be involved. Mr. Lemelin stated he would like to speak to the abutters about this. He said he was waiting for them to be in the area.

Roger A. stated he would like to table this application so Mr. Lemelin could contact Barbara Carlberg on this matter, since she is the property owner.

Roger A. stated after doing the site inspection, it was his opinion that there was more than 10 cubic yards of earth moved based on the length of the driveway and the depth of the base observed.

Roger A. stated the application would be tabled until July 10th so the abutters would have a chance to attend the meeting. (Barbara F. emailed Janice Clark-Whatley and Elaine Clark Mason and sent a letter to Marguerite Clark and Barbara Carlberg telling them the application was tabled until July 10th.)

Nothing further was discussed.

Conditional Use Permit – Earth Moving in Resource Protection & General Purpose District – Map 3, Lot 17F – Jim Libbey, Applicant; John Toothaker, Representative

Neither Mr. Libbey nor Mr. Toothaker was present for the review of the application. The board will wait to hear from them before placing them back on the agenda.

Conditional Use Permit – Redemption Center & Package Store – Map 7, Lot 3-2 (926 Shapleigh Corner Road) – Donald & Angela Allen, Applicants

Mr. and Mrs. Allen were present for the review of their application.

Mr. Allen began by stating there had been a redemption center in the building for quite some time. He stated he wanted to make the redemption center larger and improve it. He said from his previous business he had learned that to get money back from the returned goods it was smart to have items for people to purchase in a store. He has found a package store and redemption store go hand in hand.

Mr. Allen stated he opened JD's package store in Waterboro years ago. He said because of divorce he is trying to start over in a new location.

Roger A. asked what would be sold? Mr. Allen stated tobacco products, soda, beer, wine, water, coffee, snacks. Mrs. Allen stated there would be no prepared food. Barbara F. asked if there would be a deli? Mrs. Allen stated, no.

Roger A. asked what the hours of operation would be? Mr. Allen stated 7:00 a.m. thru 9:00 p.m., 7 days a week.

Roger A. asked if they were going to use the entire redemption area that exists at this time? Mr. Allen stated, yes. Roger asked where the package store would be? Mr. Allen stated it would be in the front of the building on the road side. Maggie M. asked if it would be the whole width where the restaurant once was? Mr. Allen stated, yes. Roger asked if the flea market was still going to be there? Mr. Allen stated, yes.

Mrs. Allen stated the owners did say that if they needed to expand in the future the owners would give up some of or all of the flea market space. They were not ready for that at this time, however.

Mr. Allen noted he had been in this type of business for 25 years and was very familiar with it.

Roger A. stated a public hearing would be held on Tuesday, June 26th. A notice to abutters will be mailed as well. A site inspection was not necessary as all board members knew of the location, building, etc.

Nothing further was discussed.

Amendment to a Conditional Use Permit – Sell Live Lobsters – Map 18, Lot 17 (142 Emery Mills Road) – Scott Cudworth, Applicant

Scott and Karen Cudworth were present for the review of the application.

Mr. Cudworth stated he had a 50 gallon lobster tank that he used with fresh water for crayfish (bait). He said he has converted it to saltwater to be able to sell lobster. He said presently he had 8 lobsters in the tank and over a six week period wanted to have over one hundred lobsters to sell.

Mr. Cudworth stated there would be no changes to the building; lighting would remain the same, no other changes. Roger A. asked if there would be a change with the seasons? Mr. Cudworth was not sure as he didn't know if there would be a demand during the winter months. He said if there was a demand in the winter he will carry them but he probably won't have 100 lobsters in the winter.

Roger A. asked if they would be cooking them on site? Mr. Cudworth stated they would like that option but they were not prepared to do so at this time. Mr. Cudworth thought if they could do it outside the side door perhaps they could put steamers there. Mrs. Cudworth didn't want to be cooking them in pots, she would want a professional steamer if she was going to do it and at this time she didn't have the money to purchase one. Roger said they would have to come back before the board if they wanted to cook them in the future unless they decide at this time to have that on their permit.

Roger A. asked if they would be using their dock to transport the lobster? Mrs. Cudworth stated she hadn't thought about that. Mr. Cudworth thought that selling them and possibly cooking them was enough.

Mrs. Cudworth stated they were not in the Shoreland Zone where they were selling and cooking them. She didn't think they could do anything in the Shoreland Zone with the lobsters. Barbara F. agreed no one could eat them in the Shoreland Zone, no picnic tables, cooking them, etc.

Roger A. stated a public hearing would be held on Tuesday, June 26th at 7:00 p.m. A notice to abutters will be mailed. Members could do a site inspection if they want to but all members knew of the location and had been on site for previous business approvals so board members would not be going as a group.

Nothing further was discussed.

Conditional Use Permit – Repair Existing Boathouse, Decks, Stairs, Ramp and Retaining Wall – Map 20, Lot 9 (110 Shapleigh Corner Road) – Marc Boisse', Applicant; Joan Hammond, Owner
Mr. Boisse' was present for the review of the application.

Mr. Boisse' provided an email from Joan Hammond, dated 6/8/2012, that stated he could act at the meeting on her behalf as she will not be in Maine during the permitting process for the repair and replacement of existing structures on her waterfront lot located at 110 Shapleigh Corner Road.

Mr. Boisse' stated the property was located on Mousam Lake. Ms. Hammond wants to repair the existing path going down to the waters edge from the cottage. He stated that at present he had a permit from CEO McDonough to replace the boathouse roof and deck. He said she wants to replace the existing retaining wall which is less than 36" in height. There is also a wood deck that she wants to replace with a movable structure. He said he was trying to convince the applicant to use aluminum otherwise it will be too heavy to move. He said a wooden ramp that goes toward the boathouse has to be rebuilt as well. Mr. Boisse' provided the board with pictures of all the existing structures that needed to be replaced, as well as a sketch plan depicting the existing location of each on the lot.

Roger A. asked if the wood retaining wall was going to be replaced with wood? Mr. Boisse's stated the applicant wanted big stones but because you can't get equipment into the area, everything has to be done by hand, so he is trying to convince her to use blocks which are easier to work with.

Mr. Boisse' asked members if they received a copy of the Permit by Rule from the DEP. Barbara F. stated they were mailed to CEO McDonough, she would see if he had a copy.

Mr. Boisse' asked if there was anything further the board would need for the next meeting? Board members did not believe so.

Mr. Boisse' provided a copy of a list of plants to be used when landscaping after the project is completed. He also noted conservation mulch would be used around areas that have exposed soil.

Mr. Boisse' stated he could not download the instructions from the DEP onto his computer? He asked if the board had copies? The board does not. Joe Stanley stated he had a copy and would provide Mr. Boisse' with a copy prior to the next meeting.

Roger A. stated a site inspection would be held on Tuesday, June 26th at 6:30 p.m. A notice to abutters will be mailed as well.

Nothing further was discussed.

Growth Permit

Map 43, Lot 27 (109 Pine Cone Drive) – New Home – **GP #04-12**

Planning Board meeting adjourned at 8:30 p.m.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, June 26, 2012

Members in attendance: Chairman Roger Allaire, Vice Chairman Madge Baker, Roland Legere, Maggie Moody, Diane Srebnick, as well as Barbara Felong, Land Use Secretary. Code Enforcement Officer Steven McDonough was also in attendance. Alternate Joe Stanley was unable to attend.

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

Conditional Use Permit – Redemption Center & Package Store – Map 7, Lot 3-2 (926 Shapleigh Corner Road) – Donald & Angela Allen, Applicants

Donald and Angela Allen were present for the public hearing.

Roger A. opened the public hearing by asking Mr. and Mrs. Allen to briefly explain why they were before the board.

Mr. Allen stated he wanted to open a package store and redemption center. He said the package store was where the profit comes from; the redemption is where people turn in their items for money and hopefully spend that money in the store. There would be no prepared food items, only packaged items such as packaged snacks, beer, wine and cigarettes.

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

Roger A. closed the public hearing for the redemption center and package store at 7:07 p.m.

The Public Hearing Began at 7:07 p.m.

Amendment to a Conditional Use Permit – Sell Live Lobsters – Map 18, Lot 17 (142 Emery Mills Road) – Scott Cudworth, Applicant

Scott and Karen Cudworth were present for the public hearing.

Roger A. asked Mr. Cudworth to explain why he as before the board.

Mr. Cudworth stated he wanted to sell lobsters out of his retail shop.

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

The public hearing closed at 7:08 p.m.

The planning board meeting began at 7:30 p.m.

The minutes from Wednesday, June 13, 2012, were accepted as read.

Conditional Use Permit – Redemption Center & Package Store – Map 7, Lot 3-2 (926 Shapleigh Corner Road) – Donald & Angela Allen, Applicants

Donald and Angela Allen were present for the final review of their application.

Mr. Allen once again stated that he wanted to open a redemption center and package store. He said by having the package store it keeps money flowing into his business and the two businesses go hand in hand.

Roger A. asked again what the products inside would be, beer, wine, tobacco? Mr. Allen stated yes, and soda and snacks.

Roland L. asked if there would be any refrigeration? Mr. Allen stated not at this time. Roland stated there would be no dairy products. Mrs. Allen stated there may be small coolers in the future. Mr. Allen stated there would be a cooler for ice. Roger asked if there would be coolers for beer and soda? Mr. Allen stated in the beginning no, it will be sold warm. He said if the vendors wanted to provide coolers for their products he may accept them. He said he was not going to be buying any coolers nor would he put in a big walk-in cooler.

Diane S. asked if the hours of operation would be the same as the existing redemption center? Madge B. asked if alcoholic beverages could be sold at any hour? Mrs. Allen stated you could not sell alcohol before 10:00 a.m. on Sunday. Mr. Johnson, one of the owners of Boonies, an abutter located on Route 11, stated it was 9:00 a.m. on Sunday.

Roland L. asked what the hours of operation would be? Mrs. Allen stated 7:00 a.m. thru 9:00 p.m., seven days a week. Roger A. asked if that was for both the redemption center and store and would people use the same door? Mr. Allen stated, yes.

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

The final application review was for the ability to operate a redemption center along with a package store. The package store will sell items such as soda, beer, wine, coffee, ice, newspapers, lottery tickets, tobacco products, candy, snack foods and novelty items. No prepared foods shall be sold on site. The Board received along with the application a sketch plan of the existing structure, which included a parking plan along with the existing conditions of approval for the activities recently being conducted on site that being a flea market and redemption center. Also provided was a letter from the owners of the property, Janet Dow and James Corregio, giving the applicants permission to come before the board with their application.

Roger A. reviewed the following ordinances and made findings of fact:

- 105-21 – Traffic.** *The site distance for this location was approved during the original business approvals in 1999. The exit / entrance and traffic flow pattern for Kettle Pond Cabins and the business have been further improved since that time for safety reasons.*
- 105-22 – Noise.** *There will be no loud noise generated by the proposed activity.*
- 105-23 – Dust, fumes, vapors and gases.** *There will be none generated for this activity. Roger asked about the storage of the empties? Mr. Allen it would be the same as the previous redemption business, in a container so as not to emit odors.*
- 105-24 – Odors.** *There will be no obnoxious odors emitted from the activities on site.*
- 105-25 – Glare.** *No additional lighting will be added to the building. The existing lighting was previously approved for the flea market and redemption center.*

- 105-26 – Stormwater runoff. *There are no changes being made to the existing structure or property that would cause a stormwater problem. There is a stormwater plan on file for this location.*
- 105-27 – Erosion control. *There are no changes being made to the existing structure or property. Erosion control measures were previously approved and are still in place.*
- 105-28 – Setbacks and screening. *The existing structure is well screened from Kettle Pond Cabins with existing vegetation which shall not be removed.*
- 105-29 – Explosive materials. *There shall be none on site and none to be generated.*
- 105-30 – Water quality. *There is no waste being stored outside. There is an existing State approved septic system on site adequate for the size of the building.*
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *The existing vegetation on site is not being removed. There are no changes being made to the site, all the existing has been previously approved.*
- 105-32 – Relation of proposed building to the environment. *The existing building fits in well with the surrounding area.*
- 105-33 – Refuse disposal. *Refuse shall be removed a minimum of twice a week.*
- 105-34 – Access control on Route 11. *There is an existing approved entrance onto Route 11 at this time, so no DOT permit is required.*
- 105-43 – Off-street parking and loading. *The existing structure has more than adequate parking for the size of the building and number of patrons / employees per the parking plan provided.*
- 105-46 – Sanitary provisions. *The applicant shall use the existing bathroom facilities. Madge B. believed there were enough bathroom facilities based on the previous approvals. Mr. Allen stated there were three bathrooms, one was actually a utility room. All are operational. Roger A. asked if the bathrooms would be accessible to the public. Mr. Allen stated they could be.*
- 105-47– Signs and billboards. *Any signage shall be obtained through the Code Enforcement Office.*

Roger A. asked if there were any questions at this time? Mr. Johnson, an abutter, asked if it were beer and wine only being sold on site, not hard liquor? Mr. Allen stated correct, beer and wine only. Roger A. stated none would be served on site. Mrs. Allen stated, right. Roger said there would be no prepared foods.

Roger A. reviewed Shapleigh Zoning Ordinance 105-73.G “Standards applicable to conditional uses” and made findings of fact.

- G. Standards applicable to conditional uses. It shall be the responsibility of the applicant to demonstrate that the proposed use meets all of the following criteria. The Board shall approve the application unless it makes written findings that one or more of these criteria have not been met.**
 - 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. *It will not, the property is not near the water and no changes are being made on site to disturb 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 State Route 11.*
 - 4) Traffic access to the site is safe. *It is, the site distances are in excess of the minimum required. The site distances were previously approved on a previous application for this location.*

- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***It is, this location is not in a flood zone and no changes are being made on site to affect stormwater.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***There is. A State approved septic system is on site to handle the size of the building. All waste produced by the business shall be removed by a licensed removal company.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***N/A***
- 8) A stormwater drainage system capable of handling fifty-year storm without adverse impact on adjacent properties has been designed. ***There are no changes being made to the site to affect stormwater. The existing structure has an approved stormwater drainage system on site at this time.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***There are no changes being made to the site to create an erosion problem.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***There is, a Planning Board / Fire Department approved water holding tank is 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. ***The existing vegetation buffers the site from Kettle Pond Cabins.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

Roger A. stated the conditions of approval are as follows:

- 1) **The hours of operations shall be 7:00 a.m. thru 9:00 p.m., seven days a week.**

Madge B. made the motion to approve the amendment to a Conditional Use Permit for Map 7, Lot 3-2 for a redemption center and a package store as described in the application with the above stated condition. Diane S. 2nd the motion. Members voted for approval, 5 – 0. The motion passed unanimously.

Nothing further was discussed.

Amendment to a Conditional Use Permit – Sell Live Lobsters – Map 18, Lot 17 (142 Emery Mills Road) – Scott Cudworth, Applicant

Scott and Karen Cudworth were present for the final review of the application.

Mr. Cudworth began by stating he wanted to sell live lobster in his existing retail space. Roland L. stated, “That would be in the main level.” Mr. Cudworth stated correct, he would use the tank that he usually has crayfish in for bait in the winter but noted that the tank was made for lobster. He said the tank still works well so he just had to change from fresh water to salt water.

Madge B. asked how they dealt with the saltwater. How do you replace it? Mr. Cudworth stated you drive to the ocean with a 55 gallon barrel and go to what is called a bait house. There they have a pump system and hose where you fill your barrel. Madge asked if the water had to be changed often? Mr. Cudworth stated no, it actually takes up to six weeks for the bacteria level in the tank to get to the point that you need to maintain a clean tank. He said once it is where you want it, you usually just have to add water as needed. He said you keep the same original water. Madge asked if they had to replace the water what would they do? Mr. Cudworth stated you would take the old water back to the ocean and replace it with new.

Mrs. Cudworth noted that they did not know they had to keep lobster in the tank for up to six weeks prior to being able to put a lot of lobster in the tank. Currently they have eight lobsters in the tank preparing the water. Mr. Cudworth stated the needed bacteria actually eats lobster waste.

Roger A. asked if there was going to be pick-up of lobsters on the dock? Mr. Cudworth stated, no. Diane S. asked if they were going to cook them as well? Mr. Cudworth stated he would like the option but did not have the equipment to do so at this time. Mrs. Cudworth stated if she did it she would want to buy a professional steamer such as is used at Hannafords. Mrs. Cudworth said she didn't want to cook them in pots.

Roger A. asked what the hours of operation would be? Mr. Cudworth stated they would remain the same. Madge B. asked what they were. Barbara F. looked at the previous approval which stated the hours were 5:00 a.m. thru 9:00 p.m., seven days a week. She noted that this was to accommodate ice fishing. Mr. Cudworth agreed and stated the hours fluctuate with the seasons.

Roger A. asked if there were any additional questions? Madge B. asked if there would be any change to lighting? Mr. Cudworth stated, no. Diane S. asked if there would be any lobster eaten on the premises? Mr. Cudworth stated, no.

Roger A. reviewed the following ordinances and made findings of fact:

- 105-21 – Traffic. *The site distance for this location was approved during the previous approval for the Real Estate business as well as Lakeside Marina.***
- 105-22 – Noise. *There will be no loud noise generated by the proposed activity.***
- 105-23 – Dust, fumes, vapors and gases. *There will be none generated for this activity***
- 105-24 – Odors. *There will be no obnoxious odors emitted from the activities on site. Roger A. asked about lobster waste, will they go in the existing refuse? Mr. Cudworth stated correct. Roger noted that they should be disposed of quickly so as not to create an odor.***
- 105-25 – Glare. *No additional lighting will be added to the building.***
- 105-26 – Stormwater runoff. *There are no changes being made to the existing structure or property that would cause a stormwater problem. There is an existing approval for this business location.***
- 105-27 – Erosion control. *There are no changes being made to the existing structure or property.***
- 105-28 – Setbacks and screening. *The structure is well screened from abutting properties with the existing vegetation.***
- 105-29 – Explosive materials. *There shall be none on site and none to be generated with this activity.***
- 105-30 – Water quality. *Any waste saltwater would get returned to the ocean, although no waste is expected. Extra saltwater is stored in a container for future use to top off the tanks. There is an existing State approved septic system on site adequate for the size of the building.***
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *The vegetation on site is not being removed. There are no changes being made to the site, all the existing has been previously approved.***
- 105-32 – Relation of proposed building to the environment. *The existing building fits in well with the surrounding area.***
- 105-33 – Refuse disposal. *Refuse shall be removed as approved currently.***
- 105-34 – Access control on Route 11. *There is an existing approved entrance onto Route 109 at this time, so no DOT permit is required.***

- 105-43 – Off-street parking and loading. *The existing structure has more than adequate parking for the size of the building and number of patrons / employees per the parking plan provided.*
- 105-46 – Sanitary provisions. *The applicant shall continue to use the existing bathroom facilities. Nothing additional is needed for the proposed activity.*

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

Roger A. reviewed Shapleigh Zoning Ordinance 105-73.G “Standards applicable to conditional uses” and made findings of fact.

- G. Standards applicable to conditional uses. It shall be the responsibility of the applicant to demonstrate that the proposed use meets all of the following criteria. The Board shall approve the application unless it makes written findings that one or more of these criteria have not been met.**
- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. *It will not, the proposed activity will be held inside the existing approved structure.*
 - 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. *N/A, no changes are being made on site for the proposed activity.*
 - 3) The use is consistent with the Comprehensive Plan. *It is, the Comprehensive Plan encourages businesses along State Route 109.*
 - 4) Traffic access to the site is safe. *It is, the site distances were previously approved on the prior application for the existing business on site.*
 - 5) The site design is in conformance with all municipal flood hazard protection regulations. *It is, this location is not in a flood zone and no changes are being made on site to affect stormwater.*
 - 6) Adequate provision for the disposal of all wastewater and solid waste has been made. *There is. A State approved septic system is on site for the applicants. All waste produced by the business shall be removed by the licensed removal company used by the existing business.*
 - 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. *N/A*
 - 8) A stormwater drainage system capable of handling fifty-year storm without adverse impact on adjacent properties has been designed. *There are no changes being made to the site to affect stormwater. The existing structure has previous approval for the ongoing business. This location has been used for a business for over 50 years with no stormwater issues.*
 - 9) Adequate provisions to control soil erosion and sedimentation have been made. *There are no changes being made to the site to create an erosion problem.*
 - 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. *There is, the Emery Mills fire hydrant is in close proximity.*
 - 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. *The existing vegetation buffers the site from abutting properties and no changes are being made on site.*
 - 12) All performance standards in this chapter applicable to the proposed use will be met. *They shall.*

Roger A. stated the conditions of approval are as follows:

- 1) All prior conditions of approval shall remain the same including the hours of operation which are 5:00 a.m. thru 9:00 p.m., seven days a week.

Diane S. made the motion to approve the amendment to a Conditional Use Permit for Map 18, Lot 17 for the ability to sell live lobsters. Maggie M. 2nd the motion. Members voted for approval, 5 – 0. The motion passed unanimously.

Nothing further was discussed.

Conditional Use Permit – Earth Moving in the Shoreland District to Repair Existing Boathouse, Decks, Stairs, Ramp and Retaining Wall – Map 20, Lot 9 (110 Shapleigh Corner Road) – Marc Boisse’, Applicant; Joan Hammond, Owner

Mr. Boisse’ was present for the review of the application. *Note: Board members did a site inspection prior to this evenings meeting.*

At the first review of the application the Board received along with the application the sketch plan showing the location of the existing cabin, deck, garage, ramps to boathouse, boathouse, steps / path to water, and wood retaining wall in relation to the lot lines and shoreline. Also provided was an email from Joan Hammond dated 6/8/12, which stated Mr. Boisse’ could act on her behalf; a project description with pictures to show the existing structures, a list of plants to be used to re-vegetate the area disturbed and a copy of the Permit by Rule Application dated 4/11/2012.

Roger A. began by asking about the existing wood retaining walls, was Mr. Boisse’ going to be using a stone product? Mr. Boisse’ stated, yes. Roger asked if the steps leading to the lake would also be made of stone? Mr. Boisse’ stated the sides of the steps would be pressure treated wood with the inside filled with gravel or stone. Roger asked if this would be done on both sides? Mr. Boisse’ stated, yes.

Madge B. asked if the current structures that are in the water were coming out? Mr. Boisse’ stated, yes, the deck is coming out. Madge stated the steps are coming out. Mr. Boisse’ stated, yes and the dock / deck that is connected to the boat house is coming out as well.

Roger A. stated that with most of the work there would be minimal interruption of the vegetation that is there. Madge B. stated it was very well landscaped. She asked if any vegetation is removed will it be replaced? Mr. Boisse’ stated he gave the board a list of vegetation he will use to replace any damaged. Madge asked, “He isn’t removing any trees?” Roger said, no. Madge said some ground cover will need to be replaced. Mr. Boisse’ agreed. Roger did as well, stating some would be removed in order to build the wall and add the stone for drainage.

Roger A. asked if the walkway that goes across through the air, would it be made of wood? Mr. Boisse’ stated, yes. Roger said the only aluminum walkway would be the one that leads to the water? Mr. Boisse’ stated, yes but it may not lead to the water, it may just go to the beach.

Roger A. noted there were no walls greater than three feet.

Mr. Boisse’ asked if Mrs. Hammond decides to use all pressure treated and no aluminum, would that be an issue for the deck / dock? CEO McDonough believed it would not be an issue as long as it is code compliant. Madge B. asked if there was an issue with pressure treated. CEO McDonough and Roland L. both noted there was no longer arsenic in it so it wasn’t the pollutant it once was.

Roger A. read §105-27 “Erosion control.” in its entirety, it read as follows:

Erosion of soil and sedimentation shall be minimized by employing the following “best managements” practices:

- A. Stripping of vegetation, soil removal and grading or other development shall be accomplished in such a way as to minimize erosion.
- B. The duration of exposure of the disturbed area shall be kept to a practical minimum.
- C. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
 - (a) Where mulch hay is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
 - (b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
 - (c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

Roger noted that section (a) and (b) probably would not need to be done due to the scope of the project.

- D. Permanent (final) vegetation and mechanical erosion control measures shall be installed as soon as practicable after construction ends.

Roger stated when the banking is removed for the wall it needs to be replanting as soon as possible.

- E. Until a disturbed area is stabilized, sediment in water runoff shall be trapped by the use of debris basins, sediment basins, silt traps or other acceptable methods as determined by the Planning Board.

Roger noted that Mr. Boisse' stated he was going to use 2 x 12's to help stabilize the area.

- F. The top of a cut or the bottom of a fill section shall not be closer than 10 feet to an adjoining property, unless otherwise specified by the Planning Board. Extraction operations (sandpits, etc.) shall not be permitted within 100 feet of any property line, except as provided for in this chapter.
- G. During grading operations, methods of dust control shall be employed, wherever practical.

Madge B. asked if any of the soil being moved would be moved off site and if so where would it be placed? Mr. Boisse' stated he was not planning to move any off site. Roger A. stated there would be stone brought to the site for drainage.

Roger A. then read §105-39 'Earth removal and filling....' most noting Section G 'Conditions of permit' which are as follows:

- G. Conditions of permit. The Planning Board may issue a permit, provided that the following conditions shall be met:
 - (1) The smallest amount of bare ground shall be exposed for the shortest time feasible. The Planning Board shall set a specific date after which bare ground shall not be exposed.
 - (2) Temporary ground cover (such as mulch) and temporary runoff filter (such as hay bales in swales) shall be used as required to prevent stream sedimentation. The Planning Board shall set a specific date by which permanent ground cover shall be planted.
 - (3) Diversions, silting basins, terraces and other methods to trap sediment shall be used.

- (4) Lagooning shall be conducted in such a manner as to avoid creation of fish trap conditions. The applicant shall submit written approval from the Department of Marine Resources or Department of Inland Fisheries and Wildlife, as applicable, prior to consideration by the Planning Board.

Roger stated there would not be any lagooning.

- (5) The extent and type of fill shall be appropriate to the use intended. The applicant shall specify the type and amount of fill to be used.
- (6) Fill shall not restrict a floodway, channel or natural drainageway.
- (7) The sides and bottom of cuts, fills, channels and artificial watercourses shall be constructed and stabilized to prevent erosion or failure. Such structures are to be designed and built according to the Maine Soil and Water Conservation Commission, Technical Guide, Standards and Specifications.
- (8) Where activities carried out under this article require the removal of existing ground cover, revegetation should be carried out.
- (9) (Reserved)
- (10) Specific plans are established to avoid hazards from excessive slopes or standing water. Where embankment must be left upon the completion of operations, it shall be at a slope not steeper than one foot vertical to four feet horizontal.
- (11) The top of a cut or the bottom of a fill section shall not be closer than 10 feet to an adjoining property, unless otherwise specified by the Planning Board.
- (12) Sufficient topsoil or loam shall be retained to cover all areas, so that they may be seeded and restored to natural conditions.

Roger A. asked if there was a DEP Permit by Rule? CEO McDonough stated, yes.

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

Roger A. reviewed Shapleigh Zoning Ordinance 105-73.G “Standards applicable to conditional uses” and made findings of fact.

- G. Standards applicable to conditional uses. It shall be the responsibility of the applicant to demonstrate that the proposed use meets all of the following criteria. The Board shall approve the application unless it makes written findings that one or more of these criteria have not been met.**
- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. ***It will not, the proposed activity will be done with best management practices and the activity when completed will prevent future erosion.***
 - 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. ***The proposed activity will help to conserve shore cover.***
 - 3) The use is consistent with the Comprehensive Plan. ***It is, the Comprehensive Plan encourages any measure that will help to protect water quality. The proposed activity will help prevent erosion and the removal of the existing creosote timbers will help reduce water pollution.***
 - 4) Traffic access to the site is safe. ***N/A***
 - 5) The site design is in conformance with all municipal flood hazard protection regulations. ***It is, this location is not in a flood zone.***

- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***There is no solid waste being left on site upon completion of the proposed activity.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***The creosote timbers will be removed and brought to the appropriate facility such as Simpson's or the Turnkey Landfill. None will be brought to the Shapleigh transfer station.***
- 8) A stormwater drainage system capable of handling fifty-year storm without adverse impact on adjacent properties has been designed. ***The proposed project will help channel stormwater more appropriately than what exists at this time by way of proper drainage being place behind the new retaining wall. Any vegetation removed shall be replaced to further assist in stormwater disbursement.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***The proposed changes to the site will help prevent future soil erosion including proper drainage and vegetation.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. *N/A*
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. ***The existing vegetation shall remain in place.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

Roger A. stated the conditions of approval are as follows:

- 1) **Replanting of vegetation shall be completed by September 30, 2012. If this date cannot be met an extension shall be acquired through the Code Enforcement Office.**
- 2) **Best Management Practices shall be maintained until the project is completed.**

Maggie M. made the motion to approve the Conditional Use Permit per the plans provided with the above conditions. Madge B. 2nd the motion. Members voted for approval, 5 – 0. The motion passed unanimously.

Nothing further was discussed.

Other:

Letter from Jon Pizey of Hissong

Jon Pizey, Vice President of Material Sales at Hissong Ready-Mix & Aggregates, LLC, faxed a letter to the Planning Board requesting the following:

Dear Mr. Allaire,

I am writing to request that the planning board revise the above conditional use permit as follows:

Item #5, page 2 of the approval letter dated March 7, 2012:

“A security bond or equivalent security to guaranty the reclamation plan required by the Town of Shapleigh and MDIFW is carried out. The surety bond must be submitted to the Code Enforcement Officer along with the documentation to support the amount being offered within 45 days of approval. The bond shall be approved by the CEO, Board of Selectmen and Planning Board. The bond shall be rendered ~~within 90 days~~

~~from the date of bond approval~~ **before any earth moving may begin, or the application shall be null and void. There shall be no earth moving on site until an approved bond has been received.”**

The continued poor state of the economy, along with the current difficulty and increased expense in obtaining bonds of this type, leads us to make this request.

*Sincerely,
Jon Pizey
Vice President, Material Sales
Hissong Ready-Mix & Aggregates, LLC*

Roger A. stated he did not believe the Planning Board could change that condition based on the Zoning Ordinance. He said if Mr. Pizey does not submit the bond within the 90 days then he will have to resubmit a new application before beginning any earth moving. Madge B. agreed.

All board members agreed the condition would remain as written as the condition was taken directly from Shapleigh's Zoning Ordinance §105-73.I(1) 'Performance guaranties.' and therefore the board has no authority to change the condition as written.

Barbara F. will write a letter to Mr. Pizey informing him of the board's decision.

Nothing further was discussed.

Growth Permit – There are growth permits available.

Planning Board meeting adjourned at 8:15 p.m.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, July 10, 2012

Members in attendance: Chairman Roger Allaire, Vice Chairman Madge Baker, Roland Legere, Diane Srebnick, as well as Barbara Felong, Land Use Secretary. Code Enforcement Officer Steven McDonough was also in attendance. Alternate Joe Stanley, as well as member Maggie Moody were unable to attend.

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The planning board meeting began at 7:30 p.m.

The minutes from Tuesday, June 26, 2012, were accepted as read.

After-the-Fact Conditional Use Permit – Earth Moving in the Shoreland Zone – Map 30, Lot 42 & Map 30, Lot 32A (21 Hemlock Rd & Hawthorne Rd) – Marc & Sandy Lemelin, Applicants

Marc and Sandy Lemelin were present for the review of their application. Member Diane Srebnick abstained from the discussion as she was a direct abutter of the applicants.

Board members received a copy of an email from Elaine Clark Mason regarding a meeting with the Lemelin's, the email read as follows:

Hello again Barbara Felong,

We had a meeting with Mr. and Mrs. Lemelin on Monday. I went to see his new driveway/road along with my husband Larry, my sister Janice Clark-Whatley, and my Hawthorne Road neighbors and relatives Sherry and Ritchie Hall.

We showed them a copy of the most recent survey of our property, completed by Corner Post Surveying in Springvale, and found the property line posts to still be in place. He agreed that if our survey is accurate, he has unknowingly built his driveway over a portion of our land. He apparently went by the property map that he found on the Town of Shapleigh website, and he showed this to us. According to that map, Barbara Carlberg owns the land on which he cut trees and built his new road.

I am writing to see if you can help me to find out why the map on the Shapleigh website differs significantly, and in almost all measurements, from an actual survey of our two adjoining family properties.

I am attaching a digital copy of my survey. Can you tell me who to contact about whether our survey or the Shapleigh tax map is the accurate and legally official one?

Thanks!

Elaine Clark Mason

Barbara emailed a reply to Mrs. Mason which read in part:

Town tax maps are commonly inaccurate. They are drawn to the best of the town's ability for tax purposes only. If a land owner submits a survey to assessing, we then correct the inaccuracy. Feel free to submit a copy of yours to Ruth Ham, the town's assessor and your property lines will be updated. And with respect to which document is correct, your survey takes precedence over the town's tax map.

Mrs. Mason was present at the meeting and Roger A. asked if she could let the board know if any decisions have been made with respect to the use of her property.

Mrs. Mason stated her survey did in fact show Mr. Lemelin has made the driveway in part across her land but the Shapleigh website showed that it did not. She stated they needed time to have this corrected with the town of Shapleigh. Also, she would give the Lemelins permission to pass over her property and she has drafted an agreement. She said there has been much discussion between the parties and it has been positive. She noted her sisters, which were co-owners, wanted to make certain it was done correctly legally. The Lemelins also wanted to have their lawyer look at it before they sign it. She stated the Lemelins have asked for more time and she agreed more time was needed for all parties involved.

Mrs. Mason asked if the board could table it until August 14th. Roger A. said the board would have no problem with that. Roger asked if it would be better to have the Lemelins contact Barbara F. when everything was ready for a final review? Mr. Lemelin stated that might be best as he didn't know how long the lawyer was going to take. CEO McDonough thought the board should require all correspondence be ready for review by the last meeting in the month of August, August 28th. He stated that tabling an application indefinitely is never a good idea. Mrs. Clark stated it would have to be reheard by August 14th as they would be leaving the Shapleigh area the following week.

Nothing further was discussed.

Conditional Use Permit – Use Existing Office for Earthworks Landscaping – Map 1, Lot 41 (184 Emery Mills Road) – Joseph Letourneau, Applicant; Richard Gallant, Property Owner

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

Mr. Letourneau provided the board with a letter authorizing him to rent the building located at 184 Emery Mills Road from Richard and Virginia Gallant. Also provided along with the application was a copy of the Subsurface Wastewater Disposal System Application done by Kenneth Gardner, SE #73, dated June 10, 1993, along with a plan depicting the location of the existing structure and septic system in relation to State Route 109.

Mr. Letourneau stated he was before the board because he wanted to rent the office building for his landscaping company and to be able to have a sign to advertise his business.

Roger A. asked if there would be any vehicle or trailers for the business on site? Mr. Letourneau stated, no. Roger asked if there might be customers coming in? Mr. Letourneau stated that is possible but he didn't expect lots of traffic.

Roger A. asked what the hours of operation would be? Mr. Letourneau stated there really weren't set hours; the location was to have the ability to have a sign to advertise his business. He said people can stop in if he is there but he wasn't going to have set hours initially. Roger said that it is best to have hours of operations listed and the largest window that he might have now or in the near future. He said that way if someone asks if the business is allowed to be operating at a certain time, if it is approved for that time there is no issue.

Mr. Letourneau decided to list his hours of operation from 7:00 a.m. thru 9:00 p.m., seven days a week.

Roger A. asked if there was going to be storage of landscaping materials on site? Mr. Letourneau stated no, just a few displays of his products.

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

Roger A. stated a public hearing would be held on Tuesday, July 24th at 7:00 p.m. A notice to abutters will be mailed as well. A site inspection is not necessary as members were well aware of the location, building, parking, etc.

Nothing further was discussed.

Best Possible Location – Replace Existing Shed with 19' x 26' Garage – Map 36, Lot 16 (166 Indian Village Road) – Shawn Woods, Applicant; Bruce Ballard, Property Owner

Mr. Woods and Mr. Ballard were both present for the review of the application.

Mr. Woods provided the board along with the application a plan drafted by Dana Libby of Corner Post Land Surveying, Inc. that depicted the existing structures on site along with the proposed location of the new garage. The plan delineated the distance to the high water mark and side lot line of both the existing and proposed structure. Also provided were floor plans of the new building and a landscaping plan.

Mr. Woods began by noting that the board had been to the site about a year ago to approve a best possible location for the house. Mr. Woods stated the new structure they were proposing he calls a shelter / shed as there is no slab floor, it will be a dirt floor. It will be a livable enclosed garage. Roger A. asked him what he meant by livable? Mr. Woods stated that it wasn't really livable it would be an enclosed garage. He said it was basically a cold storage car port that is enclosed.

The board discussed remembering the location and the fact there was a drainage issue on site.

Mr. Woods stated the structure would be expanded by 27.5% and that is listed on the plan provided. He also stated there was one tree that would have to be removed. He said they were proposing replacing it with four Hemlocks and there may also be one large pine beyond the 100 foot mark to be removed.

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

Roger A. stated a site inspection would be conducted. Members would meet at the town hall at 6:00 p.m. A notice to abutters will be mailed as well.

Nothing further was discussed.

Other:

Letter of Violation from CEO to Map 15, Lot 7 and Map 16, Lot 44 Regarding Docks in Place that are Greater than 20 Feet in Length

CEO McDonough provided board members with a copy of two violation letters regarding docks in excess of 20 feet in length.

CEO McDonough noted that under Section 105-44 of the Zoning Ordinance, it requires residential docks greater than 20 feet in length be approved as a Conditional Use Permit from the Planning Board. He reminded the board of the application that came before them for a dock on Map 15, Lot 7A, the Libby's; at the suggestion of their attorney they demanded the board implement the ordinance. After Planning Board approval, he helped to negotiate an agreement between the Libby's and the resident of Map 16, Lot 44 with respect to the placement of both their docks.

CEO McDonough stated that currently the Libby's came to him with reference to the abutting property where Mr. Beyea resides (Map 16, Lot 44) and said there was an issue with the placement of his dock and demanded they also obtain a permit from the Planning Board. CEO McDonough spoke with Mr. Beyea and he stated he had placed his dock in the agreed upon location. It was then CEO McDonough decided to give both neighbors with docks in excess of 20 feet a violation letter as no agreement could be made. It was his opinion the issuance of the Libby permit has the potential to snowball into a widespread epidemic, whereas, there are currently hundreds of these docks at a minimum in the town and in this case it put the town in between feuding neighbors.

CEO McDonough stated he had spoken with Mike Morse of the DEP regarding this issue and he was told by Mike it was 'optional' for the towns to regulate docks and Mr. Morse also suggested it be removed from the town's ordinance. Mr. Morse stated the Natural Resource Protection Act does not regulate docks because they are temporary. Furthermore, the DEP is considering taking the guidelines for temporary docks out of their guidelines. CEO McDonough agreed with Mr. Morse's suggestion that the town should not be regulating docks. He also noted that there is no sideline setback restriction for docks even when they are regulated so issues with where to place them on the shoreline is a problem.

Roger A. agreed. Roger thought as it is now the board is trying to regulate the State of Maine waters and it shouldn't be their issue. Once you leave shore the board should not be regulating. Madge B. agreed and said it is neighbors fighting with one another and the board should not be dealing with that. She said it has nothing to do with protecting the environment because the docks are temporary.

Roland L. asked if this became a navigational issue would it become a State issue? CEO McDonough believed so, he thought it would be addressed by Inland Fisheries. Roland's concern was with someone putting a dock in navigational waters. Roland did agree if the board were to regulate the docks it would be all they were doing. Diane S. thought the dock would have to be out over 200 feet to be an issue, because within 200 feet of the shore is the no wake zone, so the dock would be visible at a slow speed and easy to navigate around.

Roger A. said in some areas it could be a navigational issue. Madge B. said the board does not have authority over navigational issues. CEO McDonough stated that since he has been a CEO, which is 14 years, he has never regulated a dock. He said this one applicant, the Libby's, came before the board because they came in and demanded a permit. Roger said their lawyer did because they wanted something in writing to cover a client.

Roland L. asked if there would be any recourse with an issue if one should occur. CEO McDonough stated he would contact Inland Fisheries and Wildlife as they have jurisdiction over moorings and watercraft. Roger A. agreed, noting that commercial dock approval has to go to Inland Fisheries for any comments or concerns they may have with approval. Barbara F. noted that she believed the board would still regulate commercial docks or a dock associated with a subdivision as that falls under safety issues and regulation. It's only residential that we would no longer permit. Roger A. agreed.

Roland L. asked if there would be a problem with regulating the two violations CEO McDonough cited. Could they hire an attorney who would then say now the town has to regulate all the other docks in town? Roger A. stated no, it's on an individual basis. CEO McDonough agreed, an attorney could only speak of the one applicant not anyone else. Roger stated it would not be a class action suit.

Nothing further was discussed.

Growth Permit – There are growth permits available.

Planning Board meeting adjourned at 7:55 p.m.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, July 24, 2012

Members in attendance: Chairman Roger Allaire, Roland Legere, Maggie Moody, Diane Srebnick, as well as Barbara Felong, Land Use Secretary. Code Enforcement Officer Steven McDonough was also in attendance. Alternate Joe Stanley, as well as Vice Chairman Madge Baker were unable to attend.

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Public Hearing Began at 7:06 p.m.

• **Conditional Use Permit – *Use Existing Office for Earthworks Landscaping* – Map 1, Lot 41 (184 Emery Mills Road) – Joseph Letourneau, Applicant; Richard Gallant, Property Owner**

Mr. Letourneau was present for the public hearing. He spoke before the board stating his application was to be able to use the existing office building owned by Mr. Gallant for his landscaping business office as well as to be able to put up a few product displays. He stated he would also meet clients at the office at times but most of his work will be done off site.

Roger A. asked if there would be any storage of soils or material for the business on site? Mr. Letourneau stated no, only displays of material but no storage. He wanted the location mainly for the ability to put up a sign for his business as Route 109 is a busy road so he will get more advertising exposure.

Roland L. asked if he still intended his hours of operation to be 7:00 a.m. thru 9:00 p.m., 7 days a week? Mr. Letourneau stated, yes.

Diane S. asked if there would be any additional lighting? Mr. Letourneau stated the only lighting he might ad is for the sign. Roger noted that any signage would have to be permitted through the Code Enforcement Office.

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

The public hearing closed at 7:08 p.m.

The planning board meeting began at 7:30 p.m.

The minutes from Tuesday, July 10, 2012, were accepted as read.

Conditional Use Permit – *Use Existing Office for Earthworks Landscaping* – Map 1, Lot 41 (184 Emery Mills Road) – Joseph Letourneau, Applicant; Richard Gallant, Property Owner

Mr. Letourneau was present for the final review of his application.

The application from Mr. Letourneau is for the ability to operate Earthworks Landscaping out of the existing office building. There shall be no equipment or product stored on site. There will be ‘displays’ of product only. The Board reviewed along with the application the sketch plan depicting the existing structure, parking area and location of the septic tank and leachfield. Also provided to the board was a letter from the owners of the property, Richard and Virginia Gallant, giving Mr. Letourneau permission to come before the board with the application and rent the property. On file in the CEO’s office is a copy of the Subsurface Wastewater System Application done by Kenneth Gardner, SE #73, dated 6-10-1993.

Mr. Letourneau began the final review by once again stating he would be using the existing location to be able to put up product displays and use the office for a place to meet with people and put up a sign to advertise his business.

Roger A. reviewed the following ordinances and made findings of fact:

- 105-20** – Applicability of standards; prohibited uses. *The requested permit is not a prohibited use and will not cause health or safety issues.*
- 105-21** – Traffic. *The building has been in existence for many years and has been used for various businesses with no traffic problems. Posted speed limit is 35 mph, with a minimum site distance requirement of 245 feet which can be met in both directions.*
- 105-22** – Noise. *There will be no loud noise generated by the proposed activity.*
- 105-23** – Dust, fumes, vapors and gases. *There will be none generated for this activity.*
- 105-24** – Odors. *There will be no obnoxious odors emitted from the activities on site.*
- 105-25** – Glare. *No additional lighting will be added to the building. Lighting for signage shall be permitted thru the Code Enforcement Office. No lighting shall shine onto State Route 109 or onto surrounding properties.*
- 105-26** – Stormwater runoff. *There are no changes being made to the existing structure or property that would cause a stormwater problem. The building and site have been in existence for over 50 years with no issues to date.*
- 105-27** – Erosion control. *There are no changes being made to the existing structure or property that would cause an erosion problem.*
- 105-28** – Setbacks and screening. *The existing structure is well screened from surrounding properties and the existing vegetation shall not be removed.*
- 105-29** – Explosive materials. *There shall be none on site and none to be generated.*
- 105-30** – Water quality. *There is no waste or hazardous material being stored outside. There is an existing State approved septic system on site adequate for the size of the building.*
- 105-31** – Preservation of landscape; landscaping of parking and storage areas. *There are no changes being made to the site, all the existing has been previously approved.*
- 105-32** – Relation of proposed building to the environment. *The existing building fits in well with the surrounding area.*
- 105-33** – Refuse disposal. *Refuse will be minimal and removed by the applicant.*
- 105-34** – Access control on Route 109. *There is an existing approved entrance onto Route 109 at this time, so no DOT permit is required.*
- 105-43** – Off-street parking and loading. *The existing structure has more than adequate parking for the size of the building and number of patrons / employees per the parking plan provided.*
- 105-46** – Sanitary provisions. *There is an existing State approved septic system on site adequate for the size of the building.*
- 105-47** – Signs and billboards. *Any signage shall be obtained through the Code Enforcement Office.*

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

Roger A. reviewed Shapleigh Zoning Ordinance 105-73.G “Standards applicable to conditional uses” and made findings of fact.

G. Standards applicable to conditional uses. It shall be the responsibility of the applicant to

demonstrate that the proposed use meets all of the following criteria. The Board shall approve the application unless it makes written findings that one or more of these criteria have not been met.

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. *It will not, the property is not near the water and no changes are being made on site to disturb 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 State Route 109.*
- 4) Traffic access to the site is safe. *It is, the site distances meet the minimum required. The site distances were approved on a previous application for this location.*
- 5) The site design is in conformance with all municipal flood hazard protection regulations. *It is, this location is not in a flood zone and no changes are being made on site to affect stormwater.*
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. *There is. A State approved septic system is on site to handle the size of the building. All waste produced by the business will be minimal and shall be removed by the applicant.*
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. *N/A*
- 8) A stormwater drainage system capable of handling fifty-year storm without adverse impact on adjacent properties has been designed. *There are no changes being made to the site to affect stormwater. The existing structure has been in existence for over 50 years with no issues.*
- 9) Adequate provisions to control soil erosion and sedimentation have been made. *There are no changes being made to the site to create an erosion problem.*
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. *There is, a fire hydrant is located a short distance from 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. *The existing vegetation buffers adjoining properties and shall not be removed.*
- 12) All performance standards in this chapter applicable to the proposed use will be met. *They shall.*

Roger A. stated the conditions of approval are as follows:

- 1) The hours of operations shall be 7:00 a.m. thru 9:00 p.m., seven days a week.

Diane S. made the motion to approve the Conditional Use Permit for Map 1, Lot 41 to use the existing structure for an office for Earthworks Landscaping with the above stated condition. Maggie M. 2nd the motion. Members voted for approval, 4 – 0. The motion passed unanimously.

Nothing further was discussed.

Best Possible Location – Replace Existing Shed with 19' x 26' Garage – Map 36, Lot 16 (166 Indian Village Road) – Shawn Woods, Applicant; Bruce Ballard, Property Owner

Mr. Woods and Mr. Ballard were both present for the review of the application. Note: Board members did a site inspection prior to this evenings meeting.

The Planning Board received along with the application, plans depicting the left and right elevation of the proposed new structure; cross section showing the truss roof, 2 x 6 exterior walls and foundation; floor plan depicting the exterior dimensions and a landscaping plan. Also received was a plan drafted by Dana Libby, PLS 1350 of Corner Post Land Surveyors which depicted the existing and proposed structure in relation to the side lot line and distance to the high water mark. This plan included the existing home and driveway location.

Mr. Woods began by stating they were before the board in order to remove the existing shed and replace it with a garage using the 30% expansion rule.

Roger A. reviewed §105-4.D: (5) the removal, reconstruction or replacement of a non-conforming structure; (3) foundations of a non-conforming structure and (7) the relocation of a nonconforming structure which includes the revegetation instructions of all disturbed areas.

Roger A. stated the board had been to the site on several occasions and he did not believe the board had an issue except for one location where they believed there should be a catch basin for stormwater runoff insuring it doesn't go onto neighboring properties. Roger noted there was a landscaping plan on file.

Roger A. asked what the time frame was for the project? Mr. Woods stated he believed mid August. Roger asked when he thought it would be completed? Mr. Woods stated the first or second week of August. Roger asked if the board imposed a replanting completion date of October 15, 2012 would that work? Mr. Woods thought that was more than adequate. Roger noted that if this date did not work the applicant can go to the CEO to get the date changed. He stated that Best Management Practices would need to be used. CEO McDonough asked if there was a revegetation plan on file. Roger stated, yes.

The conditions of approval are as follows:

- 1. Best Management Practices shall be used until the project is completed.**
- 2. A licensed surveyor must confirm the placement of the structure is correct per the plan specifications approved by the Planning Board.**
- 3. The re-vegetation plan shall be completed by October 15, 2012. If this date cannot be met an extension shall be acquired through the Code Enforcement Office.**

Maggie M. made the motion for approval to replace the existing shed with a new garage per the plans provided with the above stated conditions. Roland L. 2nd the motion. Members voted for approval, 4 – 0. The motion passed unanimously.

Nothing further was discussed.

After-the-Fact Conditional Use Permit – Earth Moving in the Shoreland Zone – Map 30, Lot 42 & Map 30, Lot 32A (21 Hemlock Rd & Hawthorne Rd) – Marc & Sandy Lemelin, Applicants

Marc and Sandy Lemelin were present for the review of their application. Member Diane Srebnick abstained from the discussion as she was a direct abutter of the applicants.

The application from Mr. Lemelin is for the ability to maintain the newly created vehicle access road from Hawthorne Road, across Map 30, Lot 32A owned by Barbara Carlberg, onto his property located on Map 30, Lot 42. This permit was reviewed under 105-39 'earth removal and filling greater than 10 yards but less than

50 yards in the Shoreland District'. Mr. Lemelin provided the board with a sketch plan depicting all property involved, as well as the newly created 11' x 80' connecting roadway; and a hand written letter from Barbara Carlberg dated 5/22/2012 stating Mr. Lemelin was authorized to apply for this permit to create the roadway.

Roger A. began by asking if Mr. Lemelin had straightened out the objections from the abutting property owners. (Several property owners, Janice Clark-Whatley, Elaine Clark Mason and Marguerite Clark had voiced concerns over the road maintenance agreement drafted and agreed upon between them, Sherilyn and Lindley Higgins, and Gerard and Betsey Natale also property owners who use Hawthorne Road to access their property. They wanted Mr. Lemelin to assure them he would share in the cost to maintain the road.)

Elaine Clark Mason spoke and stated they (her family members and Mr. Lemelin) had come to a mutual agreement and she had no objections to him getting the permit.

Roger A. asked if there were any other comments? Mr. Brian Moses spoke and stated that this was a private road and was a right-of-way for several property owners. He wanted to tell everyone present that he recently purchased a piece of property on Dogwood and wanted to be sure he would be able to use Hawthorne occasionally as well. There were no objections from the abutters present. Roger asked if Mr. Moses would affect the use of the new driveway? Mr. Moses stated, no.

Roger A. asked if anyone at the meeting had any objections to Mr. Lemelin using Hawthorne? There were no objections. Roger asked if there were any other questions? There were none.

Roland did not have a question but wished to comment. He noted that the comment was his alone not necessarily the opinion of the board members. He stated that he was always troubled by *after-the-fact* conditional use permits. He said it seems it is increasingly common that individuals will undertake the activity, consume the time of a lot of individuals, abutters, board members, engaging in an activity which otherwise wouldn't require the same amount of time if they had come and gotten the necessary permits in advance of doing the work. Fortunately in this case the actions didn't result in anything immediately detrimental to Square Pond or surrounding property. He said although he had no authority to require Mr. Lemelin do what he was requesting he would like to see him make a donation to the Acton/Shapleigh Youth Conservation Corp. whose function it is to help maintain and improve the quality of the water's everyone wants to enjoy. He said it was up to Mr. Lemelin. Roland concluded with saying the activity he undertook consumed a considerable amount of time for the board and the neighbors that could have been completed avoided had a permit been sought in advance.

Mr. Lemelin stated he did not think Roland was present at the first evening when he told the board why and how the activity took place. Roland stated he had missed only several meetings in five years and believed he was present. Mr. Lemelin did not think so, because if he heard his explanation it would explain much more. Mr. Lemelin stated it was about the Town's interpretation of maintenance of roads and driveways as opposed to his. He noted he was able to maintain Hemlock Road in the past without a permit, therefore, he did not think putting in a small driveway would require one. He noted he was very involved with the YCC. *Note: Mr. Lemelin did not consult with Code Enforcement prior to undertaking the activity before the board.*

Roger A. asked if there was a motion for approval before the board?

Maggie M. made the motion for approval of the after-the-fact permit for earth moving in excess of 10 cubic yards in the Shoreland district per the plans presented to create an 11' x 80 foot access way from Map 30, Lot 42, over Map 30, Lot 32A to access Hawthorne Road. Roland L. 2nd the motion. Members voted for approval, 3 – 0. One member obtained from voting. The motion passed unanimously.

Board members thanked Roland L. for his comments regarding after-the-fact permits.

Nothing further was discussed.

Conditional Use Permit – Mineral Extraction Operation Renewal – Map 10, Lot 22 (2 Oak Hill Road – Off of State Route 11) – Robert Ferrera, Applicant

Mr. Ferrera was unable to attend the initial review of his application.

Board members reviewed the original permit submissions and approvals. They are as follows:

The application is for the ability to excavate approximately 200,000 yards of material to create a farm pond. All the excavated material, except the loam, will be removed from the site and sold. The Board received along with the application a proposed grading plan for the sand / gravel borrow pit area, prepared by Albert Frick Associates, Inc. of Gorham, Maine, with a final amendment date of 7/30/09. Mr. Frick also provided a closure plan which depicted how the topsoil will be stockpiled, the erosion and sediment plan for the loam and a closure grading/reseeding plan, dated March 2009. The Dept. of Inland Fisheries and Wildlife was notified along with the Dept. of Environmental Protection. Both agencies concurred that the removal of gravel in the location of the blueberry field would not require an Incidental Take Permit from IF&W, or a permit from the DEP based on the size of the project. Using the estimated cost of reloaming and reseeding an Escrow agreement was received by the Town of Shapleigh; it was approved by the Planning Board and Board of Selectmen in the amount of \$16,000.

The motion was made and approved for the Conditional Use Permit for earth moving in excess of 150 yards, with the following condition(s):

- 1) The hours of operation shall be 6:00 a.m. through 5:00 p.m. Monday thru Friday, 7:00 a.m. through 12:30 p.m. Saturday.*
- 2) There shall be no 18 wheel trucks traveling past the Shapleigh Memorial School between 8:30 a.m. and 9:00 a.m. or between 3:00 p.m. and 3:30 p.m. throughout school season operating hours.*
- 3) A letter from the Shapleigh Memorial School principal shall be given to the Planning Board stating the hours of children drop-off and pickup, prior to the transport of gravel.*
- 4) It is the applicant's responsibility to make certain the entrance onto State Rte. 11 is clean of all sand and stone dust to prevent a hazardous situation.*
- 5) The Planning Board must approve any additional borrow pits on site.*
- 6) As a note, this permit is valid for a period of three years from the date of approval per the ordinance.*

Mr. Ferrera submitted a letter to the board along with his renewal application that read as follows:

I am submitting an application to renew my permit for operating the pit at 2 Oak Hill Road. There are no changes to be made in the previous permit. Due to the slow economy and lack of construction I have only removed approximately 15,000 yards to date of the 250,000 yards in the pit area and at which point reclamation will take place. All the topsoil is stockpiled around the perimeter of the pit and have amassed a large quantity of woodchips mixed with topsoil to put on any slopes to prevent erosion. I will have updated estimates for the redistribution of the topsoil and also for the hydro seeding of the pit area to make sure there is sufficient funds in the Escrow account. Any questions please contact me at 207-751-4485. Thank you. Bob Ferrera

Roger A. noted the bond approval is for five years so he did not believe the board could require additional funding at this time. He said in five years the board will have to look at it and decide how to proceed as the permit itself will not be up for renewal again until the following year. Barbara F. asked if possibly the board could ask the Board of Selectmen to give a one year extension then make additional bonds good for only three years to coincide with the approval process. Roger agreed that would be easier for all involved.

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

Roger A. stated a Notice to Abutters will be mailed. A Public Hearing was not necessary due to the limited amount of abutters to the location and the fact no changes are being made from the last approval process. The next review will be on Tuesday, August 14th.

Nothing further was discussed.

Other:

Zoning Ordinance §105-44, Piers, docks and other Shoreland construction.

CEO McDonough has spoken with the board regarding the removal of the regulation of docks at the previous meeting. Board members agreed at that time the regulation of water itself should be up to Inland Fisheries and Wildlife and not the Town of Shapleigh. CEO McDonough noted that currently docks are not reviewed with respect to the side lots lines so the board is very limited in their authority to regulate. The board will present the removal of this section of the ordinance at a Public Hearing prior to the end of the year. The town will have the ability to vote on this at town meeting in March 2013.

Zoning Ordinance §105-47, Signs and billboards.

CEO McDonough stated recently he was approached by a business who would like the ability to put the square footage allowed for free standing signs on their structure if deemed necessary because of safety reasons. There are some places in town where you can't put a free standing sign out near the road without it being a site distance issue. Currently our ordinance doesn't allow it.

CEO McDonough did not see a reason why the allotted sign square footage could not be put on the building, in lieu of a free standing sign.

Diane S. asked why they couldn't go to the Zoning Board of Appeals? Several board members and CEO McDonough did not believe they could meet all the criteria and win the appeal.

CEO McDonough stated he was considering writing something up to amend the current ordinance. If members saw a problem it could be discussed at a subsequent meeting after he makes his suggested changes.

Roland L. asked if applicants could double the size because you would only see one side whereas currently they can have a two sided free standing sign. CEO McDonough stated the ordinance currently states you can have two 32 square foot signs which yes can be double sided but note the ordinance says you can have two 32 square foot signs for a *total of 64 square feet*. So if you want to take this signage and attach it to the building you would be allowed 64 square feet. It cannot be doubled to 128 square feet.

Maggie M. agreed it would be a safety improvement in some cases. She said, "Sometimes you pull out of certain locations and you cannot see past the free standing sign."

Roland L. asked if the applicant would have the option of having either / or? CEO McDonough stated the easiest way to write the ordinance would be to have the option determined by the CEO or the CEO has the authority to allow it but he really would prefer not to have to make the decision.

Roger A. was concerned that it would not hold up in court if it was up to the CEO. He felt the court would say it was too subjective to 'feelings of the day'. CEO McDonough stated he agreed but it was the simplest way to do it.

Roger A. read the definition of 'sign' which is as follows: *A name, identification, description, display or illustration which is affixed to, painted or represented, directly or indirectly, upon a building, structure, parcel or lot and which relates to an object, product or place, activity or person, institution, organization or business on the premises.*

Roger A. thought because of the definition a person could have it free standing or affixed to the building. Diane S. agreed stating that it sounded like it was already an option. CEO McDonough stating it is not because you have to go to the ordinance which specifically addresses allotted free standing signs and then signs attached to the building. He said no where does it say you can take your free standing signage and affix it to the building.

Roland L. asked if the CEO thought this was the logical approach, to allow the business owner to use the free standing square footage on the building instead of on a free standing sign? CEO McDonough stated yes as long the square footage stays the same whether it is on a free standing sign or on the building.

CEO McDonough will draft something and present it to the board prior to the end of the year.

Nothing further was discussed.

Growth Permit – There are growth permits available.

Planning Board meeting adjourned at 8:15 p.m.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, August 14, 2012

Members in attendance: Chairman Roger Allaire, Roland Legere, Maggie Moody, Diane Srebnick, as well as Barbara Felong, Land Use Secretary. Code Enforcement Officer Steven McDonough was also in attendance. Alternate Joe Stanley, as well as Vice Chairman Madge Baker were unable to attend.

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The planning board meeting began at 7:30 p.m.

The minutes from Tuesday, July 24, 2012, were accepted as read.

Conditional Use Permit – Mineral Extraction Operation Renewal – Map 10, Lot 22 (2 Oak Hill Road – Off of State Route 11) – Robert Ferrera, Applicant

Mr. Ferrera was present for the final review of his application.

Mr. Ferrera was before the board to renew his mineral exploration permit for another three years as required under §105-61 'Mineral exploration and extraction, processing, and removal, including sand and gravel.' Details of the original permit can be read in the minutes of July 24, 2012.

Roger A. asked Mr. Ferrera if he was before the board just for the three year extension of his original permit? Mr. Ferrera stated, "Correct, there will be no changes".

Roger A. stated the first thing he wanted to note was the approved bond for the project needs to be reviewed after five years, not three. He stated that it should have been written for every three so it could be reviewed at the same time as the renewal but it was not. Roger wanted Mr. Ferrera aware that in two years he should come back and decide with the Selectmen if the bond is still adequate. (Note: Roger was referring to section 3. of the Escrow Agreement, dated July 28, 2009, which reads as follows: Ferrera and Town agree that the parties shall have the right to review the amount of the Escrowed Funds every five years and increase or decrease the amount of the Escrow Funds to reflect current prices.) Mr. Ferrera stated that he understood. Mr. Ferrera also noted that he had provided the board with new estimates that were slightly lower than the original estimates from three years ago.

Roger A. also wanted Mr. Ferrera aware of §105-61.B(15) which reads in part: "Within 12 months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than 100 cubic yards of minerals are removed in any consecutive twelve-month period, ground levels and grades shall be established..." Roger wanted Mr. Ferrera to keep this in mind. Mr. Ferrera stated he had not done as much as he had hoped to date but he had moved at least 1000 cubic yards.

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

Roger A. asked if there was a motion to approve with all the conditions to remain in affect from August 2009, which are as follows:

- 1) **The hours of operation shall be 6:00 a.m. through 5:00 p.m. Monday thru Friday, 7:00 a.m. through 12:30 p.m. Saturday.**
- 2) **There shall be no 18 wheel trucks traveling past the Shapleigh Memorial School between 8:30 a.m. and 9:00 a.m. or between 3:00 p.m. and 3:30 p.m. throughout school season operating hours.**

- 3) A letter from the Shapleigh Memorial School principal shall be given to the Planning Board stating the hours of children drop-off and pickup, prior to the transport of gravel.
- 4) It is the applicant's responsibility to make certain the entrance onto State Rte. 11 is clean of all sand and stone dust to prevent a hazardous situation.
- 5) The Planning Board must approve any additional borrow pits on site.
- 6) As a note, this permit is valid for a period of three years from the date of approval per the ordinance.

Roland L. made the motion to approve the amendment to a Conditional Use Permit to extend the mineral extraction operation, located on Map 10, Lot 22, for three years with the above stated conditions. Maggie M. 2nd the motion. Members voted for approval, 4 – 0. The motion passed unanimously.

Nothing further was discussed.

Roger A. began by stating he was going to review all three docks simultaneously this evening as they are all abutting neighbors looking for similar approval.

Conditional Use Permit – Extend Dock Over 20 Feet – Map 15, Lot 7 (103 32nd Street) – Gordon Waterman, Applicant

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

Roger A. began by asking Mr. Waterman if he was making any changes to his existing dock? Was it going to be as it is now and where it is located at this time? Mr. Waterman stated, yes.

Conditional Use Permit – Extend Dock Over 20 Feet – Map 16, Lot 44 (119 32nd Street) – Roger Beyea, Applicant; Steve Procopio, Owner

Mr. Beyea was present for the review of the application.

Roger A. asked if he was extending an existing dock? Mr. Beyea stated the dock was already over 20 feet in length and has been in for over 22 years. He stated he had to extend it because the lake gets shallow at the end of the summer. Roger asked if it was going to be extended any longer than it is today? Mr. Beyea stated, no.

Diane S. asked how long it was now. Barbara F. gave her a copy of the sketch; it looked to be approximately 40+ feet in length.

Amendment to a Conditional Use Permit – Change Location of Existing Permitted Dock – Map 15, Lot 7A (114 32nd Street) – Clifford & Monique Libby

Mr. and Mrs. Libby were present for the review of their application.

Roger A. asked if they were before the board to relocate their dock from their original approval? Mr. Libby stated, right. (*The Libby's were approved for a 46 foot dock, six feet from their side lot line on 6/14/2011.*)

Mr. Libby stated he wanted to provide a written statement to go along with the sketch plan he previously submitted to the board. Mr. Libby stated that he originally wanted to request the board view four options for the location of the dock based on where Mr. Beyea's dock is permitted.

Mr. Libby asked the board if he could read his written statement to the board. The board allowed it, it is as follows:

This request is to amend a previous conditional use permit for a dock exceeding over 20 feet. My original permit was not what I really wanted nor did it leave me with the amount of access to and from the water that I feel I should reasonably have. My specifications worked around my neighbor, Mr. Beyea's, illegal and encroaching dock. With upcoming permit requests, I now realize that I should have asked for what I desired and reasonably deserve without regard to Mr. Beyea or his dock placement. Also, future decisions of the planning board could affect the placement of my dock; therefore, I am making this request for an amendment.

On my diagram, I sketched four proposals. I am withdrawing my request for Options 3 and 4.

Options

- 1. This would be my wife's and my ideal choice. The dock would start from the high water mark on the left property line with the Procopio/Beyea's. It would run perpendicular from the shore for 42 feet. This would enable us to once again use our boat launch, give us adequate access to and from the water and prevent encroachment into our swim and boat area.*
- 2. This proposal would only work if Mr. Beyea were denied his request to extend his dock beyond 20 feet. Otherwise I could not dock my boat and have kayak or swim access. My dock would start on the right property line bordering the Waterman's lot. This dock would also run perpendicular to the high water mark for 42 feet.*

Thank you for your time and patience.

*Sincerely,
Cliff and Monique Libby*

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

Roger A. scheduled a site inspection for the three dock proposals at 6:30 p.m. on Tuesday, August 28th. A notice to abutters will be mailed as well.

Nothing further was discussed.

Best Possible Location – Add to Existing Foundation & Repair Sills & Floor Joists – Map 17, Lot 31 (136 30th Street) – Lee Emery, Applicant

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

Mr. Emery presented the board with pictures of the existing structure and foundation, also noting on the pictures the location of the rotting sills and floor joists, the existing full foundation and footings, and a damaged window sill due to rotting from lack of a proper foundation in one corner of the structure. Also provided was a sketch plan depicting the location of the existing structure in relation to the side lots lines, water and 30th street. The Subsurface Wastewater Disposal System Application, dated 9/19/96, drafted by John Large, SE #7, showed there is a viable wastewater system on site at this time for a 2 bedroom structure.

Mr. Emery began by stating he had a camp built in the mid 50's and one section of the camp never got a foundation so it is setting on gravel. He said there is a small 6" x 12" footing under it with gravel around. One corner is rotting so he wants to dig this corner out and put a full foundation in its place.

Mr. Emery stated he did not intend on moving the camp. Three quarters of the camp does have a full foundation under it so he could not jack it up and move it without incurring a great expense. He stated he just wanted to repair the rear wall and put a full foundation under it, repairing the rotted damage.

Roger A. stated a site inspection would be conducted on Tuesday, August 28th. He did not know exactly what time the board would arrive, sometime after 7:00 p.m. A notice to abutter will be mailed as well.

Nothing further was discussed.

Best Possible Location – 14' x 28' Addition on Slab at Rear of Existing Structure – Map 36, Lot 15 (160 Indian Village Road) – Shawn Woods, Applicant; Bill and Barbara Coye, Owners

Mr. Woods and Mr. and Mrs. Coye were present for the review of the application.

The applicants provided the board with a copy of the plans for the existing structure along with the proposed addition. Also, the boundary survey done by Dana Libby, Land Surveyor for Corner Post Land Surveying, Inc., dated 8/2/2012 was provided. On the survey is depicted both the existing home and proposed addition, distance of the structure to the nearest side lot line, and the location of the 100 foot setback to the high water mark. In addition, area and volume calculations are on the boundary survey which notes the net increase in area shall be 28.6% and net increase in volume shall be 14.5%.

Mr. Woods stated they were before the board for a 14' x 28 foot addition to the rear of the building, single story, there will be a frost wall and slab on grade. Mr. Woods stated part of the slab and frost wall will be extended under the existing structure so there would be no discrepancy between the two structures. The new room will be heated and insulated to today's standards.

Mr. Woods noted he had spoken with CEO McDonough regarding the lot lines and they were told the structure could not encroach any closer to the side lot line than the existing because the structure was non-conforming at this time. Because of this, the addition will be pulled in farther than the existing structure due to how the closest side lot line runs.

Roger A. and Diane S. asked about the 30% expansion, Mr. Woods noted the calculations were on the survey plan. He stated they were under the 30% maximum allowed.

Roger A. stated there would be a site inspection prior to the meeting on Tuesday, August 28th. He thought it would be around 7:15 p.m. A notice to abutters will be mailed as well.

Nothing further was discussed.

Other:

Proposed changes to §105-19 regarding flag lots; §105-47 regarding freestanding signs and attached signs; §105-60.1 regarding permit expiration.

Barbara F. provided board members with the proposed changes discussed at previous meetings to the above noted ordinances. She asked members if they had any issue with the changes to discuss it sometime between the next meeting and the end of September. She would like to have the first public hearing on the changes in October.

CEO McDonough stated his only concern with the change to §105-47 was with someone wanting the same amount of square footage allowed on the building as is allowed on the freestanding sign. Because of this, he suggested a change in the wording in section §105-47.A(1)(a) to read:

§ 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, two freestanding signs shall be permitted per lot. The freestanding signs may not exceed 32 square feet in area. The **freestanding** 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) 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.
 - (c) In the Shoreland Zone, the total area may not exceed 32 square feet in the aggregate, and may not exceed 16 square feet individually.
 - (d) The above allotted signage may be placed on the building in lieu of freestanding signs.**

CEO McDonough believed by adding ‘freestanding’ in section (1)(a) it spells out the fact that the freestanding sign is allowed to have double sided, not the sign attached to the building. He thought written this way he would be able to argue the point if there was a question.

CEO McDonough also noted that the ordinance amended this way, the decision was not up to the CEO as to which sign was appropriate. He said that Roger A. had brought up the fact that allowing the CEO sole discretion to make the decision might not hold up in court. Also, written this way the property owner has more input to choose which type of sign to have.

Diane S. asked if the allowed square footage for the sign placed on the building should be spelled out in (d) making it more clear? CEO McDonough stated that according to (a) and (b) you could potentially have multiple signs on the building. He believed keeping the ordinance as simple as possible made it easier to enforce. He said each application is different.

Diane S. liked the fact businesses would now have a choice. Roger A. agreed and noted that this was a problem in the past with business locations having multiple businesses but not allowed the amount of signage they believed was required. This would give them more options.

Board members concluded the change gave businesses a better choice when there is a location that should not or can not have a free standing sign due to the location. CEO McDonough and Roger A. agreed by doing this the amount of signage allowed did not change, just where it was located.

A public hearing will be held on the proposed change prior to the end of the year.

Nothing further was discussed.

Growth Permit – There are growth permits available.

Planning Board meeting adjourned at 8:15 p.m.

Respectively submitted,

Barbara Felong,

Land Use Secretary planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, August 28, 2012

Members in attendance: Chairman Roger Allaire, Vice Chairman Madge Baker, Maggie Moody, as well as Barbara Felong, Land Use Secretary. Code Enforcement Officer Steven McDonough was also in attendance. Alternate Joe Stanley, and Members Roland Legere and Diane Srebnick were unable to attend.

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The planning board meeting began at 7:40 p.m.

The minutes from Tuesday, August 14, 2012, were accepted as amended. On page 1 of 6, the last sentence in the fourth paragraph under the CUP application for Map 10, Lot 22, should read: "Mr. Ferrera stated he had not done as much as he had hoped to date but he had moved at ~~last~~ **least** 1000 cubic yards."

Note: The minutes are not verbatim unless in quotes.

Conditional Use Permit – Extend Dock Over 20 Feet – Map 15, Lot 7 (103 32nd Street) – Gordon Waterman, Applicant

Mr. Waterman was present for the review of his application. *Note: Board members did a site inspection prior to this evenings meeting.*

Mr. Waterman presented the board with a sketch plan depicting a 45 foot dock.

Roger A. stated the only issue with Mr. Waterman's dock is the 8' x 8 foot piece because in Ordinance §105-44.A(3) it states a temporary dock shall not be wider than six feet for non-commercial uses. Roger also stated the reason Mr. Waterman was before the board was under §105-44.A(4) which read as follows:

- (a) Any structure, permanent or floating, shall require a conditional use permit from the Planning Board if it:
 - [1] Extends more than 20 feet from the bank of any lake or pond (and 10 feet from the bank of any river or stream);
 - [2] Has any permanent part located between the banks of any stream or below the normal high-water elevation of any lake or pond;
 - [3] Is constructed as part of any commercial use; or
 - [4] Requires dredging or filling.
- (b) The Planning Board may seek comment from the Department of Inland Fisheries and Wildlife in evaluating such application.

Roger A. stated that he did not believe the board needed comment from MDIFW, the reason for review is the dock is greater than 20 feet in length. Roger stated the only issue with the dock as presented is the fact the end of the dock is greater than 8 feet in width.

Roger A. did not think the length was excessive due to the amount of water at the end of the dock. Roger said it appeared to be about five feet deep. Mr. Waterman stated the depth of the water is approximately two feet higher than it normally is at this time of the year. He said historically the water is much lower which is why the length of the dock is required.

Roger A. stated if the 8' x 8 foot part of the dock is removed it will also help the Libby's have additional area (Mr. Waterman's neighbor).

Mr. Waterman stated he would cut the 8 feet down to 2 feet so it would conform to the ordinance. Roger said it still would not conform as this section is tied to the six foot section of dock therefore the dock would still be eight feet in width. Roger said Mr. Waterman could extend the dock another eight feet at the end, keeping it six feet in width.

Mr. Waterman stated, “So you are saying there are no L’s on the lake that conform.” Roger said the ordinance states a temporary dock cannot be wider than six feet so any L’s that are on the lake are non-conforming. Mr. Waterman asked CEO McDonough how many L’s on docks are around the lake now? CEO McDonough stated, they are not in the room tonight, they are not before the board. Roger stated the board cannot waive the ordinance. Mr. Waterman stated he understood the boards decision but felt he was caught in the middle of something that he shouldn’t be and it’s an ordinance not enforced unless someone brings it to the CEO’s attention. Roger agreed. Mr. Waterman said that Steve isn’t going around looking at all the docks on the lake; the town would need three of Steve to do it there are so many docks in Shapleigh. Mr. Waterman stated he wasn’t particularly happy about being before the board but understood the board’s position. He understood someone brought it to Steve’s attention but it didn’t seem to be fair. He said he was just venting. Roger stated it was understandable.

Mr. Waterman asked if he decided to go out farther with the dock would he have to come back before the board? Roger A. stated yes, if it was going to be greater than the 45 feet presented on the original plan. CEO McDonough stated Mr. Waterman could amend the plan now if he wanted it longer. He said whatever was approved on the plan tonight would be what was allowed. Mr. Waterman wasn’t sure if he was going to lengthen the dock at this time. He asked if he amended the plan if it would give him the option to lengthen the dock in the future? Mr. Waterman stated he did not want to have to come back before the board again. CEO McDonough stated it would be best for him to amend the plan now if he thought he might want the dock longer. Mr. Waterman thanked Steve for his suggestion. He amended the plan to add eight feet to the length of the dock making it 53 feet long and removed the 8’ x 8 foot L section.

Roger A. reviewed §105-44.B which read as follows:

- B. Application for permit. A conditional use permit application shall be made as follows:
- (1) For any proposed Shoreland construction or alteration requiring a permit from the Dept. of Environmental Protection. A copy of said permit and all attachments thereto shall constitute the application to the Planning Board.
Roger stated a DEP permit was not required for this application so this section is not applicable.
 - (2) For all proposed Shoreland construction or alteration, application to the Planning Board shall be made on forms provided for the purpose.
Roger stated the Conditional Use Permit is the application before the board.

Roger A. reviewed §105-44.C to make findings of fact, the criteria is as follows:

The proposed activity shall not:

- (1) Unreasonably interfere with existing recreational and navigational uses, nor unreasonably alter scenic and aesthetic qualities. **It will not as per the plan presented and as observed at the site inspection.**
- (2) Unreasonably interfere with or harm the natural environs of any lake, pond, tributary stream or river nor harm any fish or wildlife habitat. **It will not per the plan presented.**

- (3) Cause unreasonable soil erosion nor lower the quality of any waters. **It will not per the plan presented.**
- (4) Unreasonably alter the natural flow or storage capacity of any water body. **It will not per the plan presented.**
- (5) Create or cause to be created unreasonable noise or traffic of any nature. **It will not per the plan presented.**

Roger A. stated all conditions under §105-44.C shall be met.

Madge moved for approval of Mr. Waterman's application and amended plan for a 53 foot dock on the basis it meets all the conditions of §105-44. Maggie M. 2nd the motion. Members voted for approval, 3 – 0. The motion passed unanimously.

Nothing further was discussed.

Conditional Use Permit – Extend Dock Over 20 Feet – Map 16, Lot 44 (119 32nd Street) – Roger Beyea, Applicant; Steve Procopio, Owner

Mr. Beyea was present for the review of the application. *Note: Board members did a site inspection prior to this evenings meeting.*

Roger A. asked if Mr. Beyea's dock would be extended any farther than it is at this time? Mr. Beyea stated, no.

Madge B. stated there was a dock in place and it was temporary. Roger A. stated that being temporary, meant it's taken in every year. He said he was told that it stayed in last year. Mr. Beyea stated the water goes down so the dock is just on the ground. Mr. Waterman stated that it did stay in last year. Mr. Beyea stated that because of the ice he couldn't take it out.

Roger A. stated a permanent dock would have to be approved by the Dept. of Inland Fisheries and Wildlife. Roger stated that the dock would have to come in at the end of the year, regardless of the amount of ice, it has to come in.

Roger A. stated that during the site inspection he noted the dock was cocked toward the neighbors, the Libby's. It was not in line with the property line as noted on the sketch plan. Mr. Beyea stated that it may have shifted over due to the wave action. Roger said the board could require a surveyor be hired to be certain the dock was in line with the property line.

Maggie M. stated she had never seen this location before. She said the docks, the Libby's and Beyea's are basically touching each other. She noted Mr. Beyea had a dock on the other side of his property as well, which had a pontoon boat next to it. She asked Mr. Beyea why he needed two docks? She asked if he couldn't extend one dock and remove the other to be more courteous to his neighbors? Mr. Beyea stated he used the second dock for his paddle boat and kayaks. Maggie said the end section of the dock that abutted the Libby's, if attached to the other dock, could hold the paddle boats and kayaks. Mr. Beyea stated the other dock area is weedy. Maggie noted it would not be if the dock were extended further into the lake. Maggie stated the Libby's could not use both sides of their dock yet Mr. Beyea had two docks. Mr. Libby stated his dock has been in place over 20 years. Roger A. stated it is irrelevant how long the dock has been in place, the fact it is greater than 20 feet is why he is before the board. Mr. Beyea stated its extended due to the shallow water.

Roger A. asked what the length is? The Libby's stated it was 41 feet from the shore.

Roger A. stated he would like to see the dock moved over from where it is now four feet. Mr. Beyea stated he had come to an agreement with the Libby's after a discussion with the Code Enforcement Officer and already moved it over five feet. Mr. Beyea stated that the Libby's dock used to be in the middle of their frontage and now it's been moved closer to his. Roger A. stated, earlier in the evening it was noted and agreed upon by Mr. Beyea that the waves had moved it over toward the Libby's dock. Roger said it no longer stays along the line. Mr. Beyea stated the Libby dock is in front of his house, his dock isn't in front of their house.

Roger A. stated in order to prove that in fact the dock is setting in front of Mr. Beyea's house and along his property line he wants to make it a condition of approval that a surveyor determines the location. Mr. Beyea stated that the Libby dock was in front of his property. Roger stated, "That is not what I said, I would like to make it a condition that we take and have a surveyor actually set where the end of it is going to be, so that we know for sure, so we won't be disputing where it actually sets." Mr. Beyea stated the board could have it surveyed. Roger stated, "You will have it surveyed." Mr. Beyea asked why he had to have it surveyed. Roger said because he was the one infringing on the neighbors, also so you, the applicant, can demonstrate that you can meet all the criteria. Roger said it is not up to the board to decide whether or not the ordinance is satisfied it will be up to the surveyor. Mr. Beyea stated he would put the dock wherever the board wants him to. Roger said he was asking him to move the dock four feet farther from the Libby's property line. Mr. Beyea stated, "So I have to put up with having his dock in front of my house, that's fine I'll do it."

Roger A. stated he could take either choice, have the property line surveyed or move the dock four feet from the Libby lot line. Mr. Beyea stated he would move the dock.

Roger A asked if there were any additional questions for Mr. Beyea? Madge B. asked if the board had the proper application and information? Roger stated, yes. Madge asked if the board had the docks length? Roger stated it did not but the question was answered by the Libby's, it is 41 feet from shore.

Roger A. stated the conditions of approval are as follows:

- 1) The dock shall be moved four feet farther from the Libby's property line from where it sits at this time.**
- 2) The dock shall be 41 feet in length.**
- 3) The dock shall be removed from the water on or before November 1st of each year.**

A question from the audience was asked what the four feet was, was it where it attached to the land only? Roger A. stated no, the entire dock had to be moved four feet over from where it sits at this time.

Mrs. Libby asked if she could speak as to why she didn't want the dock approved. Roger A. stated she could speak at this time.

Mrs. Libby began by stating she was here speaking on behalf of herself and her husband Clifford. She stated that they would like protection from the obtrusive actions of Mr. Beyea. She hoped the board had an opportunity to look at the statement they sent as well as pictures over the years. To sum up their position:

Mrs. Libby stated they had lived for years with Mr. Beyea's less than 20 foot dock positioned in their swim area. After the first year they moved in, 18 years ago, they were unable to use the boat launch, the area they would trailer their boat in and launch their boat due to the position of Mr. Beyea's dock.

She noted the dock has been left in every winter the 18 years they have lived there. She said it was not a one time situation.

She stated that not only was the dock encroaching on their swimming area but it has been in various stages of dilapidation and dangerous conditions. She said in July of 2010 they were caring for their grandchildren and they were concerned because of the condition of the dock which had nails sticking out, holes, pipes sticking out, etc. They were entrusted with the care of the grandchildren, so they moved their dock toward Mr. Beyea's dock, to protect the grandchildren. She said their dock would be between them and the area they were swimming in. She said they also placed their dock there to optimize their space as they only have approximately 27 feet of frontage. She did not see how the board could approve the location of his dock which encroaches on their property and water access.

Mrs. Libby stated that when they moved their dock closer to Mr. Beyea's lot line he was very angry and threatened to act against them and limit their access. He kept adding onto the length of his dock so they couldn't have any waterfront. He did act on this threats by adding additional pieces to the existing dock.

Mrs. Libby stated Mr. Beyea's dock did in fact interfere with their navigation and recreation. They no longer can have neighbors come and park their boats at their dock. She stated that the area was just not safe. In addition, they have their property on the market and people have noted the neighbor has encroached so there isn't any space to use. She stated that because Mr. Beyea doesn't remove his dock in the winter it keeps shifting over toward their property.

Mrs. Libby stated last summer, with the help of CEO McDonough, they all came to an agreement they would both run their docks parallel to each other and Mr. Beyea would move his dock over five feet. She stated that her and her husband agreed that instead of having 23 feet of waterfront access, they would agree to 19 feet of access, if Mr. Beyea would move his dock. But this year he didn't and because of shifting in the water due to the ice, now they are down to 15' 7". So the initial agreement with Mr. Beyea and CEO McDonough was 19 feet of usable frontage and now they only have less than 16 feet. She said they would like to believe he didn't do it intentionally but they are not sure.

Mrs. Libby stated Mr. Beyea's 41 foot dock only secures a rowboat, a canoe on top covering the continually deteriorating dock that is never used, not accessible from the land, and its sole purpose is only to be a nuisance dock. She noted that he's had up to five docks at one time, and had four docks just before he put in his application. She asked how many docks a person needs? She feels this needs to stop. She believed one of the purposes of the ordinance is to protect property owner's navigation, recreation and property value. She wanted to know what gives Mr. Beyea the right to take 50 feet of waterfront access while also taking part of their waterfront, limiting them to less than 16 feet of water access. She believed as a taxpayer of waterfront property they would expect to have access to all their waterfront.

Mrs. Libby stated they had offered several times to return their dock to its original location if he would remove his dock but he refuses. Therefore, they are asking the board to deny his request for a permit for a dock greater than 20 feet in length based on his non-compliance, his dock is not removed in the winter, he has no regard for others and they question whether he would follow any conditions imposed this evening. She requested the board ask him to remove what he had in the water at this time and replace it with a dock that is safe.

Mrs. Libby noted they were unhappy that Mr. Waterman was involved in this as his dock has never been a concern or posed a threat to their grandchildren. She told the board that if they do not have grandchildren they need to know how terrible it feels to fear for their welfare due to this situation. She said their life has been greatly affected. She stated it was their dream to be in this home but they have been treated unfairly.

Mrs. Libby thanked the board for giving them the opportunity to speak about this situation. Mrs. Libby read a brief statement from Marion Libby, no relationship to the applicant, who also had concerns with Mr. Beyea's dock, its relationship to property lines and the angle of the dock.

Mr. Beyea stated that he believed his dock was in front of his house. He said it may have moved over a little bit. He said his dock was not in front of the Libby's house. He believed Mr. Libby's dock was in front of his house. He said he pays taxes, he is on the water, he has 50 feet of frontage and he wants to utilize it.

Mr. Waterman asked Mr. Beyea how the Libby's dock could be in front of his house if the Libby's are following the same angle as his dock is in. He said Mr. Beyea's dock runs down his property line and Mr. Libby's dock is inside of his property line at the same angle. He did not see how the Libby's dock could possibly be going in front of Mr. Beyea's house. Mr. Waterman believed Mr. Beyea's dock was in front of Mr. Libby's property. He noted Mr. Beyea set the angle of the docks. Roger A. stated that was why he didn't want any back and forth but instead have the surveyor set the dock so its inside the property line. Mr. Beyea stated he would move his dock over four feet but wanted the Libby's dock moved over four feet as well.

An audience member didn't understand the property line issue as she had been told that people only own to the high water mark. She also noted that she had lived on the lake over 20 years and never saw Mr. Beyea use the dock in question. She thought that Mr. Beyea's property line ended at the water so why should he be able to follow a property line into the water that doesn't exist and put his dock in front of the Libby's property? She stated that Mr. Beyea was encroaching upon the Libby property. And she added that he has never removed his dock in the winter and noted he removed a very ratty dock just prior to the board's site inspection so they would not see it. It was metal and rusted. She didn't understand why he couldn't put his dock in front of his house like other people on the lake so he wouldn't be encroaching on anyone. Mr. Beyea stated he could say the same thing that the Libby's were encroaching on him. She did not agree. She said the Libby's dock is on their property in front of their home. Mr. Beyea's dock is in front of the Libby swimming area. Roger A. stated that he agreed the water belonged to the State of Maine.

Roger A. noted this is a temporary dock.

Roger A. reviewed §105-44.C to make findings of fact, the criteria is as follows:

The proposed activity shall not:

- 1) Unreasonably interfere with existing recreational and navigational uses, nor unreasonably alter scenic and aesthetic qualities.
- 2) Unreasonably interfere with or harm the natural environs of any lake, pond, tributary stream or river nor harm any fish or wildlife habitat.
- 3) Cause unreasonable soil erosion nor lower the quality of any waters. Unreasonably alter the natural flow or storage capacity of any water body.
- 4) Create or cause to be created unreasonable noise or traffic of any nature.

Madge B. moved for approval of the existing 41 foot temporary dock with the conditions as follows:

- 1) **The temporary dock shall be removed by November 1st of each year.**
- 2) **Where it attaches to the high water mark it shall be moved four feet farther from the lot line which abuts Map 15, Lot 7A, the Libby's side lot line, from where it exists at this time. The location to be agreed upon by the Code Enforcement Officer.**
- 3) **The temporary dock shall be no greater than 41 feet in length.**
- 4) **The dock shall be kept in a safe condition.**

Mr. Libby asked what the angle would be on the dock? Roger A. stated it would be the same as today only the entire structure shall be moved over four feet. Roger said it would end up being CEO McDonough's decision as to where it should be set. Mr. Libby asked if CEO McDonough would come down each year? Mr. Beyea noted that Mr. Libby is supposed to be six feet from the property line which is where it was approved by the board. Mr. Beyea stated it is not in that location, where it was approved, at this time.

Madge B. asked if Maggie M. was going to 2nd the motion? Maggie did not feel she could. She did not feel the dock could meet the criteria in C(1) which is 'Unreasonably interfere with existing recreational and navigational uses, nor unreasonably alter scenic and aesthetic qualities'. Maggie believed the dock definitely altered the aesthetic quality of the area. She also stated, "Where the dock is located you cannot put a boat in this area between the two docks. Because it had been stated the dock hasn't been used in quite some time, there is barely a need for it, if the applicant could take part of the dock and attach it to the dock on the other side of the lot then everyone would have enough space". She did not believe it was a necessary dock.

Roger A. stated there was no place in the ordinance where it states how many docks a person can have. Maggie stated she understood but because this is a very limited space, especially when one person has only 23 feet now and is down to 15 due to dock placement and the other person has 50 feet, perhaps he could give more leeway to the neighbor. She stated it did not look good having two docks that close together and one isn't being used. Mr. Libby stated that Mr. Beyea's dock did interfere with navigation. He said they can't go straight out from their dock due to the angle of the docks. He said he has to trim his motor to get in and out, therefore there is a navigation issue. Roger said he looked at it at the site inspection and if Mr. Waterman removes the eight foot section of his dock as directed then there will be more room for the Libby's to navigate their boat in and out.

Madge B. stated her concern was that the board didn't have much to go on in order to further regulate Mr. Beyea's dock. She believed Maggie had cited the only thing the board has to perhaps regulate the dock further. Madge stated that if Maggie doesn't second the approval then there is no quorum and the motion and dock will be denied. Maggie still didn't feel she could vote for approval as presented.

Madge B. stated the board could table it and ask that some adjustments be made. Maggie would still like to see one dock instead of two for Mr. Beyea or remove part of the dock and add it to the other dock reducing the length of the existing proposal.

Madge B. withdrew the motion for approval for failure of obtaining a second to the motion.

Madge B. stated the board could also deny the application to see if the board got a second proposal. Maggie didn't want to make someone pay for another application. She asked if the board could table it so the applicant could adjust his proposal? CEO McDonough asked what it was being tabled for? Maggie said for lack of a second on the motion? CEO McDonough stated, "Then you have to deny it. You have to either approve or deny the application, or adjust the proposal tonight and agree upon that". He didn't think you would just send him away and come back with a different answer as that may never happen.

Madge B. moved that the board deny the application as presented for the 41 foot dock. CEO McDonough asked Mr. Beyea if he wanted to compromise? Mr. Beyea stated he thought he did by agreeing to move the dock over four feet. Madge stated the board didn't have approval because there was no quorum for approval of that proposal. Mr. Beyea asked if he reduced his dock back down to 20 feet if he could angle it any way he wanted to? CEO McDonough stated if the dock was less than 20 feet in length he wouldn't be in front of the board. Mr. Beyea stated he then could be anywhere he wanted to. CEO McDonough stated an attorney might tell you different but the board could not.

Mr. Beyea didn't understand why Mr. Libby was able to get approved for a dock over 40 feet but he was not. Roger A. stated that because there were only three members present this evening all three members would have to vote for approval in order for Mr. Beyea to get the 41 foot dock as presented and one member did not agree with the proposal or conditions, therefore, you can have a 20 foot dock but not what was proposed this evening. Mr. Beyea did not understand.

Roger A. stated unless Mr. Beyea was willing to move part of the existing dock onto the other dock he has on site there would be no quorum to approve the dock as presented. Maggie noted that removing the additional 20 feet from the dock next to the Libby's and adding it to the other dock he would still have the length he wanted and would give the Libby's more space.

Mr. Beyea stated that Mr. Libby put his dock next to his. Roger A. stated that was irrelevant.

Madge B. moved that the board deny the application for the 41 foot dock. Maggie 2nd the motion. All in favor. The application for a 41 foot dock was DENIED, vote 3-0.

Roger A. stated Mr. Beyea's permit for a 41 foot dock was denied so he would have to reduce the size of his dock to 20 feet or less.

Nothing further was discussed.

Amendment to a Conditional Use Permit – Change Location of Existing Permitted Dock – Map 15, Lot 7A (114 32nd Street) – Clifford & Monique Libby

Mr. and Mrs. Libby were present for the review of their application. *Note: Board members did a site inspection prior to this evenings meeting.*

Roger A. stated the Libby's were before the board to relocate their dock from their original approval. (*The Libby's were approved for a 46 foot dock, six feet from their side lot line on 6/14/2011.*)

Mr. Libby stated he would like to table his application to determine what the placement of the dock should be because their decision was going to be based on what Mr. Beyea's dock location was going to be. He was not sure which option would be best after the decision of the board this evening. He would like more time to think about it.

Madge B. moved to table the application. Maggie 2nd the motion. All members were in favor. The motion to table was approved by a vote of 3 – 0. The motion passed unanimously.

CEO McDonough asked how long the application was tabled for? Roger A. stated the application cannot be tabled more than 90 days. CEO McDonough stated that until another location is approved the Libby's dock needs to be placed where it was originally approved, which it is not at this time. The board agreed.

Nothing further was discussed.

Best Possible Location – Add to Existing Foundation & Repair Sills & Floor Joists – Map 17, Lot 31 (136 30th Street) – Lee Emery, Applicant

Mr. Emery was present for the review of his application. *Note: Board members did a site inspection prior to this evenings meeting.*

Mr. Emery was before the board to excavate below the back wall of the camp down to the full foundation, support the camp on posts and repair rotted sill and joists. After repairs to the camp are complete, pour a full foundation to match the depth of the existing foundation on the side of the camp that does not have a full foundation at this time for better support of the structure and to prevent future damage to the camp. Because the work is being performed on the opposite side of the camp as the lake there should be no threat to the lake. Also the way the project will be done, the amount of area to be excavated around the foundation is greatly reduced from what usually takes place, much of the work is to be done from under the camp.

Roger A. began by addressing Mr. Emery and noting that Mr. Emery stated he would prefer to do only half of the project this fall and finish the project in the fall of 2013. Roger stated that even with doing only half he believed there would be excessive gravel to be removed and asked Mr. Emery where the gravel would be moved to? Mr. Emery stated he didn't yet figure out how much gravel he would want to save to use as backfill. He said any extra will be moved using the neighbor's dump truck, hauling it to anyone looking for fill at this time. He wanted to be sure he kept enough so he would not have to buy any gravel for backfill. He believed it would be two weeks to have to store the fill he wanted to keep, get the foundation poured then put the gravel back in place.

Madge B. asked if he would have to bring in crushed gravel? Roger A. did not believe so. Mr. Emery said the type of gravel that is there is very course. He said the big rocks he will remove from the site. Roger still thought there would be gravel left over. Mr. Emery explained with the new forms for the concrete you don't have to remove as much fill around the forms as in the past. Roger said that in the basement there is lots of gravel that needs to be removed. Roger wanted Mr. Emery aware that if he was going to move the gravel to another site located in the Shoreland zone that person would have to obtain a permit from the Planning Board in order to be able to accept the fill. Mr. Emery stated he understood but thought he would be bringing the fill to a location off of Ross Corner Road. CEO McDonough knew where he was talking about. Mr. Emery stated there was a man with a sign looking for fill. He said because he was using Glen Travis's dump trailer, and he thought Glen knew this gentlemen, it probably wouldn't be a problem bringing it there. Roger said this was the general purpose district so he could take more yardage without issue.

Mr. Emery stated he wanted to do only one half the project this fall as the project was going to be more than what he expected. He asked how long the permit was good for? A year? He wanted to do the other half next fall. CEO McDonough stated that commonly a building permit gives you one year to start and two years to finish but because he is in front of the planning board for a permit on a steep shoreline he suggested for environmental sake it needs to be addressed at least to the point there is no exposed soil and everything stays stabilized at all times. He did not want to see exposed soil between this fall and the next. Mr. Emery stated he understood but noted that when he did half it would be completely finished and the other half would not be disturbed. CEO McDonough asked if this was possible? Roger A. agreed it could be done this way after seeing it at the site inspection. CEO McDonough stated that under the building permit this could be done and as long as the Planning Board feels comfortable with allowing it. Roger noted the top where the digging would take place is all flat and the sides he can backfill and stabilize as he goes along.

Roger A. stated no plantings would be disturbed on any side. He said the project would actually stabilize the banks. Roger said the hardest job would be getting the soil underneath the camp out.

Roger A. stated the project was being reviewed under §105-4 'Non-conforming structures', D(3) 'Foundations', and D(7) 'Relocation'. Roger noted the structure was not going to be moved as it is in the best possible location and moving it would create more of a disturbance than leaving it in the same location based on the work to be performed.

Roger A. asked Mr. Emery when he thought it would be completely finished. Mr. Emery stated next fall, 2013, at the end of October. He did not plan on working on the project during the summer months.

Roger A. stated the conditions of approval shall be as follows:

- 1) Best Management Practices shall be used until the project is completed in 2013.**
- 2) The project shall be completed in two phases. The 1st phase shall be completed by November 30, 2012. The 2nd phase shall be completed by November 30, 2013.**
- 3) All excess gravel / fill shall be moved off site and not placed in the Shoreland zone.**

Madge B. moved for approval of the application for best possible location to add a full foundation to the existing structure located on Map 17, Lot 31 with the above stated conditions. The structure is not going to be moved and the excavation is minimal per the plans presented. Maggie M. 2nd the motion. Members voted for approval, 3 – 0. The motion passed unanimously.

Nothing further was discussed.

Best Possible Location – 14' x 28' Addition on Slab at Rear of Existing Structure – Map 36, Lot 15 (160 Indian Village Road) – Shawn Woods, Applicant; Bill and Barbara Coye, Owners

Mr. Woods and Mr. and Mrs. Coye were present for the review of the application. *Note: Board members did a site inspection prior to this evenings meeting.*

The application was for a 14' x 28 foot single story addition to the rear of the existing structure. The applicant provided the board with a copy of the plans for the existing structure along with the proposed addition. Also, the boundary survey done by Dana Libby, Land Surveyor for Corner Post Land Surveying, Inc., dated 8/9/2012 was provided. On the survey is depicted both the existing home and proposed addition, distance of the structure to the nearest side lot line, the location of the 100 foot setback to the high water mark and the 75 foot setback to the road. In addition, area and volume calculations are on the boundary survey which notes the net increase in area shall be 28.6% and net increase in volume shall be 14.5%.

Roger A. began by stating the addition would be on the side of the existing structure and noted the survey plan depicted the proposed plan well. The existing distance to the nearest side lot line is 5.77 feet and the addition will be 5.85 feet to the side lot line. The new addition will be 14 feet deep by 28 feet wide.

Madge B. asked how far from the road the addition would be? Mr. Woods was not sure but the 75 foot setback to the road was delineated on the plan and the structure was beyond the setback. He believed the structure was 90 plus feet from the road setback. Madge said that was fine because the board could not allow the structure to become more non-conforming, not even to the road. Roger A. said the setback to the road was 75 feet from the centerline of the road or 50 feet from the side whichever is greater. The applicant can meet the standard.

Roger A. asked if there was a planting plan? Mr. Woods stated that he did not believe he put together a re-planting plan for the board. Barbara F. looking through the file could not find one. Mr. Woods stated that he would provide the location of the existing vegetation and where the new shrubs will be located.

Madge B. asked when Mr. Woods planned to do the work? Mr. Woods stated he would like to begin this fall. Madge asked if it would be finished this fall? Mr. Woods thought the majority of the structure would be completed. He said the area will be graded and mulch and crushed stone would be put down before winter. He didn't think the grass would be put in until next year.

Madge B. stated that at the site inspection Mr. Woods said he would be using a small piece of equipment and come in from the neighbor's property. Mr. Woods stated yes, this would create less disturbance. He would replant any vegetation disturbed on the neighbor's property as well. Madge asked about the area to be disturbed. Mr. Woods stated basically the footprint of where the addition would be, where the foundation is placed is the area of disturbance. Nothing out front of the structure will be disturbed. Roger A. said, "Just for the access to the foundation area". Mr. Woods agreed.

Madge B. stated it met the 30% rule. Roger A. stated yes, it is at 28%.

Roger A. stated the section of the ordinance this application is reviewed under is §105-4.D(3) 'Foundations', (5) 'Removal, reconstruction or replacement, and (7) 'Relocation'. Roger noted the foundation was going to set under the wall of the existing camp for support. Roger said the full camp at present is sitting on sauna tubes. The application will meet the ordinance as presented.

Roger A. stated the conditions of approval are as follows:

- 1) The planting plan shall be given to the Code Enforcement Officer for his approval.**
- 2) The area shall be stabilized by November 11, 2012.**
- 3) Best Management Practices shall be used until the project is completed.**
- 4) Revegetation which can include grass shall be completed by June 1, 2013.**

Madge B. moved for approval of the 14' x 28 foot addition to the structure located on Map 36, Lot 15, per the plan presented with the above stated conditions. The proposed addition meets all the standards of the ordinance for best possible location; the addition does not make the structure more non-conforming than what it is at present and the addition does not exceed the 30% allowed per the ordinance. Maggie M. 2nd the motion. Members voted for approval, 3 – 0. The motion passed unanimously.

Madge B. asked if any fill was going to be removed? Mr. Woods thought there might be 8 to 10 yards that will be moved off site. He said, "It will not be located in the Shoreland zone". Madge hoped that the grading and planting plan that will be given to CEO McDonough will reduce and/or prevent erosion taking place on site. Mr. Woods agreed proper grading was needed.

Nothing further was discussed.

Conditional Use Permit – Portable Toilet Business, Portables and Truck on Property – Map 4, Lot 5-3 (48 Coley Trafton Road) – Hunter Smigelski, Applicant

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

Mr. Smigelski stated he was before the board because he bought Stoney Road Portable Toilets and wanted to store portable toilets at his home. There would be no sewerage inside the portables, they are cleaned on site. He stated there would be more at his home in the winter than in the summer. In summer most probably they will all be out on site. He stated he had one truck to transport the portables. Also, there would be a Federal Express truck stop by from time to time to deliver supplies of cleaning products. He did not plan on having a sign on site. He thought occasionally people might stop by to pay a bill but most bills are paid through the mail. He said it was very similar to what Stoney Road had been doing.

Maggie M. asked Mr. Smigelski approximately how many portables would be on site at his home? Mr. Smigelski thought in the winter possibly 30 to 40 and in the summer 15 to 20.

CEO McDonough asked how many he owned at this time? Mr. Smigelski stated 76 total. He said he would like to eventually own up to 100. CEO McDonough asked why did he want 100? He said others in the business stated that with 100 you will make a profit.

Madge B. asked if there were any employees? Mr. Smigelski stated no, his wife answered the telephone and he drove the truck. He said if he got sick occasionally a friend might drive the truck but only if he could not be available. He said the truck would be parked in his yard when not being used, nights and weekends.

CEO McDonough asked if there was only one truck? Mr. Smigelski stated he only had one, one ton truck. Roger A. asked if he had a trailer to move the portables with? Mr. Smigelski stated he used a snowmobile trailer to move them.

Mr. Dan Stanley, an abutter of Mr. Smigelski, asked if he could speak. He stated he was a neighbor and said Mr. Smigelski was a hard working kid. He said he had some concerns. Mr. Stanley said the portables were going to be stored behind his house and that concerned him and noted that he and Mr. Smigelski didn't see eye to eye perhaps due to the age difference. Mr. Stanley asked Mr. Smigelski if the grey water from his washing machine was being dumped behind his house? Mr. Smigelski stated, no. Mr. Stanley asked if he told his wife this? Mr. Smigelski stated no and the conversation was about a water softener. Mr. Stanley went on about the water softener and the fact that he didn't have one (irrelevant to the application).

Mr. Stanley asked about licensing and if Mr. Smigelski needed additional licenses to transport from the State and DEP? Mr. Smigelski stated he did not need a license as he was not transporting hazardous waste. He stated he had the required CDL license. Mr. Smigelski spoke of John Gallant of Stoney Road Septic and stated he was not required for additional licensing.

Mr. Smigelski noted there would be no sewerage stored at his home. Mr. Stanley still believed Mr. Smigelski needed additional licensing. Mr. Stanley stated Mr. Smigelski may be correct but looking on line it appeared he needed additional permits.

Mr. Stanley stated he did not mind Mr. Smigelski getting this permit. He had a concern for his well. Mr. Stanley went on about grey water being dumped. Mr. Smigelski stated he had two small children, therefore, he would not be putting anything in the area where they lived or played. He also noted his well was behind his house and he would not jeopardize his water supply. He added that he had been pumping septic systems for six years and would never pour anything hazardous on the ground. He knew what that could do.

Maggie M. asked if the portable toilets had to be washed at home? Mr. Smigelski stated the portable toilets would be stored at his home clean. They are pumped at their location and cleaned out. When they are transported they are clean of all debris and the products used to clean them are safe and non-hazardous. He stated

treatment plants will not let you dump sewerage if it has formaldehyde or anything hazardous mixed with the sewerage.

Mr. Stanley asked if he had to have a manifest on the truck? Mr. Smigelski stated there were dumping slips that had to be kept. Mr. Stanley reiterated that Mr. Smigelski was a hard working kid and has done a lot for his age. Mr. Stanley talked about a pig pen Mr. Smigelski had and that he was worried about the smell of the portable toilets. Mr. Smigelski stated the portables do not smell, there is no sewerage in them. Mr. Smigelski noted that three neighbors in the area had pigs and his closest neighbor's was on his property line. Mr. Stanley agreed that was true.

Madge B. stated the applicant and his neighbor should talk further after the meeting.

Roger A. stated a site inspection would take place at 6:30 p.m. on Tuesday, September 11, 2012. A public hearing would also be held on September 11th and a notice to abutters shall be mailed.

Mr. Stanley asked about the hours of operation. Madge B. stated that would all be discussed at the next meeting. She noted Mr. Stanley comments were helpful as it gave the board something to think about but hours of operation would be discussed after the site inspection and public hearing, both of which Mr. Stanley could attend. Madge said this evening nothing would be decided, there will be public comment invited at the next meeting.

Mrs. Stanley asked what the zoning was on Coley Trafton Road? Roger A. stated General Purpose. Mrs. Stanley asked if a business was allowed? Madge stated, yes. Mrs. Stanley asked if an in-home business was allowed? CEO McDonough stated any business was allowed with a permit. Roger A. stated in Shapleigh there is no business zone. He said there was Shoreland, Stream Protection, Resource Protection and General Purpose.

Mr. Stanley asked if the business was operating at this time. Mr. Smigelski stated he owned the business at this time but no portable toilets are at his home. Mr. Smigelski stated he had already gone to the town and gotten a copy of the application for a permit. He said he didn't give it to the board until he knew the loan for the business was going to go through. Barbara F. noted Mr. Smigelski did in fact come to her about the business when he was thinking about buying it and asked her what he needed to do. She gave him a copy of the conditional use permit and told him to bring it to her when he was ready to operate the business. Mr. Smigelski stated within a month of closing the loan he brought the application into the board. He stated again there were no portable toilets on site, only the truck is parked in his yard.

Madge B. once again stated the applicant and his neighbor could continue to discuss matters and encouraged them to do so before the next meeting.

Mrs. Stanley asked if Mr. Smigelski could operate his business without any permits from the town or State? CEO McDonough stated he could drive his truck without any permits from the town. Mrs. Stanley said there was an add in the Smart Shopper stating business was being done out of 48 Coley Trafton Road. Mr. Smigelski stated this was for payments and phone calls. CEO McDonough stated he was before the board to address the business now. Mr. Smigelski stated he was before the board to do what he was supposed to do.

Mr. Stanley went on to conclude he was the grumpy old person and they were not going to get along. Madge B. stated once again it was time for them to discuss matters on their own to see if they could come to some agreement.

Nothing further was discussed.

All supporting documentation, applications, etc. can be reviewed at the Town Hall during regular operating hours.

Growth Permit – There are growth permits available.

Planning Board meeting adjourned at 9:25 p.m.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, September 11, 2012

Members in attendance: Chairman Roger Allaire, Vice Chairman Madge Baker, Maggie Moody, Diane Srebnick and Alternate Joe Stanley, as well as Barbara Felong, Land Use Secretary. Code Enforcement Officer Steven McDonough was also in attendance. Member Roland Legere was unable to attend.

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Note: The minutes are not verbatim unless in quotes.

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Public Hearing Began at 7:00 p.m.

Conditional Use Permit – Portable Toilet Business, Portables and Truck on Property – Map 4, Lot 5-3 (48 Coley Trafton Road) – Hunter Smigelski, Applicant

Mr. Smigelski was present for the public hearing. *Note: Planning Board members did a site inspection prior to this evenings meeting.*

Roger A. opened the public hearing by asking Mr. Smigelski to tell the audience and board members what he was requesting to be permitted.

Mr. Smigelski stated he wanted to be able to keep portable toilets for his business, that are not out in service, on his property, as well as his one ton truck, and a snowmobile trailer that he uses to transport the portables. He stated there would be no sewerage in the portable toilets while they are on his property nor any chemicals in them, they are just plastic units while being stored. He stated they get filled with chemicals on the job site and are pumped out on the job site, then the sewerage is brought to the treatment plant. Therefore, there is no worry of sewerage being spilled on his property. He said again they are just plastic and fiberglass units being stored while they are on his property.

A question was asked by an audience member if they would be stored behind his house? Mr. Smigelski stated, yes, correct. It was asked if they were washed and clean? Mr. Smigelski stated they were cleaned on the job site, when they are loaded onto the trailer there is nothing in them. He noted there were not even toilet paper rolls in them when they are stored. He stated at the job site is when product goes into the unit and the toilet paper. When it is returned to his home, it is clean and empty.

It was asked again by a member of the audience, where they would be stored? Mr. Smigelski stated behind his home.

Roger A. asked if the truck was taken to the plant only when it was full or everyday? Mr. Smigelski stated, everyday. He did not want to store sewerage at his home.

An audience member asked if the truck he was using was the one in his yard at this time? Mr. Smigelski stated, yes. The audience member stated it just looked like a pickup truck. Mr. Smigelski agreed and stated it was a one ton truck. It was asked what was held on the truck? Mr. Smigelski stated there was 150 gallons of fresh water in one tank and the other can hold up to 350 gallons of sewerage. The audience member asked if it was pumped out before he came home? Mr. Smigelski stated yes, unless he stopped home for lunch then it would not have been pumped yet. The audience member was concerned about well water. Mr. Smigelski stated he understood but assured everyone there would be no sewerage held on site. He noted the sewerage holding tank on his truck was a sealed tank and sewerage cannot be removed unless you manually open the four inch valve which is only opened at the treatment plant.

An audience member asked if the property was zoned for commercial use? Roger A. stated the area the home is located in is General Purpose and in Shapleigh any business could be allowed with a permit. Roger said there was no business zone in Shapleigh. He stated the only other zones in Shapleigh were Shoreland, Resource and Stream Protection. There was a question from the audience as to whether or not the business would affect property taxes? Roger stated it might affect Mr. Smigelski's taxes but not anyone else's. Roger said it was the Assessor who put a value on the property.

CEO McDonough asked how many gallons were removed from one portable toilet? Mr. Smigelski stated between 5 and 10 gallons. He said 5 gallons of fresh water were put into the portable toilet along with a blue tablet of chemical, then toilet paper and waste once used.

An audience member asked if there was previous discussion about changing the location of the driveway? Madge B. stated no, she was asking about site distance, what it was at this site. She noted that in this case the driveway was put in long before the business, so the board would not ask the applicant to move the driveway location.

Roger A. asked the applicant in an earlier discussion about the DEP permit, he wanted to know when the permit would be obtained. Mr. Smigelski stated the permit would be provided within 48 hours after town approval. He also had to submit payment by mail because the DEP does not accept any form of payment over the telephone or internet. Barbara F. said CEO McDonough had received an email from the DEP which stated Mr. Smigelski's application met the requirements in 06-096 CMR 411, but they needed to receive the original, signed and completed application and appropriate license fee. A copy of the application filled out and signed by Mr. Smigelski was also provided by the DEP, along with his Certificate of Insurance and Motor Vehicle Registration as required.

Mr. Smigelski provided a brochure from Chempace Corporation of Toledo, Ohio, which described the chemicals used in the portable toilets while they are on location, which states that the product used is 100% biodegradable, non-toxic and non-caustic. He noted again that the tablets were placed in the portable toilets on site and removed prior to transport along with the sewerage.

Roger A. asked if there was a manifest from when he dumped the sewerage? Mr. Smigelski stated yes, there is a slip that is turned in to the State at the end of the year. This indicates to the State how many gallons were dumped for the year.

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

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

The planning board meeting began at 7:30 p.m.

The minutes from Tuesday, August 28, 2012, were accepted as amended. On page 8 of 14, the second sentence in the second paragraph under the CUP application for Map 16, Lot 44, should read: "Roger A. stated that because there were only three members present this evening all three members would have to vote for approval in order for Mr. ~~Libby~~ **Beyea** to get the 41 foot dock as presented and one member did not agree with the proposal or conditions, therefore, you can have a 20 foot dock but not what was proposed this evening."

Alternate, Joe Stanley was asked to sit in as a regular member this evening.

Conditional Use Permit – Portable Toilet Business, Portables and Truck on Property – Map 4, Lot 5-3 (48 Coley Trafton Road) – Hunter Smigelski, Applicant

Mr. Smigelski was present for the final review of his application.

Roger A. stated the board received a letter from an abutter, Claire Warner. The letter read as follows:

Dear Planning Board,

I have serious concerns and questions with regard to having a portable toilet business 500 feet from my property in Shapleigh. I have compiled a list of questions which I would like answered in writing for any future problems related from this business. I am concerned with the chemicals used and dumping of human waste in the area.

1. What exactly are these chemicals. Will other chemicals be substituted. If so, what are they?
2. Are the chemicals dangerous to the water supply if there is a spill?
3. Who will be in charge of inspecting these containers on a regular basis for leakage or unapproved substitution of chemicals.
4. Will human waste in these chemicals be dumped on the property?
5. How will the human waste be disposed of?
6. What is the long range effect on the land?
7. Will there be a bad smell, a chemical smell, a biodegradable smell? Will it blend in with the pig waste smell from his pigs?
8. Will the EPA be concerned about these chemicals biodegradable or not leaking into the water supply that people drink from their wells?
9. Will the wells be contaminated if there is a spill? Who will pay for the clean-up?
10. What if a bad storm knocks these containers and contents down?
11. How long will the human waste sit in these toilets on the property before disposal?
12. Who will inspect the business, the town, the state, the DEP?
13. Who will pay to have the wells tested for any contamination to the water? I expect this would have to be done on a monthly basis.
14. This will cause our property to be devalued. So, who will be adjusting our taxes to reflect this?
15. Will the water table be adversely affected by additional chemicals and waste material over a period of time. Biodegradable - how long before it is totally biodegradable? Should the neighbors be drinking it? If this results in human sickness, who will pay for their medical costs?
16. Who will police this business?
17. Has he had the training to have such a business? If the business grows, what size trucks will be driving up and down the quiet street? Can the road handle it? What about the truck noise?
18. I do not want this business 500 feet from my property. I have spoken with abutting neighbor who does not want this business there. Would you?
19. Please respond to these questions in writing. Thank you.

Respectfully yours, Claire Warner

Roger A. believed most would be answered by addressing the standards applicable to conditional uses. Barbara F. stated she could mail a copy of the minutes once approved. Roger said that would be fine. Roger believed many of the questions have already been answered during the public hearing. He said there was no human waste to be stored on site.

Roger A. reviewed the following ordinances and made findings of fact:

105-20 – Applicability of standards; prohibited uses. *The requested permit is not a prohibited use and will not cause health or safety issues as presented. Required DEP permits shall be obtained.*

Madge B. asked to review the plot plan on file. She said it's important to note the lot meets all zoning requirements.

- 105-21 – Traffic. *The site distance was not measured but it was noted by members at the site inspection you could see in both directions. Roger A. stated the minimum required is 315 feet in both directions but not meeting the distance is not a reason to not approve a permit.* Madge also noted that the driveway has been in place for quite some time servicing the house. She did not feel requiring it to be moved would be helpful. Roger did not believe it would be more conforming if the driveway were in another location. CEO McDonough pointed out the business did not require any public interaction on site. Mr. Smigelski stated the vehicle used was not large and he had the ability to turn around on site so there was no need to back onto the road. Madge stated this was an important point, that no one had to back out onto the road.
- 105-22 – Noise. *There will be no loud noise generated by the proposed activity. The only noise is during the loading and unloaded process which is a limited activity with respect to the amount of time it takes this noise does not exceed maximum permissible sound pressure levels allowed.*
- 105-23 – Dust, fumes, vapors and gases. *There will be none generated for this activity as no sewerage or chemicals will be stored in the portables while on site.* Roger A. noted the only issue could be if the chemicals were left outside and spilled. Mr. Smigelski stated the chemicals are stored in a sealed bucket in his basement.
- 105-24 – Odors. *There will be no obnoxious odors emitted from the activities on site as no sewerage or chemicals will be stored in the portable while on site.*
- 105-25 – Glare. *No additional lighting will be added to the building that shines onto neighboring properties.*
- 105-26 – Stormwater runoff. *There are no changes being made to the existing structures or property that would cause a stormwater problem.* Madge B. had a question for CEO McDonough, would he be reviewing the area that would be graded to store the portable toilets? Madge asked if he addressed the stormwater issue? CEO McDonough stated no, that was why the applicant was before the board. Madge stated the reason she asked is the portable toilets are plastic so rain would fall off them onto the ground. Madge stated Mr. Smigelski spoke about grading and adding gravel to absorb the rainwater. Mr. Smigelski stated at this time there is no issue with runoff. CEO McDonough asked if the area to be used for storage was addressed? Madge did not believe so at this time. It is drawn on the plan but the size of the area isn't specific. Madge thought CEO McDonough would address it. CEO McDonough said it's a standard to be addressed by the board. Madge stated in that case a written detailed plan needed to be provided. Roger agreed, asking where the gravel will be and where the drainage will run. Board members noted the drainage would go toward the small pond. CEO McDonough stated there was a 75 foot setback to a water body for any activity. Madge and Roger both agreed the house was not even 75 feet from the pond. CEO McDonough stated the board could require a comment from DEP to see if the pond was an issue. Mr. Smigelski stated the pond didn't even have water in it at this time. Roger did not think there was a defined stream bed. CEO McDonough stated his concern would be to be sure the entire lot did not get covered by portable toilets, to have a limit on the amount allowed, and have it documented where they will be located. Madge asked if Mr. Smigelski didn't alter the surface at all would there be an issue? CEO McDonough stated the DEP could determine if the 75 foot setback rule applied. Mr. Gallant, a citizen of Shapleigh, asked if there were zoning maps which determined what qualified or not? CEO McDonough stated there were with respect to Shoreland zoning but not for this 75 foot rule but the DEP will make a determination if you call them. Joe Stanley stated there was a checklist they used and the area had to meet two or three of five criteria. Madge stated the current plan also needed an area drawn as to where the portables will be

stored. She asked if the board could move on and return back to this issue. Roger continued with the review.

- 105-27** – Erosion control. *Roger A. stated where the banking slopes and is running toward the pond may have to be rip rapped for erosion control if earth moving takes place.* Mr. Smigelski asked if he could leave the area the way it is, not doing any earth moving, would he then need anything additional? He noted that at this time there were no erosion problems on site. He said he was only trying to make the area nicer. Diane S. and Madge B. agreed that there really wasn't a need to change the area. Diane noted that the area was already flat with grass in place. Madge thought it would be easier for the applicant to leave things as they are since there is no erosion problem at this time.
- 105-28** – Setbacks and screening. *Madge B. stated the screening from vegetation is excellent on the property.* Roger A. stated from the road you can see where the storage area is. Madge stated that the applicant does not have to screen absolutely everything. Diane S. stated you would have to purposely be looking for it. Roger stated there was no issue with screening in this location. CEO McDonough stated a condition might be that the vegetative screening must stay in place. Mr. Smigelski asked if he could cut trees in the rear of the property. The board stated yes, just leave the vegetation along the side lots lines.
- 105-29** – Explosive materials. *There shall be none on site and none to be generated.*
- 105-30** – Water quality. *There is no waste or hazardous material being stored on site.*
- 105-31** – Preservation of landscape; landscaping of parking and storage areas. *There are no changes being made to the site, all vegetation along the side lot lines shall remain in place.*
- 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 stored on site for this application. The sewerage shall be dumped from the truck daily at the proper facility.*

Barbara F. asked CEO McDonough what the difference was between a home occupation and a home based business. CEO McDonough stated the best way to determine the difference was to read the definition of home occupation. It read as follows: "Home Occupation – An occupation or profession which is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit; carried on by a member of the family residing in the dwelling unit; clearly incidental and secondary to the use of the dwelling unit for residential purposes. Real estate offices and resale of purchased merchandise will not be considered as home occupations." CEO McDonough stated nothing can be stored outside of the home with a home based business.

Madge B. noted that it has become a relatively useless section as not many businesses fall into this category and all businesses can be reviewed under the criteria of a Conditional Use Permit. CEO McDonough noted it would be useful if there were districts on the Zoning Map which included commercial districts. Madge agreed. CEO McDonough stated that signage is a problem with something considered to be a 'home occupation' as the allotted amount of signage is greatly reduced. Madge stated, right.

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

Roger A. reviewed Shapleigh Zoning Ordinance 105-73.G "Standards applicable to conditional uses" and made findings of fact.

- G. Standards applicable to conditional uses. It shall be the responsibility of the applicant to demonstrate that the proposed use meets all of the following criteria. The Board shall approve the application unless it makes written findings that one or more of these criteria have not been met.**

- 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 no outside storage of hazardous waste.*** Madge asked if the board needed to address the possibility whether or not a stream exists and if it will be affected. Does it apply here or further down in the review? Board members felt it should be addressed as a possible stormwater issue as there is nothing hazardous taking place on site. Madge stated there are animals living in run-off areas so if you adversely impact these run-off areas you could argue there might be an issue but as long as it's addressed she would be satisfied.
- 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 occupations.***
- 4) Traffic access to the site is safe. ***It is as safe as it can be. There is an area on site to be able to turn vehicles around so they do not have to back onto Coley Trafton Road. There is minimal traffic associated with this business.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***It is, this location is not in a flood zone.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***There is, all sewerage and portable toilet chemicals shall be brought to a waste treatment facility once a day. No sewerage or chemicals shall be stored in the portable toilets at the applicant's home.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. *N/A - There are no hazardous materials associated with this business as noted by the Maine Dept. of Environmental Protection. The proper permit for the transportation of sewerage shall be obtained by the State of Maine as required.*
- 8) A stormwater drainage system capable of handling fifty-year storm without adverse impact on adjacent properties has been designed. ***There are no changes being made to the site to affect stormwater. All existing vegetation along the side lot lines shall remain in place.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***Roger A. noted this is where the board needs to discuss further the need for DEP approval as to whether or not a 75 foot setback is required for the storage area for the portables.*** Mr. Smigelski noted that the house does not meet the 75 feet. CEO McDonough stated the house is in place and has grandfathered status.
- 10) There is adequate water supply to meet the demands of the proposed use for fire protection purposes. ***There is nothing associated with this business to create a fire hazard.***
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. ***The existing vegetation buffers adjoining properties and shall not be removed.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

Madge B. stated that although Shapleigh's performance standards may be met, is there an issue with DEP standards? Roger A. stated DEP would have to do a site visit to see if DEP considers whether or not a stream is present.

Madge B. asked if Mr. Smigelski did not make any changes to the property, leaving the area as it is now and not doing any earth moving or removal of vegetation would DEP approval be required? She stated temporary structures do not apply. CEO McDonough agreed that if no earth moving is involved DEP approval would not be required. Madge stated that you don't have to go to DEP every time you put a temporary structure on site. She believed DEP involvement wasn't required for the portables. The other members agreed because there are no permanent structures and no changes are being made to the property to create the possibility of erosion.

Roger A. asked how many portables would be on site at any one time? Mr. Smigelski stated that he believed the most would be 60. Madge stated the board would still need a site plan clearly depicting the location of the portables with the size of the area being used. CEO McDonough asked what the most that would ever be on location be? Mr. Smigelski stated his goal was to own 100 portables. CEO McDonough stated the board needed a maximum number for the permit approval. Mr. Smigelski stated, 150.

Diane S. asked if hours of operation were an issue? The other board members did not believe so as people would not be coming to the home and no activity takes place on site outside of loading and unloading portable toilets and his truck leaving and coming home at night. Mr. Smigelski noted this was done during daylight hours. Mr. Gallant, who previously owned Stoney Road Portables, stated once in awhile there is an emergency at night but it rarely occurs. Mr. Smigelski stated 7:00 a.m. to 10:00 p.m. would be a maximum. He said he was usually home by dinner time. He noted that he used his truck for other things such as visiting his grandparents. He did not want someone to have issue if he came home from visiting at 11:00 p.m. The board noted that this is not an issue. Roger did not think the hours needed to be addressed. Mr. Smigelski stated at present he was working at another job and used his truck to get there, leaving at 5:30 in the morning. Diane did not feel hours needed to be addressed as he uses his truck for personal transportation.

Madge B. stated the board wanted a plan showing 150 portables could actually fit on site without issue. Mr. Smigelski stated he understood and would provide a plan noting he can store them closer to the house if needed. Maggie said that Mr. Smigelski stated most portables are not at his home but on site. Mr. Smigelski agreed stating that if they are at his home, he is not making any money. Madge stated it was highly unlikely much more than 50 would be in his back yard at any one time. Mr. Smigelski agreed.

In summation, the application is for the ability to store portable toilets on the applicant's property, Map 4, Lot 5-3, for a Portable Toilet Business, as well as a truck and trailer to transport the portables. The portable toilets shall be stored on site clean, void of any sewerage or chemicals. They shall be stored behind the existing home. The Board reviewed along with the application the sketch plan which depicted the existing homes location, trees that run along the side lot lines, driveway and parking / turn around area and proposed portable toilet storage area. Also received, was an email from William Butler of the Maine Dept. of Environmental Protection which stated the application for Transportation of Nonhazardous Waste, dated 9/10/12, met their requirements, and attached was a copy of the actual application. Lastly, provided was the brochure from Chempace Corporation of Toledo, Ohio, which described the chemicals used in the portable toilets while they are on location, which states that the product used is 100% biodegradable, non-toxic and non-caustic. A site inspection was held as well as a public hearing both on Tuesday, September 11, 2012.

Roger A. stated the conditions of approval would be as follows:

- 1) There shall be a detailed site plan drafted and given to the Code Enforcement Officer for the location of up to 150 portable toilets to be stored on the property. These 150 portable toilets shall be the maximum number allowed on site and none are to be stored until the applicant has CEO approval for their location.**
- 2) The existing vegetation along both side lot lines which includes trees and shrubs shall not be removed to provide a visual buffer between your neighbors and the portable toilet storage area.**

Madge moved for approval of the Conditional Use Permit to store portable toilets, and have a business truck and trailer located on Map 4, Lot 5-3 for a portable toilet business with the above stated conditions. Maggie M. 2nd the motion. Members voted for approval, 5 – 0. The motion passed unanimously.

Nothing further was discussed.

Best Possible Location – Put Full Foundation under Camp – Map 16, Lot 40 (14 Cattail Loop) – Bill Turgeon, Applicant

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

Roger A. asked Mr. Turgeon to explain what he wanted to do.

Mr. Turgeon stated he wanted to jack up the existing structure and put a full foundation under it which would have a daylight style walk-in. They wanted to put in a second bedroom. He stated while doing this he wanted to drop the level of the land in front of the camp, as it was man made with a retaining wall and it looked very out of place from the lakeside. He would like to lower it to make it look natural and to be able to easily access the walk-in basement.

Roger A. asked if the camp was being expanded by 30 percent? Ms. Turgeon stated they would like to add a deck on the side and it would be done by Shawn Woods. He said they were meeting with him this week to draft it. The deck would be 9 ½ feet. Mr. Turgeon stated at present there were existing concrete pads that were going to be removed. The deck would be in the location of the concrete pads. Diane S. was concerned with meeting side setbacks if a deck was added. CEO McDonough asked if the deck was going over existing patio? Mrs. Turgeon stated, right. Joe Stanley thought it would meet the 10 foot setback looking at the plan. Mrs. Turgeon noted the concrete that was going to be removed, extended beyond the distance of the proposed new deck.

Diane S. stated that once the concrete wall was removed near the water, it could never be replaced. Mrs. Turgeon stated they did not want it. Mr. Turgeon asked if you could replace existing? Diane stated, yes.

Mr. Turgeon provided the board with a site plan drafted by Dana Libby, PLS #1350, of Corner Post Land Surveying, Inc. which showed the location of all the existing structures and distance to the side lots lines, high water mark and road. The 100 foot setback to the water was also on the plan. Also provided was a copy of the Subsurface Wastewater Disposal System Application, dated June 27, 1988, done by John Large, SE #7.

Roger A. stated a Notice to Abutters would be mailed and site inspection held on Tuesday, September 25th, at 6:30 p.m. Members will meet on site.

Nothing further was discussed.

Best Possible Location – Replace Existing Cottage – Map 30, Lot 41 (Hawthorne Road) – Richard & Carol Levesque, Applicants

Mr. and Mrs. Levesque were present for the review of their application.

Roger A. asked the applicants to briefly explain what they wanted to do.

Mr. Levesque stated they just purchased an old cottage and they would like to replace it and move it back farther from the water. Roger asked how far it is from the utility lines. Mr. Levesque thought it was 26 feet. He wanted to move the structure as far back as possible because it is very close to the shoreline.

Madge B. asked if there was limit as to how close you can be to the power lines? Mr. Levesque stated he spoke with someone at CMP (Central Maine Power) and they said it was a variable between 10 and 12 feet depending on the height of the line. Mrs. Levesque stated you can have the utility lines moved if you can afford to pay for it.

Diane S. asked if the new structure would be 100 feet back from the water? Mr. Levesque stated, no.

Members reviewed the sketch plan provided. Also provided was a copy of the Subsurface Wastewater Disposal System Application, dated 7/16/91, done by Albert Frick, SE #163, as well as a copy of the Permit by Rule Application, dated 9/6/12.

Barbara F. asked if they were going to expand by 30%? Mr. Levesque stated, yes. The volume calculations are on the application.

Roger A. stated a Notice to Abutters would be mailed and a site inspection held. Roger thought the members would be at their location at approximately 7:00 p.m.

Nothing further was discussed.

OTHER:

Conditional Use Permit – Extend Dock Over 20 Feet – Map 16, Lot 44 (119 32nd Street) – Roger Beyea, Applicant; Steve Procopio, Owner

Roger A. and Madge B. wanted to discuss Mr. Beyea's denial.

Madge B. stated that she would like to reconsider the board decision and said it was allowed with both Robert's Rule of Order and the Planning Board By-laws. She said what happens is the board has to vote to reconsider and then it is scheduled for the next meeting and the applicants are notified.

Madge B. stated her reason to reconsider is not that she wants or expects a different result but she believed the board could do a better job at justifying the decision. Madge stated members pushed for a decision otherwise nothing would have been resolved but the decision made must be well justified. She said upon re-reading the record the board does not deal with non-permanent docks and there were three people who stated the dock has not been removed therefore it is a permanent dock. She said there is the possibility the board could deny the permit because the board has no jurisdiction over Mr. Beyea's dock because it is permanent, therefore the board could deny his request because the board cannot deal with it. She stated that is just one thought that gave her a sense the decision was worth reconsidering.

Madge B. asked Roger A. what his thoughts were for reconsideration. He stated if the board could not have a motion, under Robert's Rule the application is permanently tabled and dismissed. He said it is not a denial but dismissal. Roger said at the last meeting he briefly mentioned it when Maggie would not vote to approve, so there was no quorum.

Madge B. still believed it was worth reconsidering the evidence because it bothered her that three people stated the dock had not been removed. If it was only one it would not be such an issue but everyone at the meeting stated it had not been removed. She said this means it is not an impermanent dock. Maggie M. said it was stated it wasn't taken out for multiple years. Madge agreed and said there was no disagreement to that fact. CEO McDonough asked why the board did not have jurisdiction? Madge believed the board only had

jurisdiction over non-permanent docks. The board reviewed §105-44 ‘Piers, docks and other shoreland construction.’, members cited (1) which states “No causeway, bridge, marina, wharf, dock or **permanent** structure shall be constructed in, or over or abutting on any great pond nor any fill deposited or dredging done therein without a permit from the Dept. of Environmental Protection.”

Diane S. asked if the applicant would have to remove the dock until he had a permit from the Dept. of Environmental Protection? CEO McDonough stated the board just said they have no jurisdiction over a permanent dock. CEO McDonough did not know. Barbara F. stated if a property owner cannot have a permanent dock without DEP approval then does DEP ask them to remove it? CEO McDonough thought this sounded correct.

Madge B. stated that once you get to the water it is not private property, therefore, the board has no ability to require a dock to follow property lines. Madge did not think the board addressed this appropriately. She thought the decision was not as carefully thought through as it needed to be.

Maggie M. stated she was surprised the applicant would not agree to any concessions to allow his neighbors more access to their waterfront. Especially when one dock had minimal use. She thought with reconsideration perhaps the applicant would consider other options?

CEO McDonough stated the meeting has several conversations going on at one time and the applicant was confused about the outcome. He said the board needs to make sure the applicant understands what is being discussed. Maggie M. agreed, perhaps more order needs to be addressed.

Madge B. thought perhaps the board does have jurisdiction over a permanent dock because under Conditional Use Permits, any structure permanent or floating shall require a CUP from the Planning Board but a permanent dock does require DEP approval. Madge thought the DEP was in a position to look at the width of the water body being traversed with the dock.

Madge B. stated that Barbara F. believed the approval was not articulated clearly. Barbara stated, yes, there was no finding with respect to why the board denied the application. This concerned her for clarity, along with the fact the applicant seemed confused with the decision. Madge thought this was another reason to reconsider.

Madge B. made a motion to reconsider Mr. Beyea’s application to extend his dock over 20 feet on Map 16, Lot 44. Maggie M. 2nd the motion. All three members from the original denial voted to reconsider. Vote 3-0, the application will be reviewed again at the next meeting on Tuesday, September 25, 2012.

Members decided to go back to the site prior to the next meeting to re-review the dock. Barbara F. will notify Mr. Beyea as well as the abutting neighbors, the Libby’s, who had concerns with Mr. Beyea’s application.

Nothing further was discussed.

Roger A. stated he had some concerns with applicants not providing a letter from a property owner giving permission for them to be applying to the board for whatever. He said he did not think a signature on the application by the property owner was enough. He wanted to be certain the property owner was well aware of what was being applied for and that they were authorizing it. CEO McDonough and Madge B. agreed this should be a requirement. The board agreed Barbara F. should make a change to the Conditional Use Permit to require a letter from the property owner stating they authorize the person to represent them on the project.

Nothing further was discussed.

All supporting documentation, applications, etc. can be reviewed at the Town Hall during regular operating hours.

Growth Permit – There are growth permits available.

Planning Board meeting adjourned at 8:50 p.m.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, September 25, 2012

Members in attendance: Chairman Roger Allaire, Vice Chairman Madge Baker, Roland Legere, Maggie Moody, as well as Barbara Felong, Land Use Secretary. Code Enforcement Officer Steven McDonough was also in attendance. Member Diane Srebnick and Alternate Joe Stanley were unable to attend.

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Note: The minutes are not verbatim unless in quotes.

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The planning board meeting began at 7:30 p.m.

The minutes from Tuesday, September 11, 2012 were accepted as read.

Best Possible Location – Put Full Foundation under Camp – Map 16, Lot 40 (14 Cattail Loop) – Bill Turgeon, Applicant

Mr. and Mrs. Turgeon were present for the review of the application. Note: Board members did a site inspection prior to this evenings meeting.

Mr. and Mrs. Turgeon were before the board to put in a full foundation which would have a daylight basement under the existing cottage. In addition, the applicants decided to make some additional changes to the cottage and spoke of this at the site inspection.

Roger A. stated that during the site inspection Mr. Turgeon stated he had not received the final plans from the builder for the project as yet, therefore, the application will be tabled until Tuesday, October 9th.

Nothing further was discussed.

Best Possible Location – Replace Existing Cottage – Map 30, Lot 41 (Hawthorne Road) – Richard & Carol Levesque, Applicants

Mr. and Mrs. Levesque were present for the review of their application. Note: Board members did a site inspection prior to this evenings meeting.

Roger A. asked them to brief members on what they were intending to do. Mr. Levesque stated they wanted to move the existing cottage back from the water approximately 25 feet, as close to the power lines as is allowed. Roger agreed the power line is the limiting factor.

Madge B. asked if the existing camp had any dugout area under it? Mr. Levesque stated yes there was a small area under. Madge asked what they would do with that space once the camp is moved? Mr. Levesque stated the area was fairly flat with a good grade. He said only some minor work would need to be done. Roger A. noted it was going to be a walkout basement so they would want to make the area as flat as possible. He said there was no height issue so retaining walls would not be needed.

Madge B. asked about the new plantings? Roger A. said it would be on the side where they are at this time. Mr. Levesque agreed, it would be on the slopes near the driveway. Madge noted she saw plantings listed on the plan presented.

Madge B. stated the side setbacks were all conforming. Roger A. stated the only issue is the power line. Maggie M. asked if there is a distance limit from the power line? Mr. Levesque stated they had calls in to get a meeting scheduled with CMP to discuss the issue. They wanted CMP to do a site evaluation because they wanted to move the structure back as far as possible. CEO McDonough stated there really wasn't a setback issue, only a height limit. He said a structure can be put under a power line.

Madge B. was not sure the board could act on the application because they did not have a final plan until they knew the exact location of the structure. Roger A. stated they could move the structure as close to the power line as possible, leaving the final decision up to CEO McDonough. Madge was concerned with having no final plan. Barbara F. asked if the board could put in a figure that the new structure had to be a certain number of feet from the water as a minimum. For example, the structure has to be a minimum of X feet from the high water mark. She asked what the figure would be as the structure sits on the existing plan? Roger said you would have to add 15 feet to the existing location. Barbara asked if it they knew what the figure would be? Mr. Levesque thought it would be 48 feet.

Madge B. asked if the board had the 30% expansion calculations? Barbara F. stated yes, they are on the application. The existing square footage is 1,234 and the proposed is 1,604. The existing volume is 13,143 and the proposed is 12,912 which is a reduction from the existing.

Roger A. asked Mr. Levesque if he knew what was meant by the statement on his survey which stated the structure did not fall within the special flood hazard zone but the land did? Mr. Levesque did not know. Barbara F. did not understand as the structure sits on the land? Also, this area is not designated on the flood maps. Mr. Levesque agreed Square Pond did not have a flood zone. Maggie M. wondered if perhaps just one corner of the property was in this zone?

Roger A. reviewed §105-4.D(7) which pertains to the relocation of non-conforming structures, reading the ordinance in its entirety. Roger noted two trees would be removed due to the reconstruction. Roger said there was a re-vegetation plan provided.

Roger A. asked if there was a motion for approval?

Roger A. stated the conditions of approval would be:

- 1) The structure shall be a minimum of 48 feet from the high water line. The final location is dependant on the distance allowed to the existing power lines that cross over the property. This determination shall be made after a consultation with Central Maine Power.**
- 2) Best Management Practices shall be used until the project is completed.**

Madge B. moved for approval of the new location on the grounds that there are power lines running behind the existing structure, therefore they shall move the new structure back as far as possible toward the power lines. This is an increase to the setback to the high water mark. Maggie 2nd the motion. All in favor. Madge wanted it made known that the conditions should also include the planting plan provided and before any construction is done the exact location needs to be verified by a surveyor. CEO McDonough stated the surveyor would have to verify the structure is back at least the 48 feet required.

Mr. Levesque stated the 48 feet is going to be determined by the power lines. Mrs. Levesque stated they would get as close as they could and believed it would be at least 48 feet. Mrs. Levesque stated if it was 44 feet that would be all they could do. They would not know until their meeting with CMP. Madge B. wondered if the board could vote for approval because that figure really wasn't certain at this time. CEO

McDonough thought it was best to wait until a final figure could be determined. He did not think they could tell the surveyor something so unknown. He stated a surveyor couldn't verify a location based on a possible distance to the power lines. Madge B. agreed and was concerned as well. CEO McDonough stated Banks will want to see what it is approved for and a surveyor can't come in and say this is the best location to the power lines. There needs to be a concrete figure.

Madge B. stated the board needed to table this until that figure could be determined.

Madge B. moved to table the application until the distance to the power lines can be determined and a final distance from the high water mark can be calculated. Maggie M. 2nd the motion. All members were in favor. Vote 3 – 0, to table the application.

Roland L. abstained from voting this evening as he was unable to make the site inspections.

The application will be placed back on the agenda for Tuesday, October 9, 2012.

Nothing further was discussed.

Conditional Use Permit – Extend Dock Over 20 Feet – Map 16, Lot 44 (119 32nd Street) – Roger Beyea, Applicant; Steve Procopio, Owner

Mr. Beyea was present for the re-consideration of his application as discussed by members at the meeting held on Tuesday, September 11, 2012. Board members did another site visit to once again view the existing dock conditions.

Madge B. stated that she had asked the board to vote to reconsider this application at the last meeting because the board agreed they may not have justified their decision adequately. She stated to review, Mr. Beyea applied to have a 41 foot dock. She asked if Mr. Beyea was the owner of the property? Roger A. stated no, but the owner's signature was on the application. Madge stated the board considered the application and gathered information, then denied it. Roger stated it was denied because the approval would not pass for lack of a quorum. He believed the application should have been dismissed but was taken up as a denial. Madge stated she asked for a reconsideration so the board could confer on the basis of the decision. Maggie M. stated she would not vote for approval based on §105-44.C(1).

Mr. Beyea stated he was extending his dock further out like the neighbors, they are all in the same location. He said he wanted to be even with his neighbors. Madge B. stated, right. Roger A. noted the dock was already in place, it had already been extended. Mr. Beyea stated, yes. Madge B. asked if it was already out 41 feet? Roger stated, yes. Madge said, "But we didn't approve it." Roger said, "Right."

Madge B. stated he applied to take one of his docks and extend it from 20 feet to 41 feet. She stated this brought it in front of the Planning Board under §105-44.A. Madge stated on a second site inspection she looked at the existing dock to see how it 'unreasonably interfered with existing recreational and navigations uses or unreasonably altered scenic and aesthetic qualities'.

Madge B. stated in reconsidering she wanted to ask the board to consider that under §105-44.A(1) which states that "No causeway, bridge,.....dock or permanent structure shall be constructed in, on, or over or abutting on any great pondwithout a permit from the DEP." Madge stated it was her understanding it was a 'permanent' dock as there was repeated testimony at the last review from neighbors which stated it was a permanent dock. Madge stated that under this reconsideration she didn't think the board should even be considering it without a DEP permit because the ordinance clearly states that a permanent dock needs DEP approval.

Madge B. stated she would like to say they would deny it on the basis they do not have the DEP permit. In addition, also deny it on the basis that it alters the scenic and aesthetics qualities of the area.

Madge B. stated with respect to the placement, it also unreasonable interferes with recreational and navigations uses of the abutters.

Madge B. stated she hadn't considered the denial on the basis of the requirement of a DEP permit because she didn't realize everybody present at the final review had stated the dock has not been removed, making it a permanent dock. Mr. Beyea disagreed stating it was just floating in the water. Roger A. stated this did not matter, it has not been removed. Madge agreed. Mr. Beyea stated he removed it. Madge stated the record clearly states the dock has not been removed, therefore, she considered it permanent and it requires a DEP permit. Madge added that the record was clear and it was stated over and over again without a denial.

Madge B. stated at the site inspection they also found it interferes with the recreation of the abutters, the Libby's. Mr. Beyea stated his dock had been there 20 years. Madge B. stated that was part of the trouble because it's a permanent dock. Mr. Beyea did not see how it could interfere with them.

Madge B. stated she collected information and the evidence needed to move for denial of the 41 foot dock application.

Mr. Beyea did not agree with the board's decision noting others have had their docks approved for the greater length. Maggie M. noted their docks were not permanent. He stated his was not either. Roger A. stated the board had testimony from various neighbors stating it had not been removed for years.

Madge B. stated on the basis of the neighbors testimony she felt comfortable stating it is a permanent dock and needs a DEP permit to be extended from 20 feet to 41 feet.

Madge B. made the motion based on the information collected and evidence in the record to move for denial of the application for a 41 foot dock on Map 16, Lot 44. Maggie M. 2nd the motion. All members were in favor. Vote 3 – 0 for denial of the application.

Nothing further was discussed.

Conditional Use Permit – Replace Retaining Wall – Map 31, Lot 22B (45 Totte Road) – John & Karen Kenary, Owners; Hazen Rogers, Representative & Contractor

Mr. Rogers was present for the review of the application.

Roger A. asked Mr. Rogers what the applicants wanted to do.

Mr. Rogers stated the Kenary's wanted to replace the existing retaining wall using the same materials as the existing, 6' x 6' pressure treated lumber. Mr. Rogers provided the planning board with a sketch plan of the property showing the location of the existing retaining walls, home, septic and driveway which noted that in addition to replacing the retaining walls they would like to remove 4 trees that were damaged. Also, pictures of the existing retaining wall and a plan noting locations of walls, trees and ground cover was presented.

Mr. Rogers stated he would be removing approximately 8 yards of fill as well as bringing in loam. He said they would be planting evergreens and ground cover once the wall was re-built.

Roger A. asked how long the wall was? Mr. Rogers stated 28 feet long. Madge B. asked how high the wall was? Mr. Rogers stated between 30 and 36 inches. Madge stated that would not require additional engineering? Roger said no, it is less than four feet.

Roland L. asked if he was replacing or extending the wall? Mr. Rogers stated he was replacing the existing wall. Mr. Rogers noted that the pictures showed that the existing wall is falling apart.

Roger A. asked if one corner of the wall had already been replaced? CEO McDonough stated that the previous owners had a permit to replace an existing patio but he did not recall if any of the wall was included in the permit. He stated there was less than 10 yards of earth being moved at the time. He said that because more than 10 yards of earth is being moved with this project he sent them to the planning board for review. CEO McDonough then looked at the pictures and stated yes, part of the wall was permitted when the patio was replaced.

Mr. Rogers stated they would be using the same mulch as the Youth Conservation Corp. used. CEO McDonough noted that the YCC was on site with the previous owner and did some work on site.

Roland L. asked if anything was planted to replace the large trees that were removed from site? Mr. Rogers stated yes, CEO McDonough had been to the site to check. CEO McDonough stated the trees were removed with a permit and a replant was done. Roland asked if two or three arborvitae constitutes a replacement for a 40 foot tree? CEO McDonough stated no, but four does.

Madge B. stated a site inspection would need to be done. Barbara F. noted that with the next application a site inspection would need to be done on Treasure Island and the ferry only runs Friday thru Sunday for a few more weeks. She thought a site inspection should be done on a Saturday or Sunday.

A site inspection was scheduled for Saturday, September 29th at 8:30 a.m. A notice to abutters will be mailed as well. Maggie M. will try to do it on Sunday evening.

Nothing further was discussed.

After-the-Fact Best Possible Location – Replace Shed – Map 33, Lot 46 (111 Treasure Island) – Marcia Crumley, Applicant

Ms. Crumley was unable to make the initial review. She will be present for the final and site inspection.

Roger A. stated Ms. Crumley's permit was for an after-the-fact permit for a shed.

Barbara F. began by stating she spoke with Mrs. Crumley, who would be coming from Boston, and told her for the initial review she did not need to be present because CEO McDonough was well aware of what she was applying for and could explain it to the board, as it was not a complicated issue. Barbara stated that Ms. Crumley had pictures depicting the previous shed that she would be providing to the board at the final review.

CEO McDonough stated Ms. Crumley had received a violation letter from him for putting in a new shed, near the water, without a permit. He said he had been to the site and discussed the situation with the applicant. He said the shed was very close to the water but it was obscured by trees making it hard to see from the water. He said the trees were in the water and the shed was near the water. He noted that the problem with an after-the-fact he did not know exactly where the first shed was located. He stated he did

not ask them to remove the shed, but instead bring it to the Planning Board because they have a photo that showed there might have been a shed on site.

Ms. Crumley had provided along with her application a sketch plan depicting the location of the old shed and the new shed. Also on the sketch plan was the location of the existing home, deck, and leach field. The application noted that the new shed was located farther from the side lot line than the previous shed had been.

Board members agreed to do a site inspection at 9:00 a.m. on Saturday, September 29th. A notice to abutters will be mailed as well. Barbara F. will call Ms. Crumley telling her of the site inspection and to remind her to bring the pictures of the old shed to the site inspection.

CEO McDonough told members they would need the number of the property, 111 Treasure Island, as well as the property owner's names, which are Crumley and Lehigh, for the Treasure Island ferry driver.

Nothing further was discussed.

OTHER:

Copy of Consent Judgment for the Town of Shapleigh v. Patrick Frasier and William Elwell, Docket No. CV-12-128

Board members received a copy of the above judgment that went to mediation on Thursday, September 21, 2012 which pertained to a Notice of Violation to both parties dated 12/13/2011 from Code Enforcement for earth moving in the Resource Protection District without a permit in a wetland of moderate to high value as rated by the State of Maine Department of Environmental Protection. The agreement reached by all parties concerned is as follows:

By agreement of the parties, the case against the Defendants Elwell and Frasier is hereby dismissed with prejudice and without costs. Defendant Elwell's voluntary payment to the Town of Shapleigh of the agreed-upon amount of \$8,000 to be made by October 20, 2012, is not intended, nor should it be construed, as an admission of liability by Defendant Elwell or an acknowledgement of the truth of the allegations made against Defendant Elwell in the Town of Shapleigh's Complaint. Defendant Elwell expressly denies each and every such allegation contained therein.

Roland L. asked if this document exempted both parties or just Elwell. CEO McDonough stated both parties. Roland asked how the money would be used? CEO McDonough stated it was up to the Selectmen.

Nothing further was discussed.

All supporting documentation, applications, etc. can be reviewed at the Town Hall during regular operating hours.

Growth Permit – There are growth permits available.

Planning Board meeting adjourned at 8:25 p.m.

Respectively submitted,

Barbara Felong,

Land Use Secretary planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, October 9, 2012

Members in attendance: Vice Chairman Madge Baker, Roland Legere, Maggie Moody, Alternate Joseph Stanley, as well as Barbara Felong, Land Use Secretary. Code Enforcement Officer Steven McDonough was also in attendance. Members Chairman Roger Allaire and Diane Srebnick were unable to attend.

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Note: The minutes are not verbatim unless in quotes.

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The planning board meeting began at 7:30 p.m.

The minutes from Tuesday, September 25, 2012 were accepted as read.

Joe Stanley sat in as a regular member for this evenings meeting.

Madge Baker chaired the meeting as Roger Allaire was unavailable.

Best Possible Location – Put Full Foundation under Camp – Map 16, Lot 40 (14 Cattail Loop) – Bill Turgeon, Applicant

Mr. and Mrs. Turgeon were present for the review of the application. Mr. Shawn Woods was also in attendance as he is the contractor on the project.

The Planning Board received along with the application, a boundary / existing conditions survey done by Dana Libby of Corner Post Land Surveying Inc., which depicted the location of the existing structure in relation to the lot lines, Cattail Loop and Mousam Lake, as well as the location and size of the proposed new structure & deck and the existing concrete patio that shall be removed.

In addition, provided was a copy of the Subsurface Wastewater Disposal System Application, dated 6/27/88, drafted by John Large, SE #7 which shows the location of the existing system; and provided was a front elevation plan for the proposed additions, floor plan and foundation plan. The front elevation plan depicts the drainage system to be used from the roof line of the addition which consists of a down spout to a PVC line, where the rainwater will enter a French drainage system.

Madge B. began by stating the application had been tabled at the last meeting because there was not a final plan depicting exactly what the Turgeon's were proposing to do with respect to an addition and drainage for the addition. Madge reviewed the plan before the board. Mr. Woods came before the board and looking at the plan showed the area where the concrete pad was located and stated that it would be removed. He stated the area where the concrete pad was located would be conservation mulch. He said they would also be putting on a 12' x 12 foot addition and he drew this in on the plan provided. He said this was part of the 30% expansion; there would be a new foundation under the existing structure and a new deck which was shown on the new plan.

Mr. Woods stated they addressed the water runoff concern that was posed at the last meeting. On the plan labeled 'front elevation plan' were notations stating there would be a gutter and downspout to a French drainage system. He stated there was very coarse gravel on the property so there should be no drainage problem once this is in place.

Roland L. asked if there was a foundation under the addition? Mr. Woods stated, yes, there would be a full foundation. Mr. Turgeon stated this is how the project started with the intent to jack up the existing structure 3 feet and put in a full foundation. They then decided to use the 30% allowed to add the 12' x 12 foot addition.

Madge B. asked if the deck was new? Mrs. Turgeon stated, yes, but it would be over the existing concrete slab which would be removed. Madge stated the board had a concern with the side lot setback as shown on the original plan. Mr. Woods stated the side setback did not conform with respect to the concrete slab but will once the slab is removed.

Madge B. asked if the stairs brought the structure too close to the side setback? Mr. Turgeon stated the concrete slab was closer to the side lot line than the stairs would be. Madge asked if the stairs count? CEO McDonough stated they did not count toward the 30% expansion. He stated with stairs it is a grey area as it can't be applied toward the strict letter of the law because people have stairs down to the water.

Madge B. stated at the last review on September 25th the board was waiting for final plans from the builder. She asked if this is what was presented this evening? Mrs. Turgeon stated, yes.

Madge B. stated the board's job was to determine if it was the best possible location under Section 105-4.D 'Nonconforming structures.' She stated the actual building wasn't being relocated. Madge reviewed §105-4.D(5) 'Removal, reconstruction, or replacement' in its entirety.

Madge B. stated the structure as proposed meets the 30% rule. She said the proposed structure is no closer to the side setback than the existing, no closer to the water than the existing and no closer to the road than the existing structure.

Madge B. asked if there were any additional questions? There were none.

Madge B. stated the building was not going to be moved. CEO McDonough stated the most important thing is to ask how all the exposed soil was going to be addressed as required under §105-4.D(7). Madge stated that Mr. Woods spoke of addressing it but it did not appear on the plan. Mr. Woods stated there was not going to be any trees removed so there would be nothing to be replanted for tree replacement. Mr. Woods stated most of the area would be conservation mulch applied on the side. Mrs. Turgeon stated that as part of their quote it said there would be conservation mulch applied to the side and rear of the structure along with loam and seed applied.

CEO McDonough asked about the gutters and downspouts. Madge B. stated they were sketched on the plan. She noted the drainage was also noted on the plan.

Madge B. stated the conditions were as follows:

- 1. Any disturbed ground shall be covered with conservation mulch.**
- 2. No trees shall be removed.**
- 3. Best Management Practices shall be used until the project is completed.**
- 4. The gutters to downspouts to French drains shall be put into place as depicted on the plans provided.**
- 5. Vegetation disturbed by the project shall be replaced with plants indigenous to the area and this shall be completed by June 1, 2013. If this date cannot be met an extension shall be acquired through the Code Enforcement Office.**
- 6. The new structure shall remain in the exact location as the existing.**

7. **Building plans must be approved by the Code Enforcement Officer and a building permit must be obtained from the Code Enforcement Office prior to any construction taking place on site.**

Maggie M. moved for approval of the best possible location to put in a full foundation, add a 12' x 12 foot addition and new deck as well as remove the existing concrete patio per the plans presented with the above stated conditions. Roland L. 2nd the motion. Members voted for approval, 4 – 0. The motion passed unanimously.

Nothing further was discussed.

Best Possible Location – Replace Existing Cottage – Map 30, Lot 41 (Hawthorne Road) – Richard & Carol Levesque, Applicants

Mr. and Mrs. Levesque were present for the review of their application.

The Planning Board received along with the application, a mortgage survey done by Livingston-Hughes, Land Surveyors from Kennebunk, which depicted the location of the existing structures on site as of 7/11/12, which consists of a 1 story wood structure with a pier foundation and a shed. Also drawn onto the survey was the location of the existing septic system, driveway and proposed landscaping plan.

In addition, provided was a copy of the Subsurface Wastewater Disposal System Application, dated 7/16/91, drafted by Albert Frick, SE #163; a copy of the Permit by Rule Notification signed on 9/6/12; and the floor plans / picture of the proposed new structure.

Madge B. stated at the previous review on September 25th, the board tabled the application pending a final location for the new structure. This location was dependant on how close the structure could be to the existing utility pole. Madge asked the applicants if they had this information?

Mr. Levesque stated that they spoke with CMP and they have decided to have the utility pole moved back 10 feet. He said this would help them move the structure as far from the water as possible. He stated this would put the new structure at 36 feet from the water.

Madge B. stated this is what the board required and the placement for the final location had to be verified by a surveyor under §105-4.D(7)(c).

Madge B. asked if there was a planting plan? There was a planting plan written on the survey plan which stated there would be a mixture of plants, spruce trees, blueberry and sod. Barbara F. asked if there were going to be two trees removed? Mr. Levesque stated that because the power lines were being moved there may be additional trees removed.

Madge B. asked when construction would take place? Mr. Levesque believed they would be starting right away.

Roland L. asked how far the trees were from the water that are going to be removed? Mr. Levesque stated about 70 to 80 feet and a few beyond the 100 foot mark.

Madge B. asked if the planting plan was adequate? CEO McDonough looked at the plan and asked what was going to be done where the existing structure was going to be removed. Madge read §105-4.D(7)(b) which described the amount and type of vegetation that must be reestablished in all the disturbed areas.

CEO McDonough noted that the ordinance specially addresses the area disturbed by moving the structure. Mr. Levesque stated they had planned to leave the area a sandy beach area. CEO McDonough stated that the area where the house is now has to be wood and herbaceous vegetation and ground cover that is native to the area. Mr. Levesque asked if grass was considered ground cover? CEO McDonough stated that it was but it was not preferred. He said it isn't easily established in sand and it needs to be fertilized and you cannot use fertilizer within 100 feet of the water. He said there are also studies that show soil erodes out from under grass and it doesn't hold ground well.

CEO McDonough stated the board needs a drawing or statement as to what will go in place where the existing structure is now. He said that bare ground or beach is not acceptable and grass is barely acceptable. Conservation mulch and plantings is what the board would be looking for.

Mr. Levesque asked about impervious hardscaping, impervious pavers that take on surface water. CEO McDonough said this would be like an open paver patio. Mr. Levesque stated yes, but it would take on water. CEO McDonough stated a patio is a structure and it counts toward your 30% so it wouldn't be allowed. CEO McDonough stated bark mulch, conservation mulch and a walking path thru it would work.

Mr. Levesque drew on his plan in the area where the existing structure is located that the area will be revegetated with woody and herbaceous vegetation and mulch bedding.

Roland L. asked where the construction debris would go? Mr. Levesque stated, Simpson's in Sanford. Roland said he assumed it would be offsite but wanted it stated for the record.

Madge B. stated the conditions of approval are:

- 1. Best Management Practices shall be used until the project is completed.**
- 2. The new structure shall be 36 feet back from the high water line.**
- 3. The area where the existing house is located and all areas disturbed by the project shall be re-vegetated with woody and herbaceous plants native to the area and conservation mulch per the plans provided. The revegetation shall be completed by June 1, 2013. If this date cannot be met an extension shall be acquired through the Code Enforcement Office.**
- 4. All debris shall be taken to Simpson's in Sanford, Maine. Any excess soil shall be moved out of the Shoreland District.**
- 5. Building plans must be approved by the Code Enforcement Officer and a building permit must be obtained from the Code Enforcement Office prior to any construction taking place on site.**

Roland L. moved for approval of the best possible location to replace the existing structure per the plans presented with the above stated conditions. Maggie M. 2nd the motion. Members voted for approval, 4 – 0. The motion passed unanimously.

Nothing further was discussed.

Conditional Use Permit – Replace Retaining Wall – Map 31, Lot 22B (45 Totte Road) – John & Karen Kenary, Property Owners; Hazen Rogers, Representative & Contractor

Mr. Rogers was present for the review of the application. Note: A site inspection was done by board members.

The Board received along with the application a sketch plan showing the location of the existing home, porch, septic and driveway and wood retaining wall in relation to the shoreline. Also provided was a letter from John Kenary dated 9/8/12, which stated Hazen Rogers could act on his behalf for this project; as well as pictures of the existing retaining wall.

Madge B. stated the project was to replace an existing retaining wall that was falling apart. She asked Mr. Rogers how high the wall was? Mr. Rogers stated, 18 to 22 inches in height. Madge stated the wall was made of timbers and would be replaced with timbers. Mr. Rogers stated, yes.

Madge B. reviewed Chapter 105-27 'Erosion control'. Madge asked Mr. Rogers when he expected to start and when it would be finished? Mr. Rogers stated he would begin as soon as he got the permit and would complete the wall and put down mulch within 2 1/2 weeks. Mr. Rogers stated he would like until June 1, 2013 to complete the actually plantings. He said the wall would be completed in two weeks.

Madge B. asked if there would be any equipment used for the project? Mr. Rogers stated yes, he would be bringing in an excavator to haul off the gravel and bring in a load of loam for the plantings. Mr. Rogers stated the old timbers would be going to Simpson's in Sanford. He said there was a question as to whether or not the existing tree would have to be removed. He believed it would not survive the project so he was expecting to remove it and replant trees to replace it. He again stated due to the type of tree and location it would only survive several years if he didn't remove it. He said if it was a hardy tree he might try to keep it. He noted that at the base of the tree was a large bulb.

Madge B. asked how many trees were being removed? Just one? Roland L. said it was discussed at the site inspection as to whether or not it needed to come out since the homeowners have already taken out trees. Mr. Rogers stated five trees were removed with a permit from the CEO.

Roland L. said they had a conversation saying they would defer to the CEO if he felt the tree needed to come out. Roland thought depending where the wall was secured would be whether or not the tree would sustain damage. Mr. Rogers stated that when CEO McDonough came to the job site they discussed removing the tree to make the wall stronger and last longer. He stated they would plant five or six trees to replace it. CEO McDonough asked what type of trees they would plant? Mr. Rogers stated evergreens like he already planted. Roland said the trees that were planted were arborvitae. He thought there was a big difference between an arborvitae which might get to be four feet tall vs. a mature tree that could attain 40 feet. Mr. Rogers stated they will also be planting blueberry bushes and ground cover.

CEO McDonough stated when replanting Mr. Rogers needed to use the guidelines in the Zoning Ordinance which states it has to be trees indigenous to the area. He did not believe arborvitae would qualify. CEO McDonough stated they would need to plant four trees indigenous to the area to replace the one they are removing. If they come up with something odd he would want to see proof from a nursery that it is in fact indigenous to the area. Mr. Rogers asked if he had until June 1, 2013? Madge B. stated yes, to complete the plantings.

Madge B. stated the conditions of approval are:

- 1) Best Management Practices shall be maintained until the project is completed.**
- 2) One tree shall be removed and replaced with 4 trees indigenous to the area that must be approved by the Code Enforcement Officer.**
- 3) The wall shall be completed by November 15, 2012.**
- 4) Any excess soil shall be removed from the Shoreland District.**

- 5) The rotting timbers from the existing wall shall be removed and taken to Simpson's in Sanford, Maine.
- 6) Replanting of vegetation around the new wall and any areas disturbed by the project shall be completed by June 1, 2013.

Maggie M. moved for approval of the Conditional Use Permit to replace the existing retaining wall per the plans presented with the above stated conditions. Joseph S. 2nd the motion. Members voted for approval, 4 – 0. The motion passed unanimously.

Nothing further was discussed.

After-the-Fact Best Possible Location – Replace Shed – Map 33, Lot 46 (111 Treasure Island) – Marcia Crumley, Applicant

Ms. Crumley was present for the final review of her application. Note: A site inspection was done by board members.

The Planning Board received along with the application, a sketch plan depicting the location of the old shed that was removed, as well as the location of the new plastic shed. The sketch also depicted the location of the existing home, leach field and the line of demarcation for the 100 foot setback to the water. In addition, pictures were received showing the old shed and the area where the new shed is located. *Note: The new shed could not be clearly seen in the picture as it was behind existing trees at the waterline.*

Madge B. asked CEO McDonough to explain why Ms. Crumley was before the board. CEO McDonough stated they had an old shed and replaced it with a new shed without a permit. Madge stated the new shed is not where the old shed is. Madge asked if it was about the same size. Ms. Crumley stated the old shed was a different size and shape than the existing. Ms. Crumley stated the old shed was taller with a flat roof. The new shed is 7' x 7 feet with a different pitched roof.

CEO McDonough noted that the new shed could only be expanded by 30% of the size of the old shed. If the old shed was 6' x 6 feet in size the increase could only be 10.8 feet, noting the footprint was 36 square feet. If the new shed was 7' x 7 feet in size it was approximately 2 feet larger than what is allowed. Ms. Crumley thought the old shed may have been 6' x 7 feet in size. CEO McDonough said that it was stated that the platform the new shed sits on is 8' x 8 feet in size which definitely exceeds the 30% expansion allowed. The platform would have to be reduced in size to meet the ordinance, because adding 30% to 42 square feet, if the old shed was 6' x 7', would only allow 54.5 feet not 64 square feet as is there at this time.

Ms. Crumley asked what she could do to meet the ordinance? CEO McDonough stated she would need to make sure the platform the new shed is on is no larger than the footprint of the new shed which is 7' x 7 feet.

Roland L. asked if the 30% pertained to all the structures that were on the lot, not just the shed? CEO McDonough stated absolutely not. Madge B. agreed. CEO McDonough stated when dealing with lot coverage of 10% it deals with all structures on the property but not the 30% rule. Again Madge agreed.

Ms. Crumley stated she had not come to the town for a permit because her contractor told her because the shed was considered temporary, not affixed to the ground, she did not need a permit. She said she was told only if it was a wooden structure instead of plastic, it would need a permit. She stated had she known she needed a permit she would have applied for one. She noted that she had all the required permits for the construction that had taken place on site to date outside of the shed.

Madge B. asked if there was another location they could put the shed that would be farther from the water? Roland L. stated he did not believe so. He said while on the site inspection they carefully looked over the area and decided the shed was in the best location possible.

CEO McDonough noted again the platform the shed sat on needed to be reduced in size from 8' x 8 feet to the same footprint of the shed which is 7' x 7 feet. Ms. Crumley asked if she could wait until spring to have it done. CEO McDonough thought it should be done as soon as possible and believed Ms. Crumley had a contractor that was qualified to see that it was done.

Madge B. asked Roland why the shed could not be moved farther back? Roland L. reminded Madge of the travel corridor on the island that goes around the island and bisects every lot. Ms. Crumley noted that where it is currently located it cannot be seen by the neighbors, if it were moved it would not be hidden. Roland agreed the current location was the most inconspicuous. He said you would not know it was there until you came upon it. Roland stated he walked around the entire lot and could not find a better location.

Madge B. reviewed Section 105-4.D(5) 'Removal, reconstruction or replacement'. Madge asked when the old shed was removed? Ms. Crumley stated in June of this year. Madge noted the replacement was made within a year of removing the old shed. Madge stated the new shed complied with the setbacks to the greatest practical extent because the new shed is farther from the side lot line, hidden by vegetation from neighboring properties therefore does not obstruct anyone's view, nor does it obstruct any walkway.

Madge B. stated the new structure cannot be expanded by more than 30%, as measured in floor area or volume during the lifetime of the structure.

Madge B. stated there was no vegetation removed for this project, so no vegetation had to be replaced.

Ms. Crumley was asked what she would attest the size of the old shed was? Ms. Crumley said she would state the old shed was 6' x 7 feet in size.

Madge B. stated the condition of approval would be that the platform under the new shed shall be reduced in size from 8' x 8 feet to 7' x 7 feet in size in order for the new shed to meet the 30% expansion allowed in the ordinance.

Roland L asked to speak to Ms. Crumley. He stated that with respect to after-the-fact permits, he told everyone that came before the board with after-the-fact permit applications, situations like this could be avoided if individuals sought out a permit in advance. He said it would save everyone the time and effort required to review this type of permit. He stated that he would like to suggest, saying it was not a requirement, but he would like Ms. Crumley to consider making a donation to the Acton-Shapleigh Youth Conservation Corp. who use their time and resources to help abate other issues that are created often times by after-the-fact permit action. He said this is not one of those situations but he is sharing his concern with after-the-fact which he felt happened much too often. Ms. Crumley agreed that it would have been easier to obtain a permit prior to replacing the shed. She said she has donated funds to the YCC for projects such as the Treasure Island Parking Lot fund. She stated again she has gone through the permitting process in the past, she just had misinformation with respect to the shed.

Roland L. made the motion to approve the after-the-fact permit for the replacement shed with the condition that the platform it is on be reduced in size from 8' x 8 feet to 7' x 7 feet in size (the size of the shed). Joe S. 2nd the motion. All members were in favor 3-0. Maggie M. abstained from the decision as she was unable to go to the site visit and therefore could not ascertain if the shed was in the best possible location. The motion passed unanimously amongst all voting members.

Nothing further was discussed.

Best Possible Location – Replace Existing Cottage – Map 16, Lot 39 (22 Cattail Loop) – J.P. Construction, Inc, Applicant; David Bridges, Property Owner

Mr. John Palmitessas of JP Construction was present to represent the owner.

Mr. Palmitessas stated Mr. Bridges would like to replace the existing camp leaving it in the same location. Mr. Palmitessas noted, using the survey plan presented, that currently there is a deck on the existing camp. This deck shall be removed and the new structure would be placed in the footprint of the existing camp and deck. The new structure will be increased in size to meet the 30% by both volume and square footage but it will not exceed the lot coverage of 12.1% which exists at this time. Mr. Palmitessas stated the shed on the property will be removed in order to not exceed the 12.1% lot coverage. He noted that they would be raising the structure by 36". He said he wanted to maximize the owner's potential on site.

Mr. Palmitessas stated 3 hemlocks and 1 maple will have to be removed in order to put in a new septic system. A Subsurface Wastewater Disposal System Application was provided, done by Kenneth Gardner, SE #73, dated 8/4/2011.

Mr. Palmitessas stated he would be having Mr. Bridges talk about the landscaping plan at the site inspection. Madge B. stated it would have to be in writing what the plan will be. Mr. Palmitessas noted Mr. Bridges also did landscaping so he would be presenting the plan.

Madge B. scheduled a site inspection for Thursday, October, 11th at 5:30 p.m. A notice to abutters shall be mailed as well.

Nothing further was discussed.

OTHER:

Roland L. addressed the board about tree removal in the Shoreland District.

Roland L. stated that he always questions when individuals remove trees in the Shoreland District especially when they are in close proximity to the water. Roland stated, "So what I was wondering, much like we do when we require an individual to verify the building is going to be replaced where they say its going to be, we have a surveyor verify that. I was wondering if the board would consider making a change to the ordinance such that when an individual wants to remove a tree or trees within a certain distance to the water and what that distance is to be determined, to take the liability off the CEO and to turn some of that responsibility over to the landowner that they be required to have a licensed arborist to determine if in fact the tree is diseased or if its liable to fall on the structure or something like that. Because on the site on Totte Road when we looked at the stumps one had red heart but the others were perfectly fine. I looked at those trees for the last 60 years. They were leaning toward the water not toward the cottage. This is what's prompting me to make this request. I know it would require a change to the ordinance and we would have to have public hearings but for the sake of the trees and the water they help to protect, I would like to have you at least consider the possibility."

Maggie M. stated she wondered about it. She stated she took the time to go look at the site Roland was speaking of on the night she removed her boat from the water. She said the owners were home and she was shown around. She said the owner referred to the trees they had taken down so Maggie looked at the stumps.

Maggie wondered when they were taken down as they were not an old cutting. Roland L. stated they got a permit to remove the trees.

Roland L. stated when he had spoken with CEO McDonough about tree cutting in the past, he told Roland that he goes with the homeowners concern that the tree might land on the structure not wanting the Town to be liable for that. Roland stated he understood his position. Roland said what he would like to see is a licensed professional go on the property and say that in fact it is a diseased tree and will not survive the excavation or is diseased to the point it is going to fall on a structure or harm someone rather than using the approach we use now which leaves it to the homeowner to make the determination. He felt a licensed professional would make a better determination.

Maggie M. asked if a property owner could legally sue the town if they were not allowed to remove a tree and it fell on their property? CEO McDonough stated that if he requested a tree be removed and the town said no and it killed his child, he would spend his last dime to file suit. He believed anyone could sue anyone for anything these days. CEO McDonough added that he was not certain that there was anyone out there that could confirm whether or not the tree was healthy and would not fall. Roland L. agreed a healthy tree could break in an ice storm. CEO McDonough said, exactly. CEO McDonough stated he wanted to save the trees as well but at the same time he didn't want the liability should the tree fall.

Roland L. stated he was suggesting the responsibility be shift to a licensed individual. He said perhaps an arborist would not want to do it. CEO McDonough suggested he speak with an arborist to see if in fact they would want to make the determination. Madge B. agreed. Roland asked if he did this would the board consider making a change to the ordinance? He did not want to pursue it if no one was in favor of a possible change. Roland noted other properties that replaced existing large trees with dwarf species which would never be what was taken down. Roland stated all too often people just want a better view so they use the excuse the tree is a danger to have it removed. Maggie M. stated if an arborist says they have a way of predicting whether or not a tree is a danger she might consider a change. She wondered if there was another alternative? She asked about a stiff fine if trees were removed without a permit? CEO McDonough stated this does not address Roland's concern, he is talking about permitted trees. Roland said, correct.

Roland L. stated he just wondered if there was a better way of doing business to reduce the number of trees being removed.

CEO McDonough stated someone that Roland could talk to was DEP. He said Mike Morse would be a good person to contact and asked him to ask Mike if anyone else addresses tree removal differently. Barbara F. agreed, Mike would know if anyone had a stronger policy as he has reviewed everyone's shoreland zoning within the past three years. Madge B. noted her concern that an arborist would not want the liability.

Board members agreed to have further discussion on this subject. Roland L. stated he would contact Mike Morse to see if he had an opinion.

Nothing further was discussed.

Barbara F. stated she would like to hold the first public hearing for the proposed ordinance changes at the first meeting in November. She asked members to review once again the proposed changes and the board can discuss any issues or concerns at the next meeting prior to the public hearing. The board agreed this would work, therefore the public hearing for the proposed ordinance changes will be held on Tuesday, November 13, 2012 at 7:00 p.m.

Nothing further was discussed.

All supporting documentation, applications, etc. can be reviewed at the Town Hall during regular operating hours.

Growth Permit – There are growth permits available.

Planning Board meeting adjourned at 9:25 p.m.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, October 23, 2012

Members in attendance: Chairman Roger Allaire, Vice Chair Madge Baker, Roland Legere, Maggie Moody, Diane Srebnick, as well as Barbara Felong, Land Use Secretary. Code Enforcement Officer Steven McDonough was also in attendance. Alternate Joe Stanley was unable to attend.

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Note: The minutes are not verbatim unless in quotes.

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The planning board meeting began at 7:30 p.m.

The minutes from Tuesday, October 9, 2012 were accepted as read.

Best Possible Location – Replace Existing Cottage – Map 16, Lot 39 (22 Cattail Loop) – J.P. Construction, Inc, Applicant; David Bridges, Property Owner

Mr. John Palmitessas of JP Construction was present for the final review, as well as property owner David Bridges. Note: Board members did a site inspection on Thursday, October 11th.

Board members received at the previous meeting a letter from Mr. Bridges dated September 20, 2012, stating Mr. Palmitessas of JP Construction could represent him as he was the contractor for the project. Mr. Palmitessas provided a work proposal which stated they would be doing the following: Install conservation mulch above shore line for erosion control; cut 3 Hemlock tree's where new septic is proposed; cut 1 Maple tree where new camp is proposed; remove existing shed and camp; pour a new foundation and build camp as per plans; drill a new well as proposed on site plan; plant blueberry bush's along north side line from shed to utility pole; and re-vegetate disturbed area's. A site sketch plan was done by Joseph Stanley of LinePro Land Surveying, dated October 3, 2012 which depicted the existing camp and deck in relation to the side lot lines, high water mark and Cattail Loop. The plan also depicted the proposed structure location and leachfield along with the existing shed that is to be removed.

In addition, provided was the Subsurface Wastewater Disposal System Application, dated August 4, 2011 done by Kenneth Gardner, SE #73 and the required system variance request due to the close proximity to the neighbor's well which was approved by Brent Lawson, State Plumbing Inspector, on January 25, 2012.

Lastly, at this evenings meeting Mr. Bridges provided a re-vegetation plan for all areas to be disturbed by the project. The plan noted areas that already had erosion control methods in place to prevent erosion which had been designed by the Acton-Shapleigh Youth Conservation Corp. at Mr. Bridges request.

Roger A. asked Mr. Palmitessas to state again what the applicant wished to do. Mr. Palmitessas stated they would like to remove the existing camp and put up a new structure in the existing location and raise it the allowed 36 inches. He said they would be using the exact footprint the existing camp is taking up and they would be using the 30% expansion allowed. He noted three trees would be removed, two due to the location of the replacement septic system and one because of the house reconstruction. He stated Mr. Bridges would be providing the landscaping plan.

Roger A. asked about the 12.1% lot coverage. He asked if the 12.1 included the shed? Mr. Palmitessas stated no, the shed has been removed. He said removing the shed maintained the 12.1%. Roger asked if the lot coverage could be reduced? Mr. Palmitessas stated removing the shed reduced the coverage to 12.1%. Roger asked if they were greater than 12.1 to begin with? Mr. Palmitessas stated, yes.

Roger A. asked if the stairs that currently went toward the lake were being moved to the side of the structure? Mr. Palmitessas stated, yes, they are gone from the front of the structure so they won't encroach on the water any further.

Roger A. stated the reason the project is before the board is because of §105-4.D(5) the removal, reconstruction or replacement of a non-conforming structure. Roger reviewed the section in its entirety. Roger also reviewed section (7) 'Relocation'.

Roger A. stated there would be vegetation removed due to the disturbance made while putting in the new foundation. Mr. Palmitessas stated they would be using conservation mulch to prevent erosion. He noted he did submit a plan that stated he would be using conservation mulch around the new structure. Mr. Bridges provided the board with his replanting plan. He said that he did landscaping so this was an area he was very familiar with and took pride in.

Roger A. asked if there would be any vegetation under the deck? Mr. Palmitessas stated under the deck would be concrete. Mr. Bridges said the conservation mulch would be along both sides of the house and stated the area with the greatest amount of water runoff would have the erosion control mulch. He said the mulch used was suggested by the YCC and it has worked very well on site where it has been applied. He noted they had an erosion issue in the past. Roland L. stated he noticed the area that had been stabilized at the site inspection. He said the measures taken seemed to be working well.

Roger A. asked when they were going to begin the project? Mr. Bridges stated they would like to begin on Thursday.

Roger A. asked if there were any additional comments? Mr. Bob Vennard, a neighbor on Tax Map 16, Lot 2, which is across the street from Mr. Bridges, asked to speak. He stated he had two questions. First he wanted to know if the existing septic system was going to be replaced in the location it is in now or will it be moved? Mr. Bridges stated it was going to be a new system. CEO McDonough noted there was a design on file with the planning board.

Mr. Vennard showed the board members the location of his property. He stated he was concerned with the location of his well and the re-location of the new system. Board members showed Mr. Vennard the new septic design plan. Mr. Vennard did not think the new system could be within 100 feet of his existing well. Barbara F. asked CEO McDonough when they design a new system if they took wells within 100 feet into consideration? CEO McDonough stated yes and noted there was not only a design for the new septic but a variance had to be obtained through the State before the system was approved. He said the original application was contentious. It went to the State and was returned by the State because it was incorrect. He said the application was returned to the State again and came back as corrected. CEO McDonough asked Mr. Bridges and Mr. Palmitessas if they submitted a copy of the letter from the State to the Planning Board as he asked them to do? The board did in fact have a copy of the letter which stated the Department of Health and Human Services would grant the variance for septic placement to be within 39 feet of a potable water supply. The variance was granted by Brent Lawson and it was dated January 25, 2012.

CEO McDonough stated he thought Mr. Lawson had spoken with Mr. Vennard on this issue. Mr. Vennard said he had in fact spoken with Mr. Lawson. CEO McDonough made a copy of the letter from the State for Mr. Vennard at his request.

Mr. Vennard wasn't sure why the new system was allowed as he believed the most they would allow was 100 feet to an existing well. CEO McDonough stated that was true but only for a new septic system, not a replacement system.

Mr. Vennard asked if the water on site would be directed toward his property when the new system was put in? Mr. Bridges stated no, the existing grade is not going to be changed more than 2 or 3 inches and water direction was taken into account when designing the system.

Mr. Vennard asked if he could have a copy of the site plan? Because the board had multiple copies they did give Mr. Vennard a copy.

Mr. Vennard thanked the board for their time.

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

Roger A. stated the conditions of approval would be as follows:

- 1) Best Management Practices shall be used until the project is completed. Conservation mulch shall be used in all areas disturbed during the project to prevent erosion.**
- 2) All debris created by the removal of the existing structure shall be taken to Simpson's in Sanford.**
- 3) The replanting plan shall be completed by June 1, 2013.**
- 4) A licensed surveyor shall determine that the placement of the new structure is correct per the plans approved by the Planning Board.**

CEO McDonough asked if there was an acceptable replanting plan? Madge B. stated yes, Mr. Bridges at the site inspection showed he was passionate about putting in an acceptable planting. She noted that along the side with the greatest amount of possible erosion or water flow toward a neighbor there would be a row of blueberry bushes to help absorb the water in that area. Mr. Bridges stated he was going to try to slow all water coming off the property. CEO McDonough asked if there was a replanting schedule with respect to tree removal? Roger A. stated yes, there was only one tree being removed by the replacement of the structure. He said the other two were incidental to the replacement of the leach field. Mr. Bridges stated again he would do it correctly, it was his business. Madge stated there were no plantings shown around the foundation. Roger stated it was going to be conservation mulch. It was noted on the plan presented.

Madge B. moved for approval of the best possible location per the plans presented to replace the existing structure and put in a new foundation leaving the building in the same footprint as the existing with the above stated conditions. Maggie M. 2nd the motion. All members were in favor. Members voted for approval, 4 – 0. The motion passed unanimously. Diane S. abstained as she was unable to do the site inspection.

Nothing further was discussed.

OTHER:

Public Hearing for Proposed Zoning Changes

Barbara F. asked board members if they had any additional comments or changes prior to the public hearing for the proposed zoning changes which would be held on Tuesday, November 13, 2012 at 7:00 p.m. Board members had no changes.

Barbara F. stated that she would contact Mike Morse (Shoreland Zoning Coordinator for the ME DEP) with respect to the timber harvesting changes that take place in January 1, 2013. She wanted to be certain the board did not have to do anything additional for the changes, which were voted on by the townspeople, outside of having the code books updated.

Nothing further was discussed.

Roger A. stated he had a telephone call from a Mr. Wanagel of Sterling, Virginia, who had a property on Treasure Island. He said the call was with respect to the best possible location of the Crumley shed that was approved at the last meeting. Roger said Mr. Wanagel said he had been on the island for 30 years and there had never been a wooden shed. He said there was a Rubbermaid shed which was then replaced with another Rubbermaid shed.

Roger A. said Mr. Wanagel questioned the picture that was presented. Mr. Wanagel said he would state there was never a shed. CEO McDonough said the board has to decide if the picture they saw was valid and if they made the appropriate decision. CEO McDonough stated he spoke with a half dozen people on this case. He said about half said there was a shed, the other half including Mr. Wanagel who turned the homeowner in for the replacement shed, said there wasn't a shed. He said the board was shown a picture but we do not know if it was the Crumley shed or not. Barbara said Mr. Wanagel stated there was an old Rubbermaid shed which was replaced with a new Rubbermaid shed so there was a shed. Roger said, right. CEO McDonough noted sheds for trash around town that are not permitted. He said he did not go around town looking for Rubbermaid sheds so he did not know who had one or didn't have one.

Roland L. noted that the new shed was in a very inconspicuous location. You would not know there was a shed on site from the water. Roland asked Roger A. if he felt it should be brought back up? Roger said if the board felt it was in the best possible location he did not have an issue with it. (Roger was unable to attend the last meeting in which the shed was approved.) CEO McDonough did not think the board would learn anything new by bringing it back up. It would be one person saying there was a shed, the other saying there was not. He said there would be no further information gathered, so if the board was comfortable with the placement of the new shed he thought there should be no further action.

Maggie M. stated that in the future, if there isn't a clear picture of what was in place and if there was any doubt, the permit should be denied. She believed the applicant should provide tangible proof.

The board agreed no further action would take place. The approval for the best possible location for the shed on Map 33 Lot 46 would stay as approved.

Nothing further was discussed.

All supporting documentation, applications, etc. can be reviewed at the Town Hall during regular operating hours.

Growth Permit – There are growth permits available.

Planning Board meeting adjourned at 8:15 p.m.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, November 13, 2012

Members in attendance: Vice Chairman Madge Baker, Roland Legere, Maggie Moody, Diane Srebnick, Alternate Joe Stanley, as well as Barbara Felong, Land Use Secretary. Code Enforcement Officer Steven McDonough was also in attendance. Chairman Roger Allaire was unable to attend.

Vice Chairman Madge Baker conducted this evenings meeting.

Note: The minutes are not verbatim unless in quotes.

Public Hearing Began at 7:15 p.m.

Madge Baker opened the Public Hearing by stating the board welcomed any comments from the audience regarding the changes to the Zoning Ordinance that the Planning Board is proposing.

Madge B. stated the first change was to **Section 105-19 ‘Notes to Table on Dimensional Requirements’**. The change is noted in bold. Madge read the change aloud.

§105-19. Notes to Table on Dimensional Requirements.

- A. Dimensional requirements for two- and multifamily dwellings are set forth in §105-42 of this chapter. Required yard space shall serve only one lot. No part of the yard or other open space required on any lot for any building shall be included as part of the yard or open space similarly required for another building or lot. If more than one principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional principal structure or use.

- (1) Flag lots and other odd-shaped lots in which narrow strips are joined to other parcels in order to meet the minimum lot size requirements are prohibited. The ratio of lot length to width shall not be more than 3 to 1.**

Madge B. noted in the Subdivision Ordinance there currently is the prohibition of flag and other odd shaped lots but it isn't in the Zoning Ordinance, therefore, the board thought it would make sense to also have it in Zoning. This would cover other newly created lots other than those covered under the subdivision laws. She stated the idea is to have reasonably shaped lots that can be built on using the current setback criteria. She described what a flag lot is shaped like. She said the lot can be hard to access and build upon. She said other odd shaped lots can be very long and narrow.

Madge B. asked if there were any comments or questions? Joe S. stated that he has dealt with designing lots in his line of work. He said he was all for stopping flag and odd shaped lots. He said his only concern was the 3 to 1 ratio. He stated he saw situations where people are trying to create a workable division or lot utilizing the road frontage available and sometimes the last lot can't be utilized if there is a 3 to 1 ratio. He said he has seen where a person could not give land to an abutting property owner because it wouldn't fit the criteria. He said if anything he would prefer a 4 to 1 ratio. He said from a surveying standpoint 3 to 1 is much more difficult. He stated he could bring some examples at a future meeting to explain what he was trying to convey. Roland L. asked if there would be further hearings on the changes? Madge B. and Barbara F. stated yes there would be at least one more public hearing before the changes are finalized. Barbara asked Joe to bring suggestions to one of the next two Planning Board meetings then the board would have time to make changes prior to the public hearing which will be held in January 2013. Joe stated he would bring examples and possibly some wording for the board to look at.

Madge B. stated she would be in favor of making the change as reasonable as possible. The other board members agreed.

Madge B. asked if there were any additional comments on this proposed change? There were none.

Madge B. stated the Planning Board was proposing to repeal **Section 105-44 ‘Piers, docks and other shoreland construction’** in its entirety. Madge asked if there were any questions regarding this proposal? There were no questions or comments presented.

Madge B. reviewed the proposed change to **Section 105-47 ‘Signs and billboards’**. The changes are noted in bold. Madge read the changes aloud.

§ 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, two freestanding signs shall be permitted per lot. The freestanding signs may not exceed 32 square feet in area. The **freestanding** 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) 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.

(c) In the Shoreland Zone, the total area may not exceed 32 square feet in the aggregate, and may not exceed 16 square feet individually.

(d) The above allotted signage may be placed on the building in lieu of freestanding signs.

(2) There shall be one sign attached to the building allowed per approved conditional use, each sign not to exceed 24 square feet in area.

(a) Signs in the Shoreland Zone 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.

Madge B. asked if CEO McDonough would speak on the proposed change(s). CEO McDonough stated the purpose of the proposed change is to give people the ability to put the square footage of their freestanding sign on the structure. He stated currently businesses are allowed two 32 square foot free standing signs. He said currently if you would rather put that signage on your building you cannot, therefore, the board wants to give the business owner the option of one or the other. CEO McDonough noted there are locations where a freestanding sign is a hazard with respect to visibility, so putting it on the structure would be a better alternative. CEO McDonough stated he currently doesn't have the authority to allow it on the building when there is a site distance issue. Barbara F. stated that if they put the signage on the building then they cannot have the freestanding. CEO McDonough stated correct, it just gives them the ability to put it on a freestanding post *or* the building.

Madge B. stated the only reason she could think of for the ordinance to not allow it on the building is perhaps people just didn't like signs on buildings? CEO McDonough thought it was just an oversight? He said most people want a free standing sign but once in awhile it causes a problem with visibility.

Madge B. asked if there were any questions or comments? There were none.

Madge B. stated the last proposed change to the ordinance was in **Section 105-60.1 'Private ways'**. She stated the proposal was to add a new section which will read as follows:

- G. A private way permit secured under the provisions of this chapter by vote of the Planning Board shall expire if the work involved is not commenced within one year of the date on which the private way is approved.**

Madge B. asked CEO McDonough if he wanted to speak on this? CEO McDonough stated everything should have an expiration date; you can't have open ended permits. He said someone could come back in 15 years and the rules for how to build the private way could have changed but the applicant was approved to an old standard.

Madge B. asked if there were any comments? Joe S. asked if there needed to be a further description as to what was considered the *start of work*. Would just cutting a few trees qualify? CEO McDonough stated there may be the need for a definition. CEO McDonough said they had to be careful not to complicate the issue. He thought getting this into the ordinance would be a great start and then the board could look further if there was an issue.

Maggie M. asked if it could state something substantial would have to be done or a quarter or half of it? CEO McDonough stated even then you have to consider what is substantial, a quarter or a half. Amanda Rizner, an applicant that would be heard later in the meeting and a resident of Shapleigh, thought it could state you had three years to complete it from the date of approval. Maggie asked about making it like a building permit that you have one year to start and two years to finish. CEO McDonough thought that would be a good idea. Maggie noted it would be in line with his other permit applications. Madge B. thought it was a good suggestion as well. Barbara F. will make the change as suggested by Maggie for the next review.

Madge B. asked if there were any additional comments? There were none.

Madge B. asked when the next Public Hearing on the changes would be held? Barbara F. stated not until January 2013. She stated that would give the board time to discuss the changes proposed and make any new changes.

Madge B. closed the Public Hearing on the proposed Zoning Ordinance changes at 7:25 p.m.

Nothing further was discussed.

The planning board meeting began at 7:30 p.m.

The minutes from Tuesday, October 23, 2012 were accepted as read.

Conditional Use Permit – Veterinary Services – Map 8, Lot 26C (14 Newfield Road) – Amanda Rizner, Applicant; Gordon & Ann Cutten, Property Owners

Amanda Rizner, DVM and her husband Todd Chrisman were present for the review of the application. Madge B. asked if the property owners were present? Dr. Rizner stated, no. Barbara F. has asked the applicants for an email or letter from the property owners stating they are aware of what the applicant is proposing as required by the board. Dr. Rizner stated she should have something by the next meeting.

Madge B. stated that because this was a business there would need to be a public hearing at the next meeting to be held on Tuesday, November 27th at 7:00 p.m. She said the board would also like to do a site visit prior to that meeting. A notice to abutters shall be mailed as well.

Madge B. asked the applicants to give a brief description of what they were proposing. Dr. Rizner had provided the board with a comprehensive summary and business plan of what she is proposing. Dr. Rizner stated she presently wanted to open a small animal single veterinarian practice. She stated the only large animal she worked on was horses as she was also a licensed chiropractor. She stated with the horses she goes to them for their chiropractic care. She said she was going to offer general medicine, surgery and wellness visits. She was also going for her acupuncture certification in the spring. She stated she would provide both traditional and non-traditional medicine. She said this would give her lots of repeat clientele.

Mr. Chrisman stated the property they were going to use was 14 Newfield Road. He said it was the pair of buildings on the northwest corner of Ross Corner across from the Baptist Church. He said he wasn't going to add much to the footprint of the buildings. He stated the interior of the larger building would be the vet hospital and the smaller would be an employee break room. He stated they were planning to be open Monday thru Saturday with a half day on Saturday. They also would see emergencies by appointment 24 hours a day. He stated the emergency hours would be for special friends and family and scheduled c-sections. He stated they did not plan on running an emergency clinic at this time. He said he would like the ability to be able to in the future. He noted you can make more money with an emergency at night than during regular hours during the day.

Mr. Chrisman noted his wife had been practicing for 10 years. He said she is currently working at the emergency clinic in Manchester NH and has worked in Arundel ME for several years. He noted they were Shapleigh residents. He asked if there was any additional information the board needed at this time?

Madge B. stated she did not believe so and noted the board knew the location.

Madge B. and Maggie M. will do a site inspection at 8:00 a.m. on Saturday morning. Roland L. will attend if he is available. Diane S. will go on her own as she cannot attend on Saturday.

The public hearing shall be held on Tuesday, November 27 at 7:00 p.m. A notice to abutters shall be mailed as well.

Nothing further was discussed.

Growth Permit

Growth Permit #05-12 was approved for **Map 1, Lot 16** (166 Lebanon Road). It is a new two acre lot being created from the parent lot. Property Owner shall be Steven Roberge. (There was a question as to whether or not the lot was entirely in Shapleigh or partly in Acton. Joe Stanley has surveyed the lot and the lot is clearly entirely in Shapleigh. The road may be partly in Acton in front of the lot.)

Other:

Barbara F. asked Roland L. if he had spoken with Mike Morse of the MDEP regarding tree cutting regulation?

Roland L. stated he had in fact spoken with Mike. He said he asked if Mike was aware of any communities that might have an ordinance that required some type of certification from an arborist or tree specialist regarding tree cutting in the Shoreland district. Roland said Mike was not aware of any communities but he did say he thought it was in the jurisdiction of Code Enforcement that they could request it if the CEO felt it was necessary. It would be the homeowner's responsibility to provide the necessary verification. Roland said Mike was not aware of anyone doing this.

Roland L. said Mike agreed there are abuses because people will claim one thing whether or not it was true. Mike also understood the liability issue with respect to the town or CEO. Roland said again that Mike thought it was in the realm of the CEO's authority to request verification on the claim the property owner is making with respect to the necessity of tree removal, whether it is about the health of the tree or it's a danger to the surrounding area.

CEO McDonough did not disagree and was not totally against doing this. CEO McDonough stated that he did not know if he would find a specialist that would say it was a perfectly healthy tree. He said no one really knows what is going on inside a tree. He said he had talked to several professionals with respect to this which is what he bases his decision on. Roland L. said he wants to talk to an arborist and pose the question to them.

CEO McDonough had another idea on this issue. He stated that currently he requires a replanted tree be 4 ½ feet in height. He said the board might want to consider requiring a 6 foot tree. This might curb some people from wanting to cut trees that aren't really a danger. A six foot tree is much more expensive to put in and also takes more effort in doing so. You can't just dig one up from another location.

Roland L. also didn't like people putting in dwarf varieties; maybe the ordinance can say no dwarf's. CEO McDonough noted that any tree can be made a dwarf tree with pruning noting an example at his grandmothers house where she took a birch tree and by constant pruning it never got much over 6 feet in height.

The other board members liked the idea of a six foot tree requirement. Madge B. thought it would make them possibly think before requesting tree removal. Madge asked how the ordinance would have to be amended from what it states now? CEO McDonough stated a sentence would have to be added to §105-51 which states that the tree required for replanting needed to be a minimum of six feet in height.

CEO McDonough did not know if it satisfied what Roland L. was trying to accomplish. Roland stated it was a step in the right direction. He said he would like to see something to cause an individual to have second thoughts about what appears to be random tree cutting. He agreed a six foot tree takes more money and effort than a four foot tree. Roland thought it should also be stated that the six feet is measured from the base to the top of the tree. Not from the bottom of the root ball.

Members agreed to add a sentence to the ordinance that states, *"When trees are required to be replanted for the purpose of maintaining a point system they must be a minimum of six feet in height, measured from the base of the trunk to the top of the tree."* It will be discussed at the next meeting.

All supporting documentation, applications, etc. can be reviewed at the Town Hall during regular operating hours.

Planning Board meeting adjourned at 8:10 p.m.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, November 27, 2012

Members in attendance: Chairman Roger Allaire, Vice Chairman Madge Baker, Roland Legere, Maggie Moody, Diane Srebnick, as well as Barbara Felong, Land Use Secretary. Code Enforcement Officer Steven McDonough was also in attendance. Alternate Joseph Stanley was unable to attend.

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Note: The minutes are not verbatim unless in quotes.

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Public Hearing Began at 7:00 p.m.

Conditional Use Permit – Veterinary Services – Map 8, Lot 26C (14 Newfield Road) – Amanda Rizner, Applicant; Gordon & Ann Cutten, Property Owners

Amanda Rizner, DVM and her husband Todd Chrisman were present for the Public Hearing.

Roger A. asked Ms. Rizner to explain to the board and citizens in the audience what she intended to do. Ms. Rizner stated she wanted a permit to open a general small animal practice to be located on 14 Newfield Road in Shapleigh. She stated she would be doing exams, spay and neuter, surgeries, dentistry, etc., anything typically associated with a general veterinary practice. The hours of operation would be 8:00 a.m. to 5:00 p.m., Monday thru Friday and 8:00 a.m. to noon on Saturday. She would not be open on Sunday.

Roger A. asked if there would be emergency hours 24/7? Mr. Chrisman stated, yes.

Ms. Rizner was asked if there would be any dogs or kennels outside? She stated, no, all animals would be kept inside the building.

A member of the audience stated he was concerned with outdoor odors? Mr. Chrisman stated there would be no odors associated with the business. He stated you would not be in business long if that were the case. Ms. Rizner noted that members of Mr. Chrisman's family was in the air purifying business, therefore, air quality would not be an issue.

A member of the audience asked if there would be any reconstruction done to the existing buildings? Mr. Chrisman stated there would be a new roof and possibly an addition. There was a concern with construction noise. Mr. Chrisman stated any construction would be brief in nature and they would not be doing it on Sunday's.

Ms. Rizner was asked if there would be any boarding done at the facility? Ms. Rizner stated that was not likely, she said the only hospitalization would be for several days after a surgery or heartworm treatment which normally took 48 hours. Roland L. asked if animals were left overnight would they be left unattended? Ms. Rizner stated they would be left unattended but very sick animals would be taken to the emergency hospital in Portsmouth, New Hampshire.

Madge B. asked about waste disposal, what would be done with medical waste and what other type of waste would be generated? Ms. Rizner stated the same companies that deal with hospital medical waste also pick up veterinary medical waste. She said the services would be contracted out of Massachusetts and the pick up would be once a week. She added that there would be no medical waste stored outside in the dumpster where all other refuse would be placed.

Madge B. asked if there was a working septic system on site? Mr. Chrisman stated there were two working bathrooms on site at this time. He stated that if the system had to be upgraded due to the amount of water used they would do so.

CEO McDonough asked why there was a concern about this establishment? He noted the board permitted at least three businesses in this location over past years without a concern about the septic system.

Madge B. asked how many employees total would be on site? Ms. Rizner stated that initially there would be a total of three which included herself and her husband. She thought in the future, as the business grows, there would be a maximum of five or six employees. Roger A. asked if this included herself and her husband? Ms. Rizner stated, yes. Roger A. asked CEO McDonough if there were any septic plans on record. CEO McDonough stated the records for this location were poor.

Roger A. asked what would be done with deceased pets? Ms. Rizner stated they would be placed in a chest freezer in bags that were tagged with the identity of the pet. Roger asked if the freezer was outdoors? Ms. Rizner stated, no. She stated a freezer truck from Angel View Crematory would come once a week, usually on Wednesday to pick them up. Roger asked what they did with them? Ms. Rizner stated they were cremated and then either returned to the owner if they wanted the remains or Angel View Crematory placed the ashes in their flower gardens. She said they were very respectful of the animals. Diane S. agreed as she had worked for a veterinary practice in the past and knew of Angel View Crematory. She said they were extremely good at what they did and agreed respectful.

Roger A. asked if medical supplies would be stored in a locked cabinet? Ms. Rizner stated, yes, and noted there were very strict guidelines she had to follow with respect to medical supplies and pharmacy. She also stated she would be inspected to be certain she was following all State and board mandates.

Diane S. asked Ms. Rizner if she would be putting in an alarm? Ms. Rizner stated she might in the future; she had not priced them out as yet. She did think it was likely. She noted she would have very little supplies that would be of any interest to humans. Roger A. stated that people would not know that.

Roger A. asked if there were any additional questions?

One audience member noted that his only concerns were noise and odor and it did not seem after the discussion that neither would be an issue. He stated he thought the business would be good for the area.

Nothing further was discussed.

The public hearing closed at 7:12 p.m.

The planning board meeting began at 7:30 p.m.

The minutes from Tuesday, November 13, 2012 were accepted as read.

Conditional Use Permit – Veterinary Services – Map 8, Lot 26C (14 Newfield Road) – Amanda Rizner, Applicant; Gordon & Ann Cutten, Property Owners

Amanda Rizner, DVM and her husband Todd Chrisman were present for the final review of the application. Board members did a site inspection on an individual basis.

In addition to the application, the Planning Board received a detailed business plan which included services to be provided, a description of the business location and why it will suit the needs of the business, description of the licenses and permits required, insurance requirements, business management plan, how the practice will be staffed and market analysis for the area. The board also received permission from Ann Cutten, co-owner of the property, stating Ms. Rizner could apply to the town for the intended use.

Roger A. asked Ms. Rizner to once again briefly describe why she was before the board. Ms. Rizner stated that she wanted to open a small animal veterinary practice which would include exams, surgeries, dentistry, pharmacy & laboratory, as well as chiropractic, laser therapy, breeder services and acupuncture. All typical services associated with a small animal general practice. She stated her husband, Todd Chrisman, would be her business manager. She noted there would be no exotic animals treated at the facility.

Diane S. asked how many kennels would be inside? Ms. Rizner stated she had not mapped out the inside as yet. She thought there would be 3 or 4 large kennels, 10 small and 6 to 10 for cats.

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

Roger A. reviewed the following ordinances and made findings of fact:

- 105-17 – Land uses. *This permit is before the board because commercial operations need a Condition Use Permit.***
- 105-18 – Dimensional requirements. *Roger A. stated the property met the lot size requirements in the ordinance as it is 2 acres in size.***
- 105-20 – Applicability of standards; prohibited uses. *Roger A. read this section in its entirety and noted the application was a permitted use and the use would create no health or safety concerns.***
- 105-21 – Traffic. *Traffic will have safe access. The lot is adjacent to a four way stop sign, therefore, all traffic would be going at a minimal speed in this location.***
- 105-22 – Noise. *There will be no loud noise generated by the proposed activity. All business activity takes place within the structure and all animals shall be kept within the structure.***
- 105-23 – Dust, fumes, vapors and gases. *There will be none generated outside of the structure for this activity.***
- 105-24 – Odors. *There will be no obnoxious odors emitted from the activities on site. Roger A. did note that should an odor issue arise from the dumpster it would have to be addressed.***
- 105-25 – Glare. *Roger A. stated any additional light could not shine onto neighboring properties or the roadway so as not to impair vision.***
- 105-26 – Stormwater runoff. *There are no changes being made to the existing structure or property that would cause a stormwater problem. There is existing vegetation, which shall not be removed. The existing parking area is gravel so the stormwater is able to percolate into the ground.***
- 105-27 – Erosion control. *There are no changes being made to the existing structure and property that would cause an erosion problem.***
- 105-28 – Setbacks and screening. *The existing vegetation is not going to be removed.***
- 105-29 – Explosive materials. *There shall be oxygen stored on site for purposes of surgery. It shall be stored in the proper containment and per the State's guidelines.***
- 105-30 – Water quality. *There is no waste being stored outside of the building that could contaminate groundwater. A dumpster shall be used for refuse and all medical waste shall be removed by a licensed contractor. In addition, all deceased animals shall be kept in a freezer inside the building until they can be removed by Angel View Crematory or a similar contracted company.***

- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *The existing vegetation on site is not to be removed. There is no outside storage of materials. The parking area has been in existence for many years without any issues.*
- 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 a dumpster for general refuse and all medical waste shall be stored inside the building in proper containment until the contracted company removes it from site.*
- 105-43 – Off-street parking and loading. *The existing parking area exceeds the minimum requirement for the size of the structure and number of employees which will be a maximum of six.*
- 105-46 – Sanitary provisions. *There is an existing bathroom facility and working septic system. At no time shall the system be allowed to malfunction.*
- 105-47– Signs and billboards. *Any signage shall be obtained through the Code Enforcement Office.*
- 105-52 – Water quality protection. *Roger A. stated that it was very important no hazardous waste be stored outside and that the existing septic system be in good operating order as this business was fairly close to a stream so it was imperative no contaminates entered the groundwater.*

Maggie M. asked if §105-56 ‘Animal breeding or care.’ applied to this application? CEO McDonough asked the board members to look under definitions in §105-15. Under Animal Breeding or Care it states: The keeping or raising of animals, including fowl, for any commercial use.

Roger A. asked Ms. Rizner if she was going to be breeding and selling animals on site? Ms. Rizner stated no, but would be doing artificial insemination for clients. Roger believed because Ms. Rizner was not breeding or selling animals for herself on site then this ordinance did not apply. He noted that if she were to be breeding it would require 5 acres of land and outdoor kennel enclosures constructed of masonry to provide for cleanliness and ease of maintenance.

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

Roger A. reviewed Shapleigh Zoning Ordinance 105-73.G “Standards applicable to conditional uses” and made findings of fact.

- G. Standards applicable to conditional uses. It shall be the responsibility of the applicant to demonstrate that the proposed use meets all of the following criteria. The Board shall approve the application unless it makes written findings that one or more of these criteria have not been met.**
 - 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. *It will not, the property is not near the water and no changes are being made on site to disturb 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 small businesses and this area is one of the preferable locations noted in the plan.*
 - 4) Traffic access to the site is safe. *It is, the traffic speed is minimal as it is adjacent to a four way stop sign and the site distance requirement can be met in both directions.*
 - 5) The site design is in conformance with all municipal flood hazard protection regulations. *It is, this location is not in a flood zone and no changes are being made on site to affect stormwater.*

- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. *There is, the applicant shall use the existing bathroom facility and should the existing septic system fail it shall be returned to working order immediately. All waste produced by the business shall be disposed of by a company contracted to empty the dumpster and a company contracted to remove medical waste. A copy of all contracts shall be supplied to the Code Enforcement Office.*
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. *All medical waste shall be removed from site by a licensed company.*
- 8) A stormwater drainage system capable of handling fifty-year storm without adverse impact on adjacent properties has been designed. *There are no changes being made to the site to affect stormwater. The existing structures have been on site for many years and have the necessary approvals.*
- 9) Adequate provisions to control soil erosion and sedimentation have been made. *There are no changes being made to the site to create an erosion problem.*
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. *There is, the property is across the street from the Fire Station.*
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. *There are no changes being made on site. Any additional lighting shall be positioned such that it does not shine onto neighboring properties or the adjacent travel ways. All business shall be conducted inside the building.*
- 12) All performance standards in this chapter applicable to the proposed use will be met. *They shall.*

Roger A. stated the conditions of approval are as follows:

- 1) The hours of operation shall be Monday thru Friday, 7:00 a.m. to 9:00 p.m.; Saturday 8:00 a.m. thru noon and emergencies shall be seen 24 hours, seven days a week. Any critical cases shall be taken to a critical care veterinary practice such as those located in Portsmouth, New Hampshire.
- 2) The medical refuse shall be removed by a licensed contractor and a copy of the contract shall be given to the Code Enforcement Officer prior to operation.
- 3) Copies of all required State approvals for the operation of the small animal practice shall be given to the Code Enforcement Officer within 30 days of opening the practice.

Maggie M. made the motion to approve the Conditional Use Permit to open a veterinary practice to be located in the existing structures on Map 8, Lot 26C with the above stated conditions. Roland L. 2nd the motion. All members were in favor. Members voted for approval, 4 – 0. The motion passed unanimously. Madge B. had to attend another meeting and could not be present for the vote.

Nothing further was discussed.

Best Possible Location – Replace Existing Structure with 30% Expansion – Map 32, Lot 17 (90 Dogwood Road) – John Roberge, Applicant; Barbara Fowler, Property Owner

Mr. Roberge was present for the review of his application. Mr. Roberge had a letter dated 11/12/2012 from the property owner, Barbara Fowler, granting him permission to represent her at the meeting.

Roger A. asked Mr. Roberge what he was proposing to do. Mr. Roberge stated he wanted to remove the existing mobile home, attached porch and utility shed and replace it with a 24' x 30' house with attached deck with pavers under the deck. He stated they wanted to put grass in along both sides of the new home and

over the new septic system. He said if the board did not think planting grass would work he could bring in sod. During the project he would need to cut one pine tree to put in the new home and several more trees to put in the new septic system. He stated that all areas disturbed by the project would be revegetated and he would have a revegetation plan for the next meeting.

Mr. Roberge provided the board with a plan showing the location of the existing mobile home and the proposed location of the new structure. The existing structure is 55 feet from the high water mark and the proposed would be 59 feet from the high water mark.

Mr. Roberge provided the Subsurface Wastewater Disposal System Application done by Thomas Milligan, Jr. SE #11, dated 11/20/2012. Also provided was the Subsurface Wastewater Disposal System Variance Request, also done by Thomas Milligan, Jr. Mr. Roberge noted the location of the septic system was dependant on the location of the nearest well which was located on the neighboring property. The well would be 60 feet from the new system which was noted on the variance request.

Floor Area and Volume Calculations were provided for both the existing and proposed structures. The proposed would be a 30% expansion.

There was some confusion on the part of the board members as to how many trees would have to be replanted so CEO McDonough suggested the members review the ordinance. Roger A. stated the members should read under 105-4.D(7) which was for the relocation of a non-conforming structure. Under (b) it read in part: When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

- [1] Trees, woody vegetation and ground cover.
 - [a] Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.
 - [b] Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be established within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.
- [2] Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

Board members agreed that for every tree removed a tree needed to be replanted. Roger A. noted that the new trees must be planted no further from the water or wetland than the trees that were removed. Mr. Roberge stated he would have a plan for the next meeting.

Roger A. stated a site inspection would be held. Members would go on an individual basis. A notice to abutters shall be mailed as well.

Members asked if the area was staked out? Mr. Roberge stated it was clearly marked and he would mark the trees to be removed on Saturday of this week.

Nothing further was discussed.

Growth Permit

Growth Permit #06-12 was approved for **Map 2, Lot 49** (Walnut Hill Road). It is a new two acre lot being created from the parent lot. Property Owners are Mike and Stephanie Perro.

All supporting documentation, applications, etc. can be reviewed at the Town Hall during regular operating hours.

Planning Board meeting adjourned at 8:25 p.m.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, December 11, 2012

Members in attendance: Chairman Roger Allaire, Vice Chairman Madge Baker, Roland Legere, Maggie Moody, Diane Srebnick, as well as Barbara Felong, Land Use Secretary. Code Enforcement Officer Steven McDonough was also in attendance. Alternate Joseph Stanley was unable to attend.

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Note: The minutes are not verbatim unless in quotes.

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The planning board meeting began at 7:30 p.m.

The minutes from Tuesday, November 27, 2012 were accepted as read.

Best Possible Location – Replace Existing Structure with 30% Expansion – Map 32, Lot 17 (90 Dogwood Road) – John Roberge, Applicant; Barbara Fowler, Property Owner

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

The Planning Board received along with the application, a letter dated 11/12/2012 from the property owner, Barbara Fowler, granting permission for Mr. Roberge to represent her at the meeting. Also provided was a plan showing the location of the existing mobile home and the proposed location of the new structure. The existing structure is 55 feet from the high water mark and the proposed shall be 59 feet from the high water mark. Floor Area and Volume Calculations for both the existing and proposed structures showed the proposed 24' x 30 foot structure and deck would be a 30% expansion.

In addition, provided was the Subsurface Wastewater Disposal System Application done by Thomas Milligan, Jr. SE #11, dated 11/20/2012. A Subsurface Wastewater Disposal System Variance Request was also done by Thomas Milligan, Jr. The location of the septic system was dependant on the location of the nearest well which was located on the neighboring property. The well will be 60 feet from the new system which was noted on the variance request.

Lastly, a restoration plan was provided this evening showing Bearberry, Creeping Juniper, and Common Juniper that will be placed between the new structure and the water in the disturbed area. Along the side of the new structure will be grass, as well as over the leachfield and on the driveway side of the structure. The plan notes two pine trees will be replaced.

Roger A. asked Mr. Roberge to state once again what he was proposing to do. Mr. Roberge stated he wanted to remove the existing mobile home, attached porch and utility shed and replace it with a 24' x 30' house with an attached 8 ½ x 20 foot deck with an area 8 x 14 feet of pavers under the deck. The basement would be a daylight basement. He stated they would be putting in a new septic system as well. During the process they would have to remove two trees which he would replace. He also had a restoration plan for the area to be disturbed for the board.

Roger A. asked how the earth would be held back with respect to the daylight basement? Mr. Roberge stated he would be able to step the area down in such a way that only a granite block might be needed at the end of the embankment. He did not believe a retaining wall would be necessary.

Madge B. asked if the existing cement patio would be removed? Mr. Roberge stated, yes. Roland L. asked if the rule for raising the new structure a maximum of three feet in elevation applied? Roger A. stated, yes. CEO McDonough agreed stating the new structure could not be elevated more than three additional feet from the height of the existing sill. Roland asked if the height of the roof applied as the existing structure has a flat roof and usually the board is dealing with a peaked roof? Madge stated the height of the structure never applies with respect to raising it. CEO McDonough agreed stating the measurement is taken from the existing sill. Roger A. believed the measurement was taken from the ground level. CEO McDonough suggested the board read the ordinance. Under §105-4.D(3) 'Non-conforming Foundations', it reads in part:

“....and the foundation does not cause the structure to be elevated by more than three additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.”

Roland L. asked where the sand would go while digging for the new foundation? Mr. Roberge stated it would be hauled off-site as there was no place to stockpile it. He would reserve some for backfilling only.

Roger A. asked which way the roof was going to pitch? Mr. Roberge stated it would pitch toward the side lot lines. He said he would be putting down crushed stone under the drip line along the sides of the building to prevent erosion.

Madge B. asked where the entrance to the basement would be? Mr. Roberge stated, under the deck. Madge asked if the pavers were going to be placed in that area to stabilize the area of the walkout basement? Mr. Roberge stated, yes.

The board reviewed §105-4.D(7)(b) which referred to the replanting of native vegetation to compensate for the destroyed vegetation. Also the area from which the relocated structure was removed must be replanted with vegetation. Diane S. was concerned with the removal of all the existing small vegetation which was preventing erosion toward the lake at this time. Madge B. agreed the front area was an area of concern.

Mr. Roberge provided a revegetation plan which noted the area that needed to be revegetated. In this area was noted the location conservation mulch, Bearberry, Creeping Juniper and Common Juniper. Also depicted on the plan was the location of grass to be planted on the sides of the new structure, behind it and over the new leachfield. Crushed stone along both sides of the new structure was noted on the plan as well, along with the location of the silt fence that will be in place until the area is stabilized.

Madge B. and Roland L., reviewing the revegetation plan stated the list was fine with them. The board as a whole stated the vegetation chosen was fine.

Roger A. read §105-4.D 'Non-conforming Structures' in its entirety.

Roger A. stated he thought only one tree had to be replaced of the two being taken down as one was to put in the leachfield and you could not put in a new tree in that area. Roger agreed the other plants chosen were ok for the area. Diane S. stated Juniper has worked very well along the lake.

Roger A. asked what the time frame was for starting the project and completing it? Mr. Roberge stated that he may start removing the existing structure at this time and perhaps get the leachfield in but would most probably not begin construction until spring. He stated he wanted to be finished with the new structure by mid June of 2013. CEO McDonough asked Mr. Roberge if he thought he would be done all construction by July, at least the end of July? Mr. Roberge believed he would be. CEO McDonough asked him if he thought the replanting would be completed by September 1, 2013? Mr. Roberge did not think that would be an issue.

Maggie M. was concerned with possible erosion if the slab were removed at this time and there was nothing to prevent erosion. Roger A. stated that was why Best Management Practices would be put into place. He stated the ground would be frozen soon as well so an issue would probably not happen until spring but again BMP must be used. He added that as of January 1, 2013 you had to have a certified soils person on site so he wanted this project to have licensed soils person indicate all measures were done correctly. He told Mr. Roberge to go on the DEP website for further information. CEO McDonough told Mr. Roberge to contact Chris Coppi, this areas DEP representative, he would walk him through the procedure. He would tell him what had to be done and by whom. CEO McDonough gave Mr. Roberge Mr. Coppi's telephone number.

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

Roger A. stated the conditions of approval are as follows:

- 1) Best Management Practices shall be used until the project is completed and a licensed contractor shall certify they are put into place and maintained.**
- 2) All debris created by the removal of mobile home shall be removed from site and taken to Industrial Steel in Arundel or a similar location.**
- 3) The replanting plan shall be completed by September 1, 2013 which includes replacing one pine tree at a minimum and placing vegetation per the plans presented.**
- 4) You shall notify the Maine Dept. of Environmental Protection of the plans to remove the existing structure.**
- 5) The new foundation cannot cause the structure to be elevated by more than three additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill).**
- 6) A licensed surveyor shall determine that the placement of the new structure is correct per the plans approved by the Planning Board.**

Diane S. made the motion to approve the Best Possible Location to replace the existing mobile home, porch and concrete pad with a 24' x 30 foot home and 8'6" x 20 foot deck, 59 feet from the high water mark per the plans presented, with the above stated conditions. Madge B. 2nd the motion. All members were in favor. Members voted for approval, 5 – 0. The motion passed unanimously.

Nothing further was discussed.

OTHER:

Proposed Changes to the Zoning Ordinance

Barbara F. asked if the board had any additional changes to the zoning ordinance as the final Public Hearing would be held on January 8, 2013.

Roland L. asked if under §105-4.D(7)(b) after changing the height of the tree planted from three feet to six feet, if a same further description as being used under §105-51.B(1) could be used. Board members agreed this would be better for clarification and to be certain an actual six foot tree was placed on site. The addition will be as follows:

- [a] Trees removed in order to relocate a structure must be replanted with at least one native tree, ~~three~~ **six** feet in height, **measured from the base of the trunk to the top of the tree**, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Joe Stanley had made further suggestions to the proposed addition regarding prohibiting flag lots and other odd-shaped lots under §105-19.A but the board agreed more time would be needed for additional review and at this time the proposal would remain as written. The board can consider additional changes next year if warranted.

All other changes as proposed will remain the same. These changes are posted at the town hall. A public hearing will be held on Tuesday, January 8, 2013 regarding the proposed changes.

Nothing further was discussed.

Growth Permits – There are Growth Permits Available.

All supporting documentation, applications, etc. can be reviewed at the Town Hall during regular operating hours.

Planning Board meeting adjourned at 8:20 p.m.

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