

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, January 8, 2013

Members in attendance: Chairman Roger Allaire, 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. Diane Srebnick 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.

Roger A. opened the public hearing by reading the following two proposed amendments to the Zoning Ordinance for town meeting 2013.

Proposed amendment to **§105-4.D(7)(b) ‘Nonconformance.’**:

[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~~ **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.

Proposed addition to **§105-51.B(1) ‘Clearing or removal of vegetation for activities other than timber harvesting.’**:

(f) 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.

Roger stated it would make the job easier for the Code Enforcement Officer to note the trees replanted and check to see if they are established. It would also provide an older tree which would establish a larger root system more quickly to prevent erosion in the Shoreland District.

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

Roger continued to read the proposed amendments to the Zoning Ordinance.

Proposed addition to §105-19.A ‘Notes to Table on Dimensional Requirements.’:

- (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 4 to 1.**

Roger said this regulation was taken from the Subdivision Ordinance and the board and CEO felt it also needed to be in the Zoning Ordinance. He stated this would help to regulate family subdivisions or proposed new lots.

CEO McDonough stated whenever there is a Growth Permit application for a new lot split it is important the applicant presents a sketch showing the proposed lot dimensions. He stated commonly the application states they are applying for a Growth Permit for part of a lot but the board needs to be able to determine what part and if it meets all the criteria of a lot. He thought it would be easier to police that the requirements are met. Madge B. and Roger agreed.

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

Proposed addition to § 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.

Roger stated this gave businesses another choice for signage as in some locations a freestanding sign isn’t feasible.

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

Proposed addition to § 105-60.1 ‘Private Ways’:

- G. When the private way permit has been secured under the provisions of this chapter by vote of the Planning Board, the applicant has one year to begin the project and two years to complete the private way, otherwise the permit becomes null and void.**

Roger stated that at present there is no expiration for an approved private way permit. He stated this would make it easier to keep track of where the project stood.

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

Roger A. stated the Planning Board is proposing the repeal of §105-44 ‘Piers, docks and other shoreland construction’ in its entirety. The ordinance is as follows:

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

A. General requirements.

- (1) No causeway, bridge, marina, wharf, dock or permanent structure shall be constructed in, on, over or abutting on any great pond nor any fill deposited or dredging done therein without a permit from the Department of Environmental Protection.
- (2) No causeway, marina, wharf, dock or other permanent or floating structure shall extend more than 10% of the width of any stream, measured at its normal high-water elevation.
- (3) A temporary pier, dock or wharf shall not be wider than six feet for non-commercial uses.
- (4) Conditional use permit.
 - (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, 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.

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 Department of Environmental Protection. A copy of said permit and all attachments thereto shall constitute the application to the Planning Board.
- (2) For all other proposed shoreland construction or alteration, application to the Planning Board shall be made on forms provided for the purpose.

C. Conditions of permit. The Planning Board may issue a permit, provided that the following conditions shall be met. The proposed activity shall not:

- (1) Unreasonably interfere with existing recreational and navigational uses, nor unreasonably alter scenic and aesthetic qualities.

- (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.
- (4) Unreasonably alter the natural flow or storage capacity of any water body.
- (5) Create or cause to be created unreasonable noise or traffic of any nature.

Roger stated the board would no longer be reviewing any piers or docks greater than 20 feet.

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

The public hearing for the proposed ordinance changes closed at 7:10 p.m.

Mr. Gordon Waterman came to the meeting at approximately 7:20 p.m. He was interested in the ordinance changes. Barbara F. gave him a copy of the ordinance changes. Madge B. asked if he had any questions with respect to the changes.

Mr. Waterman asked about the repeal of Section 105-44. 'Piers, docks and other shoreland construction'. He asked if there would no longer be any town regulation of docks, only State regulations? Mr. Waterman also asked who would enforce the State regulations? CEO McDonough said the State. CEO McDonough said the State does currently have regulations; docks are not supposed to be any wider than six feet in width and they have to come out of the water seasonally. Mr. Plante, an applicant before the board, asked if there was a certain length they had to be. CEO McDonough stated there was a length limit but it is very extreme.

Mr. Waterman asked about the six foot dimension for width, is it the dock only or does it include an L at the end of the dock? What is measured as six feet? CEO McDonough said in his opinion when you go out and turn into an L off of a six foot wide dock, you are exceeding the width. He noted Mr. Waterman should ask the State's opinion. Maggie M. agreed this should be the case otherwise there would be all kinds of strange configurations. Mr. Waterman stated that anybody with an L would be non-conforming. CEO McDonough believed that was true. Mr. Waterman realized this was not unique to Shapleigh. Madge did not believe that Shapleigh could monitor all the docks, there were just too many. Roger added that the board had asked the MDEP if the town could eliminate the ordinance and they stated we could and suggested that it was a good idea. Roger said if the State wants to enforce it, it would be under the jurisdiction of Inland Fisheries and Wildlife.

Roger A. noted the changes would be voted on at Town Meeting on March 9, 2013.

Nothing further was discussed.

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

The minutes from Tuesday, December 11, 2012 were accepted as read.

Conditional Use Permit – 3 Year Renewal of Gravel Extraction Permit – Map 7, Lot 7 (Square Pond Road) – Town of Shapleigh, Applicant

Road Commissioners Richard Goodwin and John Burnell were present to represent the Town of Shapleigh.

Roger A. asked if there were any changes to what had already been approved with respect to the gravel extraction done by the town. Both Commissioners stated there were no changes to their original approval.

Roger A. asked the board if they had any questions? There were none.

Madge B. made the motion to renew the Conditional Use Permit for mineral extraction for a period of three years from the date of approval for Map 7, Lot 7. Roland L. 2nd the motion. All members were in favor. Members voted for approval, 4 – 0. The motion passed unanimously. The permit will expire on 1/26/2016.

Nothing further was discussed.

Conditional Use Permit – Wellness Center for Massage Therapy, Reiki and Various Healing Modalities – Map 19, Lot 13 (63 Emery Mills Road) – Roger Berube, Owner; Marianne Normand & Colleen Feeney-Dyer, Applicants

Marianne Normand, Colleen Feeney-Dyer and property owner Roger Berube were all present for the review of the application.

Roger A. asked the applicants to tell the board what they wanted to do.

The applicants stated the proposed business was going to be in the area where the Café used to be in the building owned by Mr. Berube. Ms. Normand stated they would be having massage therapy, Reiki but no Zumba. Roger A. asked what the hours of operation would be? Ms. Normand stated they would like to be open 7 days a week, from 8:00 a.m. thru 10:00 p.m.

Roger A. asked if there would be classes there as well. Ms. Normand stated, yes. Ms. Feeney-Dyer stated this location would give them room to grow. Roger asked how many patrons would be there at any one time. Ms. Feeney-Dyer stated that a meditation class would have between 10 and 12 people. For regular appointments there would be one or two clients. Roger stated the board just had to be sure there was enough parking. CEO McDonough asked if there was a parking plan? Roger stated there had to be a plan on file from the last business approval. Mr. Berube stated there was more than ample parking. Madge B. asked how many spaces there were? Mr. Berube thought there were 15 parking spaces now but if they also parked at the back of the building it could hold 25 or 30 vehicles.

Roger A. asked if the classes would be held at night? Ms. Normand thought they would have classes on the weekend. Roger said that would allow for more parking as the daycare would not be open.

Madge B. asked if there would be a site inspection? Roger A. stated board members could go over.

Madge B. asked if there was going to be any construction? Would the area be divided in half? Mr. Berube stated there would be two walls added so both ladies would have a room. Where the current seating area is that is where the classes or group meditation would be held.

Roger A. stated a notice to abutters would be mailed and a Public Hearing will be held on Tuesday, January 22nd at 7:00 p.m. Members will go on a site inspection on an individual basis.

Nothing further was discussed.

Conditional Use Permit – Earth Moving in the Shoreland District for a Driveway – Map 27, Lot 13 (130 17th Street) – William Plante, Applicant

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

Roger A. asked Mr. Plante to explain why he was before the board. Mr. Plante stated in order to get the access he wanted to property he was purchasing at the end of 17th street currently he would have to use what looked like a travel path and it was right next to the lake. He, therefore, wanted to put in a driveway coming off of Goose Pond Road to access the camp from behind. Roland L. asked if this was down over the hill? Mr. Plante stated, yes. Madge B. asked how much of a drop it was? Mr. Plante stated it was a good elevation drop. He thought at least 25 feet. CEO McDonough stated it was all of that. Madge asked what the distance was for the drop in elevation? Mr. Plante thought it was best the board come take a look at the area so he could show what he wanted to do. Barbara F. stated the Zoning Ordinance requires a plan showing provisions for drainage and erosion control, including drainage calculations, information about existing topography and the proposed work to be done. (§105-29.F(4) & (5)) Maggie M. reviewed the section of the ordinance and agreed the board needed more information.

Roland L. asked if the entrance point was going to be closer to 16th Street. Mr. Plante stated, yes. Mr. Plante stated the driveway would be shaped down the side of the hill. He said he was confident he could do it. He said if the board had concerns about erosion he would be willing to pave the driveway. He was considering paving it anyhow.

Road Commissioner John Burnell told Mr. Plante he would need to come to him for a driveway permit before he moved forward with the Planning Board. Mr. Plante stated he would do so. He did not believe there would be a site distance issue in the area he was proposing like there is currently coming out of 17th Street. He added that the area was such that a landing of approximately 20 feet could be created before going down the hillside.

CEO McDonough asked if Mr. Plante provided a sketch plan of the proposed project. Mr. Plante stated that he did. Members and CEO McDonough looked at the plan which was a copy of the tax map with the proposed driveway drawn on it. CEO McDonough noted that it appeared the entire project would be in the shoreland zone. Mr. Plante stated he believed so as well. Mr. Plante said again the current driveway to access the camp is adjacent to the lake. CEO McDonough said the board needed to know how steep the grade is, the percent grade. Madge B. agreed. Mr. Plante stated that he would give the board what they wanted. Barbara F. made Mr. Plante a copy of the entire section of the ordinance for earth moving in the shoreland zone. Maggie M. stated Mr. Plante would need the plan for the next meeting.

Mr. Plante stated that if the board comes to the site they will know exactly what is going on. He did not feel a written plan would amount to anything. Barbara F. noted that the board cannot waive anything in the Zoning Ordinance. Mr. Plante stated there was only one way the project could be done. He said some guy sitting in the office drawing on a piece of paper that he had to follow was useless. Maggie M stated the board couldn't approve the project without the plan. Roland L. also agreed because it is in the ordinance. Mr. Plante asked why it was necessary, was it because it was a driveway or because of the elevation. Maggie stated because it was a requirement in the ordinance for earthmoving in the shoreland zone. Mr. Plante stated it was a tough site and if the board would prefer he would just upgrade the driveway that was right next to the water. He would be glad to do that. He thought coming off of Goose Pond Road and getting away from 17th Street was the better option.

Roger A. asked if it were taped off at this time, where the new driveway will go? Mr. Plante stated he would do so. Maggie M. asked if the driveway wasn't built was there a place to park and just walk down to the

camp? Mr. Plante stated there would be a long way to walk. He stated again that parking on the 17th Street exit you would be parking literally right next to the water. Roland L. agreed. Roland asked if he could come off of 16th Street. Mr. Plante stated not at this time, the property he would have to cross is currently owned by Frank Clark. He said he has asked Mr. Clark if he would be willing to sell it but he has not agreed to at this time.

Mr. Plante stated he was confident at the site visit the board would understand what he wanted to do. He did not think a piece of paper would make a difference. He said there was only one place the driveway could go. Roland L. stated the ordinance was very specific in what needs to be provided in order for the planning board to act on this application. He said if the board does not get the required information, even if the applicant's plan is the greatest plan on the face of the earth, the board cannot make a decision. Roland told Mr. Plante to read the ordinance that he was given and it would tell him specifically what was needed. Mr. Plante asked if it was because of the elevation drop? Roger A. stated this was for the driveway anywhere. CEO McDonough stated because it was in the shoreland zone.

Madge B. asked if the camp was being changed? Mr. Plante said not at this time. Madge stated he may want to consider doing it all at the same time.

Roland L. stated not only did the board have to consider what was in the best interest of the lake but also what was required in the ordinance.

Madge B. asked if Mr. Plante brought plans in for the new camp how long would he have to finish the project? CEO McDonough stated one year to start and two years to finish. The permit could then be renewed provided that the rules in the ordinance have not changed. Madge thought it would be best to do the entire project at the same time.

Mr. Plante asked if Alternate Joe Stanley could draw up the plans for the project? Roger A. stated yes, as long as he removed himself from any decision being made regarding the application. Mr. Plante thought that because Mr. Stanley would know what the board would want, it would be easier for him. (Mr. Stanley is a licensed surveyor from LinePro in Shapleigh.)

Madge B. asked that the board try to meet on site together with Mr. Plante. Members agreed to try to meet on site Saturday, January 12th at 8:00 a.m. Roland may or may not be able to make it. Road Commissioner John Burnell reminded Mr. Plante again he needed to meet with him first.

Mr. Plante spoke of several large pines along Goose Pond Road that he would like to remove. Mr. Plante asked RC Burnell if he was who he needed to ask about cutting trees or if he needed a permit from someone else as he thought they were in the town's right-of-way? RC Burnell stated he cut all the trees he wanted to along Goose Pond Road. Mr. Plante stated he would like to cut every pine tree on the lot.

CEO McDonough noted that he provided Mr. Plante with a copy of §105-59 'Roads, driveways and water crossings' which also applies to this permit.

A notice to abutters will be mailed and a site inspection done on Saturday, January 12th at 8:00 a.m.

Nothing further was discussed.

OTHER:

Memorandum given to the board by CEO McDonough written by the MDEP regarding Shoreland Zoning Rulemaking effective May 5, 2012; Timber Harvesting in the Shoreland Zone; certified Contractor Requirements; and the Natural Resources Protection Act

- Madge B. asked that the board discuss the memo. She began with Shoreland Zoning with respect to the Resource Protection District. In the memo it was written in part that municipalities may choose to remove Resource Protection District zoning adjacent to wetlands that contain waterfowl and wading bird habitat provided that there is no other condition that would otherwise require a Resource Protection District to remain in such locations (e.g. areas of 2 or more acres of steep slopes or wetland within the shoreland zone, floodplain of rivers and coastal wetlands, and areas of severe bank erosion). It noted that these wetlands must still be Shoreland zone protected with a 250-foot Shoreland zone. The amendment simply allows the zoning district to be something other than Resource Protection- most commonly a Limited Residential District.

Madge was in favor of leaving Shapleigh's Zoning Ordinance the way it was in order to continue to protect the wetlands. The other board members agreed to no changes in the Zoning Ordinance with respect to the Resource Protection District.

- Madge believed with respect to Timber Harvesting, Shapleigh voted to repeal timber harvesting under §105-9.B on the date established under 38 M.R.S.A. §438-B(5), at which time the State of Maine Department of Conservation's Bureau of Forestry shall administer timber harvesting standards in the Shoreland zone.

Note: Barbara F. emailed Mike Morse at the MDEP asking if Shapleigh needed to do anything further with respect to the repeal process of Timber Harvesting. He stated that the Town simply had to reprint its ordinance with all timber harvesting references removed (and recodified). The method the Town used to repeal these provisions eliminated the requirement to go back to a town meeting with the changes. Therefore, as of January 1, 2013 all timber harvesting questions or complaints can be forwarded to the Maine Forest Service.

- Madge B. stated the next part of the memo discusses Certified Contractors in the Shoreland Zone. The memo states that starting January 1, 2013, any excavation contractor that engages in an activity that disturbs, or displaces more than one cubic yard of soil within the Shoreland zone must ensure that a person certified by the DEP in erosion and sedimentation control practices is on-site.

The memo goes on to state the certified contractor must be on-site each day earthmoving activities occur and for a sufficient duration to ensure the proper implementation of erosion and sedimentation control practices. This is required until the site is permanently stabilized.

Roger A. believed even the homeowner was required to have a certified contractor on site when doing a project requiring earthmoving. Madge did not believe so, nor did Roland L. Roland read the following from the memo: "This neither applies to municipal employees working on municipal projects nor to homeowners doing the work themselves." Madge noted that the board had someone before them recently that was doing all the work himself. CEO McDonough thought she was speaking of Mr. Levesque and noted he was a licensed contractor who is certified.

Roger A. stated that if the board asks for Best Management Practices, like the last approval, he would be asking for a certified contractor be on site to ensure there are no erosion issues in the Shoreland zone. Roger was speaking of a Best Possible Location on Map 32, Lot 17 and one of the conditions of approval was that a licensed contractor shall certify the BMP are put into place and maintained.

Roland L. thought it was interesting the ordinance exempted town employees. He asked if anyone knew if the town was going to have their employees certified. Roger A. believed for example Road Commissioner Richard Goodwin would be the general contractor and he would have people under him that were certified doing the job. Roger said the town doesn't have any municipal employees. Roland asked if the town came before the Planning Board could the board ask if the subs they hired to work for them were certified? Roger said that only if they were in the Shoreland Zone and were using Best Management Practices then the board could ask for certification.

Roger A. stated that eventually the DEP would have everyone listed on a website and what town they were from. This way the CEO could look to see if they were certified. CEO McDonough stated that until that website is up he would be asking for a copy of the certification.

- Madge B. did not believe the last item in the memo regarding the Natural Resources Protection Act required any action on behalf of the municipality. The memo states that under Section 20 of Chapter 305 Permit by Rule (PBR) standards have been amended to allow new activities in upland areas on previously undeveloped lots in moderate value inland waterfowl and wading bird habitat. In order to qualify for the PBR process, any new activity must be located at least 150 feet back from the upland edge or forested wetland edge of the inland wetland complex within the waterfowl and wading bird habitat. No more than 20 percent of the applicant's land within the habitat may be cleared or developed as a result of the activity. It is important to note that this new allowed activity under PBR applies only in moderate, not high value, waterfowl and wading bird habitat.

Nothing further was discussed with respect to the memo.

Growth Permits –

- Map 18, Lot 9 (21 3rd Street) – *Seasonal Conversion* – **Growth Permit #01-13**

Barbara F. stated a new septic system was just put in at the property. Steve had a copy of the septic design.

All supporting documentation, applications, etc. can be reviewed at the Town Hall during regular operating hours.

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

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

SHAPLEIGH PLANNING BOARD
MINUTES
Tuesday, January 22, 2013

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 7:05 p.m.

Conditional Use Permit – Wellness Center for Massage Therapy, Reiki and Various Healing Modalities – Map 19, Lot 13 (63 Emery Mills Road) – Roger Berube, Owner; Marianne Normand & Colleen Feeney-Dyer, Applicants

Marianne Normand, Colleen Feeney-Dyer and property owner Roger Berube were all present for the public hearing.

Roger A. asked the applicants to briefly state why they were before the board.

Ms. Normand stated they would be opening a Wellness Center.

Madge B. stated she believed they explained it well at the last meeting. Madge asked about the site distances at the entrance and exit, were they adequate? Roger A. stated these were written in the prior records and there was plenty of distance in both directions. Madge said the entrance and exit isn't going to change. Roger said, correct.

Madge B. did not believe there would be any exterior changes. Roger A. said, no changes and it would be held strictly in what was the donut shop area. Mr. Berube said, right.

Roland L. asked if they would be using the current drive-thru access? Mr. Berube stated he would be barricading part of that access so people don't use it to cut thru. Roland asked if both the Day Care and Wellness Center will use the same entrance and exit? Mr. Berube said, yes.

Madge B. asked if people enter and exit in the same location? Mr. Berube said, they will. He said they can still use another area. Madge asked if it was behind the building? Mr. Berube said, yes.

Madge B. asked if the Day Care operated in the summer? Mr. Berube said, yes.

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

Public Hearing closed at 7:08 p.m.

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

The minutes from Tuesday, January 8, 2013 were accepted as read.

Conditional Use Permit – Wellness Center for Massage Therapy, Reiki and Various Healing Modalities – Map 19, Lot 13 (63 Emery Mills Road) – Roger Berube, Owner; Marianne Normand & Colleen Feeney-Dyer, Applicants

Marianne Normand, Colleen Feeney-Dyer and property owner Roger Berube were all present for the final review of the application.

Roger A. stated because the board already asked all the questions they had, he would begin reviewing the ordinance standards applicable for the proposed business which would be going in the area where the coffee shop used to be in the building owned by Mr. Berube. The applicants previously stated they would be having massage therapy, Reiki, yoga, meditation classes and various other healing modalities. The classroom size shall not exceed 12 people, plus an instructor and much of the time there would be only one customer for each practitioner which were the two applicants. Most classes would be held at night or on the weekends when the Day Care was not open. The only changes to the building would be the construction of two walls to create a private room for each of the two applicants. Group meditations would be held where the current seating area is located for the coffee shop which is no longer open.

Roger A. stated the applicants were before the board because under §105-73 it states that any change in the business has to come back before the board for a conditional use. In this case the change is from a coffee shop to a Wellness Center.

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

- 105-17 – Land uses. *This permit is before the board because small businesses need a Conditional Use Permit.***
- 105-18 – Dimensional requirements. *Roger A. stated the property met the lot size requirements in the ordinance for the proposed business.***
- 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 distances were approved on the previous approval for the coffee shop. The site distances exceed the minimum requirement which is 280 feet. There is a minimum of 650 feet in both directions of the existing entrance / exit.***
- 105-22 – Noise. *N/A - There will be no noise generated outside the structure by the proposed activity.***
- 105-23 – Dust, fumes, vapors and gases. *N/A - There will be none generated.***
- 105-24 – Odors. *N/A - There will be no obnoxious odors generated.***
- 105-25 – Glare. *There shall be no additional lighting 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 existing vegetation, which shall not be removed. The existing parking area is gravel so the stormwater is able to percolate into the ground. A stormwater plan was approved for the coffee shop.***

- 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. *N/A*
- 105-30 – Water quality. *There is no waste being stored outside of the building that could contaminate groundwater. There is a State approved Septic System on site designed by John Large, SE #7, dated 4/7/2005 which was provided for the coffee shop.*
- 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 approved for the existing businesses on site.*
- 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 limited amount of waste from this business which shall be removed from site by the applicants.*
- 105-34 – Access control on Routes 109 and 11. *The existing entrance / exit has already been permitted on the previous business approvals for this location and the site distances exceed the minimum required.*
- 105-43 – Off-street parking and loading. *The parking is adequate for the number of patrons and size of the existing structure. The minimum number required is 26. Per the sketch plan approved for the coffee shop there is a minimum of 27 parking spaces on site not including the area available behind the building at this time.*
Madge B. asked Mr. Berube if he did the plowing? He stated that he did plow and sand the parking area.
- 105-46 – Sanitary provisions. *There is an existing bathroom facility and State approved Septic System on site, designed by John Large, SE #7, dated 4/7/05.*
- 105-47– Signs and billboards. *Any signage shall be obtained through the Code Enforcement Office.*

Roger read the following from §105-73:

B. Existing conditional use of structure.

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

F. Decision.

- (2) A conditional use permit secured under the provisions of this chapter by vote of the Planning Board shall expire if the work or change involved is not commenced within two years of the date on which the conditional use is authorized.**
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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 Rte. 109.*
- 4) Traffic access to the site is safe. *It is, the site distances exceed both the minimum and maximum requirement in the Ordinance.*
- 5) The site design is in conformance with all municipal flood hazard protection regulations. *It is, the building is in existence and there has been no indication of problems nor are any changes being made to the existing landscape that would create non-conformance. In addition the building is not in the flood zone.*
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. *A State approved septic system was installed. The design, done by John Large, SE #7, dated 4/7/05, exceeded the requirements of the State. Refuse will be removed by the applicants.*
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. *There are no hazardous materials on site.*
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. *There are no changes being made to the building or parking area from the previous site approvals.*
- 9) Adequate provisions to control soil erosion and sedimentation have been made. *There are no changes being made to the existing landscape or parking area 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, lake access is within 500 feet of this property.*
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. *This business will not produce anything detrimental to the neighboring properties. There are no changes to the approved lighting on the building, there is no noise, fumes, dust or odors produced by the proposed business. There are no changes being made to the existing landscaping.*
- 12) All performance standards in this chapter applicable to the proposed use will be met. *They shall.*

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

- 1) *The hours of operation shall be 8:00 a.m. thru 10:00 p.m., seven days a week.*
- 2) *Any signage shall be permitted through the Code Enforcement Office.*

Madge M. made the motion to approve the Conditional Use Permit to open a Wellness Center in the existing building owned by Roger Berube located on Map 19, Lot 13, with the above stated conditions. Maggie M. 2nd the motion. All members were in favor. Members voted for approval, 5 – 0. The motion passed unanimously.

Nothing further was discussed.

Conditional Use Permit – Earth Moving in the Shoreland District for a Driveway – Map 27, Lot 13 (130 17th Street) – William Plante, Applicant

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

At the previous meeting, Mr. Plante stated he was before the board in order to get the access he wanted to property he was purchasing at the end of 17th street. He, therefore, wanted to put in a driveway coming off of Goose Pond Road to access the camp from behind. Mr. Plante put tape up in the location of the proposed driveway for board members to locate the area when they did a site inspection. The area of the proposed driveway is very steep so the board members asked Mr. Plante to address the slope, how the erosion would be mitigated, in his design. Mr. Plante was given a copy of §105-39 ‘Earth removal and filling other than activities regulated under §105-61’, as well as, §105-59 ‘Roads, driveways and water crossings’ because both apply to this permit. Mr. Plante stated he would have Joe Stanley of LinePro create the driveway plan and address the issues in the Ordinance. He, however, did not think the plan was necessary.

During the previous meeting the board also asked Mr. Plante if he was planning on renovating the existing camp on site. He stated that he wanted to do so. Madge B. suggested he present a plan for that as well and have the entire project reviewed at the same time. She felt the board could make the appropriate decision for the driveway if they also knew the location of the proposed new structure and septic system. Mr. Plante stated he believed it would be a good idea as well and said he would discuss this with Mr. Stanley.

Roger A. asked Mr. Plante if he had the plans for the project for the board to review this evening. Mr. Plante stated the plans were not ready yet and he asked board members if they had any other suggestions for him so he had everything they wanted on the plan for the next meeting. Mr. Plante stated the plans will show where the new camp and leachfield will be located. Mr. Plante stated he also wanted to show what trees will be cut within 100 feet of the water but he wanted to know what the board wanted planted in their place.

CEO McDonough asked if he was having a plan drafted for the road? Mr. Plante stated yes, Joe Stanley was doing it. Mr. Plante stated part of the new driveway would be coming within the 100 foot mark from the water.

Mr. Plante stated he did want to use the 30% allowed to add a porch or deck on the new structure. He said he wanted to move the camp back but said he would be going into the existing hillside if he did that. He said a lot of earth would be moved. He stated he was confident he could create a nice slope afterward.

CEO McDonough stated that at the last meeting the board provided him with two sections of the Ordinance, Sections 105-39 and 105-59. He said these two sections would give him direction on exactly what was necessary for a replanting plan.

Mr. Plante said he thought he could cut trees but didn’t know what size he had to replace them with. Roger A. stated that he needed to show on the plan where the trees are located at this time and then the replacement trees will have to be put on the plan. The trees that have to be replaced due to their location. Roger said

some were incidental to construction such as the location of the septic system or the footprint of the new structure and those would not have to be replaced. Mr. Plante stated he wanted to level off a good area around the camp.

Mr. Plante stated that about a quarter of his proposed parking area will be approximately 70 feet from the high water mark. CEO McDonough asked what the percentage of the slope was for the proposed driveway? Mr. Plante did not know. CEO McDonough stated this information would have to be on the plan. Mr. Plante asked if it was important to know what the grade was. CEO McDonough stated it was very important and said again it was in the Ordinance as a requirement.

Barbara F. told Mr. Plante that Joe Stanley had a copy of the Zoning Ordinance and if he was drafting the plans he would know what had to be on the plan. She also noted that the camp would fall under §105-4 'Nonconformance' and Joe should know that as well but Mr. Plante can remind him. She asked Mr. Plante if he wanted a copy of §105-4 and he did not. Mr. Plante stated he could leave the camp where it was at this time, do an expansion and be much closer to the water. Barbara said he would still have to be reviewed under §105-4. Mr. Plante stated he just wanted to know about the trees. Barbara said they were also discussed in §105-4.

Mr. Plante said he didn't know he had a meeting tonight but did acknowledge he received a copy of the agenda. He said he wasn't prepared. He said Joe was working on the plan. Barbara said Joe would know what was required. Mr. Plante stated he hadn't talked with Joe yet, he wasn't ready to tell him exactly what he wanted.

Mr. Plante stated his main concern was with respect to what trees he could cut down and how he had to replace them. Mr. Plante was concerned that after Town Meeting he would be required to plant more trees. CEO McDonough stated not more but they would need to be taller if the Zoning Ordinance amendments passed. CEO McDonough stated the amount of trees to be planted were in the copy of the ordinances the board gave him and what was discussed this evening. He said Joe Stanley would know what had to be done.

Diane S., who did not attend the previous meeting, asked Mr. Plante why he couldn't use 17th Street to access his property? Mr. Plante stated he absolutely could but because he was at the very end of 17th Street the area was no more than a goat path at this time. He said the road stopped on the front lawn of the camp right next to the water. He said instead he would rather come in from Goose Pond Road, in behind the camp, which would keep the driveway 100 feet from the water. Diane said her only concern was which one would cause more disruption, coming in off 17th Street or off of Goose Pond Road?

Mr. Plante stated that if he upgraded 17th Street he would be right on the edge of the lake. Diane S. asked if he had to take down any trees? Mr. Plante stated, yes. Mr. Plante stated there is a ribbon parallel to the road so the board would know where the proposed entrance would be off of Goose Pond Road. Maggie M. stated she tried going up 17th Street but didn't dare go all the way. Mr. Plante said that is why he didn't want to use it. It was a mess. He said he didn't want anything to do with the Association and had no qualms about giving up his rights to use 17th Street.

Mr. Plante was told once again the three ordinances he needed to adhere to for this permit. CEO McDonough told Mr. Plante to tell Joe Stanley as well, so he was aware what the board would be looking for.

Roger A. stated the application would be tabled until the next Planning Board meeting which would be on Tuesday, February 12th. Mr. Plante stated he would have the plans ready for that meeting. He asked once again if there were any concerns from the site inspection. Madge B. stated the slopes were an obvious

concern and would have to be addressed. Erosion control measures would be essential, how to prevent a stormwater issue. Mr. Plante stated that he wanted to pave the driveway. Madge noted the Ordinance requires measures that need to be taken to divert the water. Mr. Plante stated he would be meeting with Mr. Stanley this week.

Nothing further was discussed.

Growth Permits –

- Map 30, Lot 41 (26 Hawthorne Road) – *Seasonal Conversion* – **Growth Permit #02-13**

All supporting documentation, applications, etc. can be reviewed at the Town Hall during regular operating hours.

Planning Board meeting adjourned at 8:05 p.m.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, February 12, 2013

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 not acting as a board member as he represented the applicant's interest with respect to the survey plan for the application below.

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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, January 22, 2013 were accepted as read.

Conditional Use Permit – Earth Moving in the Shoreland District for a Driveway – Map 27, Lot 13 (130 17th Street) – William Plante, Applicant

Mr. Plante was present for the review of the application. Joe Stanley of LinePro Surveyors was also present to discuss the plans presented.

At the previous meeting, Mr. Plante stated he did not have the required plans the Zoning Ordinance required for the proposed driveway. The area of the proposed driveway is very steep so the issues of slope and how the erosion would be mitigated needed to be addressed. Mr. Plante was given a copy of §105-39 'Earth removal and filling other than activities regulated under §105-61', as well as, §105-59 'Roads, driveways and water crossings' because both apply to this permit. Mr. Plante had also stated he wanted to replace the existing camp with a new structure and move it back away from the high water mark. Members and CEO McDonough stated that this would fall under Section 105-4. 'Nonconformance'. Mr. Plante stated that Joe Stanley of LinePro Surveyors would be doing the plans for him.

At this evening's meeting, Mr. Stanley stated they put together a plan for the driveway coming off from Goose Pond Road rather than improving the existing road (17th Street) in to the property and there will be a parking area created farther from the lake than the existing parking area. He said, Mr. Plante would also like to move the existing camp back farther from the water keeping most of it beyond the 100 foot high water mark and would like to use some of the area that is grandfathered for a 12 x 26 foot deck. Mr. Stanley stated that Mr. Plante is experienced with this type of site work and is comfortable with being able to meet the slopes and match the grades that are called out, the 2 to 1 slopes.

Mr. Stanley stated there would be a 12 foot wide driveway coming from Goose Pond Road and the slopes would drain the water on the downhill side of the driveway to a settling basin at the end of the proposed parking area.

Roger A. asked where the proposed leachfield would be? Mr. Plante pointed to the proposed leachfield location which would not be under the parking area but closer to the lot line. Mr. Plante stated that he wanted to drill a new well as he wasn't sure about the existing well point. The new well location also determined the location of the proposed leachfield.

Diane S. asked what the site distance was for the proposed driveway? Mr. Plante stated he did not wheel it (measure it) but it was much greater than 17th Street. Diane stated the board needed the distance for the record. Mr. Stanley stated the Road Commissioner did approve the location of the driveway entrance. Diane stated that was fine but the board still needed the distance for the record. Mr. Plante stated it was better than 17th Street. Diane said that might be so, but everyone knows 17th Street is there, this driveway will be new.

Mr. Stanley stated he would give up the existing driveway location and do what must be done such as reseed the area. He said some of the area might be used.

Mr. Plante stated all the rainwater goes toward the lake at this time. What he was proposing would funnel the rainwater toward the settling pond and not toward the lake. Diane S. asked where the settling pond would be located? Mr. Plante noted the location on the plan. He said that if this location isn't best he would be willing to move it to make sure it was beyond the 100 foot mark.

Mr. Plante stated the parking area will be graded so all runoff goes away from the lake. He stated he just finished a project in Acton with a slope greater than what is proposed here and there is no erosion issue. He stated he was confident he could stabilize any hill he touched. He said he would use erosion mulch alongside of the driveway. He said he would like free reign to do what he wants, to put in what would be most attractive, as long as erosion is eliminated.

Madge B., looking at the plan, asked about the three pine trees and oak depicted on the plan. What did they mean? Mr. Plante stated he wanted to remove them for the lumber. He said they are large and healthy and he wants to be able to utilize them. Diane S. asked the board if at the last meeting they asked for trees to be placed on the plan? Mr. Plante stated these were the trees he was discussing at the last meeting. Diane asked about the trees being removed for the driveway. Why aren't they on the plan? Mr. Plante stated there were very few trees to be cut. Mr. Stanley asked if outside of the 100 foot mark (from the high water mark) if the applicant could take up to 40 percent of the existing trees? As long as there is no erosion impact? Mr. Plante believed he was disturbing a very small portion of the overall property.

Roland L. stated that the trees he is asking to be removed are being taken out for the sake of taking them out, they are not a hazard. Mr. Plante stated they are not a hazard and he wants to mill them while they are healthy. He added that they are blocking alot of the sunshine in the afternoon. Roland said they are within the 100 feet. Diane S. asked if they were dead? Mr. Plante stated, no. Madge B. stated that the board normally doesn't let people remove trees unless they are a hazard. Maggie M. stated if they are in the way of construction they can come down. Mr. Plante stated they are not but he was willing to plant the number of trees he needed to in their place. He said now was the time to remove them while the area was under construction. Diane stated that she lived within 100 feet of the water and she isn't allowed to remove any trees unless they are diseased and dying and could be a hazard. She stated she can't remove them because they are blocking her sun. Mr. Plante stated he wanted to do it while everything was under construction. Diane stated that is what she said when she was building her home because she has some very large trees right next to the house but because they were not dead she was not allowed to. Diane stated that in the Shoreland Zone if they are not dead or incidental to construction she didn't believe you could take them down just because you want to. Mr. Plante stated he wanted to harvest them. Diane said during the construction of her house the Code Enforcement Officer at the time told her the trees had been in place a lot longer than her house and they are not going anywhere.

Roland L. stated the existing camp gets removed and he thought there was a steep grade there now. Mr. Plante stated it wasn't too steep maybe a five or six foot grade. Roland asked about the soil. Mr. Plante stated it would get regraded with an easily maintained slope. CEO McDonough asked if there was a regrading proposal on the plan? Board members, looking at the plan, noted there is not.

Mr. Plante stated at this time the area is an erosion hazard and he didn't want to see any bare ground when he was finished. Madge B. asked the size of the lot? It appeared Map 27, Lot 13 which was depicted on the plan is 1.90 Acres. Mr. Plante stated that he also purchased two other adjacent lots, Map 28, Lot 7 and 8. Madge asked if the lots were going to be combined. Mr. Plante did not answer. Mr. Plante stated that he was told he bought 2.1 acres but after the survey the lot had less area. Mr. Plante stated the person that sold the property said the lake had risen so some of the land was now underwater.

Madge B. read the definition of timber harvesting. It read as follows: *The cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the Shoreland Zone on a lot that has less than two acres within the Shoreland Zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to §105-51, Clearing or removal of vegetation for activities other than timber harvesting.*

Diane S. asked about §105-50 'Timber harvesting', A(1) which read "Within the strip of land extending 75 feet from the normal high-water line, there shall be no timber harvesting, except to remove safety hazards." Roger A. stated that did not apply. §105-51 'Clearing or removal of vegetation for activities other than timber harvesting.' applies. CEO McDonough agreed stating selective cutting of trees is allowed as long as a well-distributed stand of trees and other natural vegetation is maintained which shall be defined as maintaining a rating score of 12 or more in any twenty-five-foot-by-twenty-five-foot square area as determined by the rating system. CEO McDonough stated again §105-50 does not apply. CEO McDonough stated that if the trees are as large as Mr. Plante states they are a four point tree so it will be a four to one replanting schedule. Mr. Plante said he would be willing to replant 16 trees.

CEO McDonough stated that he wasn't as concerned with replacing the large trees as he was with the fact there is nothing on the plan that shows they will replant the area with native vegetation where the existing camp is located or where the existing driveway is. Mr. Plante stated the camp and the driveway will be lawn. CEO McDonough stated the slope that is to be regarded isn't on the plan. He stated pursuant to §105-59 'Roads, driveways and water crossings' it needs to be determined no alternative exists for the parking area to be within 100 feet of the water.

CEO McDonough stated several different projects are being looked at, the driveway and then removal and replacement of the camp is another project. He stated both projects have to be scrutinized separately. He said with Best Practical Location you need to determine the best location as well as how the area will be replanted and this needs to be on the plan so a year from now there is a plan for me to refer to so it can be determined that where and when the planting takes place is correct.

Madge B. asked what sections govern the new driveway? CEO McDonough stated §105-59 and §105-39. Mr. Plante stated alot would be removed at the waters edge (camp and parking area) and it would be a benefit to the lake and the property. Madge stated she understood but the board had to make sure he was meeting the standards in the ordinance. Madge stated it had nothing to do with whether or not the board trusted Mr. Plante. Mr. Stanley agreed stating the board had to follow the ordinance.

Madge B. asked about how steep the banking would be along the driveway, it is not listed on the plan. Roger A. stated the banking would be covered with erosion control bark. Madge noted she understood but how steep would the banking be? Mr. Stanley stated the maximum slope is a 2 to 1 and then it matches back in. Madge said the board needed to see the slope on the plan. Mr. Plante did not see why he needed an engineer to draw it up on paper vs. going out and doing the project; it will come out nicer than having someone sitting at a desk who never took a look at it drawing it. Madge stated it has to be on paper as it is the only way it can be enforced. CEO McDonough stated no one stated there needed to be an engineer, Mr. Stanley should be able to determine the slopes. Mr. Plante stated he did not understand what the board did not understand.

Mr. Plante stated what is on paper and how it turns out is not necessarily the same. He stated an engineer can draw a cute picture and the board can think it looks great.

Madge B. said they also need to know how much earth is being moved and where it's going. Roger A. said there was no earth leaving the site. Mr. Plante agreed, not for the driveway. Mr. Plante said with respect to the camp he can just leave it as is no problem. The board can just erase it from the plan. Mr. Plante said he was trying to show the board he could place the camp 100 feet from the water. He said he would rather deal with the driveway and then deal with the camp. He thought the board was asking for both ends and the middle. Barbara F. stated the board was only asking Mr. Plante what was required in the ordinance. She said they are sworn to uphold what is in the ordinance, they are not asking for anything additional. Barbara said the board was not saying he did not know what he was doing, she was sure he was capable of doing the entire project correctly.

Mr. Stanley said Mr. Plante's original application was for the driveway and now the two are on the plan. Madge B. stated they understood that. Mr. Stanley said they did not want the camp to hold up the driveway. Madge said again they understood that. Barbara F. said the board can look at both or just one, it's his choice. Maggie M. stated he put both on the plan because the board had said it might be good to look at the entire project at one time. Mr. Plante said he wanted the board to know his intentions.

Madge B. asked how the board would know all the water would go to the retention pond? Mr. Plante stated the area would be graded so all the water heads toward the parking lot and then into the retention pond. CEO McDonough stated it would not be hard to modify the drawing so everyone would be happy. Start with the 16 trees that will replace the trees being cut. Put the 16 on the plan. They have to be in the same general area as the trees that will be removed. He said under §105-4 the ordinance states what has to be put in place of the camp, vegetation which may consist of grasses, shrubs, trees, or a combination thereof. A note should be on the plan showing what type of vegetation is being put in place of the camp and where. He stated that the same needs to be done with the driveway and the slope, it needs to be on the plan. If it isn't on the plan there is nothing to enforce. The board just needs more details.

Mr. Plante stated he wanted to loam and seed all slopes. CEO McDonough stated native vegetation should be used as much as possible. CEO McDonough read §105-4.D(7)(b)[1][a] and [b].

Madge B. didn't see where the parking area was regulated, just the driveway.

Mr. Plante stated the area was only gravel and grass at this time so that is what he wanted to put where the camp was. CEO McDonough stated then put it on the plan. Mr. Plante said he would be ahead of the game if he just didn't do anything with the camp right now. CEO McDonough stated that it could all be done, it just has to be on the plan.

CEO McDonough asked for more details about the road that will be discontinued. Mr. Plante stated currently it is all grass and people drive on it. CEO McDonough stated that at this time the application before the board is a Conditional Use Permit and they can impose any conditions they feel are necessary and since you are proposing a new driveway and discontinuing the existing, there needs to be something on the plan that shows how the driveway will be discontinued. There should be some plantings on the roadway.

Mr. Plante said he was trying his hardest to make a nice driveway. Maggie M. asked if he could make the parking area smaller to make sure all of the earth work stays behind the 100 foot setback? Mr. Plante stated that due to the slope of the driveway the proposed area is needed in order to be able to turn around. Mr. Plante stated that he could draw a parking area behind the 100 foot mark on paper and the board would say, 'oh beautiful' but it is hard to do that because of what is there. Maggie realized the slope was an issue but asked if the area could be

smaller or in a different shape? Mr. Plante did not think so, in order to be able to park several cars and be able to turn around and drive back out. Mr. Plante said right now they could park 15 cars on the lawn next to the lake if it would make everyone happier. He said he was eliminating vehicles being next to the water. He thought the board would be happy with that.

Maggie M. said if everything was on the plan that might be the case but right now much of what Mr. Plante wants to do is vague. She said it hard to know exactly what is going to be done. Maggie said the board needs to see what is there now and what you are proposing to do. She said CEO McDonough needs to be able to go to the site and see that you are following the plan. Mr. Plante said that he was wondering if he should just use the existing driveway and add 30% to the camp right next to the water. He asked if the board would be happier with that? He said he can rebuild the existing road and keep the driveway right next to the water. Diane S. and Maggie stated it was his choice as to what he wanted to do but regardless it had to be on a plan.

CEO McDonough speaking with Mr. Stanley stated that in order to discontinue the existing driveway as Mr. Plante had proposed there would need to be some shrubs and plantings put in so the driveway is no longer usable. There can't be two driveways and parking lots on site. CEO McDonough stated the board did not like grass as it erodes, it is preferable to put in native vegetation.

Mr. Stanley did not feel there was alot missing from the plan. If the camp is still part of the plan what are the grading limits. Also how the area will be re-vegetated. Mr. Stanley also said it needed to be determined if the driveway will be allowed within the 100 feet because it is a better alternative to the existing driveway next to the water. CEO McDonough stated the new driveway is a good idea in theory but how does Mr. Plante make it happen. He said there needs to be a way that the old driveway cannot be used and it needs to be on the plan. Maggie M. asked if vegetation would block it off? Mr. Plante stated that he would like to plant a row of trees where the driveway starts so nobody would have access. CEO McDonough stated that sounded great, put it on the plan.

Diane S. asked about the trees at the top of the road. She stated she drove Goose Pond Road every day and one of her concerns was if Mr. Plante removed all the trees there would be nothing to stop a car from going off the road and falling down the hill. She wasn't sure how many trees were going to be removed. Mr. Plante stated there would be a 25 foot entrance or he could make it 30 if that board thought that was best. She asked if perhaps a small guard rail could be put up to prevent people from going over. She was not sure how many trees were coming down. Diane asked that he put the trees on the plan so the board would know how many were coming down. Mr. Plante said again there would be a 20 foot flat area before a car could go over.

CEO McDonough asked how big of a cut and fill for the driveway? Mr. Plante stated about 20 feet wide. CEO McDonough stated the plan shows a 12 foot wide driveway but in reality it's going to be 20 feet wide. The cut and fill will be 20 feet wide. CEO McDonough asked how many trees would have to be removed in this area? Mr. Plante stated there are not many, he thought 20 trees. CEO McDonough stated the trees coming out need to be on the plan. Mr. Plante stated that was hard to do because until the project begins you really don't know. He said if he has to mark the trees that are coming down and doesn't have to take them down, then trees will come down that don't need to. Barbara F. stated that if a tree does not have to come down it doesn't have to even if it is marked. CEO McDonough stated that when Mr. Plante walked in, the plan he brought stated there would be a 12 foot wide swath to be put in with hardly any trees to be cut. But it appears the reality is the area is going to be 20 or 30 feet wide, now there are a lot of trees. Mr. Plante stated there weren't many trees. CEO McDonough stated that if that is the case it should not be hard to put them on the plan.

Madge B. and Maggie M didn't see why it would be hard to mark the trees. Mr. Plante asked if he had to mark the trees coming down for the driveway? Madge and Roger A. stated they just needed to be on the plan. Mr. Stanley said this needed to be done even though you have the right to cut up to 40% of the trees outside of the 100 foot line? Madge stated the board isn't saying that he cannot cut them, what they are concerned with is what is going to happen to the ground. CEO McDonough stated cleared openings are an issue as well. He said in the Shoreland Zone when cutting a swath 20 to 30 feet wide the opening can be an issue. Mr. Stanley didn't understand why this needed to be done. CEO McDonough stated that the more trees removed the more replanting to prevent erosion had to be done. Madge stated that losing canopy also increased the amount of water on the driveway so there is a greater concern with runoff and erosion. Diane S. noted that under §105-51 it stated there shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree or shrub crown. CEO McDonough stated that under §105-51.C it stated that at distances greater than 100 feet, cleared openings for any purpose shall not exceed in aggregate 25% of the lot area within the Shoreland Zone or 10,000 square feet, whichever is greater and that includes principal and accessory structures, driveways, lawns and sewage disposal areas. He said in the entire lot you cannot create more than 10,000 feet of cleared opening including all of the above. CEO McDonough thought they were getting close to the 10,000 feet when adding everything up.

CEO McDonough asked if there were going to be any retaining walls. Mr. Plante stated no, they are usually a future problem. CEO McDonough agreed.

Mr. Stanley asked if they could agree what needed to be on the plan so at the next meeting more would not be needed. CEO McDonough agreed and said no one wants that, it wouldn't be fair to the applicant.

Mr. Plante asked if the parking lot location is ok? Madge B. stated the board would have to approve it and agree the best location would be within the 100 foot mark. Mr. Plante thought it was the best location but if he needed to move it he would. CEO McDonough thought if the parking area was done well the tradeoff for getting rid of the existing parking area would be good. Madge agreed. CEO McDonough stated he would like to see more native vegetation like shrubs and ferns in the old driveway, not just lawn. Madge agreed that would be best.

Mr. Plante asked if the existing road being blocked off should be on the plan. CEO McDonough said, absolutely. Mr. Plante stated he wanted to plant a row of evergreens so it would be private year round.

CEO McDonough asked what the dimensions of the parking area would be? Mr. Plante stated, 30 x 60 feet. CEO McDonough stated, the size should be noted on the plan. Diane S. asked that Mr. Plante put the sight distances on the plan as well. Mr. Plante said, absolutely.

Madge B. asked if anything was going to be paved? Mr. Plante stated he would like to pave the driveway. Madge thought this would create a different runoff situation due to the impervious material. Mr. Plante stated that everything would be pitched toward the settling basin. Roland L. asked if the rip rap would handle that amount of rainwater? Mr. Plante stated, yes. Madge asked how do we know that is where it will go and that it will handle it? She said there is a fairly wide area with no trees once the driveway is in. Is there any way to calculate the amount of rainwater so it can be designed to handle the water? CEO McDonough stated that it could be done. Maggie M. asked Mr. Plante if he had done something similar before? Mr. Plante stated, many times. Mr. Plante stated he did alot with Joe Anderson of York County Soil and Water dealing with soil erosion problems along the lakes. He said he had created many settling ponds to stop erosion and he said they have found that paving is key to any hill. He said with any dirt hill there is an erosion problem.

CEO McDonough asked where the paving was going to stop and start? Mr. Plante stated he would like to

pave the driveway and the parking lot. He felt this would eliminate any erosion. Roland L. was concerned with the amount of impervious surface. Madge B. agreed. Madge asked if the board should get a stormwater plan? Mr. Plante stated he was confident that what he was proposing would eliminate erosion. Madge asked if York County Soil and Water would review the plan? Mr. Plante stated that many of the jobs he did with Joe Anderson didn't have a plan. Usually it was just a sketch plan idea and at the site changes would be made based on what is needed. He said field changes happen often.

Madge B. asked what if something doesn't work? Mr. Plante stated he was confident it would work. He said in this location the soil is very sandy so with normal rain the water is going to go into the ground. He said if a massive downpour happens, then yes, there will be an overflow from the settling pond. He stated it was going to be his own place and he was fussy. He asked for some free reign with the driveway to shape it the best way he sees in the field. He did not feel an engineer would do anything better than what he could do on site, based on his experience. He said it was no different with the trees, if he marks trees as going to be cut and the tree isn't damaged then he may not have to cut it. He said if it is on the plan to cut down it will be cut down. Or there may be trees that need to be cut that aren't on the plan. He said the plans usually say subject to field change. He said he can visualize what it will look like.

Madge B. stated the CEO can only enforce what the Planning Board has documented. Mr. Plante stated you cannot document everything. He said again he was confident he could do a good job. Maggie M. stated that the board would understand slight deviations from the plan but the board needed something in writing that shows the driveway is going in as planned.

CEO McDonough stated he was not happy about the parking area being paved. Mr. Plante stated he could use compacted crushed gravel where the parking area is. CEO McDonough stated Mr. Plante's theory might be correct in that paving everything would stop erosion but having pavement all around the lake is not aesthetically pleasing to most people. CEO McDonough stated there has to be a balance. He agreed in some instances paving would stop erosion but it can be taken to an extreme. Mr. Plante agreed that flat land did not have to be paved. Diane S. asked where there would be flat land. Mr. Plante stated the parking area would be flat. Diane stated Mr. Plante stated the existing road was flat. Mr. Plante stated yes, but the road in was not flat. Diane noted that the proposed driveway is not flat either so it's a similar situation. CEO McDonough stated that if the parking area has to be as large as 30 x 60' then he did not feel it should be paved. CEO McDonough asked if the parking area was going to be pitched away from the lake? Mr. Plante stated, yes.

Mr. Plante stated there was a natural berm on site that would help keep the water away from the lake and he would not be moving it. He added that he wanted to be able to make the settling pond the size he felt was necessary to keep the water from going into the lake. He said he could make it bigger if needed.

Mr. Plante stated he wanted to put the leachfield in at the same time he is doing the driveway and parking area. Roland L. thought there would be an improvement to the area with what Mr. Plante was proposing. His concern was the removal of the trees, the reduction in the canopy and erosion issues. He said he understood Mr. Plante's ability to look at a piece of land and in his minds eye he can see how it's going to be laid out. Roland thought if several adjustments were made to the existing plan, the board should be able to make a decision.

Madge B. asked if the planting comments would be made to the plan? Mr. Stanley stated, yes. Madge said trees to block the existing entrance and blueberries as natural vegetation. Diane S. asked about the erosion issue that exists at this time on the existing entrance? She asked if he was going to revegetate that area? Mr. Plante said yes, that should stop the issue.

Mr. Plante stated once the driveway project is finished he is willing to move the camp back even further if it is feasible. CEO McDonough asked if the board should postpone the best possible location for the camp until after the driveway is put in? Mr. Plante thought that would be best. CEO McDonough stated if the proposed camp's location is left on the plan, there should be a notation that the placement of the camp is only theoretical and the final location will be addressed at another time. Mr. Plante agreed. Roland L. asked if the camp should just be removed from the plan? Mr. Plante stated he would be glad to remove it.

Mr. Plante asked if the parking area is ok in its present location? The board thought based on the information that the location was the best possible.

Roger A. stated the plan needed to show the tree placement on the existing entrance to block that entrance from future use. Also, the trees to be removed need to be on the plan / the number of trees to be removed. The actual width of the cut and fill for the driveway needs to be on the plan, the 20 feet. The location of the replacement trees – 16 trees total, in the same general location of the large trees being removed, have to be put on the plan.

Mr. Plante stated he would like to put erosion mix as well as juniper along the driveway but he won't know until the driveway is finished. Madge B. stated there should at least be a note where vegetation will be planted.

Mr. Plante stated he wanted the board to see when he was finished that the area looked beautiful. He did not want to make a mess. CEO McDonough stated that he believed Mr. Plante would do a good job, it's just what Mr. Plante thought was beautiful along a Maine lake and what others thought might be different. Mr. Plante agreed. Mr. Plante said he preferred lawn. Madge B. said the board did not prefer grass. Diane S. said that was another project.

CEO McDonough asked if the camp was going to be removed this year? Mr. Plante stated, no. He would repaint it for now. CEO McDonough asked if there would be any disturbance around the camp? Mr. Plante said, no.

Mr. Stanley stated Mr. Plante just wanted to put in the driveway so he will be able to access the camp when he is ready. He believed that once the driveway is in, the board will have a much clearer vision of what Mr. Plante wants to do next.

The items discussed to be placed on the plan are as follows:

- 1. Place on the plan the location of the trees going to be used to block off the existing driveway, along with vegetation to stop the existing erosion. Natural vegetation such as blueberries and Juniper shall be used.**
- 2. Place the trees to be removed for the excavation of the driveway on the plan.**
- 3. Place the 16 replacement trees for the four large trees to be removed in the Shoreland Zone on the plan. These trees shall be in the same general location as the trees being removed.**
- 4. Put the actual width of cut and fill for the driveway on the plan as well as the erosion control measures to be used along the proposed driveway. The erosion control measures to consist of erosion control mulch, junipers and other native vegetation.**
- 5. Place the site distance looking in both directions on the plan.**
- 6. Place the actual size of parking area and settling pond on the plan.**
- 7. Make a notation that the parking area shall be crushed gravel and not pavement.**
- 8. Place a notation that if the proposed camp location is left on the plan it is conceptual only and an application for replacing the camp would need to come back before the board as a separate issue.**

CEO McDonough asked when the project would begin. Mr. Plante stated it depended on if the roads get posted. He didn't want to move a machine in and then not be able to move it out because the roads are posted. Mr. Plante stated he might not touch it until its dry.

Roger A. stated the next review of the application will be on Tuesday, February 26th at 7:30 p.m.

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 9:05 p.m.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, February 26, 2013

Members in attendance: Chairman Roger Allaire, Vice Chairman Madge Baker, Roland Legere, Maggie Moody, as well as Barbara Felong, Land Use Secretary. Alternate Joseph Stanley was not acting as a board member as he represented the applicant's interest with respect to the survey plan for the application below. Code Enforcement Officer Steven McDonough 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, February 12, 2013 were accepted as read.

Conditional Use Permit – Earth Moving in the Shoreland District for a Driveway – Map 27, Lot 13 (130 17th Street) – William Plante, Applicant

Mr. Plante was present for the review of the application. Joe Stanley of LinePro Surveyors was also present to discuss the plans presented.

Mr. Plante is before the board for earth moving in the Shoreland Zone in order to be able to put in new driveway access to his property, discontinuing the existing access. After reviewing the plan provided at the last meeting the following list of items were requested by the board to be added to the plan presented. They are as follows:

1. Place on the plan the location of the trees going to be used to block off the existing driveway, along with vegetation to stop the existing erosion. Natural vegetation such as blueberries and Juniper shall be used.
2. Place the trees to be removed for the excavation of the driveway on the plan.
3. Place the 16 replacement trees for the four large trees to be removed in the Shoreland Zone on the plan. These trees shall be in the same general location as the trees being removed.
4. Put the actual width of cut and fill for the driveway on the plan as well as the erosion control measures to be used along the proposed driveway. The erosion control measures to consist of erosion control mulch, Junipers and other native vegetation.
5. Place the site distance looking in both directions on the plan.
6. Place the actual size of parking area and settling pond on the plan.
7. Make a notation that the parking area shall be crushed gravel and not pavement.
8. Place a notation that if the proposed camp location is left on the plan it is conceptual only and an application for replacing the camp would need to come back before the board as a separate issue.

Mr. Stanley, working for Mr. Plante presented a final plan to the board members for review.

Madge B., looking at the final plan, was somewhat confused about the location of the trees to block the existing entrance. She thought the trees would be closer to 17th Street. Roger A. noted that although Mr. Plante owned Map 28, Lot 8, which part of the entrance was located on, it was in fact a separate lot and was not being reviewed at this time, therefore, Mr. Plante located the trees on Map 27, Lot 13 which is the lot being reviewed. The plan noted two trees being planted at the property line on the existing driveway to block vehicles from accessing Lot 13 (Map 27).

Mr. Plante noted there were two separate deeds, one for Map 27, Lot 13 and one for Map 28, Lot(s) 7 & 8. Mr. Plante owns all three lots.

Mr. Stanley stated, after reviewing the list provided in the minutes he placed the site distance on the plan. He said there was a notation regarding the fact erosion control mulch and Junipers would be used along the new driveway for stabilization as requested. Madge B. asked if the trees that are being removed are on the plan? Mr. Stanley stated, yes, they were on the plan but they are not marked on site. Madge stated she counted approximately 20 trees that would be removed. Roland L. stated he looked at the site again as well and he agreed with Madge's assessment.

Madge B. asked if the driveway got crowned or tilted to keep water shedding as fast as possible. Mr. Stanley stated it will be sloped slightly toward the downhill side and there would be an erosion control banking. Mr. Plante stated there would be an erosion control berm down the entire side of the driveway, it will be about 1 1/2 feet high. Mr. Plante said he wanted to plant some shrubs in the berm and he would devise the driveway such that it will keep the water on the pavement to prevent sand and silt from going down the driveway. Mr. Plante stated he was going to try to make the driveway the ditch so all the water stays on the pavement. He said at the foot of the driveway it will be pitched toward the parking area / settling basin.

Mr. Plante stated the board and CEO requested that there be no pavement on the parking area but he believed this would drag silt from the parking area to the settling basin creating an area for vegetation to grow which will make the basin high maintenance. He stated if the parking area was paved there would be little to no silt. He noted a project he did with Joe Anderson on Starboard Lane in which a very large settling pond with rip rap was put in and within a few months there was over a foot of silt in the bottom of the settling pond from washout from the road. He said now it has to be dug out regularly.

Roland L. stated he thought there may be a problem even with pavement if sand is added to the driveway for traction during the ice and snow season. Mr. Plante stated with the road paved and plowed the sun hitting the pavement will melt it. He said he did not plan on using any sand on the road. Maggie M. wondered if the sun would hit the pavement as it was a shady area. Mr. Plante said after he removed the trees for the driveway the sun would get in. And he noted to the board no one would catch him putting sand on his driveway. He said, sand is a mess. He also added that he would not be living there year round, so if it was too slippery he didn't have to go down the driveway. He had a year round home, this location is seasonal.

Roland L. stated, while reading the minutes the CEO mentioned something about not being able to clear more than 25% of the vegetation and also referred to open space. He stated while he walked the property the 2nd time he was looking at vegetation density. Mr. Plante stated it was fairly open on site. Roland stated that concerned him taking so many trees on site, not just for the driveway but the trees near the water because they are marketable. He thought the area was going to be deforested. Mr. Plante stated the amount of area to be cleared was a small area for the entire lot. Madge B. stated she didn't look at that because she figured there were so many trees on site you would not exceed the 25%. Roland stated 3 large pines would be removed and he was worried about the trees left behind, if there is a big wind they could be blown over after the larger trees are removed. Roland also spoke of the trees being removed for the leachfield. Mr. Plante stated 16 trees would be replanted on site. He said he wanted hemlock as he didn't care for pine trees. He also said the stumps of the large trees were

not going to be removed to stabilize the soil. Madge said again she didn't think the amount removed would go up to 25%. Roland said it may not be 25% but looking from Goose Pond Road, after the trees are removed, he believed it would be substantial. Mr. Plante stated he was going to do a good job. He would be back before the board when moving the camp and so with that in mind he is going to be sure to do a good job. Roland said he did not think Mr. Plante would make a mess, he was just concerned with the serious amount of deforestation between the road, the incidental tree removal for the leachfield and the large trees near the water. Roland said 16-three foot trees do not replace 4-thirty foot trees in his opinion. It may meet the code but Roland thought once all the fir trees are gone and the leaves are down the place will look barren. Mr. Plante stated he was confident the board would like what he did when he was finished. Roland said as long as Mr. Plante meets the ordinance, even if he is not comfortable with it, he will support it. He just wanted his opinion known.

Madge B. asked about the edges of the berm. How they would be stabilized. Mr. Plante stated erosion control mix will be put down as soon as possible. He said to begin with silt fencing would be put into place and some trees removed as at this time a truck cannot get in, or a dump truck. He said in order to put a leachfield in, work has to be done. Madge asked Mr. Stanley about the plan which shows erosion mulch and Junipers along the road, was there going to be any bare ground? Mr. Plante stated when finished there would be no bare ground whatsoever. Mr. Plante stated the only gravel would be the parking lot which he would rather pave. Mr. Plante stated he also wanted minimal lawn, he didn't want to have to mow. Madge said the board didn't want lawn either but also they did not want bare ground. She thought the erosion mulch was great.

Roland L. asked about some grade stakes he saw while walking the property. What did they mean? Mr. Plante stated they were on Frank Clark's property and they were there to show Mr. Plante about being able to meet setbacks on that property. Roland asked about the abandoned snowmobile trail. Mr. Plante stated that too was on Mr. Clark's property.

Madge B. believed Mr. Plante provided the board with everything on the list they requested at the last meeting. Maggie M. stated she wasn't trying to nit pick but the list asks for 16 replacement trees and she only noted 15 on the plan. Mr. Stanley apologized for the error, there should have been 16.

Mr. Plante stated that he would rather put 8 of the trees in a row alongside the parking area and the remaining eight in the location noted. He felt this would look better and be more practical. Madge B. stated that she realized they were supposed to be near the location of the trees being removed but agreed with Mr. Plante that putting half next to the parking area would work out well. Maggie M. was concerned with them being planted so close they would not grow properly. Madge agreed stating they should be planted in such a way that they have the best chance of growing. Mr. Plante stated he hated being nailed down to a specific location. Maggie thought having some next to the parking area may help with any erosion issue. Madge thought it would look better to screen the parking area from the water. Mr. Plante stated he wanted to use hemlocks for more privacy. He said again he knew what would look nice.

The board agreed that 8 of the 16 replacement trees would be placed alongside the parking area. The board was questioning the size of the parking area and it was noted by Mr. Stanley it is going to be 30 feet by 60 feet. The board discussed the size and if it was appropriate and it was agreed 30' x 60' would be adequate, it allowed for parking and turning around vehicles. Mr. Plante stated it was the minimum he needed for equipment to build the leachfield. The board was not concerned with equipment used for construction as that is not what the parking area is for.

Roger A. stated he agreed that he would like to see a row of hemlocks on the south side of the parking area. Madge B. asked the other members if they had an objection to this and they did not. The board agreed that eight would be planted alongside the parking area and the remainder closer to where the large trees will be taken down.

Madge B. asked about the planting schedule. Madge asked Mr. Plante when he thought he would be starting and finished with the project. Mr. Plante stated he could not start until the roads were no longer posted which may not be until the middle of April. Madge asked how long the project would take? Mr. Plante didn't think it would take more than several weeks. Mr. Plante stated he wanted it finished for summer. Madge B. stated a completion date of September 1, 2013 would be a condition of approval and if Mr. Plante is not finished he would have to tell the Code Enforcement Officer. Mr. Plante thought that was more than fair. Madge noted that the board wants the planting in so it will be established before winter. Mr. Plante stated he understood.

Roger A. stated he agreed with Mr. Plante that the parking area should be paved to move the water easily toward the settling basin. He said if sand goes into the settling pond in no time it has to be redone due to the plants that will grow. Roland L. asked if there was a notation on the plan, as asked under Item #7 above, regarding the parking area would be crushed gravel and not pavement. Mr. Stanley stated that it was located under Notes as #9. Roland said this needs to be changed. Roger said again this was his preference but it didn't have to be done. Madge B. stated her only concern was the amount of impervious surface. Roger agreed pavement is impervious. Madge said she didn't like it but had no technical reason why. Madge thought if the roadway worked correctly the water should go to the settling pond as it is. Roger said again he was concerned with silt. Madge thought it is best if the settling pond works correctly as the first concern is to keep the water out of the lake. Mr. Plante stated during a heavy rain the water will ride up slowly and distribute the water over a larger area. He said on the back side of the settling pond is what is called a level spreader. He said you make the top of the rip rap level so it's lower than the rest so the water rises up over a 10 foot span equally and distributes it. He said you see them on the back side of a retention pond or along culverts. He said it works with extreme flooding. Madge said her biggest concern was that the settling pond worked. Mr. Plante agreed and also wanted the area to look attractive. Madge said she was willing to go along with changing the requirement of crushed gravel and allowing pavement in the parking area.

Roland L. asked if the DEP put into affect the requirement of having someone certified on site with respect to erosion control. Roger A. stated yes, it had been in place since the first of the year. Mr. Plante agreed and stated he was certified. Roland asked about showing certification. Mr. Plante stated that those who are certified can now be viewed on line. He said in a class he took, which CEO McDonough also attended a week ago, they were told the names were now on line. Roland asked if this needed to be a condition. Roger said this went along with Best Management Practices now that a certified person had to be on site.

Roger A. stated the conditions of approval shall be:

- 1. The parking area will be paved instead of crushed gravel as noted on the plan under Notes #9.**
- 2. Eight of the sixteen replacement trees required shall be placed alongside the parking area and will be Hemlocks, the remaining eight shall be placed in the area where the large trees are being removed as noted on the plan and shall be trees indigenous to the area.**
- 3. There shall be a completion date of September 1, 2013 for the entire project including the planting of vegetation. If this date cannot be met, contact the Code Enforcement Officer for the approval of a new completion date.**

4. **Best Management Practices shall be used until the project is completed. A certified contractor to oversee the project shall be used. (The board realizes Mr. Plante is a certified contractor and therefore shall be overseeing the project.)**

Madge B. moved for approval 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.

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 8:25 p.m.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, April 9, 2013

Members in attendance: Chairman Roger Allaire, Roland Legere, Maggie Moody, Diane Srebnick, Alternate Joseph Stanley, as well as Barbara Felong, Land Use Secretary. Code Enforcement Officer was also in attendance. Vice Chairman Madge Baker 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, February 26, 2013 were accepted as read.

Conditional Use Permit – Earth Moving in the Shoreland District – Map 27, Lot 25 (14 Point Road) – Mousam Valley Builders, Applicant; Steve & Donna Corley, Property Owners

Mr. Jim Fiske of Mousam Valley Builders, who is representing the property owners, was present for the review of the application.

Mr. Fiske stated the place was built in the 1960's and there is a 6' x 6' pressure treated retaining wall that was not built properly, it was never anchored. He said he wanted to remove the fill behind the wall and rebuild it properly with pressure treated wood. He stated it would be the same size as the existing which is approximately four feet in height.

Mr. Fiske said the house sits right alongside Point Road. He said their propane tank is also alongside the road and half of it is buried into the ground which is not legal. He wanted to remove the existing tank along with a stump from a tree that had already been removed.

Mr. Fiske stated there was another concrete block retaining wall that they wanted removed. He said the wall was originally put in with no mortar so it too was leaning like the other retaining wall. This wall is located near Point Road. He would be replacing this wall as well.

Mr. Fiske stated currently on site is a well point near the lake. The property owners want to put in a drilled well so he wanted to excavate enough earth to be able to bring in a drilling rig to drill a new well, then after the well is in the new retaining wall would be put up.

Mr. Fiske stated there would be a small propane tank put in next to the house that is legal.

Mr. Fiske stated he also wanted to excavate around the existing foundation and fix the drainage.

Mr. Fiske concluded that the area would look very similar when he was finished as it did now with new retaining walls in the same location and the propane tank next to the road would be removed.

Roger A. asked how high the wall near the road would be? Mr. Fiske stated the same as the pressure treated, four feet. Roger asked what it would be made of, masonry like what is there currently? Mr. Fiske stated he

thought he would use the locking blocks from Genest Concrete. He said he had to ask the owner. Mr. Fiske stated the other wall would be pressure treated to be the same as the existing 6" x 6" pressure treated stairs that currently exist.

Roland L. asked if there would be stairs replaced? Mr. Fiske stated, yes.

Mr. Fiske stated the DEP Permit by Rule had been completed and approved. Mr. Fiske also provided the board with a plot plan; a letter from the Corley's stating he could represent them; a copy of the Warranty Deed to the Corley's; the building permit for the renovations done to the existing structure along with the building permit application; the Permit by Rule to replace wood stairway and repair of retaining walls, and the Subsurface Wastewater Disposal System Application, dated 9/7/2012 done by John Large, SE #7.

Mr. Fiske showed where on the plan the 75 foot and 100 foot high water mark were.

Roger A. stated a site inspection would be scheduled for 6:30 p.m. on Tuesday, April 23rd. A Notice to Abutter shall be mailed as well.

CEO McDonough asked if the board wanted anything else submitted at the next meeting?

Roger A. stated the board would want to know what was going in after the area was backfilled. Mr. Fiske stated the usual vegetation such as native grasses, blueberries, and winterberry. Roger asked when the project would be completed? Mr. Fiske stated within the next month. He said he was waiting for the snow to melt and for the roads to no longer be posted.

Joe S. asked if the board wanted a notation on the plan as to the height and lengths of the existing and replacement walls and stairs? Mr. Fiske stated the stairs would be three feet in width. Mr. Fiske stated there would be a safety handrail on the stairs but he did not feel he was required to have a baluster handrail. CEO McDonough stated not until the stairway is over 30 inches off the ground.

Roland L. asked what about the stairs? CEO McDonough stated they would have to be code compliant. Mr. Fiske stated he was told he would have to have a landing after every 12 steps. CEO McDonough stated it was a vertical number its either 12 or 13 feet vertically. Mr. Fiske stated he would be starting at the bottom and figuring out what was needed as he went along. He said again he had to make it legal.

CEO McDonough felt there needed to be something in writing for the revegetation plan. Roger A. agreed and the board also needed a date of completion for the entire project. Roger thought at the site inspection the board along with Mr. Fiske could determine the height and width of the retaining walls.

Nothing further was discussed.

Growth Permits – Map 1, Lot 21 C, Deering Ridge Road – The board requested additional information with respect to the deed so the Growth Permit was tabled. Currently the deed describes the road frontage as being 200 feet more or less. In Shapleigh for a legal lot there must be a minimum of 200 feet of road frontage, therefore, the applicant was asked to provide proof from a licensed surveyor that in fact there is 200 feet or more of road frontage before the lot can be approved. The applicant Shawn Woods stated he would get the information required by the next meeting.

All supporting documentation, applications, etc. can be reviewed at the Town Hall during regular operating hours.

Planning Board meeting adjourned at 7:50 p.m.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, April 23, 2013

Members in attendance: Chairman Roger Allaire, Roland Legere, Maggie Moody, Diane Srebnick, as well as Barbara Felong, Land Use Secretary. Code Enforcement Officer was also in attendance. Vice Chairman Madge Baker was unable to attend. Alternate Joseph Stanley was present but not an acting member as he was working with one of the applicants on his project.

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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, April 9, 2013 were accepted as amended. On page 2 of 3, paragraph 8, the following sentence should have read: CEO McDonough stated not until the ~~handrail~~ stairway is over 30 inches off the ground.

Conditional Use Permit – Earth Moving in the Shoreland District – Map 27, Lot 25 (14 Point Road) – Mousam Valley Builders, Applicant; Steve & Donna Corley, Property Owners

Mr. Jim Fiske of Mousam Valley Builders, who is representing the property owners, was present for the review of the application. *Note: Board members did a site inspection at 6:30 p.m. prior to this evenings meeting.*

Mr. Fiske restated that the camp and the existing 6' x 6' pressure treated retaining wall were built in the 1960's; the retaining wall was not built properly as it was never anchored, so it needed to be replaced. He stated he wanted to get in with a backhoe, remove the back fill and replace the wall leaving it the same size which is approximately four feet in height.

Mr. Fiske stated on the other side of the house is a dry concrete wall falling and in need of repair and a half buried propane tank next to Point Road that is illegal, as it is half buried in the ground, so that needs to be removed. He stated the camp had new insulation and a new heating system so the large propane tank was no longer needed, therefore, a smaller tank would be put in next to the house.

Mr. Fiske stated one tree was taken down and a stump remained. He said the tree is what actually toppled the retaining wall; the tree stump is going to be removed.

Mr. Fiske stated there would be a new well, well line and gas line put in next to the house. He said there is a high banking adjacent to the neighbor's property so the area would be swaled away from the house and directed toward the lake. He said at the site inspection Roger A. stated he did not want the water running down toward the lake, therefore, he thought perhaps he would put in another four foot retaining wall next to the corner of the house and also put in a catch basin. He said he would add gravel. He noted on the plan where he wanted to put in a retaining wall. He was not sure if he wanted to tier it or just put in a four foot wall with a lot of crushed stone behind it.

CEO McDonough stated a new structure would not be allowed within 100 feet of the water. He stated that perhaps Mr. Fiske should seek professional advice to help keep the water on site and away from the water.

Mr. Fiske asked what kind of help he was talking about? CEO McDonough suggested York County Soil and Water. Mr. Fiske asked if Joe Anderson's signature was on his plan would that make it ok? (Joe Anderson works for YCSW.) CEO McDonough stated that was up to the board but a new wall could not be put up within 100 feet of the water as it would be a new structure.

Roger A. agreed with Steve and he said due to the amount of water shedding off the building it would need to be slowed down and kept away from the lake. Roger said in the Ordinance the worse case scenario in a 50 year storm is 6" of water in a 24 hour period. Roger asked Mr. Fiske how he was going to prevent this water from going into the lake or from causing an erosion issue?

Mr. Fiske stated that if he could not build a new wall then all he could do was dig a big hole and fill it with crushed stone and let the water go into that. Roger A. stated Mr. Fiske is disturbing the existing ground that has set there for many years, now it's being stripped, so the area has to be protected without a structure.

Mr. Fiske asked if the retaining wall was a structure no matter how tall? CEO McDonough stated, correct. Mr. Fiske asked if stone or rip rap was a structure? Roger A. stated, no. Mr. Fiske asked if he put stone rubble along the banking like they do along a highway, would that take care of the situation? CEO McDonough asked, will it? Mr. Fiske noted the various materials listed by the DEP that he could use such as erosion control mulch. CEO McDonough and Roger agreed but Roger reiterated that they had to ensure erosion wouldn't be an issue. Mr. Fiske asked why stone wouldn't work? CEO McDonough stated they didn't say it would not work. CEO McDonough stated just design it in such a way that it will work. Mr. Fiske asked if he should design it? CEO McDonough stated that was not up to him, that was up to the Planning Board as to whether or not it will work.

Mr. Fiske asked the board if they thought it would work? Roger A. stated that he didn't see anything proposed. Mr. Fiske stated he would use stone rubble. Roger said he understood and he had no issues with it. Mr. Fiske stated the goal was to keep the water from going down the hill. Roger said they just needed to know where the rubble would be set. Mr. Fiske drew on his plan the area he felt the rubble should go. He stated his goal was to get the water away from the house and to get it to sink into the ground before it got to the lake. CEO McDonough stated that sounded good. Mr. Fiske noted he couldn't put any plantings in this area now due to the stone.

Mr. Fiske stated there would still be plantings near the shed and new wall. He provided the board with a letter which stated all disturbed soil would be temporarily stabilized with mulch hay and replanted with bayberry, winterberry, blueberry and a mixture of native grasses.

Mr. Fiske stated he believed the project would be done by the end of June of this year.

Joe S. stated that the retaining wall near the water was not going to be put up as depicted so he asked Mr. Fiske to change it on the plan which he did. Joe noted the walls cannot be more than four feet in height.

Roland L. said that Mr. Fiske had noted the stairs on the plan were independent of this project. Mr. Fiske stated that he had already secured permits with both CEO McDonough and the DEP for the stairs so he didn't think it had to be part of this application. Roland asked if there were going to be landings? Mr. Fiske stated, yes, it had to be code compliant.

Roger A. asked if there would be filter fabric put in behind the new wall or would it just be backfilled? Mr. Fiske stated that it was only sand and gravel in the area; clay is not an issue, so he didn't believe fabric was necessary.

Roger A. asked about the location of the hay bales. Mr. Fiske noted locations where he might place several hay bales but he believed due to the slope he would need silt fencing.

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

Roger A. reviewed Zoning Ordinance §105-26 'Stormwater runoff' and §105-27 'Erosion control' in their entirety. He also reviewed 105-4.D(5) 'Removal, reconstruction or replacement' and §105-4.D(7) 'Relocation'. Roger noted that a surveyor would not be needed for placement of the wall, the building on site isn't being moved.

Diane S. felt the board needed to review §105-39 'Earth removal and filling other than activities regulated under §105-61.' Roger A. reviewed the ordinance. Diane asked if anything needed to be done with respect to § 105-39.G(7) which read as follows: '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 Specification.' Diane asked if there needed to be a condition of approval that G(7) was followed? Roger believed that Best Management Practices would cover this.

Roland L. asked where the material to be removed would be taken? The dry set wall, stumps, blocks, etc. Mr. Fiske stated the stumps would most likely go to Scott Moody's place in Acton or Simpson's in Sanford. He stated there would only be one or two stumps. Roland stated the Ordinance calls for it to be removed from Shapleigh. Mr. Fiske stated he would take all debris out of town.

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

Roger A. stated the Conditions of Approval were as follows:

- 1) Best Management Practices shall be used. The silt fence and/or hay bales will be put into place prior to disturbing the area.**
- 2) The area to be re-established with vegetation and job completed by June 30, 2013 per the letters provided. If this date cannot be met the applicant shall inform the Code Enforcement Officer and have him approve a new date of completion.**
- 3) The replacement walls are to be less than 4 feet in height unless engineered by a State of Maine licensed engineer. This information, if needed, to be provided for both the Code Enforcement Officer and Planning Board.**
- 4) Rubble rocks shall be placed on the south side of the structure to slow water and prevent erosion as per the plan presented.**
- 5) All debris shall be removed from Shapleigh. This debris to include stumps, chimney, tile liner, old retaining walls, etc.**

Maggie M. wanted to be sure the wall was less than 4 feet in height. She noted they were told the top piece of wall would be removed to ensure the height met the requirement. Mr. Fiske said he understood.

Roland L. made the motion to approve the Best Possible Location to replace the existing retaining walls, remove the fuel tank and stumps, runs lines for the new well and propane tank and stabilize the area per the plans presented 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.

Nothing further was discussed.

Conditional Use Permit – 60' x 150' Boat Storage Building – Map 5, Lot 18 (722 Shapleigh Corner Road) – Richard & Cindy Weaver, Applicants

The applicants were not present for the review of their application, therefore, the application is tabled until the next meeting on Tuesday, May 14, 2013.

Best Possible Location – Replace Existing Structure with Expansion – Map 27, Lot 13 (130 17th Street) – William Plante, Applicant

Mr. Plante was present for the review of his application. Joe Stanley of LinePro Land Surveying was also present as he drafted the plans for Mr. Plante's proposed project.

Mr. Plante presented a plan to the board for a best possible location for a new replacement structure and septic system to be located on Map 27, Lot 13. *Note: On February 26, 2013, Mr. Plante received approval for a Conditional Use Permit for earthmoving in the Shoreland District in order to be able to create a new access to Lot 13 from Goose Pond Road, closing access to the lot from 17th Street. There was also a 30' x 60' parking area approved for this lot at that time.*

The presented plan, dated April 23, 2013, drafted by Joe Stanley of LinePro Land Surveying, not only depicted the replacement of the existing camp on Map 27, Lot 13 but also a new driveway from Goose Pond Road that passed over property recently purchased by Mr. Plante, part of Map 5, Lot 44. This new driveway passed over Lot 44 onto Lot 13 and ended at the newly approved 30' x 60' parking area on Lot 13. Most of the new driveway is out of the 100 foot setback to the high water mark.

Joe S., looking at the new plan, pointed out Mr. Plante's limits of his property on February 26th, showing the lot line boundary at that time. He stated that since then Mr. Plante and his son had acquired the neighboring property from Mr. Frank Clark, part of Map 5 Lot 44. Joe stated because of this purchase Mr. Plante had changed his vision of what he wanted to do on site. Joe said he would be having the same parking area footprint as in his previous approval but the driveway location would change as seen on the proposed plan. Barbara F. asked if there was already a road into the site at this time? Joe stated, yes. Joe stated that the previous driveway approval Mr. Plante obtained, he would like to give up in lieu of accessing Lot 13 via Lot 44.

Diane S., stating she had missed the ~~previous~~ February 26th board meeting and asked the applicant if he was asking to redo the driveway he had gotten permission to put in? Joe S. stated, no. CEO McDonough stated he was approved for an access driveway off from Goose Pond Road on Lot 13 by the Planning Board and then he purchased the adjacent property Map 5, Lot 44. CEO McDonough stated Mr. Plante came to him for a building permit for Lot 44, as well as a driveway permit from the Road Commissioner to access Lot 44. CEO McDonough stated he gave him a building permit for Lot 44 which allowed Mr. Plante to come into the lot with a driveway, so he did. CEO McDonough stated ~~he~~ Mr. Plante then took it upon himself to go from Map 44, to Lot 13 to the parking area, crossing over the lot line. CEO McDonough stated he did not create the approved entrance on Map 27, Lot 13. Diane said, "He never started the approved driveway." Joe S. stated, correct, he didn't touch the banking, trees, etc.

Joe S. stated Mr. Plante was actually before the board for two issues, for a new access to Map 27, Lot 13 and a best possible location for new structure on Lot 13, replacing and removing the existing camp.

Maggie M. stated, "At this time there is no driveway access to Lot 13 other than thru Lot 44." CEO McDonough stated this is what the board needs to discuss tonight. Mr. Plante stated he could move the property lines around to make the new driveway on Lot 13. Joe S. stated the current division line can be moved if the board approves the new driveway location. Joe thought that perhaps the condition of approval could be that upon approval the lot line is moved to incorporate the new driveway. CEO McDonough thought that could be done. He noted that there could arise several legal issues if the lot line isn't moved.

CEO McDonough stated, “I can foresee new landowners on Lot 13 and they say their deed states they have access to the property via 17th Street. Then new landowners of Lot 44 where the existing driveway for Lot 13 is located won’t let them in anymore, and the previous owner was told to put up trees to discontinue access to 17th Street. Therefore, we (owners of Lot 13) have the right to use 17th Street as stated in our deed, so we are going back to using it.” He stated this was just one scenario as properties change hands and you have to try to foresee the future. Joe S. agreed. Joe stated Mr. Plante still wanted to give up rights to 17th Street and if more language needed to be added they will do so. Joe also understood other potential rights-of-way. CEO McDonough stated, “It needs to be addressed so that the person on Lot 44 can never discontinue the road access to Lot 13.” He said with many camps people have traversed over other properties to access their camps for 20 or more years and then all of a sudden there is a new owner who tells them they have no right to cross over their property so you can’t do it anymore. He said “It becomes a legal battle, people can’t sell their properties, and it is a nightmare.” He said there should be a legal way to address it. Maggie M. thought you would have to rewrite the deed.

Mr. Plante noted that although access for Lot 13 went across two lots, fortunately both lots were owned by the same person. Joe S. thought with deed work the problem could be solved. Mr. Plante believed Joe S. would be creating the property description for a new deed and he could eliminate any future problems. Joe agreed that if the camp location and driveway are ok’d by the board then they would change the deed to reflect the approved changes as seen on this plan, there would be a lot line adjustment, the driveway would be on Lot 13.

Mr. Plante noted that the approved driveway to access Lot 13 would have been much shorter but more of the banking would have been carved out and it would have been much steeper. This new access had a better grade.

Joe S. said the other slight change would be how the water was collected on site, with the original approval there is a settling pond. He stated with the new access it would not be in a good location so Mr. Plante is proposing a dry basin instead.

Joe S. said lastly on the new plan is the location of the existing camp and the proposed new location of the camp and that Mr. Plante would be utilizing his 30% expansion.

Maggie M. asked about the drainage system being proposed, was it a structure? Is it allowed? Maggie didn’t know if it would be a structure such as a retaining wall. CEO McDonough asked what was meant by a dry basin? Mr. Plante stated it is like a catch basin you see on a street but it doesn’t have a bottom to it. He said it is concrete and when set, there is stone under it and around it. He said the water goes into it and you can only use it in a sandy area where the water will go into the ground. CEO McDonough asked to have more of a description. Mr. Plante stated that it was square, about 5’ x 5’ x 5’, and its precast concrete with holes in the sides. Maggie still wondered if it was a structure? CEO McDonough did not believe it would be considered a structure. He said some items are in a grey area. He asked is a paved driveway a structure? He said common sense must be used and he noted that retaining walls are mandated by DEP as being a structure specifically.

Joe S. stated some of the trees Mr. Plante agreed to replant on his last application he has begun to install, hemlocks near the parking area. Joe said Mr. Plante would like to put in apple trees on the uphill side of the slope of the new driveway.

Roger A. asked if there were any other questions?

Roger A. stated there would be a site inspection at 6:30 p.m. on Tuesday, May 14th. Member will meet on site. A notice to abutters shall be mailed as well.

CEO McDonough asked if anything was marked on the property such as the 100 foot line to the water, along with the approved parking area. Joe S. said it was done prior to construction but it can be freshened up. Mr. Plante stated they could also stake out the proposed area for the building. He thought this would give the board a good visual.

Mr. Plante noted that a paved curb would be added to the driveway to direct water to the catch basin. The paved curb would keep the water from cutting into the banking and causing erosion.

CEO McDonough stated again that he did give Mr. Plante a permit to put a structure on Lot 44 which allowed him permitted access to the lot. He also noted that earth work is supposed to be 10 feet from the property line and currently the earthwork crosses the property line. He asked the board how they wanted to deal with this. Mr. Plante stated he moved the property line that day. CEO McDonough asked if he then moved it back? Mr. Plante said, yup. Mr. Plante stated he owned both sides of the property so he believed he could move the lines around. Roger A. said unless it's deeded, you can't just move them around. Mr. Plante did not see why it was an issue for him to encroach on his own property. Diane S. asked if it was going to be all one lot? Mr. Plante said no, it would be two lots. Maggie M. asked why he didn't create the lot before he did it? Mr. Plante said he wanted to see if the board would approve the road.

CEO McDonough noted the Planning Board had the right to waive the requirement of the 10 foot restriction under §105-39.G(11) which states: '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.' CEO McDonough stated the problem is this has already been done, so he felt like they were looking at an after-the-fact permit because in fact Mr. Plante did not put the road in as approved. CEO McDonough added that Mr. Plante didn't do what he approved him to do with the building permit. He said he did not mean it was the wrong thing to do in this location. Mr. Plante agreed he encroached on his own property line. Joe S. stated Mr. Plante could have combined the lots by deed since he had two legal lots of record, done the work on the driveway then split them after the work was done. He said there was a way to get this work done but he agreed it didn't happen that way.

Mr. Plante stated he had to get the level of the parking area before he determined the level of the driveway, how he was going to carve it up the hill. He said once the parking area was in, he had bought the land off of Mr. Clark and saw that property as a better access for Lot 13 than going down the side of the hill. He agreed the board gave him permission to put in a driveway but in a different location. He added that looking up the banking, it looked so nice, he didn't want to disturb it and he had another way to access his lot after purchasing Lot 44. He said at the last review he had no other choice but once he purchased the adjacent lot he had a better choice. He said he made the best of a bad situation.

Maggie M. stated the point being made was Mr. Plante made the choice without permission. Mr. Plante stated he had permission for a driveway on Lot 13 but agreed he did not get permission to put it in the location it is now, crossing a property line within 10 feet. Maggie stated he could have waited and come back to the board and asked if he could do the driveway under a new plan. She believed it made this an *after-the-fact*. Mr. Plante agreed. Maggie added that at first she thought the entire driveway was after-the-fact but now knows he had permission from CEO McDonough for part of the driveway. Mr. Plante admitted that once he started the road he was going to keep going without waiting.

Mr. Plante also thought it was a much better visual for the board to see the driveway in, instead of seeing it on paper. Maggie M. agreed that was true but it makes it very unfair and encourages someone in the future to say 'Mr. Plante put his in without a permit the way he wanted without approval so I will to'. They just have to say 'they did the right thing, it looks good'. Mr. Plante understood and said he was at the board's mercy. Mr. Plante said again the area looks great.

Joe S. agreed with everything that had been said noting that he has seen other property owners who owned both lots put their camp in the middle of the two lots, technically encroaching on their own setbacks with a building. He did say it was slightly different in the fact Mr. Plante and his son own one property jointly and Mr. Plante owns the other solely by deed.

Roger A. said the board would need to do the site inspection and go from there.

Joe S. asked if there was any additional information they would like to see before the next meeting. Diane S. said, “The truth.”

Nothing further was discussed.

Growth Permits –

• Map 1, Lot 21 C, Deering Ridge Road – Growth Permit #03-13

All supporting documentation, applications, etc. can be reviewed at the Town Hall during regular operating hours.

Planning Board meeting adjourned at 8:50 p.m.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, May 14, 2013

Members in attendance: Chairman Roger Allaire, Madge Baker, Roland Legere, Maggie Moody, Diane Srebnick, as well as Barbara Felong, Land Use Secretary. Code Enforcement Officer was also in attendance. Alternate Joseph Stanley was present but not an acting member as he was working with one of the applicants on his project.

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Note: The minutes are not verbatim unless in quotes.
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The planning board meeting began at 7:15 p.m.

ELECTION OF OFFICERS

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

Maggie Moody 2nd the motion.

Roger Allaire accepted the nomination.

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

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

Diane Srebnick 2nd the motion.

Maggie Moody accepted the nomination.

All members were in favor. ***Maggie Moody is now Vice Chairman of the Planning Board.***

Everyone is pleased with both Roger and Maggie accepting the positions and also we want to thank Roger for his continuing to be Chairman and all his years of service on the board. ☺

The minutes from Tuesday, April 23, 2013 were accepted as amended. On page 4 of 7, paragraph 6, the first sentence should read as follows to more closely reflect what Diane intended: Diane S., stating she had missed the ~~previous~~ **February 26th** board meeting and asked the applicant if he was asking to redo the driveway he had gotten permission to put in?

In the same paragraph the following should read as follows for clarity: CEO McDonough stated ~~he~~ **Mr. Plante** then took it upon himself to go from Map 44, to Lot 13 to the parking area, crossing over the lot line.

Conditional Use Permit – 60' x 150' Boat Storage Building – Map 5, Lot 18 (722 Shapleigh Corner Road) – Richard & Cindy Weaver, Applicants

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

Roger A. asked Mr. Weaver to tell the board what he intended to do. Mr. Weaver presented a plan drafted by Carl Beal, Professional Engineer #5013, dated 2/19/2013. The plan depicted Map 5, Lot 18 as well as Map 5, Lot 18F and Lot 18-I. Also on the plan was the location of the proposed new 60 x 150 foot storage building and a new customer parking area. Note: Weaver Marine is currently located on Lots 18F & 18-I.

Mr. Weaver stated the building would be in the back section of the field on Lot 18 and accessed only thru Lot 18F initially. In the future there would be access to a parking area and road access to Lot 18 from 21st Street as depicted on the plan.

Mr. Weaver stated it was a pre-engineered building. He said there would be a foundation with footings. The building would be a trussed / steel building. He showed the location of three doors in the building. He stated he consulted with the Fire Marshall's office to decide the location of the doors.

Mr. Weaver stated they had Carl Beal do their erosion control plan for stormwater runoff. It was noted on the plan presented as follows: " 5. All erosion control BMP's including silt fence, seed & mulch, a stabilized construction entrance, etc. shall be installed and maintained in conformance with the State of Maine Stormwater Best Management Practices Manual. BMP's will be monitored by Carl V. Beal, P.E. on a weekly basis during construction."

Roger A. didn't believe there would be a stormwater issue as all the water would stay in the field. Mr. Weaver agreed and noted the building would be located on the highest location in the field. He said that when doing earth work to devise a stormwater plan, they did not find any ledge. He stated they would not be altering the way the water runs on the land.

Roland L. asked if the only access road would be through Mr. Weaver's property (Lot 18F)? Mr. Weaver stated, yes and it would be used only for boat storage, not public access. He stated the only people going to this building would be himself and employees.

Board members did not have any additional questions.

Roger A. stated there would be a site inspection at 6:00 p.m. on Tuesday, May 28th and a Public Hearing at 7:00 p.m. Also a notice to abutters will be mailed.

Nothing further was discussed.

Amendment to a Conditional Use Permit – Retail / Consignment Store – Map 1, Lot 41 (184 Emery Mills Road) – Richard & Virginia Gallant, Property Owners; Joseph & Mary Letourneau, Applicants

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

Roger A. asked the applicants to explain to the board what they wanted to do. Mrs. Letourneau stated they had the displays in for their landscaping business that was previously approved. She stated they would now like to put in a farmers retail shop in the existing building. She said there would be produce, meat that they raised, and they had a farmer that would supply lamb; basically an outlet for local farmers and artisans.

The applicants provided a list of items to be sold which included the following: canned items, Christmas trees, cornstalks, crafts, dairy, eggs, farming supplies, firewood, grilling supplies, hay, ice, ice cream, landscape supplies, masonry supplies, meat, mums, patio accessories, pet supplies, picnic tables, plants, pumpkins, retail items, soaps and lotions, vegetables, wood pellets, wreaths and yarn.

Roger A. asked if they would be expanding the building? Mrs. Letourneau stated, no.

CEO McDonough asked if USDA approval was required? Mrs. Letourneau stated, yes. She said their meat is USDA approved through their butcher. She said they had talked to the Dept. of Agriculture and they stated they would need to have labels made up for the meat. She said once they got approval from the

Town of Shapleigh, then the Dept. of Agriculture would have to be called to inspect the refrigeration and freezers prior to opening. Mr. Letourneau stated with respect to the butchering process that is already inspected. Mrs. Letourneau stated the license was per the farm, so if she bought meat from another farm they would have a license / certificate to sell their product.

Roger A. noted they had listed firewood and wood pellets. Mrs. Letourneau stated those items would be seasonal due to the limited amount of storage area. Roger agreed. Mr. Letourneau stated they would advertise wood pellets but they would actually be stored at his home and he would deliver them. He stated with respect to wood it would be small bundles for campers, again noting there is not a large area to store bulk items.

Madge B. asked how much parking was on site? Diane S. stated parking was approved based on the size of the building. Mrs. Letourneau stated there were at least four parking spaces on each side of the building. She stated they would not be parking in the turn-around area and the displays were on the far left, not in the way of parking. She believed people could easily get in and out and turn-around on site.

Madge B. asked if there was a parking plan? Barbara F. provided a copy of a pre-existing plan of the property along with a copy of the Subsurface Waste Water Disposal System, done by Kenneth Garner, SE #73, dated 6/10/1993.

Madge B. believed the board should have a parking plan, showing the location of the parking spaces and how the vehicles will go on and off the property. Mrs. Letourneau felt there was plenty of parking and they could access the lot on either side. Madge asked if there needed to be something on site to direct traffic? Mr. Letourneau did not think that would be an issue. He said there was at least 16 feet to turn around in. Mrs. Letourneau stated she could put up a sign in the turnaround area that stated no parking.

Madge B. asked about signage. Mrs. Letourneau stated currently there is a sign up for Earth Works but they have to talk to CEO McDonough about additional signage. She said they may put the sign on the roof of the building so it can be seen from either direction.

Madge B. asked about outside lighting? Mrs. Letourneau said she wasn't planning on operating after dark but she didn't know what she would need during the winter months or for her sign. She stated the lights would not face the traffic. Mr. Letourneau said there were two spot lights on the building at this time. He said they did not shine toward the traffic.

Roland L. asked about the days and hours of operation. Mrs. Letourneau stated during the summer they planned on being open seven (7) days a week. After some discussion they agreed to have the hours of operation from 7:00 a.m. thru 10:00 p.m.

Madge B. asked if there was a septic system on site and if it met code. Barbara F. stated the board had a copy of the septic design and it did meet code. Mrs. Letourneau stated the bathroom on site would not be a public rest room.

Madge B. asked about heat in the building. Mr. Letourneau stated there currently was a monitor heating system. Mr. Letourneau stated that was in the building during the last approval process. He said nothing in the building has changed.

Roger A. stated there would be a Public Hearing on Tuesday, May 28th and a notice to abutters will be mailed. Roger said members were welcome to stop at the site noting everyone knew of the location. Madge B. stated she would stop by.

Madge B. stated the board would need a parking plan for the next meeting.

Nothing further was discussed.

Best Possible Location – Replace Existing Structure with Expansion – Map 27, Lot 13 (130 17th Street) – William Plante, Applicant

Mr. Plante was present for the review of his application. Joe Stanley of LinePro Land Surveying was also present as he drafted the plans for Mr. Plante's proposed project.

Mr. Plante and Mr. Stanley presented a revised plan to board members.

Joe S. stated as a follow up to the site visit, the new plan shows the proposed camp slightly rotated from the original plan. He said this location would be if the board was ok with the location of the parking lot. He noted the difference between the original plan for the parking area and camp and what they are depicting at this time based on the new driveway and parking area location.

Roger A. stated, "First, Mr. Plante should not have put in the driveway without approval from the Planning Board." He stated the approval by the board was set in stone and if Mr. Plante wanted to make a change he should have come back before the board prior to doing any work that differed from the original plan. Roger asked the board if this was going to be an after-the-fact permit for the new location of the driveway? He said the parking area also has to be addressed for a change.

Diane S. agreed this was an after-the-fact permit. Madge B. noted this new plan brought the parking area closer to the water. Mr. Stanley stated the parking area was rotated.

Diane S. asked where the septic tank was going to be located. Mr. Plante stated the tank has to be eight feet from the location of the camp, therefore, the location won't be known until the camp location is approved. Mr. Plante noted the location of the proposed leachfield but again he couldn't place the tank until he knows where the foundation is going, again saying the tank has to be eight feet from the camp so if the board approves the camp location as on the plan the tank could be under the parking area.

CEO McDonough asked about the red line showing the existing gravel of the parking area, he wanted to know if this included the fill extensions? Mr. Stanley said it was the edge of the parking area only not the fill extensions.

CEO McDonough asked about the amount of clearing that has taken place on site, referencing §105-51.C, which limits the amount of cleared openings for any purpose to 25% of the lot area within the Shoreland Zone or 10,000 feet, whichever is greater, including land previously cleared. CEO McDonough asked if this had been addressed? Mr. Stanley stated, no.

CEO McDonough asked if the board was going to address the after-the-fact permit for the driveway first before the camp? He thought the two should be separate issues to keep it clear. Madge B. asked if the after-the-fact would be for the new driveway? Roger A. stated, right. CEO McDonough reminded members that he crossed a property line with the new driveway as well.

Mr. Plante stated currently there was an approved driveway location but he didn't use it. He said whatever the board wanted to do with respect to him crossing the property line was no problem to him. He said if he gets approval for the driveway he created tonight he will move the lot line to include the driveway on Lot 13.

He stated he had permission to service Lot 44. CEO McDonough showed the board what he was approved to do with respect to driveway access to Lot 44. It was not within 10 feet of the property line or across it. It was clear Mr. Plante exceeded what CEO McDonough approved.

Mr. Plante stated that the new driveway will still service Map 5, Lot 44 if the board doesn't like it crossing Map 27, Lot 13. He stated he will then put in the driveway he is approved for, cutting the hill that he had permission to do. He said instead of doing what was approved he put the driveway in a different location and the only thing he did wrong was cross within 10 feet of the property line on either side.

Madge B. asked if the board needed a calculation for the cleared opening so the board knows it meets §105-51? Madge stated again they could not exceed more than 25% of the lot. Mr. Plante believed he was close to that. Madge said that could be true but the board does not know that. Mr. Plante stated a lot of the cleared land is on Lot 44. Madge read §105-51.C and stated the board needed the calculation. She stated it wasn't just the driveway but also the sides. Mr. Plante stated again he did not believe he exceeded it and stated it was just more money for him to go spend. Madge said the board has to vote that this condition has been met, money isn't the issue.

Mr. Stanley asked if he could submit the calculations to CEO McDonough as a condition of approval. Madge B. believed that would be fine.

Barbara F. asked Mr. Plante to fill out the after-the-fact application for the driveway.

Madge B. asked Steve if the basement counted in the 30% calculations noting that Mr. Plante had stated he was going to increase the height of the basement to 10 feet. CEO McDonough stated the basement does not count provided you go to the Planning Board for Best Possible Location. He said that is the incentive to go to the Planning Board and it gives the board the ability to move structures back from the water. He said if an applicant does not want to go to the Planning Board then any expansion to the foundation will count toward the 30%.

Mr. Plante stated he wanted the 10 foot foundation instead of 8 foot to get the cellar floor lower, so when you walk out you aren't walking down a huge banking. CEO McDonough stated as long as you don't go higher than 35 feet from the lowest point to the ground and don't elevate the structure by more than three additional feet. Roger A. did not believe it was being raised more than three feet based on what he saw at the site inspection.

Roger A. could see the reason for moving the parking area from the original location. All the board members agreed the new location of the parking area is best. Mr. Plante noted the fill extensions were less in this new location.

Madge B. asked if there was any gravel removed? Mr. Plante stated he removed a small amount of sand and brought in some soil that packed better than the loose sand for the parking area.

Mr. Plante paid the after-the-fact permit fee prior to approval. The after-the-fact application is for approval for the new access to the above noted properties from Goose Pond Road discontinuing access to the property being Map 27, Lot 13 from 17th Street. The Board did a site visit then reviewed a plan drafted by Joseph Stanley, LS#2453, of LinePro Land Surveying, dated 5/14/2013, which depicted the location of the constructed driveway and parking area, proposed leachfield, trees planted along the parking area, driveway and Goose Pond Road within and beyond the 100 foot high water setback, and trees to be planted to block road access to and from 17th Street from Map 27, Lot 13.

Madge B. made the motion to approve the after-the-fact Conditional Use Permit for the new driveway access to Map 27, Lot 13 across Map 5, Lot 44, and the discontinuance of the existing access to Map 27, Lot 13 from 17th Street per the plan provided with the following condition(s):

- 1. There shall be a lot line adjustment made to be certain the new driveway is inside the lots lines of Map 27, Lot 13 in its entirety.**
- 2. The applicant shall provide the calculations for cleared openings as written under §105-51.C after the lot line is adjusted and these calculations shall be given to the Code Enforcement Officer. If the calculations for cleared openings exceed 25% of the property, Mr. Plante shall come back before the board for further discussion.**

Maggie M. 2nd the motion.

Roland L asked if the existing driveway meets the 10 foot setback to the lot line? Mr. Stanley said he had freedom to move the lot line if needed. Roland thought they had to address it. Mr. Stanley stated the setback was for grading and the grading has already happened. CEO McDonough agreed that the 10 foot setback was related to cuts and fills. Roger A. added that it was to ensure water wasn't going to cause an erosion issue on a neighboring property and in this case erosion has been dealt with and won't be an issue. Roland asked if it was a non-issue? Roger said the berm in the area in question makes it a non-issue he believed. Madge B. asked what they were dealing with? CEO McDonough stated it was under §105-39. Barbara F. noted the board had the ability to waive that requirement (§105-39.G(10)). Roger noted the berm was at least six feet high. He did not see anything washing that area out. Board members agreed.

Madge B. stated that if the calculations show the area of vegetation removed exceeds the 25% then the applicant shall come back to the Planning Board. Roger A. stated, yes. She said if it meets it then it will be approved. Mr. Stanley asked if he could submit a letter to CEO McDonough with the results. The board agreed that would be fine.

Roger A. asked for the final vote for approval of the newly created driveway and parking area per the plan presented by Joe Stanley, LS #2453, dated May 14, 2013. All members were in favor. Members voted for approval, 5 – 0. The motion passed unanimously.

Nothing further was discussed.

Best Possible Location – Replace Existing Structure with Expansion – Map 27, Lot 13 (130 17th Street) – William Plante, Applicant

Mr. Plante was present for the review of his application. Joe Stanley of LinePro Land Surveying was also present as he drafted the plans for Mr. Plante's proposed project.

Madge B. stated, "Now the board has to review the camp and the board has to decide if they are going to approve the location as shown on the plan."

Mr. Stanley stated the location of the camp squared it up with the new location of the parking lot. He said the distant corner had not changed but the camp was rotated about 3 feet in order to line up with the parking area.

Madge B. stated that the board thought there would be seven trees removed with the proposed location. Roger A. said, yes. Madge said some are within 100 feet of the water. Mr. Plante asked if the board was talking about the trees being removed for the camp? Madge B. said, correct.

Diane S. asked Mr. Plante if he was certain this is where he wanted the camp? Mr. Plante said that actually he would like to leave it where it is now and expand it but then he would not be able to make it as large as he wanted to. Diane said she didn't want Mr. Plante going on site after the board approved the location and then decide there was a better location and put it there. Mr. Plante said it was his only option outside of leaving it in the current location. Roland L. said the other option is to take up some of the driveway space and move it there. Mr. Plante stated he didn't mind moving it a few feet off the parking area but he wanted room to be able to turn around large vehicles. Roland said this was a residential lot, it is not supposed to be for large vehicles. Roland was very concerned with the amount of trees removed. Mr. Plante stated he thought there were still too many trees on site. All board members were concerned by the amount of trees that have been removed on site.

Mr. Stanley explained that the size of the camp was based on putting part of the structure outside the 100 foot mark to the water, this way Mr. Plante was able to meet the 30% expansion criteria in the code, as well as get the amount of room he wanted.

CEO McDonough stated the board would need a replanting plan for the trees and how the area where the existing camp is located will be revegetated. Mr. Stanley said he understood.

Diane S. was concerned with the amount of trees that had to be removed and the destruction to the hillside with the proposed location. She believed there would be less destruction with either leaving the camp in its current location and expanding by 30% or moving it to an area where no trees had to be removed. She showed this area requiring no tree removal on the plan presented. Diane S. asked if the board had the ability to place the structure in the area they thought was best possible? She asked members where is the best possible location to the greatest practical extent?

Mr. Plante did not like the proposed location Diane S. noted as he would not be able to expand the size of the new structure as much as he proposed. He did not believe this would be best for his investment having such a small structure. Diane told Mr. Plante that he was the one that purchased the small camp knowing about the 30% expansion criteria. She noted that she too bought a small structure on the lake and could not expand to meet her needs; consequently, she sold the camp and bought a larger one also on the water.

Maggie M. asked about leaving the new camp where proposed but possibly taking a few feet off the size of it in order to be able to save more trees? Mr. Plante again stated the size he was proposing was the size he wanted and needed.

Diane S. stated that the area she was proposing for the new structure would require much less disturbance on the property, it would move the structure back from its current location and no additional trees would have to be removed. Mr. Plante again stated he did not like her idea and started to state several ideas he could do outside the 100 foot high water mark to the water and said that the board would not like that. Mr. Stanley agreed with Mr. Plante that beyond the 100 foot mark he could cause a lot more devastation and would be allowed to do so. Barbara F. asked the both of them to please stop threatening the board with worse case scenarios; the board was doing what the ordinance asked of them.

CEO McDonough read §105-4(7)(b), under 'Relocation', it read in part as follows:

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

CEO McDonough also pointed out to Mr. Plante and Mr. Stanley that he had the authority to put a stop work order on the driveway they put in, crossing the property line, and could have had them replace the property to what it had been prior to the disturbance. He also noted that with respect to the fill around the parking area it did in fact count as placing additional earth closer to the water than existing and in fact the Planning Board could have not allowed it to take place. He said that in fact he had contacted the MDEP and was told he had had every right to ask the property owner to remove the fill, so the applicant should be grateful the Planning Board has allowed him keep the work that has taken place after-the-fact.

After several more minutes of debate with respect to the proposed location of the camp and the amount of trees to be removed, Madge B. concluded that the board members needed to do another site inspection. Members agreed as they were looking at both the after-the-fact driveway along with the proposed camp location at this evenings site visit and there may not have been enough attention paid to location possibilities on site for the new structure.

CEO McDonough stated that the board would need a replanting plan for the camp being removed and for the area around the new structure.

Madge B. made the motion to table the application until the next meeting on Tuesday, May 28th so the board had time to do another site inspection. Diane S. seconded the motion. All members were in favor.

Nothing further was discussed.

Growth Permits –

- **Map 7, Lot 5D (Dogwood Drive) – Patco Construction – Growth Permit #04-13**
- **Map 1, Lot 20D (Murray Road) – Liberty Homes, Inc. – Growth Permit #05-13**
- **Map 10, Lot 2-2-3 (White Pine Lane) – Louis Nieto – Growth Permit #06-13**

All supporting documentation, applications, etc. can be reviewed at the Town Hall during regular operating hours.

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 28, 2013

Members in attendance: Chairman Roger Allaire, Vice Chairman Maggie Moody, Madge Baker, Roland Legere, Diane Srebnick, as well as Barbara Felong, Land Use Secretary. Code Enforcement Officer was also in attendance. Alternate Joseph Stanley was present but not an acting member as he was working with one of the applicants on his project.

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Note: The minutes are not verbatim unless in quotes.

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Public Hearing Began at 7:05 p.m.

Conditional Use Permit – 60' x 150' Boat Storage Building – Map 5, Lot 18 (722 Shapleigh Corner Road) – Richard & Cindy Weaver, Applicants

Mr. and Mrs. Weaver were present for the public hearing. Note: Board members did a site inspection prior to this evenings meeting.

Roger A. asked Mr. Weaver to tell the board what he intended to do. Mr. Weaver stated they wanted to put up a new 60 x 150 foot storage building in the field and a new customer parking area on Lot 18. *Note: Weaver Marine is currently located on Lots 18F & 18-I.*

Madge B. asked the applicant if they were going to service boats in the new building or just store them? Mr. Weaver stated the building was for boat storage only.

Madge B. asked if there would be any fuel dispensed in the building? Mr. Weaver stated, no, it would be storage only.

Madge B. asked if they submitted an erosion plan? Roger A. showed Madge the proposed plan. Board members looked at the plan provided which referenced erosion under Note #5 which stated 'All erosion control BMP's including silt fence, seed & mulch, a stabilized construction entrance, etc. shall be installed and maintained in conformance with the State of Maine Stormwater Best Management Practices Manual. BMP's will be monitored by Carl V. Beal, P.E., on a weekly basis during construction.' The cross section of the parking area was also shown on the plan provided.

Madge B. asked if there would be any gravel removed from the property. Roger A. stated gravel moved for the storage building would be incidental to construction.

Mr. Weaver wanted to be sure members received a copy of the letter from Mr. Beal, dated April 19, 2013, which addressed erosion control. Roger A. noted the members had a copy and read the letter allowed. The letter read in part:

Pursuant to the pending application by Weaver's Marine for a Conditional Use Permit for a new storage building and parking lot expansion, the following information is presented regarding stormwater runoff.

The proposed improvements will be constructed on a 10-acre parcel, identified as Map 5 Lot 18 on the Shapleigh Tax Maps. The majority of the property is an agricultural field that is hayed annually.

Stormwater runoff from the proposed building and parking areas will flow approximately 500 feet across this field to the Shapleigh Corner Road (Rte. 11). The vegetation in the field will reduce increases in the peak rate of runoff to existing rates and also filter sediments and constituents from the runoff.

In Conclusion, the proposed improvements will result in no negative impacts due to the stormwater runoff to downstream properties, tributaries, or water bodies.

Madge B. noted Mr. Weaver spoke about having a security light on the building but she did not see a problem with this as the building is in the middle of the field so this shouldn't be an issue. Mr. Weaver stated he was not planning on lighting the entire parking area.

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

The public hearing for the Weaver application closed at 7:13 p.m.

Amendment to a Conditional Use Permit – Retail / Consignment Store – Map 1, Lot 41 (184 Emery Mills Road) – Richard & Virginia Gallant, Property Owners; Joseph & Mary Letourneau, Applicants
Mr. and Mrs. Letourneau were present for the public hearing.

Roger A. asked the applicants to state what they wanted to do for the record.

Mrs. Letourneau stated they would like to open a retail / consignment store for farmers and local artisans.

Madge B. stated she had some concerns with the parking on site. She asked if there was a parking plan? Mrs. Letourneau provided a sketch plan of the area which depicted the location of the store, display area, employee parking area, turn around and the area for patron parking. Madge noted she did stop and look at the proposed parking area, turnaround, etc.

The plan depicted a parking area of seven 9 foot wide parking spaces and five 9 foot wide parking spaces. *Note: The ordinance calls for 200 square feet for each parking space which is on average 10 x 20 feet in size.*

Madge B. stated her concern was that automobiles should go in one direction and out another for safety reasons. Maggie M. stated it was a hard place to get in and out of as she worked there years ago when it was a farm stand. She said some people were not careful how they pulled in and out of the area. Madge stated this was her concern, noting the store across the street was another hard place to get in and out of. Mrs. Letourneau agreed and thought the store across the street was harder to get in and out of due to the hill which reduced visibility in one direction. She stated they had better visibility. Diane S. stated, "You wouldn't have to back out of this location." Madge agreed but she wanted to be sure they made this location as safe as possible. She said there could still be a problem with entrance and exit arrows. Mr. Letourneau stated as long as people backed into the turn-around area they could see in both directions.

Madge B. asked how wide the turn-around was? Mr. Letourneau thought two cars could pass each other. He thought it was approximately 16 feet wide.

Maggie M. noted they were not going to have parking in the turn-around area.

Madge B. asked about putting up parking signs to note where cars should park. Roger A. stated they could require it. Madge thought until people got into the habit of where to park they might need some direction.

Maggie M. asked about a sign stating ‘No Parking’ in the turn-around area. Madge B. stated that would be good or parking signs to show people where to park. Mrs. Letourneau stated she thought the sign saying ‘No Parking’ in the turn-around was the best idea. Madge had no problem with that.

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

The public hearing closed at 7:20 p.m.

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

The minutes from Tuesday, May 14, 2013 were accepted as read.

Conditional Use Permit – 60’ x 150’ Boat Storage Building – Map 5, Lot 18 (722 Shapleigh Corner Road) – Richard & Cindy Weaver, Applicants

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

Madge B. began by asking what the site distances were in this location. She believed the site distances were in compliance but she would like them in the record of what they actually are. Barbara F. did not know at this time what they were. Barbara thought the board could make it a condition of approval that they supply the site distances. CEO McDonough asked what the speed limit was on 21st Street which was where the entranceway would be. Mr. Weaver thought it was 45 mph since it was not marked. Everyone agreed that was much too fast in this area but it was not posted. Barbara asked if board members saw a visual issue at the site inspection? Madge did not believe there was but she still wanted it in the record. Barbara agreed, she just wanted to be sure the board would be comfortable with making it a condition. They had no issue with that. Roger A. couldn’t remember if it had been done on a prior approval but he had no problem with making it a condition of approval.

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

- 105-17 – Land uses. *This permit is before the board because any small business or industrial complex needs a Conditional Use Permit.***
- 105-18 – Dimensional requirements. *Roger A. stated the property met the lot size requirements in the ordinance for the proposed business.***
- 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. *This access is on an unmarked road, therefore, the speed limit is 45 mph, consequently the minimum site distance required is 315 feet. Roger A. stated the site distances would be provided as a condition of approval. He noted that if one of the site distances does not meet the minimum the board does not have to reject the application.***
- 105-22 – Noise. N/A - *There will be no noise generated outside the structure by the proposed activity.***
- 105-23 – Dust, fumes, vapors and gases. N/A - *There will be none generated.***
- 105-24 – Odors. N/A - *There will be no obnoxious odors generated.***

- 105-25 – Glare. *There shall be one light added for security purposes and it shall not shine onto 21st Street or State Route 11.*
- 105-26 – Stormwater runoff. *A letter and plan was provided by Carl Beal, PE #5013. The erosion control letter, dated 4/19/2013, stated in part that the proposed improvements will result in no negative impacts due to the stormwater runoff to downstream properties, tributaries, or water bodies.*
- 105-27 – Erosion control. *Erosion control measures are on the plan provided, drafted by Carl Beal, PE #5013, and a letter was drafted which also addressed the fact there shall be no erosion issues with the proposed activity.*
- 105-28 – Setbacks and screening. *The existing vegetation is not going to be removed and the only exposure will be to State Route 11. The applicant owns all the surrounding property.*
- 105-29 – Explosive materials. *N/A*
- 105-30 – Water quality. *There is no waste being stored outside of the building that could contaminate groundwater. Roger A. asked the applicant if there would be a dry hookup for fire fighting purposes. Mr. Weaver stated, no.*
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *The existing vegetation on site is not to be removed. There is no permanent outside storage of boats in this location.*
- 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 not be any generated from this activity.*
- 105-34 – Access control on Routes 109 and 11. *The existing entrance / exit shall be from 21st Street.*

Barbara F. asked the applicants if they wanted the parking area that was shown on the plan provided approved this evening as well? Mr. Weaver stated it was up to the board. Barbara stated it was on the plan and if reviewed now the applicant wouldn't have to come back before the board again in the future. Madge B. thought it would be a good idea to address it now. Barbara stated the site distance for the parking area could be given to the board as a condition of approval just like the distances for the existing entrance.

CEO McDonough asked if the parking area would be for cars only? Mr. Weaver stated it would be for cars and boats. Diane S. stated, including trailers. Mr. Weaver stated, right. CEO McDonough asked if boats were going to be stored in the parking area. Mr. Weaver stated, no, this was a live parking area. He said they would not be in the parking area for more than a week or two waiting for service. CEO McDonough stated that currently the board is under the impression they are not going to be seeing a field full of boats, they will be stored in the new building. Mr. Weaver stated, correct, that is the idea. He said it is his intention to use it for winterizing and to cause less confusion in the existing entrance. He believed in this location the site distance is increased making it a safer area.

Mr. Weaver, looking at the plan, showed the board and CEO McDonough the site distance from the existing entrance and the proposed. On the plan it appeared in both directions the minimum of 315 feet was exceeded for the proposed entrance. The site distance from the existing entrance met the 315 foot minimum in one direction it may only be 250 feet in the other before the hill drops off. Madge B. stated based on this she didn't think the board would need a condition for site distances as they have them on the plan provided.

- 105-39 – Earth removal and filling other than activities regulated under §105-61. *Roger A. stated the review of the parking area would fall under this section for removal of the loam and bringing in gravel so it has a solid base. Roger believed the removal of earth is this instance is incidental to construction. Roger stated the application also met the 'Optional conditions of permit' approval noting (9) which states 'The need for written approval*

of a soil and erosion and sedimentation plan by a State of Maine licensed civil engineer selected by the applicant for the Planning Board.’ has been provided so this condition has been met.

105-43 – Off-street parking and loading. *Roger A. believed parking fell under §105-43(B)(2) which states ‘Adequate spaces shall be provided to accommodate customers, patrons and employees at automobile service stations, drive-in establishments, open-air retail businesses and amusements and other permitted uses not specifically enumerated. Madge B. agreed. Roger believed the parking area depicted on the plan was oversized and it was unlikely it would ever be filled.*

Mr. Weaver agreed that the number of parking spaces exceeds the number of boats that can be stored inside the new building. Madge added that it would also keep cars and boats from being parked along the street, so it is to everyone’s advantage to have the additional parking area.

105-46 – Sanitary provisions. *None shall be installed in the building.*

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

Roger A. asked the board if they had any additional questions for the applicants 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 Rte. 11. Although access isn’t directly onto Route 11, the property itself abuts State Route 11.*
- 4) Traffic access to the site is safe. *It is, the site distances meet or exceed the minimum requirement in the Ordinance for the new parking lot / entrance as depicted on the plan. The minimum is 315 feet.*
- 5) The site design is in conformance with all municipal flood hazard protection regulations. *It is, neither the building nor parking area shall be located in a flood zone.*
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. *There is none generated by the storage building or parking area.*
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. *There are no hazardous materials being stored at this location.*
- 8) A stormwater drainage system capable of handling a twenty-five-year storm without adverse impact on adjacent properties has been designed. *Stormwater was addressed by a State of Maine Licensed Engineer, Carl Beal, P.E. #5013. There shall be no stormwater impact to adjacent properties, tributaries or water bodies.*
- 9) Adequate provisions to control soil erosion and sedimentation have been made. *An erosion control plan was provided by Carl Beal, P.E. #5013.*

- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***There is, a 10,000 gallon water holding tank is located in the vicinity for fire protection purposes.***
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. ***This business will not produce anything detrimental to the neighboring properties. The lighting on the building shall not glare onto 21st Street or State Route 11; there is no noise, fumes, dust or odors produced by the proposed activity. There are no changes being made to the existing landscaping beyond that needed to create an entryway onto 21st Street.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

The applicants provided the board, along with their application, a site plan of the proposed storage building and parking area, done by Carl Beal, PE #5013, dated 2/19/2013. The site plan also referenced erosion control measures. In addition, Mr. Beal provided a letter that addressed stormwater runoff from the proposed building and parking areas and he stated that the proposed improvements to the property ‘will result in no negative impacts due to the stormwater runoff to downstream properties, tributaries, or water bodies’. This letter was dated April, 19, 2013.

Madge B. made the motion to approve the Conditional Use Permit to erect a 60’ x 150’ boat storage building and put in a parking area on Map 5, Lot 18 per the plans and stormwater drainage letter provided. Maggie M. 2nd the motion. All members were in favor. Members voted for approval, 5 – 0. The motion passed unanimously.

Nothing further was discussed.

Amendment to a Conditional Use Permit – Retail / Consignment Store – Map 1, Lot 41 (184 Emery Mills Road) – Richard & Virginia Gallant, Property Owners; Joseph & Mary Letourneau, Applicants
Mr. and Mrs. Letourneau were present for the final review of their application.

The application is for the ability to sell products from local farmers, artisans, as well as seasonal items.

Because there were no questions from the board, Roger began review of the pertinent ordinances.

- 105-17 – Land uses. ***This permit is before the board because a retail business or change to the business needs a Conditional Use Permit.***
- 105-20 – Applicability of standards; prohibited uses. ***Roger A. stated the application was a permitted use and the use would create no health or safety concerns.***
- 105-21 – Traffic. ***The speed limit in this location is 35 mph, therefore the minimum required is 245 feet. Roger A. believed this could be met in both directions. Alternate, Joe S. stated he looked into renting this office and he believed the distances are met.***
- 105-22 – Noise. N/A - ***There will be no noise generated outside the structure by the proposed activity.***
- 105-23 – Dust, fumes, vapors and gases. N/A - ***There will be none generated.***
- 105-24 – Odors. N/A - ***There will be no obnoxious odors generated.***

- 105-25 – Glare. *There shall be no additional lighting.*
- 105-26 – Stormwater runoff. *There are no changes being made to the existing building or parking area that would cause a stormwater issue.*
- 105-27 – Erosion control. *There are no changes to the existing building or parking area that would cause an erosion problem. The existing vegetation is to remain.*
- 105-28 – Setbacks and screening. *The existing vegetation is not going to be removed. The setbacks and screening remain the same.*
- 105-29 – Explosive materials. *N/A*
- 105-30 – Water quality. *There is no waste being stored outside of the building that could contaminate groundwater.*
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *The existing vegetation on site is not to be removed.*
- 105-32 – Relation of proposed building to the environment. *The existing building fits in well with the surrounding area.*
- 105-33 – Refuse disposal. *There shall be minimal generated from this activity and it shall be removed by the applicant.*
- 105-34 – Access control on Routes 109 and 11. *The existing entrance / exit is in existence. There shall be a 'No Parking' sign placed in the turnaround area for safety.*
- 105-43 – Off-street parking and loading. *Roger A. stated four parking spaces were the minimum required and there is room for more than four parking spaces on site, not including employee parking. This exceeds the minimum required.*
- 105-46 – Sanitary provisions. *There is an existing State approved subsurface wastewater system on site. There shall be no public access to the bathroom facility.*
- 105-47 – Signs and billboards. *Any signage shall be obtained through the Code Enforcement Office.*

Roger A. asked if there were any questions for the applicants 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 Rte. 109.*
- 4) Traffic access to the site is safe. *It is, the site distances meet the minimum requirement in the Ordinance which is 245 feet in this location.*
- 5) The site design is in conformance with all municipal flood hazard protection regulations. *It is, this property is not in the flood zone.*
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. *There is a State approved septic system / bathroom facility on site. Refuse shall be removed by the applicant.*
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. *There are no hazardous materials being stored at this location.*

- 8) A stormwater drainage system capable of handling a twenty-five-year storm without adverse impact on adjacent properties has been designed. ***There are no changes being made to the property to create a stormwater drainage issue. The building and parking area have been in existence for many years and used for various business with no problems.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***There are no changes being made to the existing building, parking area, or vegetation to create an erosion issue.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***There is, this location 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. ***This business will not produce anything detrimental to the neighboring properties. The lighting on the building shall not glare onto State Route 109; there is no noise, fumes, dust or odors produced by the proposed activity. There are no changes being made to the existing landscaping.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

The Conditions of Approval shall be as follows:

- 1) **The hours of operation shall be 7:00 a.m. thru 10:00 p.m., seven days a week.**
- 2) **There shall be a sign placed on site stating ‘No Parking’ in the turn-around area.**
- 3) **Any outside lighting shall be directed toward the parking area, not toward State Route 109.**
- 4) **Site distances shall be given to the Land Use Secretary for the record prior to opening.**
- 5) **Outdoor storage of materials shall not interfere with the four mandatory parking spaces for patrons.**

Madge B. had a concern with the outside storage of materials. She didn't want anything to interfere with the four parking spaces that are required. Madge asked if outdoor storage had a setback requirement? She wanted it setback at least as far as the building from the road. Maggie M. noted yard sale businesses have a setback for parking so as not to interfere with visibility. Madge said again she didn't want anything stored in front of the building. After continued discussion the board agreed that no outdoor storage would be within 15 feet of the pavement of Route 109. They believed this would give adequate site distance in both directions and also be easy to understand for both the board, the CEO and the applicants.

- 6) **There shall be a distance of 15 feet from the edge of the pavement of Route 109 to any outside storage of materials, keeping the buffer area clear for traffic site distance.**
- 7) **Any signage shall be permitted through the Code Enforcement Office.**

Diane S. made the motion to approve the Amendment to the Conditional Use Permit to open a consignment / retail store, using the existing building owned by Richard & Virginia Gallant located on Map 1, Lot 41 with the above stated seven 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.

Best Possible Location – Replace Existing Structure with Expansion – Map 27, Lot 13 (130 17th Street) – William Plante, Applicant

Mr. Plante was present for the review of his application. Joe Stanley of LinePro Land Surveying was also present as he drafted the plans for Mr. Plante's proposed project. Board members did a site inspection prior to this evening's meeting.

Mr. Plante and Mr. Stanley presented a plan to board members. Mr. Stanley stated they were still looking at the same version of the plan with the building the same size, 26' x 36 feet. Mr. Stanley said at the site inspection they discussed turning the building from the present proposal toward the parking area. He said Mr. Plante would like this configuration, moving the building closer to the parking area but still in the same general location.

Madge B. stated this would allow him to have a 26' x 36' building. Mr. Stanley said, yes. Roger A. stated viewing the pink stake to the orange stake it was approximately 10 feet. This rotation would create a bit less disturbance to the banking.

Diane S. stated while on the site inspection Mr. Plante stated he needed 10 feet and 25 feet around the foundation of the proposed structure. She wanted to know what was the actual figure, 10 or 25? Mr. Plante said commonly the area of disturbance is 25 feet at a minimum. Normally there is 3 feet of overdig and then you have to make ramps for cement trucks and equipment to do drainage. He said the ramp has to be away from the overdig so you are not on the edge of it.

Roger A. stated Mr. Plante would not need the 25 feet all the way around because a cement truck can use shoots on the driveway side. Roger felt 10 feet would be max on the driveway side. Maggie M. stated that only two sides would be 25 feet then. Diane S. was concerned about the hill side. Roger thought that would be 10 feet because he would have enough room. Roger said there would be regrading on the back with no tree disturbance and the other area was on the driveway. Roger said much of the grading has been done. Roger did not believe Mr. Plante needed 25 feet.

CEO McDonough stated that needed to be on the plan because the grading could potentially be all the way to the water. He said this project is getting closer and closer to the water with each revision to the original plan. Roger A. did not agree. CEO McDonough stated all the fill extensions on site that were not on the plan, are much closer than what was depicted on the plan.

Roger A. said the area where the old camp is removed has to be regraded and revegetated. CEO McDonough asked how much will be disturbed in front of the water with the new camp. Mr. Plante stated that he wouldn't go any further than where the existing camp is (approx. 37 feet from the high water line). Roger stated from the proposed camp to the new one, the entire area will need to be regraded.

Diane S. stated that is why her proposed building location was a better solution since the area had to be regraded regardless and you would not be disturbing anything on the hill, so there was less overall disturbance on the property. She thought it would make the most sense for the area. She understood this would not allow as big an expansion of the structure but it would cause less damage to the property. She said the only area that needed regrading would be the small area where the old camp is coming out and you would not have to regrade the entire hill. She added there would be no further disturbance above the parking area. She believed this made the most sense.

Mr. Plante stated the problem with Diane's idea is the square footage he would be allowed for the new structure would be too small. Diane stated she understood but the board's concern should not be the size of the structure but where is the best possible location to not disturb the lake and property. She said the concern is the lake not the size of the house.

Mr. Stanley stated with their proposal they would be moving the camp back another 30 or 40 feet from the lake. Barbara F. asked if their proposal disturbed more of the area? Mr. Stanley said there was a trade-off definitely. He said the proposed foundation would have to act as a wall to hold up the embankment. He said the area closer to the water would be revegetated and the new structure would be as far from the lake as possible.

Roger A. stated that by moving it back, using BMP, keeping it away from the lake he thought it was a benefit. Diane S. agreed but how far back is best for the area. Roger believed Mr. Plante's proposal was best with his proposed stabilization. Roger felt with BMP, the entire area would be stabilized. Roger noted all the bark mulch currently in place is working well to prevent erosion. Roger thought the area was nicely landscaped. Diane stated she saw erosion while on the site walk coming from where he placed some new trees. She agreed it was a nasty hill and there would be issues no matter what you do. Mr. Plante stated there have been some serious downpours and the driveway and parking lot have not moved, there is no erosion. Diane said again there was an erosion issue coming from Goose Pond Road but she did agree the road and parking area are fine. Mr. Stanley stated he knew of the erosion area Diane was speaking of on site. Mr. Plante stated it was an area that is a problem for the town and Mr. Plante fixed the gully putting in bark mulch and trees. Mr. Stanley said a bit more work may need to be done in that location but he didn't see it as a problem.

Maggie M. stated if more vegetation is placed down by the lake and the angle of the proposed structure has been adjusted to save some of the trees, as well as using some of the parking lot instead of going more into the hill and using some of the foundation wall as a retaining wall, isn't it more stable than it would be placed closer to the existing structure? CEO McDonough said without a reclamation plan there is no way of knowing. He thought it would all be graded right down to the water beyond the 100 foot buffer strip. Mr. Plante stated they didn't have to go all the way to the water, just to the existing camp which is about 55 feet from the water. Mr. Stanley stated it was 35 feet at the closest point to the water. Mr. Plante stated once the camp is gone it has to be revegetated. CEO McDonough agreed, there is supposed to be a 100 foot buffer strip of natural vegetation, consisting of trees, mulch and shrubbery.

Diane S. stated she was having a hard time because the plan does not show the slope or terrain. She said it would be easier if the board had that. Mr. Stanley agreed and said there was some topography for the original driveway plan. He said he wasn't sure what the board wanted for this meeting. He said he could put the elevation back on the plan. Mr. Stanley stated that he also realized there had to be something put on the plan with respect to regrading between the new and old camp, so CEO McDonough has something to enforce. Roger A. agreed the grading that is going to get done needs to be on the plan. Mr. Plante said from the front of the existing camp to the new camp had to be regraded.

Madge B. stated when reviewing this, using §105-4.D(7) it states *'In determining whether the building relocation meets the setback to the greatest practical extent...'*. Madge asked if best possible location and the greatest practical extent was different as the board is looking at both. Madge thinks looking at that statement the board should be pushing the house back. She wondered if both are the same thing? Diane S. said to read (7)(b) in its entirety which reads: *'In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems and the type and amount of vegetation to be removed to accomplish the relocation. 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.'*

Mr. Plante stated he had the location of the septic. Diane S. stated she didn't think he could determine that until the location of the new structure was determined. He said he had the plans and agreed the septic tank has to be eight feet from the structure but the location of the leachfield is already determined.

Roger A. thought by pushing it back to where the board reviewed it at the site visit is getting the structure to the greatest practical extent looking at the size of the lot and slope of land, moving it from the steeper slope; soil erosion is being contained with the foundation. Diane S. stated either location would contain the soil erosion. Roger said there would be no other structures on the property.

Madge B. stated the parking area has bark mulch, does it stay there forever? Roger A. stated, yes. Mr. Plante stated vegetation would eventually grow up through it. Maggie M. asked if a downpour would move the mulch? Roger said no, the bigger the better for the mulch. Roland L. noted it was called erosion control mulch. Mr. Plante agreed and stated it was stumps ground up and he said it worked better than silt fences which can be installed improperly or don't stay in place. He said the mulch is never removed.

Roland L. thought what was seen at the site inspection was the best compromise for the structure by moving it over, less vegetation will be removed. Madge B. agreed. Roland thought this was better than Mr. Plante having two buildings. He hoped that this compromise would prevent Mr. Plante from putting in another building as was suggested at a previous meeting. Mr. Plante said he was willing to lose some of the parking area to get to the 100 foot mark so he could have a larger expansion of the structure.

CEO McDonough stated in light of all the grading that will take place he felt the board would need an extensive revegetation plan. Madge B. said she thought more trees would be going down within the 100 foot setback so those need to be dealt with. Mr. Plante didn't think he needed much of a plan because one side was the parking lot, one side the foundation was holding up the banking, one side was a walkout basement and so there is only one area for revegetation and that is the area where rocks are currently in the grass slope. CEO McDonough said everything beyond the black line of the new structure towards the lake needs a revegetation plan. He said **anything** disturbed from the location of the new structure towards the lake needs a revegetation plan. Mr. Plante said it's all grass now and he wants to put grass back in. CEO McDonough stated he needed to see something on paper. Mr. Plante asked if he wanted to see grass on paper. CEO McDonough said again he needed something on paper in order to comply with the ordinance. §105-4.D(7) which states 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.'*

Mr. Stanley stated he needs to get on paper the location of structure and show limits on the plan of what is going to happen. Mr. Stanley stated he understood that the board needs something in writing to hold Mr. Plante accountable with respect to the regrading and replanting. Mr. Plante said again he wanted grass. CEO McDonough stated there is supposed to be a 100 foot natural vegetative buffer. Maggie M. said small trees and plants. Madge B. stated the board did not like grass. CEO McDonough said there needs to be a plan that the board will accept. Mr. Plante said there was lawn around the existing structure now, so he asked the board if they wanted something different where the camp is now. CEO McDonough stated everything that has to be graded from the new structure to the existing camp in the 100 foot buffer strip needs to be addressed. He said that is what the ordinance states.

Roger A. said where the stakes are at this time for the new camps location, needs to be on the plan, along with the area to be disturbed. Mr. Stanley said the board wants to see what area will be disturbed and what will be done there. Mr. Plante said he wanted to put grass there. Madge said again the board was not enthusiastic about grass. Barbara F. asked the board what they would like? Madge said she would like native vegetation but she added that she could not say where it was going as she didn't know exactly what

was going to be disturbed so the applicant had to put that on the plan. Mr. Plante, looking at the plan, said the area was between the two buildings. Madge said Mr. Stanley would know what to do.

Roger A. reviewed §105-4.D(7)(1)(b) which read as follows:

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.

Roger A. said this information needs to be placed on the plan. Mr. Plante said he wanted grass. Diane S. said she thought there was mulch down at this time. Madge B. agreed. Diane asked if he was going to have to put plants in the mulch. Mr. Plante said there was bare ground now on the original banking. Madge said again it needs to be on the plan what he was going to do. Mr. Plante said again he was asking for grass. Maggie M. said that was not the preferred vegetation by the lake. Maggie said that whatever was removed for the driveway for bushes and trees, similar vegetation had to be replanted. Mr. Plant said where the camp is now he wants to put grass in that area. Maggie said where the original camp is now there could be bushes and plants. Mr. Plante said he wanted grass. Barbara F. asked about junipers or blueberries, noting these are what the board has required in the past for native plantings. Maggie agreed saying these prevent erosion and water from going toward the lake. Mr. Plante said that area is flat. Maggie said it has nothing to do with slope it is preventing anything to go toward the lake. Mr. Stanley said in one of the previous approvals (for the original driveway that was not put in) the board had discussed letting some of the grass come in and also planting a few blueberry bushes and junipers. He said this was in the previous approval.

Maggie M. said the tire tracks should be filled in with blueberries and junipers. Madge B. asked if trees were still going in to block off 17th Street. Mr. Stanley said, yes. Diane S. asked how many more trees are going to be removed? Madge said trees will be removed and they will have to be replaced. She said this is part of the revegetation plan the board needed. Maggie reminded everyone the ordinance states that now the trees have to be six feet in height. CEO McDonough stated the board isn't supposed to design this, he believed everyone knew what a 100 foot buffer strip should be and the applicant needs to design one. If the applicant cannot produce a plan then this cannot move forward. Barbara F. noted there was a gentlemen in the audience that the board had required a revegetation plan from that was clear and extensive for his project, as well as requiring it for other applicants that were disturbing such a large area in the Shoreland zone. She added that she recalls it was all native shrubs, vegetation and mulch.

Roger A. stated the new plan has to show where the new structure would be set and then determine what would be done for landscaping and where the existing camp is located. Barbara F. said York County Soils and Water can give the applicant an entire list of vegetation. CEO McDonough asked if maybe the board needs a professional landscaper to create a plan because no one at present seems to have an idea of what native vegetation to use or where to place it. He said a professional should be used. Maggie M. asked if the applicant could hire someone at York County Soil and Water. CEO McDonough said that yes they will put together a plan for a fee. Maggie thought they would know what would work best.

Roland L. asked if it were possible that the revegetated area could be located someplace other than where the cottage is? Roger A. said the area where the cottage is has to be revegetated. Roland said for the sake of conversation you could put grass in that area, could another area be revegetated. CEO McDonough said the whole area is going to be regraded so there will be no vegetation at all. How will you replace that? He said all he has heard is grass. Roger said he thought what would happen is that once the building is relocated then Mr. Stanley will know what the slope is and he will then know what type of vegetation will be needed to stabilize it. Diane S. asked if it should be open ended? Roger said he was going to have to come back to the board to show where the new structure will be located and how the area will be regraded.

Diane S. asked if the board was going to vote on the new location of the structure before we ask for a new plan? Roger A. said yes, we can take a vote on the new location. Diane said we can't tell him to bring in a new plan without telling him where to put the new structure. Everyone agreed that the board could vote on the location of the new structure. Mr. Plante asked if the board was ok with the location of the foundation so if he goes and obtains help from YCSW for a vegetation plan for the disturbed area that will be where it's going. He said he doesn't want the board to change their mind on the location of the foundation. Diane agreed the board should vote on a location.

Madge B. moved for approval of the revised location of the new structure based on this evenings site visit with the stakes seen, moving the rear of the structure approximately 10 feet from its original location. The new structure will be shifted toward the existing parking area. Maggie M. 2nd the motion. Four members were in favor. Diane S. did not agree with the new location, therefore, did not vote in favor. The structures location shall be approved as seen at the site inspection by a vote of 4 – 1.

Mr. Plante said he would contact York County Soil and Water for the revegetation plan.

Mr. Stanley noted that the board wanted the limits of disturbance on the plan.

Mr. Plante asked CEO McDonough if he was ok with him contacting Joe Anderson of YCSW. CEO McDonough stated, yes.

Mr. Plante asked if there was anything else the board needed. Roland L. noted a small erosion issue up by Goose Pond Road he might want to address. They suggested perhaps he should meet with John Burnell.

CEO McDonough asked how many trees would be removed for the new structure? Mr. Stanley said he hadn't located them yet. He said he would work with Joe Anderson for replacing them.

Nothing further was discussed.

Conditional Use Permit – Earth Moving Greater than 800 Yards in General Purpose District – Map 10, Lot 2-2-3 (White Pine Lane) – Louis Nieto, Jr., Applicant

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

Roger A. asked Mr. Nieto what he was proposing to do. Mr. Nieto stated he had purchased a lot on White Pine Lane, part of Great Hollow Acres Subdivision Part #2, Lot #3. Mr. Nieto stated he wanted to bring in approximately 800 yards of earth due to the water table being approximately 20 inches below grade, in order to put in a daylight basement.

Mr. Nieto provided the board with sketches which showed the area of the existing protected wetland that he wanted to fill in, along with the gravel calculations.

Mr. Nieto spoke with Robert Green, Jr. of the ME DEP to see if he could in fact fill in part of the wetland area. Looking at Mr. Nieto's calculations and information provided, Mr. Green believed the lot development proposed met §480.Q 'Activities for which a permit is not required' and he would be able to fill in part of the wetland area with approval by the Town.

§480-Q reads in part:

A permit is not required for the following activities if the activity takes place solely in the area specified below:

(17) Minor alterations in freshwater wetlands. Activities that alter less than 4,300 square feet of freshwater wetlands as long as:

- A. The activity does not occur in, on or over another protected natural resource;*
- B. A 25-foot setback from other protected natural resources is maintained and erosion control measure are used;*
- C. The activity is not located in a Shoreland zone regulated by a municipality pursuant to chapter 3, subchapter I, article 2-B or in the wetland or water body protected by the Shoreland zone;*
- D. The activity does not occur in a wetland normally consisting of or containing at least 20,000 square feet of open water, aquatic vegetation or emergent marsh vegetation except for artificial ponds or impoundments;*
- E. The activity does not take place in a wetland obtaining or consisting of peat land dominated by shrubs, sedges and sphagnum moss;*
- F. The entire activity constitutes a single, complete project; and*
- G. The activity does not occur in a significant wildlife habitat.*

An activity does not qualify for exemption under this subsection if that activity is part of a larger project, including a multiphase development, that does not qualify as a whole project.

Barbara F. provided the board with a copy of the Findings of Fact for Great Hollow Acres, division of Lot #2 and under Planning Board Action, item #3 states: **“Because the stormwater impact to the existing wetland on Great Hollow Acres used the 4,300 sq. ft. exemption per NRPA, section 480A, no additional impact could take place on Great Hollow Acres without notification to the Dept. of Environmental Protection. According to the plan presented no additional impact will be made with the 4-Lot division of Lot #2.”**

Mr. Nieto could not see where the 4,300 sq. ft. had actually been used in the subdivision. He said after reviewing the file on the subdivision he could see where the road was initially going to be longer but the developer did not go as far as originally planned. He thought perhaps originally the road was going to go through the wetland area but the developer didn’t want to go through further State requirements.

The board reviewed the subdivision plan and read the Findings of Fact and Approval for Lot #2 of Great Hollow Acres. Madge B. asked if Mr. Nieto said the developer never filled the 4,300 sq. ft. for the exemption. CEO McDonough asked if Mr. Nieto had a copy of the approval? Mr. Nieto did have a copy but he said the drawing did not show where the land was filled in. CEO McDonough said the plan showed how the area looks now, it doesn’t show how it looked before the developer started. Mr. Nieto said the plan shows prior to any work being done. CEO McDonough stated the Findings of Fact are not written until the plan is approved. Barbara F. stated correct, the findings are not completed until approval. Mr. Nieto did not agree.

Barbara F. said this was a subdivision plan, and Mr. Nieto was asking the board to change their Findings / approval on a subdivision to be able to move the buffer strip on the wetland. She asked if this was in fact an amendment to a subdivision? Madge B. said, correct. Mr. Nieto said this was a permit by rule from the DEP. Roger A. agreed that any change to a subdivision required a new review.

Roger A. stated that the remaining land was supposed to be transferred to Jeff Morrison but it never was. CEO McDonough stated that the transfer did in fact take place after a violation letter from his office. Mr. Nieto agreed.

Maggie M. asked about the Permit by Rule. CEO McDonough stated there was no permit required to fill in 4,300 sq. ft. Maggie said Mr. Nieto thinks he can do it but she asked if the subdivision revision over rides that? She thought the subdivision came first. CEO McDonough stated that first the Permit by Rule does not exist in this situation. He said an amendment to a subdivision requires Planning Board approval, the question is, is this an amendment to a subdivision. He said because aside from the fact that it clearly says the developer used the 4,300 sq. ft. exemption, Mr. Nieto also claims he wants to move the 25 foot buffer strip which was addressed and he believed that is an amendment to the subdivision. Mr. Nieto stated that at one point it says 25 feet and another 20 feet. (Looking at the plot plan there is clearly a 25 foot buffer, as well as in the minutes and under Specific Findings #10. Under #1 of the Specific Findings it says 20 feet which is believed after reading all information is a typographical error.)

Mr. Nieto stated he had no issue staying back 25 feet. Mr. Nieto stated the final drawing was revised from the preliminary and he did not see where the 4,300 sq. ft. exemption was used. Mr. Nieto thought the developer intended to use the exemption but did not use it. Mr. Nieto did not see where the road passed over the wetland.

Mr. Nieto said once he gets the 4,300 sq. ft. approved then the developer cannot extend the road without going through further DEP review. He added that he didn't see where there was 4,300 sq. ft. to cross; it was more like 6,000 sq. ft that the developer would have gone through.

Maggie M. said she was confused and that Mr. Nieto came across strange sounding. She said it sounded like Mr. Nieto knew the developer had already done part of the road but not all of it and now Mr. Nieto was trying to do his lot before the developer has a chance to come back so the developer has to pay more. Mr. Nieto said it is so he doesn't have to pay more because you are allowed to do 4,300 sq. ft. in a wetlands one time. He said after the one time then it's a major review in front of the DEP with site plans.

Mr. Nieto thought the board addressed the original application and then the developer came in and changed it. Barbara F. did not agree as the Findings are not created until the plan is approved.

Diane S. asked if the board was going to go look at the lot? Madge B. said yes, there would be no decisions made this evening.

Barbara F. asked Roger A. if there was anything different with the review process with an amendment to a subdivision than with a conditional use permit? She thought the subdivision plan would have to be changed. Roger A. said any revision to the subdivision has to be on the plan. CEO McDonough thought the criteria of review was different as well. CEO McDonough said before the board does anything they should decide if the Findings of Fact have to be changed.

Madge B., after reading the Findings, could not see where it is said they filled in 4,300 sq. ft. The Findings state the wetlands on Great Hollow Acres are impacted.

Mr. Stanley asked if the Findings and Plan were approved on a different day? They were both approved the same day.

Mr. Nieto still believed the initial intentions were different from the final plan. Maggie M. asked if the developer was still around, couldn't the board or applicant ask him? Mr. Nieto did not believe asking him would provide a truthful answer. CEO McDonough stated this is why there is a Finding of Facts from almost 10 years ago because no one can remember what happened at that time. Mr. Nieto thought the plan and the Findings were different. CEO McDonough did not agree, no one could state what was on site prior to the development, as it is not depicted anywhere.

Roger A. asked how long the road was on the plan Mr. Nieto was referring to. Mr. Nieto stated 750 feet. Roger stated that the Findings also state the road would be 750 feet in length. Both are referring to the same road.

Roger A. said regardless a revision to the subdivision is required for what Mr. Nieto is requesting.

Madge B. stated that it appears it's the *stormwater impact* that used the 4,300 sq. ft.; you don't have to fill in 4,300 sq. ft. CEO McDonough said in his opinion, and it applies to anyone coming before the board or his office for a permit, the person or people reviewed the application, they made their Findings, that is what you follow. He said the best manipulator should not be able to come in and change the Findings, otherwise you can have someone come in and change all the Findings. Madge agreed and said the wetlands were impacted, it doesn't say it was filled. Roland L. asked if it could be because of a roof, impervious surface, or anything such as that. Madge said, yes. Madge did not believe the board has to show that something was or was not filled. Mr. Stanley believed there had to be a good reason the statement was put in. Roger A. said it could have been the pitch of the road.

Mr. Stanley wondered if the 4,300 sq. ft was on another lot that was part of Great Hollow Acres, this lot is only part of the original division. Madge B. thought that might be possible.

Roland L. asked if the burden of proof rested with the applicant? Maggie M. thought it would be the applicant. Madge B. stated the Findings should not be changed in her opinion. She said she didn't know who he would get that approval from but it would not be the Planning Board. Mr. Nieto asked how he would show the developer didn't fill in the 4,300 sq. ft.? Madge and Roger both said it did not say it was filled in, it says the stormwater impacted 4,300 sq. ft. The Findings do not say anything was filled in.

Maggie M. stated that the board was not saying the wetland could not be impacted more, Mr. Nieto would just have to go to the DEP for further approvals. Mr. Nieto stated that he knew that. Barbara F. gave him a copy of the Findings. He had been given a copy several weeks earlier as well. Maggie noted that the Findings stated no additional impact can be done without further notification to the DEP. Mr. Nieto stated that he went to the DEP and they said his project was ok. Barbara stated that the DEP hadn't seen the Findings of Fact at that time. Mr. Nieto said he would show them the Findings of Fact. Barbara said it is the board's opinion the exemption has been used, so if Mr. Nieto wants to go further, he will need to go to the next step. Maggie thought it was a Tier 1.

Mr. Nieto stated he would speak with the DEP and address the board at the next meeting. He said in the meantime, he still wants to bring fill to the lot outside the wetland area.

Madge B. asked if the subdivision plan had to be changed for the fill (not in the wetland)? Roger A. stated, no. Mr. Nieto said he would not be going into the wetland area at this time. CEO McDonough asked Mr. Nieto to create a new plan for the approval he was seeking for just earth moving outside the wetland area. Mr. Nieto stated he would do so. CEO McDonough stated the original sketch plans were well done but it is not what he is asking for at this time.

Roger A. stated a site inspection will be Wednesday, June 12, 2013 at 7:00 p.m. A notice to abutters will be mailed as well.

Growth Permits –

- **Map 1, Lot 20F (Lebanon Road) – Growth Permit #07-13 – Guilford Berube**

All supporting documentation, applications, etc. can be reviewed at the Town Hall during regular operating hours.

Planning Board meeting adjourned at 9:40 p.m.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Wednesday, June 12, 2013

Members in attendance: Chairman Roger Allaire, Vice Chair Maggie Moody, Roland Legere, Diane Srebnick, as well as Barbara Felong, Land Use Secretary. Code Enforcement Officer Steven McDonough was also in attendance. Member Madge Baker was unable to attend. Alternate Joseph Stanley was present but not an acting member as he was working with one of the applicants on his project.

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Note: The minutes are not verbatim unless in quotes.

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Barbara F. passed out the latest revision of Chapter 2 – The Decision-Making Process of the Planning Board manual and she asked if she could speak for just a moment about it.

Barbara F. stated she discovered while speaking with Amanda Meader, Staff Attorney Legal Services Department Maine Municipal Association, that the current manual is outdated. Barbara stated that some questions had been posed to the Board of Selectmen regarding Mr. Plante's project. Barbara told the Selectmen it would be best if they read the Planning Board minutes so they understood what had taken place before the board and after doing so they had some legal questions that could only be answered by an attorney, therefore Ms. Meader was contacted.

Barbara F. stated that while reading the minutes it was noted by a Selectman that board member Joe Stanley was representing Mr. Plante and he wanted to know if that was something Joe S. should be doing. Barbara stated she didn't know for certain but stated that Joe had abstained as a voting member on this application.

Barbara F. stated that Karla B. (Executive Secretary to the Selectmen) asked her to speak with Amanda Meader directly and during the conversation Ms. Meader pointed out that under the section entitled 'Conflict of Interest; Bias; Family Relationships' there is a section called 'Current Board Member Representing Clients Before the Board'. The section reads as follows:

Title 30-A M.R.S.A. §2605 requires that a member of a board refrain from otherwise attempting to influence a decision in which that official has an interest. While it would not be reasonable to interpret this law as prohibiting a board member from abstaining and stepping down as a board member to present his/her own application to the board, it probably does prohibit a board member (including alternate members) from representing another applicant who is seeking the board's approval or some other party to the proceeding.

Barbara F. stated that Ms. Meader was adamant that Joe Stanley, as a member of the board, could not represent Mr. Plante at the meeting and he also should not be in the room during the review process. She said that because the board was unaware of this to date since the manual had not been updated, there may not be a problem with what has taken place, but now that they know they need to follow procedure.

Barbara F. noted that Joe S. could work for Mr. Plante that was not a problem. And she stated again she was only made aware of the revision this afternoon, just prior to the meeting. She said CEO McDonough wasn't aware of it either.

Joe S. asked if he could represent Mr. Plante given the fact they just found out this evening? Barbara F.

stated that was up to the board. She said she was here to tell the board about the rule and it was up to the board how they would proceed, she could not make that decision. She said her job here tonight was to bring the information to the board and make them aware. Joe S. said he understood.

Maggie M. asked if it was now worse to say they knew of the rule and it was ok to break it? CEO McDonough noted the meeting had not been opened yet. Barbara F. stated again she could only provide the information she could not make a decision with respect to the information. She said the board had to decide how to proceed.

Board members took a moment to read thru the section on Conflict of Interest.

The planning board meeting began at 7:45 p.m.

The minutes from Tuesday, May 28, 2013 were accepted as read.

Roland L. asked with respect to paragraph six under the Weaver application if Madge B. did in fact ask about gravel as he thought she was speaking about loam. Barbara F. stated that according to her records it was gravel. *Barbara listened to the tape a second time after the meeting and Madge B. stated, "Do we have to be concerned with how much gravel is being moved?" Therefore, the paragraph is written correctly.*

Best Possible Location – Replace Existing Structure with Expansion – Map 27, Lot 13 (130 17th Street) – William Plante, Applicant

Mr. Plante was present for the review of his application. Joe Stanley of LinePro Land Surveying was also present, as he drafted the plans for Mr. Plante's proposed project.

Maggie M. asked if the fact Joe S. had done the surveying was a problem? Barbara F. stated, no. She said he could work for whomever he wants to. Maggie stated that Mr. Plante would have to speak for himself at the meeting instead of Joe. Mr. Plante didn't think that would be a problem because the only thing to talk about this evening was the re-planting plan.

Roger A. asked if Mr. Plante had the landscaping plan the board requested at the last meeting? Joe S. asked if he should be sitting in the room for this review? Joe gave the board members a copy of a landscaping plan drafted by Joe Anderson of York County Soil and Water Conservation District. It is noted on the plan that the recommendation provided was not intended to replace an engineered plan.

Mr. Plante stated the change to the location of the new structure is on the plan, as well as the limited area of disturbance. He said they incorporated the area of disturbance that was addressed by YCSW. He also noted they would be revegetating the road (existing entrance onto the end of 17th street) as part of an earlier agreement.

CEO McDonough stated that before the board reviews the new plans, he wanted the board to know he went out and measured the fill extension and it appears to be 38 feet to the water. He said the Ordinance that allows the board to approve within 100 feet does not allow any disturbance any closer than 50 feet to the water. CEO McDonough did not believe the board had the authority to approve the plan as it has been done. (See §105-50.C)

Mr. Plante asked where CEO McDonough measured from. CEO McDonough stated from the water to the bottom of the fill extension. CEO McDonough stated he was not a surveyor so he could be off by a foot.

CEO McDonough stated the Planning Board did not have the authority to exceed the Ordinance. The Ordinance only allows the board to approve this up to 50 feet to the water at best. He said the plan shows the approval at 70 feet to the water. He added that there was no Permit by Rule on this project, there is no septic design submitted for this job, and the lot has not been recorded as a new lot, so it is nothing more than a drawing at this point.

CEO McDonough stated that there needed to be an after-the-fact Permit by Rule to bring in fill up to 38 feet to the water, a septic design and a recorded deed. Mr. Plante stated he had a septic design. CEO McDonough stated the board did not have a copy of it. He said they have never approved a Best Possible Location without one. He added that the septic design was minor compared to the fact the board cannot approve fill being brought in within 38 feet of the water.

CEO McDonough stated that before the board does anything further they need to see an after-the-fact Permit by Rule for this project.

Diane S. asked if CEO McDonough received the calculation for cleared openings on the lot yet? (This was a requirement of approval on May 16, 2013 for the after-the-fact CUP for Earthmoving in the Shoreland District to Construct the Driveway M27, L13.) CEO McDonough stated, "Not on paper." Diane S. stated that Madge had asked for that two weeks ago and she thought the applicant said he would bring it tonight.

Roger A. asked where 38 feet from the water was? Mr. Plante stated the total of the slope was all original ground, then there is an eight foot section and then the berm with stump grindings. CEO McDonough stated the board had no way of knowing because what was originally approved was a 50 foot wide right-of-way and Mr. Plante did the existing driveway without anyone approving it. Mr. Plante stated it wasn't a 50 foot right-of-way. CEO McDonough apologized and said it was 25 feet wide when it was first approved.

CEO McDonough stated looking at the parking lot, there is a fill extension all the way around the parking area. CEO McDonough looking at the site plan stated that even if it were 50 feet, the plan itself shows approval at 70 feet to the water. Mr. Plante disagreed and stated that there was no way the fill extension was 15 feet out from the top of the parking lot. He said, "The soil goes down and there is a flat spot of original grade; it's covered with stump grindings and then there is a stump grinding berm." Mr. Plante asked where CEO McDonough measured from? CEO McDonough stated, the bottom of the slope. Mr. Plante asked if it was from the stump grinding berm, or the eight feet after the stump grinding berm or where the actual slope starts? Mr. Plante also asked why CEO McDonough didn't call him before he started measuring. CEO McDonough states he doesn't call anyone to say he's going to look at a job site. He said he will not have a special meeting in order to be able to look at something.

CEO McDonough, while reviewing the plan, asked about the area around the existing camp. Roger A. and Mr. Plante said that is the area disturbed when removing the existing camp. CEO McDonough stated that would require a Permit by Rule as well. He reminded the Planning Board that they have never approved a BPL without requiring a Permit by Rule or a septic design or recording the lot.

Mr. Plante stated again that there was no way there were 20 something feet from the edge of the parking lot to the water. CEO McDonough stated there was a cleared slope down. Mr. Plante agreed but said it was the original slope. He said if you move the stump grindings you would see rocks and stumps. Mr. Plante said again the top of the parking lot is 70 feet to the water. He said there was no way there was 22 feet for a fill extension. CEO McDonough stated that he would need to prove that.

CEO McDonough stated he would need to apply for a Permit by Rule. He said anything with 75 feet of the water needed a Permit by Rule. Mr. Plante stated he did not disturb within 75 feet of the water. CEO McDonough asked him if he just stated he was 70 feet from the water with the parking lot? CEO McDonough asked Mr. Plante if he felt he did not need a Permit by Rule? Mr. Plante did not believe so. CEO McDonough asked Mr. Plante if he was Shoreland zone certified as he had stated at a previous meeting? Mr. Plante asked again why he needed a Permit by Rule? CEO McDonough stated any disturbance within 75 feet of the water required a Permit by Rule. Mr. Plante said, "So anyone across the lake within 75 feet of the water needs a Permit by Rule to do anything near the water?" CEO McDonough stated that if they were in front of this Planning Board they would.

Roger A. agreed the board would need an after-the-fact Permit by Rule for the driveway for filling in the area and a Permit by Rule for removal of the camp. Mr. Plante didn't understand why he needed one for filling? CEO McDonough did not understand why Mr. Plante, a Shoreland zoning certified contractor, did not know this rule. Mr. Plante stated he was certified in erosion control in the Shoreland zone. He asked if there was a difference? CEO McDonough stated there was only one certification he was aware of. Mr. Plante stated he didn't know he had to be certified to know about Permit by Rule to do erosion. He said this was the first time he was aware of it. CEO McDonough stated a Shoreland contractor should have more knowledge than a contractor that has not attended these classes. Mr. Plante said again he didn't know why he needed a Permit by Rule just because he was within 75 feet of the water.

Mr. Plante asked why CEO McDonough didn't tell him this sooner. CEO McDonough stated he missed this with all the issues with the project being pushed through so fast. He said many things have been missed. He noted that the roadway was supposed to be 25 feet wide and at its widest measures 98 feet. He added that the area should not be cleared more than 25% of the lot and looking at the widest spot it appears it exceeds this. Mr. Plante didn't agree with that. CEO McDonough stated he would go look at the driveway with a tape measure in the daylight if he would like.

CEO McDonough stated the three things he is asking for; one is an after-the-fact Permit by Rule for the earth moving within 75 feet of the water. Mr. Plante asked why he didn't ask for this six weeks ago? He said he started this in January. CEO McDonough stated the Planning Board is supposed to be asking for this not him, that is why Mr. Plante is before the board. Mr. Plante thought CEO McDonough was just looking for something. CEO McDonough stated the project was out of control. He said if everyone on the lake was to do what Mr. Plante has done there would be no Shoreland left. He asked what if every Shoreland property owner was allowed to put something in like this? CEO McDonough stated this project is high impact on the water and it is out of control. Mr. Plante did not agree. *Note: Mr. Plante came before the board in January of 2013 for a CUP for earthmoving in the Shoreland zone to put in a driveway on Map 27, Lot 13. This driveway was approved on February 26, 2013. Mr. Plante however did not put in the approved driveway but instead put a driveway in without a permit across both Map 5, Lot 44 and Map 27, Lot 13. This new driveway was reviewed as an after-the-fact CUP in April and was approved with conditions on May 14, 2013.*

Roger A. stated that first there is a Permit by Rule required for removing the existing structure. Mr. Plante asked why he needed one now, what if he didn't take the camp down for a year? CEO McDonough stated you need a Permit by Rule for soil disturbance within 75 of the water which has already been done. He said Mr. Plante could call DEP and they would tell him the same thing.

Roger A. stated there would need to be a Permit by Rule not only for the camp but for grading the area within 75 feet of the water.

Mr. Plante asked if he needed a septic design as well? CEO McDonough stated, yes. CEO McDonough also said Mr. Plante needed to record the lot. Mr. Plante stated he was waiting to see if he would get approval for the camp and the driveway where they are depicted on the plan. CEO McDonough stated the driveway approval needs to be reconsidered because the board cannot approve the driveway being any closer than 50 feet. (The driveway includes the parking area.)

CEO McDonough stated that at tonight's meeting it was the third time the board asked for a percentage of lot cleared and it still isn't before the board. Joe S. stated that he had it but just didn't have the letter drafted.

Diane S. stated that while looking at the minutes from the last meeting, she had asked for the slopes and topography but she did not see it on the plan again this evening. She said that Mr. Stanley had agreed something needed to be put on the plan between the new and old camp. She added that Roger A. agreed the grading that is going to be done needs to be on the plan. Mr. Plante stated that it is on the plan, pointing to the purple mark.

Diane S. stated that the topography is not on the plan and she noted that Mr. Stanley remembered it should be there. Joe S. stated he remembered talking about it. Diane read from the minutes dated 5/28/2013, "Mr. Stanley agreed and said there is some topography for the original driveway plan." She noted that was not this plan. She said both the slope of the land and where the house is going, she would like on the plan to show how steep it is.

CEO McDonough asked if the board was going to ignore the fact that Joe S. isn't supposed to be representing Mr. Plante at the meeting? Roger A. said it was his opinion, not knowing the conflict of interest in the Maine State Statutes until this evening, and because Joe has been involved in this project until now, he would say Joe should continue. He stated again that was his opinion. He said, "The board could take a vote on letting Joe S. continue to represent Mr. Plante because this is not the start, we are quite a ways thru on this project."

Maggie M. said that because Joe S. has been working with Mr. Plante all along, she didn't see where it could do any harm at this point.

Roland L. made the motion to allow Joe S. to continue to represent Mr. Plante at the meeting. Maggie M. 2nd the motion. All members were in favor. By a vote of 4 – 0, the decision was unanimous to allow Joe S. to continue to represent Mr. Plante on this application.

Joe S. asked what Diane S. was asking for with respect to topography? Diane S. stated from the camp down. She wanted it on the final plan for the new camp. Barbara F. noted that one of the Selectman, looking at the minutes and the plan, also asked why there was not grading on the plan. He felt it should be on the plan after reading both the ordinance, the minutes and looking at the plan.

Diane S. thought Mr. Stanley understood that she wanted it on the plan for this evenings meeting. Joe S. said that he had the existing contours of the lot but he hasn't reshot the area. Diane stated that the more on the plan the better, so all the knowledge is on the plan that is needed. She noted that she was not the only one that wanted to see the slope on the plan. Joe S. said he thought the driveway and camp location were established so the only thing needed was the vegetation plan. Diane said again she would like to see it on the plan. She said she could not speak for the other members. Mr. Plante asked what slope she was talking about. Diane said from behind the new structure all the way to the existing camp. She said right now when you look at the lot it looks flat, there is nothing to distinguish hills, etc. She said as they all know, it is not a flat lot.

Diane S. stated she wanted to get something off her chest from the last meeting. She said, “We asked for an erosion plan from the Weavers for putting a flat concrete slab in the middle of a flat field. We never asked for any erosion plan for this project.” She added that it blew her mind. Mr. Plante said that an erosion plan on a site plan is usually just a line drawn on a map and it says either silt fence or hay bales. Diane stated that the Weavers got an engineered one and a letter from Carl Beal. Mr. Plante said again it is usually just a line on the plan. CEO McDonough stated that the board has seen quite a few engineered plans so if Mr. Plante wants the board to produce an example they could. Diane just wanted the board aware. Mr. Plante said if there was an erosion problem he could see it but there wasn’t an erosion problem.

Mr. Plante said he thought all they needed was a revegetation plan. Maggie M. said it wasn’t that they wanted to add things. She noted that the board had to go to the site several times, things changed, and it is apparent that the board missed some things. Mr. Plante said again he thought this was the last meeting. Maggie believed it was good that things missed have been brought up. Diane S. stated that she asked at the last meeting for topography to be put on the plan; Madge B. asked for the percentage of lot coverage two or three meetings ago, none of which have materialized. She stated the board was not the only ones holding up this project. Mr. Plante said he could care less because he wasn’t tearing down the camp this month. He said he didn’t care if he didn’t do it until next year. Diane said again they were not the only ones at fault. Mr. Plante said again he thought all he needed was the vegetation plan. Diane said again he didn’t bring the other things the board asked for.

Roger A. asked Joe S. if he could put the topography on the plan? Joe S. said, yes.

CEO McDonough stated he didn’t want to review the vegetation plan this evening, he would rather wait to see the approved Permit by Rule from the DEP first. Roger A. stated that would take 14 days so this application should be tabled until the meeting on July 9th. He thought the applicant could have all the information available by that meeting.

Roger A. listed the items required by the board:

- 1. After-the-Fact Permit by Rule for the Driveway/Parking Lot.**
- 2. Permit by Rule for removing the existing camp.**
- 3. Septic Design**
- 4. Percentage of cleared vegetation on the lot (§105-51.C).**
- 5. Topography from behind the proposed new camp location down to the water.**
- 6. Map 27, Lot 13 to be joined in part with Map 5, Lot 44 per the plan provided.**

Joe S. stated that several of those conditions were conditions of a previous approval. He asked if they need to happen sooner or is the board still ok with them being a condition of approval? *The prior conditions of approval for the after-the-fact Conditional Use Permit for the new driveway access to Map 27, Lot 13 across Map 5, Lot 44, and the discontinuance of the existing access to Map 27, Lot 13 from 17th Street per the plan provided with the following condition(s) are:*

- 1. There shall be a lot line adjustment made to be certain the new driveway is inside the lots lines of Map 27, Lot 13 in its entirety.*
- 2. The applicant shall provide the calculations for cleared openings as written under §105-51.C after the lot line is adjusted and these calculations shall be given to the Code Enforcement Officer. If the calculations for cleared openings exceed 25% of the property, Mr. Plante shall come back before the board for further discussion.*

Maggie M. asked if it affects the driveway from one lot to the other, crossing over the property line? She thought the lots should be combined. Joe S. said that deeds are not usually written until after approval.

He said that Mr. Plante doesn't want to execute the deeds, have the board say no for some reason, and then the deeds were for nothing. He said if Mr. Plante doesn't get the approvals then he might not change the lot lines.

Maggie M. asked if this happens would he tear up the driveway? Mr. Plante said the driveway was in for the other lot (Map 5, Lot 44). He said he could still use the driveway for a different lot. Maggie thought that if he undid combining the two lots than he would also have to undo what he did to the lots. Roger A. stated that the board could put a condition that there will be no building permit allowed until the lots are combined or there is a recorded easement to cross. Barbara F. thought the lots have to be combined because you can't do an easement. She thought it had to be combined as the earth movement was across the property line which isn't allowed. Maggie thought so as well. Roger said Mr. Plante would not be allowed to get a building permit unless the lots were combined.

CEO McDonough asked why it isn't just a Planning Board approval to combine the lots. Why is it put on him? He said that Mr. Plante was already thinking about doing something different. Roger said if the lots don't get combined as on the plan, then he's not using the road. CEO McDonough stated that all the numbers change, the approvals change, everything changes. He said he would have to come back to the board if he doesn't combine the lots, it should not be tied to the building permit. CEO McDonough reminded the board that lot clearance calculation would change, the basis for why you approved the location of the new camp changes, everything changes. He said it should not be just 'no building permit', he needs to record it as the Planning Board required or not.

Joe S. said when this all started his plan was to get the deeds recorded after approval. He said he wanted it as a condition of approval in case they had to do something different. He said he needed to know when he should go about trying to record the new lot.

Maggie M. stated that she thought he would want to record it now. She said it was complicated from the beginning because part of this is after-the-fact. She said Mr. Plante had an approved driveway but didn't put it in, then crossed over into another lot prior to approval, so in order to make it legal she thought it was to Mr. Plante's benefit to have it recorded. Mr. Plante stated that what was on his plan now is what would be recorded. Maggie asked why it would be a problem recording it now? Mr. Plante was worried the board would change their mind again. Diane S. didn't see the problem as if he had to change it, the only person he would have to talk to about it would be himself, as he owned both properties. Mr. Plante said he didn't want to throw money away. Diane said that since he has such confidence in his plan it should not be an issue.

Mr. Plante stated that he was afraid that the board wouldn't give approval as the board asked for one thing now they want more. Diane S. said, "The board asked for other things that you did not bring in so get off that tangent and lets address this." She did not see why Mr. Plante could not combine the lots. Mr. Plante said he could. Diane said, then do it as the board is asking.

Roger A. said, it sounds like there is a consensus that the lots get combined now. CEO McDonough asked, "What if the DEP doesn't approve the plan?" Mr. Plante asked him why he was so negative. CEO McDonough stated it was possible, it could happen. Maggie M. said, "They don't approve every Permit by Rule." Mr. Plante asked what the worse case scenario was? CEO McDonough stated he could not speculate. He thought it would be best to wait for DEP approval. Maggie thought it could save Mr. Plante money by waiting.

Roger A. believed that if by the next meeting Mr. Plante had DEP approval then he could go forward and record the deed. Joe S. agreed that sounded good.

Nothing further was discussed.

Conditional Use Permit – Earth Moving Greater than 800 Yards in General Purpose District – Map 10, Lot 2-2-3 (White Pine Lane) – Louis Nieto, Jr., Applicant

Mr. Nieto was present for the review of his application. Note: Members did a site inspection prior to this evenings meeting. Joe S. abstained from being a member on this application as he was unable to do the site visit.

Mr. Nieto provided the board with a letter from Dana Libby, PLS 1350, of Corner Post Land Surveying, Inc, dated June 10, 2013, addressed to Stephen McDonough – Shapleigh Code Enforcement Office. The letter was with respect to Mr. Nieto's plan to fill in part of the wetland on his lot and that the area to be filled will be under 4,300 square feet and would not require a MEDEP permit. The letter also addressed Condition 3 of the Planning Board Action of the Findings of Fact for Great Hollow Acres Subdivision Lot #2, which stated: "Because the stormwater impact to the existing wetland on Great Hollow Acres used the 4,300 sq. ft. exemption per NRPA, section 480A, no additional impact could take place on Great Hollow Acres without notification to the Dept. of Environmental Protection." Mr. Libby stated that there was no area of wetland impact shown on the above referenced plan and no drainage or flowage easement shown on Lot 3. Mr. Libby stated that John Hutchins of Corner Post conducted a site visit, provided pictures from this visit and noted in the letter that upon this site inspection no area of wetland impact was observed. It was Mr. Libby's opinion that although the stormwater management plan may have shown proposed structures which would have impacted some of the wetlands, those structures were apparently not constructed and that the structures that do exist appear to be handling the stormwater.

Mr. Nieto also provided a letter from Christine Woodruff of the Division of Land Resource Regulation, a department of the MEDEP. In the letter addressed to Stephen McDonough, dated June 10, 2013, Ms. Woodruff states that she reviewed the letter from Dana Libby in which he states no wetland impacts were observed. She stated that she also reviewed the subdivision plan of Great Hollow Acres Lot #2, dated May 20, 2005, with the most recent revision date of October 12, 2005 and noted the plan did not show any proposed wetland alteration. In addition, she reviewed the final plan of Great Hollow Acres subdivision, dated June 25, 2004 with the most recent revision date of September 8, 2004. This plan shows a 50 x 50 foot drainage easement for a culvert outlet and a second 50 x 50 foot drainage easement for a ditch turnout within a wetland area. She did not believe the culvert outlet and ditch turnout would have altered 4,300 square feet of wetland for an existing road. Ms. Woodruff concluded that based on the review of these items, the minor wetland alteration exemption in the Natural Resources Protection Act State (NRPA) section 480-Q(17), and the Department's policies, Mr. Nieto is allowed to alter up to 4,300 square feet of wetlands on his property without a permit from the Department.

The board read the letters in their entirety.

Barbara F. noted that Ms. Woodruff did not have a copy of the final subdivision plan of Great Hollow Acres which is dated October 26, 2004 and she did not have the email from Dawn Buker of the Division of Land Resource Regulation, dated October 7, 2004 which can be reviewed at the town hall. *Mr. Nieto was given a copy of the email form Dawn Buker on Friday, June 14, 2013 at his request.*

Roger A. read the email from Dawn Buker to CEO McDonough dated 10/7/2004. The email read as follows:

I reviewed the stormwater on this project and have determined that it would meet my standards as long as it did not pond water in the wetland. Craig Higgins can verify that or put in on the plans. Routing the stormwater into the wetlands is considered an impact and would use the 4300sf, single complete project exemption in NRPA section 480Q. Plans should have a restriction that there cannot be additional wetland impact after the lots are sold. Anyone proposing wetland impact must have it approved by the DEP.

Roger A. stated this is why the statement was put into the Findings of Fact for Great Hollow Acres Subdivision Lot #2.

Mr. Nieto stated that first he hired a surveyor to go to the site because there wasn't a stormwater plan available and CEO McDonough had a concern with that. He said he therefore had Corner Post Land Surveyors address this.

Mr. Nieto stated he then contacted Ms. Woodruff of Division of Land Resource Regulation and he gave her Mr. Libby's letter, as well as a copy of the Planning Board Actions. She reviewed the information for approximately two hours and she came to the conclusion that between then and now the rules and regulations have changed and you are allowed to have an impact of up to 4300 sf on 'each' of the lots. She concluded that he would be allowed to alter up to 4,300 square feet of wetland on his property without a permit.

Mr. Nieto stated between then and now something changed but he wasn't sure what. He said that on the original plan for Great Hollow Acres, Ms. Woodruff addresses the 50 x 50 foot drainage easements and she did not feel they exceeded the 4300 sf impact. Mr. Nieto noted that the other easement on the map was not on the wetland.

Mr. Nieto stated that on his lot, Lot #2-2-3, he showed that he would be filling in 4300 sf, he said he may not need 181 feet filled, as long as he got 140 feet he would be happy. He said he wanted to do something with the culvert because no stone dams or rip rap were ever installed. Mr. Nieto stated that although the subdivision plan was approved not all the plan was done. He said he wants the stormwater to go down further and not come out in the middle of his lot.

CEO McDonough stated that neither Mr. Libby or Ms. Woodruff understand how the restriction came about at the time of approval. Roger A. agreed. CEO McDonough stated that now, after-the-fact, they are saying there is no way there could have been 4,300 square feet impacted and I don't disagree with that looking at it now but it was not how it was in the first place.

Mr. Nieto stated that he spoke with someone in Land Resource Regulation and that person didn't agree. Mr. Nieto stated that he went thru the proper channels. CEO McDonough did not disagree. He said again neither of the people he spoke with were here at the time of approval. Maggie M. stated that it looks like it is based on Mr. Libby's opinion, not having been involved in the original approval. CEO McDonough stated again Mr. Libby's opinion is correct. There was not 4,300 square feet of disturbed wetlands but that is not the manner in which the exemption was used when the subdivision was approved. Maggie said, "And now the law is changed so you can use it on each lot of the subdivision." Mr. Nieto stated that the rules have changed from 2004 until present. He said in fact the land he purchased is supposed to have an easement for the water to go from the roadway onto an individual's property, from the dry land to get to the wetland and there is no easement.

Mr. Nieto stated the stormwater is going thru his property to get to the wetland and there is no easement. He said when water is diverted from a private or public road to get to the wetland, there needs to be an easement and he said again he did not have one on his property. He said that is why he wants to try to control the water to go further down on his property and not through the middle of it.

Roger A. stated that if it is true that 4,300 sf can be used on each lot then he thought they would have to amend the subdivision. CEO McDonough did not agree that you can use 4,300 sf for each lot. He said it is used once per development. Mr. Nieto said he didn't know how Ms. Woodruff came to her conclusion. He said he didn't know what kind of research she did. Maggie M. asked if the board needed to see the rule 480-Q to know what it states. Barbara F. stated that they were given a copy at the last meeting.

Barbara F. asked if Ms. Woodruff was saying that Dawn Buker was wrong? CEO McDonough didn't agree, he thought it sounded like in reviewing the plan that the 50 foot x 50 foot ditch turnout could not have possibly used the 4300 sf exemption. He said he didn't disagree with that assessment. CEO McDonough stated that that was not the manner in which the 4300 sf exemption was used when the board reviewed the subdivision. Barbara agreed that Ms. Woodruff did not have the minutes or know how the board came up with the decision at that time. CEO McDonough thought Ms. Woodruff could only do what any other DEP person could do by looking at the plan and the facts presented to her.

Mr. Nieto stated he addressed this with Mr. Libby and Ms. Woodruff because of Condition #3 of the Findings of Fact.

Mr. Nieto asked if the board could approve his application contingent on Steve speaking to her? Mr. Nieto stated he had the letters addressed to Steve because he was the one who presented the questions.

An abutter, asked to speak. She asked if what was going to take place on this property would affect her lot? CEO McDonough asked where they were located and what were their names? The gentlemen stated his name was Stephen Powers (Map 10, Lot 2A). He said he was on Town Farm Road. Ms. Powers stated the letter she received stated she was within 500 feet of the property. CEO McDonough stated he could not answer her question. He said they might want someone with a professional background to answer it. Mr. Nieto stated that he felt if the DEP stated there would be no impact on his lot he didn't think she would be impacted.

Roger A. and CEO McDonough looked to see the location of their lot. Roger noted the back of their lot appeared to be wet as well. Mr. Nieto though each of the lots has wetland of some kind.

Roger A. thought someone should contact DEP to see if there would be an issue if the 4300 sf was used, if Mr. Nieto would need a Tier I or if they have no issue with it today because the laws have changed. CEO McDonough asked if Roger wanted to pose a question to DEP? Roger said he wanted to give them the facts the board has. Mr. Nieto stated he would be willing to take a letter to DEP. CEO McDonough noted that if DEP gives the ok to fill, Mr. Nieto would need to come back before the board for an amendment to a subdivision.

Roger A. stated he didn't want Mr. Nieto to go through with an amendment to the subdivision before he knows for sure if the 4300 sf was going to be impacted after all the information is provided. Roger said if the DEP gives the ok then the subdivision has to be revised from its original approval for the encroachment to the wetlands and modifying the wetland impact criteria. Roger said at present the 4300 sf exemption criteria stands as written. Roger said if it is deemed it was not used then the Findings will be modified and filed at the courthouse. CEO McDonough agreed and the decision will hinge on what the DEP says. Roger said either the subdivision will be revised or Mr. Nieto will have to go to a Tier I.

CEO McDonough and Barbara F. will draft a letter to Ms. Woodruff and have her contact CEO McDonough to discuss the matter prior to the next meeting.

Roland L. stated that while at the site inspection Mr. Nieto said it could be up to 800 yards of fill being brought in. Roland said the agenda states 'greater than 800 yards'. Barbara F. stated she wrote the agenda based on the application which states approximately 800 yards of fill. She said he is before the board because he is moving greater than 150 yards of fill. Mr. Nieto stated he always puts plus or minus. Mr. Nieto said at this time he is guessing, the excavator knows best.

Roger A. stated to Mr. Powers that the board could not answer their questions as to whether or not it would impact their property.

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 9:25 p.m.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, June 25, 2013

Members in attendance: Vice Chair Maggie Moody, Madge Baker, Roland Legere, as well as Barbara Felong, Land Use Secretary. Code Enforcement Officer Steven McDonough was also in attendance. Chairman Roger Allaire, Member Diane Srebnick and Alternate Joseph 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 7:35 p.m.

The minutes from Wednesday, June 12, 2013 were accepted as read.

Conditional Use Permit – Earth Moving Greater than 150 Yards in General Purpose District – Map 10, Lot 2-2-3 (White Pine Lane) – Louis Nieto, Jr., Applicant

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

Note: Maggie Moody was acting Chairman this evening since Roger Allaire was unable to attend.

Maggie M. asked Mr. Nieto to remind the board why he was before the board.

Mr. Nieto stated he was before the board in order to be able to fill in a portion of the wetland area on his property. He stated at the last meeting the board was going to send a letter to the DEP along with additional information to be certain they would allow the filling, and to clarify the letter they received from Christine Woodruff of the DEP.

Maggie M. asked if the letter was sent? Barbara F. stated that she did send the letter and asked Ms. Woodruff to contact CEO McDonough after she read the letter and the attachments. Because she did not contact CEO McDonough last week, CEO McDonough called her today and spoke with her regarding Mr. Nieto's application. Barbara asked CEO McDonough to tell the board what was discussed.

CEO McDonough stated he had spoken with Ms. Woodruff and she stated she was on vacation last week and didn't have time to review what we sent her. "She said there is a new policy regarding the 4300 sf exemption. One, it does not require a permit. Two, it doesn't require a permit because there is no way to track it, therefore, the new policy is, if a subdivision never crosses the thresholds to require a Tier I permit which is above and beyond this exemption, then their policy is every lot in that subdivision would be allowed the 4300 sf fill in exemption because there is no other way to police it anyway." He said he told her, "Wow that is a lot of filling going on." Ms. Woodruff said, "Yup, I do not necessarily agree with it but that is the policy." He said he thanked her for her time.

Madge B. thought that was a satisfactory answer with respect to this applicant's request. CEO McDonough said his opinion has been from day one that the Planning Board should have said, 'We made a decision based on the criteria for the subdivision when approved and we have no good reason to all of a sudden change it.' Madge B. agreed. CEO McDonough stated, "We have had several meetings and it is unfair to the applicant to say it now."

Mr. Nieto stated that after the last meeting he came to the office and got a copy of Dawn Buker's email from Barbara F. and he took that to Corner Post Land Surveyors, Inc. who then told him to bring the information to the DEP to discuss the 4300 sf exemption. He said he did that and spoke to a Mark Stebbins who reviewed the letter. Mr. Stebbins said that for the last 20 years it's been their opinion that stormwater on wetlands is not an impact. He said Mr. Stebbins reviewed Ms. Buker's letter and said what she stated was incorrect. CEO McDonough noted that Dawn Buker's decision was made in 2004, nine years ago. Mr. Nieto stated that Mr. Stebbins said she was incorrect at that time.

CEO McDonough stated in his opinion what should have been done by the board was not and with where we are at now, it appears we are looking at an amendment to the subdivision, since there will be different setbacks to the wetland that are depicted on the current plan. Madge B. stated, correct.

Mr. Nieto agreed that the Planning Board did not make a mistake with their decision but that Ms. Buker was incorrect in her assessment. He said he was not blaming the Planning Board.

The board agreed that at this point the subdivision plan has to be amended in order for Mr. Nieto to be able to fill in up to 4300 sf as requested. Madge B. asked what had to happen now? Barbara F. provided Mr. Nieto with an application for an Amendment to a Subdivision. She said he would need to fill it out and return it to the board along with an amended plot plan of his lot which needed to include the changes to the wetland that he was proposing. She told Mr. Nieto to be sure to include the 25 foot buffer to the new wetland location. Mr. Nieto stated it was not a buffer strip but a setback according to the existing plan. Barbara said "That 'setback' needs to be on the new plan."

Barbara F. showed the board a copy of a previous amendment of a subdivision in which the applicant wanted to adjust a lot line only. In the approved plan it showed the new lot dimensions for the applicant's lot and the neighboring lot that was affected. Barbara said this plan was recorded at the Registry as an amendment to the subdivision. Mr. Nieto would have to do the same, put the changes to his lot on a new plan and have it recorded.

Madge said this seemed very straight forward as to what Mr. Nieto had to do. Mr. Nieto asked what he had to do? Barbara told him again what needed to be done. He said he would have Corner Post Land Surveyors draft the plan and he would bring it for the next meeting.

Mr. Nieto asked if he had to put in for another application fee? He said he already had paid three fees. The board asked what he was talking about. Mr. Nieto said he paid a fee for the Permit by Rule. CEO McDonough said that had nothing to do with the Planning Board that was a State fee. Mr. Nieto stated he had to pay \$200 for a Growth Permit. Barbara F. stated he had to pay that in order to build a new home it had nothing to do with earth moving. Mr. Nieto said he paid for a Conditional Use Permit. Barbara said yes, and if he did not want to fill in the wetland he would not have to pay for an amendment to the subdivision but because he is changing the subdivision plan he has this additional fee. She told him he did not have to move forward if he did not want to. Mr. Nieto said he had to fill in the wetland.

Mr. Nieto asked what he had to do on the plan? The board told him what he was going to do to the wetland had to be on the plan because it was a change to the original subdivision plan. Barbara F. reminded Mr. Nieto he had to retain the 25 foot wetland setback on the plan. CEO McDonough agreed stating the new plan would show where the fill is and where the new setback and wetland area is.

Mr. Nieto was concerned with the driveway location. CEO McDonough stated he did not consider a driveway a structure so he wasn't concerned with it being within the setback but there is a rule that the top of a cut or the bottom of a fill has to be 10 feet from a property line. He said if there is any cutting to raise or lower the driveway the top of cut or bottom of fill has to be 10 feet away from the setback.

CEO McDonough asked Madge B. if the board had to make a motion that they would hear this as an amendment to a subdivision. She did not believe so because the record shows they gave him the application for the amendment and told Mr. Nieto he has to amend the subdivision for what he wanted to do.

Maggie M. stated they would have to notify the abutters. She asked Mr. Nieto if he would be ready for the next meeting? Mr. Nieto said, yes. Maggie noted the next meeting would be Tuesday, July 9th.

Barbara F. stated she will draft the new Findings for the amendment.

Nothing further was discussed.

Other:

Barbara F. asked members if they could be at the town hall prior to the next meeting at 6:00 p.m. She stated the Board of Selectmen have asked Town Attorney Brad Morin to give a boardmanship workshop for the members. Barbara stated that it would be in an executive session. She said she asked Diane S. and Roger A. if they could attend and they stated they could. Madge B. and Roland L. stated they would attend. Maggie M. said she is unable to do so because she will be out of town on that date. Barbara stated she would email Joe S. to let him know about the workshop.

Barbara F. showed board members past examples of re-planting plans they had approved that were drafted very well and were easy for CEO McDonough to enforce. Barbara noted that a recent applicant had an issue with having to place trees on the plan that had been removed but it was clear with the plans they were looking at this was very doable. The plans also depicted the ground cover locations.

Barbara F. also pointed out the contour lines on two plans. It was easy to see how steep the area was. She noted again the board has asked for this recently and looking at the two plans before them it is apparent it can be done well.

Barbara F. noted that of the plans they were looking at, one was not quite as detailed but it still depicted existing vegetation, a replanting plan, as well as contour lines. The board could get a clear picture of what was going to take place, as could the Code Enforcement Officer. Madge B. noted it would be easy for CEO McDonough to enforce these plans.

Barbara F. also showed an approved plan that was not done well and consequently CEO McDonough could not enforce it with any certainty. CEO McDonough said there were decks and walls involved but no dimensions were on the plan, so he had to give the ok as he had nothing to go by, only an approval. CEO McDonough stated again that the board just needs to ask for better plans.

CEO McDonough stated the board had the authority and the power to request the information. Madge B. agreed. CEO McDonough stated the board really has to have it. Madge agreed and said he needed an enforceable plan. CEO McDonough said the board should not succumb to threats. He said there are other rules and ordinances to take care of that. Madge agreed and said it makes perfect sense to get an engineered plan.

Barbara said she will bring the plans to the next meeting as well for Roger A. and Diane S. to look at.

CEO McDonough stated the board is educated enough to look at a steep slope and know what is needed. Madge B. agreed and said the board needs to think more of what happens after approval. CEO McDonough said if the board thinks they are under pressure to make a decision, table the application and have a workshop.

CEO McDonough stated this is better than thinking they should have done this or that after-the-fact. Barbara F. said she can post a workshop as long as she knows ahead of time.

Nothing further was discussed.

Madge B., reviewing the handout on ‘The Decision Making Process’, asked if Joe S. had to get off the board if he continues to work for applicants? Barbara F. stated no, he can work for an applicant; he cannot represent the applicant at the meeting if he is a member. She said additionally he is not supposed to be at the meeting. CEO McDonough agreed because he isn’t supposed to be swaying the board. Barbara F. said this was a problem during a previous meeting where he was pressuring the board for his applicant. She said she told him it was not appropriate. Maggie M. remembered the incident.

Maggie M. noted that if he gets off the board he needs to wait a year before he can represent an applicant at a meeting. She said otherwise it would make it too easy for him to get off the board, work for someone, then get back on. CEO McDonough noted that he didn’t want Joe S. to get off the board, he only wanted to be sure things are done correctly. Maggie agreed, she just wanted members aware he can’t flip flop back and forth.

Madge B. thought most of what is written is being followed. She said education is always welcome.

Roland L. asked if it was for the Selectmen and Planning Board? Barbara F. stated she thought it was just for the Planning Board and is being held in executive session for the board. Madge B. said because it is a lawyer it would be executive session.

Nothing further was discussed.

Barbara F. gave the members a copy of the minutes from the initial Conditional Use Permit for Earth Moving that was approved on February 26, 2013 for Mr. Plante on Map 27, Lot 13. She thought it would be a good review prior to the next meeting when Mr. Plante would be returning before the board on July 9th.

CEO McDonough wanted to remind the board members the review process is not over for Mr. Plante. He spoke of the replanting plan that came from York County Soil and Water presented by Mr. Plante at the last meeting. CEO McDonough stated that the plan was designed to stop the hillside from washing away and it may do just that. He said what the plan doesn’t do is comply with the Ordinance. It does not plant trees, shrubs, etc. and make the area look like a State of Maine lake. He said all the plan does is prevent erosion which you can do on the side of a highway. He said it is up to the Planning Board to say they want plants indigenous to the area and trees. Madge B. added that the board should request an engineered plan so it can be enforced. CEO McDonough stated again the applicant and the board were coming from two different directions.

Barbara F. noted that she had just read an old pamphlet that was created by YCSW by a grant administered under the Clean Water Act and in this pamphlet it emphasizes that trees and shrubs not only take up stormwater but create a soil that acts like a sponge so the stormwater doesn’t run across the surface and enter the lake. Mulch does not do that, although it is better than leaving an open area. Vegetation is needed preferably in the form that is present naturally because it has the best chance of survival.

CEO McDonough stated that YCSW is not on his list as someone to go to at this time as they are coming at the issue from a totally different angle. Madge B. stated they want to put the mulch down. CEO

McDonough stated they just want to stop the erosion but that is not what the Ordinance wants the board to do. Madge agreed and said that she believed the mulch is not going to last and benefit the area like a tree or shrub would. She thought it just wasn't possible and said she's been questioning the use of mulch on many occasions. CEO McDonough stated that he wasn't saying mulch would not work but he believed the rules are in place to not only prevent erosion but we don't want a lake that just has mulch and lawn all around it. He said we want a lake like anywhere else in the State of Maine that has trees. Madge agreed. CEO McDonough concluded with the fact it was up to the board to demand what the Ordinance requires.

CEO McDonough stated the board should use examples of a good engineered plan and if the applicant doesn't want to comply then perhaps the board should do a workshop to take more time on difficult issues.

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 8:10 p.m.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, July 9, 2013

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

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The Chairman opened the meeting at 6:05 p.m. to go into Executive Session per 1 MRSA §405, 6A(1) with Attorney Brad Morin regarding the decision making process by the Planning Board. The executive session closed at 7:25 p.m.

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The planning board meeting began at 7:38 p.m.

The minutes from Tuesday, June 25, 2013 were accepted as read.

Note: The minutes are not verbatim unless in quotes.

Amendment to a Subdivision – Filling in 4300 sf in the Designated Wetland – Map 10, Lot 2-2-3 (White Pine Lane) – Louis Nieto, Jr., Applicant

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

Mr. Nieto presented the board with an amended Subdivision Plan drafted by Corner Post Land Surveying Inc., Springvale Maine, done by Dana Libby, PLS 1350, issue date June 27, 2013, signed July 8, 2013. He also presented the subdivision application and fee, and a copy of the Warranty Deed from William and Joan Small to himself that was recorded on May 24, 2013 at the YCRD, Book 16606, Pages 911 – 912.

Mr. Nieto stated he had measurements from the pins put on the plan, so it would be easier for CEO McDonough to see he was not encroaching any closer than allowed. The plan showed 4100 sf would be filled in and it also showed the 25 foot wetland setback line. Mr. Nieto said, “These lines can be taped off from the pins which are 181 feet to the setback.” Mr. Nieto asked if there were any questions?

Roland L. said when the board did the site visit it was obvious there was runoff from the lot across the road going onto Mr. Nieto’s lot. He asked if there was anything being done to address this? Mr. Nieto stated there was a stormwater plan submitted but the Planning Board didn’t have a copy. He said he had no idea what was supposed to be in place to prevent it. He thought Mr. Small didn’t complete the road as he was supposed to. He said while working on his lot they discovered there was a 20 x 20 foot hole that Mr. Small put a volume of stumps in and he didn’t think you could do that on a sellable lot. He didn’t know what else was or was not done in the subdivision.

Mr. Nieto stated that eventually he wanted to create a berm so the stormwater is directed away from the house. He realized this wasn’t a town road but he said he may talk to Road Commissioner Burnell to see if he had a suggestion on how to divert the stormwater.

Mr. Nieto also suggested that the town be certain all roads were done to the town standards because if the town has to adopt the road in the future it should be to the town's road standards. It should be the responsibility of the developer to be sure this happens.

Madge B. asked if he was saying the drainage on the plan was never done properly? Mr. Nieto stated there should have been check dams as shown on the plan and they were not put in. Diane S. asked if the Road Commissioner checked to see if it was done properly? Madge asked if it was checked? Barbara F. stated it was checked because it had to be approved and a document signed off before the funds held in escrow could be returned back to Mr. Small. Roger A. agreed it had been accepted. Mr. Nieto stated it may have been approved in the winter when the Road Commissioner would not have seen the runoff issue.

Roger A. asked if there were any issues with allowing the modification to the subdivision to be able to fill in up to 4100 sf in the wetland on Lot 2-2-3 as noted on the plan presented? Madge B. stated she believed the board agreed it would be allowed based on the MDEP opinion at the previous meeting.

Findings of Fact

1. The owner of the property is Louis Nieto, Jr.
2. The property is located at Shapleigh Tax Map 10, Lot 2-2-3 (White Tail Lane), in the General Purpose District.
3. The applicant is Louis Nieto, Jr. and he has demonstrated a legal interest in the property by Warranty Deed on May 24, 2013, recorded at the YCRD on May 24, 2013, Book 16606, Pages 911 – 912.
4. The applicant proposes to fill in up to 4300 sq. ft. of wetland on the property per the plan presented, drafted by Dana Libby, PLS 1350 of Corner Post Land Surveyors, Inc., Springvale, Maine, dated June 27, 2013.
5. There shall be a 25 foot wetland setback around the remaining wetland area depicted on Lot 2-2-3.
6. A letter was received from Corner Post Land Surveying, Inc., dated June 10 2013, written by Dana Libby, PLS 1350, which stated it was concluded no wetland impact was observed on site during an inspection of the property on June 7, 2013.
7. A letter was received from Christine Woodruff of the Division of Land Resource Regulation, State of Maine Department of Environmental Protection, dated June 10, 2013, which stated that after review of all documentation received, Mr. Nieto is allowed to alter up to 4,300 square feet of wetlands on his property without a permit from the Department.
8. A Notice to Abutters was mailed on June 26, 2013.
9. A final plan was presented on July 9, 2013.

Conclusions

The standards of the Town's Subdivision Ordinance have been met.

Based on the above facts and conclusions, on July 9, 2013, the Planning Board voted to approve the application for an amendment to the subdivision known as Lot #2 of Great Hollow Acres, specifically Lot 2-2-3, per the final plan presented known as Plan Showing a Revision to Subdivision Plan Book 307 Page 15, Great Hollow Acres Lot #2, dated June 27, 2013, done by Dana Libby PLS 1350 of Corner Post Land Surveyors, Inc., Springvale, Maine with the following conditions:

1. All conditions from the original subdivision plan of Lot #2 of Great Hollow Acres, dated May 20, 2005, YCRD Book 307, Page 15, registered on January 3, 2006, referred to as Great Hollow Acres Lot #2 shall remain in effect.
2. The Findings of Facts for Lot #2 of Great Hollow Acres Subdivision, dated November 9, 2005, shall remain in effect as written and approved.
3. With the allowance to fill up to 4,300 square feet of the existing wetland, this approval uses the exemption in its entirety per NRPA, section 480Q (17). No additional filling or impact shall take place on Lot 2-2-3 without notification to the Department of Environmental Protection.

4. Any amendment to the subdivision not recorded at the York County Registry of Deeds **within ninety days** of the date upon which the plan is approved and signed by the Planning Board shall become null and void, unless an extension is granted by the Board in writing.
5. No changes, erasures, modification, or revisions shall be made in any final plan after approval has been given, unless the revised final plan is first submitted to the Planning Board and the Board approves any modifications.

Madge B. moved for approval of the revised plan. Diane S. 2nd the motion. All members were in favor.

The Planning Board voted to approve the application for an amendment to the subdivision known as Lot #2 of Great Hollow Acres per the final plan presented known as Plan Showing a Revision to Subdivision Plan Book 307 Page 15, Great Hollow Acres Lot #2, issue date June 27, 2013, done by Dana Libby PLS 1350 of Corner Post Land Surveyors, Inc., Springvale, Maine, was unanimous.

Nothing further was discussed.

Best Possible Location – Replace Existing Structure with Expansion – Map 27, Lot 13 (130 17th Street) – William Plante, Applicant

Mr. Plante was present for the review of his application. Joe Stanley sat out as a member because he drafted the plans for the proposed camp relocation.

Mr. Plante provided the board with a copy of the septic design done by Mark Truman, SE 121, dated July 6, 2013. He also provided a letter from Joseph Stanley, of LinePro Land Surveying which addressed the cleared opening created by both the new driveway, parking area and proposed camp location; as well as the final plan also does by Joseph Stanley, dated July 9, 2013 which depicted the approved driveway and parking area, proposed lot line adjustment, existing camp and proposed camp location, topography delineation, 7 trees to be removed due to the new camp location, and location of two trees to be planted to discontinue the use of 17th Street access to this lot.

Board members reviewed all the information received.

Mr. Plante asked if CEO McDonough received an email from Chris Coppi of the DEP regarding the Permit by Rule? CEO McDonough stated no, that as of 5:30 p.m. he had not received anything.

Board members noticed a different shape and location of the leachfield from the previous drawing. Mr. Plante stated in order to keep it out of the driveway it is now narrow and long and runs alongside the driveway. Madge B. asked how it relates to the slope on the edge of the driveway? Mr. Plante explained the location based on what they saw at the site inspection. Mr. Plante stated the location was chosen to also keep it out of the side of the hill. He said instead of being 15' x 50' as originally proposed, now it is 10' x 95'.

Mr. Plante stated that the septic tank will have to be eight feet from the new camp and it will be heavy duty so you can drive over it. He said it will be in the parking area. CEO McDonough asked if any additional trees would need to be cut for the septic system? Mr. Plante said, no.

Diane S., looking at the orange line on the plan, asked exactly what it was. Mr. Plante stated that was the limitation of the disturbance around the camp. Diane said that in the minutes of May 28th Mr. Plante stated he needed 25 feet of disturbance and Roger A. stated he would only need 10 feet on the driveway side. Mr. Plante said he needed a minimum of 10 feet and that was not really enough.

She said she was reading what was said at that meeting. Mr. Plante thought it was a misunderstanding. Diane S. read from the minutes, “Roger A. stated Mr. Plante would not need the 25 feet all the way around because a cement truck can use shoots on the driveway side. Roger felt 10 feet would be max on the driveway side”. Mr. Plante thought it was a misprint due to how the trucks would access the area. Diane continued to read from the minutes, “Roger thought that would be 10 feet because he would have enough room. Roger said there would be regrading on the back with no tree disturbance and the other area was on the driveway”. She asked what that meant? Mr. Plante said he didn’t understand. Diane said because she asked the question at the meeting she remembered where Roger stated the disturbance would be and where it would not. She said in the area where she was told there would be no disturbance, it is showing disturbance on the plan. Roger A. said there had to be disturbance for the foundation. Mr. Plante agreed there would be at least a four foot over dig. Diane said the minutes state the 10 feet would be on the driveway side so she was asking. Mr. Plante thought someone misunderstood.

Madge B. asked Mr. Plante what he was saying it would be? Mr. Plante said 10 feet on one side was fine but there needed to be a place to put the dirt. Madge said there would be more disturbance than 10 feet as stated. Roger A. agreed. Diane said the board was told 10 feet would be the maximum on the driveway side and now we are being told it is not. Roger said, “It is just a pile of dirt.” Diane said, fine, but that was what was said.

Diane S. asked about the trees on the plan near the proposed camp location. Mr. Plante stated they would be removed. She said he counted six on the plan. Roland L. stated the narrative on the plan states there are seven.

Mr. Plante noted on the plan there was also a line showing the regrading around the existing camp location. Madge B. stated the grading behind the existing parking lot is also a disturbed area. Mr. Plante said, yes. Mr. Plante said everything had to be blended together.

Diane S. said what she was trying to explain to the board at the previous meeting was if they moved the proposed camp toward the existing camp they would not have had to remove seven more trees in that area or dig into the contour of the hill because everything in this area was already wiped out. Madge B. agreed. Diane stated it would have been less disturbance which applies to the Ordinance. She noted she was out voted.

Madge B. asked if they knew how much area was opened up? The information had been submitted this evening, drafted by Joseph Stanley of LinePro. The letter stated his measurements and calculations show that 20.6% ± had been cleared and this meets the Ordinance requirements as it is under the 25% maximum allowed.

Madge B. asked when they approved the location of the camp? Diane S. stated it was approved on May 28th. She said Madge made the motion to approve.

Diane S. said she wanted to say one last time for the record that she believed the approved location of the building is more detrimental than another location would have been.

CEO McDonough asked if the revegetation plan was acceptable and did it meet the Ordinance requirements? Madge B. asked where the revegetation plan was? Barbara F. gave her the plan. Madge asked if the board approved the plan? Diane S. said everything was tabled as the board needed other information. Madge said that the board still did not have the DEP approval. CEO McDonough stated, right.

Board members reviewed the revegetation plan done by York County Soils and Water. The plan called for: A reverse slope terraced bench whenever the vertical interval of any 2:1 slope exceeds 20 feet. A terraced

bench to be located to divide the slope face as equally as possible and shall convey the water to a stable outlet. Terrace shall be a minimum of 5 to 6 feet wide to provide for ease of maintenance and be designed with a reverse slope of 6:1 or flatter to the toe of the upper slope. The bench gradient to the outlet shall be between 2 percent and 3 percent and flow to vegetation. The slopes to be vegetated with conservation mix seed with blueberries and sweet fern intermixed on the 2:1 slope. Where the camp is to be removed a seeded conservation mix and on the 3:1 slope plantings of perennials and erosion control mulch.

Diane S. asked if the board was going to have Mr. Plante replace the seven trees he is removing for the construction of the house? Roger A. said it's under 105-4.D(7). Madge B. said it needs to be on a plan that is enforceable. Diane said it needs to be on the re-vegetation plan. She said she didn't care if he drew them on the plan. Mr. Plante said he would replant them in the same general area if that would be easier.

Madge B. asked if the plan was enforceable? CEO McDonough stated that he didn't believe YCSW was approaching this from the same angle as the Ordinance or Shoreland Zoning does. He said you can stabilize an area with grass but that doesn't make it a natural buffer strip that our Ordinance wants; YCSW goal is to stabilize the area, not necessarily make it a buffer strip that complies with Shoreland Zoning. Mr. Plante asked if there was a difference between Acton and Shapleigh as far as on the lake. CEO McDonough said he had no idea what Acton did. Mr. Plante said, "A new camp went up on 12th Street and that guy had a brand new lawn all the way to the water." He said he was on the same lake.

CEO McDonough asked what the Ordinance wants? Madge B. stated the trees have to be replaced at least as close to the water as the ones he is removing. Roger A. read under §105-4.D(7)[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."

CEO McDonough stated the problem is, noting the area on the plan, that all of this area has already been disturbed without the board knowing what it used to be. Roger A. said this area would have to comply with the YCSW plan. CEO McDonough said it was up to the board. He said the board didn't know what used to be in that area because it was filled in and covered with mulch. Roger said the area had to be terraced and then replanted with what YCSW recommended. CEO McDonough asked what the definition of woody vegetation was? Madge B. read the definition which is as follows: Woody Vegetation – Live trees or woody, non-herbaceous shrubs.

CEO McDonough stated again YCSW approaches the problem from a different angle than the Ordinance does. Diane S. read §105-4.D(7) [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." She noted this is for the area where the old camp shall be removed. Madge B. agreed and noted this area is flat.

Madge B. thought it would be helpful to have a plan that shows all the disturbed area, where its been mulched and where all the plantings are going to go in the disturbed area. She asked if they could get a plan that would show this, where the woody plants and trees would be going. She thought there needed to be a plan to show where the plants are going, where the mulch is going to be, etc. Mr. Plante asked if he should put dots on the existing plan? He said he would put what the board wants.

Diane S. asked what non-herbaceous shrubs are? Mr. Plante stated Junipers were an example. Madge said also blueberries.

NOTE:

Taken from Wikipedia - A **herbaceous plant** (in American [botanical](#) use simply **herb**) is a [plant](#) that has [leaves](#) and [stems](#) that die down at the end of the [growing season](#) to the soil level. They have no persistent woody stem above ground.^[1] Herbaceous plants may be [annuals](#), [biennials](#) or [perennials](#).^[2]

By contrast, non-herbaceous perennial plants are [woody plants](#) which have stems above ground that remain alive during the dormant season and grow shoots the next year from the above-ground parts – these include [trees](#), [shrubs](#) and [vines](#).

Madge B. stated that even though 25% of the area was not cleared it is still alot so the board needs a good plan. She said the plan needs to be detailed. Barbara F. asked if the board had to make a motion to require a detailed plan? Madge stated she would be happy to make the motion that Mr. Plante come back with a detailed replanting plan that shows what kinds of plants would go where and that they would meet the requirements of the Ordinance. Also, where the replacement trees would go. Diane S. asked if the board needed a motion or could they just require it and table the application. Madge stated that would be fine. Diane thought it would be best to ask Mr. Plante for the plan and make a motion to table the application. Madge said that was fine. Madge said she would not go further with the approval until there is a detailed planting plan.

Roger A. stated they needed to find out what the DEP wanted before any final motions are made. Mr. Plante stated he spoke with Chris Coppi of the DEP and he was supposed to email the CEO and himself with his decision. Mr. Plante said, “Mr. Coppi said that if the Planning Board approves what has been done so far he will give me my Permit by Rule. And to sweeten the deal I told him I would be glad to vegetate the slope that Steve doesn’t like. He was supposed to email me the types of plants that would best suit the shade, sun and sand. But he didn’t email that to me today like he was supposed to.” Mr. Plante said, “By the time the next meeting comes up I will have that with the exact name of the plants that you guys are asking for.” Madge stated, “That sounds good.”

Madge said it is important to put the locations of where the plants will go on the plan as well.

Mr. Plante said, “If the Planning Board gives him a letter stating you are all set with what I’ve done so far, he will give me the Permit by Rule.” Roger A. stated Mr. Plante already has the driveway approval. CEO McDonough said what Mr. Coppi is asking approval for is the fill extension. Madge B. said the board hasn’t approved that. Mr. Plante disagreed stating the parking lot was approved already. Roger agreed with Mr. Plante. CEO McDonough stated the board did not have the authority to approve the project beyond 50 feet from the high water mark. CEO McDonough, when meeting Mr. Coppi and Mr. Plante on site, said Mr. Coppi said at best the fill extension is 45 feet from the high water mark.

Diane S. didn’t think the board approved the driveway that is in now. She said the board approved another driveway location. Roger A. stated the after-the-fact driveway had been approved. The other members agreed.

Madge B. stated that if the board didn’t have the authority to approve the fill extension then we can’t approve it. Diane S. asked if the DEP guy was aware of where the new house was going? Mr. Plante stated, yes. Madge said that isn’t the issue, it’s the disturbance within 50 feet of the water. Mr. Plante agreed, the issue is the slope. Mr. Plante said he could either dig the slope back which he would be happy to do or leave it alone and vegetate it.

Madge B. asked, “Where in the Ordinance does it show what the board can and can’t approve.” CEO McDonough stated it was under roads and driveways, §105-59.C., specifically ‘If no reasonable alternative exists, the road and/or driveway setback reduction shall be no less than 50 feet, horizontal distance, and may be permitted by the Planning Board upon a clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of water bodies, tributary streams or wetlands.’

Mr. Plante didn’t agree it was 45 feet as Mr. Coppi and CEO McDonough believed, he thought it was 55 feet. Madge B. asked who measured it? CEO McDonough stated he was not a surveyor but he counted 38 feet to the water. Mr. Plante didn’t agree to the location CEO McDonough used. CEO McDonough reminded members this was all after the fact so he had to use what was on site now. CEO McDonough stated Chris Coppi of the DEP, who is an enforcer for the DEP, not a surveyor, measured it and said it was at least 45 feet. Mr. Plante still did not agree with the measurements.

CEO McDonough noted that the applicant applied for 70 feet and was approved for 70 feet with the after-the-fact permit. He said the Planning Board can only approve to 50 feet at best. Again, Mr. Plante didn’t agree. Madge B. asked Mr. Plante if he had a statement from a licensed surveyor that says it is more than 50 feet from the high water mark? Madge stated the board needed a measurement.

Diane S. asked what happened if the criteria in the Ordinance isn’t met, does it null and void all the approvals? CEO McDonough did not know, he said the town attorney would have to answer that. Barbara F. stated the approval for the driveway was over 30 days ago. Diane thought it was still an open case. Roger A. stated the board is dealing with the camp not the driveway. Diane asked if the issue would go under misinformation with respect to the fill extension. Diane said the lot was surveyed. Madge said, “But not where the argued issue is which is the disturbed area.” Diane said if the board was given inaccurate information to make a decision she thought the board could revisit it. She believed the board could reopen it.

Diane S. stated the board could hire a surveyor other than Joe S. so there wouldn’t be a conflict of interest. Madge B. agreed but she said the board also needed a legal opinion.

Barbara F. asked exactly what question the board wanted presented to the town attorney? Madge B. stated, “When the Planning Board approved the driveway and parking area they approved it based on an accurate plan but the plan did not show them that the disturbed area was arguably closer than 50 feet. Since the approval was greater than 30 days is the board’s decision valid because the disturbed area is closer than 50 feet to the water.” Barbara asked why would it be invalid? Madge stated because the disturbance is closer than 50 feet to the water and the Ordinance requires a setback of a minimum of 50 feet. Madge said the driveway location is where it says it is on the plan but to build the driveway the area disturbed is closer to the water.

Mr. Plante asked if the board didn’t trust Joe Stanley’s opinion? Madge B. and Diane S. stated that was not what they were saying. Madge said they were asking what the Planning Boards authority is, given the Ordinance standard. She said it has nothing to do with Joe Stanley.

Barbara F. asked if it would be ok if she drafted what they wanted asked of the attorney and give it to CEO McDonough for him to speak with him. The board members thought this would be fine. Roger A. stated that if CEO McDonough didn’t have the time, he could speak with the attorney as well. Roger said he could bring the plan to the office so he would have all the information.

Diane S. asked if the issue of distance to the water should be settled? Madge B. stated no, because it doesn’t matter if the board’s decision stands no matter what the distance. Diane understood.

CEO McDonough asked if the question was, ‘can the board bring it back up’. Madge stated, correct. CEO McDonough asked how long had it been. The approval was May 14, 2013 for the after-the-fact permit for the driveway.

Roger A. stated the board would need a detailed planting plan showing where everything was going to actually set on the property. Mr. Plante said he understood.

Roland L. said looking at the minutes for the May 28th meeting, there were several places where the board or the CEO gave Mr. Plante the suggestion that he contact York County Soil and Water. Madge B. stated, “Which he did.” Roland said now the board is trying to say the plan isn’t accurate. Mr. Plante agreed. CEO McDonough asked Roland if he felt the plan was acceptable and was he going to approve it? Roland thought there was enough information to go by and especially since the board said go to York County Soil and Water and he did. Madge said now the board would have a different plan, the DEP plan. Roland said he just wanted it on the record that Mr. Plante did comply with the board’s suggestion. Madge said, “Sure.”

Diane S. asked Roland about the meeting about tree removal in the Shoreland district where he suggested that the board should ask the applicant to get a surveyor to verify where every tree was removed from. She asked if he still felt that way? Mr. Plante stated he did do that. Note: This didn’t include the after-the-fact permit as not all the trees removed could be noted on the plan.

Roger A. stated the application would be tabled until the board receives the DEP landscaping plan. Madge B. said the board also needs the opinion from the attorney. Madge said at this time the applicant didn’t need to do anything additional. Roland L. thought there would need to be a revegetation plan if the fill area had to be moved back. Madge agreed.

Madge B. said the issue for her, with her legal background, was not whether it was a good idea or not to have the slope, it is whether the board has to do something because they approved something without the legal authority.

CEO McDonough asked what constitutes percentage of grade? He said if you read under §105-59.C(1), ‘On slopes of greater than 20%, the road and/or driveway setback shall be increased by 10 feet, horizontal distance, for each five-percent increase in slope above 20%.’ He said the road and parking area would be set back an additional 10 feet for every five percent increase in slope. Madge B. said she read this as well.

Diane S. thanked Mr. Plante for providing the information the board asked for at the previous meeting.

Mr. Plante asked where the board was at with respect to the slope? Madge B. stated the board was going to get a legal opinion to see whether or not the board had the authority to make the decision to approve the fill extension. Mr. Plante said the legal decision was necessary before the board moves forward. Madge stated, “Correct.” She said Mr. Plante didn’t have to do anything.

Mr. Plante said that in the meantime DEP should be sending him the replanting plan. He thought he could be doing that and put it on the plan.

Roger A. believed the board would need to clarify the distance. Madge B. did not agree, she said the board may or may not need to clarify the distance. Mr. Plante asked if he would be contacted with the results of the attorney’s decision? Roger said, yes. Mr. Plante said he would wait to hear from the board and in the meantime he would create the replanting plan from the DEP.

Nothing further was discussed.

Growth Permits –

- **Map 8, Lot 10 (Owl's Nest Road) – New Home - Permit #08-13**
- **Map 37, Lot 17 (392 Indian Village Road) – Seasonal Conversion – Permit #09-13**

All supporting documentation, applications, etc. can be reviewed at the Town Hall during regular operating hours.

Planning Board meeting adjourned at 9:00 p.m.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, July 23, 2013

Members in attendance: Chairman Roger Allaire, Vice Chairman Maggie Moody, Madge Baker, Roland Legere, 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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Planning board meeting began at 7:30 p.m.

The minutes from Tuesday, July 9, 2013 were accepted as read.

Note: The minutes are not verbatim unless in quotes.

Best Possible Location – Replace Existing Structure with Expansion – Map 27, Lot 13 (130 17th Street) – William Plante, Applicant

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

Roger A. began by stating Mr. Plante was supposed to bring a set of revised plans to the meeting that would show landscaping. Mr. Plante did provide a revised copy of his plan done by Joseph Stanley of LinePro Land Surveying, dated July 23, 2013.

Roger A. asked if the DEP measurements or requirements were on the plan? Mr. Plante stated that he hadn't heard from the DEP. Mr. Plante asked CEO McDonough if he had heard from the DEP? CEO McDonough stated, no. Madge B. asked if they were the ones that were going to try to measure it? Roger said DEP had gone on site with Steve and they measured the disturbance was 45 feet from the high water mark. Mr. Plante stated he didn't agree with the measurement. He said CEO McDonough stood in an area and held the tape measure and Chris Coppi from the DEP walked down to the water. Mr. Plante said, "It's as shady as it gets."

Mr. Plante stated there was additional vegetation listed on the revised plan. The plan noted an area where blueberries and juniper would be planted and around the proposed new structure, Red Maple and Black Spruce was noted.

Madge B. asked about the 50 foot setback to the water. Roger A. said it was under §105-59(6)C. Roger read the section in its entirety. It read as follows: Within the Shoreland Zone, all new roads and driveways shall be set back a minimum of 100 feet, horizontal distance, from the normal high water line of a great pond, the Mousam River and the Little Ossipee River and 75 feet, horizontal distance, from the normal high water line of other water bodies, tributary streams or the upland edge of a wetland, unless no reasonable alternative exists as determined by the Planning Board. If no reasonable alternative exists, the road and/or driveway setback reduction shall be no less than 50 feet, horizontal distance, and may be permitted by the Planning Board upon a clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of water bodies, tributary streams or wetlands. Such techniques may include, but are not limited to, the installation of settling basins and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream or wetland.

Madge B. asked, "What about the slopes"? Roger A. continued to read from Section C as follows:

- (1) On slopes of greater than 20%, the road and/or driveway setback shall be increased by 10 feet, horizontal distance, for each five-percent increase in slope above 20%.

(2) This subsection does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline, or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Road and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of this section except for that portion of the road or driveway necessary for direct access to the structure.

Mr. Plante stated that he did not respond to the letter from Town Attorney Brad Morin, dated July 19, 2013 as he didn't receive it until Monday, July 22nd. Barbara F. stated it went into the mail within an hour of her receiving it, so the members did not have it any sooner than Mr. Plante did.

Madge B. stated, "I thought that the reason we wanted an opinion from the lawyer was if we had approved a driveway and disturbed area that was closer than 50 feet was whether we could re-look at that." Roger A. agreed this was what was asked. Madge said that when she rereads this section of the Ordinance the board is obligated to decide what is said in the Ordinance and what she reads is the road and driveway have to be back 50 feet, it doesn't say the disturbed area has to be 50 feet. She thought the board as a whole had to decide what they thought the Ordinance meant. She said the applicant can argue that the road and driveway are beyond 50 feet because they are. She said the 20% grade is a concern but that is the road and driveway, not the disturbed area. She said the disturbed area had a slope but it had to be terraced. Roger said, right.

Madge B. said she didn't have an answer; she was just raising the question. The board reviewed the new plan that had the topography on it. Madge asked if the new plan showed the topo of what 'was' there, not what 'is' there? Roger A. thought it was what is there today, after-the-fact. Members continued to review the plan.

Madge B. asked what was measured, from the edge of the driveway? CEO McDonough asked what she was calling the driveway? Mr. Plante stated CEO McDonough stood five feet from the toe of the slope and DEP guy walked to the edge of the high water mark. Mr. Plante believed if they stood at the toe of the slope it would be over 50 feet. Madge asked if the measurement was from the edge of the disturbed area? CEO McDonough stated, "From what appeared to be." Madge said, "That was the 45 feet." CEO McDonough stated, "That is what the DEP felt it was." Madge said, right, and noted she was willing to accept that.

Madge B. said she wasn't sure what to do. Roger A. stated that because the board did an approval of the after-the-fact driveway and because the board can re-open it, the board has the ability to move it back five more feet. He said the board was not allowed to approve greater than the 50 feet to the water. Madge B. agreed. Roger said the board could require it be moved back five feet and put in a small retaining wall in order to get the 50 feet. Mr. Plante stated that moving the toe of the slope back 5 more feet would make the slope steeper. He said it was only 15 minutes worth of work which he was willing to do if it would make everyone happy. Mr. Plante stated moving it would not change anything; there would still be stump grindings where the toe of the slope is now. Roger said he understood but in the Ordinance the board isn't allowed to have anything disturbed within 50 feet of the high water mark. He said the lawyer also said in his fax that the board can re-open the approval of the driveway and take a look at all the information.

Note: The Facsimile from Attorney Bradley Morin to CEO McDonough regarding the Plante-Earth Moving Permit read in part as follows:

Dear Steve:

You asked me (on behalf of the Planning Board) for an opinion as to whether the Board could reconsider Mr. Plante's earth moving permit after more than 30 days elapsed, if that decision was based on false information.

In my opinion the Planning Board may reconsider a decision if it concludes that the decision was based on false information. This is particularly true when the Planning board is still in the process of approving uses on the property

affected by the prior earth moving permit. However, the applicant must be provided with adequate notice so he can be prepared to address any concerns that the Board has with the prior permit.

If the applicant's work violated the water setback requirement, you as Code Officer also has the authority to issue a Notice of Violation.

Mr. Plante stated that it was real easy to see where the toe of the slope is. He said it was easy to measure and in his opinion it was 50 feet or more. He said the top of the parking lot was 70 feet. Madge B. agreed with the 70 foot measurement.

Madge B. stated the board had no evidence of the actual distance. Roger A. stated the board could revisit the site and measure it. He said the board could say this is the figure and this is where it needs to be. Mr. Plante didn't want the board to measure from the bark mulch berm but from where he believed the toe of the slope to be. He thought the measurement should be from where things were before the soil was disturbed. He didn't agree it should be measured from the limit of disturbance. Roger said having the disturbance 50 feet from the high water mark would keep the sedimentation from going into the water.

Madge B. thought it was a good idea to have the board revisit the site again. All members agreed another site visit was warranted.

Roland L. stated, "I thought at the last meeting with reference to the septic design, Bill, it still shows it as (referring to the new plan) 60' x 15', I thought you said you were going to 10' x 95'." Mr. Plante agreed it was an error it should be 10' x 95'. Mr. Plante said due to the slope of the driveway and location the thin strip worked better. Madge B. said she was also wondering about this and thought the plan should be corrected.

Roger A. stated a site inspection would be scheduled for Tuesday, August 13th. Board members agreed that 5:45 p.m. would work.

Mr. Plante asked after the site inspection what else would need to be discussed. He also asked if the location of the new structure had been accepted. Roger A. said, yes, the location of the new structure was approved. He said the only other thing would be looking at the landscaping plan and making sure it was acceptable.

CEO McDonough wanted it clarified that the Planning Board would be determining the measurement to the water? Mr. Plante said it wasn't hard to see the toe of the slope. Barbara F. asked if the board still needed the Permit by Rule? Mr. Plante stated that the DEP said if the board was all set with the toe of the slope then the board would need to send them a letter stating they approved of the location of the toe of the slope. He said if the board is, then the DEP will give him the approval for the Permit by Rule. Barbara said, ok.

Nothing further was discussed.

Conditional Use Permit - Replace Retaining Wall – Map 36, Lot 16 (166 Indian Village Road) – Shawn Woods, Applicant; Bruce Ballard, Property Owner

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

Roger A. asked Mr. Woods to state why he was before the board. Mr. Woods stated he wanted to replace an existing retaining wall. He said the only major disturbance on site would be a 26 inch Pine.

Roger A. asked the length of the wall? Mr. Woods stated it was two 20 foot sections for a total of 40 feet. He said the wall was 2 feet above grade, but including the area below grade it will be 3 feet.

Roger A. asked if the steps would be incorporated in it? Mr. Woods said yes, the steps are there now and will be replaced as well.

Roger A. asked what type of retaining wall it will be? Mr. Woods stated the existing is just stone and mortar. The new wall will be the Diamond Pro blocks from Genest.

Roger A. asked what would be done with the rocks to be removed? Mr. Woods stated they would be brought to Rudy Peppins Aggregate, they take the rock and crush it and use it as crushed stone.

Roger A. asked what was behind the existing wall for vegetation? Mr. Woods stated there was no vegetation behind the wall, it is just natural growth. He noted there had been some stone and drain tile work done within five feet of the wall for an approved Best Possible Location in 2012.

Roger A. stated a site inspection would be done at approximately 6:20 p.m. A Notice to Abutters shall be mailed as well.

Nothing further was discussed.

Best Possible Location – Replace Roof, Walls and Deck – Map 24, Lot 15 (10 Hubbard's Cover – 14th Street) – Scott McLeod, Applicant; Mark Voishnis, Property Owner

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

Roger A. asked Mr. McLeod to state why he was before the board. Mr. McLeod stated he was going to take the existing camp and renovate it, replacing the roof and 1st floor walls, leaving the 1st floor system over a daylight basement. He said he would be reframing on top of the existing adding a new roof and he would be keeping it a single story. He said he would also be extending the camp keeping it away from the high water mark, proposing six feet closer to the road. He said the square footage and volumes all meet the calculations for a 30% expansion. He didn't have the numbers for the board but would have them for CEO McDonough.

Mr. McLeod stated the septic system was between the cottage and road which allowed him to move the cottage six feet and not hinder the setback on the septic but he added there was no room to move the whole structure back any farther from the water because it would come into the existing septic system. Mr. McLeod did provide a copy of the Subsurface Waste Disposal System done by Wesley Bullard, SE#122, dated 6/1/1983.

Mr. McLeod stated he wanted to expand the width of the deck. He said the new deck would still meet setbacks and square footage. Roger A. asked if including the deck there would still be nowhere that the structures would be closer to the water? Mr. McLeod stated, correct.

Roger A. stated there would be a site inspection at approximately 6:30 p.m. A Notice to Abutters would be mailed as well.

Nothing further was discussed.

Conditional Use Permit – Small Engine Repair Shop w/Living Space Above – Map 1, Lot 24A (140 Deering Ridge Road) – Scott McLeod, Applicant

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

Roger A. asked Mr. McLeod to tell the board what he intended to do. Mr. McLeod stated he wanted to build a structure with a small apartment on top and an area for a repair shop in the basement.

Roland L. asked if the location was where the Quonset hut was? Mr. McLeod said, yes. Mr. McLeod stated the intention is to clear all the junk out and utilize the cement slab for a parking area. He said the new structure would sit in front of the cement area.

Mr. McLeod included pictures to show site distances.

Roger A. asked CEO McDonough about the 50 x 100 foot slab, could Mr. McLeod build on it? CEO McDonough stated, no. Roger said, "Because you need a foundation". Mr. McLeod stated they would be putting in a foundation in front of the slab. Mr. McLeod asked CEO McDonough, in the event its been looked at by an engineer and they give something that says it can be used for storage or something in the future is that ok? CEO McDonough stated, "If the engineer quotes the MUBEC code saying how it will meet the code, quoting the sections saying they will be met, putting an engineers stamp on it, then yes."

Roger A. stated that because this is a business, there will be a public hearing held at 7:00 p.m. on August 13th. A site inspection will be held as well, and a Notice to Abutters mailed.

Mr. McLeod stated he will be starting the Permit by Rule process for the 14th Street project.

Roger A. stated a Growth Permit will be needed for the apartment.

CEO McDonough stated that as a reminder there is a notation under §105-19 regarding dimensional requirements for mixed use. CEO McDonough was referring to Section A and asked the board members their opinion or interpretation. The Ordinance reads as follows:

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.**

CEO McDonough said the board has to ask if there is a primary use and a secondary use? He said in light of things permitted in the past where people have a residence and turn their garage into a business on the same lot, he didn't see how this would apply. He said he still believed it should be addressed, how should it be interpreted.

Maggie M. said the first part deals with dimensional requirements for two and multi-family dwellings and the 2nd part is saying one principal governmental, institutional, commercial or industrial structure or use. CEO McDonough said, 'or use'. Maggie said a residence isn't governmental, institutional, commercial or industrial. CEO McDonough said, 'or use'. Maggie asked if the home was a commercial use? Maggie said, "It doesn't say combined with residential." She said the first sentence refers to residential but the second part is as if you would have to have two commercial or industrial on the same lot. CEO McDonough stated that if that is how the board wanted to interpret that he was fine with it. He just wanted it clarified in writing the next time the Ordinance is changed. Madge B. agreed because she thought it could be 'any use'.

Maggie M. said the mention of multifamily dwellings is only telling you to look at another part of the Ordinance, 105-42. She said if you take a look at it, 'If more than one principal governmental use, institutional use, commercial use or industrial use' **then** put each with structure and use. CEO McDonough said Maggie added some words to the Ordinance. Maggie said, if you change the sentence because each one

of them applies to 'use' but none of them say residential, then it sounds like two governmental, commercial or industrial uses. CEO McDonough stated, ok. He said he would still like it written like that.

Maggie M. said the word residential isn't in there. Madge B. thought you could argue it either way. Maggie and Madge thought anyone could pick it apart to their advantage as written.

Madge B. asked Mr. McLeod to tell them about the two uses. Mr. McLeod stated the structure was going to be a business and the space above would either be one big storage room or living space. He said his brother may in the future sell where he lives now and move there. Madge asked if there would be a bathroom and kitchen? Mr. McLeod stated yes, it is going to be a single floor home. He said it will be 24 x 40 feet.

Mr. McLeod stated he and CEO McDonough had discussed the multiple uses and he agreed with Maggie M. that the Ordinance referred to two business uses. Maggie said at first she was thrown off with the mention of multi-family but then she realized it was just referring the reader to go to the other section in the Ordinance.

Roger A. stated that in 2009 when the Ordinance was changed it was because someone with a two acre lot had a residential use and then they came back asking for a business, the board was hoping they would have a larger lot. Roger noted that Mr. McLeod will have a lot more criteria to meet with respect to the building code than a residential use. Mr. McLeod stated he was aware of that. CEO McDonough stated Mr. McLeod was well aware of the building code. Roger said this was a larger lot; it just didn't have the road frontage. He didn't have an issue with having everything in one building. He said in 2009 the board wanted a larger property for additional uses.

Mr. McLeod asked what the board felt now? Roger A. said with a duplex you need 300 feet of road frontage. Madge B. asked how much road frontage this lot had? Roger said, "It looks like its over 200 feet." Roland L., looking at the sketch, said it appears to be 231 feet based on the back lot line dimension. Roger agreed saying nothing was written on the plan for frontage.

Madge B. said she felt the board was going to interpret it Maggie M.'s way. CEO McDonough didn't disagree; he just wished it was written more clearly. Barbara F. asked Maggie if she wanted to try to address it, as she had noted to the board that English was her strong suit. Madge said it is not just about being more clear but what does the town want it to say? She said if there are two principal uses what should it say? CEO McDonough stated the problem is determining what is a principal use. He asked if it should be based on square footage? Maggie noted that in the Comprehensive Plan the town wanted to encourage home based businesses and with alot of the houses that exist, it would eliminate them from having a home based business. CEO McDonough agreed stating there are countless home based businesses. Madge said what is different about this application is usually it's a home based residence that then wants a business. In this case it's a business that then wants a residence.

Mr. McLeod said he didn't feel it made any sense to put up a house and then come back saying he wanted a business run out of the first floor. He said the intent is to have both.

CEO McDonough said that for tonight, the paragraph (§105-19.A) is intended to read that there is more than one.... Madge B. finished by saying more than one **governmental, institutional, commercial or industrial use**. Madge said, the use goes with each. Madge asked if all the other members were ok with this interpretation. All other members said, yes.

Roger A. told Mr. McLeod to have the Growth Permit for the next meeting and they would approve that as well and noted again there would be a site inspection prior to the next meeting on August 13.

Nothing further was discussed.

Other:

Diane S. after reading the Shoreland Zoning News written by the MDEP, asked members to read ‘Sidebar: After-the-Fact Permitting’. Diane asked if the measurement to be taken at Mr. Plante’s property was for an after-the-fact permit? Maggie M. stated, yes. Diane read the following from the sidebar article, “The permitting authority must review the application as if the activity has not occurred. Does the activity meet the standards of the Ordinance? If not, then the application must be denied.”

Diane S. asked if the measurement at Mr. Plantes isn’t 50 feet but 45 feet then the board has no choice but to deny it? Roger A. thought that was true. He said the board would be measuring and if it isn’t 50 feet from the water then the board has to deny it. He said the board can’t change the Ordinance and the board has to uphold the minimum dimension of the Ordinance.

Diane S. said, “So if we go there in two or three weeks and we find its not 50 feet, and we have to deny it, what happens after that?” Roger A. said if Mr. Plante will redo it, to get to 50 feet, it will be fine. If Mr. Plante doesn’t redo it then the permit will be denied. Roger said that is why he wanted the board to measure it out. He said he could build a wall at 50 feet and leave the slope and have a retaining wall. CEO McDonough stated he would need a variance for a retaining wall. Diane thought you couldn’t have a new structure within 100 feet of the water. CEO McDonough agreed which is why he would need a variance. Barbara F. mentioned that he could build earth berms.

Madge B. stated at the last meeting she was discussing as to whether or not the board needed more guidance with respect to reviewing the Best Possible Location, so Barbara gave her a copy of a checklist that was attached to the application. Madge wondered if applicants answered these. Barbara said no, it was so they knew what the board would be looking for and they could provide the information.

CEO McDonough thought applicants should have to provide six copies of everything, one for each board member to review prior to the meeting. Barbara F. agreed, noting that it would alleviate the number of copies she had to make which costs the taxpayers money. The other board members agreed. CEO McDonough noted another town where you had to submit 10 copies of everything. Barbara thought the board should add a section to the Ordinance which would require the copies for all applications.

Madge B. believed if at the first review the board looked thru the checklist they would be more consistent with the review process. The other members agreed it would be helpful. Madge asked Barbara if she would ask the applicants to supply six copies when she gives out the application. Barbara stated she will but because its not in the Ordinance it really isn’t mandatory at this time. She will try to create something to review regarding this issue for September.

CEO McDonough stated every application that comes before the board should have the same stipulation. Board members agreed.

CEO McDonough stated that although Roland L. requested he go to all site visits, he was not comfortable going to Mr. Plante’s site visit. He said the reason was is he didn’t feel qualified to do the measurements for the after-the-fact permit and make the determination. CEO McDonough stated he would go to Mr. Woods’s site inspection.

Maggie M. thought the Planning Board was waiting for the DEP to make a determination. CEO McDonough stated that unofficially Chris Coppi was supposed to put something in writing and he did not. He said Mr. Coppi caught him in the parking lot and said that he had told Mr. Plante that if the Town approves what he has done then he will give him the after-the-fact Permit by Rule with conditions. Diane S. asked what the conditions would be? CEO McDonough did not know.

Maggie M. said the Permit-by-Rule would be after-the-fact as well. CEO McDonough said, yes. Maggie thought this was easy to get. CEO McDonough stated that they send a rule book that you have to follow. Roger A. said that if you don't then it's a violation. CEO McDonough stated that only certain things qualify for a Permit-by-Rule and when its after-the-fact you have to make that determination.

Roger A. said if the board keeps Mr. Plante within the 50 foot he had no issue with approving it. He said the board can have Mr. Plante pull it back to the 50 feet, depending on the measurement. He said then whatever the DEP states their conditions are, whatever plantings he needs, would marry with the Planning Board approval and he would have to comply with both. Maggie asked if he would have to fulfill the DEP requirements before the board gives their permit? Roger said the board can say its within the 50 and it meets the boards conditions but in order to get the DEP permit he may have more conditions, so he would have to comply with that as well.

Board members noted that when Mr. Plante paves the driveway it might stop the runoff problem that is there at this time. Roger A. stated this would not take place until after all the construction is completed. He said the drywell isn't in yet either and that would help the situation. CEO McDonough stated that the drywell isn't noted on the current plan. Madge B. agreed stating that it was on the previous plan. Diane S. said that where most of the embankment was dug out is the lowest point of Goose Pond Road, it is a problem. CEO McDonough stated it will also be a problem for a leachfield.

Madge B. stated that the drywell should be on the final plan. Roger A. agreed, he felt this was mandatory. Roger thought it was on the original plan. Board members agreed they would not approve the plan without it. Barbara F. will draft a letter to Mr. Plante stating that the drywell needs to be on the final plan.

Note: On July 24, 2013, Barbara F. mailed Mr. Plante a letter that stated the following:

The Planning Board asked me to write to you to state that they will require for the next meeting on Tuesday, August 13, 2013, that your amended plan show the "Proposed Dry Well Basin" and the correct size of the leachfield. It appears that on the plan presented on July 23rd the well basin was inadvertently removed from the plan, and the size of the leachfield is not as presented at the meeting on July 9, 2013. If you have any questions feel free to contact Chairman Roger Allaire at 324-7079. Thank you.

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 8:45 p.m.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, August 13, 2013

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

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Public Hearing began at 7:00 p.m.

Conditional Use Permit – *Small Engine Repair Shop w/Living Space Above* – Map 1, Lot 24A (140 Deering Ridge Road) – Scott McLeod, Applicant

Scott McLeod was present for the public hearing along with his brother Shawn which will be running the small engine repair shop. NOTE: Board members did a site inspection this evening prior to the meeting.

Maggie M. asked Scott McLeod to inform the board and public what he intended to do.

Scott M. stated that the first intention was to clean the site up. Then they would like to construct a 70' x 40' structure with garage space to use for small engine repair with a 20' x 40' living space in the front half of the structure upstairs. The structure will have a 70 foot long covered porch 10 feet wide and the structure will be completely finished with vinyl siding. He stated there would be a gravel parking area.

Madge B. asked if there was a Growth Permit issued for this structure? Diane S. said, no yet.

Maggie M. asked if this would be for car repairs? Scott M. stated no, it would be small boats (SeaDo's), ATV's, snowmobiles, etc. Diane S. asked how many vehicles would be present on the property, how many boats, snowmobile's etc. Scott M. said there could be a day when there are 5 on site or a day there are 25 on site. Diane stated that for the regular meeting the board would require that the applicant states the maximum number of vehicles present on site at any one time. Maggie M. agreed. Diane added that the board would need to know where they will be located / parked on site. Madge again agreed and said also where the owners and patrons will turn around on site so as not to back out onto the road.

Roland L. asked if it would be repair only or would there be sales on site? Scott M. said they didn't know what the future would hold but the intent presently was not for sales. Shawn M. agreed. Diane L. gave the McLeod's a copy of a violation letter from the Code Enforcement Officer that noted a business owner was exceeding the number of vehicles he was allowed to have on site per the Planning Board approval of his business. She stated this was why the board was asking the detailed questions. Madge B. stated the board didn't mind resale but it had to be part of the permit use approved. Maggie M. added that if whatever they did not get approved for at the meeting they would need to come back for in the future if they added it later which would include another permit fee.

Diane S. stated the board would need the hours of operation. Madge B. stated lighting on the structure needed to be addressed. Roland L. stated the storage of hazardous material would be looked at. Diane agreed, oil and gas, what would be done with that. Maggie M. stated this would be brought up during the regular meeting.

Roland L. asked Shawn M. if there would be an exhaust system inside so if he were running a motor the fumes would get exhausted outside? Shawn stated he ran everything outside at the shop he had now. He said because of the fumes he didn't run anything inside. Roland asked about outboard motors and the noise

that came from them when they were run, how would this be addressed? Shawn said he didn't work on outboard motors. Roland stated that he lived quite a distance from both of the local marine operations and when they did a dry run of the motors it sounded like they were at the end of his driveway. Roland, therefore, was concerned with how the noise issue would be taken care of if everything was run outside? Shawn M. said he wasn't sure and he agreed everything he ran made noise but not near that of the level of an outboard motor. Scott M. noted that everything Shawn worked on came with an exhaust system. Scott said everything was already compliant to noise. Roland said that was why he was concerned about outboards. Shawn said again he would not be doing outboard motors, only personal watercraft.

Roland L. asked if it was Shawn's intent to have the business visible from the road? Shawn M. stated, yes. Roland said a lot of vegetation would be moved. Scott M. noted the stone wall that members observed on site. He said that was holding grade at level and that would remain. Maggie M. asked if both walls would stay, noting the smaller wall. Scott said there was no reason to remove the walls stating there was a ditch line there as well. Maggie asked how many trees would remain out front? Shawn said he wasn't sure as there was such a tangled mess at present and he had to clear some of it out. Shawn said he would not clear cut the area. Scott said he walked thru the area and he believed the knotty pines would be removed to allow for the hardwood and Poplars to grow up. He said there would be good visibility but a tree line would remain.

Roland L. asked how much frontage there was? Scott M. stated roughly 230 feet. Roland asked if the whole area would be opened up? Scott showed the area on the plan they would be opening up. Roland asked if there would be grass planted? Shawn M. said that he did intend on having a front lawn. Maggie M. asked Shawn if he would be storing the items being work on on the existing slab. Shawn stated, yes. She asked if everything would be stored outside? Shawn stated that motorcycles would be locked up inside. He added that anything easy to move/roll would be stored inside. He said again that anything that will be stored outside will be on the slab. Scott stated that would not be the only area of storage because there would also be a farmer's porch that may have items stored on it. Maggie asked if anything would be stored around the yard? Scott and Shawn stated, no, with the exception of snowmobile trailers parked off to the side in an area out back.

Maggie M. asked how much of an area would be used for parking? Scott and Shawn talked about areas that will have the brush removed; those areas would be used as well. Madge B. thought the board would need a better site plan, one which depicted the actual parking area on site. Scott showed on the existing plan the areas where the trees would be cleared and noted those areas could all be used for parking snowmobile trailers and the like, along with areas that are already cleared but need to be cleaned up. Maggie and Madge both agreed the area where vehicles come in and turn-around needs to be on the plan, the parking areas for customer vehicles, the parking areas of the different items to be stored such as trailers that area also needs to be designated. Diane S. stated that the working areas need to be designated as well. Madge said the buffering areas needs to be designated as well, where there will be shrubs and trees to buffer the property from the neighboring property to prevent noise, lighting, etc. from going offsite.

CEO McDonough asked if the board was going to take public input for the meeting? Maggie M. said, yes. Brian Paul from the corner of Deering Ridge and Murray Road, stated he lived here for 30 years and it was a relatively peaceful and quiet neighborhood. He said he was not objecting to the project proposed by Scott McLeod but he had concerns with the hours of operation and the possible noise coming from the establishment. Mr. Paul asked that the board closely look at this, because Mr. McLeod stated most of the activity will be done outdoors, so that will have a drastic impact on the quality of life down the hill. He said again he was not opposed to the building and project as he believed Ash Cove Construction, Mr. Scott McLeod, would do an outstanding job with respect to the building. He was concerned with the conditional use, the hours of operation and the number of vehicles on site. He said he also recommended a Conditional Use Permit for six to eight months to see how things develop and then have the board review it. He didn't

know if that was possible, but if so, the board could then review and see if there were any concerns that need to be addressed. Maggie M. didn't think the board did a probationary approval, asking CEO McDonough if there was an issue didn't people complain to him? Diane S. believed so. CEO McDonough thought anything was possible although he never saw it done before. Scott M. thought it was hard to ask something like this because when someone was purchasing a property in order to establish a business they need to know they will be able to conduct the business. Scott did appreciate Mr. Paul's concerns with respect to noise but thought it could be handled by restricting the hours of operation. Diane stated you could not make any loud noise between 10:00 p.m. and 7:00 a.m. Mr. Paul stated based on this the hours of operation could be 7:00 a.m. to 10:00 p.m. Diane stated, correct. CEO McDonough stated the hours could be longer but he could not make any noise. CEO McDonough thought with a detailed plan, hours of operation, designated areas, buffer strips, landscaping, all on the plan it could be controlled. Scott asked Mr. Paul what he would like to see for hours of operation. Mr. Paul and the applicant agreed upon 8:00 a.m. to 6:00 p.m., Monday thru Thursday, 8:00 a.m. to 5:00 p.m. on Friday and 9:00 to noon on Saturday.

Maggie M. asked if there were any additional questions? There were none.

The public hearing closed at 7:27 p.m.

Planning board meeting began at 7:30 p.m.

The minutes from Tuesday, July 23, 2013 were accepted as read.

Note: The minutes are not verbatim unless in quotes.

Best Possible Location – Replace Existing Structure with Expansion – Map 27, Lot 13 (130 17th Street) – William Plante, Applicant

Mr. Plante was present for the review of his application. NOTE: Board members did a site visit prior to this evenings meeting.

At the last meeting on July 23, board members requested that Mr. Plante have the “Proposed Dry Well Basin” and the correct size of the leachfield placed on his final plan. Mr. Plante did provide members with a new plan this evening which did in fact have both placed on the plan as requested. The plan was dated August 23, 2013 and was drafted by Joseph Stanley of LinePro Land Surveying of Shapleigh, Maine.

Board members were schedule to go on site prior to the meeting to measure the distance from the high water mark to the disturbed area on site to see if the area was within 50 feet of the high water mark and if so they could not make a ruling on the disturbance because the Ordinance doesn't allow disturbance within 50 feet of the high water mark. Section §105-59(6)C reads in part: If no reasonable alternative exists, the road and/or driveway setback reduction shall be no less than 50 feet, horizontal distance, and may be permitted by the Planning Board upon a clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of water bodies, tributary streams or wetlands.

Mr. Plante asked board members if they made a determination at the site visit? He stated he paid the surveyor to put stakes in at the 50 foot mark. Maggie M. stated they did see the stakes but believed they

didn't have the expertise to determine the actual area of disturbance and if in fact it was within 50 feet of the water. Maggie asked other members what their opinion was? Mr. Plante stated the toe of the slope did not go past the stake set on site.

Madge B. stated she had no idea what the actual area of disturbance was. Maggie M. also stated she could not determine where the actual disturbance was. Mr. Plante thought it was easy to see the toe of the slope. Board members agreed but believed the disturbance to the area was beyond the toe of the slope. Mr. Plante did not agree. He stated that because stump grindings were beyond the toe it did not mean the area was disturbed. He stated he cleaned up the area and afterward put down the stump grindings to prevent erosion. He thought the original grade could be seen on site. Maggie stated the board could not tell on site what the original area looked like. Diane S. agreed stating the board could not determine the original lay of the land, only what it looks like now. She asked if there were pictures of the area? Mr. Plante stated that at the last meeting the board wanted to know where the toe of the sloped ended and he said he showed them by using a stake. (Note: The board was not going to determine the toe of the slope as that could be determined but the distance to the disturbed area on site to the high water mark was in question. See the minutes of July 23, 2013.)

Diane S. stated she did not feel the board was qualified to determine where the actual disturbed area was. Madge B. agreed and she added that she did not know how the board could determine this because this was after-the-fact and all the board has to look at is what is there now. She asked if the board could determine it by digging into the earth? Mr. Plante continued to state over and over that it was easy to see where the banking came down and met the flat area. Several board members said this was not a question for the board either; it was where the actual 'disturbance' took place that was in question.

Roland L. said the question on site was whether the toe was originally there or whether it was created. Mr. Plante stated where the toe came down was where it met the original grade. Madge B. asked how the board would know that? Mr. Plante said everything in the area blends in. Diane S. stated the way she looked at it was the board had two opinions by people more qualified then the board members. She asked if the board went by those measurements or did the board need to get a third? Madge asked how the board could go back? CEO McDonough stated that was the problem, you can't. He said he thought as a member he would ask himself, if the area is disturbed (within 50 feet of the high water mark), what would the board want? Madge said she would ask the applicant to move the disturbance back preferably closer to 75 or 100 feet. CEO McDonough asked what would then happen to the area that the board was not allowed to approve? What would the board want to see?

CEO McDonough stated, "At this point the board has two choices. First, you can assume it was disturbed and then ask yourself, this has been disturbed how are we going to remediate it or you can assume it wasn't disturbed." He said, "Actually you also have a third choice, you can hire someone to determine if it was disturbed." Maggie M. said even if the board hires someone to determine it has been disturbed it still has to be fixed. CEO McDonough agreed and asked the board what they wanted to see happen to that area?

Madge B. said they were under an Ordinance provision that says the board cannot approve any disturbance within 50 feet of the water. Diane S. said, right. Madge asked, "How does the board get around that? Does the board say no and send the applicant to the Board of Appeals to get a variance from the Ordinance provision." CEO McDonough thought you had to table it. Madge didn't agree because the board is being asked to issue a variance. Diane S. agreed that the Planning Board could not do variances. Madge said it is clear the board doesn't have the authority to vary the dimensional requirement but presumably the Board of Appeals does. Diane said, "The Board of Appeals does dimensional variances."

Mr. Plante said again he couldn't believe the board could not determine where the slope ended. Madge B. stated that she could not. Roland L. said he would not say he couldn't determine where it is now. Madge,

reading §105-72, believed the Board of Appeals could hear it. Mr. Plante stated he was not trying to appeal anything. Madge said Mr. Plante put the board in a very difficult position and this could be a way to get out of the fact the Ordinance stated the board cannot approve the application. Madge said the board cannot waive or ignore the distance measurement. Roland L. stated, "There were two sources that have said it's encroaching on the 50 feet, correct." Madge said, "Yes, correct." Mr. Plante asked who they were? Diane S. said, "The Code Officer and the DEP." Mr. Plante said, "The DEP did not say that, his opinion was that they get a letter from you saying that what I did was alright so I can get my Permit by Rule." Madge said she had no issue with the measurement they got from the CEO and the DEP. Mr. Plante continued to disagree. CEO McDonough stated that he heard on site that Chris Coppi (DEP) stated it was at least 45 feet but if the board wants to ask him they should do so. Mr. Plante again continued to disagree.

Roland L. stated the question was whether the slope was created or existing. Mr. Plante stated, "The slope I put there to hold the parking lot up but it ends on the original grade." Madge B. said again it was hard to tell. Roland said the Ordinance says they need to know if it's 50 feet from the water. The board agreed there was no way to know what existed and what was created based on what they saw at the site visit. Mr. Plante continued to loudly state he did not agree with the measurements taken and that he was not within 50 feet of the water. He said he made no drastic change to the lay of the land.

Scott McLeod, an applicant that had not been heard yet, asked to speak. He stated that he hadn't been to the property and stated from past experience with tearing camps down, once the camps are removed they are revegetated. He asked, "Is this a situation where something can be revegetated?" He said you could use blueberry bushes. Diane S. stated they were not discussing a camp but a driveway and if you put in a new driveway it has to be at least 50 feet back from the high water mark. Mr. McLeod stated the question was whether or not it was within the 50 feet. Mr. Plante stated again the toe of the slope was not within the 50 feet. Mr. McLeod asked if the grade could be vegetated. Diane said, "The issue is the board cannot do anything if it is within 50 feet because according to the Ordinance and the laws the board has to deny it, period." She said, "Then he has to go to the Board of Appeals to get a dimensional variance. The board cannot approve something or say, ok, let's make it pretty because it's against the law to begin with." Mr. McLeod asked if it was the fill extension that was the issue. He asked if there was a percentage of grade required and could he pull the toe back and then revegetated? He stated he was just trying to solve it. Madge B. noted the entire board was trying to solve it.

Mr. Plante stated that pulling the slope back was just redistributing the soil that shouldn't be disturbed again. Madge B. and Roland L. stated they did not disagree with that. Mr. Plante went on again about stump grinding being within the 50 feet and that the area was not disturbed. Roland stated for those in the audience who had not been privy to this, there is a lot more than just this issue. Roland noted the board has been dealing with this site since the beginning of the year. Mr. Plante stated they were eight months into it. Diane S. stated that Mr. Plante caused a lot of the problems by putting in an illegal driveway.

Mr. Plante said, "I put in one little spot of a driveway and the board fined me \$600 bucks so drop it and turn the page, we are passed it." He said, "I was already fined so it isn't an issue anymore." (Mr. Plante paid an after-the-fact permit fee as required.) Mr. Plante yelling loudly stated he did one little thing and the board won't let it go. CEO McDonough stated that if he didn't stop yelling the board would close the meeting. Mr. Plante yelling again stated, "We are beating a dead horse." CEO McDonough stated if Mr. Plante did not stop yelling he would call the cops. Barbara F. asked Maggie to please ask Mr. Plante to stop yelling and table the application as we are getting nowhere. CEO McDonough asked Mr. Plante to please be civil. Mr. Plante continued to yell stating he had been before the board eight months. CEO McDonough stated the board approved a 25 foot wide driveway and now there is a 93 foot wide driveway. Mr. Plante asked him how he came up with that figure. CEO McDonough provided a picture of the existing driveway with a tape measure across it measuring over 90 feet. Mr. Plante still did not agree and had no comment on the picture.

Mr. Plante continued to argue and yell. Barbara F. again asked if the Vice Chair would stop this. Madge B. agreed and Diane S. stated they were getting nowhere. Maggie M. said to Mr. Plante, “The point is if there is something in the Ordinance that the board can’t approve then the board would get into trouble for approving it because then every other applicant that came along would think the board didn’t have to follow the rules.” She said, “The only option may be to deny it or table it?” Diane S. said, “Then he could go to the Board of Appeals.” Maggie M. didn’t think he could go to the Board of Appeals without a denial. CEO McDonough thought he could. Madge B. stated the board could table it and ask the Board of Appeals to consider granting a variance so the board gets out of this bind. Vice Chair Maggie thought this would prevent Mr. Plante from having to come back many more times, the board could finish this quicker.

Mr. Plante stated he did not need a variance. Madge B. stated he did if the board was not ready to act on it. Maggie M. stated, “The Planning Board cannot approve it but the Board of Appeals could.” Madge said they could allow a dimensional variance where the Planning Board is not authorized to do that. Madge stated she was not sure if a variance was required. CEO McDonough stated that was the issue. Madge asked if the Board of Appeals was the fact finding body to decide this or is it the Planning Board? CEO McDonough thought the Planning Board was. Madge asked if there was a way for someone to dig down where the stake is to see if it has been disturbed? CEO McDonough thought so but he stated it would not be him. Maggie thought if you moved the stump grindings you could see. Mr. Plante thought it would be a good idea. Roland asked how Mr. Plante would feel if an area was excavated so the board could visually see what was there? Roland stated he would be satisfied with that. Madge agreed and noted that Mr. Plante went on record as saying it wasn’t disturbed so the board isn’t trying to disprove what he told the board.

Madge B. stated she was content with doing what Roland L. suggested. She asked the other board members what they thought? Diane S. stated she would not be qualified to determine from a hole in the ground. Madge asked how she would resolve it? Diane believed he should either go to the Board of Appeals or hire a professional. She thought if the other members could make the call fine, but she could not do it. Maggie didn’t think you had to excavate, she thought you just had to move the stump grindings. Mr. Plante agreed. Diane asked if the board should contact the DEP person that went on site?

Roland L. stated, “We need to come to some agreement if the area was disturbed within 50 feet so the board had to decide if they needed an outside source or if enough members are in agreement the board could go on site and move stump grindings and make a determination.” He said, “In my opinion it should be quite evident as to whether or not the soil had been disturbed just by the way it’s compacted and what it’s made of.” Maggie M. agreed. Mr. Plante also agreed.

Madge B. reviewed the plan and noted the proposed dry well basin and correct size of the leachfield were on the plan as asked for at the last meeting. Madge also looked at the vegetation plan and noted it was more specific than prior plans.

Roland L. suggested that prior to the next meeting the board reconvene on site and decide where to move the stump grindings and see if the board could agree if the area was disturbed or not. Madge B. stated it was fine with her.

CEO McDonough stated regardless of the legal aspect, the end result is going to be revegetation of the area. He asked why the board couldn’t discuss a revegetation plan for the area. He stated natural vegetation was needed to create a natural buffer strip. Mr. Plante stated he would plant more bushes. CEO McDonough stated that whether or not he violated the Ordinance the restitution was going to be a revegetation plan.

Roland L. asked what this means? CEO McDonough stated the board had the authority to ask for anything they want planted in that area. CEO McDonough stated revegetation was going to be the end result. Mr.

Plante stated again he would put more vegetation on the slope. Roland said he wanted to be in compliance with the Ordinance.

Mr. Plante stated he wanted the board to keep in mind that with the new construction of the building the area in question was going to be used as a temporary road for everything to come in and out. He said when the construction was done then he could revegetate. He said there would be a lot of activity on that location. Maggie M. thought after the construction was done perhaps the board could require the applicant go extra heavy on the vegetation in that area to cut back on the erosion instead of the minimum number of fill ins. Mr. Plante stated that he hadn't thought of this before.

Roland L. asked about the area where the stump grindings are now, is that going to be a road? Mr. Plante said, yes, that area would be used to remove the old camp. He said after he would have to eliminate the roadway. Roland asked if he was going to use 17th Street? Mr. Plante stated no, that was part of the deal for the new driveway was not to use 17th Street. Roland stated that he was using it now. Mr. Plante stated his son was using it. Roland and Diane S. noted there were three vehicles on site during the site inspection. Mr. Plante agreed it was his son's friends. Mr. Plante said to remove the camp, no, he would not use 17th Street. Roland said again he thought he would use 17th Street. Mr. Plante said the purpose of the new road he put in was to remove the old camp and put in a new one. Roland said, "There are vehicles on Mr. Plante's property all the time so I thought he would be using 17th Street for the project." Mr. Plante said dump trucks couldn't use 17th Street.

Madge B. stated she hadn't thought about construction vehicles. Mr. Plante stated if he could go back in time he would have asked permission to rebuild 17th Street instead. Diane S. noted that she suggested this back in January but the board did not agree.

Madge B. asked about a boat launch? Mr. Plante said, no, he would not be launching boats. Madge said then there would be no issues with trees on site. Roland L. asked about the existing trees on site? Mr. Plante stated they should not get disturbed as they are on top of the slope. He said the base of the slope will be disturbed. Roland said he wished he had known this before.

Madge B. asked if before he got an occupancy permit he needed to replant? Roland L. stated the board would need a much more extensive revegetation plan for this area because he didn't know a new road would be created to the old camp. Maggie M. stated they could have a condition that the plantings are done before he gets an occupancy permit. CEO McDonough showed the board a copy of a well drawn up revegetation plan that the board had approved previously for them to review to give them ideas of what they might ask for. Roland and Madge agreed they would like a better plan specifically for the area leading to the old camp and the area where the old camp is now. Diane S. thought Mr. Plante already provided a replanting plan? Roland said the board didn't know the extent of disturbance until this evening. Diane said she could see what he would disturb at the site inspection. She thought Roland had stated that what York County Soil and Water provided was good enough. Roland stated he didn't know as large an area was going to be disturbed, he believed they would be using 17th Street. Diane asked if Mr. Plante was going over the mulch that is there now? Mr. Plante said, yes, and the area would get compacted from the heavy equipment. He said when he was done he could move the toe of the slope back.

Maggie M. noted what is there now is going to be disturbed, so it doesn't make a difference what is there now. Madge B. agreed. Maggie stated the key was for a really good replanting plan for after the project is completed. Mr. Plante stated blueberry and shrubs would work. CEO McDonough stated he had been asking for trees for eight months. Maggie stated the board could ask for both.

Roland L. asked if the board should ask for a more detailed vegetation plan of the area. Maggie M. asked if the board had to deny the disturbance within 50 feet if the area is going to be disturbed anyway. She said it doesn't matter if it is original ground or not. She said the end result will be to ask for a heavy replanting plan to prevent erosion. Diane S. still asked if they could legally approve it? Maggie said that if it was not 50 feet to the water then the board could not but if the stakes in the ground show its 50 feet who is the board to say it is not. CEO McDonough stated the board was not saying the stake isn't 50 feet, you just don't know if the area was disturbed under the stump grindings within the 50 feet. Maggie asked if after-the-fact you ever know what was there. CEO McDonough stated, "That is the problem isn't it." Madge stated the board could accept the applicant's statement that he didn't disturb it. She said that gets the board out of the legal problem.

Madge B. asked how the planting plan will get enforced? CEO McDonough asked why the board could not ask for a good replanting plan now? Maggie M. asked Mr. Plante why he couldn't produce a replanting plan like CEO McDonough had just showed them? She showed Mr. Plante the plan. Roland L. stated the area Mr. Plant would be driving over needed to be addressed. CEO McDonough stated the entire front buffer strip needed to be addressed. He said anywhere in the State of Maine you are required to maintain a 100 foot buffer strip and when you work inside of that the area has to be revegetated whether it is 50 feet, 75 feet up to 100 feet. He said where the camp it located, where he will be driving over, toe of the slope, etc. Maggie said where the camp will be removed has to be address. Mr. Plante stated the board already asked for a revegetation plan which he provided. Mr. Plante said the board stated York County Soil and Water would work and he gave the board what they asked for. He said Roland would verify that. Diane S. agreed. CEO McDonough stated the board could get a professional engineer to tell the board what happened within the 50 feet to the water, then the application can go to the Board of Appeals or the entire area can be vegetated and the review process will be done.

Maggie M. did not believe the plan provided showed the details of the entire area being disturbed. Madge B. agreed and said what was on paper was good but the board wanted more added. CEO McDonough asked the board if they had any input as to what they wanted to see on the replanting plan? Madge said, yes. Maggie said more bushes and some type of a path. She thought a winding path would be best so the bushes slow down the stormwater runoff. Mr. Plante could not conceive a zig zag path is this area. Mr. Plante asked if they wanted a paved walkway? CEO McDonough stated, no pavement. Madge agreed it was supposed to meander, it was not supposed to be straight. Roland L. noted that was in the Ordinance as well. Diane S. asked if there would be more disturbance if he carved out a winding path where he already had a path in existence now? Mr. Plante thanked her for her comment. Maggie said the winding helps slow down the water. Diane agreed but in this case there is already one on site with mulch on it. She said so much more of the area is going to be disturbed taking out the old house, putting in the new the path didn't seem to be the issue.

CEO McDonough provided guidelines to the board members and Mr. Plante for creating a buffer strip. The board thanked him.

Madge B. said it might be ok leaving what is there as the path isn't wide and it is angled. Diane S. agreed thinking she didn't not want anymore area cut into for a path where one that seems to be working exists now. Madge said it is hard to say what will work after the dump trucks have been up and down in the area. Diane said, "Then make him revegetate more after he's done." Madge said he needs a path. Diane said, "He's already got one." Mr. Plante said he works his way out after he is done with stump grindings then he can put in the plantings. Diane said she wasn't against a winding path she just thought the path is already there why change it. Diane said, "There can be more plantings added in the area."

The board continued to ask Mr. Plante questions about what will happen before and after construction.

Madge B. wanted to have a more detailed plan which showed what will and won't be disturbed and how the disturbed area will be addressed. She said looking at the current plan you cannot tell what is going to take place.

Diane S. reminded the board Mr. Plante would be paving the driveway and parking area.

Mr. Plante asked the board if they wanted him to come back in two weeks and show them what he was going to do with the area after the construction is done, is that where we are at? Madge B. said, "That is where we are at." Mr. Plante said the problem of him not having a Permit by Rule has not been solved. He said he could not get a Permit by Rule until the DEP get a letter from the Planning Board approving what he has done. CEO McDonough stated he thought the two sides were getting closer to the approval. CEO McDonough stated that if Mr. Plante provided a plan similar to the one he showed the board this evening the approval could happen. Mr. Plante said all you want is the small area of about 10 feet on the side of the slope. Madge B. said no the entire Shoreland area. Diane S. said they were referring to where the old camp is as well. Madge said Mr. Plante wants grass but the board does not want grass. Madge said Maples and Birch could be used. Mr. Plante didn't understand why this board was against grass. He said in Acton they can have grass.

Madge B noted on the plan provided this evening it states, 'Existing Driveway to be Replanted per Previous Approval'. Mr. Plante thought it was where the tire tracks were for the driveway the previous owner was using, the tire tracks had to be seeded with grass. Madge asked if the board had that plan? Barbara F. stated that plan was two trees blocking off 17th Street and grassing the tire tracks. Barbara said she didn't think that plan could be used as a reference because that plan is now null and void, so the board needs to review that area as well and decide what needs to be placed there for the final plan. Mr. Plante stated around the old camp they approved a plan done by YCSW. Maggie stated the board needed to relook at everything between 100 feet and down to the water and she said grass is not the recommended vegetation. Barbara asked the board what they want in the area? Maggie thought bushes in front of the water would be best to stop erosion.

Madge B. said the board was taking too much time on this tonight. She asked for a workshop on site. Mr. Plante agreed that may be a better idea. Madge noted that the board had material that states what should be planted yet the board is acting like they never talked about it. Madge stated she wanted this finished.

Madge made the motion to table this for two weeks, have the board meet on site and see if the board could agree to a vegetation plan. Roland 2nd the motion. All members were in favor. The board agreed to meet on site at 6:00 p.m. for a workshop to decide on a revegetation plan.

Maggie asked if the board should have Mr. Plante bring his new planting plan to the site? Barbara F. did not think so, as the board did not know what they wanted and should not make Mr. Plante create another plan that they may or may not agree to. Mr. Plante agreed as did the other members. CEO McDonough noted that he had shown the members a perfectly good plan that Mr. Plante viewed as well and did not see any reason why he could not create a plan done as well.

CEO McDonough provided members with a copy of guidelines of what should be within a 100 foot buffer strip.

Nothing further was discussed.

Conditional Use Permit - Replace Retaining Wall – Map 36, Lot 16 (166 Indian Village Road) – Shawn Woods, Applicant; Bruce Ballard, Property Owner

Mr. Woods was present for the review of the application. NOTE: Board members did a site inspection prior to this evenings meeting.

Maggie M. asked Mr. Woods to state why he was before the board. Mr. Woods stated he wanted to replace an existing retaining wall and the only major disturbance was the removal of a large Pine tree near the retaining wall. He believed the tree roots were pushing on the existing wall. Roland L. stated the biggest question he had was whether it was essential that the tree be moved? He thought one of the walls being pushed had nothing to do with the tree, perhaps it was a force behind the wall such as frost building up behind it. He was not experienced but will defer to people more experienced than himself as to whether or not the tree has to be removed. Mr. Woods stated that the tree may or may not be the issue with the existing wall but during the construction of the new wall he has to overdig at least three feet for drain tiles and crushed stone which will push two feet toward the stump which will disturb the roots. Roland asked, "Something with a limited height such as this wall, you still have to go back three feet?" Mr. Woods stated, "Yes, with the drainage and blocks which have to be at least 16 inches deep, and as you go the banking collapses." Roland said this was an instance in which he wished the board could allow someone to encroach a bit toward the water so the tree wouldn't have to be sacrificed. The board agreed but nothing could be done. Mr. Woods also agreed noting another project where he asked the DEP to allow him to move 7 inches toward the water to have less disturbance on a slope and that was a no go. Roland understood.

Roland L. stated that if Mr. Woods felt the tree needed to be removed he would agree to it. Mr. Woods stated that the tree is on the wind side of the house and with the roots disturbed and the tree already leaning toward the house he would not feel comfortable leaving it, as it may fall onto the house. The board agreed his assessment made sense. Roland asked where he proposed putting the replacement trees? Mr. Woods stated he had them on the plan he provided. Barbara F. showed the board the sketch plan in the folder, they also were given one at the previous meeting.

Roland L. asked if the new trees would be in front of the wall? Mr. Woods stated according to the Ordinance they could not be back any farther than the trees being removed. Roland was concerned if they were planted near the wall it would be an issue forcing the wall out again. Roland asked CEO McDonough if the replanting plan would work. CEO McDonough stated that generally he tells the applicant he wants them in the same general area as the trees being removed but it was up to the board. He said it didn't really apply to this application. CEO McDonough noted that at the site inspection when Mr. Woods stated the location of the replacement trees, he believed it was a good location as the applicant was trying to follow the ordinance. Maggie M. asked if planting a tree in front of the wall was a problem with DEP. Diane S. and CEO McDonough both said, no, it is not a structure. Madge B. noted there were two in front of the wall.

Madge B. stated that a condition of approval would be Best Management Practices. CEO McDonough asked if a Permit by Rule had been applied for? Mr. Woods stated, yes. Madge asked when Mr. Woods planned on doing the planting? Mr. Woods stated as soon as he had the Permit by Rule he would begin the project. CEO McDonough asked how far back the disturbance would be behind the wall and was that area going to be revegetated? Mr. Woods stated he provided a revegetation plan showing vegetation behind the wall. The board members reviewed the plan.

Maggie M. asked if any soil would be removed from the site? Mr. Woods stated yes, and reminded them Roger A. had asked him that at the last meeting. The old retaining wall would be removed from the site to the aggregate facility on West Shore Drive. Maggie asked when the wall would be completed? Mr. Woods stated if the Permit by Rule comes through they hope to start next Wednesday and it should be completed in four days. Madge M. asked if the plantings would be in by October 1st? Mr. Woods stated that would be no problem. Roland L. asked if the stump was going to be ground up or pulled? Mr. Woods stated they would be pulling it out.

Madge moved for approval of the Conditional Use Permit to replace the existing 40 foot retaining wall and stairs, no greater than 3 feet in height, per the plans provided with the following conditions:

1. **Best Management Practices shall be followed until the project is completed.**
2. **All material that is part of the existing retaining wall and stairs shall be removed from the site.**
3. **One 24” pine tree shall be removed and replaced with 4 trees indigenous to the area per the plans presented. The replanting of vegetation per the plan provided shall be completed by October 1, 2013.**

Diane S. 2nd the motion. All members were in favor. Members voted for approval, 4 – 0. The motion passed unanimously.

Nothing further was discussed.

Best Possible Location – Replace Roof, Walls and Deck – Map 24, Lot 15 (10 Hubbard’s Cover – 14th Street) – Scott McLeod, Applicant; Mark Voishnis, Property Owner

Mr. McLeod was present for the review of the application. NOTE: Board members did a site inspection prior to this evenings meeting.

At the previous meeting Mr. McLeod stated he was going to take the existing camp and renovate it, replacing the roof and 1st floor walls, leaving the 1st floor system over a daylight basement and he would be reframing on top of the existing floor, adding a new roof. It will be a single story. He said he would also be extending the camp keeping it away from the high water mark, proposing six feet closer to the road. Mr. McLeod stated the septic system was between the cottage and road which allowed him to move the cottage six feet and not hinder the setback on the septic but he added there was no room to move the whole structure back any farther from the water because it would come into the existing septic system.

Board members began by reviewing the septic design and its location with respect to existing structure and lots lines which was done by Wesley Bullard, SE #122, dated 6/1/1983.

Madge B. asked if a new foundation was going to be put in? Mr. McLeod stated no, they would be trying to work with the existing foundation, replacing some bad blocks that the members viewed at the site inspection. Madge asked if there would be a new foundation farther back? Mr. McLeod stated, yes, where the new part of the structure is would be poured. Roland L. asked if it would be frost wall only? Mr. McLeod stated, yes, there would be no basement there.

Madge B. asked about the footprint. Mr. McLeod stated that the footprint that exists now will be what remains. He said nothing moves closer to the water. He noted that he is removing a set of stairs toward the water.

Madge B. stated because the applicant is trying to use the existing foundation she believed it would be better to leave it in the same location causing less of a disturbance. Diane S. agreed. Mr. McLeod stated there would be no soil disturbance at all between the camp and the water. Madge believed this was the best possible location. She noted that the CEO would deal with the 30% expansion.

Barbara F. asked if the board had the distance to the water and side lot lines from the existing structure? Madge B. stated, yes. Madge noted that the building met the side setbacks.

Diane S. asked about the three trees that were being removed, were they incidental to construction. Maggie M. stated they were a separate permit. CEO McDonough agreed, he stated he just wanted the board to be aware and he is requiring new trees to be replanted.

CEO McDonough asked if there was any soil being disturbed? Mr. McLeod at first stated no, then revised that stating he was disturbing six feet for the addition. Maggie M. asked if any soil was being removed? Mr. McLeod stated, no, they would be digging six feet down to put in a four foot frost wall then putting the dirt back into the hole. CEO McDonough asked how far from the water the disturbance was? Diane S. stated 40 feet. CEO McDonough asked if he had applied for a Permit by Rule. Mr. McLeod stated, yes. CEO McDonough asked Mr. McLeod if he was Shoreland certified. He stated his contractor was.

Roland L. asked where the demo debris was going? Mr. McLeod stated a construction dumpster and then it would be taken off site. CEO McDonough asked if there was any tree or vegetation removal with respect to the area he has to dig? Mr. McLeod stated, no. Diane S. asked if there was a copy of the septic design? Mr. McLeod stated he got his copy from CEO McDonough, so yes there is one on file.

Madge B. stated that none of the ground cover will be destroyed. Mr. McLeod said only on one side would be disturbed but there is nothing there at this time. Madge agreed that the board didn't have to re-establish anything existing.

Roland L. asked if crushed stone could be placed along the drip line of the roof to catch water coming off the roof to help prevent it from going toward the water. Roland also asked if the new roof would be asphalt or metal? Mr. McLeod stated they haven't decided yet what would be used. Roland again stated he was trying to keep water away from the lake. Mr. McLeod stated he understood and with new construction they always did crushed stone and mulch but he was trying to minimize the disturbance around the existing structure. Madge B. stated the rain runoff would be off the two sides of the house not on the water side. Roland just thought with the proximity of the water it would help slow the water down. Madge agreed. Mr. McLeod stated he agreed if it was new construction and if he has to do it he will but would rather not disturb the area. Madge said she was not sure they could require it because he wasn't disturbing the area.

Madge B. asked if silt fencing would be put up during construction? Mr. McLeod stated, absolutely.

Madge B. made the motion to approve the Best Possible Location to replace the roof, walls and deck of the existing structure on Map 24, Lot 15 in the location that the camp currently exists because the existing foundation is going to be used and, therefore, the new construction will have much less disturbance on the lot than if the camp was moved back, with the following condition:

- 1. Best Management Practices shall be used for the duration of construction.**

Diane S. 2nd the motion. All members were in favor. Members voted for approval, 4 – 0. The motion passed unanimously.

Nothing further was discussed.

Conditional Use Permit – Small Engine Repair Shop w/Living Space Above – Map 1, Lot 24A (140 Deering Ridge Road) – Scott McLeod, Applicant

Mr. Scott McLeod was present for the review of the application, along with his brother Shawn McLeod who would be running the small engine repair shop. NOTE: Board members did a site inspection prior to this evenings meeting.

Earlier in the evening both Scott and Shawn McLeod were present for the public hearing regarding the Small Engine Repair business.

Madge B. began by stating that she would like a more detailed plan with respect to a parking for customers, and to be certain there is room on site for people to be able to come in and turn around. She stated she also wanted to know where snowmobile and Jet ski trailers would be parked and the areas for any other outside storage. She stated there also had to be buffers between the lot and neighboring properties. Scott M. stated they would not be clearing right up to the lot lines.

Diane S. stated one condition would have to be the location of where the waste gas and oil would be taken. Madge B. thought the board should go through the basic performance standards.

Maggie M. reviewed the following ordinances:

- 105-21 – Traffic.** *The site distance was provided by the applicant and meets the minimum requirement for this location which is 280 feet at 40 mph. The applicant has a minimum of 280 feet.*
- 105-22 – Noise.** *The hours of operation will be minimized to 8:00 a.m. thru 6:00 p.m., Monday thru Thursday, 8:00 a.m. thru 5:00 on Friday and 9:00 a.m. thru Noon on Saturday. CEO McDonough noted that neighbors were in the audience and had a concern about the noise. He believed a good way to address this was with a good quality buffer strip. Maggie noted Mr. McLeod stated he would not be doing outboard motors.*
- 105-23 – Dust, fumes, vapors and gases.** *Maggie asked if most of the work would be done outside. Shawn McLeod stated he would be doing most of the work inside. Diane S. asked if he would be changing oil inside on a slab? Shawn M. stated, right.*
- 105-24 – Odors.** *There will be no obnoxious odors emitted from the activities on site.*
- 105-25 – Glare.** *Scott McLeod stated there would be egress lighting from the porch and safety lighting. CEO McDonough asked if all the lighting would be facing down? Scott M. stated, yes. Diane S. noted that it had to be.*
- 105-26 – Stormwater runoff.** *Scott M. thought anything coming off the structure would stay on the property. CEO McDonough stated how stormwater runoff is going to be address should be on the plan. There should be no exposed soil. Barbara F. noted that with other business applications the board requires the applicant to state how they will address stormwater. Scott M. stated typical practice is crushed stone under the eaves. He stated the driveway is gravel and there will be grass across the front. He said disturbed areas will be reclaimed. Roland L. asked if there was a culvert under the access driveway. Scott M. stated, yes. CEO McDonough stated that any work between the road and the ditch line will have to be approved by the Road Agent. Roland asked about the second driveway. Scott M. said that was the private driveway to access the house. The other driveway will be gaited when the business isn't open. Madge asked if signage would be at the main driveway to indicate the entrance? Scott M. stated, that is correct.*
- 105-27 – Erosion control.** *Scott M. stated that is in place at every job site, stump grindings, silt fence, etc.*
- 105-28 – Setbacks and screening.** *Maggie M. stated all storage would be on the porch or the slab.*
- 105-29 – Explosive materials.** *Maggie M. asked if there would be anything explosive on site? Scott M. stated gasoline in the engines. Madge B. asked if there would be a propane heating system? Scott M. stated, no.*
- 105-30 – Water quality.** *There is no waste being stored outside. Maggie M. asked what would be happening to the waste? Scott M. stated someone would come and pick it up. Madge B. asked again if the oil change would be done inside? Scott M. stated yes and the oil goes into a 55 gallon drum. He said when its full the company comes in and takes it offsite. Roland L. stated that in the past the board has required the applicant provide the board with a letter from a company that will be taking the waste material. Roland would like this a condition of approval.*

- 105-31** – Preservation of landscape; landscaping of parking and storage areas. *Scott M. believed the ditch line would keep people from wondering onto the property. Diane S. stated the Ordinance requires a dense shrub to hide the parking area. CEO McDonough stated that a buffer strip was important for noise control. He added that looking at the plan it appears there would be an area 250' x 500' opened up for parking. He was concerned this could hold a lot of trailers and equipment making the buffer very important. Maggie M. thought the board could limit the amount of vehicles on site. Scott M. stated there wouldn't be any more than 100 vehicles on site at any one time and it would be for a minimal amount of time. Roland L. asked if they would be shrink wrapping the Jet ski's and store them? Scott M. stated, no. Diane S. stated if they do then the applicant will have to come back before the board for additional permitting. Shawn M. noted that his units were much smaller than storing boats so they took up much less space. CEO McDonough reminded the board that most every business they have approved has exceeded what they were allowed. The board agreed. Madge B. thought a buffer should be around three sides, but the front buffer isn't as restrictive in the Ordinance. Scott noted that this business would look much better than another business located up the road. He added that the area would be neat, clean and maintained. Madge stated that from what she saw at the site visit she wasn't suggesting they plant a 15 foot buffer along the sides and back but instead leave 15 feet of vegetation that is there now to continue to act as a buffer. Scott M. agreed. The board agreed there is 15 feet of vegetation at this time along the wall and trees, just limb the trees up and remove the pine so the business can be seen from the road.*
- 105-32** - Relation of proposed building to the environment. *The building will fit in well with the surrounding area.*
- 105-33** – Refuse disposal. *Refuse shall be removed by the applicant except all hazardous waste shall be removed by the appropriate company. A letter shall be submitted from the company to be used by the applicant.*
- 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 plan provided. The Ordinance requires the area for parking to be specifically designated on the plan provided. The applicant is to provide the plan.*
- 105-46** – Sanitary provisions. *There shall be a State approved septic system on site. Maggie M. stated the waste oil would be stored in a 55 gallon drum.*
- 105-47**– Signs and billboards. *Any signage shall be obtained through the Code Enforcement Office.*
- 105-60** – Driveways. *Maggie M. stated there would be no change to the driveway. CEO McDonough stated that any changes to the existing driveway would have to go through the Road Commissioner.*

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

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. *It will not, as long as the applicant disposes of all waste properly.*
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. *N/A*
- 3) The use is consistent with the Comprehensive Plan. *It is, the Comprehensive Plan encourages small businesses.*
- 4) Traffic access to the site is safe. *It is, the site distance meets the minimum requirement for this location which is 280 feet at 40 mph. The applicant has a minimum of 280 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.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***There is, the applicant shall provide an engineered State of Maine septic design to the Code Enforcement Officer. Non-hazardous solid waste shall be disposed of by the applicant.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***All fuel and oil changes shall be made inside the building and stored in the proper containment. All hazardous waste produced shall be removed by a licensed contractor and a letter shall be provided by the contractor to be used to the Planning Board and CEO prior to the business being open.***
- 8) A stormwater drainage system capable of handling fifty-year storm without adverse impact on adjacent properties has been designed. ***Scott M. stated crushed stone will be placed around the drip edge of the structure. There shall be stump grindings, silt fencing used and permanent vegetation placed in the disturbed areas around the new structure.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***There shall be stump grindings, silt fencing used and permanent vegetation placed in the disturbed areas around the new structure.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes.
- 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 used as a buffer.***
- 12) All performance standards in this chapter applicable to the proposed use will be met.

Madge B. did not feel the board could approve the plan presented as it was not adequate with respect to parking areas, what vehicles would be parked where; the 15 foot buffer strip location. Scott M. asked that given they know a 15 foot buffer is required and the design of the area isn't going to be changed but it will be more detailed and to scale, would it be possible that the plan be accepted and then be brought back to scale to be accepted by the CEO? Scott said he would comply to the board's requirements. He asked that the board accept the plan that he brought this evening. He stated he had no issue with making a plan to scale but would like tonight's plan accepted because they were buying the property and wanted to expedite things.

Maggie M. asked if the board could leave the final plan up to CEO McDonough. Diane S. stated the board could make it a condition. Madge B. thought it was putting CEO McDonough in a difficult situation. CEO McDonough agreed the board was making him the authority to approve the final plan. Scott M. stated that he was just going to show the 15 buffers all of which is on the plan but not in detail. CEO McDonough stated they needed more than that they also need to know how many vehicles will be on site and where they will be located. He stated he was nervous with the existing plan as it allows a large area for storage. CEO McDonough asked the size of the lot? Scott M. stated approximately 4.4 acres. CEO McDonough stated according to the plan presented approximately 3 of those acres are designated to hold vehicles. He thought that could turn into a lot of vehicles. Scott stated he was asking for a maximum of 100 vehicles with the 15 foot buffer zones as required. CEO McDonough stated if the Planning Board wants to approve this plan they can but he would have a problem approving the plan as drawn.

Madge B. stated, "Basically the project meets the standards but the board needs a plan that actually shows that it does." Diane S. stated that the board did not do a good job explaining what they needed at the initial review. CEO McDonough stated that the application for the permit requires a plot plan.

CEO McDonough stated he would like to see the proposed parking areas scaled back. He stated allowing that much parking poses additional hazards from oil and gas being stored on site. Scott M. understood CEO McDonough's concerns.

Diane S. made a motion to table the application in order to get a more detailed plan. Madge B. 2nd the motion. All members were in favor.

CEO McDonough asked if all the vehicles on site would be customers or would there start to be items on site that never leave? Scott M. stated it would be short term storage.

Diane S. and Maggie M. noted that if you had more than 3 unregistered vehicles on site it would become a junkyard. CEO McDonough stated that did not apply to a business, they could have 10 if they wanted depending on the approval. CEO McDonough noted the garage on Deering Ridge and stated the board did a great job with conditions stating he could have no more than 13 vehicles on site including two vehicles for sale and none unregistered. He told the board to think about this when doing the final approval.

The applicant was told the next meeting is Tuesday, August 27, 2013 at 7:30 p.m.

Nothing further was discussed.

Amendment to a Subdivision – Change Fire Protection from Sprinkler Systems to Cistern – Great Hollow Acres Lot 2; Map 10, Lot 2-2-3 (White Pine Lane) – Louis Nieto, Jr., Applicant

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

Mr. Nieto stated he was before the board to amend the subdivision condition #4 which requires all the lots in the subdivision to install a sprinkler system. Mr. Nieto stated the cost to install the system is approximately \$10,000. He said he spoke with CEO McDonough to see if he was open to allowing a cistern system to be used instead. CEO McDonough suggested that he speak with Fire Chief Duane Romano and see what his opinion was.

Mr. Nieto stated he spoke with Duane R. and they met on his lot. Mr. Nieto stated that Duane said a 10,000 gallon storage tank would be ok for up to four houses. Mr. Nieto stated that Duane also forwarded a letter to Barbara F. with respect to the size of the tank. Barbara provided members with a copy of the letter. The letter read in part as follows:

As the Chief of the Shapleigh Fire Department it is my recommendation that any

- Subdivisions with 4 dwellings or less should have a 10,000 gallon cistern system or a pond or a sprinkler system must be installed in each individual dwelling.*
- Subdivisions of over 4 dwellings needs to come back before the Fire Chief to determine the number of gallons required for the cistern system or the size of the pond.*

Any repairs for this system would be the responsibility of the private homeowner or at the expense of the developer of the subdivision.

Mr. Nieto stated he met with a man from George Roberts and they would be making him a plan for a 10,000 gallon cistern.

Mr. Nieto stated Duane R. said he wanted the fill up to be 8 feet from the edge of the road because the hose for fill up on the truck is only 10 feet long for suction. He said in lieu of that the fill up and outlet also have

to be far enough off the road for snowplowing. He said there were two location choices, his lot or the lot across the street and Mr. Nieto stated he would have no issue with it being on his lot.

Mr. Nieto showed the board the approximate location on the existing subdivision plan. Mr. Nieto stated the location was based on Duane wanting the tank in front of the existing turn around and what Duane thought was the ideal location. He said the structure is approximately 11 feet in depth from the road toward the wetlands and along the road approximately 20 feet. He said the cistern is about 9 feet deep. He asked how far below grade the tank would have to be and George Roberts said two feet below grade is sufficient.

Mr. Nieto stated it would be on his property approximately four or five feet, staying about eight feet from the edge of the road. Mr. Nieto stated there would be gravel from the edge of the road to it.

Mr. Nieto stated another issue was the developer, Mr. Small, was supposed to have a road agreement as part of the subdivision approval and he did not do it. Mr. Nieto said now he is going to try to get that resolved. He said he was speaking with Dana Libby with how to go about doing this. Mr. Libby said 2/3 of the residents have to sign the agreement to make it binding.

Mr. Nieto stated that the Association will have to check the water levels in the tank and if the level drops they have to make arrangements to have the fire department come in and top it off.

CEO McDonough asked if an easement was required such as a utility easement? Mr. Nieto stated he was meeting with an attorney to find out what needs to be done. CEO McDonough was concerned that if someone else owned the property he didn't want them telling the fire department they could not have access to the tank.

Mr. Nieto stated the board was welcome to do another site visit. The board opted not to as they had been to the site recently.

A Notice to Abutters shall be mailed.

Diane S. asked if it was cheaper for insurance to have a sprinkler system than a cistern system? Mr. Nieto stated, yes. Diane said she was just curious.

Barbara F. asked the board if they wanted anything additional put on the plan for the next meeting. No one stated anything additional would be required. Barbara then reminded Mr. Nieto he needed to bring the two Mylar copies or three if he wanted one as well as the paper copies of the plan to the next meeting. Barbara stated the board would require two paper copies for their file. Mr. Nieto stated he understood.

Mr. Nieto stated he would find out if he had to put the easement on the deed. CEO McDonough believed it had to be in his deed. Roland L. thought it was important to make sure there was a road association in order to ensure the tank would be maintained. Roland asked what would happen if 2/3's of the people on the road did not agree. Mr. Nieto believed he would be able to get at least 2/3's to agree.

Nothing further was discussed.

Growth Permits –

Growth Permit #10-13 – Map 2, Lot 27 (1528 Walnut Hill Road)

All supporting documentation, applications, etc. can be reviewed at the Town Hall during regular operating hours.

Planning Board meeting adjourned at 10:05 p.m.

Respectively submitted,
Barbara Felong, Land Use Secretary

planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, August 27, 2013

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

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Planning board meeting began at 7:30 p.m.

The minutes from Tuesday, August 13, 2013 were accepted as read.

Note: The minutes are not verbatim unless in quotes.

Best Possible Location – Replace Existing Structure with Expansion – After-the-Fact Conditional Use Permit – Earth Moving to Build a Driveway in the Shoreland District – Map 27, Lot 13 (130 17th Street) – William Plante, Applicant

Mr. Plante was present for the review of his application. NOTE: Board members did a site visit prior to this evenings meeting.

Roger A. stated that members met on site to review the areas that are being disturbed when the camp is removed and for the road. This evening members reviewed the plan presented at the previous meeting on August 13, 2013 and the revegetation plan done by York County Soil and Water Conservation District for the area behind the existing camp.

Roland L. ask Mr. Plante if he would be incorporating the elements from both plans, the one drafted by Joseph Stanley of LinePro Land Surveying, dated August 13, 2013 and the York County Soils & Water plan. Mr. Plante said, “Absolutely.”

Roger A. talking to CEO McDonough stated, “The board members dug underneath the bark mulch at the site visit this evening and there was bare ground at the 50 foot mark where the stake was. It didn’t take going down very far to find original soil.” Roger also said that the board knows Mr. Plante will be driving trucks over this area in order to remove the existing camp and that this area will be re-disturbed, so Mr. Plante will have to regrade the area again to stabilize the area.

Roland L. stated he was pleased that the board members could go back and spend time on site without a time constraint. He said this time the board could take their time to look over the area including moving the stump grindings back so the board could see that area was not disturbed. Roland said he now has a better understanding of what the situation is and what the proposed appearance will be once the project is completed. He said he was more comfortable with the project.

Roger A. stated while looking at the are to be re-vegetated and the fact that Mr. Plante wanted grass in that area he reviewed §105-4.D(7)[2] which read as follows: 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. Roger said that he agreed grasses can be used where the camp now

sits in an area that is approximately 400 square feet in size. He said the toe of the slope will be stabilized with bark mulch but the flat spot can have grass in his opinion. Roger said none of the other members had an issue with grass in that area while at the site inspection.

Roland L. asked Mr. Plante about the area that had been eroded by the former roadway location that is to be discontinued, would that area also be reseeded? Mr. Plante said, yes. Mr. Plante said he wanted everyone to know that you can't just add loam and seed you need to break up some of the original soil and mix it with the loam. Roland agreed that if something isn't done soon it will be in the pond. Mr. Plante said he will be using silt fence in the area until the area is re-vegetated. He stated after the first phase and that area is re-vegetated he will put an erosion mix berm to protect phase two.

Roger A. stated there will be 2 phases to this project. He stated the first phase is to remove the existing camp and restabilize the area. He said whether or not the foundation for the new camp will go in this year or not depends on the time. He said runoff has to be prevented from the bank where the existing camp is now, all the way to the water, this area has to be stabilized by October 15, 2013.

Roger A. stated the area around the new camp had to be stabilized by July 15, 2014.

Mr. Plante stated the brush piles on site are to be removed and bark mulch will be placed to protect the toe of the driveway all the way to the first banking.

Mr. Plante stated, "I would like to complete phase one by September 14, 2013 to give the grass a chance to start." He asked if the board would be sending a letter to Chris Coppi at the DEP so he could obtain his after-the-fact Permit by Rule. CEO McDonough stated he would be getting an approval letter for this project from the Planning Board and he can mail that letter to the DEP.

Roland L. asked for the record that Mr. Plante state all the demo would be taken out of town. Mr. Plante stated, "Yes, it will be going to Jeff Simpson's."

Roger A. stated CEO McDonough would need to see proof of his license that he is certified in erosion control in the Shoreland District.

Roger A. stated that he marked on the plan where the existing stumps were and that they are going to be ground and the tree that is leaning over to be removed he also marked on the plan.

Maggie M. asked if the trees he is removing farther up the hill are they on the plan? Roger A. stated the replacement trees are on the plan.

Roger A. stated this approval is for the after-the-fact Conditional Use Permit for the driveway and for the Best Possible Location for the removal and replacement of the camp along with expansion.

Maggie M. asked if the trees to be planted on the toe of the slope along the parking area were on the plan? Roger A. stated, yes. She asked if the parking area would be paved instead of gravel? Roger stated, yes. Maggie stated there was to be a minimum of two trees to close the property off from 17th Street. These were also shown on the plan.

Maggie M. asked if the lot line adjustment should be a condition of the permit? Barbara F. stated, yes, it needs to be deeded and recorded. Maggie asked if it would be a condition of the building permit? Barbara stated Mr. Plante would have to bring the Planning Board the book and page to show it has been recorded.

Roland L. made the motion to approve the After-the-Fact Conditional Use Permit for earth moving in the Shoreland District in order to build a driveway and the Best Possible Location to replace the existing camp along with a 30% expansion on Map 27, Lot 13 per the plans provided by Joseph Stanley of LinePro Land Surveyors, dated August 13, 2013 and York County Soils and Water Conservation District with the following conditions:

- 1) Phase One of the project which includes the removal of the existing camp; re-stabilization of that area along with the revegetation of the existing driveway that connects the property to 17th Street; and the planting of a minimum of two trees to close the entrance onto 17th Street per the plans provided shall be completed by October 15, 2013.**
- 2) Phase Two of the project which includes the new structure with expansion, and paving of the driveway, shall be re-stabilized per the plans provided and completed by July 15, 2014.**
- 3) All debris shall be taken out of Shapleigh.**
- 4) Mr. Plante shall demonstrate to the Code Enforcement Officer that he is certified in Shoreland erosion control measures.**
- 5) The lot line adjustment shall be completed as shown on the plan provided by way of a new deed drafted and recorded at the York County Registry of Deeds. A copy of the deed along with the book and page shall be provided to the Planning Board for the record as soon as possible.**

Maggie M. 2nd the motion. All members were in favor. Members voted for approval, 3 – 0. The motion passed unanimously.

Nothing further was discussed.

Conditional Use Permit – Small Engine Repair Shop w/Attached Living Space – Map 1, Lot 24A (140 Deering Ridge Road) – Scott McLeod, Applicant

Mr. Scott McLeod was present for the review of the application, along with his brother Shawn McLeod who will be running the small engine repair shop and may use part of the structure for a future residence. The Board did a site inspection and held a Public Hearing for the business on August 13, 2013.

Mr. Scott McLeod provided a copy of a Service Agreement between Crystal Clean Oil Collection and Shawn's All Season Sports, the business Shawn McLeod currently operates in Springvale, Maine, dated June 7, 2013. Also provided was a sketch plan drafted by Shawn McLeod showing the location of the 15 foot vegetative buffer strip to be located on three sides of the property, the proposed trailer parking area, existing concrete pad to be used for loading, unloading and parking and storage of vehicles to be serviced, the location of the proposed new structure which will be a service area with living quarters, the residential driveway and service entrance (which will be gated), existing stone wall, proposed sign location and a notation stating the hours of operation, maximum number of vehicles/units on site for service or sales (100 units), the site distance from the entrance (280 and 380 feet) and the fact there may be possible future sales of motorcycles, ATV's, personal water craft, snowmobiles and trailers. Note: The proposed hours of operation are Monday thru Thursday, 8:00 a.m. to 6:00 p.m., Friday, 8:00 a.m. to 5:00 p.m. and Saturday, 9:00 a.m. to 12:00 p.m.

Scott McLeod noted that there had been concern at the previous meeting with the parking of vehicles all the way to the rear of the lot, therefore, they depicted the parking area on the new plan and it shows the parking area behind the existing slab to be approximately 100 feet deep by 140 feet wide, leaving at least 400 feet from the parking area to the rear of the property open.

Roger A. asked about the 100 units to be on site, how many would be unregistered? Scott McLeod stated it was hard to say because with snowmobiles, ATV's, etc. in the service area, some may not be registered for

the season while being service. He noted some people register vehicles one year and not the next, especially when they are not working. Roger asked if the board should mandate any greater than 25 unregistered units on site would be a junkyard and you will no longer have a Conditional Use Permit. He thought any greater than 25 units would create a junkyard. Scott asked how Shawn could control that? Roger stated that if they aren't registered then don't take them in for service. Scott did not think that was something he could do and stay in business.

Maggie M. suggested if the 26th came along just refuse it until others are moved off site. Scott M. stated if he had sales on site they wouldn't be registered so how could Shawn deal with that? Maggie believed vehicles for sale would be different. Scott thought there would be a constant rollover of vehicles both registered and unregistered. CEO McDonough didn't have an answer as this was different from automobiles. He was worried and wanted to be sure there wouldn't be lots of junk piled up such as parts, junked units on site, etc.

Scott McLeod understood the board didn't want the area to become a junkyard. Roland L. stated that the Ordinance doesn't allow more than a certain number of unregistered vehicles on site otherwise it becomes a junkyard. Scott asked what the Ordinance specifically calls out for a junkyard. Maggie M. stated an unregistered vehicle. Shawn M. stated that he runs a business now and has for 11 years and it is not a junkyard. Barbara F. stated the board is concerned because the permit runs with the land and if for some reason Shawn had to sell the property the next person may not be inclined to maintain the property as well as Shawn and it then becomes a problem if there isn't a way to make sure it doesn't turn into a junkyard.

CEO McDonough asked both Scott and Shawn how they propose the board police this issue? He asked them if all of a sudden there is a pile of junk in the yard, how is he going to address it? Shawn McLeod again stated he would not let the yard get to that point.

Roger A. noted a place not far from Mr. McLeod's place located in Lebanon that had alot of spare stuff in the yard that worked on small engines that in his opinion was a junkyard. Shawn M. agreed and said that was not something he would partake in. Roger said that what if this gentlemen were to buy out Shawn's business in the future? Roger wanted to be sure that this place did not become a junkyard. CEO McDonough didn't think that whether or not a vehicle was registered or unregistered was the issue with this type of business. He said with an automobile you have to drive it down the road to get it there with the items Shawn will work on that is not the case. Again he said if the applicants could come up with an idea that would work to police it, it would be great.

Mr. Louis Nieto was in the audience and he asked if they could limit the amount of time a vehicle is on site to perhaps three months.

Scott M. asked if they could designate a place on the plan to store unwanted, unused parts and limit the area to be used? He said, then if the parts exceed the area, CEO McDonough could tell them to clean the area up. CEO McDonough stated he wasn't against that idea but didn't want the area to be large. Maggie M. asked about limiting the storage to the existing slab? Maggie asked if 100 vehicles could all fit on the slab? Shawn M. stated yes, excluding the trailers.

Roland L. asked if people leave their items, do they generally leave it on the trailer? Shawn M. stated that he generally tried to get them to remove it from the trailer as it is easier for him. He stated he also tries to get the client to take the trailer with them unless the trailer needs service. Scott M. stated Shawn's intent was not to store everyone else's stuff.

CEO McDonough stated he liked the new plan presented this evening. Scott M. noted that on the plan there was no place indicated to store junk. CEO McDonough asked Shawn M. if he had his own ATV's, snowmobiles, etc.? Shawn stated, yes, he rented a 50 x 100 storage building and a 40' x 38 foot building that he uses for his personal things. He said each of his children and wife all have snowmobiles and ATV's. Scott stated that not only does he store them but if you see them you would think they just came off the showroom floor, they are kept in such good condition.

Roger A. stated that is great but if the property gets sold the next person may not be as careful. Roger said they were trying to protect the property for the future. Scott M. noted that cars and automobiles are not on the list. CEO McDonough stated that according to Webster's Dictionary a vehicle is anything with a motor.

CEO McDonough asked Shawn M. if he was going to live at this location one day? Shawn M. stated that was the plan. CEO McDonough asked what if all his personal vehicles have to be stored inside and anything store outside had to be owned by someone else? Shawn had no issue with this as he refuses to store anything he owns outside. Roger A. thought the only way you would know who owns it would be by matching the registration number to the vehicle. Maggie M. thought you could match the vehicle with the receipt or log showing who owned the vehicle. Shawn agreed stating there is always a repair list for the vehicle. CEO McDonough still had some concerns for the future. Roger agreed.

CEO McDonough asked if there was a statement that there would be no collection of inoperable vehicles, would that work? Roland L. stated that instead of inoperable, unrepairable. He thought they could be brought in inoperable. CEO McDonough again stated he didn't want to see a parts pile in the yard.

Maggie M. asked with similar businesses if CEO McDonough swings buy on occasion to see what is happening on site? CEO McDonough stated, absolutely. CEO McDonough stated that automobile repair is much easier to deal with to be able to tell what is junk and what is not. Roland L. noted Weaver's and Turgeon's as two places that have similar items on site. CEO McDonough agreed and stated there were restrictions for both with the amount of vehicles allowed on site. Scott M. asked the number of vehicles allowed in those locations. The board and CEO McDonough could not state the exact number but believed both were in the 30's as the number allowed outside.

CEO McDonough stated he was not concerned with the numbers but junk being stored outside.

Maggie M. stated again that perhaps a time limit would work. Scott M. stated what about something as simple as no junk collecting? CEO McDonough stated people have a different idea of what is junk.

CEO McDonough stated that maybe the board could state there is no collection of unserviceable parts construed as junk stored on site. Roger A. stated what if the board limited the storage of items to the slab only. Roland L. stated that everything on the slab would be out of public view. CEO McDonough stated again that even though it would be hard to police he wanted a sentence that there would be no collection of unwanted junk. The board members agreed.

Roger A. stated the conditions of approval shall be:

- 1. Hours of operations shall be Monday thru Thursday, 8:00 a.m. to 6:00 p.m., Friday 8:00 a.m. to 5:00 p.m., and Saturday 9:00 a.m. to Noon.**
- 2. The Applicant to continue to use Crystal Clean to remove waste from the property and if this changes a new letter showing where the waste is to be taken shall be given to the Planning Board.**
- 3. All vehicles shall be stored on the slab, excluding the trailers which shall be parked in the designated area on the plan.**

4. No collection of unserviceable parts construed as junk to be stored on site.

Roland L. asked about the time frame of a building permit. CEO McDonough stated you have one year to start and two years to finish your project. He added that your permit can be renewed. Barbara F. stated that a Conditional Use Permit would expire after two years if nothing took place.

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, there is no outside storage of hazardous waste.*
- 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, the site distance meets the minimum requirement for this location which is 280 feet at 40 mph. The applicant has a minimum of 280 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.*
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. *There is, the applicant shall provide an engineered State of Maine septic design to the Code Enforcement Officer.*
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. *All fuel and oil changes shall be made inside the building and stored in the proper containment. All hazardous waste produced shall be removed by a licensed contractor. A letter was provided by the applicant from Crystal Clean which is the applicant's current service agreement for oil collection, dated June 7, 2013.*
- 8) A stormwater drainage system capable of handling fifty-year storm without adverse impact on adjacent properties has been designed. *Scott M. stated crushed stone will be placed around the drip edge of the structure. There shall be stump grindings, silt fencing used and permanent vegetation placed in the disturbed areas around the new structure. All existing vegetation along the side lot lines shall remain in place.*
- 9) Adequate provisions to control soil erosion and sedimentation have been made. *There shall be stump grindings, silt fencing used and permanent vegetation placed in the disturbed areas around the new structure.*
- 10) There is adequate water supply to meet the demands of the proposed use for fire protection purposes. *There is hydrant within a mile of this location.*
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. *There shall be a 15 foot buffer strip on three sides of the property as noted on the plan provided. There shall be no exterior lighting shining toward the road. The hours of operation are limited due to noise from the engines being run.*
- 12) All performance standards in this chapter applicable to the proposed use will be met. *They shall.*

Maggie M. made the motion to approve the proposed building construction for a small engine repair shop with living space on Map 1, Lot 24A per the plan provided with the above stated conditions. Roland L. 2nd the motion. All members were in favor. Members voted for approval, 3 – 0. The motion passed unanimously.

Nothing further was discussed.

Amendment to a Subdivision – Change Fire Protection from Sprinkler Systems to Cistern – Great Hollow Acres Lot 2; Map 10, Lot 2-2-3 (White Pine Lane) – Louis Nieto, Jr., Applicant

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

At the meeting held on August 13, 2013, Mr. Nieto stated he was before the board to amend the subdivision condition #4 which requires all the lots in the subdivision to install a sprinkler system. Mr. Nieto asked the board to allow a cistern system to be used instead. Mr. Nieto spoke with Fire Chief Duane Romano and Duane stated a 10,000 gallon storage tank would be adequate for up to four houses. Mr. Nieto was going to have George Roberts company make a plan for a 10,000 gallon cistern and bring it to the meeting this evening, along with a revised subdivision plan which would show the location of the cistern. A notice was mailed to all abutters.

Mr. Nieto stated he had to withdraw the application because two of the four properties owners did not want to sign an agreement stating they would agree to the cistern in place of a sprinkler system.

CEO McDonough asked how long an application can be tabled for. Barbara F. thought it was 90 days. Roger A. agreed. CEO McDonough asked Mr. Nieto if he would like it tabled in case a property owner may change their mind? Mr. Nieto stated, yes.

Maggie M. made the motion to table the application to give the applicant more time to gather the required signatures needed to amend the subdivision. Roland L. 2nd the motion. All members were in favor.

Nothing further was discussed.

Growth Permits – Growth Permit #11-13 – Map 10, Lot 2-2-4 (White Pine Lane)

All supporting documentation, applications, etc. can be reviewed at the Town Hall during regular operating hours.

Planning Board meeting adjourned at 8:35 p.m.

Respectively submitted,
Barbara Felong, Land Use Secretary

planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, September 10, 2013

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

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Planning board meeting began at 7:30 p.m.

The minutes from Tuesday, August 27, 2013 were accepted as read.

Note: The minutes are not verbatim unless in quotes.

Conditional Use Permit – Earth Moving to Replace Existing Retaining Wall and Patio – Map 29, Lot 30 (37 Hickory Street) – Shawn Woods, Applicant; Jamie Mcardle, Property Owner

Shawn Woods was present at the meeting representing the property owner.

Roger A. asked Shawn Woods to state what he intended to do for Mr. Mcardle.

Shawn W. stated he would be restructuring the entire area between the camp and the water. He stated the paved area is currently buckled due to tree roots so he would like to remove the pavement and lay down pavers in its place. He stated also that the existing timber wall which isn't very high would be removed and replaced with a stone wall approximately 6 inches in height.

Shawn W. stated two pine trees would be removed, those that are currently damaging the paved area and they would be replaced with Arborvitae as noted on the plan. Roger A. stated that any trees removed would have to be replaced with trees six feet in height. Shawn had 4 foot Arborvitae placed on the plan. Roger stated that the requirement was 6 feet in height as measured from the ground as of March Town Meeting of this year.

Roger A. questioned the new wall being 6 inches in height. Shawn W. stated it was thin veneer stone and basically was just an edging to stop loam and mulch from moving down toward the water.

Madge B. asked about the concrete blocks to be set down. She asked if they were set into sand? Shawn W. stated crushed gravel would be placed first then a few inches of sand. Madge asked if soil would be removed from site? Shawn stated yes, the pavement would be removed and four to six inches of the existing gravel would be removed. Madge asked where it would be taken? Shawn stated that he usually brought his material to the gravel pit on West Shore Drive and it is reclaimed.

Roger A. stated a site inspection will be held at 7:00 p.m. on Tuesday, September 24th. A notice to abutters will be mailed as well.

CEO McDonough asked Shawn W. if he believed Arborvitae's were an indigenous tree? Shawn did not know. He asked what some examples were. CEO McDonough stated Pine was one. Madge B. stated deciduous trees can also be used. Shawn asked what that was? Barbara F. stated Maple, Oak, Birch are all

deciduous. CEO McDonough suggested that Shawn ask a nursery what trees were considered indigenous to the area.

Shawn W. stated the owner was looking for privacy which is why he suggested Arborvitae. Madge B. and CEO McDonough stated that he could have those as well, in addition to the replacement trees. Roger A. agreed. Roger reminded him again that the trees he chooses have to be six feet in height from the ground to the top.

Shawn W. asked if the board needed a revised plan prior to the next meeting? Roger A. stated no, he could bring the plan to the final next meeting.

Nothing further was discussed.

Growth Permits – Growth Permit #12-13 – Map 39, Lot 81 (Swan Circle)

Dennis Greenleaf was present for the review of his application. Mr. Greenleaf explained that his lot was both in the Shoreland District and General Purpose and was told by CEO McDonough that the Planning Board could possibly allow for the least restrictive setback distances on his lot. CEO McDonough stated that in this case the Shoreland District had the least restrictive side lot setback with a cumulative total of 30 feet whereas the General Purpose requires a minimum of 25 feet on each side for a total of 50 feet.

Mr. Greenleaf stated they wanted to put a deck on the side of the 80 foot mobile home and with a 25 foot side setback restriction they would be unable to do so.

Mr. Greenleaf provided board members with a sketch of his property and the proposed location of the mobile home. He also estimated the location of the 250 foot Shoreland District on the plan.

Board members reviewed §105-13 ‘Division of lots by district boundaries’, A. which read as follows:

- A. Where a zoning district boundary line divides a lot or parcel of land of the same ownership of record at the time such line is established by adoption or amendment of this chapter, the regulations applicable to the less-restricted portion of the lot may be extended, except when the more-restricted portion lies in the Shoreland District, the Resource Protection District or the Stream Protection District, not more than 50 feet into the more-restricted portion of the lot subject to the provisions of Subsection B below.

After reviewing the sketch plan provided, the Ordinance, the size of the mobile home and the location of the structure drawn on the plan the board concurred that they could not grant the Shoreland setbacks for the entire length of the mobile home due to the length of the structure and location on the property. The board could only allow the Shoreland setback for up to 300 feet from the high water and the structure extended beyond the 300 feet.

CEO McDonough agreed and stated that Mr. Greenleaf will have to abide by the setbacks in the General Purpose District. Mr. Greenleaf stated that he understood. He said he did have an additional sketch for CEO McDonough using the General Purpose setbacks. They were not the preferred location because he would not be able to have a deck lengthwise on the mobile home.

Nothing further was discussed.

All supporting documentation, applications, etc. can be reviewed at the Town Hall during regular operating hours.

Planning Board meeting adjourned at 8:05 p.m.

Respectively submitted,
Barbara Felong, Land Use Secretary

planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, September 24, 2013

Members in attendance: Chairman Roger Allaire, Vice Chairman Maggie Moody, Madge Baker, Roland Legere, 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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Planning board meeting began at 7:30 p.m.

The minutes from Tuesday, September 10, 2013 were accepted as read.

Note: The minutes are not verbatim unless in quotes.

Conditional Use Permit – Earth Moving to Replace Existing Retaining Wall and Patio – Map 29, Lot 30 (37 Hickory Street) – Shawn Woods, Applicant; Jamie Mcardle, Property Owner

Shawn Woods was present at the meeting representing the property owner, Jamie Mcardle. Note: Board members did a site inspection prior to this evenings meeting.

Shawn W. was before the board to restructure the entire area between the camp and the water. The paved area that is currently buckled due to tree roots will be removed and pavers will be laid down in its place. The existing timber wall will be removed and replaced with a stone wall approximately 6 inches in height. Mr. Woods also wanted to remove two existing pine trees because the roots are currently damaging the paved area and he wasn't sure if they would disturb the pavers. Mr. Woods provided both a sketch plan showing the existing area and what he proposed for the area including a replanting plan.

Roger A. stated Shawn W. was before the board for earth moving in the Shoreland District. He stated at the site inspection there were a few concerns noted, so Shawn wanted to table the application in order to be able to discuss the site inspection results with the property owner.

Madge B. thought in addition to speaking with the property owner it would be a good idea to discuss water management of the area with York County Soil and Water to see if they had ideas on how to mitigate the water runoff on site. Roger A. agreed.

The board members at the site inspection thought the two trees Shawn W. indicated would be removed could be salvaged if the area for pavers was reduced in size. The size reduction of impervious surface would also allow for a larger area for stormwater to be absorbed, placing erosion control mulch down instead. The board members at a minimum wanted a French drain put in to re-direct stormwater so there wasn't the existing sheeting action taking place which put the stormwater directly into the lake.

Roger A. also suggested they somehow direct the stormwater coming off the boat ramp into the existing trees, perhaps creating a small hump to direct the water toward the trees and patio to keep it from going directly into the lake. Madge noted that the French drain suggested at the site inspection would help this issue.

Roger A. told Shawn W. to contact Barbara F. when he was ready to come back before the board.

Barbara F. asked exactly what the board asked Shawn W. to discuss with the homeowner? Diane S. stated they requested he reduce the size of the patio area to 12 feet, leaving the remaining area natural for a larger area for stormwater drainage and also so the two trees would not have to be removed. Diane said the French drain after the paved boat ramp was also mentioned.

Diane S. stated they discussed additional plantings around the outdoor grill. Maggie M. stated it was a horseshoe shape and if additional plantings were added it would give more privacy in that area.

Roger A. showed CEO McDonough the plan and noted where the existing pavement is and what was going to be removed. He also noted the location of the two trees the applicant wanted to remove and the existing pressure treated wall. Roger showed where a catch area could be created, 8 feet wide, which could absorb stormwater. Roger noted that the only thing on the sand was pine spills, so there was nothing to slow the stormwater down at this time.

CEO McDonough asked if the board suggested the applicant cut down the size of the paved area and if he agreed to that? Madge B. stated they did not know at this time what the owner thought, Shawn W. was going to ask him.

Roger A. stated that Shawn W. also agreed with the board that the tree roots would move the pavers so he could not tell the owner, if they want pavers all the way to the wall, that the pavers would remain as placed because the trees roots probably will move them in the future. Roger said this is why an eight foot area without the pavers would work best for the stormwater and for the future of the patio area.

Madge B. and Diane S. asked if the patio counted for square footage towards their house? CEO McDonough stated, only if it is considered attached, it has to abut the house. Maggie M. stated a patio unattached is still a structure. CEO McDonough stated yes, it still has to meet setbacks and needs a permit. He said if it is completely detached from the house it is not considered as part of the calculations towards the house. Madge did not believe it was attached. Roger thought the only attachment was the sidewalk.

CEO McDonough stated it was important to state as part of the final approval that this is the replacement of an impervious structure and will be considered detached and not part of the existing house. Board members thought this location already came before the board in the past for the 30% expansion, so this was not an issue.

Nothing further was discussed.

Other:

Barbara F. asked board members how long William Plante had to get a copy of his new deed to the board before it became an issue with respect to his latest application approval and she had to send him a reminder letter. Barbara mailed his approval letter for the Best Possible Location and Conditional Use Permit on September 6, 2013 and the new recorded deed was a condition of his permit. Barbara stated the board did not give Mr. Plante a time frame as to when the deed had to be submitted to the board. Maggie M. didn't think he got his permit yet. Barbara stated he already was approved. CEO McDonough stated that the board told Mr. Plante he was all set when they issued him the Conditional Use Permit. Roger A. stated it was one of the conditions. Barbara stated the board required Mr. Plante to produce a copy of the registered deed 'as soon as possible', she was asking what the board considered this to be? Maggie thought 30 days would be adequate. CEO McDonough asked if the board asked for a copy? Barbara stated yes, Mr. Plante had to provide a registered copy to the Planning Board. CEO McDonough stated it was as simple as going to the

York County Registry of Deeds and they give you a book and page and make you a copy for a fee. Mr. Plante could do it in a day. Barbara F. asked if 30 days was a good time frame to wait until she sent him a reminder? The board agreed that was a sufficient amount of time to record the new day and return a copy to the board.

Nothing further was discussed.

Growth Permits – Growth Permit #13-13 – Map 8, Lot 49 (Gore Road)

All supporting documentation, applications, etc. can be reviewed at the Town Hall during regular operating hours.

Planning Board meeting adjourned at 7:50 p.m.

Respectively submitted,
Barbara Felong, Land Use Secretary

planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, October 8, 2013

Members in attendance: Chairman Roger Allaire, Vice Chairman Maggie Moody, Madge Baker, Roland Legere, 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.

We would like to welcome a new alternate member, Stephen Foglio, who also attended this evenings meeting.
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Planning board meeting began at 7:30 p.m.

The minutes from Tuesday, September 24, 2013 were accepted as read.

Note: The minutes are not verbatim unless in quotes.

Best Possible Location – Renovate Existing Building for Year Round Use with 30% Expansion – Map 25, Lot 7-1 (169 14th Street) – Architect Chris Delano, Applicant; Daniel Puopolo, Property Owner

Mr. Chris Delano was present for the initial review of the application, as well as property owner, Daniel Puopolo. Members received copies of the application and attachments prior to this evening's meeting.

Roger began by asking if there was a full foundation under the existing camp? Mr. Delano stated it was not, it was on piers. Roger asked if they were going to put in a new foundation? Mr. Delano stated they were not, they were going to keep it on piers. Mr. Delano provided a photo of the camp.

CEO McDonough asked why the existing cottage would stay on piers? Mr. Delano believed there was a cost factor and the fact the piers were solid. CEO McDonough asked if the addition was going to be on a poured foundation. Mr. Delano stated, yes, it would be a crawl space.

Diane S. asked if property owner was going to replace the car port after it was torn down? Mr. Delano stated, no, they are not replacing it.

Madge B. asked if the outside was going to stay the same? Mr. Delano stated the rear of the cottage was sitting in soil so it was going to be raised up out of the soil and they would replace any rotting sills. He stated windows and doors are going to be replaced as well.

Roger A. stated that when the cottage is converted to year round a Growth Permit will be needed. Roger said, at present, because it is seasonal, one was not needed.

CEO McDonough asked when the septic system was put in? Mr. Puopolo thought it was 1975. CEO McDonough looked in his files to see if there was a record of a plan but there was not.

Diane S. asked if any additional bedrooms would be put in with the new addition? Mr. Delano stated there were currently two bedrooms and one had a shower in it. He said part of the goal is to make two solid bedrooms, as well as make a kitchen and bathroom. He believed what would be gained is functionality. Diane said the reason she asked was because most septic designs go by how many bedrooms are in the home.

CEO McDonough asked if they were intending to replace the septic system? Mr. Delano said, no. Roger A. thought there would have been a plan sent in to the State because the Town had enacted an Ordinance that required it. Roger thought with the addition to the camp the existing system would have to be upgraded. CEO McDonough said that because the applicant was before the board for a best practical location, under 105-4.D(7) 'relocation', (a) it states that the applicant must demonstrate that the present subsurface sewage disposal system meets the requirements of the state law or that a new one can be installed. Mr. Delano asked if the building was not going to be moved if this still applied? CEO McDonough stated that when reading 105-4.D(3) 'Foundations', (a), it states the board must base its decision on the criteria specified in subsection D(7).

CEO McDonough told the applicant that he could contact the State of Maine Dept. of Engineering and see if there is a design on file. He said they would have to have a time frame of when they thought the system was put in because the plans are filed by year.

Roger A. stated the grade of the land would allow the board to move the cottage back but that would create more disturbance on the surrounding property. Roger stated that he believed the applicant would have to provide a plan that shows the septic system complies with §105-46.E(1) which requires all subsurface wastewater disposal systems that are in the Shoreland district comply with the Maine state plumbing laws effective January 1, 1998. Roger stated that the system design would have to pass the 1998 test. Roger said when this was enacted the Shoreland homeowners were supposed to notify the Town as to what type of system they had and if it didn't comply with 1998 they had to put in a new system.

Madge B. noted there was a pump station on site. Mr. Delano and CEO McDonough thought that if there was a pump station it was likely it was newer than 1975. Roger A. told Mr. Delano to contact the State and see if they had a copy.

CEO McDonough asked if the square footage was added for both the deck and patio? Mr. Delano stated, yes, but not volume. CEO McDonough agreed volume was not a factor.

Roger A. asked if the car port calculations were added in? Mr. Delano stated, no.

Roger A. stated a site inspection will be done on an individual basis due to light constraints before the meeting. A notice to abutters shall be mailed as well.

Roger A. asked if LinePro will set where the addition will be placed once it is approved. Mr. Delano said, yes.

CEO McDonough stated that a Permit by Rule would be required. Mr. Delano stated that he did know that. CEO McDonough stated he was going to want to know how he was going to stabilize the area. He said although the amount of disturbance wouldn't be as much as with a full foundation there would still be a fair amount of exposed gravel when the project is done. Mr. Delano asked if he was talking about a silt fence. CEO McDonough stated he wanted specific plantings. Roger A. noted that the contractor would have to be DEP certified for Shoreland erosion control measures.

Nothing further was discussed.

Conditional Use Permit – Earth Moving to Replace Existing Retaining Wall and Patio – Map 29, Lot 30 (37 Hickory Street) – Shawn Woods, Applicant; Jamie Mcardle, Property Owner

Shawn Woods was present at the meeting representing the property owner, Jamie Mcardle.

Shawn W. was before the board representing the homeowner who wanted to remove the existing paved area that is currently buckled due to tree roots and replace it with pavers. Also, the existing timber wall will be removed and replaced with a stone wall approximately 6 inches in height. The property owner and Mr. Woods wanted to remove two existing pine trees because the roots are currently damaging the paved area and Mr. Woods believed the roots would be damaged during construction and placement of the pavers due to the required excavation.

The board members, after the site inspection on 9/24/13, requested the applicant reduce the size of the patio area to 12 feet, leaving the remaining area natural for a larger area for stormwater drainage and also so the two trees would not have to be removed. The board also thought a French drain should be put in after the paved boat ramp to channel stormwater and add additional plantings around the outdoor grill. Mr. Woods was going to speak with the property owner and return to this evenings meeting.

This evening Mr. Woods provided the board with revised sketch plans of the project. Roger A. noted that the new sketch did show the paver area was reduced in size from the original plan. Mr. Woods said the property owner's biggest concern was the trees. He believed the trees roots would continue to spread and damage the property. Mr. Woods stated that if the trees cannot be removed the property owner will not move forward with the project because he didn't want to put money into a project that may only last five or so years.

Mr. Woods stated he did add mulch berms and the area where the pavers are will be concave, both will direct water into the ground instead of shedding off toward the lake. Mr. Woods stated that most of the water would be directed into the middle which would act like a plunge pool.

Madge B. was concerned with the removal of the trees. Maggie M. asked Mr. Woods if the property owner understood that with using less pavers it was less likely the tree roots would be a problem? Mr. Woods stated that as the trees get bigger the roots will continue to grow, noting that many trees have roots 10 feet from the trunk of the tree.

Mr. Woods stated that the property owner did agree to the curtain drain at the end of the paved surface for the driveway, which directs the water toward a mulched area with plantings and helps to prevent the sheeting action that is currently allowing stormwater to move directly into the lake.

Mr. Woods asked the board if the property owner had the right to replace the existing pavement? Diane S. believed he did. CEO McDonough agreed, it would be considered a repair to maintain.

Roland L. asked if this meant the board needed to approve the cutting of the trees? Diane S. believed so. Madge B. thought the board always approved the cutting of the trees. Roland asked if it was the board's responsibility, he asked if the board was obligated to approve it? Maggie M. thought so, otherwise the work to be done would be destroyed. Maggie remembered Mr. Woods stating at the last meeting that he would not guarantee his work if the tree roots remained. Madge B. stated the board has the basis to require tree replacement. Roland thought replacement was rarely as good as existing. Madge agreed.

Maggie M. thought that as long as a lot of plantings were required it would cut down on the erosion after the trees were removed. Diane S. stated there was more of an erosion problem coming down the driveway than by the trees. She thought this was the more serious issue, which Mr. Woods addressed with the 18" stone drainage system at the end of the pavement.

Roland L. stated the homeowners or previous owners created the problem. Diane S. stated it is an existing problem, the board cannot make the applicant remove the driveway because it is already there. She said the

board could have prevented someone from putting in a driveway but the board cannot require the existing driveway be removed. She said now the board has to deal with what is there. Roland asked if the board could require the driveway be removed and replaced leaving the trees in place? Diane S. asked if he was talking about the driveway? Roland thought that was what the applicant was proposing to do. Roger A. stated no, he was talking about removing the pavement between the camp and the wall and placing cement pavers down, not removing the driveway. Roger said that adding the pavers would help with the stormwater issue, as well as having the diversion berms and stone drain diverting the water into the mulched area.

Roger A. stated he believed it was going to be hard to get new trees established and grow due to the sandy soil. Diane S. reminded the board that if the property owner wanted to replace what was there, just as it is, he could say they were incidental to construction and have them removed. Mr. Woods stated he was not excited about having to remove the trees but believed that after he removed the pavement, excavated down to create a good sub base, he thought he would be damaging the root system so it was probably only a matter of time before they would have to be removed. Roger agreed.

Diane S. asked Mr. Woods if he spoke with anyone from York County Soils and Water. He stated, no, that he spoke with someone at Springvale nurseries with respect to plantings.

CEO McDonough asked board members to review §105-51 'Clearing and removal of vegetation for activities other than timber harvesting'. Madge B. stated she was reviewing this section as well. Maggie M. stated that because there were not very many trees on site she thought the board was forced to leave the existing trees, referring to §105-51.B(1)(b)[2][a] which states 'Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this chapter;'. CEO McDonough noted 'except as otherwise allowed by this chapter'. Maggie believed if it was a safety hazard they could be removed, that by putting in the pavers the trees would be weakened. CEO McDonough stated that he has given his opinion many times with respect to trees and safety. He stated the board needed to read the point system for the number of replacement trees and they need to be six feet in height.

Maggie M. stated the trees didn't have to be damaged if the pavers were not placed in as large an area. CEO McDonough believed that under §105-51.B(1) the tree removal was allowed 'for the development of permitted uses'. Madge B. agreed this was true. CEO McDonough said replacing existing pavement is allowed by this chapter. Madge again agreed. Mr. Woods noted this was a very level lot. CEO McDonough agreed with Roger A. that the biggest problem is going to be keeping the new vegetation alive. Roger said the mulch catch basin and small stone wall will help stormwater runoff and it will be better than what exists today. Madge agreed. Roger said he hated to see the trees removed but overall the stormwater will be better addressed. Diane S. agreed and noted that they were addressing the runoff situation near the driveway which is worse than the runoff where the trees are located. Roger and Madge agreed.

Roland L. wished the homeowner would have contained the runoff and reduced the amount of paved area so everyone could live happily ever after including the trees. Diane S. pointed out that he also has the right as a property owner to replace an existing structure.

CEO McDonough stated he needed to replace the trees per the point system. Roger A. stated he was replacing the trees with (4) six foot Spruce trees, (8) Arborvitae, and (2) Hostas. Roger said they would be planted along the wall which was only six inches in height.

Roland L. asked if the homeowner was concerned that the Arborvitae were going to push the 6 inch wall over? Mr. Woods stated no, they have a very small root system. Roland asked what type they would be using. Mr. Woods stated the tall ones that don't spread much horizontally.

Madge B. asked about the pavers, how the stormwater would be directed? Mr. Woods stated that normally you crown the pavers so the water goes left and right and away from the construction but in this case they were going to make the area concave to keep the water in the center where it can filter slowly through the two mulched areas in the front. He said it couldn't be directed all into one area because it would be overwhelmed so there will be two areas to direct the water toward.

Madge B. asked if different soil would be put in. Mr. Woods stated yes, reminding the board he provided a diagram of the work to be done. He said some of the sand would be removed and topsoil would be brought in to bed the mulch in. Mr. Woods stated the pavement and sandy fill would be removed and it will be taken to Pepin's aggregate facility.

Madge B. asked how the drain at the bottom of the driveway worked? Mr. Woods stated you dig down to the desired depth and you till another six inches, lay down fabric and crushed stone. Mr. Woods also provided a diagram of the French drain to the board.

Madge B. asked CEO McDonough if he had any questions? He stated, no.

Madge B. moved for approval of the Conditional Use Permit for earth moving to replace the existing asphalt paved area with cement pavers and replace the existing timber retaining wall with natural stone on Map 29, Lot 30, based on the plans provided on 10/8/2013 with the following conditions:

- 1. Best Management Practices shall be maintained until the project is completed.**
- 2. Any excess soil and existing pavement to be removed shall be taken out of Shapleigh.**
- 3. Replanting of vegetation shall be done per the plans provided, which includes 4 Spruce trees to replace the two trees being removed and this shall be completed by June 1, 2014.**

Diane S. 2nd the motion.

Members voted 4 – 0 for approval, the motion passed unanimously.

Roland L. abstained from voting.

Nothing further was discussed.

Growth Permits – Growth Permit #14-13 – Map 1, Lot 24A (140 Deering Ridge Road) – New Home

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, October 22, 2013

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

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Planning board meeting began at 7:30 p.m.

The minutes from Tuesday, October 8, 2013, were accepted as read.

Note: The minutes are not verbatim unless in quotes.

Best Possible Location – Renovate Existing Building for Year Round Use with 30% Expansion – Map 25, Lot 7-1 (169 14th Street) – Architect Chris Delano, Applicant; Daniel Puopolo, Property Owner

Mr. Chris Delano was present for the review of the application, as well as property owner, Daniel Puopolo. Members did a site inspection on an individual basis due to light constraints prior to the meeting.

The applicant was before the board to increase the size of the structure by 30%. The proposed changes to the structure are in part to update the structure for year round use. The interior of the structure will be updated so a distinct kitchen and bathroom area will be created. There are currently two bedrooms in the structure and there will only be two bedrooms when the structure is renovated. Additionally, several trees will have to be removed in order to add onto the existing structures footprint.

Roger A. asked how the trees would be removed, would they use a crane? Mr. Delano believed so but was not certain. Roger was concerned as the power lines were very close to the trees.

Roger A. asked if they had any luck with respect to finding a septic design? Mr. Delano stated they did find a design through the State office. He provided the board with a copy of the design which was done by Site Evaluator John Large, dated 8/3/1975. Roger thought it looked like the system was under the driveway. Mr. Delano was not certain. Roland L. asked if there was a pumping station? Mr. Delano stated, yes, there is a pumping station and septic tank. Roland asked if it was a chamber system or a leach field? Mr. Delano stated the plan shows it is a leach field. Diane S. agreed, reviewing the plan, she stated the leach field was gravel and there was a 1000 gallon tank.

Diane S. stated she saw an oil tank outside of the structure. She asked if it was going to be removed? Mr. Puopolo stated it was a kerosene tank. Diane stated that if the tank was going to remain, they would need to place a concrete slab underneath it just in case there was a leak, or remove it. Diane asked if they would be heating the house, since they stated they were converting the house to year round use. She suggested perhaps the tank could be removed from this location. Mr. Puopolo stated he was going to heat the house.

CEO McDonough noted that that the existing septic system seems to be designed for two bedrooms only, and said the paperwork presented appeared to have some information missing. Stephen F. stated that if the board wanted more information, John Large kept a copy of every design he has done, so they could obtain more information if it was required. Roger A. agreed with CEO McDonough that because the bed was only 22' x 14' it was extremely small.

Roger A. read §105-4.D(1) 'Expansion of nonconforming structures' in its entirety. Roger stated the applicant was before the board because of the request for a 30% expansion of the structure.

Roger A. then read § 105-4.D(7) 'Relocation', (a) and (b). Roger stated there would be a minimal amount of replanting required for the addition. Madge B. stated they would have to replant for the trees being removed. Roger asked what the applicant would do about the stumps due to the fact there would be a poured foundation under the addition and he believed the roots coming off the trees would be right under the existing camp. Mr. Delano stated that one of the reasons they want to remove the trees was because they were a hazard. Roger was concerned with the existing tree roots dislocating some of the existing piers. Mr. Delano stated that if they see that is an issue they may have to extend the new foundation and remove several of the piers to re-support the area.

Roger A. was concerned with how they were going to 'access' the area to remove the existing trees and stumps. He noted that it was likely the power line would need to be shut off because of its close proximity to the trees coming down. He said because the power lines and telephone lines are so low, he wasn't sure how equipment would get in to do the job. Roger asked if they had someone in mind for the job? Mr. Delano stated that Mr. Puopolo had a contractor in mind to do the work and the contractor would hire the expert to remove the trees.

Roger A. read §105-4.D(3) 'Foundations'. Roger stated that the structure was not going to be elevated only enlarged in its footprint. He said, therefore, section (b) under foundations did not apply. Roger then read §105-4.D(7)(c) which states 'All approved plans shall require confirmation in writing by a licensed surveyor that the placement of the structure is correct per the specifications approved by the Planning Board.'

Madge B. asked if with the new addition the applicant would need to have a surveyor's confirmation? Roger A. stated, "Yes, from the new addition's foundation to the side lot line to be sure it meets the side setback." Madge said she wanted to review the side setbacks. She believed the setbacks were fine because there was 30 feet on one side and 10 feet on the other. Roger agreed they were fine because you need 30 feet total. Madge said, "Nonconformity isn't the side setbacks, it's just from the water." Roger said, "Yes. he isn't creating anymore non-conformity to the water because the addition is beyond where the camp currently physically sets from the lake."

Roger A. asked if there were any questions for the applicant? Diane S. asked if the existing stone walls on the property were going to remain in place? Diane asked, "Are the walls on the side staying, where the trees are going to be removed?" Mr. Delano stated he wasn't sure of the details of that area. He said there may be access issues so there could be some disturbance. He thought a portion of the walls would be disturbed, where the addition is going to be placed. He said this area would be part of the replanting plan. Diane asked if the wall would be put back the way the existing wall is? Mr. Delano thought it would be something similar. Diane asked how high the wall was, the one that may be disturbed? Mr. Delano did not remember the height. Mr. Puopolo thought the wall was less than a foot in height.

Madge B. asked if the deck was going to stay the same as the existing, on posts? Mr. Delano stated a lower railing is required, so that will be improved. Madge asked if the Board received a replanting plan? Roger A. and Mr. Delano stated, no. Roger said the board can postpone a final decision waiting for the replanting plan or have CEO McDonough approve the replanting plan. Roger said because of the area being disturbed he did not feel there would be a complicated planting plan required. Roger said the plan would only be for the three trees being removed, the remaining area is all sand at this time. Roger said the walls around the camp may be disturbed but they should go back in the same location. He again said he thought the only replanting plan would be for the three trees being removed, the rest of the area would be regraded sand.

Madge B. asked if the equipment used to remove the trees would be able to access the trees? Roger A. stated the power will have to be turned off in order to get to the trees. Madge thought they may have to cut several more trees in order to get the equipment in. Roger said they can stretch over the other trees to access the three trees to be removed. He didn't think any additional trees have to come down.

Mr. Delano asked once they got the details on how the trees would be removed what should he do next? Roger A. stated he will have to come back before the Planning Board with the details. Mr. Delano stated, "If additional trees have to be removed I will have to add those." Roger said, "Yes, because it will be a tight fit for the equipment to remove the three trees so more may have to be removed." Madge B. said this was her concern, more trees having to be removed.

CEO McDonough asked if the applicant had a contractor lined up for the job? Mr. Puopolo said yes. Mr. Delano stated the contractor had been on the site several times. CEO McDonough asked if the applicant was prepared to move forward in the near future? He was concerned as there were still several unanswered questions. Mr. Delano said the reason for that was he wasn't sure if the board was going to make Mr. Puopolo move the structure back and he didn't want to have final plans until he knew the structure could remain in its current location. Mr. Delano wasn't sure what the board wanted.

Roger A. stated he was also concerned with the crane driving over the existing septic system. He believed the crane had too much weight and would crush the system. Mr. Delano thought once the leach field was located there was room to go around it. Madge B. agreed there might be enough room. Roger wasn't sure and also noted they needed a place to lay the trees down, along with the branches.

CEO McDonough thought that because the board members were in agreement with the location of the structure perhaps now the applicant can go forward and supply the additional information the board is looking for. He wasn't comfortable with the amount of unanswered questions. He didn't want the application approved tonight and then he would have to be the one to review all the additional information a year from now. Mr. Delano stated he understood. Mr. Delano asked what happened next, did he bring the information to another meeting? Roger A. said, yes.

CEO McDonough stated there was information needed for trees and replanting and there is a question about the stone walls being removed and replaced. Madge B. stated that the contractor can make it more clear on exactly what he has to move, now that he knows the location of the structure. Diane S. wasn't sure about the height of the walls but she noted that if they were going to be over 4 feet in height they would have to get a licensed engineer to draft a plan for them. Madge agreed but didn't think they were over 4 feet. Mr. Delano asked if he needed an engineered plan on how the wall would be taken down or only how it would be put back? CEO McDonough stated if the new wall is going to be greater than 4 feet in height than it would have to have an engineered plan. Mr. Delano asked if the walls were over 4 feet, could he remove them and not replace them? CEO McDonough stated, "Yes, as long as you can stabilize the area." He said he's seen people put in a shorter wall with a good replanting plan to stabilize the area.

Roger A. stated the board would also like a time frame when the applicant expects to have the entire project completed. Mr. Delano asked if this was for taking down the trees, removing the wall and the whole project? Roger said yes, including the replanting plan. He noted that the new trees would have to be six feet in height. He said the date of completion needs to be established.

Madge B. made the motion that the board approve the location of camp on Map 25, Lot 7-1 with the proposed addition, leaving the structure in the same location as it sets at this time, in order that the applicant can proceed with gathering additional information for the project as discussed this evening. This is not the final approval for this application which cannot be put to a vote until the additional

information is received which includes details of the tree removal, how and if the retaining walls will be rebuilt, the replanting plan and the time line for the project. Maggie 2nd the motion. All members agreed. Members voted 5 – 0 for approval of the location of the structure, the motion passed unanimously.

Roger A. asked the applicants to let Barbara F. know when they have the information available and she would put them on the agenda.

Nothing further was discussed.

Best Possible Location – Build a 20' x 36' Garage in the Shoreland District – Map 44, Lot 59 (198 Silver Lake Road) – Roland Lapointe, Applicant

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

Roger A. asked the applicant to explain to the board what he was intending to do. Roger noted he had been to the site and said there had been trees removed on site.

Mr. Lapointe stated he would be removing the existing shed. Roger A. stated there would be a new garage placed on site. Madge B. stated the garage would be in the Shoreland District but more than 100 feet from the high water mark.

Madge B. asked what was nonconforming about the proposed structure? Roger A. stated it was too close to the road. Mr. Lapointe had provided a proposed plan to board members and it showed the new structure would be 35 feet from the edge of Silver Lake Road. Madge asked about the foundation. Roger stated there is currently a slab under the existing shed. Madge noted that the new structure would not be more nonconforming than the existing structure. Roger stated there was one small piece of the new structure that would be closer to the road because the existing shed is at an angle but the proposed new structure ran parallel to the road, therefore the new structure would have a small portion closer to the road as it is depicted on the plan. Roger showed members that the shed is cocked at a slight angle. Mr. Lapointe stated he could adjust the proposed structure. He said he thought aesthetically it looked better to have it parallel to the road but to meet the Ordinance he had no issue with turning the garage at a slight angle to the road. Roger said it can't be more nonconforming. Madge agreed and said it was a technicality that was an issue for the board, therefore, the new structure has to be adjusted to meet the Zoning Ordinance.

Madge B. asked if the garage were moved if it would continue to meet the side setback? Roger A. said it just met the side setback of 30 feet. Madge noted if it was twisted it would still be the same. Roger said the structure can't go back any further from the road due to the slope of the land. Roger said the back wall of the structure would help to be a retaining wall based on the lay of the land.

Roger A. and Madge B. asked what the dotted lines were on the proposed plan? Mr. Lapointe wasn't sure. Madge said there was no building currently in this location. Mr. Lapointe said, "Right." She said the slope was such it wouldn't be a good location for a building according to Roger. CEO McDonough looked at the plan along with Stephen F. and they believed it was a possible building envelope that would meet the road setback of 75 feet. CEO McDonough agreed because of the slope of the land this criteria couldn't be met.

Madge B. asked if this was just a garage with no apartment within it? Mr. Lapointe stated correct, there would be no running water. He stated it was a garage only and possible storage. Roger A. stated that he did not see how a septic system could be put in at this location in the future due to the slope. CEO McDonough agreed. Roger thought a future septic system would have to be located further down the street.

Roger A. stated board members would do a site inspection on an individual basis due to light constraints before the meeting. A notice to abutters will be mailed as well. The next scheduled meeting will be held on Tuesday, November 12th.

Nothing further was discussed.

Madge B. and Diane S. will be unable to attend the next scheduled meeting.

Growth Permits – Growth Permit #15-13 – Map 8, Lot 57A (353 Ross Corner Road) – Multifamily (Duplex)

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, November 12, 2013

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

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Planning board meeting began at 7:30 p.m.

The minutes from Tuesday, October 22, 2013, were accepted as read.

Note: The minutes are not verbatim unless in quotes.

Best Possible Location – Build a 20' x 36' Garage in the Shoreland District – Map 44, Lot 59 (198 Silver Lake Road) – Roland Lapointe, Applicant

Mr. Lapointe was present for the review of his application. Board members did a site inspection on an individual basis due to light constraints before this evenings meeting.

Mr. Lapointe's application before the board is to request he be able to remove the existing shed and replace it with a 20' x 36' garage. The existing shed and proposed garage cannot meet the setback to the road but will meet all other setbacks for the Shoreland District. The garage will be place greater than 100 feet from the high water mark of Silver Lake.

Roger A. began by stating that Roland L. noticed excavation being done on an adjacent property and asked if Mr. Lapointe knew anything about it? Mr. Lapointe stated that he believed there was a leachfield being put in. CEO McDonough confirmed that and stated he had been to the site for an inspection today. Roland said he was just curious.

Roger A. stated that Mr. Lapointe contacted him to ask if he could change his plan, moving the proposed structure back one foot from the road, consequently, he would be able to keep the structure parallel to the road and not increase its non-conformity. It has been noted at the previous meeting by Roger that the existing shed was not parallel to the road and therefore he was concerned with the new structure being more non-conforming than the existing to the road by one foot if it were not placed the same way as the existing structure on the lot. Roger stated he told Mr. Lapointe he had no issue with him moving it back one foot from the road, so he could make it parallel to the road. Mr. Lapointe stated he measured the existing shed and it is 35 feet back from the road at this time, so he could place the new garage in the same location as he presented at the first meeting.

Roger A. stated the board received a letter today, dated November 10, 2013, from abutters and he read it in its entirety. It read as follows:

Dear Chairman Allaire and Planning Board Members,

We support our neighbors Roland and Donna Lapointe regarding the proposed 20 x 36 ft. garage to be built on (map 44) lot 59, adjacent to our property at 192 Silver Lake Road in Shapleigh. They have spoken with us about the best placement (replacing the current shed) and we are fine with this change!

Sincerely, Gail Laker-Phelps and Richard Phelps

Roger A. asked if there were any questions? Roland L. asked about the change in the location from what was discussed at the previous meeting moving the new structure back one foot. Roger said the plan showed the measurement from the shed to the road as 35 feet and he questioned whether or not it was from the closest point on the shed. Roger said it is actually from the closest point to the road so the new structure can be parallel to the road and 35 feet from the road. Roger said he was confused at the last meeting as to whether or not the measurement on the plan was from the closest or furthest point from the road.

Roger A. read §105-4.D 'Nonconforming structures' (1) 'Expansions' in its entirety. Roger noted the structure is greater than 100 feet from the water, therefore, it can be expanded more than 30%. He then read §105-4.D(3) 'Foundations'. Roger again stated the structure / foundation would be enlarged greater than 30% because it was greater than 100 feet from the water so it was in conformity with D(1). Next Roger reviewed §105-4.D(7) 'Relocation' and noted there would not be a septic system installed as this is a garage only. He added that there would not be much re-vegetation needed, only along the slope on the side of the building. He also said that a ditched area would be installed to divert water around the building. Mr. Lapointe stated that he would be putting down erosion control mulch along both sides of the building. Roger noted that the area around the shed did not need not to be revegetated as it will be covered over with the new building.

Roger A. stated the plan showed that the back wall of the building will also act as a retaining wall and an area behind the new structure will have fill removed to create less of a slope so stormwater can filter around the structure.

Roger A. stated that due to the slope of the land the board felt the new structure was placed in the best possible location, he did not believe it could be moved back any further. He thought the swale behind the building and mulch on the sides would prevent soil erosion. Roger noted the trees had been removed already where the new structure will be placed.

Roger A. read §105-4.D(7)(c) which reads: All approved plans shall require confirmation in writing by a licensed surveyor that the placement of the structure is correct per the specifications approved by the Planning Board. Roger stated that a surveyor will have to ensure the building is in fact 35 feet from the road.

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

Maggie M. made the motion to approve the Best Possible Location to replace the existing shed with a 20' x 36' garage on Map 44, Lot 59, per the plans presented with the following conditions:

- 1) Erosion control mulch to be placed along the sides of the building after the foundation is backfilled.**
- 2) A licensed surveyor must place the structure per the approved plan and certify the foundation location.**

Roland L. 2nd the motion. All members were in favor. By a vote of 3 – 0, the motion passed unanimously.

Mr. Lapointe asked Roger A. what his definition of a retaining wall was, since Roger stated the back of the new structure would be a retaining wall. He asked, "If I put in an 8 foot foundation on the back by 8 inches did that constitute a retaining wall?" Roger said, "It is the back of the wall and Steve will have to ensure he has the plans for that." CEO McDonough asked if they were talking about the foundation itself? Mr.

Lapointe and Roger both said, yes. Mr. Lapointe wanted to be sure Roger wasn't asking for an additional wall. Roger said he was talking about the foundation.

Nothing further was discussed.

Best Possible Location – Remove Cottage and Replace with Modular Home/ 30% Expansion – Map 43, Lot 1 (135 North Shore Road) – Dina Picanco Wardle, Applicant

Mrs. Picanco Wardle was present for the review of the application along with Lee Marvin of Arundel Homes.

Roger A. began by stating the applicant wanted to replace the existing cottage with a modular home and there would be a 30% expansion. The applicant provided to board members along with a copy of the application a survey plan which depicted the location of the existing cottage, deck, and shed that would be removed; and the proposed dimensions and location of the modular home and deck. The planned showed the modular home to be 15 feet back farther from the high water mark of Silver Lake but approximately 20 feet closer to the road than the existing cottage. Also provided was a copy of the house plans for the modular home; a copy of the Subsurface Wastewater Disposal System Application, dated 9/3/2013, done by Mark Truman, SE #121; a copy of the Permit by Rule dated 10/2/2013; the square foot and volume calculations for the existing and new structure; and a letter dated October 31, 2013 from Mrs. Wardle stating Lee Melvin and Tracy Morrisette of Arundel Homes could represent her interest to both the Planning Board and Code Enforcement Officer.

Roger A. stated he had a concern making the proposed new home more non-conforming, moving it closer to the road than the existing. Mr. Melvin stating it was 4 feet closer than the previous approval given by the Planning Board 10 years ago. Roger stated, "It doesn't matter." Mr. Melvin stated the approved plan showed a 4 foot porch and a 40 foot home. He stated this home could be reduced by 2 feet from the road by reducing the deck. Roger said the rule of not being able to make a structure more non-conforming changed in 2009. Roger said that he believed the plan would have to be redesigned so the new structure would not be more non-conforming.

Stephen F. asked, "Did you say you pulled it back from the water 15 feet?" Mrs. Wardle stated that she was expanding 30%. Roger A. stated, "You can go up. You can't push it closer to the road." CEO McDonough asked, "Did you say you are moving the structure 15 back farther from the water than it is now?" Mrs. Wardle said, yes, but she realized she was moving it closer to the road. Roger said, "The building can't be any more non-conforming." Mr. Melvin stated this new plan shows the existing structure farther from the true side lot line than the original approval, based on the recent survey. Roger believed the approval for the Best Possible Location in 2003 is now null and void. CEO McDonough stated that at a previous meeting this was mentioned about the expiration of a Best Possible Location, then member Diane Srebnick believed that a Best Possible Location approved prior to the expiration date change in the Ordinance, at Town Meeting in March of this year, did not expire. Only applications approved after the March Town Meeting changes would have to adhere to the 2 year expiration rule. CEO McDonough believed older applications were grandfathered but he didn't think this was the issue. He stated, "I think if they moved it 15 feet from the water and the Planning Board has the ability to grant the best practical location, it basically throws all the setbacks out the window." CEO McDonough stated that because they moved it back from the high water mark it is more conforming than it is now. Roland L. said, "Even though it's closer to the road." CEO McDonough said "Yes, that is the purpose, to move it farther from the water if possible."

Stephen F. asked Mrs. Wardle why she moved it back from the water, did it make more sense on the layout? Mrs. Wardle said it did seem to make more sense. Roger A. asked about why they went to a 28 foot width and not 24 feet? Mr. Melvin stated they were initially at 25 feet. Roger said this new width brings them

closer to the side lot line than the original. Mr. Melvin said, “Theoretically it is closer to the side lot line but the side lot line was established from the house back then (2003).” Mrs. Wardle stated they assumed where the side lot line was in 2003 but have found out since the survey that the side lot line is actually farther away from the camp and it goes thru the stairs of the neighboring property. Mr. Melvin, using the survey, showed where the applicant believed the original side lot line was but after the survey was done they established the actual side lot line. He noted the house was askew on the original application and approval, the survey shows they own an additional five feet on one side of the existing structure. Mr. Melvin stated the surveyor placed the proposed home in the center of the lot, creating a side lot distance of approximately 10.4 feet on each side. Stephen F. noted that currently one side is at 8 feet and the new structure will be 10.4. Roger said the other side is 16 feet going down to 10.4. Roger said this was why he wanted to know why they were going with 28 feet in width instead of 24 feet because it pushed it closer to the side lot lines. Mr. Melvin said it was due to the volume. He said, “We were told we couldn’t go up any higher so we kept a lower roof pitch to keep the volume down and widened it to make it more conventional at 28.” He said originally they were going to do 24 feet and 25 feet didn’t make any sense because of dimensional lumber there would be a lot of waste.

Roger A. asked about lot coverage, did they exceed the 10% of the lot? Mr. Melvin stated he believed the surveyor did the calculations. Roger said the ordinance only allows 10% use of the lot. CEO McDonough stated he remembered discussing this with Mr. Melvin. Barbara F. told Mr. Melvin that if the existing lot coverage was 12% they could remain at the 12% as it is grandfathered but they could not exceed the 12% lot coverage. She said the board needs to have the existing figure along with the proposed. Mr. Melvin stated that if they can use all the structures on site including the outhouse that is going to be removed to calculate the lot coverage then the existing figure is 1,232 square feet. He stated the proposed is also 1,232 square feet.

Roger A. stated the board will have to notify the abutters and do a site inspection. The next meeting will be held on Tuesday, November 26th.

Mr. Melvin asked if he should be present for the site inspection? Roger A. stated no because due to light constraints members would go on an individual basis. Maggie M. asked if the area where the new house is going was marked off? Mr. Melvin stated it hadn’t been marked yet because he wasn’t sure what the board was going to allow.

Mr. Melvin stated there would be a dead tree removed, he believed it was a poplar.

Roland L. asked that the location closest to the road be marked. Mr. Melvin stated he would mark it within a couple of days. Roland stated he would be asked at the next meeting where the existing cottage would be removed to as it cannot stay in the Shoreland District. Mr. Melvin stated it would be going to Jeff Simpson’s in Sanford. Roland told him he would be asked about his time table for the project and if there was going to be any revegetation there would need to be a plan and a time table for that.

Roger A. asked if the stairs were going to be removed from the front of the house? Mrs. Wardle stated there would be no stairs toward the water; she said the entrance would be on the side of the house.

Mr. Melvin believed there would be a total of five trees removed on the entire lot and several were outside of the 100 foot mark from the water. Roger A. asked if the contractor they used had a DEP license to be working in the Shoreland District? Mr. Melvin stated yes, Spang & Son Excavators. He added that they do a lot of work around the ocean.

Mr. Melvin stated they may cut the trees this fall. He said he would mark the trees that will be removed for the board members to view.

Nothing further was discussed.

Madge B. will be unable to attend the next scheduled meeting.

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 8:25 p.m.

Respectively submitted,
Barbara Felong, Land Use Secretary

planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, November 26, 2013

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

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Planning board meeting began at 7:30 p.m.

The minutes from Tuesday, November 12, 2013, were accepted as read.

Note: The minutes are not verbatim unless in quotes.

Best Possible Location – Remove Cottage and Replace with Modular Home/ 30% Expansion – Map 43, Lot 1 (135 North Shore Road) – Dina Picanco Wardle, Applicant

Mrs. Picanco Wardle was present for the review of the application along with her husband Matthew Wardle and Lee Melvin of Arundel Homes. Board members did a site inspection prior to this evening's meeting.

The applicant is before the board to replace the existing cottage with a modular home which will include a 30% expansion. The applicant provided to board members along with a copy of the application, a survey plan which depicted the location of the existing cottage, deck, and shed that would be removed; and the proposed dimensions and location of the new modular home and deck. The proposed new structure is 28' x 44' in size. The plan shows the modular home to be 15 feet back farther from the high water mark of Silver Lake than the existing cottage but approximately 20 feet closer to the road than the cottage, making it at its closest point, 12.11 feet from North Shore Road. Also provided was a copy of the house plans for the modular home; a copy of the Subsurface Wastewater Disposal System Application, dated 9/3/2013, done by Mark Truman, SE #121; a copy of the Permit by Rule dated 10/2/2013; the square foot and volume calculations for the existing and new structure; and a letter dated October 31, 2013 from Mrs. Wardle stating Lee Melvin and Tracy Morrisette of Arundel Homes could represent her interest to both the Planning Board and Code Enforcement Officer.

Roger A. began by stating that at the previous meeting the board needed to know what percentage of the lot would be covered by the proposed structure, as well as what percentage was covered at this time. Mr. Melvin stated the actual lot coverage is 962 sq. ft. Mr. Melvin said he was under the impression, after working in Acton, that they would be allowed to do the 30% expansion. Roger stated that yes, the 30% is allowed but the Town of Shapleigh only allows 10% total lot coverage, so if the 30% footprint is greater than that, then it isn't allowed.

Mr. Melvin stated the 962 sq. ft. he believed was close to 14% lot coverage. Roger A. stated that they were proposing 1,232 sq. ft. and they cannot exceed the 962 sq. ft. that is existing. He noted that the 14% would be grandfathered in this case but again there is no way the board can allow greater than what exists at this time. Roger added that when Mr. Melvin was doing the calculations he used the one foot overhangs on the existing building but with the new structure he did not add the overhang and that would also increase the amount of lot coverage on the proposed structure. He said the overhangs must be considered. Mrs. Picanco Wardle stated, "In reality what it comes down to is you just took away the 30%." Roger said, "You have to comply with all of them." CEO McDonough stated, "Since you already exceed the 10% lot coverage, you cannot get bigger." Mr. Melvin said he was told he could not use the shed for volume coverage. Roger said, "Right, it cannot count toward volume, it is a separate structure."

The applicant was concerned with the reduced size of the structure and the cost to her financially for the project. Roger A. stated the board could not take cost into consideration. Mr. Melvin felt there were many structures around the lake that exceeded the 10% lot coverage. Roger agreed but their footprint was grandfathered and they were allowed to rebuild the size they had. Roger said again that the board was not supposed to exceed 10% . He said, if an existing structure was 12% the board could not allow 15% lot coverage but could allow the existing coverage of 12%. Roger said the board could not *exceed* the existing coverage.

Roger A. stated the criteria the board had to look at was the *10% lot coverage* or the grandfathered lot coverage, and the 30% expansion which included both *volume* and *square feet*. Roger said the applicant has to be within the limits of all three. Mr. Melvin stated he wasn't worried about the volume. Barbara F. asked what the existing lot coverage actually was? Mr. Melvin stated the lot was 5,163 square feet and the lot coverage is 962 sq. ft. Roger asked Mr. Melvin how he arrived at that figure because looking at the plans before the board, Roger said he could only come up with 880 sq. ft.; 22 x 34 feet for the camp, 96 sq. ft. for the porch and 36 sq. ft. for the shed. Mr. Melvin noted a small area that was 6 x 12' under the deck. Roger said that cannot be counted as it was already counted as the deck, area under an existing structure that is already part of the footprint. Roger said the proposed 28 x 44 foot structure would not fit within the footprint of the existing lot coverage.

Mr. Melvin stated the actual coverage at this time is 17%, using the 880 sq. ft. figure Roger noted. Roger A. stated Mr. Melvin would have to use this figure to design the new structure, along with the 30% calculations. Roger said the current proposal cannot be approved.

Mr. Melvin stated a 24 x 34 sq. ft. structure with an 8' x 8' porch would work. Mr. Wardle asked if the 24 x 34 sq. ft. footprint was the actual size of the foundation, and if they could get the 30% volume calculation to work was there anything preventing them from going up? CEO McDonough stated, no, that is correct. Mr. Wardle stated the footprint wasn't the issue, just the area available inside the structure. Mr. Melvin reminded Mr. Wardle there would be a full basement as well.

Roger A. stated that with this reduced size it would also keep the building farther from the road which he preferred. Mr. Melvin stated the structure would be approximately 16 feet from the road instead of 12 feet. He also noted the septic tank would be 8 feet from the structure. CEO McDonough stated he had the ability to waive the minimum of the 8 feet required, down to 5 feet, if there was an issue with the location. He added that the State could reduce it further but was not sure of that figure. Mr. Melvin thought he could work with the 8 feet.

Mr. Melvin asked if they had to come back before the board with new plans? Roger A. stated, yes. He asked Mr. Melvin if he could make the next meeting held on December 10th? Mr. Melvin and the applicants stated they would be able to do so.

Roger A. stated the application was tabled until the next meeting pending additional information for the size and location of the structure.

CEO McDonough asked what the definitive number was for the existing lot coverage? Mr. Melvin stated, 17%. CEO McDonough asked if the board agreed? Roger stated, yes.

Nothing further was discussed.

Best Possible Location – Renovate Existing Building for Year Round Use with 30% Expansion – Map 25, Lot 7-1 (169 14th Street) – Chris Delano, Applicant; Daniel Puopolo, Property Owner

Mr. Delano and Mr. Puopolo were present for the review of the application.

The applicant was before the board to increase the size of the structure by 30%, as well as make changes in part to update the structure for year round use. The interior of the structure will be updated so a distinct kitchen and bathroom area will be created, keeping the number of bedrooms the same as existing which is two. Additionally, several trees will have to be removed in order to add onto the existing structure's footprint. The applicant provided the board with a copy of a septic design which was done by Site Evaluator John Large, dated 8/3/1975. Also provided was a proposed site and floor plan done by LA #2817, Christopher Delano (the applicant), dated 9/30/2013, along with pictures of the existing structure.

This evening Mr. Delano presented the board with a revised plan, dated 11/21/2013, which included how the retaining wall to be removed will be addressed, the existing trees to be removed and the replanting plan, along with the location of a new septic system, and the fact that three piers under the existing structure likely will have to be removed and replaced due to tree removal in that area. A new concrete frost wall will be placed in that area only; the remaining piers will not be removed.

The board reviewed the new plan along with minutes from the previous meeting. Roger A. noted that Mr. Delano spoke with him prior to this evenings meeting to tell him they would be using a bucket truck for tree removal and not a crane to remove the 4 trees noted on the plan.

Mr. Delano stated they had two tree services out to look at the property and after those site inspections, two additional trees were added to the plan for removal in order to access the trees near the structure to be removed, for a total of six trees.

Roger A. noted that Diane S. had asked at the previous review about the existing stone walls and if they would be removed. Mr. Delano stated part of the stone wall would be removed on the Northeast side, the wall being approximately 1 ½ feet in height. He stated they would replace it with a boulder wall embedded into the graded slope, and there will be replanting per the plan. He said the new slope would be lower than the existing.

Roger A. asked about the time line, when they would begin and an estimated time to finish. Mr. Delano stated they were talking to two contractors and had to select the person they would use. Mr. Delano stated once they chose the contractor, which should be within a week, they would apply for a permit from the Code Enforcement Officer. Mr. Delano stated one contractor said it would be a two month project.

Roger A. asked board members if they had any additional questions? There were none.

Roger A. asked if a time to complete of July 1, 2014 would work for the applicant. Mr. Delano believed this would work. Mr. Delano asked if this date was the project completion date? Barbara F. said yes, including the replanting plan. She noted that they could push the date forward if they thought it would not work. Mr. Delano stated that if it became April or May and they knew they would not meet the deadline could they change the date as long as they let the Town know? Roger said yes, just let CEO McDonough know. He said Best Management Practices have to be met until the completion of the project, therefore, CEO McDonough needs to be aware of what is going on. Roger noted that a DEP licensed contractor needed to be used in the Shoreland District.

Roger A. stated a licensed surveyor must make sure the placement of the structure is correct per the specifications approved by the Planning Board.

Maggie M. made the motion to approve the Best Possible Location to renovate the existing structure with a 30% expansion on Map 25, Lot 7-1, per the plans presented, with the following conditions:

- 1) Best Management Practices shall be in place until the project is completed per the plans provided, including the re-vegetation plan.**
- 2) The project shall be completed by July 1, 2014. If this date cannot be met the applicant or property owner shall contact the Code Enforcement Officer to come to an agreement on a new date of completion.**
- 3) A licensed surveyor must place the structure per the approved plan and certify the foundation location.**

Roland L. 2nd the motion. All members were in favor. By a vote of 4 – 0, the motion passed unanimously.

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 8:12 p.m.

Respectively submitted,
Barbara Felong, Land Use Secretary

planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, December 10, 2013

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

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Planning board meeting began at 7:30 p.m.

The minutes from Tuesday, November 26, 2013, were accepted as amended. On page 1 of 4, 1st paragraph under applicant Wardle, Lee Marvin should read Lee Melvin. 2nd paragraph, same section, 'The proposed new structure is 28' x 36' in size' should read 28' x 44' in size. Page 2 of 4, 2nd paragraph, last sentence 'Roger said the proposed 28 x 34 foot structure' should read '28 x 44 foot structure'.

Note: The minutes are not verbatim unless in quotes.

Best Possible Location – Remove Cottage and Replace with Modular Home/ 30% Expansion – Map 43, Lot 1 (135 North Shore Road) – Dina Picanco Wardle, Applicant

Mrs. Picanco Wardle was present for the review of the application along with her husband Matthew Wardle and Lee Melvin of Arundel Homes.

The applicant is before the board to replace the existing cottage with a modular home which will include a 30% expansion. The applicant provided to board members along with a copy of the application, a survey plan which depicted the location of the existing cottage, deck, and shed that would be removed; and the proposed dimensions and location of the new modular home and deck. The proposed new structure is 28' x 44' in size. The plan shows the modular home to be 15 feet back farther from the high water mark of Silver Lake than the existing cottage but approximately 20 feet closer to the road than the cottage, making it at its closest point, 12.11 feet from North Shore Road. Also provided was a copy of the house plans for the modular home; a copy of the Subsurface Wastewater Disposal System Application, dated 9/3/2013, done by Mark Truman, SE #121; a copy of the Permit by Rule dated 10/2/2013; the square foot and volume calculations for the existing and new structure; and a letter dated October 31, 2013 from Mrs. Wardle stating Lee Melvin and Tracy Morrisette of Arundel Homes could represent her interest to both the Planning Board and Code Enforcement Officer.

Roger A. discussed at the meeting held on November 26, 2013 that the proposed structure, as presented, exceeded the lot coverage allowed, even with the grandfathered status. The new structure could not exceed 17% lot coverage which is what exist on site at this time. The board members agreed that the applicant would have to bring a new proposal to this evenings meeting that would meet all the requirements in the Ordinance.

Mr. Melvin began this evenings meeting by giving all board members a copy of the proposed house dimensions and deck which would cover the maximum lot coverage allowed of 884 square feet or 17% lot coverage. He also included the volume calculation and it appeared the proposed structure will meet the volume allowed as well. The existing volume is 11,508 cubic feet and the proposed is 11,128 c.f. The proposed new structure would have a footprint of 27' 6" x 28 feet. Mr. Melvin noted there would be a 3" overhang on the eaves making the total footprint 28' x 28' for the new home.

Mr. Melvin stated the proposed structure would still be back 15 feet from the high water mark and approximately 18 feet from the road, which depicts a gain of approximately 8 feet from the first proposal.

Because Mr. Melvin did not provide a new site plan for the proposed structure Barbara asked if the proposed new structure would be in the same location as the structure on the site plan provided at the first meeting? Mr. Melvin stated it would, the only change is it would be farther from the road with the reduction of the length of the structure from 36 feet down to 28 feet. He also noted the deck would not be 8' x 28 feet in size but has been reduced to 8' x 24 feet in width and he believed it would be centered where attached to the new home. He and the applicants had not come to a final decision on its location.

Roger A. asked Mr. Melvin if he had a proposed landscaping plan. Mr. Melvin said presently there was only sand and gravel on site so he was thinking of placing erosion control mulch down. Roger noted that when the old deck is removed the area has to be regraded & re-established, along with the existing shed that is going to be removed. Roger asked if a completion date of July 15, 2014 would work? Mr. Melvin believed it would if the project got started by April. He asked if this date could be extended. Roger said CEO McDonough could extend the date if needed.

CEO McDonough asked if any trees would be coming down? Mr. Melvin stated, yes. Diane S. asked how many trees would be coming down? Mr. Melvin stated there were 3 within 100 feet of the water and 2 more beyond the 100 foot mark. Maggie M. thought some were on the other side of the road. Mr. Melvin stated they were right on the road and were marked. Mr. Melvin stated there were also some marked on the back lot but that was the soil evaluator that did that.

Diane S. stated that because there would be five trees removed they would not be able to replant with five of all the same species. She asked, "Do you know what kind you want to replant?" Mr. Wardle stated, "Not yet." Diane said, "We need to know where they are going to go and what kind they are going to be." She said they could have three of one kind and two of another. Diane stated, "You need to have it on the plan where the trees are coming down and where the trees will be replanted and what they are going to be." Mr. Melvin asked if they had to be no closer or farther from the water? Roger A. stated they could be closer but not farther from the existing location. Mr. Melvin stated they didn't want pine. Diane said they could be maples or birch or hemlock.

Madge B. asked if they were taking out pine? Mr. Melvin stated there was one poplar and the rest are pine.

Roger A. stated they would need a DEP Permit for the removal of the camp. Mr. Melvin stated they had already done that several weeks ago and haven't heard back from the DEP, so he assumed it was approved since it had been longer than the two week waiting period.

Roger A. stated they need a new plan for the proposed structure and the placement of the trees. Madge B. asked if they were planning on starting any time soon? Mr. Melvin stated no, not until the spring. Diane S. added that they need to show where the mulch is going to go, where the existing trees are located and the location of the replacement trees.

Roger A. stated this application would be brought up again at the next meeting which would be January 14, 2014.

Nothing further was discussed.

Amendment to Subdivision – Change Fire Protection from Sprinkler System to Cistern – Great Hollow Acres Lot 2; Map 10, Lot 2-2-3 (White Pine Lane) – Louis Nieto, Jr., Applicant

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

Mr. Nieto provided the board with a plan which is a revision to Subdivision Plan Book 307 Page 15, Great Hollow Acres Lot #2, done by Professional Land Surveyor 1350, Dana Libby, dated 12/10/2103. Also

provided was a letter from Fire Chief Duane Romano, dated 12/10/2013, which was written in part as follows:

Amendment to “Great Hollow Acres Subdivision” Lot 2-2-1 (owned by Jenna Woodward) and Lot 2-2-3 (owned by Louis Nieto, Jr.) changed fire protection system from sprinkler system to one 7,500 gallon cistern for the two lots.

I find the proposed change from sprinkler system to one 7,500 gallon cistern acceptable. (Assuming he meant acceptable.)

Mr. Nieto provided a plan showing the design data for the proposed 7,500 gallon commercial cistern tank, furnished by George R. Roberts Co., Precast Concrete Products.

Mr. Nieto additionally provided a copy of the Cistern Maintenance Agreement between Jenna Woodward and himself, also dated December 10, 2013.

Roger A. asked Mr. Nieto to speak about what he intended to do. Mr. Nieto stated he had met with Fire Chief Duane Romano to talk about what he would be willing to agree to with respect to fire protection, in lieu of a sprinkler system which was currently mandatory for the subdivision. He stated originally Chief Romano would accept a 10,000 gallon cistern for the four lots but two of the lot owners did not want to participate in the cost of the cistern. He said financially he could not incur all the cost himself so he approached Chief Romano about doing a cistern just for his lot, holding approximately 5,000 gallons. He said, “Fire Chief Romano said he would agree that if one other lot owner would agree, he would allow a 7,500 gallon cistern because the Shapleigh Fire Trucks combined have an additional 2,500 gallons of water so it would still be approximately 10,000 gallons in total on site if needed.”

Mr. Nieto stated he was able to get the owner of Lot 2-2-1, Jenna Woodward, to agree to share of the cost of the cistern. Mr. Nieto showed the location of the easement for the tank and noted the easement would be slightly smaller than his original proposal, and the cistern will be approximately 9 ½ feet deep.

Madge B. asked who in addition to his lot it would serve? Mr. Nieto stated, “The Fire Department can use it to serve any lot, it will be like a fire pond.”

The board reviewed the Cistern Maintenance Agreement.

Roland L. asked who maintained the cistern? Mr. Nieto stated the two property owners must maintain and repair the cistern if needed. Roger asked if it was the Town's responsibility at all? Mr. Nieto stated no, but they have access to it. Madge B. asked what kind of maintenance it would require? Mr. Nieto stated, “You just have to check the water level to make sure it's full.” Mr. Nieto stated if it needs water either he would put it in or arrange the Fire Dept. to do it.

Roland L. asked if the cistern would be visible? Mr. Nieto stated, no, there would be 18 inches to 2 feet of fill over the top of it.

Mr. Nieto stated he persuaded all the property owners to do a road maintenance agreement. He showed the agreement to the board members. CEO McDonough wanted it stated for the record that the Town of Shapleigh is in no way responsible to enforce the road agreement; this is a private road agreement between all parties of the subdivision.

Madge B. moved for approval of the Amendment to “Great Hollow Acres Subdivision” Lot 2-2-1 (owned by Jenna Woodward) and Lot 2-2-3 (owned by Louis Nieto, Jr.) to change the fire protection

system requirement from a sprinkler system to one 7,500 gallon cistern for the two lots, 2-2-1 and 2-2-3, per the plans provided, the design data provided by George R. Roberts Company and the Cistern Maintenance Agreement. The remaining undeveloped lot consisting of 3.53 ± acres and known as Lot 2-2 shall require further review by the Shapleigh Fire Chief to determine the type of fire protection needed. Lots 2-2-2 and 2-2-4 shall continue to be required to use in-home sprinkler systems for fire protection.

Roland L. 2nd the Motion. All members were in favor. Members voted for approval, 5 – 0. The motion passed unanimously.

Nothing further was discussed.

Other:

Madge B. asked Barbara F. what was happening with the questions posed to her regarding the Comprehensive Plan and Land Use Ordinance by Southern Maine Planning Department? Barbara stated that she spoke with Dave Carpenter on November 12th and answered several questions such as when our Comprehensive Plan was adopted, that being March 9, 2005 and if our Zoning Ordinance is consistent with the plan. He also asked how often the Zoning Ordinance is reviewed and when the last amendments to it were enacted, which were March of this year.

Barbara F. asked Madge B. when the Comprehensive Plan should be reviewed again? Madge stated it should be gone over at least every ten years. Barbara asked if the Board of Selectmen should be made aware that a committee should be formed to start the review process? Madge thought that would be a good idea.

Maggie M. asked if anyone does anything with the proposed changes in the Comp. Plan? Both Madge B. and Barbara F. stated, yes. Barbara said that the Planning Board during the last review process reviewed both the Zoning and Subdivision Ordinance to see if they would mirror what the Comp. Plan was proposing. Barbara said that Ruth talked to her at length to make sure the Planning Board was aware of what the Comp. Plan Committee was discussing. In addition, a questionnaire went out to ask the townspeople their thoughts on several topics. Maggie asked if the Planning Board ever changed the Ordinance based on what the Comp. Plan states. Barbara and Madge stated, yes, and the Planning Board did that back in 2006. Madge noted that the townspeople don't always vote for the proposed changes in the Comp. Plan which did happen in several instances. Maggie was glad the townspeople had the opportunity to view the proposed changes.

Roger A. stated the States intent was to have the Ordinances reflect the Comp. Plan. Barbara F. stated much of the Ordinances do reflect the Comp. Plan. Roger agreed. Barbara said the Comp. Plan Committee was very good at discussing their ideas with the Planning Board and asking the boards opinion. Roger noted that the Comp. Plan Committee did look at the answers to the questionnaire and made some changes to the plan based on the questionnaire.

Barbara F. thought perhaps the Planning Board could begin looking at the Comp. Plan and see if the Ordinance continues to mirror the plan and if not what changes should or could be made, also what isn't working and why. Madge B. stated, "The Comprehensive Plan does a lot of things, it looks at capital improvements which is good for the Town to do." She said, "The Road Commissioners are doing capital plans anyhow but could write it down for the plan."

Barbara F. believes the State will start asking what the Town is doing now with respect to the Comprehensive Plan. Madge B. stated she would like to hear more about what the Selectmen are planning to do with the land they have acquired. She said that would normally go into a Capital Improvements Plan which would go into the Comprehensive Plan.

Madge B. thought it might be a good idea to put out another questionnaire. Barbara F. agreed but thought the Planning Board and the Comp. Plan Committee should look over the Comprehensive Plan to see what the questions should be. One question could be whether or not the Town wants additional zoning. Roger A. noted that the Growth Ordinance would need to be reviewed this coming year, since it must be reviewed every three years.

Roland L. told Barbara F. that the school system now uses Survey Monkey when they do questionnaires, the Town may want to look into that for the next time they do a survey. Barbara said she would mention it to Karla.

Nothing further was discussed.

Growth Permits –

Map 5, Lot 44 (Goose Pond Road) – New Home - #17 – 13

Map 28, Lot 7 (Goose Pond Road) – New Home - #16 - 13

All supporting documentation, applications, etc. can be reviewed at the Town Hall during regular operating hours.

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

Respectively submitted,
Barbara Felong, Land Use Secretary

planningboard@shapleigh.net