

# **SHAPLEIGH PLANNING BOARD**

## **MINUTES**

**Tuesday, January 14, 2014**

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

**The minutes from Tuesday, December 10, 2013, were accepted as read.**

Stephen Foglio was appointed by Chairman Allaire to sit in as a regular member this evening.

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*Note: The minutes are not verbatim unless in quotes.*

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**Best Possible Location – Remove Cottage and Replace with Modular Home/ 30% Expansion – Map 43, Lot 1 (135 North Shore Road) – Dina Picanco Wardle, Applicant**

Lee Melvin of Arundel Homes was present to represent the applicant who was unable to attend.

The applicant is before the board to replace the existing cottage with a modular home which will include a 30% expansion. During the meeting held on December 10, 2013, Mr. Melvin provided 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. Also provided were the volume calculation(s), the existing volume being 11,508 cubic feet and the proposed is 11,128 cubic feet. Mr. Melvin told the board that 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. In addition, a copy of the Subsurface Wastewater Disposal System Application was provided, done by Mark Truman, SE #121, dated 9/3/2013.

Roger A. stated that at the meeting held on December 10, 2013, the applicant was asked to bring in a final plan showing the exact location of the existing and proposed new structure on the lot; the location of the existing trees to be removed, and where the replacement trees will be placed along with the type of tree to be used.

Mr. Melvin at this evenings meeting provided a new plan entitled 'Land of Dina Picanco & Proposed Modular Home Location', prepared by John Bruckler, PLS 1285, of Biddeford, Maine, dated as revised 12/26/2013. The plan depicted the existing structure(s) location the proposed structures location; the six existing trees to be removed along with the location of the replacement trees which include three paper birch and three red maple; and the proposed location of the new septic system. The plan depicted the nearest side lot line to the proposed structure to be 10.41', the distance to the high water mark to be 43.8' and the distance to the edge of the road to be 19.9' at its closest point. Mr. Melvin also provided the board with a copy of modular home plans, showing both the exterior and interior design and size.

The board reviewed the new plan provided. Roger A. noted there would be one poplar and several pines removed. The plan showed they would be replaced with paper birch and red maples. CEO McDonough asked how many trees would be removed? Mr. Melvin stated, five. *Note: The plan actually shows one poplar and five pines being removed. They will all be replaced one for one, which is also shown on the plan provided.*

Roger A. stated that the board had also asked about mulch, where it would go. He stated that there is a note on the Plan, Note 6, which states that 'Any and all disturbed areas to be covered with erosion mulch'.

Roger A. asked if the schedule to complete was still the same as stated at the last meeting, the middle of July? Mr. Melvin stated, "As soon as the roads are open to go across they will be breaking ground." He thought the project would be completed by the middle of June.

Roger A. stated, "At the last meeting it was stated to the applicants that they would have to use a licensed contractor in Best Management Practices by the DEP." Mr. Melvin stated he understood and they would be using Spang Excavators out of Kennebunkport.

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

**Madge B. made the motion to approve the Best Possible Location to replace the existing cottage on Map 43, Lot 1, with a 28' x 28' structure including overhangs and a 8' x 14' deck, per the plan provided this evening, dated 12/26/2013, with the following condition(s):**

- 1. The contractor to be used must be licensed by the Department of Environmental Protection in erosion control measures. Best Management Practices shall be in place until the project is completed per the plans provided, including the re-vegetation plan.**
- 2. It shall be confirmed by a Maine licensed surveyor that the placement of the structure is correct per the specifications approved by the Planning Board.**
- 3. The project, including the re-vegetation plan, shall be completed by July 15, 2014. Should this date need to be moved forward the applicant shall contact the Code Enforcement Officer who will determine a new completion date.**

**Roland 2<sup>nd</sup> the motion. All members were in favor. Members voted for approval, 5 – 0. The motion passed unanimously.**

Nothing further was discussed.

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**Best Possible Location – Replace Structure Destroyed by Fire – Map 23, Lot 10 (37 Starboard Lane) – Scott McLeod, Ash Cove Construction, Applicant; Robert & Joseph Lincourt, Property Owners**

Mr. McLeod was present for the review of the application along with both Robert and Joseph Lincourt. As a note there are other family members who are owners of this property; John Lincourt, Ann Bourque, Michael Lincourt, Mary Herman and Katherine Gabriel.

Mr. McLeod provided the board with a plan done by Corner Post Land Surveying, dated 1/13/2014. The plan depicted the entire lot (Map 23, Lot 10), which consists of 1.94 acres. The plan also depicted a road (right-of-way) which runs through the property, an existing concrete pad and what remained of the concrete block wall of the destroyed camp. There also are lines depicting the approximate footprint of the original camp.

Mr. McLeod provided in addition to the application and site plan, a replanting plan done by Salmon Falls Nursery & Landscaping of Berwick, Maine; a septic design done by John Toothaker, SE #347, dated July 27, 2013; a copy of the Town's property card which has a picture of the structure and the structure dimensions; and a plan provided by Corner Post Land Surveying which shows the aerial view of the property.

Mr. McLeod stated the building on site burnt down and was a total loss. He stated the proposal was to build the same structure in the same footprint and location as it was.

Mr. McLeod pointed out that the 100 foot mark from the high water line was depicted on the plan, along with the 75 foot setback to the road. He said, “The Lincourt's have asked that we try to stay just where it is and put a new foundation under it and a new structure in its place.”

Madge B. asked, “Is there a foundation under it now?” Mr. McLeod stated, “There does not but we would like to put a foundation under it now.” Madge stated, “That makes perfect sense.”

Roger A. asked where the septic tank was located? Mr. McLeod stated the plan was to put the septic tank behind the new structure. He pointed to a place on the plan where they did a perk test. He stated there was another area the system could go as well due to the type of soil. CEO McDonough asked if there was a septic design? Mr. McLeod stated, yes. CEO McDonough asked if the board had a copy? Mr. McLeod stated, yes they have a copy of the septic design.

Madge B. asked, “What's the concrete pad?” Mr. McLeod stated, “It is just a concrete pad that is there.” Mr. McLeod stated that looking at it you can tell its been there for quite some time. Madge asked if they were proposing to leave it? Mr. McLeod stated, yes. Madge asked if it served a purpose? Mr. McLeod stated he believed it was used for years, noting there was a fire pit near it.

Madge B. asked if the remaining concrete walls were affected by the fire at all? Mr. McLeod stated, no, the heat was above the walls. He said due to the wind direction the walls were not affected but the surrounding trees were scorched and will have to be removed.

CEO McDonough asked if any trees had been cut yet? Mr. McLeod stated, no, nothing has been touched. He said there were many people involved in the project and they are trying to do it right. He said he was approached by the family and was asked to replace it as it was. He believed looking at the survey it makes sense to leave it where it is because of the roadway on the property.

Roland L. asked if there was going to be a 30% expansion? Mr. McLeod stated, “When I put this application together that was the intent. The family talked about perhaps changing the structure.” Mr. McLeod asked Joe and Bob Lincourt if they were going to change the structure. They said they didn't know. Mr. McLeod stated that was the problem, they didn't know what they wanted. He said he had to present something to come before the board, so he was told by the family to go forward replacing the structure with what they had. Mr. McLeod thought it would be a prime time to expand by 30% now. He said, “If they were to add it, they would go back. They would not encroach upon the lake at all. The designed plan would have to go to the Steve (CEO).” Mr. McLeod also added that the 30% could just go up from the structure as well.

Roger A. asked if any of the 30% had been used? Joe Lincourt stated that none had been used.

Madge B. asked if they had a Growth Permit and if not was the new structure going to remain seasonal? Mr. McLeod stated that there were many things that still needed to be discussed. He thought it would be a good idea to get the Growth Permit.

Madge B. asked if the area was flat? Mr. McLeod stated in the area of the structure it is mounded up naturally. He said the structure sits quite high. Madge stated that she's been at a camp across the lake and agreed you could see the structure.

Madge B. asked if this was the original building or was there another? The Lincourt's and Mr. McLeod stated it was the original camp.

Roger A. asked if the new structure was going to be elevated? Mr. McLeod stated, “No, the new foundation will actually get it down and the ridge line should be in the same place or elevated slightly.”

CEO McDonough asked if the existing and the proposed height stayed the same? Mr. McLeod stated that the new foundation may raise the ridge line up or down slightly. CEO McDonough asked if they were going to dig down for the foundation? Mr. McLeod stated yes but they were not going to dig out all the hillside. Mr. McLeod stated he wasn't sure exactly what the ridge line was on the original structure.

Mr. McLeod stated that the family had talked about doing a different structure but nobody could agree on what they wanted but everyone agreed they loved the original structure.

Madge B. stated that she felt it was feasible to move the structure back to make it more conforming. She said that because there is no foundation, she would like to see them move it back. She said looking at the plan, there is space to move it.

Mr. McLeod continued to discuss the fact the family wasn't quite sure exactly what they wanted to do, so he came before the board with the plans to rebuild the structure as it was, in the same location. CEO McDonough wanted Mr. McLeod and the Lincourt family to know that once the board approves a location and size of structure that is what they will have to build or come back before the board for an amendment to their approval. Joe Lincourt and Mr. McLeod both agreed it was important for family members to discuss exactly what they want to do prior to any final board approval of size and location. Joe Lincourt stated that he feels the family would want the footprint to stay as is but may want a 30% expansion of the structure. Again he stated he realized they as a family need to make some definite decisions.

Mr. McLeod stated there was a CMP easement across the property, so that might limit the choices of where the building could be located. CEO McDonough stated that an easement to cross can be moved and if there is a utility issue, the applicant can have power lines raised. He said he has seen this done with past Planning Board approvals.

Madge B. stated she felt the next step was for the board to do a site inspection. She felt the inspection could be done without exact plans because the board did have an idea what the family wanted to do. She said the board needs to see the property to determine if the structure could be moved back. Mr. McLeod said it could be moved back. He noted the septic system had options, it could go in several locations. Roger A. stated that if the septic system could be relocated then it was likely the structure could as well.

Roger A. stated that besides the location of the septic system, the board will look at topography. Roger said the footprint of the structure would have to be known before the board can make a final decision to see if the size will fit in the area they think would be most suitable for the new structure. He said a change in the footprint might change the location of where it could be best placed.

Roger A. stated there would have to be a final plan created once there is a decision on the placement of the new structure, which includes the final footprint. He said that a surveyor will have to place the structure on the lot per the plan, so it was necessary to have the exact size and location on the final plan.

***Roger A. stated a site inspection will be held. Board members agreed they would meet on site, Saturday, January 18<sup>th</sup> at 8:00 a.m. A Notice to Abutters will be mailed as well.***

Mr. McLeod asked if the Planning Board can make a decision at the site inspection about what they might want. Roger A. and CEO McDonough stated the board cannot make any decisions at a site inspection, they cannot hold a meeting. They can only view the area and structures involved, then bring it back up at the next meeting. Roger noted the next meeting would be held on January 28<sup>th</sup>.

Nothing further was discussed.

**Other:**

Roger A. stated that he had gone to the FEMA Floodplain meeting held on Thursday, January 9<sup>th</sup>. He said what he got from the meeting is that they were encouraging towns to adopt the new maps.

Roger A. said the other issue is going to be who is going to administer the Flood Plain Ordinance, the Board of Selectmen or the Planning Board by way of the Zoning Ordinance. Barbara F. believed that at this time the ordinance is under the Town's Ordinances, the code book for Shapleigh.

Roger A. thought it should be under Land Use. Madge B. agreed it seemed more appropriate for the Planning Board to administer any conditions for it.

Roger A. stated that it has to be adopted at Town Meeting. Roger said the actual map itself will not be ready until January 2015. Madge B. stated, "It sounds like we are going to have to have a special town meeting if that is the case." Roger agreed.

Roger A. stated that the State said they will draft the language for the ordinance. They also said if they cannot complete it by the January 2015 time frame for the towns they are going to represent, they want to see a special town meeting. Roger said this is based on funding by the government on how much they will accomplish this year. He noted this project has already been delayed due to lack of funding.

Roger A. stated the towns do not have to enact the ordinance but it will cause a problem for those who live in the floodplain, their insurance levels will rise drastically. He noted that those in the floodplain who do not have flood insurance by the time this is enacted in 2015 will also see the insurance prices go up drastically and if they do not acquire the insurance, banks will not finance the mortgage for the home. He said being able to sell a home in the floodplain will be an issue if they do not obtain insurance by the end of this year or if the town does not adopt the ordinance.

Roger A. didn't note any changes to this area from the original mapping. He said most of the changes are along the coast. He said in part its due to a lack of funds for those doing the mapping. They are concentrating on areas that will be greatly impacted by a storm, especially after past storms such as Katrina.

Roger A. stated that he asked at the meeting if they would provide enough information so the town could go forward with a public hearing in November? Roger said, "They will not have the final map before January but I feel we could hold a public hearing, if the Planning Board does adopt it in the Zoning Ordinance, on what we have but there would have to be a special based on the map not being ready until January 2015." Roger said the board could do the last Public Hearing in February but it still may require a special.

Roger A. stated it would be nice to have the floodplain on the town maps. The board agreed and there should be shoreland zoning on the maps as well but there isn't a budget for this at this time.

Nothing further was discussed.

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Mr. McLeod stated he had another application he wanted to present but was not sure what he could do or where he should place the structure. Roger A. stated the board could not tell him where to put the structure or what to build. Roger said as far as placement, the board wouldn't know until the site inspection what would work best.

Mr. McLeod stated the structure is 100 feet from the water, but his concern was the road as the existing is 10 feet from the road now.

Roger A. stated that he understood but the board can't make the decision for the property owner. CEO McDonough stated the big issue is, 'what is more non-conforming'. He said you may become more conforming by moving a structure back but more non-conforming somewhere else. CEO McDonough said that the State's feels it is best to move the structure back from the water as best possible.

Nothing further was discussed.

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**Growth Permits – Map 25, Lot 7-1 – 169 14<sup>th</sup> Street – *Seasonal Conversion* - Growth Permit #01-14**

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

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**Planning Board meeting adjourned at 8:40 p.m.**

Respectively submitted,  
Barbara Felong, Land Use Secretary

planningboard@shapleigh.net

# **SHAPLEIGH PLANNING BOARD**

## **MINUTES**

**Tuesday, January 28, 2014**

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, January 14, 2014, were accepted as read.**

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*Note: The minutes are not verbatim unless in quotes.*

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**Best Possible Location – Replace Structure Destroyed by Fire – Map 23, Lot 10 (37 Starboard Lane) – Scott McLeod, Ash Cove Construction, Applicant; Robert & Joseph Lincourt, Property Owners**

Mr. McLeod was present for the review of the application along with both Robert and Joseph Lincourt. As a note there are other family members who are owners of this property; John Lincourt, Ann Bourque, Michael Lincourt, Mary Herman and Katherine Gabriel.

At the preliminary review of the application on Tuesday, January 14, 2014, Mr. McLeod provided the board with a plan done by Corner Post Land Surveying, dated 1/13/2014. The plan depicted the entire lot (Map 23, Lot 10), which consists of 1.94 acres. The plan also depicted a road (right-of-way) which runs through the property, an existing concrete pad, what remained of the concrete block wall of the destroyed camp, and there are lines depicting the approximate footprint of the original camp. In addition to the application and site plan, received was a replanting plan done by Salmon Falls Nursery & Landscaping of Berwick, Maine; a septic design done by John Toothaker, SE #347, dated July 27, 2013; a copy of the Town's property card which has a picture of the structure and the structure dimensions; and a plan provided by Corner Post Land Surveying which shows the aerial view of the property.

*Board members did a site inspection prior to this evenings meeting. Several met with Mr. McLeod on Saturday, January 18<sup>th</sup>.*

Mr. McLeod began by asking what the boards opinion was for the location of the new structure, after they went on the site visit. He stated the owners are currently working on the design of the house and part of the design will be based on the location the board thinks is best.

Madge B. asked if a new septic system was going in? Mr. McLeod stated, "Correct". Madge stated, "As I recall from looking at the minutes it said that there were several locations." Mr. McLeod stated they only did one perk test for the septic design but he believed the soils on site were such that they would hold a septic system in other locations. He said there were other possibilities because it was all good soil there.

Madge B. stated, "I want to go on record that after the site visit, I would like to see the camp moved back." Roger A. agreed and thought they could move it back to where the fire pit is located. He said in that location the applicants could also have a walkout basement. Madge agreed.

Mr. McLeod stated that since the site visit he had spoken with an arborist and his recommendation was that you can always cut a tree down later. He stated some of the trees they thought they were going to have

to remove may not have to come down at this time. He said, "Therefore, if the house is moved back farther more trees will have to come down, whereas, if it stays in the same location less trees will have to be removed." He said there would be a difference of approximately 8 trees.

Roger A. asked if the trees coming down had a ribbon around them? Mr. McLeod stated the ribbon didn't indicate the 10 trees he had stated would have to come down. Mr. McLeod, using his cell phone, showed the board the trees he was referring too.

Roger A. stated in his opinion, he would rather remove the 17 trees and move the structure back. He stated it was flatter land in the back. He also noted that even though the trees 'may' make it, looking at how they were singed in the fire he felt eventually they would be coming down. Mr. McLeod stated, "Then what you are recommending is going back to the original suggestion of taking down the 32 trees including the area of the septic system." Roger A. stated, "That is only my opinion; then having a replanting schedule."

Mr. Robert Lincourt asked why the board wanted the structure moved back? CEO McDonough and Roger A. stated that the purpose of the ordinance requirement of a best possible location was to move the structure back from the water as best possible. Mr. Lincourt asked what purpose that served? Roger said it helped to maintain the water quality. He said it kept the septic system further back, and it kept runoff from the camp roof from creating erosion and going into the lake.

CEO McDonough stated that it was a State imposed rule which was why the applicant was before the board. He said to the applicants, "Let's imagine if everyone had a camp immediately on the water. Then there would be no trees in front of the camps and then what would Mousam Lake look like." He said that was one reason.

Roger A. stated the board very seldom leaves a structure in the same place unless the lay of the land isn't favorable to move the structure back. Madge B. stated if there was a foundation under the existing structure it might change the situation as well. Roger agreed.

Mr. Joseph Lincourt asked how many feet back the board wanted the structure moved back? Roger A. stated, to the stand of blocks on site. Mr. Lincourt stated that was the back of the original camp. Roger said that area would be the front of the new structures location in his opinion and the fire pit would be the rear of the structure. Mr. Robert Lincourt stated the new structure would be moved the entire length of the existing structure. Roger said, "Right, by putting it there, it would be placing it on a level area and would lend itself to a daylight basement for the new structure."

Mr. McLeod asked about the requirements for the setback to the road. CEO McDonough stated that wasn't really applicable with a best practical location since the structure is already non-conforming. He said the board has to decide which area is best practical. Roger A. stated he didn't feel what Mr. McLeod was talking about was a road, instead a driveway. Mr. McLeod stated it was a driveway for the applicants. He noted it also fed two other houses. Roger agreed, it was a right-of-way. Mr. McLeod didn't want the new structure too close to it. Roger said from the fire pit location to the right-of-way was not too close. It appeared looking at the scale on the map at the closest point of the rear of the structure to the right-of-way might be 20 feet and at the farthest 50 feet. Roger thought it would be at least 40 feet from what he witnessed at the site visit. Madge agreed.

Mr. Robert Lincourt asked if the fireplace had to go? Roger A. stated that was not an issue, it would minor in relation to the cost of replacing the structure. He said the fireplace can be relocated.



Mr. McLeod asked if the board was talking about moving the structure back 27 feet as talked about at the site inspection. Madge B. stated, "Yes." Roger A. stated he wasn't at the site inspection with the other board members but that sounded about right. Madge believed both the board and Roger were in agreement with the new location. Mr. McLeod asked if they would also be moving it over. Roger said not by much, basically he wanted to see it moved straight back so it might get moved from the side lot line five or six feet by doing so.

Mr. Robert Lincourt stated that by pushing them back they would lose part of their view looking up the lake on one side. Madge B. stated, "But the other camp will get a view, and that is the way it works." Madge noted the next camp over was set back from the water (Map 23, Lot 11). She said they wanted them all moved back and if another burns down they will be asked to move back as well. Roger agreed.

Mr. Roland Batson, an abutter, asked if they could split the difference, instead of 27 feet perhaps they move half of that? He asked if they showed something on paper that might work would the board consider it? Madge B. stated, "Sure."

Mr. Roland Batson asked if the land in front of the new structure could be patio blocks to give them extra room outside? Roger A. and Madge B. both agreed that would be a structure so the answer was no. Madge said that anything placed had to be impervious. Mr. Batson stated that they make some that are impervious. CEO McDonough stated that it had to be 'native' vegetation.

Roger A. read §105-4.(7) 'Relocation' of a non-conforming structure, in its entirety.

Mr. Joseph Lincourt asked about locating the replacement trees. He stated they would be removing trees and in their place would be the new cottage, how then should the new replacement trees be placed? Roger A. stated they can be closer to the water but they cannot be further from the water than they are now. Madge B. noted they can go sideways from the existing location.

Madge B. asked the rest of the board what their thoughts were with respect to the location of the new structure. Maggie M. stated that although more trees would be removed by moving the structure back, there would be trees planted in front of the structure to protect the water. Roland L. stated at the site inspection he too thought moving the structure back would create an opportunity for a daylight basement and the board would be keeping the structure as much in compliance with the ordinance as possible. Roland said until he sees something on paper that gives distances to the front of the lot, side of the lot, etc. he didn't think the board could take any action. Roland asked if the board was going to take any action this evening? Madge stated, "No."

Mr. McLeod asked exactly what he had to have on paper for the board to be able to approve a location? Roland L. stated the actual shape of the structure needed to be on the plan. CEO McDonough stated the purpose of the Planning Board review was to determine the actual location of the structure. He said that he then looks at the building structurally. He said the board has to take into consideration the shape of the proposed structure because based on the shape they may want to move the structure so it fits best possible on the lot. He said therefore, they have to know the footprint of the structure. Roger A. agreed. He added that because of the hill that is in the front of the lot (the water side), all the rainwater is going to go toward the right-of-way. He said by moving the structure back, even with removing trees, the rainwater from the roof of the new structure will not get to the lake except by percolating into the ground first. Roger said this lot is a perfect lot to be able to move the structure back to stop soil erosion. Roger added that in this case they would not need french drains or settling ponds, again because the lay of the land will keep the water flowing away from the lake.

CEO McDonough asked if the applicants understood what the board was suggesting for a location of the new structure? Mr. McLeod stated that he understood based on the site inspection. He also knew roughly the size

they could build based on the 30% expansion. He stated he had to discuss the actual design with all the family members. He asked if he had the layout of the house down but had to slightly change the layout of the deck could the CEO address that? Roger A. stated it would have to come back to the board. He said the deck was a structure. Mr. McLeod stated that once you begin building sometimes you want to change the location of a deck. He asked if he could do that change through the CEO? CEO McDonough stated no, it has to be approved by the Planning Board. Roger agreed stating any changes to the plan, when you are looking down upon the structure from the sky, any deviations from the footprint have to come back before the board. Mr. McLeod stated he didn't understand why?

Roger A. stated that the board will approve the size of the footprint, for example a 24' x 32' structure, and then approve where it sits on the lot. Mr. McLeod stated he understood that but how did the decks location affect that. Barbara F. stated the deck is part of the structure and every corner of the structure is measured to the nearest lot line. She said then a surveyor will come in and measure to the edge of that structure to see that it meets the distances approved by the board, including the deck. She explained if he moved the deck it would no longer meet the distance to the lot line that was approved.

CEO McDonough noted that a Best Practical Location was actually a variance given by the Planning Board because the existing structure does not meet today's setbacks. He said, "When it's built, the surveyor is going to go out and make sure you build the new structure to the variance that the Planning Board approved for the new structures location. If the surveyor states it doesn't meet what is approved, it is an issue."

CEO McDonough asked if there was a possibility that any portion of the new structure would be beyond the 100 feet to the water? Mr. McLeod stated that he didn't think so. CEO McDonough also wanted the applicants aware that the right-of-way is a right to traverse over someone's property but there may not be a description including meets and bounds, so it probably can be moved.

Roger A. reiterated what CEO McDonough was talking about that with any part of the structure beyond the 100 foot mark they could build what they wanted and if they moved the right-of-way they could have a bigger structure.

Stephen F. asked what the setback to the right-of-way would be. CEO McDonough stated, "That isn't the issue with a Best Practical Location, the location needs to be best 'practical'."

Roger A. stated until the board sees the structure on the plan they cannot make a final determination. Mr. Robert Lincourt didn't see why they had to move the structure because of the two retaining walls they built to prevent the embankment from going into the lake. Roger A. stated that from what he had seen on site along with the other board members, he felt the structure should be moved back in order to meet the ordinance requirements. Madge B. and Roger both stated that the board needed to see a plan. CEO McDonough asked the applicants if they wanted the board to go out and put a stake in the ground to show where they would like to see the structure moved to. Mr. McLeod stated that he knew exactly where the board wanted the structure placed. He wasn't sure he would have all the information the board wanted for the next meeting, however.

Roger A. reminded Mr. McLeod the board would be looking at the overhangs along with the footprint of the structure on the ground. Roger also said the board cannot allow a structure to be more non-conforming than the existing structure, especially with respect to the high water mark. He stated the legislature has given the Planning Board the ability to approve a structure that normally requires a variance to be re-built. Roger noted that if the applicant were to go to the Board of Appeals for a variance instead of getting a permit through the Planning Board it was likely they would not be able to rebuild the structure within 100 feet of the water, as it is nearly impossible to meet all the criteria to obtain a variance. He said all land has the ability to get a return, even if it is just using it to put a camping trailer on, so again allowing the Planning Board to dictate the location is the best alternative to a variance for a non-conforming structure.

Stephen F. asked if the surveyor had all the elevations for the property? Mr. McLeod stated he did. Stephen thought, that as Roger A. had said, if the applicant kept the new structure to the road side of the crown it would keep all water shedding toward the back of the property.

Roger A. stated that the area where the existing camp was will have to be re-established with vegetation. Stephen F. asked if the area would be sloped toward the road. Roger stated, yes.

CEO McDonough asked what the board wanted, a plan or stakes in the ground? Mr. McLeod stated that he had Corner Post Land Surveyors place the location of the existing building foundation on the plan so the board will know the approximate location of the old building and the new building along with dimensions. Mr. McLeod stated that he was with the other board members at the site inspection and they had measured 27 feet to the new location so if that is the area Roger A. also thought was best, he knew what they wanted.

Roger A. stated they would need a DEP Permit by Rule. Mr. McLeod stated he had not done that yet. Maggie M. asked if they would need a replanting plan for the existing house location and around the new structure location? Roger said, yes. Roger added that they would need to add the trees to be replanted as well, and reminded them that because more than five trees were being removed, no one species of tree could make up more than 50% of the number of trees planted. Roger thought there would be at least 36 trees that would have to be removed because they were singed by the fire.

Mr. McLeod was going to try to have a plan for the next meeting on Tuesday, February 11<sup>th</sup>.

Roger A. stated that after the board receives a plan with the new structure location the board might want to do another site inspection to decide if the structure is the best possible location. Madge B. thought it would be a good idea as well.

Nothing further was discussed.

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**Growth Permits – There are growth permits available.**

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

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

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

# **SHAPLEIGH PLANNING BOARD**

## **MINUTES**

**Tuesday, February 11, 2014**

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

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**Planning board meeting began at 7:30 p.m.**

**The minutes from Tuesday, January 28, 2014, were accepted as read.**

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*Note: The minutes are not verbatim unless in quotes.*

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**Best Possible Location – Replace Structure Destroyed by Fire – Map 23, Lot 10 (37 Starboard Lane) – Scott McLeod, Ash Cove Construction, Applicant; Robert & Joseph Lincourt, Property Owners**

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

At the preliminary review of the application on Tuesday, January 14, 2014, Mr. McLeod provided the board with a plan done by Corner Post Land Surveying, dated 1/13/2014. The plan depicted the entire lot (Map 23, Lot 10), which consists of 1.94 acres. The plan also depicted a road (right-of-way) which runs through the property, an existing concrete pad, what remained of the concrete block wall of the destroyed camp, and lines depicting the approximate footprint of the original camp. In addition to the application and site plan, received was a replanting plan done by Salmon Falls Nursery & Landscaping of Berwick, Maine; a septic design done by John Toothaker, SE #347, dated July 27, 2013; a copy of the Town's property card which has a picture of the destroyed structure and the structure dimensions; and a plan provided by Corner Post Land Surveying which shows the aerial view of the property. Board members did a site inspection on Saturday, January 18<sup>th</sup>.

During the Planning Board meeting on Tuesday, January 28<sup>th</sup>, the applicant was told that after the site inspection, board members agreed that due to the lay of the land and the fact the existing structure did not have a foundation under it, it was the perfect situation to move the structure back from the high water mark as required in the Ordinance. Members believed that by moving the structure back 27 feet it would not only allow for a daylight basement in the new structure but it would prevent any storm water from entering the lake due to erosion. Also, trees could be planted in front of the new structure to further protect the area. The rear of the new structure would be placed where the fire pit is located and the front of the structure would be at the existing blocks left from the structure that burned. Members asked the applicant to provide a new plan based on what they felt was the best possible location. In addition, the board would need a re-planting plan that addressed the new location and the tree replacement that needed to take place, that being one tree replaced for every tree removed.

Mr. McLeod provided a new plan to the board depicting the proposed structure on the lot. It appeared the new structure would be 25 feet back from the existing structures location at the foundation but the covered porch would be extending toward the water, so the overall footprint would not be 25 feet back farther from the high water mark but 21.4 feet. Mr. McLeod stated the Lincourt's had decided upon the style of the house they wanted to build. The board reviewed the plan presented which showed the location of the old structure, and the location of the new structure.

Mr. McLeod stated the structure had been pulled back and to the right slightly. The plan also noted which way the roof lines would go. Roger A. stated, "There is still going to be an exterior deck on the front." Mr. McLeod stated, "No, it is a covered porch." Mr. McLeod showed where the steps would be located on the structure. Roland L. asked, "Do you know at this point if it is going to call for a daylight basement?" Mr. McLeod stated, "We will try to utilize daylight if it works out and it looks like it is going to work out that way." He thought there would be a door and several windows. Roland asked if any of the soil would be knocked down to make the area more level. Mr. McLeod stated they would be moving some of the earth around because they didn't want a lot of water shedding toward the wall. He said there would be grade work done for the house and there would be a positive drain to get the water away from the foundation and toward the back of the house. Mr. McLeod stated that anything that came off the roof would go into crushed stone along the sides of the building run toward the back of the house and then away from the structure.

Roland L. asked if there would be a foundation under the square area on the plan only? Mr. McLeod stated, "Yup." Mr. McLeod noted that there would be cement post under the porch and the area would be open underneath. CEO McDonough asked how high off the ground the porch would be? Mr. McLeod stated that one side of the porch would be at grade but due to how the ground is, part would be higher off the ground. CEO McDonough was concerned with the fact there would be a walkout foundation and asked if there would be part of the porch that was high enough to walk under. He didn't want pavers put down under the porch as they are considered a structure and then the project would exceed the 30% expansion allowed. Mr. McLeod stated that part of the structure might be five or six feet off the ground. CEO McDonough stated he was having a problem with second story decks due to homeowners assuming they had more square footage they could use for patio's under the decks. Mr. McLeod stated there would not be enough room for that. He understood what CEO McDonough was concerned about.

CEO McDonough, looking at the new plan, stated that he thought the board had asked the applicant to move the structure 27 feet back from the existing, using the existing blocks as the front boundary of the new structure. Mr. McLeod stated he didn't believe so, he thought he had to move the structure back 25 feet from the front wall of the existing structure. Roger A. agreed that the board had asked him to move the structure back to where the column of blocks were. Roger asked if the area had been staked out? Mr. McLeod stated it had not due to the fact the plan was created at 5:00 p.m. just prior to this evenings meeting.

Barbara F. noted that Madge B. had stated she wanted to do another site inspection after the applicants had denoted a location for the new structure based on the Planning Boards recommendation to move the structure back. Roger A. agreed that Madge had asked for another site inspection.

Roger A. asked if the DEP had been notified yet? Mr. McLeod stated he had not sent in a DEP Permit by Rule, he wanted to wait until a location had been agreed upon for the new structure.

Roger A. stated the placement for all the trees to be removed needed to be on the plan. Mr. McLeod stated he had presented a re-vegetation plan at the first meeting. He thought they could use the same plan once a location was decided upon, putting more vegetation in the front of the new structure. The board reviewed the plan provided.

CEO McDonough asked the board to review the ordinance with respect to the replanting requirement. CEO McDonough read §105-4 'Nonconformance', (7) 'Relocation' (b) [1] [a] "Trees removed in order to relocate a structure must be replanted with at least one native tree, six feet in height, measured from the base of the trunk to the top of the tree, for every tree removed."

Board members read the plant list on the re-vegetation and noted that 20 trees were listed but based on the site visit Roger believed approximately 37 would be removed, therefore, these trees needed to be addressed on the re-planting plan.

Roger A. read the following from the minutes on Tuesday, January 28<sup>th</sup>: “Roger A. stated that after the board receives a plan with the new structure location the board might want to do another site inspection to decide if the structure is the best possible location. Madge B. thought it would be a good idea as well.”

Roger A. asked Mr. McLeod when he thought the area would be staked out? Mr. McLeod stated he would try to get stakes in before the snowstorm. Diane S. read §105-4(7)(b)[1] [a] again.

Roger A. asked Mr. McLeod if he had a time line for the project? Mr. McLeod stated that he thought he could begin in about a month and a half, he was just waiting for spring. Roger asked how long it would take to complete it? Mr. McLeod stated, “Three and one half to four months.” CEO McDonough asked Mr. McLeod if he was aware that they post the roads? Mr. McLeod asked if they posted the camp roads? Roger A. didn't believe so, only the State roads.

Board members stated they would go back to the site on an individual basis. Mr. McLeod stated that he was concerned with that, as each person might have questions that could get answered by him if they all went out at the same time. He was concerned that that could force the decision into another meeting. Roger A. did not see this as a problem as long as the location was staked out for board members to see.

Roger A. stated that another important thing for Mr. McLeod to have at the next meeting would be the replanting plan that shows exactly what is going to be done, replanting from where the old structure is located and the trees to be replaced.

Roland L. asked, “Scott will there be stakes that will differentiate the building from the porch area?” Mr. McLeod stated, “Yes, that just makes sense to me as well.”

Roger A. asked if the 32' x 36' is the actual building size, not including the overhangs? Mr. McLeod stated yes, that is the footprint of the structure with no overhangs. He asked if the board wanted the overhangs on the plan and if the board wanted the area staked out with the overhangs? Roger stated, “Yes, we need to see how the structure will fit on the face of the earth if looking down onto it.” Roger asked about the covered porch on the front of the house, if there would be anymore than 2 steps coming off from it. Mr. McLeod didn't think so. Roger was addressing this for CEO McDonough with respect to how high it was off the ground. Roger said that coming around the house it would probably go up to six feet off the ground. Mr. McLeod stated again he understood CEO McDonough's concern with patio blocks and there would not be any under the deck/porch.

Roland L. stated that regarding conversation at an earlier meeting there might not be as many trees removed as Mr. McLeod first thought. Mr. McLeod stated that when they staked the house out, then they would have a better idea of how many trees would have to be removed. He said their intent was not to remove anymore trees than necessary. CEO McDonough stated, “You have to remember you have to come up with a definitive number of trees to be removed and replaced on a plan.” Mr. McLeod stated, “Steve, I am not going to give you 20 plans for replanting of the trees, if we don't know where the house is going to go.” CEO McDonough stated, “I understand that.” He thought the board would know for certain at the next meeting where the structure would be located. Mr. McLeod stated at that time it would not be difficult to add several new trees to the plan with an X and circle and present it at the meeting. He thought that was doable. Mr. McLeod stated that it was possible after another meeting the homeowner might not like the house plan, although he was quite sure this plan was what they all wanted. Mr. McLeod asked if it was acceptable to add trees at the next meeting? Roger A. stated that it was. Roger felt comfortable that the board and the applicants were in the same ballpark with respect to the location of the new structure. Mr. McLeod agreed.

Mr. McLeod stated that he would call Barbara F. when the area was staked out and she will contact board members. Board members agreed this would work.

**Conditional Use Permit – Move Existing Business to New Location and Expand – Map 18, Lot 32A (120 Emery Mills Road) – Joseph and Mary Letourneau, Applicants; Paul Muse, Property Owner**

Mr. and Mrs. Letourneau were at the meeting along with Bob Muse. Mrs. Letourneau was not present for the entire meeting.

Roger A. asked Mr. Muse to explain why they were before the board. Mr. Muse began by stating the Letourneau's wanted to move their store from its existing location at 184 Emery Mills Road to his building located at 120 Emery Mills Road. Roger asked Mr. Letourneau if he would be using the entire building? Mr. Letourneau stated, yes.

Roger A. asked if there were any changes from the existing services provided. Mr. Letourneau stated there were a few things he would like to change. He stated he wanted to have a drive-thru for coffee and donuts and sandwiches. Roger noted that if they were serving food they would need a permit from the State. Mr. Letourneau stated that he knew that. He stated that there is a partial kitchen in the building and he wanted to be able to use that, just as One Earth had in the past. (Note: One Earth moved from this location over five years ago.)

CEO McDonough stated that it was important, with respect to the drive-thru, to know exactly how they would get cars off the road and where the parking area would be. He didn't want to see a line of cars backed up on Route 109.

Roland L. asked, when facing the building, which side would the drive-thru be on? Mr. Letourneau stated, "The Historical side". (He was referring to the Historical Society building which is located on the right hand side when facing the building.) CEO McDonough asked what the distance was between the building and the property line? Mr. Muse stated, "Probably 20 feet I would say." Mr. Muse stated the Historical Society had a shed that was right smack on the property line. Mr. Muse noted there is an entrance way on the right hand side of the building now. Diane S. agreed stating that someone usually parked a car in that location. Mr. Muse added that there was already a curb cut from the State that was done years ago.

Diane S. asked if they would be driving over the septic system? Barbara F. had given board members a copy of the proposed plans from the applicant along with a copy of the existing septic system. Mr. Muse stated the septic was behind the building approximately 40 feet back. He said that the tank was right beside the leach bed. CEO McDonough asked if they would be driving over the pipe that goes to the septic tank?

Roland L. asked if there was an existing roadway that goes around the building? Mr. Muse stated, no.

Mr. Letourneau stated that they had a five year plan and they may not do the drive-thru this year. He didn't want to have to come back before the board again when he wanted to do the drive-thru which is why he had it on his application at this time. CEO McDonough stated the only problem with this time of year for the board is it is difficult for them to go out and look at the area and know what will work because they cannot see what is under the snow. He thought if they had it done in phases it might be easier.

CEO McDonough asked when they wanted to open? Mr. Letourneau stated that in reality they probably would not be opening until May but they wanted to be able to move the store in now. He said he had been told to ask for what he wanted to do. He noted that he had been before the board several times in the other location already. (Once was for his landscaping business and a second time when they wanted to open a store carrying local products.) He didn't want to have to come back more than once for this move. Mr.

Letourneau stated that he had to cut some trees and make an area for the landscaping materials, so that might open later than the store.

Roger A. asked how much bulk landscaping materials would be kept on site? Mr. Letourneau stated he would be having  $\frac{3}{4}$  stone, sand and gravel, loam, and mulch. Roger asked again, "How much, how many yards?" Mr. Letourneau stated, "I don't know, 20 yards of each." Roger said the board would want to limit the amount on site, so if he went much over 20 yards it would become an issue. Mr. Letourneau stated the item that might exceed that would be mulch in the spring because people want a lot of that in the spring.

Diane S. asked, "How far back behind the building is going to be the mulch and loam and all that stuff?" The concern was that nothing was stored on top of the septic system. Mr. Muse thought the system was far enough back that it would not be an issue. Diane also noted that on the septic plan it noted there was an 'extreme waterway' behind the leach field. Mr. Muse knew what she was referring to. He said it ran behind the septic system and flowed to the next road down, Simon Ricker Road. Mr. Muse stated that it didn't affect the septic system.

Diane S. asked if there were any issues with trucks driving behind the building due to the location of the septic system and pipe to the system? Mr. Muse stated that he would talk to CEO McDonough about it. CEO McDonough asked if they planned on having working material on top of the bed? Mr. Muse stated that he didn't know, he would have to look at the site again. He asked if it would be an issue to drop the material on the edge of the bed? CEO McDonough didn't think so but he didn't want to see any of it on the bed.

Roland L. asked if there would be Jersey barriers dividing each of the areas? Mr. Letourneau stated, "Yup."

CEO McDonough stated he was concerned with big trucks backing over the pipe in order to drop the materials off on site. Mr. Letourneau thought there was room between the Emery Mills building and the building they would be using, for the trucks to back up there and not cross over the septic system. CEO McDonough stated that that was not how it was laid out on the plan provided. Mr. Letourneau stated that he didn't have the septic plan in front of him while he was drawing up the plan. He just wanted to show the board what he wanted to do.

Roland L. stated, "The drive-thru route would be used, one, for the drive-thru purpose, and secondly, for a homeowner that wanted to pick up material." Mr. Letourneau stated, "That was my intention as long as there is enough width there which I thought there was. I didn't actually go there and take a measurement, but I think there is more than 20 feet. In my eyes I have 20 or 30 feet between the building and the lot line." Roland said he was wondering if there would be one-way traffic. Mr. Letourneau said, yes, that is how he had it depicted on the drawing. He said it would be marked out and labeled.

Roger A. stated there should be a site inspection. He said board members could do it on their own.

CEO McDonough asked if they weren't going to move in until April? Mr. Letourneau stated, "The beginning or first of April, as far as the store goes." CEO McDonough stated that he didn't see any problem with the store but he sees many issues that have to be dealt with, with all the other things to be done on site. Roger A. agreed, locations of materials and parking. He said it states that they want greenhouses, is that in five years? Mr. Letourneau stated, "Just a little greenhouse, not acres and acres of greenhouses." Roger said, "I personally have a problem approving that depending on how many buildings will be added and the size of those buildings." Mr. Letourneau stated that he did not want to be limited to what he could do. He said he just wanted a small greenhouse to be able to have fresh tomatoes or something like that.



Mr. Muse asked if the board wanted them to stake the area out? CEO McDonough stated, “Absolutely, but you couldn’t ask for a worse time of year to have to do that.” Mr. Letourneau felt that at the site visit they could measure out the area and see where everything could go. Mr. Muse thought there was enough room.

CEO McDonough asked if the board would prefer a phased approval, for example, approve the store and let them move in, but have the site inspection for the other things after they were able to stake out the area? CEO McDonough asked Mr. Letourneau if that would work for him? Mr. Letourneau stated it would work, as long as it doesn't create a situation that he won't be able to do anything that he is asking to do at this location. Mr. Letourneau stated that the store has to go from its current location because it is too small and the new location will have a kitchen to use that was used by One Earth in the past. Roger A. noted that the the kitchen hasn't been used for over a year by a business, therefore, the approval for the kitchen is null and void and there needs to be a new approval to use the kitchen. Roger said this application is starting from scratch.

Roger A. stated the board would also need to know how many tables and chairs they are going to have. Diane S. agreed because the amount of chairs and tables dictates the amount of parking spaces you are required to have. Mr. Letourneau stated it seemed the first thing they had to do is figure out the location of the septic system then eliminate that area from parking. CEO McDonough stated he agreed with all this and it is why he foresees this taking longer to approve than one more meeting.

Roger A. stated the board will need to know how many tables and chairs before they can approve the business because that dictates parking. Diane S. read from §105-44 'Off-street parking and loading', B(1)(g) which read in part as follows: “One space for each three seats, permanent or otherwise, for patron use for restaurants and other places serving food or beverage...” and from B(1)(h) “One space for each person employed or anticipated to be employed...”.

Roger A. stated, “If all you are going to do is move the store, then the board could probably approve that at the next meeting, but if you are going to add the restaurant and landscaping, etc. then you will be coming back.” *Mrs. Letourneau came in at this time.*

Mr. Letourneau stated that the board had questions. Roger A. stated the biggest question was the number of tables and chairs that you were going to have. Mrs. Letourneau stated she still had to go thru the State so she wasn't sure. Roger said that she would need Planning Board approval as well. He said also the number of parking spaces had to be determined to see if the area would accommodate the number of tables she wanted to have. Mrs. Letourneau thought perhaps three bistro sets and seating with a coffee table area. She said they would be removing a small closet in the building. She didn't think there would be more than 10 seats. Roger said this dictates parking along with the number of employees.

Roger A. stated that the board also asked Mr. Letourneau where the landscaping material would be stored as this might affect the parking area. He said the board was also concerned with the location of the landscaping material and wanted to be sure there would be no trucks driving over the septic system or over the pipe. Mrs. Letourneau thought the pipe was engineered to be able to drive over it. Mr. Muse stated it was not engineered to be able to drive over it. Mr. Muse asked CEO McDonough if the septic was engineered to be driven on? CEO McDonough stated, “No, it is just a stone leach bed and pipe.”

Diane S. speaking to Mrs. Letourneau stated, “Mary I just want you to know it is one parking space for every three seats.” Mrs. Letourneau stated, “OK.”

Roger A. stated that a parking plan needed to be drawn up. Mr. Letourneau stated the parking area would also be affected by the drive-thru. He said if the drive-thru is not permitted then more parking could be located on the other side of the building. He believed the approval of both go hand in hand. He thought he

needed to know if the drive-thru would be permitted before he could plan where the parking will be located. Mrs. Letourneau asked if there was an issue with having a drive-thru? Roger said, no. CEO McDonough stated a drive-thru is an allowed use but there are certain aspects of it that the board has to review. Maggie M. stated, "If the drive-thru isn't going to happen immediately and you just want to move the store right away and you know you are going to have 10 or 12 seats in the coffee seating area, you know that that is about four or five spaces plus a couple for the employees. If you started off with that and then later when it came time for construction for the drive-thru and you had to adjust where to put them, you could at least operate in the mean time."

Mrs. Letourneau stated that she didn't want to have to come back and do this again. She said this was Keepin it Local a second time around. She said she would like to find out what she can do and what she needs to provide in order to do that. Roger A. stated that with respect to the greenhouses which is in the five year plan, he would be very uncomfortable saying today that they could do that without a plan, size or how many or any details, he would not approve granting that. Mrs. Letourneau stated, OK. Roger said there were too many variables and no details. Mr. Letourneau asked if he was talking about the greenhouse idea? Roger said, yes.

Roger A. said with respect to the drive-thru and seating area, the board just needs to know how many tables and where they are going to be located in the building. Roger said with respect to the food service, what type of food? Will there be dinners served? Mrs. Letourneau stated it was going to be local food, and yes, maybe it would be dinners that people will take out. Roger said the board needed to know and what the operating hours are going to be. Mrs. Letourneau stated that the kitchen might be open all day and if the drive-thru is allowed they would be doing donuts and coffee so she would open early. Roger said the board needs what types of food will be served, the board needs some details.

Roger A. stated with respect to the landscape materials, where are they going to be located because you will not be able to drive over the leach field. What type of material will be stored on site and how much? Will the material storage area impact the drive-thru or parking area? Roger said the area in the building used for classes needs to be depicted on a plan. Roger said the board needs detailed information, hours of operation, how many tables and chairs, parking area, drive-thru, location of the landscaping material and amounts of each, etc.

Mr. Letourneau stated with respect to the pipe to the septic tank can that be driven over? CEO McDonough stated it depended on the depth and it is likely a car can drive over it but not a large piece of equipment such as a truck hauling material. CEO McDonough asked if it was schedule 40 pipe? Mr. Muse stated that it was. CEO McDonough stated it is likely cars can drive over it but not a 10 wheeler. Mr. Muse didn't think a ten wheeler would be going in the area where the pipe was located. He felt there was plenty of parking away from the septic system.

CEO McDonough stated based on the fact the applicant needed to have more detailed information and a better plan, which he said he would be happy to help the applicant with if they called him and came in, he thought the application should be reviewed on March 11<sup>th</sup> instead of at the next meeting. This would give the applicant more time and the board time to do their individual site visits.

Roger A. stated that with respect to the storage of materials on site and the water issue, he wanted to be sure the landscape materials wouldn't be leaching into the water. Mr. Letourneau stated the stream is just run-off. Roger said, "Even so, nothing can be stored so it is leaching into the water which will be carried off site." Steve was concerned the board wouldn't be able to see the property at this time due to the snow on site. Mr. Letourneau asked how the process might work if they did it in phases? Would he have to apply for another permit? CEO McDonough stated, no, you just will have to get approved in phases. Mr. Letourneau stated it will take some time to get the kitchen up and running. He said at this time moving the store in and

improving it, having more space, is the first priority. Mr. Letourneau stated he won't be selling any landscaping material for a few months, so there is no rush on that. Mr. Muse said he felt the drive-thru should be included in the initial approval and then the storage of materials and placement could be dealt with after. Mr. Letourneau agreed that would work.

***Board members agreed to do a site inspection on an individual basis. A Notice to Abutters shall be mailed and a Public Hearing notice shall be posted for Tuesday, March 11, 2014, to be held at 7:00 p.m.***

CEO McDonough stated again that the Letourneau's could come to his office to discuss their plans to make sure they had everything on paper that the board would want for the meeting on March 11<sup>th</sup>. He asked them to call him to set up an appointment as soon as possible.

Roger A. stated once again that one thing they would need is the seating area and how many seats would be in the building. Mrs. Letourneau asked if outdoor seating counted? Roger said, yes.

Roger A. stated the application is tabled until March 11, so additional information can be provided to the board. Nothing further was discussed.

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**Best Possible Location – Replace Existing Structure with Expansion – Map 30, Lot 57 (49 Treasure Island Road) – Scott McLeod Applicant; Norm and Melissa Albert, Future Property Owners (Purchase and Sale Agreement)**

Mr. McLeod was present for the review of the application along with Norm and Melissa Albert.

Along with the application, Mr. McLeod provided a sketch plan which depicted the proposed location of the new structure. This plan was a picture of an aerial view of the property which included the existing home which was very hard to see on the plan. Also provided was a copy of the Subsurface Wastewater Disposal System Application, dated 8/7/1991, done by Kenneth Gardner, SE #73.

The Town of Shapleigh currently lists the owners of Map 30, Lot 57 to be David, Marcia and Gladys Clark. Mr. McLeod was told he would need to provide either a copy of the signed Purchase and Sale Agreement showing the Albert's have interest in the property or a letter from the current owners of the property stating he could represent the applicant's interest. It was also noted by the CEO during the meeting that the percentage of lot occupied by structures was not correct on the application. The board would need the corrected information for the next meeting.

Roger A. asked Mr. McLeod to tell the board what the applicants wanted to do. Mr. McLeod stated that the property was on Square Pond. He said the Albert's wanted to tear down the existing structure and build a new structure. He said the Albert's wanted to see if the board would allow them to rebuild the structure before they purchase it. The board looked at the plan he provided which was an overlay and he pointed to where the existing structure was because it was hard to see. He said the proposed location of the new structure is staked out on the lot and he showed the board where the new septic system would be located.

Barbara F. asked if the proposed structure was closer to the side lot line? Mr. McLeod stated, yes, but it was due to the location of the new septic system. He stated that because the board wants to see the structure moved back from the water and considering the location of the septic system, this location seemed to be the best possible on site. Diane S. asked when the septic system was put in? Roger A. looking at the plan stated, 1991.

Mr. McLeod noted the plan he provided wasn't a survey. He said when you go on site the new location appears to be 12 or 15 feet from the closest property line. Barbara F. stated that was fine compared to what it

looked like on the sketch which showed the new structure just about on the property line. Mr. McLeod agreed and said it is not as close as on the sketch.

CEO McDonough asked what the 5 foot reference was on the plan? Mr. McLeod stated he wasn't sure, he said some of the numbers had to do with the existing structure. CEO McDonough asked if the structure was still on site? Mr. McLeod stated it was.

Roger A., looking at a copy of the existing deed, asked what was meant by “Subject to flowage and other rights referred to in deed ...”? Roger asked if there was a stream on site? Mr. McLeod stated there was no stream on site or near the site. Diane S., who lives in this area, agreed there was no stream.

Roland L. asked what the sketch plan depicted? Mr. McLeod stated, house and garage. Roland asked if the proposal complied with the 30% expansion allowed? Mr. McLeod stated that only part of the structure is within 100 feet of the water, so there isn't an issue.

CEO McDonough stated that the application states that the lot coverage at present is 10% and they are requesting 13% lot coverage. Both CEO McDonough and Roger A. stated he could not exceed the 10%. Mr. McLeod stated this was filled out wrong and he would correct it for the next meeting.

**Roger A. stated board members will do a site inspection on an individual basis. A Notice to Abutters will be mailed as well. The application will be brought up at the next meeting on Tuesday, February 25<sup>th</sup>.**

Nothing further was discussed.

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**Best Possible Location – Replace Existing Structure with Expansion – Map 21, Lot 36 (77 24<sup>th</sup> Street) – Scott McLeod, Applicant; Lynn Legay, Property Owner**

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

Along with a copy of the application, Mr. McLeod provided a copy of the Subsurface Wastewater Disposal System Application, dated 8/18/2006, done by Albert Frick, SE #163, and a survey plan of the lot showing the location of the existing structure on the lot, along with the proposed structure which does include an expansion.

*Board members noted that this application did not have the correct lot coverage listed and asked Mr. McLeod to provide that for the next meeting. Also on the application it does not appear Ms. Legay's signature is present.*

Mr. McLeod began by showing the proposed plan for the new structure. The proposed structure will be placed entirely beyond the 100 foot mark to the high water mark.

CEO McDonough stated that while doing the lot coverage calculation for this property the sheds on site can be included. Board members noted that the existing structure being 1,164 sq. ft. may already exceed the lot coverage requirement, therefore, the proposed cannot have any additional square feet. Diane S. asked, “What if they got rid of the sheds?” CEO McDonough said, “Yes, the sheds count.” Mr. McLeod said the square footage can be recalculated to meet the parameters. He noted that he hadn't calculated the existing deck and stairs. CEO McDonough stated that stairs do not count but decks do. Mr. McLeod stated that would be another 100 square feet added to the calculation of the existing structure. He wasn't sure Ms. Legay would want to forfeit the sheds but he would discuss it with her.

Roger A. reminded Mr. McLeod when calculating square footage, looking down upon the earth, the roof overhangs had to be calculated in for both the existing structure and proposed. Mr. McLeod stated the existing structure had big overhangs so he would get more square footage.

Mr. McLeod asked what the board felt about his proposal for the new structure with respect to setbacks? He said he could re-design the home. Roger A. stated that the proposed structure was more conforming than the existing, except with respect to the road setback. He felt because of this, the location would be advantageous.

Roland L. asked what the L-shaped figure depicted on the plan was? Mr. McLeod stated it was a concrete wall in the parking area. Roland asked if it was a retaining wall? Mr. McLeod stated that it did act as a retaining wall and there was no intent to remove it because there still would be parking there.

Roland L. asked if the location of the proposed structure was staked out? Mr. McLeod stated that it was not. Mr. McLeod stated he was concerned with the proximity to the road and what the board thought about the location. CEO McDonough asked if the Town plowed the road? Mr. McLeod wasn't sure. CEO McDonough asked if the Town had an easement on the side of the road? Mr. McLeod stated there was an easement on the plan on the side of the road. CEO McDonough asked what the distance to the road was from the proposed structure? Mr. McLeod didn't know, but he did know he wasn't far from the easement.

The board looked at the septic design to see the location of the system which was put in in 2006. It was located between the existing structure and the largest shed on site. The design stated that the tank was to be located 8 feet from the structure and a minimum of 10 feet from the property line. The disposal area appeared to be approximately 8 feet from the largest shed.

The plan depicted what appeared to be a driveway along the lot line going to the neighbors property, Map 21, Lot 36A. The board asked about it because the proposed structure would be relatively close to it. Mr. McLeod stated that the driveway was used at one time but now there was a shrub line going along the Legacy property line. Roland L. asked if the driveway was discontinued? Mr. McLeod stated there is no evidence of the driveway on site at this time. He noted the sketch plan the board was looking at was taken from an old survey plan.

***Roger A. stated the board would do a site inspection on an individual basis and a Notice to Abutters will be mailed. The board will review this application again at the next meeting on Tuesday February 25<sup>th</sup>.***

Nothing further was discussed.

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**Other:**

**LaMarr Clannon of the non-profit group, NEMO (Nonpoint Source Education for Municipal Officials), gave a presentation on Low Impact Development and how it can reduce stormwater impact, reduce cost of development, improve treatment of pollutants, improve infrastructure that might impact surface and groundwater, protect drinking water, protect buffers and build community resiliency for climate change.**

Ms. Clannon was a dynamic speaker on the subject of stormwater impact and how to mitigate stormwater pollution for large scale developments down to what the homeowner can do to prevent pollution and protect the streams, rivers, lakes and drinking water supplies. In many cases it is just a matter of using vegetation in such a manner that it filters the pollutants from the water before it can enter the streams, rivers, lakes, etc.

Other ideas were presented such as porous pavement, and rain gardens that help to filter the stormwater and stop the sheeting action that takes place due to impervious surfaces which in turn creates erosion and leaching of phosphorous and other toxic chemicals that not only come from the surface pollution but also the rainwater itself due to industrial pollution. High water levels are also a problem that adds to the streams, rivers, and lakes ability to naturally clean stormwater due to excessive erosion and silt build-up, as well as the destruction of the natural vegetation that filters stormwater.

Board members hope Ms. Clannon will be able to speak to local lake associations as they believe her presentation will be very eye opening and hopefully help to mitigate some of the issues that are seen along the lakes such as the destruction of existing vegetation. She stated that she would be happy to speak to anyone on the subject and left her contact information.

The board was extremely pleased with the presentation and hopes to be able to utilize some of the advice given, possibly by way of Ordinance changes and/or simply passing along ideas to the local homeowner. All members agreed it will be hard to get contractors on board and wished Ms. Clannon could hold such meetings for contractors. She did in fact state she would be happy to do so but couldn't find any way to get them interested in her discussion of the subject, but she was open to ideas. The board thought that if the State would make it mandatory for contractors to listen to her presentation then perhaps some might understand the impact of storm water and the fact that mitigating it in many instances saves them money.

The board thanked Ms. Clannon and Dennis Finn, of the Saco River Corridor Commission, for bringing this presentation to the Planning Board.

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**Growth Permits – There are growth permits available.**

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

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**Planning Board meeting adjourned at 10:20 p.m.**

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

# **SHAPLEIGH PLANNING BOARD**

## **MINUTES**

**Tuesday, February 25, 2014**

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

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**Planning board meeting began at 7:30 p.m.**

**The minutes from Tuesday, February 11, 2014, were accepted as read.**

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*Note: The minutes are not verbatim unless in quotes.*

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**Best Possible Location – Replace Structure Destroyed by Fire – Map 23, Lot 10 (37 Starboard Lane) – Scott McLeod, Ash Cove Construction, Applicant; Robert & Joseph Lincourt, Property Owners**

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

At the preliminary review of the application on Tuesday, January 14, 2014, Mr. McLeod provided the board with a plan done by Corner Post Land Surveying, dated 1/13/2014. The plan depicted the entire lot (Map 23, Lot 10), which consists of 1.94 acres. The plan also depicted a road (right-of-way) which runs through the property, an existing concrete pad, what remained of the concrete block wall of the destroyed camp, and lines depicting the approximate footprint of the original camp. In addition to the application and site plan, received was a replanting plan done by Salmon Falls Nursery & Landscaping of Berwick, Maine; a septic design done by John Toothaker, SE #347, dated July 27, 2013; a copy of the Town's property card which has a picture of the destroyed structure and the structure dimensions; and a plan provided by Corner Post Land Surveying which shows the aerial view of the property. Board members did a site inspection on Saturday, January 18<sup>th</sup>.

On Tuesday, February 11<sup>th</sup>, Mr. McLeod provided a new plan that depicted the new structure would be 25 feet back from the existing structures location at the foundation but the covered porch would be extending toward the water, so the overall footprint would not be 25 feet back farther from the high water mark but 21.4 feet. Board members asked Mr. McLeod to stake out the new location on site so they could do a final site inspection for the new proposed location. Members did a site inspection on an individual basis prior to this evenings meeting.

Roger A. began by asking if the board members had a chance to go to the Lincourt property? Madge B. stated that she did go to the site but she had trouble with knowing what the stakes meant and she noted that in the minutes Mr. McLeod did have a concern that this would be possible without him on site. Roland L. stated that on site he assumed the stakes marked 'eave' were going to be the location of the roof overhangs. Mr. McLeod stated, "Correct". Roland thought it was well laid out based on the information discussed at the last meeting.

Mr. McLeod stated that Corner Post Land Surveyors set the stakes to the exact location on the face of the earth looking down from the sky, as discussed at the last meeting. He asked board members if they also were there after the trees to be removed were labeled? He said that 'all' the trees to be taken down were labeled at this time. He said there were 32 trees to be removed and all the tags were numbered. Roland L.

was concerned with what he thought were 'dwarf' trees not being marked for replacement. He believed they were part of the replanting plan from the original revegetation required for the wall replacement. Roland noted that they were scorched from the fire and didn't believe they would live much longer. He asked if the plan was to leave those and not replace them? Mr. McLeod didn't know as he wasn't involved with the marking of the trees, he left that up to the applicants. He stated the Lincourt's took the new plan for the house and labeled the plan where the trees were going to come out.

Roland L. stated, "I had 80 plus large trees, which you said were 32, and I had the dwarf trees." Mr. McLeod stated, "He said they counted every single tree that is going to be cut down." Roland said, "Then he left out those dwarf and maybe they will survive but they look really scorched and I don't think that was consistent with the original intent. That lot had huge trees on it until they built the replacement wall and I remember that. It was like somebody dropped a bomb on there and leveled all the trees in the front. There was a replanting done but in my opinion they were dwarf specimens, so they are yea tall and they are not going to get big. I don't think that was the intent of the replanting, you are supposed to put something that is going to grow to its full size like what was there." Mr. McLeod said that he agreed but could not say anything about that because he wasn't involved with that. He said he was very specific based on what the board said and the rules and regulations, so what is called out on the new plan is 32, 6 foot trees, to be replanted. He thought if there was four or five trees that aren't labeled and they do not live or the board wants them replaced, he didn't see that it would be an issue. He said he asked Joe Lincourt to mark the trees to be removed. Roland said there was no question as to which trees were being removed on site. Roland said, "I would like consideration given to the viability of those trees that are left there and whether they should be replaced as well."

Roland L. stated that when the trees are removed for the new structure it will be very noticeable. Madge B. stated that she agreed.

Madge B. asked Mr. McLeod to show her on the plan what she was looking at because she wasn't sure when she was on site. He pointed out the structure location as well as the porch and overhang area. She said she was abit confused with the amount of stakes. She asked if the porch was a wrap around porch? Mr. McLeod said, "Yes".

Roland L. stated that he noticed the tree up against the shed had a cut ribbon on it, he asked if the shed was going to be removed? Mr. McLeod stated that the shed was staying. Roland spoke of the porch elevation and noted CEO McDonough's concerns at the last meeting with respect to the elevation being such that someone could put blocks underneath. Mr. McLeod stated that that was not going to be an issue. Mr. McLeod asked about the existing patio on site and wanted to know if the Lincourt's removed the patio, if they would be able to use the square footage for a patio in another location? CEO McDonough stated, "Not necessarily in the same spot." Mr. McLeod asked if he could keep the same square footage elsewhere and he asked why it couldn't remain in the same location? CEO McDonough stated that it was a structure and is subject to best practical location just like the house is, therefore, the board has the ability to move it to a more suitable location. Mr. McLeod stated he just wanted to know if he had to tear out the patio? Madge B. thought that at a previous meeting the applicants stated that they would like to keep the existing patio if possible. Mr. McLeod stated the fire pit would have to be moved because it was too close to the house.

Madge B. asked, "How much further to the water was the old house?" Mr. McLeod stated the deck was actually right on top of the existing wall so it was right near the water. Madge said she was just curious how far back the proposed structure was moved.

Roland L. asked about the roof line, was it going to shed water away from the lake? Mr. McLeod stated the roof line is such that water will shed in all directions due to several gables. He said he would have a drip edge with crushed stone and the water will be diverted to the back of the property.



Roger A. noted there would need to be some regrading where the trolley system was to prevent water from going into the lake. Mr. McLeod agreed.

Mr. McLeod stated the original replanting plan would not work with the new structure, so that was why he added the trees to be replaced on the new plan presented. CEO McDonough asked if the trees to be cut were on the plan? Mr. McLeod stated that the trees to be cut and the replacement trees are in line with each other. Only 32 trees are noted on the plan.

Roger A., speaking of the existing patio, stated that if the patio is to be moved and the location is not on the approved plan, the applicants will have to come back to the board for an amendment to their approval. Mr. McLeod asked if it is on record that they have a patio on site, would they have to come back to the board if they decided to move it? Roger said yes, any changes to the approved plan have to come back before the board. Mr. McLeod said, "Patio included?" Madge B. stated, "Any change to the plan." Mr. McLeod asked if the patio was more than 100 feet would it be an issue? Roger said that anything approved on the plan, as looking down upon it, any change to it, has to come back before the board. He said if for any reason, there was something on site that they wanted to preserve so it changed the plan, they would have to come back before the board. Mr. McLeod stated, "That makes sense."

Madge B. asked about ground cover? Roger A. stated ground cover would have to be established or mulch used where the building was located. Mr. McLeod stated that the area would be loamed and seeded. Roger said the board preferred not to have lawn but native vegetation because that is what the ordinance calls for. Roger read §105-4 'Nonconformance', (7) 'Relocation' (b) [1] [b] "Other woody and herbaceous vegetation, and ground cover, that is removed or destroyed in order to relocate a structure must be reestablished. 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 said if there was grass there you can put it back, otherwise, they should use native vegetation. Madge noted there wasn't grass there because the building was located there. Roger said, "Right". Roland L. stated that the ground couldn't be left exposed so something would have to be put down. Mr. McLeod agreed and stated that he was considering erosion control mulch, crushed stone and lawn. He said it wouldn't be left exposed.

Roger A. stated, "Obviously the overdig has to be re-established so whatever you are going to re-establish with, has to be written, in order to give Steve a heads up when he goes and looks at the property, so he will know what the Planning Board approved." He said, then he can determine whether or not the applicant did what the board approved. Mr. McLeod said he would re-establish the area with an approved product. Roger said, "What is it?" Mr. McLeod didn't know why he had to tell the board this evening what it was going to be. Roger said, "Because once we give the approval, it gives Steve the authority while on site, to say whether or not that is what it is." Roger said that CEO McDonough has to know what the board approved to re-establish the area. Mr. McLeod didn't understand why he had to say what would be where, as long as he used approved materials. Roger said the board wants something for the Code Enforcement Officer to use for oversight of the project. He said the person will not get the occupancy permit for the building until the project is finished which includes restoration of the area. Mr. McLeod stated that he has never had to tell what will be where, specifically. CEO McDonough stated, "Then you have never been in front of this board because this is what they always do." Roger said there should be a plan showing the location of the vegetation such as where blueberries would go, or juniper, and how large an area they will occupy.

Mr. McLeod stated the topography of the land would dictate where some of the vegetation would go. He also didn't know what the applicants may or may not want. Roger A. still had issues not having anything on paper for CEO McDonough to look at while determining if the area was re-established as the board wanted. Mr. McLeod stated again he was confused. He said, "I had brought what the board had asked for, location of the trees and placement of trees; replacement of the house, what type of house and where it was going;

and I brought all that in.” He said, “Now you are asking is it going to be grass, is it going to be mulch, is it going to be plantings, a landscaping plan.” Roger said that, yes, they need a landscaping plan. Note: Roger had read Chapter 105-4.(7) 'Relocation' in its entirety at the meeting held on January 28, 2014, which states in part “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.”

Mr. McLeod asked if there would be an issue with stating he was going to put 2 feet of stone along the foundation and then erosion control mulch everywhere else, then if the applicant puts in 20 blueberry bushes, is that an issue? CEO McDonough stated, “That is not a problem. Now if all of a sudden there are patio blocks that's a problem.” Mr. McLeod thought they were on the same page. CEO McDonough stated, “That is why it is a lot easier when it's on a plan. We could do this 10 more times during the construction phase and I prefer not to.” Mr. McLeod said he understood.

Roland L. asked if Mr. McLeod could write what he wanted to do directly onto the plan tonight? Roger A. stated that he could. Madge B. understood Mr. McLeod's dilemma having to speak for all the owners. Mr. McLeod stated he knew how the project had to be done with respect to erosion control. Roland asked Mr. McLeod if he had the list of preferred ground covers for the area. Mr. McLeod stated that he believed he did.

Madge B. asked Mr. McLeod to address the concrete pad as well at this time. Roger A. believed they wanted to keep the patio. Roland L. asked roughly how large the patio area was? Mr. McLeod thought it was approximately 20 feet by 30 feet. Mr. McLeod stated that he believed there would be an area 10 x 30 feet within the 100 foot mark, aligned with the back of the structure, so 90 feet from the water. He stated there would be a four foot walkway from the patio to the daylight basement door. It was noted there was a walkway from the patio to the door of the destroyed structure, and the fire pit would be moved away from its current location, since it would be too close to the new structure.

Mr. McLeod stated that there would be a 3 to 5 foot maximum area of crushed stone at the bottom of the stairs. CEO McDonough asked why there would be crushed stone at the bottom of the stairs? Mr. McLeod said just to allow water to filter through it. CEO McDonough stated that commonly there is a 3 foot patio area to land on. He said that they also need it because the stringers cannot dead end into loose stone. CEO McDonough also didn't want to see crushed stone beyond the patio landing. He stated they should use whatever is a standard patio landing, he didn't want a crushed stone area to now become more patio blocks, as he has seen this happen in the past. Mr. McLeod asked if he should put it on the plan? CEO McDonough did not think he had to, as there is a standard that would have to be followed for the stairs.

Mr. McLeod stated that he added to the plan, 'Erosion control mulch over all disturbed areas and reclaimed areas; patio to be no closer than 90 feet to the water; four foot walkway to the door; patio no wider than 30 feet.’ CEO McDonough stated it was up to the Planning Board if they were fine with the notation.

Roland L. also wanted included a note stating the applicants would revisit the health of the existing dwarf trees. He said he wasn't suggesting that they be cut down but if it is determined they are dead he would like the applicants to replace them. CEO McDonough asked where Roland would like to see them placed, in their current location or closer to the water? Roger A. also felt the trees would not make it because of the heat of the fire they were exposed to. CEO McDonough thought that perhaps they were not addressed as the Lincourt's disregarded them when doing their tree count. Madge B. agreed. Mr. McLeod didn't think there would be an issue with replacing them, he added that they were a buffer between themselves and the neighbor's property. Mr. McLeod made a notation on the plan to replace them. Roland wanted others to be aware these were trees that they were asked to plant when they removed the numerous large trees when they built the retaining wall. Roland again didn't feel they would survive and should be replaced with a normal

size tree. Mr. McLeod's notation stated that *if the dwarf trees on site do not make it, they shall be replaced with six foot minimum trees.*

Roger A. asked when the project would be completed by? Roger asked if the board could establish a completion date of September 15, 2014. Mr. McLeod stated, "Yes". Roger said that would be including the replanting plan. Mr. McLeod stated, "Yes".

Roger A. read §105-4.(D) 'Nonconforming structures' (1) 'Expansions; (5)(a) 'Removal, reconstruction or replacement'; and (7)(b) 'Relocation'.

Roland L. asked Mr. McLeod if everything left from the existing structure would be taken off site? Mr. McLeod said, "Yes, it will not be buried on site." CEO McDonough asked if it was going to be taken out of Shapleigh? Mr. McLeod said, "Yes."

**Roger A. stated the Conditions of Approval were:**

- 1. Best Management Practices shall be maintained until the project is completed. The contractor doing the construction shall be licensed by the DEP in erosion control.**
- 2. The Permit by Rule shall be filed with the DEP, so they are notified of the project.**
- 3. All debris shall be taken out off site and out of Shapleigh.**
- 4. The project, including all re-vegetation shall be completed by September 15, 2014. If this cannot be accomplished another date shall be established by the Code Enforcement Officer.**

CEO McDonough asked if there was a septic design on file? Mr. McLeod stated a new design would have to drawn up, due to the fact the house location was moved after the original test pit was done. Roland L. believed the new system would be beyond the 100 foot mark based on the location of the house. Mr. McLeod believed this was true as well.

**Roland L. made the motion to approve the best possible location presented on the final plan done by Corner Post Land Surveyors, entitled 'Plan Showing a Boundary Survey for John M. Lincourt, Robert B. Lincourt, Ann M. Bourque, Joseph G. Lincourt, Michael R. Lincourt, Mary M. Hermann & Kathryn J. Gabrielle', dated 2-13-2014, for Map 23, Lot 10, showing the new structure to be 29.3 feet from the high water mark at its closest point, 32.1 feet at the closest point to the lot line of Lot 11, and 49.6 feet at the closest point to the lot line of Lot 9; the replanting plan for trees and site restoration shall be done as noted on the plan, and with the above stated conditions. Madge B. 2<sup>nd</sup> the motion. All members were in favor. Members voted for approval, 4 – 0. The motion passed unanimously.**

Nothing further was discussed.

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**Best Possible Location – Replace Existing Structure with Expansion – Map 21, Lot 36 (77 24<sup>th</sup> Street) – Scott McLeod, Applicant; Lynn Legay, Property Owner**

Mr. McLeod was present for the review of the application. Board members did a site inspection on an individual basis prior to this evenings meeting.

Mr. McLeod, at the previous meeting, provided a copy of the Subsurface Wastewater Disposal System Application, dated 8/18/2006, done by Albert Frick, SE #163, and a survey plan of the lot showing the location of the existing structure on the lot, along with the proposed structure which does include an expansion. The proposed structure will be placed entirely beyond the 100 foot mark to the high water mark.

The board at the last meeting asked Mr. McLeod to provide the correct lot coverage calculations along with a signature from Ms. Legay stating he could represent her at the meeting.

Roger A. asked Mr. McLeod if he had the letter from Ms. Legay stating he could represent her interest? Mr. McLeod asked Barbara F. if Ms. Legay had emailed her approval as she stated she would? Barbara stated she checked her email just before the meeting and there was nothing from Ms. Legay. Mr. McLeod stated he would ask her to send the email again and he made sure he had the correct email address.

Mr. McLeod began by stating he looked more closely at the lot coverage calculations based on the discussion at the last meeting. He stated the proposed structure was going to be 1,296 square feet before overhangs which were not added into this calculation. He said the current measurement of the old structure with the porch and deck which had not been included previously, is 1,438.54 square feet. He noted there was a concrete planter as well on site. He said that would add more square feet if that measurement was used. He noted that the concrete area came off the building 30 inches and ran alongside the building. He said, not including the planter, the proposed structure was less than the existing, so he met the ordinance lot coverage allowance.

Madge B. asked how close the house is to the boundary? Mr. McLeod stated the existing structure is right on the line. (Note: The abutter to this property, Cheryl Mood, stated that the existing is partly on her property, Map 21, Lot 38.) Barbara F. asked how far off the line the new structure would be? Madge stated, about five feet. Barbara said the abutters were in the audience and they had some questions. Mr. McLeod stated that he had spoken with them earlier about the project. Barbara thanked him for doing so. Mr. McLeod noted the five feet is with the overhang.

Roland L. said he thought there were several large trees and some small ones that would have to be cut for this project. Mr. McLeod said there was some talk, before this project, about taking down some trees. He asked CEO McDonough if there was a permit to cut trees on this property. CEO McDonough looked in his files and did not see any but asked what the name of the abutting property owner was. Cheryl Moody stated she believed the Kennedy's got a permit to cut down a tree struck by lightning. She also thought Bartow, another abutter, may have gotten a permit for two trees near the road. CEO McDonough did have a recent permit for Bartow, Map 21, Lot 37, for two trees.

Madge B. stated that any trees being cut for the reconstruction of this building need to be on the plan, along with a replanting plan. After further discussion, Mr. McLeod thought two existing trees located beside the structure would have to be removed. He place their location on the plan, along with the placement of two new trees. There was a question, because the structure was located beyond the 100 foot setback, as to whether or not replanting the trees would be required. After reading the ordinance, Madge and the entire board concluded the trees did have to be replanted according to §105-4.D(7)(b)[1], which reads in part as follows: Trees removed in order to relocate a structure must be replanted with at least one native tree, six feet in height, measured from the base of the trunk to the top of the tree, for every tree removed.

Roland L. noted he saw five trees to be cut and one was located next to the road and had a street light on it. He asked Mr. McLeod if he knew if that would be cut? Mr. McLeod did not know. He said he wasn't sure if Ms. Legay felt any other trees would be a threat to her home. Cheryl Moody said the oak tree and beech tree are quite close to the house.

Roland L. asked about the two outbuildings. Mr. McLeod stated Ms. Legay wanted to leave them there.

Mr. McLeod noted that the plan showed the footprint of the new structure only, with the overhangs. He said he has nothing else on paper with respect to the inside design of the new home. He wanted to be sure the footprint would be approved by the Planning Board first. He said the new house would be no closer than

five feet with the overhangs to the side lot line. Speaking to the abutter, Cheryl Moody, he stated the foundation would be six feet from the property line.

Roland L. speaking to CEO McDonough, asked if the new structure being closer to the road was a problem? CEO McDonough did not believe it was.

Roger A. asked Mr McLeod, “When digging the foundation how close will you be to the property line?” He asked Mr. McLeod if he would be going onto the neighbors property and affecting the property? Mr. McLeod said, “No, I won't be on their property at all. If I have to drive over it, I will ask permission.” Mr. McLeod did state that there would be some disturbance to the neighboring property during the removal of the existing because it is already over the property line. The neighbor didn't have an issue with this, as long as the area would be restored as noted in the ordinance that Roger A. read earlier. Mr. McLeod stated he would not be leaving any ground exposed.

Roger A. asked the abutter if they had any issue with Mr. McLeod removing the oak tree stump, if he needed to? The abutter stated that that was not a problem and if he needed to remove a tree that would be ok as well, as long as he incurred the cost and spoke with them about it first. Cheryl Moody didn't want it to become a hazard for Ms. Legay's new home. Mr. McLeod stated he would discuss it further with the abutters when the project began.

Roger A. asked if there were any changes to this evenings plan other than the side lot line dimension changed to five feet due to the overhang? Mr. McLeod stated there was not. Roger noted that the 17 feet on the other side would now be 16, again due to the overhang. Mr. McLeod stated, yes.

Roger A. stated that because he just read §105-4.(D) (7)(b) 'Relocation', he wasn't going to read it again unless someone had questions. Madge B. noted that the board needed to have the trees that are going to be removed placed on the plan and the location of where the new trees will be planted. Mr. McLeod stated that all the trees that have to be removed are beyond the 100 foot mark. Madge stated the ordinance is not entirely clear as to whether or not it only applies to trees within the 100 foot mark. She stated that further in the ordinance §105-4.D(7)(b)[1], reads in part as follows: Trees removed in order to relocate a structure must be replanted with at least one native tree, six feet in height, measured from the base of the trunk to the top of the tree, for every tree removed. She said that this pertains to trees in the *shoreland* zone and this is all the shoreland zone. Mr. McLeod place the location of two trees to be removed on the plan along with two replacement trees.

Madge B. asked if Mr. McLeod was going to put crushed stone along the edges of the structure? Mr. McLeod stated, “Yes, for controlling water.” Madge asked how Mr. McLeod was going to keep water from going down toward the lake? Mr. McLeod stated the hillside is already revegetated. He said he did not have any additional measures to stop all water from going downhill toward the lake. He thought the stone catches around the roof will help slow the water down.

Madge B. asked where the old house would be moved to? Mr McLeod stated it would be going to an out-of-town landfill.

CEO McDonough stated that as a general condition it could be stated that all exposed soil will be stabilized. Roger A. agreed.

CEO McDonough noted that when you remove a camp and put in a new foundation you usually affect 10 to 20 feet all around the structure. Madge B. stated that was why they were concerned that building the new structure might affect the neighboring property. Roland L. wanted Mr. McLeod aware that he could not

create a situation where he was forcing stormwater from this structure to go onto the neighboring property. Mr. McLeod stated he understood.

Roger A. stated Best Management Practices would need to be done by a contractor licensed by the DEP. Roger asked about a completion date. Mr. McLeod stated the project would not be starting until May and would go through October.

CEO McDonough stated that there needed to be a survey of the height of the existing foundation so it can be determined the new structure is not elevated more than three additional feet than the existing. Mr. McLeod asked if he was talking about the first floor and not the second story. CEO McDonough said, "Right, so you will need a surveyor to take an elevation of the existing, prior to tearing the structure down." CEO McDonough stated he was concerned, as often when the earth work gets done, and no one has taken a prior elevation, then no one can determine what the original elevation was. Mr. McLeod stated that he understood.

Roger A. stated that Best Management Practices would have to be followed with this project and the contractor had to be licensed with the DEP, but a Permit by Rule would not be required since it was located greater than 100 feet from the high water mark.

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

- 1. There shall be a survey of the existing structures elevation prior to removal to determine the new structure shall not be elevated more than 3 additional feet in height than the existing.**
- 2. Best Management Practices shall be maintained until the project is completed. The contractor doing the construction shall be licensed by the DEP in erosion control.**
- 3. All debris shall be taken out off site and out of Shapleigh.**
- 4. The project, including all re-vegetation and stabilization shall be completed by November 1, 2014. If this cannot be accomplished another date shall be established by the Code Enforcement Officer.**

Madge B. noted that after reviewing the ordinance, she concluded that whether or not the structure was beyond the 100 foot mark, any trees removed during the project had to be replaced. Roger A. agreed.

Madge B. asked about the septic system, was it going to be changed? Mr. McLeod stated, no, the existing septic system was fairly new. Roland L. noted it was put in in 2006. CEO McDonough asked how many bedrooms it was designed for? Mr. McLeod stated, three. (The septic system was designed by Albert Frick, SE #163, it was a 1000 gallon concrete tank with disposal field, was designed for 3 bedrooms at 90 gallons per day each, and was designed and a permit issued in August 2006.)

**Madge B. moved for approval to replace the existing structure on Map 21, Lot 36, per the plan provided, including the site restoration notations, locating the structure 100 feet beyond the high water mark, with the side setbacks being 16 feet to the closest point to the lot line of Lot 36A and 5 feet to the closest point to the lot line of Lot 38 including overhangs, with the above stated conditions. Maggie M. 2<sup>nd</sup> the motion. All members were in favor. Members voted for approval, 4 – 0. The motion passed unanimously.**

Nothing further was discussed.

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**Best Possible Location – Replace Existing Structure with Expansion – Map 30, Lot 57 (49 Treasure Island Road) – Scott McLeod Applicant; Norm and Melissa Albert, Future Property Owners (Purchase and Sale Agreement)**

Mr. McLeod was present for the review of the application along with Norm and Melissa Albert. Board members did a site inspection prior to this evenings meeting on an individual basis.

During the meeting on Tuesday, February 11, 2014, Mr. McLeod provided a sketch plan which depicted the proposed location of the new structure, this plan was a picture of an aerial view of the property which included the existing home which was very hard to see on the plan. Also provided was a copy of the Subsurface Wastewater Disposal System Application, dated 8/7/1991, done by Kenneth Gardner, SE #73.

The applicants were asked to provide a copy of the Purchase and Sale Agreement showing they had interest in the property. Mr. McLeod provided a copy of the P & S at this evenings meeting.

Board members began by discussing trees on site that they believed would have to be removed. Roger A. stated a large pine and several hardwoods would need to go, based on the plan provided.

A citizen was present and stated that his mother was a direct abutter to this property, therefore, he was here to see exactly what the stakes on site indicated and what the project entailed. Mr. McLeod stated the four stakes on site were for the house structure, there were no stakes for the garage.

CEO McDonough asked if the existing and proposed structures were on the plan? Mr. McLeod stated the proposed were the blue lines on the plan, the existing was somewhat visible (the plan was a Google earth picture of the property). CEO McDonough asked what the distance to the property line was? Mr. McLeod stated that no survey had been done at this time. He thought based on what he was looking at, the new structure would be 5 to 8 feet from the side lot line. Mr. Albert, one of the applicant's, stated that he didn't have a problem moving the structure left or right if the board thought that that was the best possible location. Mr. McLeod stated that there was an existing septic system that was done in 1991, so they had to work around that location.

CEO McDonough asked where the 100 foot mark was. Mr. McLeod pointed it out on the plan and it indicated part of the structure would be beyond the 100 foot mark. Mr. Albert thought about 10 feet of the new structure would be within the 100 foot mark. CEO McDonough asked how the location was determined? Mr. Albert said he used a survey stake, a pipe that was 90 feet away from it, and based on the landscape of the land and the fact they want a walkout basement, plus the location of the septic system, they felt this was the best possible location. Mr. McLeod stated there was a crown in this location, Madge B. agreed. Mr. Albert noted that at the time they staked out the home, they didn't know the location of the septic system.

CEO McDonough wanted to know what the 25.3" on the plan indicated. Mr. McLeod stated it was the distance to the road. The citizen stated that he looked at the stakes and they ran parallel to his mothers property line. He said that the proposed structure is approximately 13 feet from the lot line.

Madge B. stated that she understands the plan but had a hard time to determine the best location due to the snow on site. Madge didn't know if the structure could be moved back any farther. Mr. McLeod stated that the front of the proposed structure was at the toe of the slope, so if it were moved back they would be moving more earth.

Roland L. agreed that it was difficult with the amount of snow cover to know exactly what the ground looked like. Roger A. stated he wanted to see what the actual size of the structure was going to be along with where it was going to sit on the lot, and the distance to the lot lines. Even though much of the structure will be

outside the 100 foot mark, he wanted to know exactly where it is going to be placed on the lot. He stated that he understood why the applicant's didn't want to get into too much detail or expense because they only had a Purchase and Sale Agreement at this time. Mr Albert asked if the board could agree on a best possible location within 10 feet or so, so they would know if what they wanted to do was possible. He said then he could move forward with the Purchase and Sale Agreement. Roger didn't have an issue with the location presented but he needed additional information before he could approve the location. Roger added that this was his opinion and he could not speak for the rest of the board.

Madge B. asked Roger A. if he was willing to say that he wasn't going to ask the applicant to move it back another 10 feet? Roger said he was giving the applicants the ability to move forward, even if the board moves the structure 10 feet, it is within the area they are asking, so they can move forward and get more details for the board and purchase the property. Madge agreed that the applicant should be able to put a new house on the lot. Mr. Albert asked if they would be allowed to do a 30% expansion of what is already there? Roger said, "Within the 100 feet." Roger noted that if the house is placed where presented, there is only 10 feet of the structure that the applicant has to be limited to the 30% expansion. He said anything outside the 100 feet doesn't apply.

Mr. McLeod stated again that right where the new structure is placed currently is right where the grade starts going up and because the applicant wants a daylight basement, this seems to be the best possible location. Madge B. stated, "The daylight basement would be toward the water." Mr. McLeod stated, "Correct."

CEO McDonough stated, "As far as the 30% goes, if they said this is looking like its possible, and then all of a sudden you came back with a new plan and it showed all of the existing square footage plus 30% is inside of 100 feet, we are going to say 'I don't think so'." CEO McDonough stated there is no grandfathered right to use the 30%. Mr. Albert stated that he understood. Mr Albert stated he chose the location for the new structure, due to the lay of the land.

CEO McDonough asked about the location of the 2 car garage and wanted to be sure no vehicle traffic would be going closer to the lake. Mrs. Albert stated the entrance to the garage would be from the roadside.

CEO McDonough stated, "The other thing I wanted to say is the board can give no guarantee that this plan will be approved, it's not until you get a final approval of what you applied for. At best they could say, without any unforeseen circumstances and based on what you submitted this evening, there is a good probability that you are all set. That's about as good as you are going to get." Roger A. said, "Right."

The applicant's asked what the board needed. Roger A. stated they needed the actual plan showing the size of the existing and new structures; how close it's going to be to the lot lines, water and road; landscaping plan; if any trees are going to be removed, from where and the location of replacement trees. Mr. McLeod reiterated what CEO McDonough stated, that the board can give no guarantees this evening but it was probably doable in close proximity to what they wanted. Mr. Albert felt comfortable with that. Mrs. Albert was not sure. She felt that she would prefer to spend the money on the plans and have an approved plan before moving forward with the Purchase and Sale Agreement.

Maggie M. said, "You mentioned having a 2 car garage coming from the road, that's up where the ground is high." Mrs. Albert said, "Yes." Mr. McLeod stated that the house would be taking the existing hill right out. He said it goes in place of the knoll on site, so the end of the property is flat again. Maggie was concerned with raising the foundation more than 3 additional feet. CEO McDonough asked if there would be a walkout both front and back? Mr. McLeod stated, "Pretty much. You are building a retaining wall on one side of it and building around it." CEO McDonough asked, "Retaining wall?" Mr. McLeod stated, "Foundation."



Madge B. was asking how the elevation would be dealt with? Roger A. stated that part of the foundation will be used as a retaining wall. Roger continued to explain to Madge how this would work.

Roland L. wanted to be sure the man representing the abutter didn't have any issues with the proposed plan. Madge B. stated that as long as the structure is legally set back from their property line, the abutter has no legal ability to object. At this point the board wasn't sure if that would be true or not, not having a plan showing the setbacks to the lot lines for either structure. Roger thought they measured the existing and used that measurement to place the new structure but again nothing was on paper.

Roger A. stated that as far as the board was concerned, no one seemed to have any big issue with the proposed location. The Citizen representing the abutter stated his only concern was the possibility of diverting more water onto his mothers property. Roger stated that this would not happen, it would be one of the conditions of the permit. Mr. McLeod tried to show the Citizen how he would address the issue.

Madge B. stated that the applicant will have to come back before the board with an actual plan. Roger A. stated that the board agreed the proposed location of the new structure was feasible. The board now needs the size and location of the existing building and proposed building, which includes the distance to the lot lines; the replanting plan, and any trees being removed have to be addressed.

**Roger A. stated the application will be tabled until Tuesday, March 11<sup>th</sup>.**

Nothing further was discussed.

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#### **Growth Permits –**

Map 7, Part of 5C (Evergreen Trail) – *New Home* - #02-14

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

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**Planning Board meeting adjourned at 9:20 p.m.**

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

# **SHAPLEIGH PLANNING BOARD**

## **MINUTES**

**Tuesday, March 25, 2014**

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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*Note: The minutes are not verbatim unless in quotes.*

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### **Public Hearing Began at 7:05 p.m.**

**Amendment to a Conditional Use Permit – Add a 72' x 100' Morton Building for Boat Storage – Map 5, Lot 20-1 (739 Shapleigh Corner Road) - Bill Turgeon, Applicant; Bill & Amy Turgeon, Owners**  
Bill and Amy Turgeon were present for the Public Hearing.

At the meeting held on March 11, 2014, presented was a plot plan depicting the location of the existing 36' x 48' garage, 60 x 102' boat storage building, parking area, well and leach field, along with the proposed location of a 72' x 100 foot boat storage building. Also provided was the construction proposal from Morton Buildings, Inc., for the storage building which gave the buildings specifications and a copy of the Drainage Study for Lakes Region Marine & Sport, dated April 13, 2006, done by Carl Beal, PE#5013, of Civil Consultants which stated there would not be an increase to the peak rate of stormwater runoff for a 50-year storm and the project would not impact downstream properties, culverts crossing Route 11, or Mousam Lake. Mr. Turgeon told board members the new building would hold approximately 45 boats.

Mrs. Turgeon stated during the meeting on March 11<sup>th</sup>, that Carl Beal of Civil Consultants stated that he would provide a letter stating the additional building would cause no stormwater issues on site. The board asked her to provide this letter for the meeting this evening, which the applicants did in fact provide. The letter dated March 22, 2014, read as follows:

Subject: Lakes Region Marine & Sport – Storage Building

Dear Barbara:

William & Amy Turgeon, of Lakes Region Marine & Sport, wish to construct a new 7,200 square foot storage building for their facility at 731 Shapleigh Corner Road. This drainage study has been prepared to address stormwater runoff associated with the proposed building.

The current facility was developed in 2006 following receipt of Town approvals. The site is located with a drainage watershed of approximately 50 acres. The watershed drains to a 15-inch culvert, at the driveway of David Dyer, directly south of the Turgeon residence. The proposed storage building and gravel lot area may create up to 0.5 acres of new impervious area.

Stormwater Modeling for existing and proposed conditions concluded that the new storage building will not generate any increase in peak rate of runoff from a 50-year storm event. Runoff rate and depth at the Dyer culvert will be identical.

This report addresses drainage issues associated with Town approvals of the proposed building addition at Lakes Region Marine & Sport.

If you have any further questions please contact me.

Very Truly Yours, Carl V. Beal, P.E.

In addition to the letter provided by Mr. Beal, Watershed calculations for the property were provided, both the existing and proposed, which included the Dyer driveway culvert, an adjacent property. Roger A. noted that there would be no increase if stormwater volume heading toward the Dyer driveway culvert based on the information provided.

Madge B. asked if there would be any additional lighting? Mr. Turgeon stated there would not and he didn't think he would be adding power to the building. He noted that the existing boat storage building had no power.

Roland L. asked Mr. Turgeon if he would be stacking the boats two high? Mr. Turgeon stated that not at this time. He said he would be having a dirt floor due to the cost. He said that if in the future he decided to stack two high he would be pouring putting down the appropriate footings for support along with a cement floor. Roger A. asked if he would be going three high? Mr. Turgeon stated that he did not have the ceiling height for three high.

Roland L. asked Mr. Turgeon if he was estimating having 45 boats stored in the new building? Mr. Turgeon stated he believed 45 would be the maximum. He said that the existing structure holds 35. Roland asked if this included the trailers? Mr. Turgeon stated, yes. He also said that the pontoon boats keep getting larger so that reduces the number of boats he is able to store inside.

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

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

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**Planning board meeting began at 7:30 p.m.**

**The minutes from Tuesday, March 11, 2014, were accepted as read.**

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**Amendment to a Conditional Use Permit – Add a 72' x 100' Morton Building for Boat Storage – Map 5, Lot 20-1 (739 Shapleigh Corner Road) - Bill Turgeon, Applicant; Bill & Amy Turgeon, Owners**  
Bill and Amy Turgeon were present for the review of the application.

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

**Roger A. stated this was an amendment to the conditional use permit and he reviewed the following ordinances that pertained to the amendment and made findings of fact:**

- 105-22 – Noise. *There will be no noise generated from the activities on site once the building is constructed.***
- 105-23 – Dust, fumes, vapors and gases. *There is no dust, fumes, vapors or gases, generated by this activity.***
- 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 was a storm water drainage study done for this location by Carl Beal, P.E. of Civil Consultants, dated 4/13/2006, which determined the initial structures for Lakes Region Marine & Sport would not impact downstream properties, culverts crossing Route 11, or Mousam Lake. Additionally, a letter was provided***

*by Carl Beal, dated 3/22/2014, which stated that the proposed storage building would not generate any increase in the peak rate of runoff from a 50-year storm event (see letter above).*

- 105-27 – Erosion control. *There are no changes being made on site to create an erosion issue. The existing vegetation around the perimeter of the property shall remain on site, there is no additional pavement being added and a crushed gravel french drain will be used around the proposed new structure.*
- 105-28 – Setbacks and screening. *The building shall be placed behind the existing workshop. No additional changes are to be made along the property line or Route 11.*
- 105-29 – Explosive materials. *Batteries shall be disconnected from the motors while in storage.*
- 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. *There is existing established vegetation on site. There are no changes to the parking area.*
- 105-32 – Relation of proposed building to the environment. *The existing building fits in well with the surrounding area and the existing structures on site.*
- 105-34 – Access control on Routes 109 and 11. *The existing entrance / exit has already been approved by the D.O.T. and is in existence with approved site distances.*
- 105-39 – Earth removal and filling other than activities regulated under § 105-61. *The earth moving is incidental to construction.*  
*Madge B. asked if Mr. Turgeon anticipated a lot of earth moving? Mr. Turgeon stated there would not be a lot of moving but fill would be brought in and compacted. Madge asked about the drip edge. Mr. Turgeon stated that crushed stone would be brought in to create the drip edge.*
- 105-43 – Off-street parking and loading. *An approved parking area is in existence and there is adequate area to turn around on site.*

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

*Roger A. stated that any time an increase of floor space greater than 25% for a business would have to come back before the planning board for an amendment to the conditional use permit. Later in the evening CEO McDonough stated that under Section 105-73.B(2) 'No changes shall be made in any approved conditional use without approval of the change by the Planning Board'. Roger agreed.*

- 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 a water body and no changes are being made on site to disturb wildlife habitat. Erosion control mulch shall be used along the back of the property to make sure the stream runoff is not contaminated with the landscaping materials on site.*
- 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 or exceed the minimum requirement in the Ordinance for the parking lot / entrance as depicted on the plan. The minimum is 245 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 waste water and solid waste has been made. *There is a state approved septic system on site and there shall be a dumpster used for solid waste.*

- 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. ***This business property has been in existence for over 50 years with no stormwater issues to date. No changes are being made on site that would create a stormwater issue.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***Erosion control mulch shall be placed along the back of the property in order to prevent materials from entering the stream at the back of the property. All landscaping materials shall be kept in concrete pins, no loose stockpiles shall be on site, to prevent a sedimentation issue. Best Management Practices shall be used during construction of the drive-thru area. All other existing vegetation shall remain on site.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***The Emery Mills Dam fire hydrant is nearby.***
- 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 shall be no additional lighting added to the building; 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 the drive-thru.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

**Madge B. moved for approval of the Amendment to the Conditional Use Permit to open Keepin it Local and Earth Works Landscaping at Map 18, Lot 32A, per the plans provided and with the above stated conditions. Maggie M. 2<sup>nd</sup> the motion. All members were in favor. Members voted for approval, 5 – 0. The motion passed unanimously.**

Nothing further was discussed.

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Mrs. Turgeon stated that she contacted Carl Beal of Civil Consultants to ask if an additional building would affect the drainage study and he stated the additional building would have no detrimental impact and that he would provide a letter if the board wanted one. The board did ask them to provide a letter or email from Mr. Beal stating the original drainage study was sufficient for this project as well.

Board members looking at the size of the lot, 5.51 acres (240,900 square feet) and adding the square footage of the two existing structures and the proposed (15,048 square feet), noted the lot coverage will be approximately 6.25%. This is less than the 10% lot coverage allowed in the ordinance.

Roger A. stated the board members were welcome to go to the site for a site inspection. Everyone was familiar with the site and the proposed location of the building.

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

**Roger A. stated a Public Hearing would be held on Tuesday, March 25<sup>th</sup> at 7:00 p.m. A notice to abutters will be mailed as well.**

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**Growth Permits – There are Growth Permits Available.**

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

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**Planning Board meeting adjourned at 8:35 p.m.**

Respectively submitted,  
Barbara Felong, Land Use Secretary  
[planningboard@shapleigh.net](mailto:planningboard@shapleigh.net)

# **SHAPLEIGH PLANNING BOARD**

## **MINUTES**

**Tuesday, March 25, 2014**

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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*Note: The minutes are not verbatim unless in quotes.*

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### **Public Hearing Began at 7:05 p.m.**

**Amendment to a Conditional Use Permit – Add a 72' x 100' Morton Building for Boat Storage – Map 5, Lot 20-1 (739 Shapleigh Corner Road) - Bill Turgeon, Applicant; Bill & Amy Turgeon, Owners**  
Bill and Amy Turgeon were present for the Public Hearing.

At the meeting held on March 11, 2014, presented was a sketch plan depicting the location of the existing 36' x 48' garage, 60' x 102' boat storage building, parking area, well and leach field, along with the proposed location of a 72' x 100 foot boat storage building. Also provided was the construction proposal from Morton Buildings, Inc., for the storage building which gave the building's specifications; and a copy of the Drainage Study for Lakes Region Marine & Sport, dated April 13, 2006, done by Carl Beal, PE#5013, of Civil Consultants which stated there would not be an increase to the peak rate of stormwater runoff for a 50-year storm and the project would not impact downstream properties, culverts crossing Route 11, or Mousam Lake. Mr. Turgeon told board members the new building would hold approximately 45 boats.

Mrs. Turgeon stated during the meeting on March 11<sup>th</sup>, that Carl Beal of Civil Consultants stated that he would provide a letter stating the additional building would cause no stormwater issues on site. The board asked her to provide this letter for the meeting this evening, which the applicants did in fact provide. The letter dated March 22, 2014, read as follows:

Subject: Lakes Region Marine & Sport – Storage Building

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The current facility was developed in 2006 following receipt of Town approvals. The site is located with a drainage watershed of approximately 50 acres. The watershed drains to a 15-inch culvert, at the driveway of David Dyer, directly south of the Turgeon residence. The proposed storage building and gravel lot area may create up to 0.5 acres of new impervious area.

Stormwater Modeling for existing and proposed conditions concluded that the new storage building will not generate any increase in peak rate of runoff from a 50-year storm event. Runoff rate and depth at the Dyer culvert will be identical.

This report addresses drainage issues associated with Town approvals of the proposed building addition at Lakes Region Marine & Sport.

If you have any further questions please contact me.

Very Truly Yours, Carl V. Beal, P.E.

In addition to the letter provided by Mr. Beal, Watershed calculations for the property were provided, both the existing and proposed, which included the Dyer driveway culvert, an adjacent property. Roger A. noted that there would be no increase if stormwater volume heading toward the Dyer driveway culvert, based on the information provided.

Madge B. asked if there would be any additional lighting? Mr. Turgeon stated there would not and he didn't think he would be adding power to the building. He noted that the existing boat storage building had no power.

Roland L. asked Mr. Turgeon if he would be stacking the boats two high? Mr. Turgeon stated, not at this time, and he would be having a dirt floor due to the cost. He said that if in the future he decided to stack two high he would be putting down the appropriate footings for support along with a cement floor. Roger A. asked if he would be going three high? Mr. Turgeon stated that he did not have the ceiling height for three high.

Roland L. asked Mr. Turgeon if he was estimating having 45 boats stored in the new building? Mr. Turgeon stated he believed 45 would be the maximum. He said that the existing structure holds 35. Roland asked if this included the trailers? Mr. Turgeon stated, yes. He also said that the pontoon boats keep getting larger, so that reduces the number of boats he is able to store inside.

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

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

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**Planning board meeting began at 7:30 p.m.**

**The minutes from Tuesday, March 11, 2014, were accepted as read.**

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Bill and Amy Turgeon were present for the review of the application.

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

**Roger A. stated this was an amendment to the conditional use permit and he reviewed the following ordinances that pertained to the amendment and made findings of fact:**

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- 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 was a storm water drainage study done for this location by Carl Beal, P.E. of Civil Consultants, dated 4/13/2006, which determined the initial structures for Lakes Region Marine & Sport would not impact downstream properties, culverts crossing Route 11, or Mousam Lake. Additionally, a letter was provided***



*by Carl Beal, dated 3/22/2014, which stated that the proposed storage building would not generate any increase in the peak rate of runoff from a 50-year storm event (see letter above). An additional drainage study was also provided.*

- 105-27 – Erosion control. *There are no changes being made on site to create an erosion issue. The existing vegetation around the perimeter of the property shall remain on site, there is no additional pavement being added and a crushed gravel french drain will be used around the proposed new structure.*
- 105-28 – Setbacks and screening. *The building shall be placed behind the existing workshop. No additional changes are being made along the property line or Route 11.*
- 105-29 – Explosive materials. *Batteries shall be disconnected from the motors while in storage.*
- 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. *There is existing established vegetation on site. There are no changes to the parking area.*
- 105-32 – Relation of proposed building to the environment. *The existing building fits in well with the surrounding area and the existing structures on site.*
- 105-34 – Access control on Routes 109 and 11. *The existing entrance / exit has already been approved by the D.O.T. and is in existence with approved site distances.*
- 105-39 – Earth removal and filling other than activities regulated under § 105-61. *The earth moving is incidental to construction.*  
*Madge B. asked if Mr. Turgeon anticipated alot of earth moving? Mr. Turgeon stated there would not be alot of moving but fill would be brought in and compacted. Madge asked about the drip edge. Mr. Turgeon stated that crushed stone would be brought in to create the drip edge.*
- 105-43 – Off-street parking and loading. *An approved parking area is in existence and there is adequate area to turn around on site.*

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

*Roger A. stated that any time there is an increase of floor space greater than 25% for a business the permit would have to come back before the planning board for an amendment to the conditional use permit. Later in the evening CEO McDonough stated that under Section 105-73.B(2) it reads, 'No changes shall be made in any approved conditional use without approval of the change by the Planning Board'. Roger agreed that any change to the original approval would have to come back before the board for review.*

- 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 a water body 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.*
- 4) Traffic access to the site is safe. *It is, the site distances and entrance location were approved on the original Conditional Use Permit; the parking area is adequate for the business, therefore, no one shall back onto Route 11.*
- 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 waste water and solid waste has been made. *There is no additional waste being created with the addition of the new structure, current waste disposal will continue to be taken care of as approved.*

- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***There are no hazardous materials being generated at this location. Any gasoline storage tanks shall remain closed at all times. Batteries shall be disconnected when boats are stored.***
- 8) A stormwater drainage system capable of handling a twenty-five-year storm without adverse impact on adjacent properties has been designed. ***A drainage study was done for this location in 2006 as well as 2014, and a letter from Carl Beal, P.E. of Civil Consultants, dated 3/22/2014, states the addition of the new structure will not generate any increase in the peak rate of runoff from a 50-year storm event.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***Best Management Practices shall be used during the construction of the new building. Erosion control measures were approved in 2006. A french drain shall be created around the new structure for roof runoff, and all existing vegetation shall remain on site.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***There is a water holding tank located within several miles of this facility.***
- 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 shall be no additional lighting added to the building; 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 erect the new structure.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

Roger A. stated the board received a letter from Bill & Eileen Mageary, dated March 24, 2014, which stated in part that they were in support of the applicants effort to add a 72' x 100' boat storage building to their business.

**Madge B. moved for approval of the Amendment to the Conditional Use Permit to add a 72' x 100' Morton Building for Boat Storage per the plans provided on Map 5, Lot 20-1 with the following conditions:**

- 1) **Best Management Practices shall be used during the construction of the new building.**
- 2) **All other conditions of the original permit approval letter, dated May 12, 2006, shall remain in effect.**

**Maggie M. 2<sup>nd</sup> the motion. All members were in favor. Members voted for approval, 5 – 0. The motion passed unanimously.**

Nothing further was discussed.

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**Growth Permits – Map 3, part of Lot 3 (Warden's Way) – New Home – GP #03-14**

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

**Planning Board meeting adjourned at 8:55 p.m.**

Respectively submitted,  
Barbara Felong, Land Use Secretary  
[planningboard@shapleigh.net](mailto:planningboard@shapleigh.net)

# **SHAPLEIGH PLANNING BOARD**

## **MINUTES**

**Tuesday, April 8, 2014**

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

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**Planning board meeting began at 7:30 p.m.**

**The minutes from Tuesday, March 25, 2014, were accepted as read.**

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*Note: The minutes are not verbatim unless in quotes.*

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### **Conditional Use Permit – Business Location for Lake Living Consultants – Map 29, Lot 1 (Corner of Spruce Street & Goose Pond Road) – Scott Matthews, Applicant, Paul & Ruth Matthews, Property Owners**

Scott Matthews was present for the review of his application.

Roger A. asked Mr. Matthews to brief the board on what he wanted to do. Mr. Matthews stated that he started a business called “Lake Living Consultants” which he has been running for about a year. Mr. Matthews stated, “We have a barn on Goose Pond Road, the corner of Goose and Spruce that we want to use for vendors, to be able to drop off materials like cabinets. Maybe do some pre-assembly on cabinets and stuff like that. More than anything it gives us a secure area to be able to leave material before it is needed on job sites.” He said it probably wouldn't be for customers, customers typically go to his home in Acton. He said this is for vendors to be able to drop off materials. He added that he also wanted to be able to have signage to make the location easier to locate for people dropping off material.

Madge B. asked if there were existing buildings? Mr. Matthews stated, “There is a 30 by 60 barn which has been up for six or seven years.” Roland L. added that it was a handsome building, very nice. Madge asked if he needed to build anything. Mr. Matthews stated that he did not, he was not adding onto the existing building. Madge asked about the parking? Mr. Matthews stated there was ample parking and the area was well designed so there was no erosion issues. He said the water beads off into the woods on all sides.

Madge B. stated, “This is for a use change, not any kind of construction changes.” Mr. Matthews stated, “Yes.”

Roland L. asked Mr. Matthews to explain what he sold, what his business entailed. Mr. Matthews stated, “I started up a business that is different from a general contractor that comes in and gives someone a price that wants to build a house.” He said, “It is very difficult if let's say you inherited a camp and you want to make it your own home. You can hire us on an hourly basis to come in and we can do a best possible site location; we can do the permitting for you; we can work with the DEP, we are DEP certified; we can calculate maximum expansions, and how to best utilize your lot and existing building, whether it be an addition or tear it down and redo. If someone is from out-of-state and they want to hire us to put it out to bid or general contract it, it's a piece-meal. It is a different set-up from anyone else, it's a la carte. We'll do as little as you want or as much as you want, for the best value for your dollar.”

Roland asked Mr. Matthews when he talked about vendors what are they for, window units? Mr. Matthews said, “If someone calls us, for example, if they are out of state and they want us to general contract it for them, we are going to oversee and do the whole project.” He cited a current job where he may have to do some cabinet assembly or a window package may come in. He noted that theft is a big issue on the job site, and where he once had an alarm business (security) his building was well secured. He said the material didn't have to be brought to a job site until it was time to get it installed. He noted lumber goes directly to the job site but there are a lot of things that can be stored in the existing barn, high dollar items.

Maggie M. noted that Mr. Matthews stated the signs would be so vendors would be able to find the place. She asked if the site would be self-access for the vendors? Mr. Matthews stated that it would be and that there was a mechanical lock on the door and a code for the alarm system.

Roger A. asked if the hours would be daylight hours? Mr. Matthews stated that because there wouldn't be customers at this location, it was for the drop off and storage of materials, it would only be open 8:00 a.m. thru 5:00 p.m. when vendors were working, to drop off materials such as the cabinet company they used. Madge B. suggested that Mr. Matthews think of the longest time frame that the business location might be used and she noted that the board was not trying to limit his hours of operation. Mr. Matthews stated that typically he believed it would be 7:00 a.m. thru 5:00 p.m. Roger asked if it was five days a week. Mr. Matthews stated, “Yes.”

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

*Roger A. and the board members agreed to do a site inspection on an individual basis, because they were all familiar with the location and didn't believe there would be any issues.*

CEO McDonough asked if the lot for this business extended to the water? Mr. Matthews stated that it did. CEO McDonough asked if the business would be limited to a portion of the lot? Mr. Matthews stated that it was strictly on the part that was adjacent to Goose Pond Road. He said his parents' house was on the lake front. CEO McDonough asked if it was safe to say the board could limit the business to the General Purpose District, no business activity within 250 feet of the water? Mr. Matthews stated that would not be an issue, he was well beyond the 250 foot mark. CEO McDonough didn't want any signage along the water either. Roger A. agreed having it in the General Purpose District only, would not be an issue for the board.

CEO McDonough asked if all storage of materials would be inside the existing building? Mr. Matthews stated that there were several trailers outside as well, but no material will be stored outside.

**Roger A. stated a Notice to Abutters will be mailed and a Public Hearing will be held at 7:00 p.m. prior to the next meeting to be held on Tuesday, April 22<sup>nd</sup>.**

Nothing further was discussed.  
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**Conditional Use Permit – Earth Moving – Map 18, Lot 32A (120 Emery Mills Road) – Paul Muse, Applicant**

Both Paul and Bob Muse were present for the review of the application.

Roger A. stated the application was to be able to fill in between the two lots. CEO McDonough stated the applicants were before the board recently for another Conditional Use Permit, at that time they wanted to fill in between the two lots and he had advised the Planning Board that there was a rule in the Zoning Ordinance that stated you cannot fill within 10 feet of the property line. He said, therefore, they wanted to go before

the Zoning Board. He told them to bring him a plan, he would deny it, and they could then fill out an appeals application. While he was writing a denial letter, looking at the ordinance to use the correct section, he found out the Planning Board had the authority to waive the 10 foot rule. He said based on this, it could have been addressed at the last meeting, so he believed this review is a continuance of the previous CUP review. (The application CEO McDonough was speaking about was for the CUP that approved moving Keepin' It Local and Earth Works Landscaping to this location, Map 18, Lot 32A.)

The board members were given a copy of the ordinance CEO McDonough was speaking of, along with a copy of the plans for the area to be filled between the two properties. The ordinance is §105-39.G(11) which reads as follows, '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.' Madge B. stated it was pretty clear.

Madge B. asked how many yards of material it would take to fill in the area? Mr. Muse stated he believed it would be 200 to 300 total, which included the work to be done previously approved on March 12<sup>th</sup>. Madge asked if there would be fill on both lots. Mr. Muse stated it would be mostly on one lot, Lot 32A. Roger A. stated, "It will be just topping it off on the other lot." Mr. Muse agreed, it would bring the elevation somewhat level.

Roger A. asked if the trees to be removed would be replanted? Mr. Muse stated they could put some spruce in near the Historical Society. Roger said the area being filled will just be graded, no revegetation. Mr. Muse stated, "That was the plan."

Roger A. asked how the board felt about the proposed fill being placed lot to lot? Maggie M. believed at the last meeting it was discussed that it could cause a problem if the lot was sold in the future. Maggie said it appeared in this case it was being done only to help the businesses coming in on Lot 32A. Roger said even if they sold it tomorrow it would be graded flat, so he didn't think it would detract from the sale of the property. Maggie agreed it shouldn't affect the value of the property. Mr. Muse stated if the property is sold, it is buyer beware, you have to know what you are buying.

Madge B. asked what would be on the top of the fill? Mr. Muse stated it would be a crushed gravel parking area. Mr. Muse stated that on the back slope CEO McDonough wanted the erosion control mulch. Madge stated that what was there now was grass. Madge said she was reading the standards which talk about if you remove the existing ground cover, vegetation should be put down. She said that was why she was asking what Mr. Muse's intention was for the area after the fill was brought in. She said if there is a gravel surface it won't erode. She said, therefore, there was no point requiring loam and seed, since it's going to be used as a parking area.

Roger A. said there would be a small slope in the back and he thought there should be erosion control mulch placed there. Madge B. agreed. Roger also thought the board could act on this application this evening because abutters were notified for this lot and business, which included the parking area. He said this was just an extension of the parking area and it affected the applicant's property, not an abutting property. Madge said she had no issue with the board approving this tonight.

CEO McDonough wanted the board to note that the removal of the trees on site was opening the area up. He asked if there was a screening issue? Madge B. agreed it would look bare. CEO McDonough stated instead of it looking like two lots, it would now look like one big lot. CEO McDonough stated that if this were to continue in this area, the board will have to address screening. Madge B. stated trees could be put on the other property line. Maggie stated, "Near the Historical Society." CEO McDonough said he just wanted the board to be aware.

CEO McDonough asked if the curb cut was going to stay the same. Mr. Muse said, “Yes, it is already there.”

Madge B. reminded the board members that one of the applicant’s renting the Muse building was a landscaper. She thought the landscaper could make the area look better with a few planter’s etc. Mr. Muse agreed. Mr. Muse stated that from Route 109 to the existing trees he plowed that area. He said he could not have anything permanent like planters in that area. Madge stated that she understood. Maggie M. thought they could have temporary pots or planters there for the summer. Madge agreed and she believed the applicant would be doing that. Mr. Muse stated that they would be creating a display for their stonework and they would probably have some perennials, arborvitae and spruce trees to sell displayed. Mr. Muse noted they had done this at their current location down the street. CEO McDonough stated that the existing displays did not meet the road setbacks which he pointed out to the applicant. He wanted Mr. Muse aware any structures added would have to meet setbacks and that they needed to get permits before putting up any concrete walls.

Roger A. believed Mr. Letourneau, one of the people who will be renting the Muse property, would be bringing the existing stone wall up the street to this location. Mr. Muse thought they would also have some type of display in the front. It was noted there was a space limitation.

Mr. Muse said that the property line between the Historical Society and his property was very close, so if they were required to add any trees it would have to be behind the Historical Society. Roger A. agreed and said that closer to the road there was a utility pole as well. Mr. Muse also didn’t want to block off the vision of people coming out onto Route 109 from the Historical Society. Because trees would have to be behind the Historical Society back toward the woods, the board decided to leave it up to the applicants as to whether or not they wanted to place trees along the lot line, because it wouldn’t serve the purpose of screening in this location.

CEO McDonough asked if the Landscaping and Food Business were going to spill over into the adjoining lot? Mr. Muse stated that it would not, based on the location of the septic tank. Madge B. asked what was on top of the leach field? Mr. Muse stated, “Grass.” Madge thought the board might want to state that if any additional clearing took place the applicant would have to come back to the board. Mr. Muse stated there was nothing left to clear on site. Roger A. stated that the applicant had come before the board to put in a propane filling station but it never took place. He said if this were to take place, there would have to be a barrier placed around it. Mr. Muse stated there were strict rules regarding propane filling stations. And it was noted that it was becoming a thing of the past, most people were dropping off their tanks and picking up new ones, such as using Blue Rhino propane exchanges.

CEO McDonough stated that he would like to see a condition that the business located on this lot would not spill over onto the adjacent lots. Madge B. agreed this would be a good condition. Roger agreed as well.

Madge B. thought the board could move to amend the approved Conditional Use Permit to add the approval of adding earth between the two lots and removing the existing evergreen trees between the two lots at this time.

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

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

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. ***It will not, the property is not near a water body 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. *N/A, earth moving only.*
- 4) Traffic access to the site is safe. *It is, the site distances and entrance location were approved on the original Conditional Use Permit.*
- 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 waste water and solid waste has been made. *The approval is for earth moving only, septic system is already on site.*
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. *None generated by this activity.*
- 8) A stormwater drainage system capable of handling a twenty-five-year storm without adverse impact on adjacent properties has been designed. *The fill will channel the water to the back of the property and mulch shall be placed to prevent erosion on the back slope per the previous approval.*
- 9) Adequate provisions to control soil erosion and sedimentation have been made. *Crushed gravel shall be placed on top of the earth used to fill in between the two properties. Erosion control mulch shall be placed at the back of the property.*
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. *N/A.*
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. *The earth moving will not affect neighboring properties, it is being placed between properties owned in whole or in part by Mr. Paul Muse.*
- 12) All performance standards in this chapter applicable to the proposed use will be met. *They shall.*

The Board members asked Mr. Muse when the project was expected to be done. Mr. Muse stated he wanted to have all the work done site wide by June 1, 2014.

Madge B. moved for approval of the Amendment to the Conditional Use Permit to add a maximum of 300 yards of earth to fill in between Map 18, Lot 32 and Lot 32A per the plans provided with the following conditions:

- 1) Erosion Control Mulch shall be placed along the slope on the back of the property.
- 2) The approved business at this location shall remain on Lot 32A and not spill onto neighboring property.
- 3) Any additional changes to the approved Conditional Uses for Lot 32A shall come back before the Planning Board for approval.
- 4) All other conditions of the original permit approval letter, dated March 20, 2014, shall remain in effect.

Maggie M. 2<sup>nd</sup> the motion. All members were in favor. Members voted for approval, 4 – 0. The motion passed unanimously.

CEO McDonough reminded Mr. Muse he would need to come to him for permits for all the changes on site approved by the Planning Board for this location.

Nothing further was discussed.

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**Growth Permits – Map 12, Lot 15B (Newfield Road) – New Home**

After looking at the application and deed description board members requested that Barbara F. get a sketch plan of the property showing exactly where it sat on the parent lot. They had no other issue with the application and would act on it at the next meeting after receiving the sketch plan.

Note: Upon further research Barbara F. noted that there was already a sketch of the property on the town map, it had in fact been labeled wrong on the map. The lot was listed as 16B, instead of 15B. Barbara contacted Roger A. about this and he came in and signed the Growth Permit as approved. The mistake on the town map was brought to the attention of Karla Bergeron so she could have it corrected.

**Therefore, Map 12, Lot 15B received Growth Permit #04-14.**

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**Other:**

Roger A. noted that at a recent meeting he had with the Board of Selectmen it was discussed they would be forming a committee to review the Comprehensive Plan. He thought the Planning Board sometime in the future might want to review the existing Comp. Plan to see if they wanted to suggest any changes.

Roger A. also stated that the Board of Selectmen asked him what type of overlays the board would want on the mapping. Roger stated that he suggested Shoreland Zoning, the Flood Plain and Inland Fisheries Endangered Species locations. Roger said he was looking into options and cost and would present something to the BOS. He also thought the mapping should be able to be accessed by the Planning Board during the meetings and the Code Enforcement Officer should have access as well, since he needs this information on a daily basis. Roland L. thought it might be best to have it on a laptop computer for the meetings as this would be the easiest way to view it.

Roger A. asked CEO McDonough what else he might want on the maps? CEO McDonough agreed with Roger that Shoreland Zoning is a must for the Town of Shapleigh. He also noted that Acton placed the structures on their mapping as well, but he believed they hired someone to do this, as it would be a painstaking process and would take a person working with the mappers, most likely a year to accomplish.

Nothing further was discussed.

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

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

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

# **SHAPLEIGH PLANNING BOARD**

## **MINUTES**

**Tuesday, April 22, 2014**

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 Stephen Foglio were unable to attend.

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**We would like to congratulate Roland Legere's wife Carol on not only running in the Boston Marathon but also for coming in under her time requirement. Way to go Carol!**

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### **Public Hearing began at 7:00 p.m.**

#### **Conditional Use Permit – Business Location for Lake Living Consultants – Map 29, Lot 1 (Corner of Spruce Street & Goose Pond Road) – Scott Matthews, Applicant, Paul & Ruth Matthews, Property Owners**

Scott Matthews was present for the public hearing.

Vice Chairman Maggie Moody asked Mr. Matthews to state what it was he would like to do. Mr. Matthews stated that he would like to use the existing 30' x 60' barn for his business, so different sub-contractors could drop off material, and he wanted to be able to have signage in the front so sub-contractors would know where to drop off material. Mr. Matthews said there would be no changes to the existing structure.

Madge B. stated that she did go and see the property and agreed with Roland L. that the existing building was very nice and it was nicely set on the property. She thought the structure was an asset.

Madge B. said the one thing she didn't check was the site distance. She believed it had plenty of site distance but asked the other members what they thought. Diane S. agreed saying she believed it did. She said she did not check it either but noted that she drove by the property every day and didn't see an issue in that location. Mr. Matthews asked the members if they were talking about coming out onto Goose Pond Road? Diane said, yes. He said originally the driveway will come out onto Spruce and not Goose Pond. He did think there were several trees that were tight to Goose Pond Road and several property owners have said it made it difficult to see pulling out, therefore, he had planned on removing those regardless of the business. He said for the elders in the area he thought it would be safer. He believed the left side line onto Goose Pond Road had at least 300 yards of vision, and the right was good but again he thought he should remove three trees. He noted that any signage he put up would not block the field of vision. Madge agreed that was important.

Roland L. asked Mr. Matthews if he anticipated any issues with weight limits? He said at present the road is closed to excessive weight. He asked if the vendors Mr. Matthews dealt with and the materials, if there would be any problems with heavy loads? Mr. Matthews said, "Not at all. Most of that happens on construction sites with form trucks, cement trucks and any excavators that are coming in. Most of the time its millwork guys or Hancock guys coming in. Usually what they do on road posted seasons is they come in with small trucks." Roland was also thinking of the Goose Pond Bridge which is very narrow and he said usually folks are traveling at an excessive rate of speed. Mr. Matthews said coming on site would be cabinet guys or trucks with some trim, small materials like that.

Roland L. asked if the area would be illuminated? Mr. Matthews said that part of his marketing would be to put a dusk to 11:00 p.m. glow on the building as an eye catcher. He said not on signage but to light up the

front of the building and at Christmas he would really do it up. He said he was hoping it would be associated with his business name. He said he was planning on doing further landscaping, he wanted people to drive by and take notice. The board agreed he was off to a great start with the building. Madge wanted to be sure Mr. Matthews was aware the board did not want to have any glare on the road. Mr. Matthews stated that there was an existing telephone pole on site in the parking area that had a flood light but he also wanted to add a high efficiency light on a timer on the side of the woods to illuminate the front of the building. He said it was also for security purposes.

Madge B. asked if there would be any flammable items or explosives stored in the structure? She asked if there would be any fuel stored? Mr. Matthews said there would not be any flammable items on site. He said he was very fire conscious. He said there would be no gasoline on site. He did say if there was any paint stored it would be in the proper cabinet to store such items.

Madge B. said the other concern of the board was ground water contamination and this did not seem to be an issue with no outside storage of materials.

Roland L. asked if the structure was heated. Mr. Matthews said the structure was 30' x 60'. He said the front 30' x 30' was insulated and there was a Rinnai gas stove if he wanted to heat the structure, but at this time it was not heated.

Maggie M. asked if there were any additional questions? There were none. The Public Hearing closed at 7:12 p.m.

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**Planning board meeting began at 7:30 p.m.**

**The minutes from Tuesday, April 8, 2014, were accepted as read.**

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***Note: The minutes are not verbatim unless in quotes.***

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**Conditional Use Permit – Business Location for Lake Living Consultants – Map 29, Lot 1 (Corner of Spruce Street & Goose Pond Road) – Scott Matthews, Applicant, Paul & Ruth Matthews, Property Owners**

Scott Matthews was present for the review of his application.

Mr. Matthews was before the board in order to be able to use the existing 30' x 60' barn to store materials for his business known as Lake Living Consultants. He provided the board with a sketch plan which depicted the existing lot, owned by his parents Paul and Ruth Matthews, along with the general location of the existing barn, parking area and driveway which enters from Spruce Street. Mr. Matthews also provided a letter from Paul & Ruth Matthews which stated Scott had permission to act on their behalf at the meetings.

Because there were no further questions, Maggie M. then reviewed Shapleigh Zoning Ordinance 105-73.G “Standards applicable to conditional uses” and made findings of fact.

**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 a water body and no changes are being made to the existing structure.*
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. *N/A*
- 3) The use is consistent with the Comprehensive Plan. *Small businesses are encouraged in the comprehensive plan.*
- 4) Traffic access to the site is safe. *It is, the site distances appeared to be adequate in both directions at the site visit on Goose Pond Road and the current driveway exits onto Spruce Street. Mr. Matthews stated he would remove several existing trees along Goose Pond Road that could hinder site distance in one direction.*
- 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 waste water and solid waste has been made. *There is no waste water or solid waste associated with the application or proposed activity.*
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. *None generated by this activity.*
- 8) A stormwater drainage system capable of handling a twenty-five-year storm without adverse impact on adjacent properties has been designed. *The building is in existence and no changes are being made to the parking area which is suitable for storm water drainage.*
- 9) Adequate provisions to control soil erosion and sedimentation have been made. *There are no changes being made on site to create soil erosion. The building and parking area are in existence.*
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. *The location is within 3 miles of the Shapleigh Fire Station. It was noted there is no water inside the existing structure.*
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. *There is existing vegetation and the applicant states that more vegetation shall be planted in the future along with fencing for the existing trailers to be parked behind. There is no outside storage of materials.*
- 12) All performance standards in this chapter applicable to the proposed use will be met. *They shall.*

**Madge B. moved for approval of the Conditional Use Permit to use the existing 30' x 60' barn located on Map 29, Lot 1 (60 Spruce Street) to assemble and store materials for Lake Living Consultants with the following conditions:**

- 1) **No business activity shall take place outside of the General Purpose Zone, including signage.**
- 2) **Outside storage of materials is prohibited. Material shall be stored inside the existing barn or the utility trailers on site.**
- 3) **There shall be no retail activity on site, material storage and assembly only.**
- 4) **The hours of operation shall be 7:00 a.m. thru 5 p.m., five days a week.**

**Diane S. 2<sup>nd</sup> the motion. All members were in favor. Members voted for approval, 4 – 0. The motion passed unanimously.**

Nothing further was discussed.

**Best Possible Location – Remove and Replace Existing Deck and Re-vegetate Area – Map 26, Lot 26 (220 16<sup>th</sup> Street Loop) – Timothy & Tamara Gowen, Applicants**

Tim & Tamara Gowen were present for the review of the application.

The Planning Board received an application which stated that the Gowen's wanted to remove the existing deck located 6 feet from the lake and re-vegetate the area according to the plan provided. They also want to add the square footage of the deck being removed to the camps existing deck located approximately 34 feet from the lake. In addition to the application, provided was a site plan which depicted the location of the existing camp, deck(s) leach field and well point. A second site plan depicted the existing camp in relation to the side lot line and high water mark, along with the existing attached deck and proposed addition to the deck. In a third plan the dimensions of the camp and deck were drawn.

Lastly, provided was a letter and sketch plan from Springvale Nurseries Garden Center in Springvale Maine, dated April 7, 2014 for a proposed possible site restoration after the deck by the water is removed. The plan recommended that after the deck is removed, the dirt should be raked out and erosion-control mulch should be applied along with native groundcover plants which could include Dwarf Bush Honeysuckle, Low bush Blueberry or naturalized daylilies.

Maggie M. asked the applicants to state why they were before the board. Mr. Gowen stated that they had a camp on site with a deck on the front of it. He said there was a set of stairs that go down to a lower deck that is approximately six feet from the water which they want to remove; take the exact amount of square footage they are removing and add it to the deck attached to the camp. He noted that he had provided information from Springvale nurseries as to what they suggested be done to re-vegetate the area where the deck is to be removed.

Maggie M. asked if the deck was attached to the stairway? Mr. Gowen stated there were several sauna tubes that the deck sat on and they would have to be removed.

Madge B. stated the board would have to see the site. Diane S. asked Mr. Gowen to explain the site plans he provided. He showed the location of the existing deck to be removed and the new deck to be added to the existing deck. Diane stated she understood.

Mr. Gowen stated there were no trees that needed to be cut in order to do this. Mr. Gowen has several pictures showing what exists on site at this time which he showed the board members.

Roland L. asked if by adding onto the deck if he was encroaching onto the water? CEO McDonough stated he was moving back from the water. Mr. Gowen stated he was going from six feet from the water to about 29 ½ feet from the water.

**Board members agreed upon a site visit at 7:00 p.m. prior to the next meeting on Tuesday, May 13<sup>th</sup>. Members will meet at the Town Hall at 6:45 p.m. A Notice to Abutters will be mailed as well.**

Nothing further was discussed.

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**Growth Permits – There are growth permits available.**

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

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

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

# **SHAPLEIGH PLANNING BOARD**

## **MINUTES**

**Tuesday, May 13, 2014**

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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*Note: The minutes are not verbatim unless in quotes.*

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**Planning board meeting began at 7:30 p.m.**

**The minutes from Tuesday, April 22, 2014, were accepted as read.**

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### **Best Possible Location – Remove and Replace Existing Deck and Re-vegetate Area – Map 26, Lot 26 (220 16<sup>th</sup> Street Loop) – Timothy & Tamara Gowen, Applicants**

Tim & Tamara Gowen were present for the review of the application. Member did a site inspection prior to this evenings meeting.

Roger A. asked the applicants to explain why they were before the board. Mr. Gowen began by stating he was before the board in order to remove the existing 8' 6" x 7' 4" deck down by the water and take the square footage of that deck and add it to the deck that is attached to the existing structure. In addition, the area down by the water will be restored using Springvale Nurseries to do the work. Mr. Gowen noted that along with the site plans he provided information from Springvale Nurseries as to what they suggested to do in that area for site restoration. Board members noted that Springvale Nurseries is no longer located in Springvale but they are now located in Sanford (Maine).

Neighbors of the Gowen's were in attendance, Ben and Phyllis Welch, located at 236 16<sup>th</sup> Street Loop. They wanted to know exactly what Mr. Gowen was proposing. He explained again his proposal of removing the small deck, adding the square footage to the attached deck and having Springvale Nursery restore the area. He used his site plans as a reference for the Welch's to look at. Mrs. Gowen stated that Springvale Nurseries were very helpful.

Roger A. asked if the new deck would be directly attached to the existing deck? Mr. Gowen said, yes, they were going to extend the existing deck using the square footage allowed, approximately 4 ½ feet. Diane S. noted there would be minimal disturbance on site for this project. Madge B. agreed and stated there would be no removal of trees.

Roger A. asked if the camp had ever had a 30% expansion? Mr. Gowen stated, "No." Roger said that this would limit a future expansion. CEO McDonough speaking to Roger stated, "I thought this would be best practical location." Roger said, "It is, but it is going to be attached, so it is going to limit the 30% expansion. If he takes and includes that tomorrow, if it gets approved, the four extra feet is going to limit him on the 30%." Mr. Welch asked, "Even if you are just moving it from one deck to another?" Roger said, "It's separate structures and when you attach it, it becomes part of the 30%." He said he wanted the Gowen's to be aware of this. Mr. Gowen stated he did not realize this. Roger said in the future they would not get the 30% expansion on all the structures because the deck would have already been expanded. Mr. Gowen asked if that meant an expansion would be 30% of his camp and deck, minus the 4 ½ feet. Roger said, yes.

Diane S. asked, "Why when counting your square footage to add on 30%, you could have counted your square footage from the deck but now you can't?" CEO McDonough stated, "Well no you couldn't." Roger A. agreed, stating they need to stand alone. CEO McDonough to Roger A. stated, "You aren't saying they cannot expand in the future, what you are saying is they can't use this as part of an expansion." Roger said, "Correct." Mr. Welch stated, "What you are saying is the future expansion would be based on the current footprint of the house." Roger said, "That is correct."

Roger A. stated, "The extra 64 square feet being added, you won't get a 30% on that." Mr. Gowen stated that he understood.

Mr. Welch asked if he hadn't combined the two decks, could he have taken and added an extra 30% to the deck by the water? Roger A. said he could expand both. Mr. Welch asked if he could petition to add the two decks together later? Roger said, "No." Mr. Welch said, "You can't combine, ever." Roger said, "No." Mr. Gowen said, "It's considered two separate structures now and even after we are done it still is as far as the 30% goes." Madge B. asked if you could get 30% on the both of them? Diane S. stated, "Yes." CEO McDonough stated, "If that is the case and if this is the way the board is going to interpret this Ordinance, then it's in your best interest to ask for the 30% of the existing deck to be added to the deck now." He asked how big the deck is that is being relocated? Mr. Gowen stated, 62.33 square feet. CEO McDonough suggested that they modify their application for best practical location for the deck plus 30% of it. He said because it is a non-conforming structure he is allowed 30% of it. He noted they are moving it back and because they will lose the deck the applicant's should try to get the expansion now. Diane S. stated they could widen the attached deck all the way down.

CEO McDonough asked what 30% of the existing deck was? Mr. Welch said, "So you are saying to apply for 30% of the small deck now." CEO McDonough said, "Yes, if he doesn't he is going to lose it forever." Mr. Gowen stated that he understood. Madge B. was concerned a larger expansion would affect the tree and noted she wouldn't be so happy with that. Mr. Gowen stated it would not affect the tree. Diane S. agreed, the deck would only be longer. Maggie M. agreed stating there was plenty of room. Diane stated that they had approximately 19 more feet to work with.

Madge B. asked if the 30% could be added towards the lake? Diane S. said no, they are going sideways. Madge believed they were going closer with the attached deck. CEO McDonough said they were dealing with two separate rules. He said the first reason they were before the board was best practical location of the deck alongside the water, and the applicants believe the best practical location is attaching the deck to the existing structure. He said that is the first issue to address. The board can either agree with the applicant or not. Maggie M. said this makes the deck more conforming than it is now.

Madge B. said the second issue is the 30%. CEO McDonough said yes, Roger A. feels that they should not in the future be allowed to take 30% of the existing camp plus the deck that is added on. He said if that is the fact, then it is in the Gowen's best interest to get 30% of the existing deck now. Mr. Gowen said, "The deck closest to the water." Madge still didn't understand why the board was letting them build a deck toward the water? CEO McDonough stated, "The principal structure does grow towards the water but at the same time the deck down by the water gets removed." Madge said, "Correct so that's why we've allowed the shorter expansion but once you have a 30% addition..." CEO McDonough said, "In reality, he could have just said I want to expand my lower deck by 30% right at the water." Diane S. agreed. Madge asked if the board would have to say yes? CEO McDonough said, "Yes, and actually this would not even go before the board, he would just come to me for a permit for an expansion." Diane said, "Right, and this way it's making it more conforming." Madge said, "It doesn't matter what the structure is?" Diane said, "It has to be a structure. If it's a shed, garage, etc." Madge said, "Anything." CEO McDonough said yes, as long as you



don't get any more non-conforming with your 30%. Madge said, "But he's getting more non-conforming because he's pushing his camp towards the lake." CEO McDonough stated, "The deck isn't becoming more non-conforming, the deck is becoming more conforming." Diane agreed and stated this was a better option than the applicant taking the deck by the water and expanding it by 30%. Madge didn't think he could actually do it because of the terrain. Diane disagreed noting other projects that took place in difficult terrain.

Mr. Gowen asked if he could ask for the 30% this evening. CEO McDonough thought it should be done so he didn't lose the ability to expand. Mr. Gowen asked if he was doing several plans, one to show the 30% of the lower deck, then take that square footage and add it to the existing deck. The board noted they did not want the deck to go closer to the water but to have the additional square footage go toward the side lot line.

CEO McDonough wanted it noted that this was not the first time the board has done something like this.

Mr. Gowen was asked to go and review his plans, make the changes, then come back into the meeting this evening for a final review. Mr. Gowen agreed that would be best because he wanted this acted upon this evening.

Roger asked the next applicants to come before the board.

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**Best Possible Location – New Foundation under Structure and Expansion – Map 22, Lot 13-4 (67 Kato's Nose) – Paul & Connie Clark, Applicants**

Mr. and Mrs. Clark were present for the review of the application. John Hutchins from Corner Post Land Surveying, Inc., Springvale, Maine was also present to represent the applicants.

The applicants provided along with the application, a copy of the deed, dated as recorded on May 19 1978; a copy of the Permit by Rule, dated accepted by MDEP on May 5, 2014; and a plan entitled 'Site Plan and Proposed Building Calculations Made for Paul L. & Connie D. Clark' which depicts the existing structure and proposed structure(s) in relation to the closest side lot line, 100 foot high water mark and the distance of the point of the structure closest to the edge of the lake, that being 61.4 feet. Also on the site plan was the area & volume calculation which showed the proposed increase in volume to be 28% and the increase in area to be 3%, noting that most of the additional structures are beyond the 100 foot mark. In addition, a copy of the Subsurface Wastewater Disposal Application, done by Marc Hampton, SE #263, dated 4/24/14, for a four bedroom home, was provided.

Mr. Hutchins began by stating that he was representing Paul and Connie Clark on a construction project on Kato's Nose, Mousam Lake. He said they have an existing camp that is on sauna tubes and they would like to raise it and put a partial foundation under it, that being a crawl space. He said they didn't want to move the location of the structure and they also wanted to add on a breezeway that goes over to a small garage. He said they had a small building envelope on the property that would fit the garage. He noted there was a fairly steep banking on site which would not be good for a house but it would be ok for a small garage using a concrete wall for the garage that could hold the banking back. He had provided the board with a site plan to show exactly where the structures would be located and their relationship to the lots lines, along with the location of the existing house.

Madge B. believed the board would need to see the property before making any decisions. Mr. Hutchins agreed, he said the board would need to see the steep banking on site. Madge asked if the number of bedrooms was going to change? Mr. Hutchins stated there was a total of four bedrooms now and that would stay the same. Mr. Hutchins stated that dormers would be put on the existing structure which would expand the volume giving them more head room on what is existing.

Roger A. asked if the garage was outside the 100 foot mark. Mr. Hutchins stated yes, then he showed where the 100 foot mark fell on the plan. He pointed out the setback locations to the road as well. Mr. Hutchins also noted that using all the setbacks for the Town of Shapleigh Zoning Ordinance, he depicted the building envelope on the plan, but he said in reality, based on the lay of the land, the building envelope is practically much smaller.

CEO McDonough asked what the lot coverage was? Mr. Hutchins stated the percentage of lot coverage by existing structures is 4% and with the proposed additions it would be another 2.5% for a total of 6.5%. This was less than the maximum allowed of 10%.

**Roger A. stated a site inspection would be held on Tuesday, May 27<sup>th</sup> and a Notice to Abutters will be mailed as well. Board members agreed to meet at the Town Hall at 6:00 p.m.**

Nothing further was discussed.

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**Conditional Use Permit – Replace Retaining Wall – Map 35, Lot 24 (360 Cedar Drive) – Shawn Woods, Applicant; Bill Rosenkrans, Property Owner.**

Shawn woods was present to represent the applicant, William Rosenkrans.

In addition to the application, board members received a site plan which depicted the location of the existing retaining wall in relation to the high water mark, the existing home and stairway on site, a pine tree that will need to be removed and the location where a newly planted tree will go, which will be a spruce, pine or maple; and a wall plan depicting the length of the existing and new wall that being 23 feet, the approximate height of the new wall being 36 inches, a 4 foot staircase and the construction cross section. Also received were pictures of the existing wall; the Permit by Rule Notification Form, dated 4/5/2014; and an email from William Rosenkrans stating Mr. Woods could represent him.

Roger A. asked Mr. Woods to tell the board what he wanted to do. Mr. Woods stated Mr. Rosenkrans approached him about replacing an existing retaining wall. He said the wall was roughly 23 feet long, originally made out of natural stone and mortar. He said the owners said the wall has been deteriorating for years and they just keep tossing the stones back up on the banking as they fall. He said when he first looked at the wall he wasn't sure it had been a wall as it now looks like a pile of rocks laying on the banking but he saw there is an area that is still somewhat erect. He said the existing tree is knocking the wall over which will need to come down so a new wall will not be affected.

Mr. Woods said the new wall will be in the same location, it will be made of precast cement, six inches high by 18 inch long blocks with a cap. Mr. Woods was asked how high the new wall would be. He stated the existing wall is roughly three feet in height. He said again some of the stones were on the banking, he thought in one area the wall was actually 4 ½ feet in height but the replacement wall will be 3 feet.

Diane S. asked when the board needed engineering for a wall replacement. Board members said, over 4 feet.

Roger A. asked about the Permit by Rule, if it had been done? Mr. Woods stated that it has already been mailed out.

**Roger A. stated a site inspection be held on Tuesday, May 27<sup>th</sup> about 6:45 p.m. and a Notice to Abutters will be mailed as well.**

Nothing further was discussed.

**Growth Permits**

**Map 2, Lot 20B (Back Road) – Joshua L’Heureux, Applicant – New Home**

Roger A. began by stating this lot didn’t meet the road frontage requirement of 200 feet, this lot appeared to have only 123 feet of road frontage. The lot was created in 1997. Roger believed 77 feet would need to be established in order for the lot to be approved. Two people present representing Mr. L’Heureux stated that the driveway had already been put in, they didn’t understand what Roger was asking.

CEO McDonough asked Roger A. if this was a grandfathered lot of record? Roger A. stated no, that the lot was deeded over in 1997 and in 1997, 200 feet of road frontage was required. CEO McDonough stated that in 1997 a back lot could be created with a 35 foot right-of-way. He didn’t believe this rule was removed from the Ordinance until the year 2000.

Roger A. then said they would need to have a 35 right-of-way. CEO McDonough didn’t understand because they owned 123 feet on the road at this time. He thought if you could create a back lot with a 35 foot right-of-way you could create a lot with 123 feet of road frontage. Roger thought there needed to be an easement put in the deed showing there was a 35 foot right-of-way. CEO McDonough wasn’t sure legally if you needed to have an easement in the deed when the land existing was 123 feet wide.

CEO McDonough was concerned with requiring them to create a new deed with a 35 foot easement because the rule to allow that didn’t exist at this time. Roger A. agreed and thought they would have to create the 200 feet of road frontage. CEO McDonough didn’t totally agree, he didn’t understand if you could have a back lot with 35 feet of road frontage, why you shouldn’t be able to have one with 123 feet of road frontage without issue.

Madge B. reviewed the lot and asked what the case was. CEO McDonough stated that the Town had a rule that you could create a back lot with a 35 foot right-of-way when the lot was created. Madge asked what the board was asking. Roger A. said there was no easement stating there was a 35 foot right-of-way. Madge stated, “They don’t need an easement, they need a deed to that property.” Roger said, “They have the deed.” Madge stated, “That’s enough.” **Growth Permit #05-14 was granted.**

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**Map 5, Lot 5D (23<sup>rd</sup> Street Loop) – Raymond Gagnon – New Home**

Existing lot of record with the required road frontage. **GP #06-14 was granted.**  
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**Map 3, Lot 26 (106 Hooper Road) – John Hutchins – New Home**

Mr. Hutchins began by stating he was before the board because he was going to build a home on a lot that has an existing home, belonging to his parents. Mr. Hutchins provided the board with a plot showing the location of the proposed home, well and leach field and the fact that if the property were divided the home could be on a lot 5.5 acres in size with 200’ of road frontage.

CEO McDonough pointed out to the board, where in the ordinance this review was required (§105-17, Notes: 3). Stephen Foglio asked if they needed a driveway approval? CEO McDonough stated it was not required in the Ordinance. Mr. Hutchins noted they were not dividing the land.

**GP #07-14 was granted.**

**Best Possible Location – Remove and Replace Existing Deck and Re-vegetate Area – Map 26, Lot 26 (220 16<sup>th</sup> Street Loop) – Timothy & Tamara Gowen, Applicants**

Tim & Tamara Gowen returned to the meeting for further review of their application.

Mr. Gowen stated he took the existing deck by the water and added the 30% and came up with a total of 81 square feet total. On the second plan he added the new dimensions squaring off the existing attached deck as requested, which added 2.6 feet onto the end of the deck. He had the exact calculations on the plans presented.

CEO McDonough stated as a condition it needs to be noted that any future expansion pertains to the existing deck and not to this addition which has already been expanded.

Roland L. asked Mr. Gowen if he knew when this project would be completed? Mr. Gowen stated he had to speak with Springvale Nurseries because he didn't want to remove the existing deck until they were ready to put in the ground cover.

Roland L. wanted Mr. Gowen to be aware that he would have to dispose of the existing deck to be removed outside of Shapleigh. Roger A. asked if he knew where he would be taking the material? Mr. Gowen stated Wells, then stated he was joking as this was where he lived. He stated he understood it would have to be removed from Shapleigh. The board noted that the transfer station would not accept this type of debris.

Roger A. asked if the DEP had been notified? Madge B. asked what the permit would be for? Roger stated, removal of the deck.

Roger A. stated Best Management Practices would need to be used and the person doing the erosion control measures will have to be State certified. Roland L. suggested they contact Springvale Nurseries to see if they had someone licensed on staff. Roger noted it was a new law that the person doing the work be licensed to be sure the person doing the erosion control measures did them properly.

Roger A. asked about the time frame? Diane S. stated that CEO McDonough had to be sure all the plantings are in by a certain time, so she asked if it would be completed by August 1, 2014. Madge B. said the board wasn't pushing them, they just needed an idea. Mr. Gowen stated he was comfortable with stating they would be finished by September 1, 2014.

**Roger A. stated the conditions of approval would be:**

- 1. Any future expansion of the existing camp and deck toward the 30% would not include calculations based on the new addition to the attached deck.**
- 2. Best Management Practices shall be used and the person doing the erosion control measures shall have to be licensed by the State.**
- 3. The deck to be removed shall be taken out of Shapleigh.**
- 4. The project, including the re-vegetation shall be completed by September 1, 2014.**
- 5. The 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.**

Mr. Gowen asked if he had to get a surveyor to come in and survey? Roger A. stated that a surveyor has to come in to make sure the new deck is 29' 7 ½ inches from the high water mark per the plan. Mr. Gowen stated that if he had to hire a surveyor then he was done, he could not afford to hire someone to come in and survey the property. He said he was not used to this, he was used to Wells. He said, "In Wells if you

make it less non-conforming; anyone can look to see they are moving away from the water; we are using erosion control measures to prevent anything from going into the water and I've already spent \$1000." He said, "There is a point you have to stop; to have to hire a surveyor to show this deck is less non-conforming than the deck below...." Roger A. stated it was not that, he said that it is to show that it sets exactly on the face of the earth as approved.

CEO McDonough told Mr. Gowen that the board was not asking him to survey the entire property. He said they needed a surveyor to state the deck was where it was supposed to be. He told him to get a price for that before he says he is all done with the project. Stephen F. asked if a Class D survey would work? CEO McDonough stated, yes. Stephen asked if what they needed was the deck to the property line. The board said yes, and to the water. CEO McDonough said again they were not requiring the entire property to be surveyed.

Roger A. 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.*

Mr. Gowen stated that he wanted to leave tonight with this making sense to him. Stephen F. stated that he believed the reason it was in the Ordinance was because down the road if and when the home needs a mortgage, the mortgage company is going to come in and look for the plan to show what the board approved is what is on the face of the earth. Mr. Gowen stated that could be done with a Class D Survey. Stephen stated, "Perfect." Mr. Gowen stated he would provide a Class D Survey to CEO McDonough.

Roger A. asked if he had a motion for approval?

**Maggie M. moved for approval of the Best Possible Location to remove the existing 8' 6" x 7' 4" deck by the water, expanding the square footage of the deck to be removed by 30% and adding this calculated square footage to the existing attached deck on the structure for a total of 80.48 square feet per the plans presented, with the following conditions:**

- 1. Any future expansion of the existing camp or attached deck toward the 30% would not include calculations based on the new addition to the attached deck.**
- 2. Best Management Practices shall be used and the person doing the erosion control measures shall have to be licensed by the State.**
- 3. The deck to be removed shall be taken out of Shapleigh.**
- 4. The project, including the re-vegetation shall be completed by September 1, 2014.**
- 5. The 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.**

**Diane S. 2<sup>nd</sup> the motion. Members voted for approval, 4 – 1. The motion passed by majority vote.** Madge B. voted against the application not being comfortable with the way the deck would be expanded.

Nothing further was discussed.  
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## **OTHER:**

## **ELECTION OF OFFICERS**

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

Maggie Moody 2<sup>nd</sup> 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 2<sup>nd</sup> the motion.

Maggie Moody accepted the nomination.

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

Thank you Roger and Maggie for once again accepting the positions, you both do a great job on the board. ☺

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Barbara F. told board members that Joanne Rankin reminded her that the Town Hall would be used for voting on Tuesday, June 10<sup>th</sup>, so she asked if they would like to move the meeting to Wednesday, June 11<sup>th</sup>? Although several members may not be able to attend, it appeared there would be quorum, so the first meeting held in June will be moved to Wednesday, June 11<sup>th</sup>. Barbara will post a notice to this affect and remind any applicants of the change of date. The time will remain the same.

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

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

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

# ***SHAPLEIGH PLANNING BOARD***

## **MINUTES**

**Tuesday, May 27, 2014**

Members in attendance: Chairman Roger Allaire, Vice Chairman 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 and Alternate Stephen Foglio were unable to attend.

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

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

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

# **SHAPLEIGH PLANNING BOARD**

## **MINUTES**

**Tuesday, May 27, 2014**

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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*Note: The minutes are not verbatim unless in quotes.*

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**Planning board meeting began at 7:30 p.m.**

**The minutes from Tuesday, May 13, 2014, were accepted as read.**

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### **Best Possible Location – New Foundation under Structure and Expansion – Map 22, Lot 13-4 (67 Kato's Nose) – Paul & Connie Clark, Applicants**

Mr. and Mrs. Clark were present for the review of the application. John Hutchins from Corner Post Land Surveying, Inc., Springvale, Maine was also present to represent the applicants. Board members did a site inspection prior to this evenings meeting.

The applicants provided prior to the initial review of the application, a copy of the deed, dated as recorded on May 19 1978; a copy of the Permit by Rule, dated accepted by MDEP on May 5, 2014; and a plan entitled 'Site Plan and Proposed Building Calculations Made for Paul L. & Connie D. Clark' which depicts the existing structure and proposed structure(s) in relation to the closest side lot line, 100 foot high water mark and the distance from the point of the structure closest to the edge of the lake, that being 61.4 feet. Also on the site plan was the area & volume calculation which showed the proposed increase in volume to be 28% and the increase in area to be 3%, noting that most of the additional structures are beyond the 100 foot mark. In addition, a copy of the Subsurface Wastewater Disposal Application, done by Marc Hampton, SE #263, dated 4/24/14, for a four bedroom home, was provided.

Mr. Hutchins began by stating that at the site inspection the board members noted that they wanted the tree inventory on the plan, how many would be removed and where replacements would be located. He said that he believed the existing structure was in the best possible location and the attached garage as well. He asked what if anything the board would like on the plan and if they has any questions?

Roger A. stated that he agreed with Mr. Hutchins that the board had a question with respect to the trees. He thought there were only several trees located within 100 feet of the high water mark, the remaining trees were beyond that. Mr. Hutchins agreed that there were only three or four at most. Madge B. stated that the board had to have any trees within 100 feet of the water that would be removed, placed on the plan, as well as where the replacement trees will go. Roger agreed.

Roger A. reviewed §105-4.D(1), the expansion of non-conforming structures. Roger then reviewed §105-4.D(7), the relocation of a non-conforming structure, which includes not only the relocation of the structure to the greatest practical extent established by the board but also the replanting of vegetation requirements for trees removed, vegetation and ground cover. Roger stated that based on the ordinance the board would need to know which trees will get removed and the replanting plan of the new trees. He said with respect to the



relocation of the camp itself, along with the proposed breezeway and garage, he believed it was in the best possible location as noted on the plan provided. He stated the camp would be raised slightly and the foundation would not be very deep due to the depth to the water. Mr. Hutchins agreed, he stated all they wanted to do was replace the sauna tubes with a foundation.

Roger A. stated that Mr. Hutchins noted the time table would be that the structure would be completed this time next year, along with the final regrading.

Madge B. asked if there would be fill removed? Roger A. didn't believe there would be much fill removed. Mr. Hutchins stated that the area was sandy and he thought that anything removed for the structures would be used on site for the foundation.

Roger A. stated that the only thing needed was the trees to be placed on the plan and the replanting schedule. Roger asked if there were any additional questions? CEO McDonough asked Mr. Hutchins how much fill would be removed? Mr. Hutchins didn't believe there would be much removed. CEO McDonough stated that he was concerned that there would be more gravel removed than they are expecting, which would create a grading issue on site. Mr. Hutchins said there would not be a foundation, therefore, they would not be creating a hole under the structure. CEO McDonough asked what the size of the structure would be? Mr. Hutchins stated, 40' x 26'. Based on the square footage it was estimated the amount of earth to be removed would be approximately 112 yards, or at least 6 large truckloads. CEO McDonough was concerned that there was no plan with respect to moving this amount of soil. Mr. Hutchins stated it could be removed from site. CEO McDonough stated it didn't have to be removed from site but it needed to be on the plan where the soil would go, along with the re-vegetation plan. Madge B. agreed the board needed to know if the soil was being removed and if so where was it going to be taken. Roger said the reason for this was if the soil is going to be moved to another location in Shapleigh, the person accepting the soil would also need a permit from either the CEO or Planning Board depending on the amount, a Conditional Use Permit may be required. Madge stated it was important that the board know there is a plan for what will happen to the soil.

Madge B. stated she was surprised the proposed leach field wasn't entirely beyond the 100 foot mark from the water. CEO McDonough asked if it was designed by a site evaluator and was it a replacement system? There was a design done by Marc Hampton, SE #263, dated 4/24/2014. CEO McDonough stated that if possible they try to move it beyond the 100 foot mark but because it is a replacement system it is not required. CEO McDonough asked if Madge felt the septic system could be located outside the 100 foot mark. Madge stated she couldn't determine that, she was only noting it because when she relocated her system she put it beyond the 100 feet. CEO McDonough agreed it was a good idea but it was not required because it was not a new system. He said it might be able to be done but you usually take the designers opinion that this was the best location based on what he observed.

Roger A. asked if there were any other questions? There were none. **He stated this application would be tabled, pending further information, until Wednesday, June 11<sup>th</sup>. He noted the next meeting was on Wednesday, instead of Tuesday, due to voting at the town hall.**

Nothing further was discussed.

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**Conditional Use Permit – Replace Retaining Wall – Map 35, Lot 24 (360 Cedar Drive) – Shawn Woods**  
**Applicant: Bill Rosenkrans, Property Owner**

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

Board members did a site inspection prior to this evenings meeting. Provided at the last meeting, along with the application, were pictures of the existing site, and a sketch plan showing the existing home, stairway to the water, trees on site and the retaining wall. The plan noted that there would be a pine tree removed and 4 trees planted on site, six feet in height, being either spruce, pine or maple. Also provided was a sketch plan showing the wall details, which included a cross section of the new walls construction, the fact the new wall would be 23 feet long and 36” high, a four foot stairway and there will be conservation mulch applied to all disturbed areas when the wall is completed. Also received was the Permit by Rule Notification Form, dated 4/5/2014, and an email from William Rosenkrans stating Mr. Woods could represent the applicant.

Roger A. asked Mr. Woods to briefly let everyone know what he was proposing to do. Mr. Woods stated he was going to replace a small existing retaining wall made out of natural stone that is damaged and falling. The new wall is going to be the same size as the existing, 23 feet long by 3 feet high and it will remain in its existing location. He said it does require one large pine to be removed. He believed the root system is in part the reason the existing wall deteriorated. He said the new wall would be made from 6 inch high precast concrete.

Madge B. asked if the plan provided was adequate for CEO McDonough to be able to check the work? The board reviewed the plans provided. Roger A. thought the plans were adequate. Madge asked CEO McDonough to look at the plans to see if they were specific enough for enforcement. Board members noted the location of the tree to be removed and the location of the newly planted trees. CEO McDonough thought the board might want to address some additional vegetation along with the conservation mulch noted on the plan. Madge asked Mr. Woods if the property owner would put in plantings along with the conservation mulch? She noted she had just been to a workshop with Springvale Nursery and they said you put the mulch down but you also plant which gives additional protection that lasts for years. Mr. Woods asked if the board was saying erosion control mulch was not enough? Madge stated that she was told the mulch is great but you also want the property owner to plant, so plantings become established over a course of several years. He said he had not discussed this with the property owner but he thought the owner could find some use for plants in that area.

Madge B. stated she assumed there would be the proper silt fences used in the area. Roger A. stated Best Management Practices would be required until the project is completed. Mr. Woods stated he understood that. CEO McDonough asked Mr. Woods if he filed a Permit by Rule. Mr. Woods stated that he had.

Roland L. asked for a time table for the project. Mr. Woods stated that it would be started just prior to July 4, 2014. Madge B. asked how long the project would take? Mr. Woods stated that it was a four day project from start to finish. He said the tree would be removed prior to the project starting.

Madge B. asked if the area around the tree stump would be mulched? Mr. Woods stated that it would be graded then mulch added. Roland L. asked if the stump was going to be pulled? Mr. Woods thought it would be best to remove the stump due to the location of the tree roots. Roger A. was concerned that if the stump was pulled that the tree behind it might be affected. Mr. Woods stated that he hadn’t taken that into account. He thought they could resort to grinding the stump instead. He said the person removing the tree also does stump grinding. Roger asked if there were any additional questions? There were none.

**Madge B. moved for approval of replacing the 23’ x 3’ wall as presented on the plan with the following conditions:**

- 1. Best Management Practices shall be used until the project is completed.**
- 2. The stump for the tree being removed shall be ground instead of removed to protect the root system of the nearby tree.**

**3. The project, including the re-vegetation and mulch shall be completed by July 15, 2014.**

Roland L. asked if the stones and concrete would be removed from site? Mr. Woods stated that it would be taken to a gravel pit.

**Diane S. 2<sup>nd</sup> the motion. All members were in favor. Members voted for approval, 5 – 0. The motion passed unanimously.**

Nothing further was discussed.

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**Conditional Use Permit – Business Location for Chessie Excavation – Map 7, Lot 1-B-1 (776 Shapleigh Corner Road) – Caleb Chessie, Applicant**

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

Mr. Chessie provided along with his application, a sketch plan depicting that there was a home and shop on the property, the approximate driveway location and the fact he wanted to place a sign on his property to advertise his business.

Roger A. asked Mr. Chessie what he wanted to do? Mr. Chessie stated that he wanted to put a sign up on his property that says “Caleb Chessie Excavation”. Roger stated that in order to be able to have a sign on the property, this application is actually to be able to use the property as a business location. The CEO then can give Mr. Chessie a sign permit.

Madge B. asked if there were going to be any changes to the property such as the building layout? Mr. Chessie stated, “No.” Madge said it was not a retail business but an excavation business. Mr. Chessie stated, “Yes, there won’t be any traffic in and out.” Madge said there will not be increased traffic. Mr. Chessie said, “Right”.

Madge B. asked what the criteria was for a non-retail business. Roger A. stated all the criteria for any business that is in the ordinance. Roger said the board has to address hazardous materials, how to prevent fuel from being spilled onto the soil, how refuse and oil or fuel will be removed from the property, etc. CEO McDonough stated that under the Land Use Table, §105-17, it would fall under ‘commercial or industrial facility’.

Madge B. stated “There will not be any changes to the structure or layout.” CEO McDonough stated that currently there is a permit for a residence. She said she understood it is a change of use, just no physical changes on the land. CEO McDonough stated, “If you have a residential and commercial use on the land then you have to have twice the acreage and road frontage.” He said the purpose is so you can operate on that much more land. CEO McDonough stated that the general standards that apply to all businesses will apply to this one. Madge stated, “Right.”

Madge B. said, “The business is excavation. It isn’t used equipment, you are not going to have discarded cars and trucks and equipment.” Mr. Chessie stated, “No, it’s just going to be me going to do a job. No one will be coming in and out of there.”

Madge B. asked if there was going to be any hazardous materials? She said, “You are just going to have gas and oil for your equipment.” Roger A. asked, “When you change motor oil, where does it go?” Mr. Chessie

stated, “I give the used oil to William Plante’s brother, he burns used waste oil.” Roger asked if there was any kept on site? Mr. Chessie said, “I don’t keep it out back in a barrel.” CEO McDonough asked if he was changing his oil on site? Mr. Chessie stated, “Yes.”

Roger A. asked what the hours of operation for the business would be? Mr. Chessie said that he worked various hours including weekends. Madge B. asked if 7:00 a.m. to 10:00 p.m. would work? Mr. Chessie wasn’t sure as he did snow plowing and that could be anytime in a 24 hour period. Roger thought snow plowing might be exempt under State law. Madge stated the reasons for the hours is neighbors might want to know. Roger agreed stating as the machines go in and out, someone might question the hours of operation. Roger said it was best to keep the hours of operation as long as he might be working on site. CEO McDonough didn’t think Mr. Chessie coming and going on site was going to be an issue, he thought working on equipment might become an issue. Madge agreed. CEO McDonough asked the board what the hours were for the noise ordinance? Madge stated, 7:00 a.m. to 10:00 p.m., so she thought perhaps that should be the hours for working on equipment on site, or anything else he would do that would create noise. Roger thought that would work.

Roger A. asked if there would be any employees? Mr. Chessie stated, “I have one.” Roger said he would have to have an area for parking on site.

Roger A. asked if there would be additional lighting on the building? Mr. Chessie stated, “No, but I have an outside light.” Roger asked if there would be additional lighting for the business? Mr. Chessie stated, “No.”

CEO McDonough asked if there was a site plan? Roger A. showed CEO McDonough the sketch. Roger said there was a house, shop and driveway sketched. Madge B. thought there needed to be some measurements put on the plan.

CEO McDonough asked how much equipment would be stored on site and where? He asked if there would be any material stored on site? Also, is the shop part of the house? Diane S. stated the shop appeared to be attached to the house according to the drawing. CEO McDonough noted it was not a home occupation, so there may be a building code issue. The two structures may have to be separated for fire protection.

Mr. Chessie asked about registered vehicles, were only so many allowed? CEO McDonough stated that was with respect to a junk yard. He thought the Planning Board would address the issue, so there were not be 100 excavators on site.

Diane S. stated, “For the next time I would like to see a better drawing. Where the trucks will be parked in the yard. Distances and measurements. Where the employee will park.” Mr. Chessie stated, “Sure.”

**Roger A. stated a site inspection would be at 6:00 p.m. on Wednesday, June 11<sup>th</sup>. A notice to abutters will be mailed and Public Hearing held at 7:00 p.m.**

Board members discussed reviewing the site distance when at the site inspection.

Nothing further was discussed.

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**Conditional Use Permit – Replace Paver Patio with Pressure Treated Deck – Map 34, Lot 28 (12 Cherry Road) – Shawn Woods, Applicant; Diane Vetrano, Property Owner**

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

Provided to the Planning Board along with the application was a picture of the existing home showing the concrete patio; a sketch plan depicting the patio is 62 feet from the high water mark and the existing camp is 70 feet to the high water mark on one side and 78 feet to the high water mark on the other; a diagram of the size of the existing patio showing the exact dimensions along with the fact it is 201.75 square feet in size; a diagram showing the existing home, landing, and patio dimensions which total 2321 square feet and a notation that 30% expansion of 696.3 square feet is to be constructed; a diagram of the house, patio and proposed new deck footprint which would be 240 square feet in size; along with an email from Diane Vetrano and Al Halliday stating Mr. Woods is authorized to act on their behalf.

Roger A. asked Mr. Woods to explain what he wanted to do for Ms. Vetrano. Mr. Woods stated that he would be replacing the existing patio for their daylight walkout of their camp, with a second floor deck shadowing the existing patio footprint along with utilizing some of their 30% expansion to wrap the deck around the side of the existing structure. He stated they took measurements to be sure they didn't encroach on the high water mark.

Stephen F. asked if this house was on the point? Mr. Woods said, "Yes, the property has water on both sides."

Roger A. asked if any trees would be removed? Mr. Woods stated, "No."

**Roger A. stated a site inspection would be scheduled for 6:30 p.m. on Wednesday, June 11<sup>th</sup> and a notice would be mailed to abutters.**

Nothing further was discussed.

**Amendment to a Subdivision – Reduce the Size of the Cistern for Fire Protection to Accommodate One Lot Instead of Two – Map 10, Lot 2-2-3 (White Pine Lane) – Louis Nieto, Applicant**

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

Mr. Nieto began by stating he had submitted an application to reduce the size of the cistern. He stated, "I am having difficulty with the neighbor, getting no correspondence from them for over a month (Lot 2-2-1). I am getting pressure from the bank to get the OC (occupancy permit). So I put the application to reduce the size of the cistern from 7,500 gallons for two homes to 5,000 gallons for one. I got a letter from the Fire Chief. The only thing I don't have....I have the revised drawings."

Diane S. asked if a certain number of people in the subdivision had to agree to the cistern? Mr. Nieto stated, "No that was for the road maintenance agreement. I submitted that the last time."

Mr. Nieto stated he was unable to contact the attorney with regards to the cistern maintenance agreement. He didn't know if the agreement was needed because instead of two people there is only one person using it. He said if he needed something he would have to come back on June 11<sup>th</sup>. He didn't see why there needed to be an agreement because an agreement was between two parties. Roger A. said there still needed to be something to address that it would be maintained. Mr. Nieto stated he could put it on the plan. Roger said the Fire Department still needed an easement. CEO McDonough stated it was required in the Subdivision Ordinance. Roger read §89-30(2)(c), Required Improvements, Water supply, "The subdivider shall construct ponds and dry hydrants to provide for adequate water storage for fire-fighting purposes. An easement shall be granted to the municipality granting access to the dry hydrants where necessary. Fire ponds and dry hydrants must meet the specifications of the Shapleigh Fire Department." Mr. Nieto noted there was already an easement on the property on the plan. He stated, "The dimensions of the new cistern are the same,

the only thing that changes is the depth of the cistern. This is why the plan doesn't have to change."

Stephen F. asked if the easement could be made part of the deed? Mr. Nieto stated, "Previously it was a cistern agreement." Madge B. said this changes the last approval, so she agreed that it could be made part of the deed. Mr. Nieto stated the attorney would have to make that decision. He said he would have to come back on June 11<sup>th</sup>.

Stephen F. asked if the maintenance was the responsibility of the lot owner? Roger A. stated he checks the cistern then calls the Fire Department and they top it off. Mr. Nieto stated that if the cistern fails then the lot owner has to fix it. Madge B. said the ultimate responsibility is to the homeowner, so it doesn't cost the Town.

CEO McDonough asked that the Fire Chief approve the final plan. Mr. Nieto stated that he would put a signature block on the plan and have him sign it.

Roger A. asked if there were any further questions? There were none. The next review will be on June 11<sup>th</sup>.

Nothing further was discussed.

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**Amendment to a Best Possible Location – Change the Size of the Approved Structure and It's Location – Map 27, Lot 13 (130 17<sup>th</sup> Street) – William Plante, Applicant**

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

Roger A. asked Mr. Plante to state what he wanted to do. Mr. Plante stated, "I guess you would call it an amendment. Where you guys gave me permission to put the camp, I would like to change the angle a little bit." Mr. Plante provided plans for the board to review.

Roger A. asked if it was going out 28 feet? Mr. Plante stated, "It was 26' x 36' that you guys gave me permission for, I would like to go 28' x 36' but I'm turning it to try to fit the hill better. If I put it where you guys gave me permission, it is driving one corner further into the hill."

CEO McDonough asked again what he was approved for and what he was asking for. Mr. Plante said, "26' x 36' but I want 28' x 36' but also it might be 28' x 34' but I don't want to come back, so I'm going to say 36'. The day we pour footings is going to make the determination." Roger A. said, "We have to know what the actual size is going to be." Mr. Plante said, "I'll go 28' x 36'." Mr. Plante stated that by looking at the topo it squares it up with the back. Diane S. asked Mr. Plante, "What made you change your mind, just the slope?" Mr. Plante said, "Yeah, just the way it's turned but by spinning it, it takes it out of the hill and squares it up. It is where it should be."

Diane S. asked, "Where the house was originally going to be, did you clear that out already?" Mr. Plante said it was already cleared due to the parking lot. Diane stated, "So basically the part of the hill you are trying to avoid digging, you already did." Mr. Plante stated, "Right, but by turning it, it gets it out of the corner." Diane said, "So basically you have already disturbed the area." Mr. Plante said, "No I haven't, I stopped there and want to turn it but if you don't give me permission, I'm going to go into the hill even more."

Diane S. asked him if he was sure this is what he wanted? Mr. Plante stated, "Yes." Madge B. stated that the board would have to look at the site again. Diane agreed. Mr. Plante stated that he needed an extension

because he had a July 31<sup>st</sup> deadline from the board. He said with another delay it would extend it out. Diane stated that the board had to see how many more trees would be removed. Madge said again the board would have to go see the site again. The board also noted the original deadline was not an issue because this was a new application, therefore, there would be a new deadline.

**Board members agreed to do a site inspection at 5:30 p.m. on Wednesday, June 11<sup>th</sup>. A notice to abutters will be mailed as well.**

Diane S. asked if the area would be staked out? Mr. Plante stated that there are stakes and painted marks. Mr. Plante stated that the board would be shocked at what they would see and to remember they gave him permission to do it. Roland L. pointed out that Mr. Plante was the one that asked for the location, the board was very concerned with the location and terrain. He didn't want Mr. Plante shifting the responsibility onto the board for the issues he encountered, as the location was 'his' choice.

Nothing further was discussed.  
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### **Growth Permits**

#### **Map 8, Lot 54 (Garland Road) – New Home – John Caramihalis**

Mr. Caramihalis provided the board with a copy of the deed, along with a site plan which depicted the proposed house location in relation to the lot line setbacks. The proposed location met all the setbacks in the ordinance. **GP #08-14 was granted.**

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

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

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

# **SHAPLEIGH PLANNING BOARD**

## **MINUTES**

**WEDNESDAY, June 11, 2014**

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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*Note: The minutes are not verbatim unless in quotes.*

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### **Public Hearing Began at 7:05 p.m.**

#### **Conditional Use Permit – Business Location for Chessie Excavation – Map 7, Lot 1-B-1 (776 Shapleigh Corner Road) – Caleb Chessie, Applicant**

Caleb Chessie was present for the public hearing. *Board members did a site inspection prior to this evenings meeting.*

Roger A. asked Mr. Chessie to explain to the board and audience members what he was proposing to do.

Mr. Chessie stated that he wanted to be able to put a business sign at the end of his property.

Roger A. asked if he was going to run the business from his property? Mr. Chessie stated, “Yes.”

Roger A. asked if there were any questions? Mr. Chessie’s neighbor Maxine Crouch (Map 7, Lot 1B), asked if anything was going to change from what he is doing now? Mr. Chessie stated, “No, there is not going to be any traffic in and out of there. It’s just my trucks going in and out.” Mrs. Crouch asked if there was going to be any runoff, she was concerned with her well which wasn’t far from Mr. Chessie’s property, she didn’t want anything spilled that would affect the water quality. Mr. Chessie said he didn’t see that happening.

Roger A. stated, “The main reason why the Conditional Use Permit is for the business is because he wants a sign. And because he wants a sign it creates the business atmosphere that needs a Conditional Use Permit, strictly for the business which will entitle him to a sign if it gets granted.” Mrs. Crouch had no issue with the sign, she believed it would sit back far enough not to interfere with her being able to see to get out of her driveway. Roger agreed.

Roger A. stated that he paced the site distance while at the site inspection and the line of site is approximately 315 feet which is the minimum allowed. Roger noted the board wouldn’t deny his application for only having the minimum.

Roger A. stated, “The only other question I asked Caleb on site was whether or not he was going to be storing materials on site, any loam or sand piles, depending on jobs. He said no, the only piles there were what he had stripped off the property.”

Mrs. Crouch asked if these piles would interfere with her well? Roger A. stated they should not. Roger said, “At the last meeting we asked him about the oils and he said he sends it out to a person who burns it in an oil burning furnace.” Mrs. Crouch asked, “So he isn’t storing it?” Mr. Chessie stated, “No, I don’t store it.” Roger agreed it was a concern. Mrs. Crouch stated again her well wasn’t far from Mr. Chessie’s cleared driveway and she noted it was wetland in that area.



Diane S. asked if Mr. Chessie had a more detailed drawing as requested at the last meeting. Mr. Chessie provided a sketch that depicted two areas for parking equipment, the size of the house and shop, septic system location, an employee parking area being 30' x 30' in size, the size of the lot and the approximate location of where a sign would be placed.

Roger A. stated that Mr. Chessie had planted a row of evergreens approximately 75 feet back from the road which would create a sound and site buffer once they get larger.

Roger A. asked what the hours of operation would be? Mr. Chessie stated 7:00 a.m. to 7:00 p.m., 7 days a week. Roger noted that snowplowing would be anytime within a 24 hour period, 7 days a week.

Roger A. asked if there were any additional questions? There were none. The public hearing closed at 7:12 p.m.

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**Planning Board meeting began at 7:30 p.m.**

**The minutes from Tuesday, May 27, 2014, were accepted as read.**

**Stephen F. sat in as a regular member this evening, as Madge B. was unable to attend.**

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Roger A. began by starting with New Business as the initial review would not take long.

**Conditional Use Permit – Moving Gravel in Excess of 150 Yards – Map 7, 33A (Shapleigh Corner Road) – Maggie Moody, Applicant**

**Conditional Use Permit – Moving Gravel in Excess of 150 Yards – Map 7, Lot 32 (1081 Shapleigh Corner Road – Town of Shapleigh, Applicant**

Roger A. asked Maggie M. to explain the movement of greater than 150 yards of gravel. Barbara F. stated that Road Commissioner John Burnell was here this evening to represent both the Town of Shapleigh and Maggie.

RC Burnell stated that in 2006 when the Town decided to move the sand and salt building the stipulation was that when the Town left the site, the Town would put in a barrier or berm between the two lots. He stated this would be approximately 250 yards of earth moving. He said it would also create a visible property line between the town property and Maggie's but in doing so, it would create a slope within 10 yards of the property line. (RC Burnell was referring to §105-39.G(11))

Roger A. asked how the earth would be stabilized to prevent erosion? RC Burnell stated that they could use mulch or loam and he noted that on the top of the berm would be evergreen trees. He also said there would be a large rock placed to stop ATV traffic.

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

**Roger A. stated a Public Hearing will be held on Tuesday, June 24<sup>th</sup>, and a Notice to Abutters will be mailed as well. Maggie asked if there would be a site walk? Board members agreed to a site inspection at 6:30 p.m. on the 24<sup>th</sup> and Roger noted the Public Hearing would begin at 7:00 p.m.**

Nothing further was discussed.

**Best Possible Location – New Foundation under Structure and Expansion – Map 22, Lot 13-4 (67 Kato's Nose) – Paul & Connie Clark, Applicants**

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

The applicants provided prior to the initial review of the application, a copy of the deed, dated as recorded on May 19 1978; a copy of the Permit by Rule, dated accepted by MDEP on May 5, 2014; and a plan entitled 'Site Plan and Proposed Building Calculations Made for Paul L. & Connie D. Clark' which depicts the existing structure and proposed structure(s) in relation to the closest side lot line, 100 foot high water mark and the distance from the point of the structure closest to the edge of the lake, that being 61.4 feet. Also on the site plan was the area & volume calculation which showed the proposed increase in volume to be 28% and the increase in area to be 3%, noting that most of the additional structures are beyond the 100 foot mark. In addition, a copy of the Subsurface Wastewater Disposal Application, done by Marc Hampton, SE #263, dated 4/24/14, for a four bedroom home, was provided.

During the meeting on May 27, 2014, Roger A. stated that the only thing needed by the board was the trees to be placed on the plan and the replanting schedule. CEO McDonough had also asked that the applicants state on the plan how much fill would be moved and where the soil would go, along with the re-vegetation plan. The board agreed to this requirement.

Mr. Clark provided the board members with a copy of a plan showing the trees to be removed – which totaled 16, and the trees to be planted – 3 within 100 feet of the high water mark. It was also noted on the plan that the number of trees being removed were approximately 4.25% of the total trees on site.

Mr. Clark stated that after shooting grades on the property, it was determined there would be no fill removed from the property. He said the removed material would be used to backfill the new foundation.

Roger A. stated that it was determined at the site inspection on Tuesday, May 27<sup>th</sup> that the best location for the structure was where it sat at this time. Mr. Clark stated the proposed location of the garage was the only location, due to the topography, that would work for the garage. Roger agreed.

Roger A. asked how the land against the garage, going into the slope, would be addressed? Mr. Clark thought he would have to bring in fill to grade off part of the area. He said the grade of the floor would be quite high up the banking, so he wouldn't have a lot of fill to use to backfill, and again stated he would have to bring some fill in. Roger agreed and asked how the backfill would be stabilized. Mr. Clark said he would be planting bushes around the foundation. Diane S. asked Mr. Clark to draw on the plan where the bushes would be located so CEO McDonough would have a final plan to follow. Mr. Clark drew an area along two sides of the home where bushes would be planted.

Roger A. read §105-4.D(7)(1), Trees, woody vegetation and ground cover for the relocation of a non-conforming structure. Roger noted there were only two trees being removed and they would be replaced by three trees closer to the water, therefore, the requirements of this section would be met. Roger also noted that he asked the applicants about other vegetation that would be removed, as it was part of the ordinance. Roger also read §105-4.D(7)(2) which included the fact that all approved plans shall require confirmation in

writing by a licensed surveyor that the placement of the structure is correct per the specifications approved by the Planning Board.

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

**Diane S. made the motion to approve the Best Possible Location on Map 22, Lot 13-4, per the Plan provided, entitled ‘Site Plan and Proposed Building Calculations Made for Paul L. & Connie D. Clark, drafted by Dana Libby, PLS #1350, of Corner Post Land Surveyors, Inc., of Springvale, Maine, dated 4/28/2014, along with the revised planting plan presented this evening. Maggie M. 2<sup>nd</sup> the motion. All members were in favor. Members voted for approval, 5 – 0. The motion passed unanimously.**

Nothing further was discussed.

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**Conditional Use Permit – Business Location for Chessie Excavation – Map 7, Lot 1-B-1 (776 Shapleigh Corner Road) – Caleb Chessie, Applicant**

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

Roger A. began by stating that for a residential dwelling and business a minimum of 4 acres would be required. He stated the business needed two, and the residential dwelling needed two. CEO McDonough asked Mr. Chessie if he had 6 acres? Mr. Chessie stated that he had three. Roger stated that Mr. Chessie could deal with that later. CEO McDonough asked what he was talking about with respect to dealing with it later. Roger stated that Mr. Chessie wasn't before the board to deal with a residential dwelling. CEO McDonough stated that Mr. Chessie already had an open permit for a residential dwelling. CEO McDonough asked Mr. Chessie if he wanted to convert the residential structure to a business structure only? Mr. Chessie stated that he wanted to do both. CEO McDonough stated that that was a problem, he thought Mr. Chessie had six acres.

CEO McDonough stated Mr. Chessie would also need 400 feet of road frontage for both the business and residence. Mr. Chessie had only 200 feet of road frontage. CEO McDonough stated that he could do one or the other, and asked Mr. Chessie which did he wanted to do? He stated Mr. Chessie could convert to commercial only if he wanted to but noted if he converted it, he could not live there.

Roger A. asked him if he wanted to table it until he made a decision? Mr. Chessie decided to table it until the next meeting.

Nothing further was discussed.

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**Conditional Use Permit – Replace Paver Patio with Pressure Treated Deck – Map 34, Lot 28 (12 Cherry Road) – Shawn Woods, Applicant; Diane Vetrano, Property Owner**

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

During the meeting on Tuesday, May 27<sup>th</sup>, the applicant provided the Planning Board with a picture of the existing home showing the concrete patio; a sketch plan depicting the patio is 62 feet from the high water mark and the existing camp is 70 feet to the high water mark on one side and 78 feet to the high water mark on the other; a diagram of the size of the existing patio showing the exact dimensions along with the fact it is

201.75 square feet in size; a diagram showing the existing home, landing, and patio dimensions which total 2321 square feet and a notation that 30% expansion of 696.3 square feet is to be constructed; a diagram of the house, patio and proposed new deck footprint which would be 240 square feet in size; along with an email from Diane Vetrano and Al Halliday stating Mr. Woods is authorized to act on their behalf.

This evening Mr. Woods provided a new plan proposing a larger deck, that being 12' x 28' in length, along with the new calculations which showed the proposed deck would use 406 square feet of the 416 square feet allowed for a 30% expansion.

Roger A. stated the board members did a site inspection this evening. Mr. Woods stated that the new plan was going from 20 feet in length to 28 feet in length. Barbara asked how this affected his 30% expansion? Mr. Woods stated that he originally was around 10% and now is at 22%. He noted that he had done a clerical error in the original calculations.

CEO McDonough looked at the plan and knew the house. CEO McDonough asked why Mr. Woods was before the Planning Board? Mr. Woods explained that he was expanding a non-conforming structure. CEO McDonough asked if he was expanding the foundation? Mr. Woods stated that because he was expanding a non-conforming structure he thought he was supposed to come to the Planning Board. CEO McDonough stated, "Only when you have anything to do with the foundation. He said because he isn't getting anymore non-conforming, this will only require a permit from me." After further discussion with Roger and CEO McDonough it was agreed this would require a permit from the CEO only.

Nothing further was discussed.

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**Amendment to a Subdivision – Reduce the Size of the Cistern for Fire Protection to Accommodate One Lot Instead of Two – Map 10, Lot 2-2-3 (White Pine Lane) – Louis Nieto, Applicant**

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

Roger A. began by stating at the last meeting, on May 27<sup>th</sup>, there was discussion about getting language for the easement for the Town to access the cistern but it was already on the plan. Mr. Nieto stated he met with his attorney, as there was concern over maintenance of the cistern and whether it had to be in the deed. Attorney Lenkowski stated that the best course of action was to mention the cistern on the plan because the plan gets recorded. Mr. Nieto stated he had Dana Libby of Corner Post Land Surveying, Inc. revise the plan entitled 'Plan Showing A Revision to Subdivision Plan Book 364 Page 44, Great Hollow Acres Lot #2 By Louis Nieto'.

Mr. Nieto stated the changes were located under Notes: 5. This section reads as follows:

**Amendment to "Great Hollow Acres Subdivision" Lot 2-2-3 (owned by Louis Nieto, Jr.) change fire protection system from 7,500 gallon cistern for two dwellings to 5,000 gallon cistern for one dwelling. This cistern will not be considered fire protection for Lot 2-2-1. This revises Plan Book 364 Page 44, approved December 10, 2013.**

**I find the proposed change from 7,500 gallon cistern to 5,000 gallon cistern executable as fire protection for Lot 2-2-3 only. This cistern will not be considered fire protection for Lot 2-2-1. This maintenance of the cistern will be the responsibility of the owner of Lot 2-2-3.**

**Shapleigh Fire Chief, Duane Roman, dated 6/11/14**

Diane S. asked if the property owner on Lot 2-2-1 built their house? Mr. Nieto stated, “No, it is under construction.” She asked if they had to put sprinklers in? Mr. Nieto stated that they either needed a sprinkler system or would have to put in their own cistern. They were having issues with available funds he was told.

Mr. Nieto stated that he spoke with Fire Chief Romano about how he wanted to have the cistern installed and when he wants to inspect the project such as when it is being backfilled. He said he had to notify the Fire Chief when he was ready for him to look at it.

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

**Maggie M. made the motion to approve the Amendment to the Subdivision per the plan provided entitled ‘Plan Showing A Revision to Subdivision Plan Book 364 Page 44, Great Hollow Acres Lot #2 By Louis Nieto’ to reduce the size of the cistern from 7,500 gallons to 5,000 gallons. Diane S. 2<sup>nd</sup> the motion. All members were in favor. All members were in favor. Members voted for approval, 5 – 0. The motion passed unanimously.**

*The applicant has 90 days to have the approved plan recorded at York County Registry of Deeds and returned to the Planning Board or the plan shall become null and void, unless an extension is granted by the Board in writing.*

Nothing further was discussed.

**Amendment to a Best Possible Location – Change the Size of the Approved Structure and It’s Location – Map 27, Lot 13 (130 17<sup>th</sup> Street) – William Plante, Applicant**

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

Mr. Plante presented a plan to the board on Tuesday, May 27<sup>th</sup> to change the approved location of the structure, along with the size of the structure from 26’ x 36’ to 28’ x 36’. The original site approval was as follows:

**The motion was made 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 17<sup>th</sup> Street; and the planting of a minimum of two trees to close the entrance onto 17<sup>th</sup> 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.**

Roger A. began by stating the board members did a site inspection this evening to see where the relocation of the structure would be.

Roger A. asked Barbara F. if Mr. Plante paid his application fee? Barbara stated, “Yes.” (Mr. Plante had not filled out an application or provided a fee to the board at the initial review on May 27<sup>th</sup> so she requested both from Mr. Plante after the meeting.)

Roger A. asked if there were any questions for Mr. Plante?

The board reviewed the new plan. Roger A. noted by changing the location of the new structure it pulled it back from the embankment by a few feet. Roland L. asked what the dimensional change was? Mr. Plante stated, “I was asking for two feet wider. Instead of 26’ x 36’, 28’ x 36’.”

Stephen F. asked if there was an issue with expansion? Roger A. stated, no, because part of the structure will be relocated beyond the 100 foot setback to the water. Roger, noting the 100’ mark on the drawing stated, “If anything on the 30%, you are more inside the Shoreland zone than you are out.” Mr. Plante said, “Yes, I believe I can have, at 28 feet wide, I can have 22 feet in front of the 100 foot mark. If I go 26 feet, I can go 24 feet forward. It’s a two foot difference closer to the water.” Roger said, “Per the plan, what ends up happening, is you have more square footage inside the Shoreland than you do outside the 100 feet.” Mr. Plante said, “I can only have a certain amount of square footage.”

CEO McDonough asked, “When you say Shoreland, do you mean the 100 foot mark?” Roger said, “Yes, the 100 foot mark.” CEO McDonough stated, “It seems to me that if you can push this structure back into that banking, then you can move the whole thing back.” Mr. Plante stated that he could have 624 feet in front of the 100 foot mark. He said, “If it’s 26 feet wide than I can have 24 feet in front of it and if it goes to 28 feet wide, I can only have 22 feet.” CEO McDonough stated, “The thing is, this is Best Practical Location. 30% expansion is not a right.” Roger said, “Right.”

Diane S. stated, “I would just like to say that I have been approached by several people making comments about this location and what is going on there. I know Roland said he had some people approach him too about what is going on there. Maggie said she did.” Mr. Plante stated, “I have no problem leaving it where you guys gave me permission and I’ll dig into the banking some more, that’s not a problem.” Diane said, “One person that made a comment to me actually asked if there was a gravel pit going in.” Mr. Plante said, “There is going to be if you guys...” CEO McDonough asked Mr. Plante, “Is that a threat? It sounded like a threat to me.” Mr. Plante said, “It’s not a threat, if you guys want me to dig more dirt out I would be glad to. I tried to dig less dirt by turning the camp a teeny bit.”

Diane S. stated, “I would like to read 105-2 to refresh everyone’s memory. *The purpose of this chapter is to further the maintenance of the safe and healthful conditions and the general welfare, prevent and control water pollution, protect spawning grounds, fish, aquatic life, bird and other wildlife habitat, control building sites, placement of structures and land uses and conserve shore cover, visual as well as actual points of access to inland and coastal waters and natural beauty, and to encourage the preservation of farmland.* That is the purpose of the Planning Board.” Diane said, “I think the key words in that were control building sites and placement of structures and land uses and conserve shore cover. We can move it anywhere we want again, if we desire to.”

Mr. Plante stated, “So basically you can either let me turn it where I would like to or you can leave it where you guys already gave me permission. It is your call.” Diane S. stated, “Or we can make you fill it in and move somewhere else.” Mr. Plante stated, “I’m already approved for where it’s at right now, I don’t have a problem leaving it there if it’s a big problem with you guys.”

Roger A. stated, "In controlling the building sites and protection of the spawning grounds, fish and aquatic life, bird and other wildlife habitat and control water pollution, I believe by pushing it back from where the original camp was and now going back to 76 feet, it is meeting that criteria. I would not have an issue with that. Now whether or not we actually take and allow the turning of it, I don't have an issue with turning that camp. I think it's not for the aesthetics for looking out across the lake, really it isn't. By turning it that way he doesn't have as good a view as what he did before. He is actually hindering himself. But we don't care about that, this is where he would like it. And most all other proposals we have had before us, we have tried to take a look at the land, and we have also looked at where the person, no matter who it was, where they would like to set it on their property and kind of went along with them, providing it isn't creating a big issue with soil and erosion control or creating a lot of runoff into the lake. In this location for what has been done on the location, it has been well upgraded, the bark mulch is there, it slowed down the banking's, the banking's have been stabilized except where they are digging today. The rest is all stabilized. It is neat and clean."

Diane S. stated, "There is no tree canopy on that lot anymore, there used to be, but not anymore." Roger A. stated, "Right there's a lot of trees that have been removed." Diane S. said, "So we have to have a good tree planting plan in place and I think Roger, at this point, the size of the foundation and the way the hill goes, I think we need an engineered plan. That's a very high foundation, 12 feet high." Roger said, "10." Mr. Plante stated, "It could be as low as 10 and we don't need an engineered foundation." Diane stated, "We need an engineered plan for a wall that is over four feet high. I just think it is a very steep slope and I would feel more comfortable with an engineered plan. That's just my opinion." Roger A. stated, "With respect to the foundation that is all going to come under the IBC (International Building Code) for the height, width and pressure up against it." Diane stated, "Well I would feel more comfortable but I can't speak for anyone else."

Mr. Plante stated, "You asked for a topo one time and you didn't even know what you were looking at." CEO McDonough stated, "Nice." Mr. Plante stated, "It is nice, it's the absolute truth. You asked me for a topo, put it right in front of her, and she didn't even know what she was looking at." CEO McDonough stated, "Bill, insulting the board isn't going to help you." Mr. Plante stated, "I don't care, I really don't."

CEO McDonough stated, "You gave us new information tonight that there is an attached garage going further back into the banking, how can you say, 'this structure can't go back any further'?" Mr. Plante stated, "I didn't ask for a garage tonight, I told you that was a proposed thing and it's beyond the 100 foot mark, so it has nothing to do with that." CEO McDonough stated, "I understand that, but they know it." Because the tone of the discussion was getting heated Diane S. asked for everyone to tone it down as she was sick of heated discussions with the applicant. Mr. Plante stated, "You are asking for things that you don't know what you are asking for." Diane S. quietly stated, "You can't speak for what I do and do not know." Mr. Plante stated, "When you looked at the plan, the way you were looking at it, it told me you didn't know what you were looking at." Diane stated she was tired of being disrespected.

Roger A. stated, "At this time we are looking at the amendment, this is what we have before us. The hole has been already dug out, it needs a little more work if he goes with what has been approved. Or it needs more cleaning if he sets the foundation where he would like to have it tonight. That is the only difference."

Diane S. stated, "In response to Mr. Plante's comment with respect to me, I didn't think the driveway would work the first time he came before us and he did. Then he came back and said it couldn't work."

Roland L. stated that after the site visit and seeing the existing hole and the staked out area where it was previously approved, it did appear that the new proposal was going to cut into the bank less. He said it appeared to be an improvement over the original plan. He said he was not going to speak in opposition to

the new plan. He noted that the question that did come up was the whole issue of the number of feet above the foundation of the existing. Roland asked if that was a relevant point at this time?

Roger A. stated that with respect to the 3 foot increase in height, that would be CEO McDonough's determination. Roger said if it was greater than 3 feet then it counts as square footage for the 30%. Roland L. asked if that referred to whatever part is above the 3 feet? Roger A. read §105-4.D(3)(b) 'Foundations', "If the completed foundation does not extend beyond the exterior dimensions of the structure, except for the expansion in conformity with Subsection D(1) above, and the foundation does not cause the structure to be elevated by more than three additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure."

Roland L. asked, "That part of the ordinance applies where the structure is considerably further back than it was originally?" Roger A. stated, "Right." CEO McDonough stated, "He gets three additional feet." Stephen F. asked Mr. Plante if he knew where he was at? Mr. Plante stated, "We are above that for sure. If you are not counting the cellar, if you are counting the first floor, we are way above that. Absolutely." CEO McDonough stated, "Bill you don't understand. You can take a structure and move it way up hill and still be at the same elevation mark. The problem is you don't know what the previous elevation was. So we are going to have to guess." Mr. Plante stated, "Pick any elevation you want, it's not a problem with me at all. I am in an approved location and if they let me spin it a little bit that is fine. What's on paper and what is on the ground is so far apart." CEO McDonough asked Mr. Plante if he wanted him to explain the rule to him? Mr. McDonough using a quick sketch explained to Mr. Plante how the elevation was not the factor but the height of both structures from the top of the foundation. Mr. Plante appeared to understand the explanation and stated he was well within the three feet allowed, he thought he might be below what was originally there, so elevation should not be a problem. CEO McDonough stated that because an elevation was not shot before the old camp was removed, they will have to use pictures to determine the original height of the camp. Mr. Plante stated he would work with CEO McDonough on this.

Roger A. asked if there was a motion on this application? Roland L. asked if the change in the height of foundation was a change in the amendment as well or does it not apply? Roger stated, "It won't change because what will happen is there is a difference in height then Steve will have to be dealing with that as far as the height because the actual placement is going to stay the same. It will just be whether it goes down any." Roland said, "I see, ok."

Mike Morse of the MDEP asked if there was an opportunity for public comment? Roger A. stated that someone could speak.

Mr. Morse introduced himself as the Assistant Shoreland Zoning Coordinator for the Maine DEP in the Portland office. He said he had been in the position for approximately 12 years and works primarily with municipal officials in helping them properly manage and enforce Shoreland zoning through the local ordinance which is based on State minimum requirements.

Mr. Morse stated, "Steve and I were looking at some sites a few weeks ago and this project came up in the conversation and we talked about it a little bit, so I said 'when is the Planning Board going to be hearing this' and kind of invited myself along. The reason I asked about coming to hear more about this project, is I think there might have been an error in how this greatest practical extent approval came about in the first place, the original approval. I am not here tonight to ask you to go back and revoke that, I think we are probably beyond the time frame, for that to apply. For the sake of my comments tonight, unless the board chooses otherwise, it's not the department's request that the board do anything different with that original approval."



Mr. Morse stated, “The concern that the DEP would have with this amendment is, and I think Steve alluded to it earlier, is the fact that the applicant has clearly said ‘hey I want to make it even bigger than what I have approval for.....and in order to still comply with the 30% expansion provision within 100 feet, I am willing to move it back further’. It kind of flies in the face of what the Planning Board was reviewing in the first place, which is greatest practical extent. And I think we may have even opened the door for the Planning Board to go back and look at this greatest practical extent review.”

Mr. Morse stated that he was going to get back to the original approval for the boards educational benefit and for the applicant to see if he wants to continue because it might make a difference.

Mr. Morse stated, “Picture a non-conforming structure being this size, whatever dimensions this is, it’s in the original location and he decides to tear it down and the Planning Board has to consider relocation at the greatest practical extent.” Mr. Morse stated that the board had to consider the original structure, not the original structure plus something else. He said, we have to consider ‘only’ the size of the original structure and how far back that can be located. He believed that the issue with the DEP and CEO McDonough is that the original footprint and size of the structure wasn’t really considered to the greatest practical extent, it was that plus an expanded structure. He said it is not how the language reads and it is pretty clear how the language reads. He wanted to point that out.

Mr. Morse stated, “We are not going to go back on what the original approval was by the Planning Board except we may be notifying the Planning Board sometime in writing that we are aware of this error, here is how to properly apply this, and we respectfully request that you continue to apply the language appropriately in future projects. But don’t revoke what you have already done.” He said legally, he believed the Planning Board had the right to say that’s off the table now, you can keep what you have or if you want to do something different we are going to start all over again, but this time we are going to do it right. We are going to follow what the town’s ordinance says and we are going to go by where the original structure was and it would probably be a worse scenario for the applicant. He wanted the board aware, but also two wrongs do not make a right. He said you can’t take an error and expound on it any further. He said that was the message for this application.

Roland L. asked, “As in this situation, when you are straddling the 100 foot mark, that seems to be for me the gray area because I had the impression or it was my understanding that beyond the 100 foot mark there is almost unlimited potential.” Mr. Morse said, “Yes, the issue here is with greatest practical extent is not to send them two miles back from the lake, or 300 feet, this applies to that area within 100 feet from the lake, 75 feet in certain areas in the wetlands, etc. You are absolutely correct and I wasn’t involved in the original process, so I’m not trying to be overly critical but what I’m seeing now with the large driveway now and the land back there, potentially the original structure with the greatest practical extent review may have very well gone fully beyond the 100 feet.” He said, “Had that occurred he may not have been tied to the 30%.”

Mr. Plante said, “What Steve didn’t tell you is when I came for approval I owned one piece of property and that is where we put it. Since then I bought another 2 acres of land and that’s how the driveway came in on that piece of land. Obviously he is not telling you the whole story of how it started.” Mr. Morse stated, “This is reviewing the Town’s records as well.” Mr. Plante said originally this was the best spot.

Mr. Morse stated that Mr. Plante brought up a point in that you only look at the greatest practical extent on the parcel the structure is located on. If it is separated by a road, or if there is a separate parcel, you still have to look at greatest practical extent on that parcel. If someone has a 100 x 100 foot lot, even if he owns land on the next lot behind that, if it doesn’t have to be combined otherwise by code, you look at the 100 x 100 parcel only.

Mr. Morse said, “The only other thing I wanted to point out, was considering what I heard on the site walk today with discussion about a potential garage in the future. There again it is acknowledged, the landowner is acknowledging ‘I could actually go further back’ again, not just the two feet I want to do but for a future garage. It opens that door again for the Planning Board to say ‘wait a minute, you are going to be talking about a proposed garage in the future, it was mentioned on the site walk’, you can consider that. It is a comment on the record. My recommendation is, what would be best for the landowner is go with what he has and let’s make sure from this point forward, we properly determine greatest practical extent according to the code the Town adopted.”

Mr. Plante said he was trying to be up front with the board, trying to put together a package and have the foresight. He said, then you are criticized for doing that. He believed this told the homeowner not to say anything about future plans. Mr. Morse said, whether the homeowner or developer, it’s all the same. If you are saying there are different phases, the Town, Planning Board and CEO has every right to look at each phase of this. Mr. Plante felt like he should shut his mouth. Mr. Morse said the point was taken and it was reality. He said the point was, it was mentioned and he understood Mr. Plante’s position.

Roger A. asked, “What you are saying is looking at the original structure, pushing that back but about the 30% expansion you want to add to that, does that come into it as well?” Mr. Morse said, “The way this works is, the Planning Board would take the original structure, determine where the greatest practical extent is. Once that location has been determined, then the Planning Board or the landowner can look at that and determine what can be done with expansion. Obviously, if it is outside of the 100 feet then you are not talking about 30%. If it is straddling the 100 foot mark then they get just 30% of just the remaining portion within, but they still get the 30%, but only what is remaining within the structure. If the entire structure is still greatest practical extent, fully within the 100 foot buffer, then they get 30% of the full structure.”

Mr. Plante stated, “The problem with this whole project is the original structure was so small that the 30% would only allow me to build a 24’ x 26’ camp. Believe me I didn’t want to go to the 100 foot mark.” He stated, “In order to get larger it shoved me beyond the 100 foot mark and drove me into that banking.”

Mr. Morse said whether its Shoreland zoning non-conforming setbacks, or road setbacks, or property line setbacks, with non-conformance to those, when you look at the provisions it doesn’t matter what the setback issue is, the idea behind the provisions is to reduce or ideally eliminate non-conformities over time. He said that is why you are limited to only 30% if you stay where you are which is why you are required to move back to the greatest practical extent. Because if you take a small camp and want to turn it into a year round home, it is an incentive to hike it back.

Mr. Plante asked Mr. Morse if there was anything non-conforming with what he was doing now? Mr. Morse stated that with the current approval, no. He said the DEP issue would not be with Mr. Plante as a landowner but with the Planning Board issuing the permit. He said that was his area of concern. Had the DEP been aware of this, we would have said the same thing.

Mr. Plante stated, “Steve even brought Chris Coppi (DEP) down there and the size of the lot, plus where the leachfield was going, plus the driveway, you only have so much room to play with, to start with. So Chris is down there and he said the same thing, ‘it should have been moved back’. Well where are you going to put the leachfield, it has to go beyond the 100 foot mark. You want the driveway beyond the 100 foot mark, so everything else is beyond the 100 foot mark. Geez, it would be nice to have the camp plus the 30% in front of it.” Mr. Morse said the issue is that the board didn’t take the original size of the structure and figure out

where that went first, along with the septic, along with the driveway, etc. They considered the proposal which was I'm not moving this, I'm moving that, therefore, I have to figure out where this fits into the picture, not where the original size of the structure fits into the picture.

Mr. Plante stated, "In my opinion, your rules should have a little bit of room to move because anybody with half a brain would say this is what you got right here, instead of driving into this hill, why not have a little bit of leeway and this guy's camp was only 35 feet from the water, now it's 65 feet from the water and he's not disturbing that hill. It would have saved so much aggravation and less disturbance."

Mr. Morse read from the ordinance the considerations the Planning Board would consider to determine the location, from §105-4.D(7)(b) he read: "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, 'there is your slope', the potential for soil erosion, the location of other structures on the property and on adjacent properties." He said, "There is a list of things here to take something that is seemingly subjective, to make it much more objective. The slope of the land, I don't know what the original land looks like."

Mr. Plante stated that he didn't want to drive the camp into the slope, it created so much soil disturbance it isn't even funny. Mr. Morse believed this conversation should be taken up outside of the Planning Board. He said, "If I were on the Planning Board and you tell me that you can't move back because of the slope, which is legitimate, then I might ask you, are you going to be able to live with this small structure plus 30%. And as a land owner you may possibly say I want something much bigger than that." Mr. Plante stated that if he moved beyond the 100 foot mark then he could expand the way he wanted.

CEO McDonough did not feel it was a right to take what you have plus 30% and move it beyond 100 feet. Mr. Plante asked if he could build what he wanted beyond the 100 foot mark? Mr. Morse said, yes, but there are other limitations but not the 30%, absolutely. He said the point of the language was to give the owner an incentive to want to move back. Mr. Plante said he felt there should be some wiggle room. Mr. Morse believed there was but it may not work for the landowner. Mr. Plante said he was a contractor and he had no problem digging more.

Mr. Morse stated that these were DEP's concerns. He said, "We would recommend to the board, you have got to go back to greatest practical extent, as if it were a new project, and you would have to go back to square one and do it the proper way and consider just the relocation of the original structure and it probably would be different from the original outcome." He said, "For the landowners benefit, I think we should just keep it the way it is, you would probably be better off."

Mr. Plante said by turning it, it would be less evasive. Mr. Morse said the board has to go back to the original project, consider greatest practical extent, turning it would not help the decision. Mr. Plante continued to go on about being in conformance. Mr. Morse didn't deny he was probably in conformance with the Planning Board approval.

Mr. Morse stated in conclusion he was here to help the board, so if they had any questions he would be more than happy to answer them.

Maggie M. thanked Mr. Morse for what he stated, she said she learned a lot. She believed based on what Mr. Morse said, if the board approved the amendment, the board would be compounding their error. Mr. Morse stated, "Correct." She believed this could create problems in the future. She also told Mr. Plante that the board wasn't going to state that he had to go back and put the little house back up or use that size because the board has already made the mistake, it was the board's fault. She believed the board was better off agreeing

with the original approval because the board could get into trouble for compounding it, knowing we made the mistake.

Mr. Plante said it meant pushing it into the hill but if that is what the board wants. Maggie M. noted that that was what was originally approved. She said the board has to go along with that approval. She said again, if the board changes that approval, knowing the board made a mistake, it would make the board look worse knowing we made a mistake and then doing it again. Mr. Plante didn't agree, he thought it would be making it less of a mistake, turning it 8 or 10 feet. Maggie agreed if the board had changed their minds before the approval that would have been better to turn it, but the board didn't and because the board made the initial mistake, she believed they should stick with the initial approval.

Mr. Morse stated, "If the town wishes to seek legal counsel advice on this, 'are we really opening the door all over again by considering this amendment', you may want to take a look and have that conversation; I would be happy to check with the office of the Attorney General, to make sure I'm not mis-speaking but I don't think I am." Mr. Plante didn't want anymore delays.

Roger A. agreed that by having an amendment before them, it opened up the application to take another look.

Stephen F. believed there were three options. The board could deny the application, and Mr. Plante can keep doing what he was approved for; the board could table it; or the board could vote on it.

Mr. Plante said, "If the board doesn't want me to move it, if you vote against it, I have no problem putting it where it is. You saw what's going to happen, we are going to move some more dirt, but it's no big deal to me. If the expansion is a big deal then leave it at 26, if it makes everybody feel better."

Roger A. said, "At this stage of the process, I think we should leave it where it is and leave it at the 26' x 36', the originally approved location, even though it will create more gravel being removed."

Maggie M. stated, "One other concern is, we can't pretend we didn't hear the discussion about the garage. I know you were just giving us a heads up but because we have the information in the back of our minds and when we were standing there looking at the hill, where the proposed garage is going to be, the hill is already damaged." Mr. Plante said he was going to cut a road for the excavator. CEO McDonough was concerned with cutting more trees. Mr. Plante stated he wouldn't have to cut anymore trees. Roger A. stated it was just for utilities. Mr. Plante went on again about turning the camp and how it would benefit the board. Stephen F. asked, "How does it benefit us?" Mr. Plante started talking about overdig for the structure. Maggie M. stated this would be protected by the retaining wall that will be constructed as part of the foundation. She said her concern was the area where the future garage would go. She said that was already dug out, how would that be protected if nothing is going to be built there at this time? She said it would just wash away. Mr. Plante said there was no problem to put that back (the earth).

Roland L. stated, "Since you put the garage piece on the table, and I'm looking at the plan you provided, it would seem to me that if the board approved your moving the building over it would have less impact on the hill where the garage would be." Mr. Plante said, "That is not true, because of the 100 foot mark. If I turn the camp I'm squaring up with the 100 foot mark, if I don't turn the camp the garage would meet the house at an angle. If I turn the camp, the garage would meet the house square. The garage is going to be parallel to the 100 foot mark because I can't go over the 100 foot mark." Roland L. asked about cutting into the banking. Mr. Plante stated he would be cutting into the banking the same. Mr. Plante, looking at the plan, showed Roland what he was talking about. Mr. Plante stated again by not moving the camp he would be

moving more dirt. Maggie M. noted that the board cannot be blamed for that, as that is what he wanted and was approved for.

Mr. Morse stated, “I assumed the excavation, moving more dirt by not moving the camp, is what the Planning Board already approved.” Mr. Plante said that most of the dirt is already moved for what was approved for now. Mr. Morse noted that the Planning Board had already approved the current location. Mr. Plante stated his new proposed location would move less earth.

Roland L. asked if the board opened themselves up to possible legal action if they approve the requested change? Mr. Morse stated, “Yes, possibly. I am not here to play the enforcement card. I want to help the board make the proper decision. Let’s do it right. Should a town, Code Officer, Board of Appeals, knowingly make an improper decision then it does open the door for some type of formal enforcement or legal action. I can’t tell you DEP will chase the Planning Board down for formal enforcement, I cannot tell you we are or we are not but yes it could open that door. I cannot tell you tonight if it will or will not happen.” Roland asked, “Can a private citizen take action against a board for something like that?” Mr. Morse said, “Sure.” Roland said, “Then my decision is made.”

Mr. Plante said again, “You guys want me to dig more into that banking, then let’s do it! You know I got the equipment to move the dirt.”

Mr. Plante asked Mr. Morse what he would do? Mr. Morse stated, “Unfortunately, even if it seems like we have to throw common sense out the door, but I’m not saying we are doing that here. The code is black and white and that is what we have to follow. Had this been the original size structure and it had been relocated and we were having this conversation, and it was a question of turning it to improve the setback then the answer would have been a yes. The point is, if we open the door again, then we are going back to what the greatest practical extent determination is and revisit it, with using the original size structure, not the luxury you were afforded in the first approval by the Planning Board, where they considered a larger structure for greatest practical extent, we might end up with a different result at the end.”

Mr. Plante asked if he was in conformance now? Mr. Morse said if he was following his permit then he probably was. Mr. Plante still didn’t understand what the board did wrong. Mr. Morse did not want to go over it again. Roger A. stated, “We should have looked at the original camp and placed that and then after that add the 30%.”

CEO McDonough said it was getting late, if the board needs more clarification the board should schedule a workshop with the DEP. Mike Morse would speak with the board further if they so desired.

Mr. Plante still appeared confused about compliance. Mr. Morse said that if Mr. Plante was in compliance with Planning Board approval then ‘he’ was in compliance. Mr. Plante said, “OK.” Mr. Morse stated that the board issued an approval but the process that they used was in error. He said because work has already begun, there are vested rights with that approval. So as long as Mr. Plante was in compliance with that approval, he was ok to do what he was already approved for. He said, “We are not going back, if it had been several days or weeks after, the DEP would have asked for reconsideration and had that conversation. There are no legal rights to go back at this time.”

Mr. Morse said the workshop would be a different issue outside the scope of an active project. He said if the board is interested he would have that conversation.

Roger A. asked if the board wanted to act on the application?

Maggie M. made the motion that the board DENY the application for the Amendment to a Best Possible Location to Change the Size and Location of the Structure based on this evening's discussion of errors in the initial review process, not wanting to compound the possible error in relocation. Roland 2<sup>nd</sup> the motion. Members voted for approval, 4-1. Diane S. did not vote in favor of the original approval, therefore, she abstained from this decision. The motion to DENY the amendment passed, whereby the original location and size of the structure shall remain as originally approved.

Nothing further was discussed.

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**Conditional Use Permit – Business Location for Chessie Excavation – Map 7, Lot 1-B-1 (776 Shapleigh Corner Road) – Caleb Chessie, Applicant**

Mr. Chessie asked to reopen the discussion of his application.

Mr. Chessie asked if he could make his lot a commercial lot, so he could put a sign up? He said he would not do his house.

Maggie M. asked if that would cancel his Growth Permit for a residence? CEO McDonough wasn't sure and said it was a first for him. Mr. Plante said, "We are just going to keep on grinding Steve."

Roger A. began by stating traffic access to the site was at the minimum of 315 feet of site distance because it the road is 45 miles per hour. Southbound it met the recommended site distance requirement.

Roger A. said with respect to noise it would only be from 7:00 a.m. to 7:00 p.m., except for emergencies for snow plowing. Roger noted the noise decibels were 60dB, anything greater could be contested by the neighbors.

CEO McDonough wanted Mr. Chessie to know the structure to be used would have to be to a stringent building code. He said in light of this, before the business is there, he would have to apply to build the structure. Until the business has an occupancy permit, the best that Mr. Chessie could get with respect to a sign is a temporary business sign, then once the structure is complete, with State Fire Marshall approval for the structure and everything is in order, then the Caleb Chessie Excavation sign can go up. Mr. Chessie said, "Huh, then I change my mind again. Why can't everything be easy?" CEO McDonough stated, "That is what I tried to tell you prior to the meeting."

Mr. Plante said, "Just get an old junk truck out there with your name on the door and don't put a sign up." Mr. Chessie said, "I guess that is what I'm going to do. Sorry, I wasted your time."

Mr. Chessie pulled his application permit.

Nothing further was discussed.

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**Growth Permits**

**Map 7, Lot 42C (Owl's Nest Road) – New Home – Lee Dezan**

Mr. Dezan was asked to clarify the deed for the property because it appeared the deed provided did not describe the lot in question. Barbara F. asked Mr. Dezan to attend the meeting and he provided the correct deed and it was also determined the lot he was asking for was not 42C-1 but in fact 42C. After this clarification and review, it was determined the proposed location met all the setbacks in the ordinance.

**GP #09-14 was granted.**

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

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**Planning Board meeting adjourned at 9:10 p.m.**

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

# **SHAPLEIGH PLANNING BOARD**

## **MINUTES**

**Tuesday, June 24, 2014**

Members in attendance: Chairman Roger Allaire, Vice Chairman 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 and Alternate Stephen Foglio were unable to attend.

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*Note: The minutes are not verbatim unless in quotes.*

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### **Public Hearing Began at 7:00 p.m.**

- **Conditional Use Permit – Moving Gravel in Excess of 150 Yards – Map 7, Lot 33A (Shapleigh Corner Road) – Maggie Moody, Applicant**
- **Conditional Use Permit – Moving Gravel in Excess of 150 Yards – Map 7, Lot 32 (1081 Shapleigh Corner Road) – Town of Shapleigh, Applicant**

Road Commissioner John Burnell represented both the Town of Shapleigh and Maggie Moody for the above applications. Maggie Moody was present but stepped down from her position as Planning Board member.

Roger began by stating both applications would be heard at once since the project involves both properties equally, for both Maggie Moody and the Town of Shapleigh. Roger asked RC Burnell to speak on what they were proposing to do. *Roger also noted that board members did a site inspection earlier in the evening.*

RC Burnell stated that in 2004 the Town acquired an easement from Maggie Moody for an exit for the old sand and salt pile. He said the agreement was that when the Town left the site the Town would block it off with a berm. He said the Town officials met with Maggie and came up with a plan for the berm and plantings of evergreens, so many feet apart, with large rocks in between the trees to deny access to ATV traffic.

RC Burnell stated the berm would be approximately 75 feet long by 30 feet at the base with a 3:1 slope and along the top of the berm it would be about 3 feet across and flat with the trees and rocks on top.

Madge B. asked Maggie M. if what was being proposed met with her approval? Maggie stated, "What was there wasn't anything fancy and it was actually a little lower."

Madge B. stated, "The entrance or exits to Route 11 will be gated or blocked somehow." RC Burnell said, "It is to be seen in the future when the old sand and gravel area gets reclaimed". Madge said, ok. Diane S. noted that Maggie's entrance is gated. Madge stated that she realized often gates don't keep ATV traffic out. Maggie stated, "Well that one will because I had it put so close to the sides, I can't walk between it and the trees without going around the woods." Madge said, ok.

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

The public hearing closed at 7:05 p.m.

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**Planning board meeting began at 7:30 p.m.**



The minutes from Wednesday, June 11, 2014, were accepted as read.

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**Conditional Use Permit – Moving Gravel in Excess of 150 Yards – Map 7, Lot 33A (Shapleigh Corner Road) – Maggie Moody, Applicant**

**Conditional Use Permit – Moving Gravel in Excess of 150 Yards – Map 7, Lot 32 (1081 Shapleigh Corner Road) – Town of Shapleigh, Applicant**

Road Commissioner John Burnell represented both the Town of Shapleigh and Maggie Moody for the above applications. Maggie Moody was present but stepped down from her position as Planning Board member.

Roger A. stated that because both parcels were adjoining parcels and the purpose of the applications were to establish the property line between the two parcels, the applications will be treated as one this evening. Provided in addition to the application, was a site plan which depicted the location of the old salt shed, old winter sand pile and location of the proposed 75' x 30' sand berm. Also received was a copy of Shapleigh Tax Map 7 which depicted the location of lots 32 and 33A which are adjacent to each other.

Roger A. began by stating that under §105-39.C 'Earthmoving in the General Purpose District' it requires the approval by the Planning Board with the movement of greater than 150 yards of gravel. Roger then reviewed Section F. 'Application for permit'. He stated that the board received the application which depicted the name and address of the current owners, and it denoted the location of the boundary of the lot(s) that the board is dealing with in the application. With respect to the drainage provisions and erosion control, Roger stated the property is comprised of fine sand, so there is no issue with water pooling on site, rainwater will drain extremely fast into the soil. Roger stated with respect to the other information required, including proposed activity, limits of excavation or filling, grading, loaming, seeding, mulch, planting, etc., this is the reason the applicant is before the board to discuss what will be done on site.

Roger A. then reviewed §105-39.G 'Conditions of Permit'. The conditions are as follows:

- (1) The smallest amount of bare ground shall be exposed for the shortest time feasible. **A portion of the property is still being used by the Town at this time. The berm being created will be established with mulch and plantings by July 31, 2014.**
- (2) Temporary ground cover and temporary runoff filter shall be used as required to prevent stream sedimentation. **The ground cover shall be completed by July 31, 2014.**
- (3) Diversions, silting basins, terraces and other methods to trap sediment shall be used. **None needed.**
- (4) Lagooning shall be conducted in such a manner as to avoid creation of fish trap conditions. **None being created. N/A**
- (5) The extent and type of fill shall be appropriate to the use intended. **Much of the fill will be taken from on site and is appropriate for the use intended.**
- (6) Fill shall not restrict a floodway, channel or natural drainage way. **N/A**
- (7) The sides and bottom of cuts, fill, channels and artificial watercourses shall be constructed and stabilized to prevent erosion or failure. **This has been done, now the area is being reclaimed.**

- (8) Where activities carried out under this article require the removal of existing ground cover, revegetation should be carried out. **Revegetation is why the applicants are before the board.**
- (9) (Reserved)
- (10) Specific plans are established to avoid hazards from excessive slopes or standing water. **No standing water, the slopes will be at 3:1 and the top will have a 3 foot plateau with vegetation and rocks to prevent ATV's from driving over it.**
- (11) The top of a cut or the bottom of a fill section shall not be closer than 10 feet to an adjoining property, unless otherwise specified by the Planning Board. **The Board is allowing closer than 10 feet to create a well-defined property line. This has been agreed upon by both applicants, as well as the Board.**
- (12) Sufficient topsoil or loam shall be retained to cover all areas, so that they may be seeded and restored to natural conditions. **Because of the fine sand, mulch will be placed on the embankments to stabilize the berm.**

Diane S. asked how many trees would be placed on the berm? RC Burnell stated he did not count them. He said there would be a tree every 7 feet across the top.

Roger A. asked if he knew when the Town would be completing the rest of the reclamation in the gravel pit? RC Burnell did not have a date at this time.

Roger A. asked Maggie M. if she had any issues with the project as presented by the RC Burnell? Maggie stated, "No."

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

*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 a water body 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. *N/A*
- 4) Traffic access to the site is safe. **It is, the site distances exceed the requirement in the Ordinance for 45 mph, which is 450 feet.**
- 5) The site design is in conformance with all municipal flood hazard protection regulations. **It is, the area is not located in a flood zone.**
- 6) Adequate provision for the disposal of all waste water and solid waste has been made. **N/A, there is no waste water or solid waste associated with this application.**
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. **N/A, there are no hazardous materials associated with this application.**
- 8) A stormwater drainage system capable of handling a twenty-five-year storm without adverse impact on adjacent properties has been designed. **No changes are being made on site that would create a stormwater issue. The area is entirely made up of well-draining sand.**

- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***The berm shall have mulched sides with plantings on top.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. *N/A*
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. ***The berm is a buffer strip between the two properties involved. There are also plantings going on top of the berm to stabilize and create a visual buffer.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

**Madge B. moved for approval of the Conditional Use Permit(s) to move gravel in excess of 150 yards along Map 7 Lot 33A and Map 7, Lot 32 in order to establish a property boundary with the following condition:**

- 1) The project, including the erosion control and planting plan, as discussed during the meeting on Tuesday June 24, 2014, which includes erosion control mulch on the 75' x 30' berm, along with evergreen trees planted along the top of the berm, every (7) seven feet, and rocks placed along the top of the berm to stop ATV traffic, shall be completed by July 31, 2014.

**Roland L. 2<sup>nd</sup> the motion. All members were in favor. Members voted for approval, 4 – 0. The motion passed unanimously.**

Nothing further was discussed.

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### **Growth Permits**

There are Growth Permits Available.

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

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

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

# **SHAPLEIGH PLANNING BOARD**

## **MINUTES**

**Tuesday, July 8, 2014**

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

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*Note: The minutes are not verbatim unless in quotes.*

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**Planning board meeting began at 7:30 p.m.**

**Alternate Stephen Foglio sat in as a regular member this evening, appointed by the Chairman.**

**The minutes from Wednesday, June 24, 2014, were accepted as read.**

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**Conditional Use Permit – Moving Gravel in Excess of 150 Yards for Parking Lot – Map 5, Lot 28A (adjacent to 22 Back Road), Map 45, Lot 10 (22 Back Road) – Town of Shapleigh, Applicant**

Road Commissioner Richard Goodwin and Selectman Mark Cobb were in attendance to represent the Town.

Board members received along with the application, a sketch plan depicting a 100' x 170' parking area with an attached walkway between the parking area and Town Hall parking lot. Also shown on the plan was the entrance to Back Road from the parking area, an existing fence between the Town Hall and the parking area, the existing stone wall on Lot 28A and a notation that a large pine tree is to be removed to create the entryway. A 40 foot culvert would be placed under the entryway, also noted on the plan.

Road Commissioner Goodwin provided an estimated quote to create the parking lot. This quote included not only cost to build, that being \$26,730.00 but also the number of yards of bank run gravel to be used, that being 1900 and the number of yards of crushed gravel, to be 200.

Roger A. asked either Selectman Cobb or RC Goodwin to explain what the project entailed. Selectman Cobb began by stating the Town would like to build a 100' x 170' gravel parking lot and connect it to the existing parking for the Town Hall with a walkway between the two.

Madge B. said they would be hauling in some fill. CEO McDonough asked if there was ledge in the field? RC Goodwin stated there was an outcropping about 100 feet out. He believed most of the parking lot would not be affected by it. CEO McDonough asked what would happen if they ran into ledge? RC Goodwin stated that they would dig it out.

Madge B. asked what standards would be used for the parking lot? Both CEO McDonough and Roger A. didn't know of any parking lot standards in the Ordinance.

CEO McDonough asked if the parking lot was on a separate lot? RC Goodwin stated, "Yes." CEO McDonough asked if it was their intention to keep it a separate lot? Stephen F. asked, "Is this lot conforming?" CEO McDonough and Madge B. stated the one being used for the parking area was. Stephen asked if the lot the Town Hall was on was conforming? Madge didn't think so, but it was grandfathered.

CEO McDonough asked if you would be able to access the new parking area from the existing Town Hall parking lot? RC Goodwin stated, “No.” Stephen F. stated the only connection between the two parking lots would be by a walkway. RC Goodwin agreed.

Roland L. asked if the parking lot would be plowed in the winter? RC Goodwin stated that it would be plowed but it would not be paved. Selectman Cobb stated, “The reason it is the size it is, is because we don’t know what the future plans are for that lot. So we want to start big enough to accommodate the future of the Town.”

CEO McDonough asked if there was a parking plan? The board showed CEO McDonough their copy of the parking plan. CEO McDonough asked if the Town Hall’s well was besides the building? RC Goodwin stated yes, and noted it was 140 feet deep and it was drilled through the ledge.

Madge B. said that because the parking lot would be gravel there shouldn’t be runoff from it. RC Goodwin stated that any runoff from the parking area would not go toward the Town Hall but will run off in the other direction. He noted that runoff from the existing Town Hall parking lot ran toward the pond.

Roger A. asked if the edge of the proposed parking area would be 23 feet from the Town Hall? RC Goodwin stated that the existing fence was going to stay in place. Selectman Cobb stated that it was 23 feet from the Town Hall to the fence, and the parking lot would be approximately three feet beyond that. He said the parking lot, therefore, would be 26 feet from the building.

CEO McDonough asked about the height of the parking area. RC Goodwin stated that the parking lot would be higher than the surrounding area and there would be a culvert placed across where the entrance is going to be. He stated that because the flat area would be raised, rainwater would drain off to the side of it. The area around the parking area would be seeded and mulched so the dirt would not erode. He noted that the water from the Town Hall would not go in that direction, so there are no competing elements with respect to rainwater. He said again the slopes coming off the parking lot would not be exposed and anything not parking would probably be seeded.

Roger A. asked if the opening to the parking area was 40 feet wide, looking at the drawing he believed it appeared to be 40 feet. Selectman Cobb stated the 40 feet was the width of the culvert. He said he thought it was 36 feet where the entrance connects to the road.

Stephen F. asked what the circles were on the plan? Selectman Cobb stated the circles were the existing stone wall which would stay in place. Stephen stated that his only concern was the same as the problem at the athletic field, that being people spinning around in the parking lot. He didn’t see a way to stop that. He hoped it would be less of an issue in this location. Everyone agreed it would happen, as it happens elsewhere in Town.

CEO McDonough thought that concrete curbs, such as in the Town Hall parking lot, would reduce the chance of people spinning around in the parking lot. Stephen F. stated that Jersey barriers would as well. CEO McDonough thought the small ones would work.

Roland L. asked if the area was going to be illuminated? Selectman Cobb stated, “No, not right away.” Selectman Cobb stated that he had thought about the lighting. He said, however, there was a budget issue. He thought perhaps a mercury vapor on the corner of the Town Hall would help. Stephen F. thought that a light would at least light up the walkway to the parking area.

Stephen F. asked about the fence on the plan. Selectman Cobb stated the fence on the plan is the existing fence. He said they would only have to move two boards in order to create the walkway.

Roger A. asked if a 36 foot opening onto the road was allowed? CEO McDonough didn't believe so, but wasn't sure if people adhered to it. Madge B. agreed that there was a maximum allowed but remembered making a change to the Ordinance for the sand/salt shed approval. RC Goodwin agreed there was a change but that was for a commercial entrance and he didn't know if this would be considered a commercial entrance or not. Roger said there was an exemption for the sand/salt shed because of the wings on the snowplows going in and out to make it easier for them to enter and exit.

Stephen F. asked if the fence was the existing lot line? He said he was asking because there is an Ordinance addressing grades that abut lot lines. He knew it was the same owner but he didn't want there to be an issue. CEO McDonough stated that the Planning Board had the authority to grant fill up to a lot line. CEO McDonough and Madge B. stated they both had thought of the Ordinance provision but realized the board could waive the requirement 'to keep no closer than 10 feet to a property line' (§105-39.G(11)).

The Board members and CEO McDonough continued to look for the Ordinance provision that addressed the width of a parking lot entrance onto a street. CEO McDonough found the provision in §105-43 'Off-street parking and loading' which states in part, "No off-street parking facility shall have more than two entrances and exits on the same street, and no entrance or exit shall exceed 26 feet in width. The Planning Board has the option upon clear showing of necessity by the applicant, to increase the maximum width, not to exceed 32 feet." Roger A. stated that this was for a commercial use only and a clear showing of a necessity. Selectman Cobb stated, "We cannot show you it being a necessity now, not knowing what we are going to do with the rest of the property. Perhaps fifty years down the road if we decide to put a new safety building and fire apparatus building in." Roger said, "The only way we can grant it is if you can show a necessity".

CEO McDonough stated that it could be looked at the same way as the sand and salt shed, you need the room to swing a plow in and out of the parking area. Roger said the only reason the Town was granted the 32 feet at the sand and salt shed was due to the number of trucks going in and out with the wings down. He said in this location you would only have one truck.

Stephen F. asked what the width of the opening was for the Town Hall parking lot? RC Goodwin stated he was not sure but stated it was very tight. CEO McDonough asked what the entrance width was that was depicted on the plan? Stephen stated, "36 feet." Madge B. stated that it goes from 24 feet to 36 feet at the road. Roger said the maximum width allowed would be 32 feet.

Roger A. asked if there would be any handicap spots in the new parking area or if they would all be in the existing Town Hall parking lot? Selectman Cobb stated that they would all be in the Town Hall parking lot as it wouldn't make sense, due to the distance from the Town Hall, to have any in the adjacent parking area. Selectman Cobb also noted that when they built the addition onto the Town Hall they lost a number of parking spaces and it was too crowded now.

Roger A. asked what the width of the walkway was? RC Goodwin believed it was eight feet. He noted you would not be able to drive a vehicle such as a snowplow down the sidewalk. Madge B. wondered why they wouldn't make it wide enough to plow? RC Goodwin stated that they snow blow the walkways now and would do this section as well. Selectman Cobb stated that if they plowed the area they might have a problem with the fence. Madge stated that snow blowing the area was fine.

Madge B. asked RC Goodwin if he knew how high the banking would be that he was going to seed and mulch? RC Goodwin thought it would be about three feet higher than what is there now but noted there has

been no excavation to determine the exact height. He said this was based on observation of what exists now. Madge said the banking should not be too steep. RC Goodwin stated that he understood and it would not be more than 3:1. Madge thought the Ordinance stated it could not be more than 2:1, so this was fine.

Roger A. stated that because it was gravel, there would be no designated parking spaces. He thought people would not know which way to park. RC Goodwin agreed there would not be designated spaces at this time. Selectman Cobb agreed as well, stating the lines on the drawing depicted how it could be laid out but there would be no designated areas. Stephen F. thought if they did a row of Jersey barriers people would not have an option and would park in a row. Roger agreed.

CEO McDonough, after reviewing §105-39 once again, noted that the slope surrounding the parking area shall be at a slope not steeper than one foot vertical to four feet horizontal (4:1) according to Section G.(10).

Roland L. asked if there would be any advantage to using reclaimed asphalt instead of crushed gravel on top of the parking lot? RC Goodwin stated that the material he is seeing now isn't any good, they take too much material out of it. He said it used to be excellent and now it's been tampered with. Roland noted that on his road he had an erosion problem but reclaimed asphalt made a world of difference. RC Goodwin asked him how long it had been there. Roland didn't believe it was more than five years. RC Goodwin stated again that it used to be great but from what he sees locally, he wouldn't use it. Roland stated that the product they used came from Dayton Sand and Gravel. He said Shawn Woods told them he got it from Dayton because they didn't cut it with anything else. He said they were very happy with it. RC Goodwin stated anything from Pike's isn't any good.

Selectman Cobb noted that it will become harder to come by because more and more Towns are regrounding what is there and laying it back down on the road, instead of hauling it off. Roland L. said he noticed the amount coming out of Sanford recently from their road projects and again said that on his road it has held up well to traffic, plowing, etc. He didn't know if it would be cost effective. RC Goodwin stated, years ago it cost less than crushed gravel, but the price has gone up and they have reprocessed it too much. RC Goodwin didn't disagree that Dayton may have a good product but believed it would be very pricey.

Roger A. asked if there would be any landscaping for the parking area? RC Goodwin stated some of the existing trees should be able to stay. Roger read §105-31(B) which states "All parking or outdoor storage areas shall be separated from any public road by a landscaped buffer strip at least 15 feet wide, planted with shade trees (minimum two-inch caliper, planted at least every 50 feet along the road frontage) and dense, medium-height shrubs (three feet in height) to screen parked vehicles. All such planting shall be maintained as an effective visual screen. Shrubs or trees which die shall be replaced within one growing season." Stephen F. thought there were plenty on site. CEO McDonough believed Selectman Cobb could review this section and perhaps draw the required trees and shrubs on the plan.

Roger A. asked where the gravel will be coming from, the Town pit? RC Goodwin stated, "I believe so." Roger said, "Then the estimate is just that because if it comes from the Town pit it won't cost that." RC Goodwin stated he was not certain.

Madge B. and Barbara F. spoke of the provision regarding landscaping the parking area. Barbara's concern was with shrubbery or trees blocking the view of the parking area from the road because that would prevent people from seeing any crime that could possibly take place on site. Madge noted that the board had not been consistent with requiring the plantings, so she wasn't sure what to do in this case. Roger A. was concerned with not doing it for the Town, then they wouldn't be able to do it for anyone else. Selectman Cobb noted that any vegetation currently along the stone wall was going to stay in place. He believed in a couple of years this area would be filled in by the existing vegetation. He also thought some of the existing

small trees on site could be planted along the wall as well. Stephen F. agreed, he didn't think the Town would have to buy new trees, just move them as needed.

Madge B. also wanted to be sure the entrance had a clear view of the road, so she didn't want to see anything that would interfere with the field of vision in either direction. Barbara F. noted this has been her concern with the requirement for the shrubs on the roadside of a parking area. She said in some Towns they are removing this requirement as it hinders people's vision when leaving a parking area. She agreed shrubbery and trees along adjacent lot lines was a great idea to keep headlights, noise, etc. from neighboring properties.

Madge B. believed this provision needed to be looked at and thought the board hadn't been enforcing this provision because depending on the location it didn't always work. CEO McDonough agreed it should be revised but at this time it needed to be reviewed as it is written in the Ordinance. Madge agreed and again said this was something to think about for the future. She proposed doing some changes to the Ordinance to come up with something that would work better than what is in place now.

Stephen F. addressed §105-31(A), specifically "Large parking lots shall be provided with at least one tree (of two-inch caliper) for every 35 car spaces (four trees per acre), to be located at representative points throughout such lots." He said this wants you to put them in the parking lot. Madge said again the board hadn't enforced this because often it doesn't make sense in Shapleigh. He understood the intent was to have a pretty parking area. He didn't think it made sense to create a nice parking lot, then fill it with trees again. CEO McDonough agreed but said this was based on something like a Hannaford parking lot where you want some shade trees and to make it look nice.

Stephen F. asked if perhaps the Board should change the Ordinance before the Town did the parking lot? CEO McDonough asked Selectman Cobb if that was what he wanted to do? CEO McDonough noted this would create a problem with time and it is hard to justify changing an Ordinance for one person. Madge B. agreed but said again that the board was not enforcing this section now, so she didn't think by changing it it would be a major change, it would be bringing the Ordinance in compliance with what the board is actually doing now. Madge didn't feel this was spot zoning, it was whether or not now was the time to change it.

Selectman Cobb stated, "As far as vegetation around the perimeter goes, Mother Nature is taking care of that." Madge B. agreed. Selectman Cobb stated, "I haven't looked at the exact number of trees along the stone wall or the size of them but I am sure there is plenty of vegetation there already." He didn't think it made sense to put trees in the middle of the parking lot. The board agreed. CEO McDonough reread paragraph A of Section 31 and didn't agree that it meant you 'had' to put trees 'in' the parking lot. He believed you could place four trees easy enough outside of the parking lot and still comply. CEO McDonough also agreed there was enough existing vegetation on site to comply with the Ordinance.

Stephen F. stated at the least, the board has noted a section of the Ordinance that needed some work.

Roger A. asked if any gravel or loam would be removed from site? RC Goodwin was not sure. RC Goodwin said ledge usually holds water, therefore, if you don't get the existing material off the ledge it could be an issue.

Roger A. asked if 1900 yards of gravel was an estimate? RC Goodwin stated that the figure was based on three feet of gravel the entire size of parking lot. He agreed it was a 'budgetary' estimate.

Roger A. asked when the project would begin and when it would be completed? Selectman Cobb stated this project would have to go out to bid. He said the Town wanted it done for community day but that will not happen. Selectman Cobb said they hoped it would be finished by fall.



**Roger A. stated a Public Hearing would be held at 7:00 p.m. on Tuesday, July 22<sup>nd</sup>. A Notice to Abutter will be mailed as well.**

Roger A. stated Selectman Cobb would need to redefine the size of the entrance/exit to reduce the size. Stephen F. asked what the width would need to be? Roger stated, 26 feet, unless they can show that they have to have more. Stephen asked if there was a point to making it narrower? Roger stated that it was what the Ordinance required. He didn't think with this parking lot, there was a reason for it to be wider.

Nothing else was discussed.

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**Other:**

**Building Height – Change Definition**

CEO McDonough stated that in the Ordinance there were conflicting definitions of building height. He said the board had changed the definition but only in one place. He said the definition can be found in Notes to Table and under Definitions. He wanted both to reflect the same definition.

CEO McDonough proposed the following:

***Existing under Definitions:***

§105-15. Definitions.

**BUILDING HEIGHT** – The vertical distance between the highest point of the roof and the average grade of ground adjoining the building.

**Proposed under Definitions:**

**BUILDING HEIGHT** – The vertical distance between the highest point of the roof ***and the mean original grade at the downhill side of the structure.***

(Taken in part from §105-19.H)

CEO McDonough stated that he wanted to use the definition that was written by the DEP for Shoreland Zoning, as that definition is required for Shoreland Zoning. Stephen F. asked if this was a typographical issue? CEO McDonough stated, "Pretty much." CEO McDonough said that when the board did the Shoreland Zoning changes back in 2009, the definition of building height was changed in Shoreland Zoning but not under Definitions. He wanted both definitions to reflect the same thing for clarity.

The board reviewed the Ordinance and had no issue with CEO McDonough's proposal. It will be presented at Town Meeting and at a Public Hearing to be held prior to Town Meeting on all proposed zoning changes.

Nothing further was discussed.

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**Growth Permits**

There are Growth Permits Available.

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

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**Planning Board meeting adjourned at 8:20 p.m.**

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

# **SHAPLEIGH PLANNING BOARD**

## **MINUTES**

**Tuesday, July 22, 2014**

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

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*Note: The minutes are not verbatim unless in quotes.*

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### **Public Hearing Began at 7:00 p.m.**

### **Conditional Use Permit – Moving Gravel in Excess of 150 Yards for Parking Lot – Map 5, Lot 28A (adjacent to 22 Back Road), Map 45, Lot 10 (22 Back Road) – Town of Shapleigh, Applicant**

Road Commissioner Richard Goodwin and Selectman Mark Cobb were in attendance to represent the Town.

Roger A. opened the public hearing stating that the hearing was for the proposed parking lot adjacent to the Town Hall. He asked Selectman Cobb to brief the board on what they intended to do. There were no citizens in attendance.

Selectman Cobb stated, “Basically what we would like to do is install a 100’ x 170’ gravel parking lot on the property adjacent to the Town Hall, connected by a walkway to the existing walkway in front of the Town Hall.” Selectman Cobb presented the board members with a new sketch plan. He noted that the entrance to the parking area was reduced to 26 feet on the road.

Roland L. stated that he understood the abutters had been notified. He asked if beyond that had there been any communication between the Town and the abutters on the other side of the lot? Selectman Cobb stated, no. Roland stated, “There has been no expression of support or concern, one way or the other from them.” The answer was still no. Barbara F. noted the Planning Board received no communication from abutters either.

Roland L. asked Selectman Cobb if he was reading the sketch plan correctly, that there will be 200 feet plus of undisturbed land between the parking lot and the neighboring property? Selectman Cobb stated that that was correct.

Roger A. asked Selectman Cobb when they expected to begin the project, once it has been approved? RC Goodwin and Selectman Cobb stated that the project had to go out to bid. Selectman Cobb added that he hoped it would be soon.

Roger A. asked if the project goes out to bid and someone gets the project outside of RC Goodwin, who would oversee the project for the Town? Selectman Cobb stated RC Goodwin would oversee the project. Selectman Cobb added that the contractors doing the project would have to do it to the specifications set. Roger asked again who would be sure the correct sand was used and that it was compacted correctly? Roger thought the Selectmen would want someone making sure it was being done to specifications. CEO McDonough stated that he agreed with Roger, if it goes out to bid it will have to be addressed.

Selectman Cobb noted that the Town had to put it out to bid but because the Town would be using their own gravel, he didn’t see anyone else coming in with a lower bid.

Madge B. asked if the slopes along the edge of the parking area were on the plan? She didn't see them. Selectman Cobb said they were not on the plan but if you look at Note B it states, 'Easterly side 4 to 1 slope to current grade. Seeded & mulched. Current vegetation to remain beyond that point.' Madge said, "Ok."

Roger A. asked if there were any other questions for Selectman Cobb or RC Goodwin? There were none.

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

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**Planning board meeting began at 7:30 p.m.**

**The minutes from Tuesday, July 8, 2014, were accepted as read.**

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**Conditional Use Permit – Moving Gravel in Excess of 150 Yards for Parking Lot – Map 5, Lot 28A (adjacent to 22 Back Road), Map 45, Lot 10 (22 Back Road) – Town of Shapleigh, Applicant**

Road Commissioner Richard Goodwin and Selectman Mark Cobb were in attendance to represent the Town.

Board members received a new sketch plan depicting a 100' x 170' parking area with an attached walkway between the parking area and Town Hall walkway. On the new plan the entrance to Back Road was reduced in size to 26 feet to meet the standards in the Ordinance. Also on the plan it depicted an existing fence between the Town Hall and the parking area, the existing stone wall on Lot 28A and a notation that 'current trees to remain at regular intervals'. A large white pine shall be removed to create the entrance and a 40 foot culvert will be placed under the entryway. There is approximately 200 feet of existing vegetation to remain between the parking area and the abutting property. Notes to the table state: A. 'Buffer Zone between fence and parking lot. Current vegetation to remain.' and B. 'Easterly side 4 to 1 slope to current grade. Seeded & mulched. Current vegetation to remain beyond that point.'

Road Commissioner Goodwin provided at the previous meeting on July 8<sup>th</sup>, an estimated quote to create the parking lot. This quote included not only cost to build, that being \$26,730.00 but also the number of yards of bank run gravel to be used, that being 1900 and the number of yards of crushed gravel, to be 200.

Roger A. asked Selectman Cobb to briefly explain what the Town was intending to do since there were several people in the audience at this time. Selectman Cobb stated that the Town was looking to install a 100' x 170' parking lot on the property adjacent to the Town Hall with a five foot wide walkway, connecting the two parking lots. He said the entrance to the parking lot would be 26 feet wide.

Roger A. read §105-39.(C) 'Earthmoving in the General Purpose District'. Roger noted that this application would be reviewed under 105-39 and not 105-61, as 61 is more for a gravel pit and commercial operations.

Roger A. then reviewed §105-39.(F) 'Application for permit'. He reviewed this as follows:

- (1) The name and current address of the property involved. **This information is on the application.**
- (2) The location and the boundaries of the lot or lots for which the permit is requested. **This information was provided along with the application.**
- (3) (Reserved)
- (4) The proposed provisions for drainage and erosion control, including drainage calculations. **Roger stated the measures were told to the board. There shall be no overflow going into the roadway, all stormwater shall remain on site.**

- (5) Other information necessary to indicate the physical characteristics of the proposed activity. **Roger said, this information is provided on the sketch plan. There will be approximately 3 feet of fill deposited on site to create the parking area. There shall be seed and mulch placed along the slopes which shall be 4 to 1.**

Roger A. then reviewed §105-39(G) 'Conditions of Permit' as follows:

- (1) The smallest amount of bare ground shall be exposed for the shortest time feasible. The Planning Board shall set a specific date after which bare ground shall not be exposed.
- (2) Temporary ground cover (such as mulch) and temporary runoff filter (such as hay bales in swales) shall be used as required to prevent stream sedimentation. The Planning Board shall set a specific date by which permanent ground cover shall be planted.
- (3) Diversions, silting basins, terraces and other methods to trap sediment shall be used.
- (4) Lagooning shall be conducted in such a manner as to avoid creation of fish trap conditions. The applicant shall submit written approval from the Department of Marine Resources or Department of Inland Fisheries and Wildlife, as applicable, prior to consideration by the Planning Board.  
**There shall be no Lagooning on site.**
- (5) The extent and type of fill shall be appropriate to the use intended. The applicant shall specify the type and amount of fill to be used. **This information was provided by RC Goodwin.**
- (6) Fill shall not restrict a floodway, channel or natural drainageway. **There shall be a culvert put into place at the entryway to keep water from going onto Back Road.**
- (7) The sides and bottom of cuts, fills, channels and artificial watercourses shall be constructed and stabilized to prevent erosion or failure. Such structures are to be designed and built according to the Maine Soil and Water Conservation Commission, Technical Guide, Standards and Specifications. **Roger stated slopes had been discussed, they will be 4 to 1 and mulched over. Vegetation shall remain on site between the parking lot and the abutting property.**
- (8) Where activities carried out under this article require the removal of existing ground cover, revegetation should be carried out. **Roger stated it would be placed along the slopes.**
- (9) (Reserved)
- (10) Specific plans are established to avoid hazards from excessive slopes or standing water. Where embankment must be left upon the completion of operations, it shall be at a slope not steeper than one foot vertical to four feet horizontal. **Roger stated this was discussed during the meeting.**
- (11) The top of a cut or the bottom of a fill section shall not be closer than 10 feet to an adjoining property, unless otherwise specified by the Planning Board. **Roger stated there was 23 feet from the Town Hall to the fence line and 3 feet from the fence to the parking area. He noted that although the fill is within 10 feet of the actual property line, the Town owns both properties, therefore, there isn't an issue. He also noted the parking lot shall not be higher than the Town Hall property.**
- (12) Sufficient topsoil or loam shall be retained to cover all areas, so that they may be seeded and restored to natural conditions. **Roger stated the slopes shall be seeded and mulched and the remaining land shall remain as is.**

Roger A. stated with respect to §105-39.(H) 'Optional conditions of permit', he did not believe any of these would be required for this application.

Roger A. asked if the stumps removed would go to the gravel pit? RC Goodwin stated, "Yes." Roger asked if anybody had any other questions for comments?

Madge B. stated she thought there should be a condition that once the Town goes out to bid, the specifications would then be established and the Planning Board should receive a copy for the records. She noted the Planning Board had no specifics with respect to the type of fill. Roger A. asked Selectman Cobb if he had an issue with this condition? Selectman Cobb stated, “No.”

Roger A. reminded the board that during the Public Hearing he asked who would oversee the project for the Town and it was mentioned that RC Goodwin would oversee the project.

Madge B. stated another condition for the project should be hours of operation because there were several neighbors. Roger A. agreed. RC Goodwin stated 7:00 a.m. to 5:00 p.m., Monday thru Friday. Selectman Cobb agreed.

Madge B. stated that whatever needs to be disposed of would go to the town gravel pit. RC Goodwin agreed.

Madge B. stated she assumed any damage or cleaning required on Back Road would be taken care of by the Town if needed. She said someone had to be sure it was cleaned up when the project was done and this should be a condition.

Diane S. asked if there were site distances noted? She agreed it was fine in that area but asked if any had been determined. Roger A. stated it was well within the distance requirements. Diane stated that she wanted it on record that it was within the requirements. Madge B. thought RC Goodwin could provide this information for the record.

Madge B. asked when the project would be finished? She asked if a date of the 1st of October would work for the Town? Selectman Cobb stated he would think it would be done by October 1<sup>st</sup>. Madge asked if the 15<sup>th</sup> of October would be a good date, including the mulch and planting. Roger A. thought it could be no later than the 15<sup>th</sup> of October due to the weather.

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

- 1) The Planning Board shall receive a copy of the bid specifications once they go out to bid.**
- 2) The hours of operation to create the parking lot shall be 7:00 a.m. to 5:00 p.m., Monday thru Friday.**
- 3) All tree stumps and debris shall go to the Town gravel pit.**
- 4) The Town shall clean and/or repair Back Road as needed during and after the project is completed.**
- 5) The site distance from the proposed entrance shall be provided to the Planning Board.**
- 6) The project, including plantings, shall be completed by October 15, 2014.**

Roger A. then reviewed §105-73 and made findings of fact.

*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 a water body 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, it creates safer access to the Town Hall.***

- 4) Traffic access to the site is safe. ***It is, the site distances exceed the requirement in the Ordinance for 35 mph, which is 350 feet. RC Goodwin shall provide the actual distance for the record.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***It is, the area is not located in a flood zone.***
- 6) Adequate provision for the disposal of all waste water and solid waste has been made. ***N/A, there is no waste water or solid waste associated with this application.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***N/A, there are no hazardous materials associated with this application.***
- 8) A stormwater drainage system capable of handling a twenty-five-year storm without adverse impact on adjacent properties has been designed. ***No changes are being made on site that would create a stormwater issue. There is sufficient area to retain stormwater on site and a culvert shall be placed under the entrance to keep water from going onto Back Road.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***The slopes shall have mulched sides with plantings and the remainder of the lot shall remain vegetated.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***N/A***
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. ***The vegetation between the parking lot and the abutting property shall remain in place for approximately 200 feet.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

**Madge moved for approval of the application to create a 100' x 170' gravel parking area on Map 5, Lot 28A, with a walkway between the new parking area and the existing Town Hall walkway on Map 45, Lot 10, per the plans provided with the above stated conditions. Maggie M. 2<sup>nd</sup> the motion. All members were in favor. Members voted for approval, 5 – 0. The motion passed unanimously.**

Nothing else was discussed.

**Conditional Use Permit – Rent Bedroom Suite via airbnb.com – Map 4, Lot 14-4 (482 Back Road) – Pat & Rick Kaye-Schiess, Applicants**

Pat and Rick Kaye-Schiess were both present for the review of their application. *Madge B. withdrew as a board member on this review as the applicants are friends of hers.*

Roger A. began by asking when the kitchenette was put in their home? Mr. Kaye-Schiess stated, “When we had our house renovated about 20 years ago.” Roger asked if it could have been the year 2000? Roger said there were no permits on file for the kitchen. Mr. Kaye-Schiess stated, “That was when we had the master bedroom suite put in.” He added that he believed the Code Enforcement Officer at the time came down and saw the work he was doing. Roger said the file showed a bedroom, bathroom and laundry room but there was no mention of a kitchenette.

Roger A. asked if there was a cooking ability in the room? Mr. Kaye-Schiess stated, “Yes.” Roger said, “As far as I’m concerned then this is a duplex, a two family.” Mr. Kaye-Schiess asked what that meant? Roger said that being a duplex he would need to go to the Code Enforcement Officer for a building permit.

Mr. Kaye-Schiess asked if he could speak. He said, “My name is Rick and this is Pat Kaye-Schiess and we live on 482 Back Road. We have a big house, our kids are all gone. So we have this master bedroom suite with what you just described and we would like to make it available just on the internet. No sign or anything. A maximum of two guests and possibly two kids.” Roger A. said, “The tricky part about that is our Ordinance refers to a single family dwelling unit as being one family. The minute we add a second one,

we don't have anything in our Ordinance that gives us an in-law apt. or another alternate as a part-time rental of the unit. I have no issue with it. But because there is a kitchenette and the septic system is a four bedroom when Brian Howard engineered it and the print shows six, so there is issues with that as well. By the time we get into the septic system and we do have a kitchenette and we do have a cooking ability, it creates a two family capable and by doing that it entitles us to look at it as a duplex. As a duplex you could rent it for one month or two weeks and then do something different. Nowhere in here does it give us an option for a B & B."

Mr. Kaye-Schiess stated he was confused. CEO McDonough stated, "A two family dwelling could be used for the B & B if you had a legal two family duplex, but I'm not saying that you do. It appears a duplex was created which is nothing more than two dwellings and you can rent it in any way or form you want to. A B & B is a single family dwelling where you rent one bedroom. So what is being asked of the Planning Board is to approve a duplex per the submission and that is not what the board thought they were here for. Based on what is on file, what you really want is a duplex and this doesn't fall under the Planning Board's jurisdiction, it falls under mine." Mr. Kaye-Schiess asked what he needed to do? Roger A. stated he needed to see CEO McDonough but he would also have to put in for a Growth Permit, which he noted there was plenty of, so it would not be an issue. Roger said he would need to submit the Growth Permit to the Planning Board and then get the building permit from CEO McDonough for the duplex.

Barbara F. said that the fee for the Conditional Use Permit this evening could be put toward the Growth Permit. Roger A. agreed, since notices to abutters were not mailed out, there would be no problem issuing a refund for the Conditional Use Permit.

CEO McDonough asked the applicants to contact him in the morning and they could discuss what needed to be done.

Nothing further was discussed.

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**Conditional Use Permit – Replace Retaining Walls & Stairs – Map 40, Lot 38 (19 Osprey Lane) – Kristina & Jared Buzzell, Applicants**

Stephen Foglio stated the applicants would be at the next meeting for the review. This evening he was there to set up the site inspection and see if the board wanted anything further from the applicants.

Along with the application, provided to the board members were pictures of the deteriorating retaining wall and stairs, what appeared to be a Google Earth picture of the property, and a sketch plan which depicted the location of the 18' x 40 foot cottage, a 10' x 18' patio attached to the cottage, a 12' x 20' boathouse, and the stairway and location of all the retaining walls on site. Measurements from the lots lines and Granny Kent Pond to the cottage, patio and boathouse were also noted along with 'Note: All disturbed areas to be replanted with grass as is currently existing.'

Stephen F. began by stating that the applicants were before the board because they would be moving more than 10 yards of earth. Roger A. asked if they applied for the Permit by Rule? Stephen said they would be applying within the next few days.

Stephen F. stated that the applicants would be at the next meeting. He didn't feel they should drive to the meeting this evening from Massachusetts only to set up the site visit. The board understood.



The board reviewed the material. Stephen F. stated the property had a tremendous amount of cinder block retaining walls that did their job for many years but the frost has destroyed them. He said there would be no walls over four feet in height, the highest being 46 inches. Roger A. asked if anything was being done under the patio? Stephen F. said the set of stairs would be part of the approval. He said they were poured concrete and they need to be replaced. He said the walls are cinder blocks.

Roland L. said, “The detailed drawing that you provided, along with the notes on the side, says all the disturbed areas to be replanted with grass as is currently existing; is there anything that prevents us from suggesting that one of those areas be vegetated.” Roger A. stated, “We can suggest it but the Ordinance does allow him to put grass back in.” Stephen F. said, “It’s all beach sand. I think the folks will be flexible with what you want put back. They intend on doing some landscaping to pretty it up.” Roland said, “I was just thinking mulch with selective planting, maybe some Junipers.” Stephen said, “The retaining walls actually keep the slopes. It is almost flat area to flat area to flat area. It’s not a runoff type situation.”

Roger A. stated a site inspection would be scheduled. Stephen F. stated that the property was vacant so if anyone wanted to do a drive-by before the meeting that wouldn’t be an issue. Madge B. stated she preferred to have the board go as a group. The other members agreed. **Roger stated the members would meet at the Town Hall at 6:30 p.m. for the site inspection. A Notice to Abutters will be mailed as well.**

Nothing further was discussed.  
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### **OTHER:**

Madge B. provided board members with a copy of a revision to §105-31 of the Ordinance as discussed at the last meeting. Members reviewed the possible changes as noted below:

Zoning amendment 105-31

Madge’s draft 7/9/14

- A. The landscape shall be preserved in its natural state, insofar as practicable as determined by the PB, by minimizing ~~tree~~ natural vegetation removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas. Parking lots shall be landscaped ~~with shrubbery along all lot lines (except for street entrances)~~ to prevent erosion and stormwater runoff onto neighboring properties and streets. ~~Boundaries with existing residential properties shall be screened according to the buffering standards in sec. 105-28~~ An effective visual screen of native vegetation, including evergreens, shall be established and maintained between the parking or storage area and any abutting residential property. The PB may require additional trees planted in and around large parking lots. ~~shall be provided with at least one tree (of two-inch caliper) for every 35 car spaces (four trees per acre), to be located at representative points throughout such lots~~
- B. All parking or outdoor storage areas shall be separated from any public road by a landscaped buffer strip at least 15 feet wide. The PB may require that within the buffer strip a visual screen of plantings be established and maintained. ~~Planted with shade trees (minimum two-inch caliper, planted at least every 50 feet along the road frontage) and dense, medium-height shrubs (three feet in height) to screen parked vehicles. All such plantings shall be maintained as an effective visual screen. Shrubs or trees which die shall be replaced within one growing season.~~

Madge B. still did not like where it referred to ‘An effective visual screen of native vegetation, including evergreens, shall be established and maintained....’ because the board was trying to get away with forcing people into doing things they are not going to and that may not work in all instances. She wants the board to be able to require it if necessary but not have to require it. She concluded the changes needed more work and would try to revise the section once more and have it for the next meeting. The board agreed with Madge’s suggestion of another revision.

Nothing further was discussed.

**Growth Permits**

There are Growth Permits Available.

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

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

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

# **SHAPLEIGH PLANNING BOARD**

## **MINUTES**

**Tuesday, August 12, 2014**

Members in attendance: Vice Chair 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 Stephen Foglio were unable to attend.

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*Note: The minutes are not verbatim unless in quotes.*

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**Planning board meeting began at 7:30 p.m.**

**The minutes from Tuesday, July 22, 2014, were accepted as read.**

*Maggie Moody was acting Chairman this evening due to Roger Allaire's absence.*

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### **Conditional Use Permit – Open Business Called Soup Shack – Map 1, Lot 41 (184 Emery Mills Road) – Justin Lowell, Applicant; Richard Gallant, Property Owner**

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

Mr. Lowell's application stated that he wanted to open a very small soup shack serving hardy soups and fare to patrons from approximately 9:00 a.m. to 2:00 a.m., 7 days a week. Mr. Lowell provided a sketch plan of the existing 20' x 20' building, parking area on both sides of the building, an area labeled 'turn around' and an area containing signage for 'Earth Works Landscaping'. Also provided was the subsurface Wastewater Disposal System Application dated 6/10/1993, done by Kenneth Gardner, SE #73 and a letter from Richard and Virginia Gallant, property owners, giving Mr. Lowell permission to operate his business out of the existing building located on 184 Emery Mills Road.

Maggie M. asked Mr. Lowell to tell the board why he was before the board. Mr. Lowell stated he wanted to open up a small soup shack where he could cook some down home food and keep everyone that is cold warm. He said, "Items such as pot roast, braised veal shanks, spaghetti and meatballs, food like that." He said soup would be the backbone of the restaurant, such as chicken, beef, and some fish; and it would be himself, his wife and his daughters working.

Maggie M. asked if it would be take-out only? Mr. Lowell stated no, he planned on having a bench with five or six seats inside the building. He said during the warmer months he was considering putting one or two picnic tables outside. CEO McDonough stated the only issue he could think of was having enough parking. He stated the Ordinance requires so many parking spaces for the amount of seating, so the number of seats would dictate the amount of parking required. Diane S. noted that he would also need a parking space for employees.

Roland L. asked what the hours and days of operation would be? Mr. Lowell stated to begin he would be opened five days a weeks, primarily weekdays, Monday thru Friday. He stated if his stepdaughter came on board, she might run the business other days. Barbara F. told Mr. Lowell whatever the most hours might be, that he plans to be open, he should ask for that now so he would not have to come back before the board to amend his hours. Mr. Lowell stated that he wrote on the application 7 days a week.

Roland L. asked how many hours a day he would be open? Mr. Lowell stating that to begin with he believed 11:00 a.m. to 7:00 p.m. would be a good place to start. He thought during the colder months he might stay open later to catch the plow trucks. He noted he would be serving coffee and soda as well.

CEO McDonough, reviewing §105-43 ‘Off-street parking and loading.’, stated he would need one parking space for every three seats, and one space for each person employed or anticipated to be employed. Diane S. noted one space would be required for every 150 square feet of floor area. CEO McDonough thought with a restaurant you would review the seating vs. square footage but it was up to the Planning Board to make the decision. He thought square footage was for retail sales, office or professional buildings. Madge B. agreed it should go by the number of seats.

Mr. Lowell stated he would be having two, perhaps three at the most with respect to picnic tables placed outside. He said there wasn’t much room outside to use and that he was going to focus more on the take-out business.

CEO McDonough asked if a Public Hearing would be held and all this information would be addressed again? The board members said, yes. CEO McDonough told Mr. Lowell that the board would want to know exactly how many seats he would have, how many picnic tables, how many parking spaces are on site and this needs to be on paper. Mr. Lowell stated he would definitely not have any more than six seats inside due to the size of the building. Maggie M. noted the plan presented showed 12 parking spaces. Maggie thought that sounded tight. Mr. Lowell stated that between the Earthworks display sign and the building there was over 60 feet. Diane S. noted each parking spot needed to be 10’ x 20’ in size. CEO McDonough wanted Mr. Lowell to be sure not to put picnic tables in parking spaces. Mr. Lowell stated he understood.

**Madge B. stated a site visit would take place before the next meeting and a Public Hearing would be held at 7:00 p.m. at the next meeting, August 26<sup>th</sup>, because this is a business.** Madge asked members if they wanted to do the site inspection individually since everyone knew the location? Members agreed that would be fine.

Barbara F. asked Mr. Lowell about the Earthworks Sign? Mr. Lowell stated they were not planning on moving the sign. Barbara believed the business was permitted at another location at this time. Maggie M. agreed and thought they could move it to where the business was currently located. Diane S. said they were not planning on moving the sign because they didn’t have as much room at the existing location as they thought they were going to have, so they changed their mind on moving the sign. Mr. Lowell stated it was his understanding Earthworks Landscaping and Mr. Gallant were working something out.

Barbara F. asked about the setback issue with the sign? CEO McDonough stated there wasn’t an issue with the sign itself but there is an issue with the retaining wall and it was going to be moved when they moved to the new location. Madge B. agreed they needed to take down the retaining wall.

CEO McDonough stated with respect to the signage it cannot stay because off-premise signs are not allowed. Mr. Lowell asked if it was an issue they would have to take care of? CEO McDonough stated Mr. Gallant would have to bear some of the responsibility as the landowner. Barbara F. said the permits actually run with the land. CEO McDonough stated the sign would have to be removed. Madge B. asked if the property owner would have to come before the board? CEO McDonough stated the owner didn’t have to come but someone has to remove the sign. Madge thought the retaining wall had to be removed as well. CEO McDonough agreed because it is part of the signage / display.

Diane S. asked if this had to be part of the next approval, to be sure the sign and the retaining wall is removed? Maggie M. didn't think it would be Mr. Lowell's conditions. She thought it would be a separate issue for Earth Works and Mr. Gallant. Madge B. thought the owner had to deal with it. CEO McDonough stated it had to be addressed. Diane thought the board could send the property owner a letter. CEO McDonough agreed. He thought if a letter was sent explaining why it had to be moved it shouldn't be a problem. Madge agreed.

Madge B. wanted a letter sent to the property owner explaining the sign and retaining wall had to be removed. Barbara F. said she would cc: the Letourneau's (owners of the sign). Madge said the letter should say the board cannot issue a Conditional Use for a new business on the property until the sign and display have been removed. Mr. Lowell asked if all the stone work had to be removed? Madge said she believed so. CEO McDonough agreed, the Ordinance says a retaining wall or patio is a structure and the display does not meet setbacks. Diane said that this would create more parking for Mr. Lowell.

**Madge B. made the motion that a letter be sent to Mr. Gallant and copied to Mr. and Mrs. Letourneau asking that the sign and retaining wall display be removed or the board cannot issue a Conditional Use Permit for any new business at 184 Emery Mills Road. Diane S. 2<sup>nd</sup> the motion. All members were in favor.**

*Note: The letter to Mr. Gallant addressed the following:*

*Pursuant to M.R.S.A. Title 23 §1914, signs must be located within 1000 feet of the advertised business.*

*Pursuant to Section 105-47 of the Town of Shapleigh Zoning Ordinance, signs advertising defunct business OR PREMISIS shall be removed by the property owner. Please be aware that the retaining wall at the base was considered part of the signage and must also be removed, whereas it cannot meet the setback for a structure to the road.*

*Therefore, for the multiple reasons listed above, the Town of Shapleigh Planning Board voted to address this situation by letter and will have to table the new applicant's proposal for the Soup Shack should this matter not be resolved by the next Planning Board meeting to be held on August 26, 2014.*

Madge B. told Mr. Lowell that he would not have to be at the individual site inspections as board members know the location. She hoped the display would be removed by the next meeting. Barbara F. stated a letter would be drafted on Wednesday and a copy would also be mailed to Mr. Lowell.

Roland L. noted that the board would ask at the next meeting what Mr. Lowell would be doing with refuse and would he have additional outside lighting? Diane S. asked Mr. Lowell to actually draw the parking spaces on the plan. Mr. Lowell asked if he could bring that to the next meeting? The board members said, yes. Madge B. noted that the board didn't approve signage, CEO McDonough did.

Nothing further was discussed.

**Conditional Use Permit – Replace Retaining Walls & Stairs – Map 40, Lot 38 (19 Osprey Lane) – Kristina & Jared Buzzell, Applicants**

Board members met the applicants on site at a site inspection prior to this evenings meeting.

Previously the board members were provided with pictures of the deteriorating retaining wall and stairs, what appeared to be a Google Earth picture of the property, and a sketch plan which depicted the location of the 18' x 40 foot cottage, a 10' x 18' patio attached to the cottage, a 12' x 20' boathouse, and the stairway and location of all the retaining walls on site. Measurements from the lot lines and Granny Kent Pond to the cottage, patio and boathouse were also on the plan along with 'Note: All disturbed areas to be replanted with grass as is currently existing.'

Stephen F. attended the meeting to tell board members the applicants would not be at this evenings meeting and asked that the application be tabled. Diane S. stated that Mr. Buzzell had a question about how long a permit would be good for once approved. She said they would have two years to complete the project.

Maggie M. didn't think it had to be finished within two years, only started. CEO McDonough stated, correct. Diane said that while at the site visit Mr. Buzzell stated he had no idea when he wanted to do the project. Stephen F. agreed and said Mr. Buzzell only wanted to be sure the project could be done before purchasing the property. CEO McDonough stated that this was an allowed use.

CEO McDonough asked if there was a revegetation plan? Maggie M. read from the plan and it stated that 'All disturbed areas to be replanted with grass as is currently existing'. She noted that after the site inspection she felt that it needed more than grass. Diane S. agreed. Maggie said there was an erosion issue. Madge also agreed stating that the area needed some work.

Maggie M. asked Stephen F. if the next meeting would work for the applicants? Stephen believed it would.

**Diane S. made a motion to table the application until the next meeting to be held on Tuesday, August 26, 2014. Madge B. 2<sup>nd</sup> the motion. All members were in favor.**

Nothing further was discussed.  
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### **Growth Permits**

#### **Map 4, Lot 22A (Back Road) – New Home**

7.68 acre parcel created in 2011. The lot was a gift to a relative created from a lot purchased in 2002 by the applicant's father. The lot exceeds the minimum requirements for a legal lot in Shapleigh and has over 400 feet of frontage on Back Road.

**GP #10-14** was given to the applicants, Kristie Mucci and Jacob Angers.

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

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

Respectively submitted,  
Barbara Felong, Land Use Secretary, [planningboard@shapleigh.net](mailto:planningboard@shapleigh.net)

# **SHAPLEIGH PLANNING BOARD**

## **MINUTES**

**Tuesday, August 26, 2014**

Members in attendance: Chairman Roger Allaire, 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. Diane Srebnick, and Alternate Stephen Foglio were unable to attend.

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***Note: The minutes are not verbatim unless in quotes.***

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### **Public Hearing Began at 7:00 p.m.**

#### **Conditional Use Permit – Open Business Called Soup Shack – Map 1, Lot 41 (184 Emery Mills Road) – Justin Lowell, Applicant; Richard Gallant, Property Owner**

Mr. Lowell was present for the public hearing.

Mr. Lowell's application stated that he wanted to open a very small soup shack serving hardy soups and fare to patrons from approximately 9:00 a.m. to 2:00 a.m., 7 days a week. Mr. Lowell provided a sketch plan of the existing 20' x 20' building, parking area on both sides of the building, an area labeled 'turn around' and an area containing signage for 'Earth Works Landscaping'. Also provided was the Subsurface Wastewater Disposal System Application dated 6/10/1993, done by Kenneth Gardner, SE #73 and a letter from Richard and Virginia Gallant, property owners, giving Mr. Lowell permission to operate his business out of the existing building located on 184 Emery Mills Road.

Roger A. began by asking Mr. Lowell to state for the record what he intended to do. There were no audience members, only board members at the hearing.

Mr. Lowell stated, "I'm going to be serving hot soups and home cooking. Try to satisfy the people around here during the cold months. Trying to make a buck."

Roger A. asked what the number of seats would be? Mr. Lowell stated, "Approximately six inside." Roger asked if there would be any outside? Mr. Lowell stated, "Two or three picnic tables." Roger asked if only family members would be employed? Mr. Lowell stated, "Yes sir."

Roger A. asked what the hours of operation would be? Mr. Lowell stated, "I have down on my application 9 a.m. to 2 a.m. but to begin with I'm going to open 11 to 7. During the winter months and during storms I'm hoping to stay open later to catch some of the first responders." Roger asked if he was looking at nine in the morning until seven, seven days a week? Mr. Lowell believed to start it would be five days a week but if his step-daughter comes on board then she may make it longer by giving him a day off during the week. Roger explained whatever hours were approved, those are the hours he would be able to be open, so it would be best to have the largest window possible.

Mr. Lowell stated he wanted to apply for 9 a.m. thru 2 a.m., 7 days a week. He noted again, to begin with he would be open 11 a.m. to 7 p.m., five days a week.

Roger A. asked if a parking plan was submitted? Mr. Lowell stated he drew a plan as required on the application. He said he left an area on the plan showing where the parking spaces would be located. He said at the last meeting he was asked to draw the lines in denoting the individual parking spaces but he did not

have the time to do that prior to this meeting. Mr. Lowell stated that he expected patrons to pull straight in to the area indicated on the map. Roger stated that if the application did get approved, there would be no backing onto Route 109 allowed. Mr. Lowell said there was a turn-around.

Madge B. asked if people serve food, did they have to have a bathroom? Mr. Lowell believed if you provide a place for people to sit down and eat, there does have to be a public rest room. He said there is one in the building. Madge thanked Mr. Lowell. She noted she couldn't remember if there was a bathroom in the building.

Roger A. asked if there were any more questions? CEO McDonough asked if the sign for the previous business was still up? Mr. Lowell said, yes. Maggie M. noted the retaining wall was still up as well.

Roger A. stated because there were no additional questions, the public hearing was closed.

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

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**Planning board meeting began at 7:30 p.m.**

**The minutes from Tuesday, August 12, 2014, were accepted as read.**

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**Conditional Use Permit – Open Business Called Soup Shack – Map 1, Lot 41 (184 Emery Mills Road) – Justin Lowell, Applicant; Richard Gallant, Property Owner**

Mr. Lowell was present for the final review of his application. Board members did a site inspection on an individual basis, prior to this evenings meeting.

Madge B. began by asking if the board knew what the site distance was for this location? Barbara F. believed the last applicants were asked to provide site distances, so she would review their files. Roger A. agreed that it should be noted in the Letourneau's file. Madge wanted it in the record.

Roger A. asked about possible litigation regarding existing signage on site. He said because the business itself wasn't on site, CEO McDonough had written a letter (to the property owner Mr. Gallant, and copied to the previous business owner's Mary and Joseph Letourneau who erected the sign) and there has been no response. Roger didn't want to hold Mr. Lowell's application up because of the sign issue. Madge B. said the sign issue and the new business were on the same property and there was going to be a legal action on the property. Madge asked Roger what he suggests be done? Roger said, "I would say we go to Mr. Gallant on the old signage due to the fact §105-47.A (Signs and billboards) would allow us to have, (2) 'There shall be one sign attached to the building allowed per approved conditional use, each sign not to exceed 24 square feet in area.' Of course there is greater than 24 with what he had (the Letourneau sign). Under (1)(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.'" Roger believed Mr. Lowell's signage would be reduced due to the fact there is already a sign on site.

Roger A. believed that because the business has not been operating at this location, the board can require the sign be removed because it would be a defunct business. Mr. Lowell stated that he was under the impression it was not a defunct business. Barbara F. stated the business was approved at another location and she asked Madge B. her opinion? Maggie M. agreed the business had moved.



**Note:** Keepin it Local and Earthworks Landscaping was approved to move to Map 18, Lot 32A (120 Emery Mills Road on March 11, 2014. The approval was as follows:

A notice was mailed to all abutters within 500 feet of the property. A public hearing was held by board members on Tuesday, March 11, 2014. After careful consideration and a review of all material presented to the Board, as well as the pertinent Ordinances including 105-73 “Standards Applicable to Conditional Uses”, **the motion was made to approve the Amendment to the Conditional Use Permit to open Keepin it Local and Earth Works Landscaping at Map 18, Lot 32A, per the plans provided with the following conditions:**

**The hours of operation shall be 5 a.m. thru 10 p.m., 7 days a week.**

**The menu for the cafe will be as provided with the application.**

**Maximum yardage of landscaping materials shall not exceed 400 cubic yards. There shall be no loose piles of material on site, all shall be stored within a concrete bin.**

**Best Management Practices for soil erosion shall be maintained on site.**

**Solid waste / refuse shall be disposed of in the dumpster located on the adjacent property.**

**The drive-thru window shall be for prepared foods only in order to keep traffic flowing smoothly and quickly.**

**There shall be no parking on Route 109 at any time.**

***Any changes to the above stated conditions shall have to come back before the Planning Board.***

CEO McDonough stated, “In the State of Maine you cannot have an off-premise sign. That constitutes a billboard and billboards are illegal in the State of Maine. He said the reason they had that sign in the first place is that was his office.” (July 25, 2012 Joseph Letourneau was approved to use the existing building on Map 1, Lot 41 for office space for Earthworks Landscaping, with hours of operation being 7:00 a.m. thru 9:00 p.m., 7 days a week.) He said, “They are not there anymore, so now it is an off-premise sign and off premise signs are illegal.”

CEO McDonough stated again that he was not saying the business was not functioning anymore, it just is not there. Roger A. agreed it was in a different location and as CEO McDonough stated, you can’t have the sign more than 1000 feet away from the business. He said the sign has to be moved and noted that if it isn’t moved it will hurt Mr. Lowell’s ability to have signage as the size of his sign will be reduced.

Mr. Lowell asked if he couldn’t do anything until the sign issue was resolved? Roger A. said the board could allow Mr. Lowell to do what he was proposing and at the same time try to get the existing sign removed.

Roland L. asked if the issue was just the sign or the hardscaping as well? Roger A. stated that it was both. Maggie M. thought it had a setback issue. CEO McDonough stated the only reason the hardscaping was allowed as he interpreted it as being part of the signage. He stated that now that the signage is no longer legal it has to be removed too, because otherwise it is a structure and it doesn’t meet setbacks. Roger agreed. Madge B. believed any action on the sign was against the landowner. Roger and CEO McDonough thought that would be true. Madge stated the approval of a business runs with the property, so she agreed that the board could approve a different use. She asked if the board approves the different use, does the board lose the ability to force the landowner to take some action? CEO McDonough believed you lose some leverage but didn’t think you totally throw out your authority. Madge agreed it will continue to be an illegal structure on the property and the Town can still take legal action for the violation.

Roland L. asked when Mr. Lowell was hoping to get his business going? Mr. Lowell stated that he had been in the building since July of this year and has been working on the interior. He said he would like to open as soon as possible. Roland thought if there would be a fall start date, the board would have more time to leverage Mr. Gallant to take the appropriate steps necessary to rectify the situation but Mr. Lowell wants to get started sooner. Mr. Lowell stated that he would do anything he could to help the board out. CEO McDonough stated they didn't want to hold him up and couldn't think of anything Mr. Lowell could do to help. Madge B. asked Mr. Lowell if he was already paying rent? Mr. Lowell stated that he had put a deposit down.

Roger A. said he didn't have any issue with Mr. Lowell. Roger noted that even though it was two businesses it was the same person running both.

Barbara F. stated that she realized it was the landowners issue because the permit runs with the property and there is an off-premise sign which isn't allowed but isn't the actual sign owner at fault as well because their business was approved for another location and it's advertising their business, therefore, why is it only an issue for the landowner, Mr. Gallant? Madge B. said the sign was issued to the business, not to Mr. Gallant. CEO McDonough stated he didn't know the legal answer. Roger A. thought the landowner is allowing the person to have a sign for a business down the street, so it is still the landowner that would be liable, in his opinion. He added that the sign now actually belongs to the landowner.

Maggie M. thought that it was too bad the walls were a structure because without a sign you could use that for the outdoor eating area. Mr. Lowell noted there was a fire pit located there as well.

CEO McDonough stated that had the business owners come to him asking if they needed a permit for the retaining wall and fire pit and gotten a permit for it, he would have had them meet the setbacks so it could stay on the property, but they did not. He said he was confident it didn't meet setbacks to the road but admitted he had not measured it. He said a portion may meet setbacks and perhaps a portion can stay in place but he didn't know at this time.

Madge B. stated that in any case the sign has to be removed. Roland L. said he felt a notice should be sent to the Letourneau's (owners of the signage). CEO McDonough stated the letter asking for removal of the sign was also sent to the Letourneau's, along with the property owner. Maggie M. asked if he stated it might hold up Mr. Lowell's approval? CEO McDonough said it stated the application would be tabled if the sign wasn't removed. Maggie thought that should have put some urgency to the issue. CEO McDonough agreed.

Mr. Lowell asked if he could have a sign if he was approved this evening? Roger A. said the size of the sign would be reduced because the Letourneau's are using some of what is allowed at this time. Madge B. stated that the Town still had to go after the illegal sign. Roger didn't want to hold Mr. Lowell's application up as ransom. Madge agreed.

Madge B. asked Barbara F. if she found the site distances? Barbara stated that the Letourneau's stated the site distance facing toward Acton was 600 feet and facing toward Sanford was 430 feet.

Roger A. began reviewing the Basic Performance Standards.

- 105-21 – Traffic. *The minimum required in this location is 245 feet, the site distance as stated above exceeds the minimum and maximum (350') required.***
- 105-22 – Noise. *There will be no noise generated from the activity***

- 105-23 – Dust, fumes, vapors and gases. *There is no dust, fumes, vapors or gases, generated by this activity.*
- 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 at this time.* Roger read the ordinance requirement to Mr. Lowell, so he would be aware of the lighting requirement.
- 105-26 – Stormwater runoff. *There are no changes being made to the existing structure or property that would cause a stormwater problem. The building and site have been in existence for over 50 years with no issues to date.*
- 105-27 – Erosion control. *There are no changes being made to the existing structure or property that would cause an erosion problem.*
- 105-28 – Setbacks and screening. *The existing structure is well screened from surrounding properties at the rear of the structure, additional screening could be hazardous by obstructing the view leaving the parking area.*
- 105-29 – Explosive materials. *There shall be none on site and none to be generated.*
- 105-30 – Water quality. *There is no waste or hazardous material being stored outside. There is an existing State approved septic system on site adequate for the size of the building.*
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *There are no changes being made to the site, all the existing has been previously approved.*
- 105-32 – Relation of proposed building to the environment. *The existing building fits in well with the surrounding area.*
- 105-33 – Refuse disposal. *Refuse will be removed by the applicant nightly.*
- 105-34 – Access control on Route 109. *There is an existing approved entrance onto Route 109 at this time, so no DOT permit is required. There shall be no backing onto Route 109 from the parking area.*
- 105-43 – Off-street parking and loading. *The existing structure has more than adequate parking for the size of the building and number of patrons / employees per the parking plan provided. There shall be a maximum of six seats inside the structure, up to 3 average sized picnic tables outside the structure, and a total of two employees on site. Parking areas shall be 10' x 20 feet in size with a total of 10 on site.*
- 105-46 – Sanitary provisions. *There is an existing State approved septic system on site adequate for the size of the building. There is an existing bathroom in the structure that will be made available for the public.*
- 105-47– Signs and billboards. *Any signage shall be obtained through the Code Enforcement Office.*

*The plan was changed to show the parking plan and location of the picnic tables. The picnic tables were placed at the rear of the building so they did not impede the parking area.*

Maggie M. thought it would be a good idea to place boulders between the picnic tables and the parking area for added protection. Mr. Lowell wasn't opposed to the idea.

Roger A. then reviewed §105-73 and made findings of fact.

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

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. ***It will not, the property is not near the water and no changes are being made on site to disturb wildlife habitat.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. *N/A*
- 3) The use is consistent with the Comprehensive Plan. ***It is, the Comprehensive Plan encourages businesses along State Route 109.***
- 4) Traffic access to the site is safe. ***It is, the site distances meet the minimum and maximum required as supplied by the previous applicant's. No one shall be allowed to back out onto Route 109.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***It is, this location is not in a flood zone and no changes are being made on site to affect stormwater.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***There is. A State approved septic system is on site to handle the size of the building. All waste produced by the business shall be removed by the applicant.*** Note: Should an amendment be needed for an increase in clientele creating an increased need for parking spaces, CEO McDonough asked that the board also re-address waste disposal.
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. *N/A*
- 8) A stormwater drainage system capable of handling fifty-year storm without adverse impact on adjacent properties has been designed. ***There are no changes being made to the site to affect stormwater. The existing structure has been in existence for over 50 years with no issues.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***There are no changes being made to the site to create an erosion problem.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***There is, a fire hydrant is located a short distance from the building at the Emery Mills Dam.***
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. ***The existing vegetation buffers adjoining properties and shall not be removed.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

**Roger A. stated the Conditions of Approval are as follows:**

- 1) The hours of operation shall be 9:00 a.m. thru 2:00 a.m., 7 days a week.
- 2) Backing a vehicle out onto State Route 109 shall not be allowed at any time.
- 3) The number of vehicles to be parked on site at any one time shall be 10 in total. Should additional parking have to be addressed in the future with an amendment to the permit, waste disposal shall also be re-addressed.
- 4) There shall be no overnight storage of refuse outside of the structure.

**Madge M. made the motion to approve the application to open a business called the Soup Shack in the existing structure on Tax Map 1, Lot 41, as discussed during tonight's meeting and per the plan presented, with the above stated conditions. Roland L. 2<sup>nd</sup> the motion. All members were in favor. Members voted for approval, 4 – 0. The motion passed unanimously.**

Nothing else was discussed.

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**Conditional Use Permit – Replace Retaining Walls & Stairs – Map 40, Lot 38 (19 Osprey Lane) – Kristina & Jared Buzzell, Applicants**

The applicants were not present for the review of the application. Barbara F. believed the applicant's may not return based on what the board said was discussed at the site inspection.

The board members agreed stating they were under the impression the applicants just wanted to be sure they could replace the structures prior to purchasing the property. CEO McDonough stated it was an allowed use.

*Note: Steve Foglio emailed Barbara F. on 8/28/14 to state, 'The Buzzells are going to drop the whole thing.'*

Nothing further was discussed.

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**Amendment to a Conditional Use Permit – Public Sand / Salt Shed – Map 7, Lot 5 (Shapleigh Corner Road) – Town of Shapleigh, Applicant**

Selectman Mike Perro and Selectman Bill Mageary were present along with Road Commissioner Dick Goodwin.

The Selectmen presented, along with the application, a set of plans which depicted the existing Town sand/salt shed and the proposed Public sand/salt shed for the residents of Shapleigh, showing views from both sides of the structure; the actual framing plan for the structure; and a site plan showing the location of the existing sand/salt shed on the property and the proposed addition. Also on the site plan Route 11 was depicted, several stone barriers, and an area to be paved.

Selectman Perro began by stating the Town was in the process of having the contractor that drafted the plans presented, make several revisions to the plan. He said that although he didn't have the revised plans, he could tell the Planning Board what the changes would be. The loading door on the plan was depicted as being 8' x 7' in size, Selectman Perro stated the opening would instead be 9' x 7' in size. He said that on the last page the design for the driveway would change somewhat as well.

Roger A. asked if the door opening was going to be 7 feet in height? RC Goodwin stated yes, the area was just to dump sand, so 7 feet was adequate for what they would be using it for. He added there would only be a bucket on the machine to push the sand around. Selectman Perro agreed stated there wasn't going to be any equipment driving thru it.

Roger A. wanted to know how wide the entryway onto Route 11 would be. He noted it could not exceed 26 feet. He believed the plan showed it being 20 feet in width plus the aprons, again noting with the aprons it could not exceed 26 feet.

Roland L. said there was going to be a new driveway cut from Route 11 to the structure. Selectman Perro said, yes. Selectman Perro said when they originally began the sand/salt shed process, they had spoken to D.O.T. discussing this separate entrance and they were told by D.O.T. it was ok to put the driveway in this location. Roger A. agreed that during the initial discussion it was stated they wanted an area to put sand/salt for public access but didn't want the public in the area where the Town trucks were loaded or in any other location.

Selectman Perro stated that because the gateway will be open during storms, the Town is going to put signage up that reflects where the Town vehicles are going to be and where residential sand is located. They didn't want people driving where they are not supposed to.

Roger A. reviewed the original plan for the Town sand / salt shed and it was noted on the plan there would be a 'Dense evergreen edge, six feet or more in height at maturity, to be planted as required in the Town of Shapleigh Zoning Ordinance Chapter 105-28'. Roger said that this was never done and asked if it was going to be done when this project was completed. He wanted to be able to set a date of completion for this project. Selectman Perro said they could set a date but wanted to know what the reason was that this was being required? He said he understood it was already required and if they had to do it they would, but he didn't know why it was required in the first place. He said there are multiple other businesses that have gone in since this ordinance was put in place that do not have those things. He also said, "Our concern is we do not want it, in thinking about it afterwards; at the time there was a problem with dust with the business next door and that kind of stuff. That is no longer a problem; the ground is pretty well solid up and there's not a dust issue there. Having that dense evergreen hedge in there, that is six feet in length, prohibits us from being able to have security visibility down there; and having that, so no one can see in there isn't necessarily a good thing." Roger A. said it was mentioned during the review but the Ordinance specifically states, 'Exposed storage areas, exposed machinery installation, sand and gravel extraction operations and areas used for storage or collection of discarded automobiles, auto parts, metal or other articles of salvage or refuse shall have sufficient setbacks and screening to provide a visual buffer sufficient to minimize their adverse impact on other land uses within the development area and surrounding properties (a dense evergreen hedge, six feet or more in height). All such plantings shall be maintained as an effective visual screen; plants which die shall be replaced within one growing season. Where a potential safety hazard to children would be likely to arise, physical screening sufficient to deter small children from entering the premises shall be provided and be maintained in good condition.'

Selectman Perro stated, "That's the Ordinance, that's not the conditions." Roger A. stated, "Yes, that is what that refers to (the notation on the approved plan)." Roger said the approved plan specifically refers to this section of the Ordinance. Selectman Perro said, "I don't disagree that it exists in the Ordinance but what I do disagree with, is, there had been multiple businesses since that ordinance had taken place, and I believe it was 1988, and since that has taken place that haven't had to do that. And haven't done it. Boonies is a prime example of it, there are multiple examples of it around town of that. And I could understand this if we had some kind of an operation there that needed to be screened but my concern is a security issue in regards to having that visibility. It's so much more secure a location with being able to have people see down in there, and it's not an eyesore, and we spent a lot of money on that building and it's not a horrible looking place. We prefer to not have to have it done. I understand it's not on this docket but maybe we can revisit later on."

Roger A. stated, "It isn't but what happens is, it does affect any amendment to a conditional use. That's the reason why I bring it up." RC Goodwin stated that he thought it didn't have to be evergreen but could be something natural? Roger said when the plan was approved, it was approved per the plan and it is specifically written on the plan (dense evergreen hedge). RC Goodwin said the natural plants are growing well. Roger said he didn't disagree it was growing in. Roger said because there was an amendment to the original plan, the board had to review the original plan. Madge B. agreed and noted the board can amend the original conditions since the original permit is being amended. She thought the board should review this and perhaps amend the original approval and anything else that needs to be.

Selectman Perro stated, "It's not like we are changing the use. We told you when we put in this facility this was going to be part of it. We made attempts with the landowner next door to the old facility to have a plan to be able to move to this location. So this has been in planning since we were originally engineering this

process. We just didn't do it at that time. It is not like a change to a change of use. It's just another phase." Roger A. agreed and said that is why it is an amendment. He added that all the original conditions all come in to play, so this is the right time to be talking about this. Selectman Perro said it would be nice to make the change so the Town isn't locked into it. He said when they originally put the facility in, they knew they were going to make a change for this process and they also knew there might be a security problem, as we talked about possibly putting a fence around the perimeter or across the front if there was a security issue. But we aren't going to throw out the money if we don't need to. At present it doesn't look like the Town has to go thru the expense of putting up a perimeter fence. He added that he wasn't sure exactly where the public sand/salt shed was going to be, so the Town didn't put up the hedges because they didn't want to have to tear them out later.

Roger A. agreed with Selectman Perro but wanted to address all of this now. Selectman Perro was hoping this wouldn't delay the process. Madge B. and Roger A. didn't think that it would. Selectman Perro asked if there was anything further they needed to do for the next meeting in regards to amending the plan. He said again he liked being able to see what was going on on site.

Roger A. thought the vegetation that is growing up now could be considered the buffer / screen. He noted the Ordinance says 'shall' and not 'may', so something has to be put into place.

**Madge B. asked if the board was going to schedule a public hearing? Roger A. stated yes, a public hearing will be scheduled for Tuesday, September 9, 2014. A Notice to Abutters shall be mailed as well.**

Madge B. asked if there were some stakes up showing the location? Selectman Perro stated there were stakes up but they are showing the original plan. She said she wanted to know where the entrance would be. Selectman Perro showed Madge where the entrance would be by using the plan. Madge asked the distance from the existing entrance? Selectman Perro stated, "230 feet from center to center." Madge said, ok. Selectman Perro stated line of sight was not an issue from either entrance.

Selectman Perro asked if the Selectmen needed to file anything for the public hearing with respect to the buffer issue? Roger A. stated, "We'll just add that one, that we are going to address that with this amendment, then we can put this to bed." Madge noted that the Planning Board was not arguing with Selectman's Perro issue with the buffer and security. Roger added that this issue was discussed at the initial review but because the Ordinance stated it was required, it is why it was required. He stated the engineer added this to the plan based on Shapleigh's Ordinance requirement.

Roland L. stated that at the time there was a considerable visual impact. He said not only was it in the Ordinance but there was a reaction to the fact you had this area that had been leveled. Madge B. agreed. Selectman Perro said it is no longer a dust issue.

**Roger A. stated again there would be a Public Hearing at 7:00 p.m. and then it will be brought back up at the regular meeting at 7:30 p.m. Board members can do a site inspection on an individual basis.**

Nothing further was discussed.

### **Growth Permits**

There are Growth Permits Available.

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

**Planning Board meeting adjourned at 8:40 p.m.**

Respectively submitted,  
Barbara Felong, Land Use Secretary  
[planningboard@shapleigh.net](mailto:planningboard@shapleigh.net)



# **SHAPLEIGH PLANNING BOARD**

## **MINUTES**

**Tuesday, September 9, 2014**

Members in attendance: Chairman Roger Allaire, Vice Chair 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. Alternates Stephen Foglio and Ann Harris were 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.**

#### **Amendment to a Conditional Use Permit – Public Sand / Salt Shed – Map 7, Lot 5 (Shapleigh Corner Road) – Town of Shapleigh, Applicant**

Selectman Mike Perro and Selectman Bill Mageary were present along with Road Commissioner Dick Goodwin.

The Town presented an application for a 12' x 12' Public Sand/Salt Storage Building. In addition to the application, the Planning Board received a copy of the Proposed Site Plans, which depicted the Town's existing Sand/Salt Building and the proposed Public Sand/Salt Shed for the residents of Shapleigh, showing views from both sides of the structure; the actual framing plan for the structure; and a site plan showing the location of the existing sand/salt building and the proposed addition. Also on the site plan, Route 11 was depicted, several stone barriers, and an area to be paved. Just prior to this evenings meeting a copy of the MDOT Driveway/Entrance Permit was received, dated September 02, 2014, which permitted a 'commercial/industrial entrance onto Route 11 at a point 597 feet North from Jones Road'.

Roger A. opened the Public Hearing and asked Selectman Perro to state for the record what the Town would like to do. Selectman Perro stated it was their intention to move the existing public sand/salt mixture from the opposite side of the road. He said, "When we built this facility we planned on moving it over there and this is a building to encompass that, so that everything on the opposite side of the road is no longer being used for sand/salt or storage or any of that stuff, once this is in place." He said "The building will be a 12' x 12' addition onto the current sand/salt building, and it's there with the access coming off of Route 11, for the public to have access into it to access sand/salt for their private driveways. This does not give them access into the facility itself because of the trucks and things, loaders, etc. We wanted to make sure it's a separate entrance to be sure people are not in the way or at risk for any kind of accidents with the equipment in the other portion. This will be the public's access to sand/salt."

Selectman Perro stated that they just received the MDOT Driveway Permit, and that they now need to finalize this portion of it, so it can go out to bid and someone can be hired to do it.

Roger A. asked if anyone had any questions? Roland L. asked if they would have to increase the rafter size to 2" x 12" (Roland was referring to a discussion about the structure prior to this evenings meeting). Selectman Perro stated, "CEO McDonough had stated prior to the meeting, that based on the code requirement, if the construction was 16 on center we could use the 2" x 10", but if it is two foot on center, as the current structure is, and these rafters are going to have to come off from the existing, so they would be two foot on center, so in order to stay within that it will have to change to the 2" x 12" instead of the 2" x 10".

CEO McDonough asked who designed the shed? Selectman Perro said, “Bob Morey who also works for TPD Construction” (Robert Morey, Director of Construction Operations at TPD Construction Company, Sanford, Maine branch). CEO McDonough asked if he was an engineer. Selectman Perro didn’t know if he was an engineer. He said he did a lot of the work for the Town building the original facility and that he added the vents to the roof.

Roger A. asked about the tie-ins for the end of the rafter or how they set in. Roger said he believed there would be additional support required. CEO McDonough agreed stating that that was why he was asking who designed the building. CEO McDonough asked what the purpose was to having it bolted to the truss. He stated that all that was needed was a ledger and then they could go 2 x 10 and it wouldn’t have to be bolted to the existing trusses. He wondered if perhaps the man that designed the sketch had more details. Selectman Perro stated that originally it was designed with a separate roof that would go under the eaves, that separate roof would require more structure and it would have to be bolted to the side of the building. He said it was their thought it would be less costly by keeping the original roofline and there would be a continuous roof line, so there wouldn’t be any snow buildup. CEO McDonough said that made sense.

CEO McDonough stated the construction of the sand/salt shed really wasn’t an issue for the Planning Board. He stated they (he and the Selectman) would deal with it after the building was permitted by the Planning Board.

Roger A. asked if there were any other questions? There were none. Roger A. stated because there were no additional questions, the public hearing was closed.

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

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**Planning board meeting began at 7:30 p.m.**

**The minutes from Tuesday, August 26, 2014, were accepted as amended. *There was a typographical error on Page 4 of 10. There were no changes to content.***

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**Amendment to a Conditional Use Permit – Public Sand / Salt Shed – Map 7, Lot 5 (Shapleigh Corner Road) – Town of Shapleigh, Applicant**

Selectman Mike Perro and Selectman Bill Mageary were present along with Road Commissioner Dick Goodwin.

Roger A. began by asking if there would be any additional lighting? Selectman Perro stated there would be a motion light inside the structure which will turn on when someone goes inside the structure. He said by having a motion light they will not have to worry about someone leaving the light on. Roger asked if there would be anything outside? Selectman Perro stated they hadn’t discussed any additional lighting outside the facility. RC Goodwin stated there was a yard light down by the sand building but nothing else. Roger noted that there would not be an issue with additional lighting but there couldn’t be any glare for vehicle traffic. Selectman Perro stated, “Right.”

Roger A. began reviewing the Basic Performance Standards.

- 105-21 – Traffic. *The site distance was approved on the previous application for this site. An MDOT driveway permit was received, dated 9/2/2014. The entrance shall not exceed 26 feet in width including the aprons.*
- 105-22 – Noise. *There will be no additional noise generated from the activity.*
- 105-23 – Dust, fumes, vapors and gases. *There is no dust, fumes, vapors or gases, generated by this activity.*
- 105-24 – Odors. *N/A - There will be no obnoxious odors generated.*
- 105-25 – Glare. *There shall be no additional lighting added to the outside of the building at this time.* Should additional lighting be added it shall meet the ordinance requirements.
- 105-26 – Stormwater runoff. *There are no changes being made to the site that would cause a stormwater problem. There was a stormwater plan provided for the original approval which was approved by the DEP on 5/16/11. A copy of the stormwater PBR is in the file. Roger asked Selectman Perro how often the existing storm drain got cleaned out? Selectman Perro stated that it hadn't needed to be cleaned out, noting there was nothing in it but water. He said there was no sediment building up. RC Goodwin said there was only one storm drain and very little water from the parking area went into the drainage area. He noted there was a culvert that went under everything and it went out the back.*
- 105-27 – Erosion control. *There are no changes being made to the property that would cause an erosion problem. All existing erosion control methods shall remain in place including natural vegetation.*
- 105-28 – Setbacks and screening. *The existing structure is screened with native vegetation and that shall remain in place, additional screening could be hazardous by obstructing the view leaving the parking area.*
- 105-29 – Explosive materials. *There shall be none on site and none to be generated.*
- 105-30 – Water quality. *The plans include housing the sand / salt in the building, undercover on impervious material, and the stormwater plan provided, ensures the water quality will not be affected. The DEP approved the original plans provided.*
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *There is no parking lot. The natural vegetation between the facility and State Rte. 11 shall remain in place.*
- 105-32 – Relation of proposed building to the environment. *The existing building fits in well with the surrounding area.*
- 105-33 – Refuse disposal. *N/A*
- 105-34 – Access control on Route 11. *There is an entrance approved by the MDOT, permit is dated 9/2/2014. The width of the entrance shall not exceed 26 feet in width including the apron.*
- 105-43 – Off-street parking and loading. *N/A*
- 105-46 – Sanitary provisions. *N/A*
- 105-47 – Signs and billboards. *Any signage shall be obtained through the Code Enforcement Office.*
- 105-52 – Water quality protection. *The sand & salt shall be housed in the facility on an impervious surface previously approved by the DEP which will protect the aquifer.*

Roger A. then reviewed §105-73 and made findings of fact.

*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, per the plans presented.*

- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. *N/A*
- 3) The use is consistent with the Comprehensive Plan. ***It is, the Comprehensive Plan encourages services to be located along Routes 109 and 11. The facility is located on State Rte. 11. The Comprehensive Plan also promotes measures that protect the environment.***
- 4) Traffic access to the site is safe. ***It is, there is entrance approval from the Maine DOT and site distances exceed the minimum required in this location.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***It is, this location is not in a flood zone and stormwater and erosion control measures have been provided to handle a 50 year storm on the original approval for the Town sand/salt building.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***There is no wastewater or solid waste to be produced at this facility.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***The hazardous materials of sand and salt shall be stored in the proposed structure and on a paved surface which will protect the site and surrounding area from contamination. There is DEP approval of the original plans for the sand/salt shed.***  
*Roger asked if the DEP checked on the paved surface to make sure it remained impervious? Selectman Perro did not believe so. He said the DEP provided the standards required for the impervious surface and noted the DEP has the ability to check on the area at any time.*
- 8) A stormwater drainage system capable of handling fifty-year storm without adverse impact on adjacent properties has been designed. ***There has been a stormwater drainage system designed capable of handling a 50 year storm, drafted by Donald Becker, PE #6514 of CES, Inc. for the original approval of the Town sand/salt building. Adding a Public sand/salt building was part of the original plan.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***Erosion control measures have been designed and provided by Donald Becker, PE #6514 of CES, Inc. on the original plan for the Town sand/salt building.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***There is, the property is in close proximity to the 10,000 gallon water holding tank on State Route 11. Selectman Perro asked if this tank was still functional? Roger A. stated it was supposed to be checked yearly by the Shapleigh Fire Dept. and maintained as necessary.***
- 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.

*Roger A. stated this brings before the board the requested amendment to the original plan for the facility, entitled 'Proposed Site Plan for Town of Shapleigh Sand/Salt Storage Facility, done by Donald Becker, PE #6514 of CES, Inc., dated 1/20/2011, which stated that a 'Dense Evergreen Hedge, six feet or more in height at maturity, to be planted as required in the Town of Shapleigh Zoning Ordinance Chapter 105-28'. The Town requested that the standard be removed as a condition for the original building due to a security issue, not wanting to hide the facility from view, so as to be able to monitor anyone on site that should not be there. Roger asked how the board wanted to proceed? Roland L. thought the existing vegetation was adequate. Madge B. thought she liked what existed for entrance and exit safety, so you can see clearly in both directions while leaving the facility.*

**Madge B. made the motion to remove the original requirement of 'dense evergreen hedge, six feet or more in height at maturity', requiring only the existing natural vegetation remain in place as a vegetation buffer, for safety reasons as stated above. Maggie M. 2<sup>nd</sup> the motion. All members were in favor. The motion passed unanimously, by a vote of 5-0.**

105-73 continued

- 11) Provisions have been made for a vegetative buffer strip between State Rte. 11 and the facility, to consist of natural vegetation. This shall remain in place to prevent dust. All lighting shall be directed so as not to glare onto State Rte. 11 or neighboring properties. There shall be no excessive noise produced at this facility. The only odor produced on site will be from the equipment exhaust and it shall not go beyond the property lines.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. They shall.***

Roger A. wanted it noted that under §105-43 there is an allowance for 2 driveways and no greater than 2 for a piece of property, therefore, this new entrance is the last one allowed. Roger also stated again the entrance/exit could be no greater than 26 feet in width, including the apron and if a light was added it couldn't create glare onto Route 11. Selectman Perro asked if a downward reflecting light would be ok. Roger said, yes.

Roger A. also noted there would be some changes to the plan regarding the actual construction but that would be for CEO McDonough to review.

**Roger A. stated the Conditions of Approval are as follows:**

- 1) The entrance/exit for public access from State Route 11 shall not exceed 26 feet in width, including aprons.***
- 2) Any outside lighting added to the structure shall not shine toward State Route 11, or cause glare onto surrounding property.***

**Madge B. made the motion to approve the application to add a Public Sand/Salt structure on Map 7, Lot 5 per the plan presented, with the above stated conditions. Roland L. 2<sup>nd</sup> the motion. All members were in favor. Members voted for approval, 5 – 0. The motion passed unanimously.**

Nothing else was discussed.

### **Growth Permits**

There are Growth Permits Available.

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

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

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

# SHAPLEIGH PLANNING BOARD

## MINUTES

Tuesday, October 14, 2014

Members in attendance: Vice Chair Maggie Moody, Madge Baker, Roland Legere, new Alternate member Ann Harris, as well as Barbara Felong, Land Use Secretary. Code Enforcement Officer Steven McDonough was also in attendance. Chairman Roger Allaire, Diane Sreblick, and Alternate Stephen Foglio were unable to attend.

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*Note: The minutes are not verbatim unless in quotes.*

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We want to welcome Ann Harris as a new alternate member of the board. We know Ann's expertise in the home insurance industry, as well as interest in the building trade will help aid the board in their decision making process.

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Planning board meeting began at 7:30 p.m.

The minutes from Tuesday, September 9, 2014, were accepted as read.

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### Review Proposed Ordinance Changes to §105-31 'Preservation of Landscape...'; §105-15, Definition of Building Height; §89-19 'Submissions'; and the required 3 year review of the Growth Ordinance

The board reviewed the following proposed ordinance changes:

#### **§105-32. Preservation of Landscape; landscaping of parking and storage areas.**

- A. The landscape shall be preserved in its natural state, insofar as practicable as determined by the PB, by minimizing ~~tree~~ natural vegetation removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas. Parking lots shall be landscaped ~~with shrubbery along all lot lines (except for street entrances)~~ to prevent erosion and stormwater runoff onto neighboring properties and streets. Boundaries with existing residential properties shall be screened according to the buffering standards in sec. 105-28 An effective visual screen of native vegetation, including evergreens, shall be established and maintained between the parking or storage area and any abutting residential property. The PB may require additional trees planted in and around large parking lots. ~~shall be provided with at least one tree (of two-inch caliper) for every 35 car spaces (four trees per acre), to be located at representative points throughout such lots~~
- B. All parking or outdoor storage areas shall be separated from any public road by a landscaped buffer strip at least 15 feet wide. The PB may require that within the buffer strip a visual screen of plantings be established and maintained. ~~Planted with shade trees (minimum two-inch caliper, planted at least every 50 feet along the road frontage) and dense, medium height shrubs (three feet in height) to screen parked vehicles. All such plantings shall be maintained as an effective visual screen. Shrubs or trees which die shall be replaced within one growing season.~~

Madge B. explained to Ann H. that the Planning Board found that the ordinance as written was not being enforced as it should be, because in certain circumstances it is not useful, applicable or suitable. She said, therefore, the board tried to come up with changes that made sense. Barbara F. noted that in places the word mandatory does not work as there is no flexibility, such as screening between a business and roadway that may not be appropriate, as you couldn't see the storefront and this could lead to possible vandalism.

Barbara F. noted the board would still want a screen between a business and neighboring properties but again not along the road. Also, it could be an issue with being able to see to pull out. CEO McDonough stated it also applied to parking lots and Maggie M. noted the Town Sand/Salt shed, the fact the board didn't want that screened off from the road, so it would be visible.

Barbara F. explained that the board had discussed most of the changes being noted this evening at prior meetings. She said there would be a public hearing held before the end of the year because these are zoning changes and they would have to be voted on by the townspeople of Shapleigh. She said if there are any changes the board needs to address, those changes can be discussed at the first Public Hearing. She also stated there would be a second Public Hearing in late January, or early February but at that time no changes could be made. This process allows the public the ability to ask questions at the first public hearing and voice concerns. Barbara also noted Executive Secretary Karla Bergeron had to have the proposed changes by the end of January, so they can be published prior to town meeting which is where they will be voted on.

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Maggie M. stated the next proposed change is as follows:

Current definition:

§105-15. Definitions.

BUILDING HEIGHT – The vertical distance between the highest point of the roof and the average grade of ground adjoining the building.

**Proposed definition:**

BUILDING HEIGHT – The vertical distance between the highest point of the roof **and the mean original grade at the downhill side of the structure.**

(Taken in part from §105-19.H)

Roland L. asked CEO McDonough if he would draw an example for him, so he understood what it meant.

CEO McDonough stated, "Sure, but the reason we are changing this ordinance is because I just became aware that building height is defined in two separate places in the ordinance and they are not the same." He added that he didn't care how it was defined but he wanted to be sure in both sections it was the same. Roland said, "Right."

CEO McDonough drew a sketch of what the mean original grade would be. He stated it is the average of the low side. Roland asked if it would be used for raising a building? CEO McDonough stated, yes or constructing a new building. CEO McDonough stated he wasn't a fan of the word 'mean original' grade, he was fine with lowest ground grade. Maggie M. thought the mean and the average were too different things. Maggie said that CEO McDonough stated you would use only the low side. CEO McDonough asked what the definition said? Maggie said, "The mean of the down side, so you aren't taking the whole mean, just that section." CEO McDonough, "Of the low side." Maggie believed the average and the mean were two different things. Roland L. noted it was being changed from average to 'mean'. CEO McDonough stated again in the book its defined two different ways, the board has to pick one. Both definitions have to match. Barbara F. noted that the mean original grade was taken from Shoreland zoning which is mandatory. Barbara said it may not necessarily be the best but it is why we chose it. Maggie thought the mean was best.

Steve stated that he would rather use lowest ground grade but again this was chosen because it was how the State wanted it defined. Madge B. agreed.

Madge B. asked if the board should call the State to see if they had an issue with it. Maggie M. stated the board could be stricter than the State but has to be at least as strict. CEO McDonough agreed to contact the DEP to get their opinion and he noted they have to approve the change.

CEO McDonough agreed to call Mike Morse to see if the definition could be changed to the lowest ground grade.

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§89-19. Submissions.

- A. The final plan shall consist of one or more maps or drawings drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 75 acres may be drawn at a scale of not more than 200 feet to the inch. Plans shall be no larger than 24 inches by 36 inches in size, and shall have a margin of two inches outside of the border line on the left side of the binding and a one-inch margin outside the border along the remaining sides. Space shall be reserved thereon for endorsement by the Board. **Two reproducible, stable based transparent originals, one to be recorded at the Registry of Deeds, the other to be filed at the municipal offices, and three copies of the plan shall be submitted. The subdivider may instead submit one reproducible stable based transparent original of the final plan and one recording plan with three copies of the final plan.** In addition, one copy of the final plan, reduced to a size of 8 ½ inches by 11 inches, and all accompanying information shall be mailed to each Board member no less than seven days prior to the meeting.

Barbara noted that the highlighted section of this ordinance gave the applicant two choices as to what to submit as a final plan. She stated a recent applicant, because the board did not specifically state that they wanted ‘two reproducible, stable based transparent originals’, did not feel he had to submit a second one, only a paper copy. She said based on this example, what did the board feel they wanted an applicant to submit, what was indicated in the first sentence or the second sentence? She felt the board should make a choice, then if during the review process they forgot to ask for the number or type of copies required, the ordinance would dictate what should be submitted.

Barbara F. asked, “Should we choose one or the other or leave it up to the applicant?” She believed it would be best to simplify the ordinance. Madge B. agreed. Roland L. asked if Barbara had a preference. Madge thought the Mylar’s are harder to keep. Barbara agreed and noted the Town Hall did not have a machine that could copy the Mylar’s so anyone wanting a copy had to go to the Registry of Deeds in Alfred regardless. Barbara had no issue with a recorded paper copy.

Madge B. thought the board should ask Roger A. if he had an opinion. Barbara F. agreed and would bring it up at the next meeting.

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Barbara F. noted the change to the Growth Ordinance was only to the figures with respect to the cost of the school to the Town of Shapleigh. She stated she didn’t change the section with respect to the census, as there has not been another census since the last revision, so there could be no relevant change to that section,



therefore, she actually removed the section. Barbara also stated that she did not change the number of Growth Permits allowed, because she did not see a reason to increase them based on current building trends, nor did she feel the board should reduce the number, as either change would not be beneficial at this time. She felt the numbers should remain unchanged but wanted the board's opinion.

The proposed change to the Growth Ordinance is as follows:

### **Growth Ordinance**

- (f) To allow growth of the residential population of the town at a rate which would not impose an undue burden upon the provision of community services (including education, fire protection, road maintenance, waste disposal, health services and welfare) and which would be compatible with the orderly and gradual expansion of said services.
- (1) During the most current review of the tax base for **2013**, the Education system accounts for **67.47%** of the cost to taxpayers. **The figure calculated per child per year for 2012-2013 in RSU #57 is \$10,388. Although the number of children enrolled in the school system is not expected to rise in the next several years, the cost to Shapleigh taxpayers continues to have a slight increase each year. The most recent figures of cost increase to taxpayers projected for the year 2014-2015 is 3.72%, creating a cost per child of \$10,774.** With this figure it is apparent that any household with even one child would be an impact since there are not enough property taxes derived from the average house to generate enough money to pay for one child's education. Therefore, the Growth Ordinance system must calculate growth in such a way as to assure the town can fund education at the current levels and those of the future.
- (g) To guide Shapleigh's expansion so that the annual increase in population and dwelling units shall not exceed the average rate of population and housing growth which occurred within the sub-region. **During this time period, 2010 thru 2014, there is no census data but the number of single family dwellings permitted in the town has steadily increased from (3) in 2010, (5) in 2011, (7) in 2012 to (15) in 2013.** With the current projected need for housing, the maximum annual number of Growth Permits should remain unchanged at 35 dwelling units.
- (h) To guide Shapleigh's expansion so that the increases in education costs are predictable and manageable.

Roland L. asked if the number of unclaimed permits rolled over to the following year? Barbara F. stated, "It does not." Maggie M. asked if we were in the teens yet? Barbara said, yes, we were up to 13 as of tonight.

Roland L. asked if this was something that has to be voted on? Barbara F. stated that yes, this is something that would be voted on at Town Meeting in March. She noted that the State required the Town review the ordinance every 3 years and present it to the voters.

CEO McDonough noted that nothing is limited to the board's authority, it all has to be voted on.

Nothing further was discussed.

Maggie M. asked about the letter received regarding Earthworks Landscaping and Signage. Barbara F. stated she received a Conditional Use Permit application which states that the business is still in the same location as the Soup Shack that it never moved, therefore, they can keep their sign. The Town is contending the business received a permit to move to another location and the Soup Shack was approved to move into the existing building and location. This will be brought before the board at the next meeting.

Nothing further was discussed.

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**Growth Permits**

• Map 23, Lot 10 (37 Starboard Lane) – Seasonal Conversion – **Growth Permit #11-14**

The property had a Planning Board approval to rebuild the existing structure and a State approved septic design.

• Map 12, Lot 29C (23 North Shore Road) – New Home – **Growth Permit #12-14**

The property is a legal lot by the Town of Shapleigh's standards.

• Map 34, Lot 40 (31 Chestnut Road) – Seasonal Conversion – **Growth Permit #13-14**

There is a State approved septic design on file for this property and the system has been put in.

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

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

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

# **SHAPLEIGH PLANNING BOARD**

## **MINUTES**

**Tuesday, October 28, 2014**

Members in attendance: Chairman Roger Allaire, Vice Chair Maggie Moody, Roland Legere, Diane Srebnick, Alternate members Ann Harris and 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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*Note: The minutes are not verbatim unless in quotes.*

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**Planning board meeting began at 7:30 p.m.**

**The minutes from Tuesday, October 14, 2014, were accepted as read.**

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### **Conditional Use Permit – Earth Works Landscaping – Map 1, Lot 41 (185 Emery Mills Road) – Joseph & Mary Letourneau, Applicants; Richard Gallant, Property Owner**

Mr. & Mrs. Letourneau were present for the review of the application.

The application project description read as follows: Project is complete and has been @ location for 2 years. Along with the application was a letter from Mr. Gallant which stated “I, Richard Gallant, continue to allow Joseph and Mary Letourneau to rent my property at 185 Emery Mills Road Shapleigh, ME.” A sketch page was provided as well which stated “Already on File”.

Roger A. asked the applicants to let the board know what they wanted to do. Mrs. Letourneau stated that it seemed that she was here and had to fill out another Conditional Use Permit to clear what was said or not said at the meetings when they moved Keepin it Local. She said she was being told that Earth Works moved as well and that was not the intention. She said she listened to all the Planning Board meetings on tape and it was never discussed. She said it came up in Justin’s meeting on August 12<sup>th</sup> (Justin Lowell applied to the Planning Board for a permit to open a restaurant to be called the Soup Shack in the existing structure on Map 1, Lot 41 and was approved on August 26, 2014) that we agreed to move the sign and displays when they moved out and that was never discussed or agreed upon. She said it was never one of the conditions when they moved. She stated she was confused to why she was here.

Roger A. asked if this was the first meeting? Barbara F. stated, yes.

Mrs. Letourneau stated that the minutes don’t reflect everything that was stated at the meetings and if they needed to bring up anything from the meetings she had the meetings recorded on her phone. She said she had the meetings that she and her husband were at and the meetings that Justin (Lowell) attended.

Roger A. stated that if they were leaving the building, they were leaving the conditional use for Earth Works Landscaping on Mr. Gallant’s property.... Mrs. Letourneau stated that they moved the store out. She said, “You guys are saying you amended that permit.” Roger said, “When you move the store out, no, that was a brand new one. The one in March that was a brand new permit to move it.” Mrs. Letourneau stated, “Correct.” Roger said that the Conditional Use Permit actually belongs with the property, does not belong to the applicant. Mrs. Letourneau stated that she understood that. She stated that she never relinquished that first permit. Roger disagreed. She asked when? Roger stated, “When you moved over I had personally

asked to make sure that you were going to relinquish.” Mrs. Letourneau stated that it was not on tape. She said she listened to the minutes and if that was said it would have cued her into the fact they were not on the same page. She said when she handed in the application there is nothing on the site plan that shows that they were doing an Earth Works sign or displays on that property.

Barbara F. asked what the reason was for going over where they were going to put loam? Mrs. Letourneau stated that when they first put Earth Works in, they were told they could not store any material on site. Barbara said, correct. Mrs. Letourneau stated that now they had a location where they could do what they wanted to do. She said again that she did not believe there was anything on her site plan that showed displays or signs for Earth Works nor was it ever discussed. Barbara stated that on her application it stated that. Mrs. Letourneau stated it was not a condition on the approved minutes that the sign had to come down or it was being moved.

Barbara F. asked if she read the approval for the move to Map 18? Mrs. Letourneau stated, “I did, you know what and I read the first part of it and because we were very busy it does say Conditional Use Permit move existing business, singular, to new location and expand.” She said she had no reason to believe after leaving the second appointment that they had here, that they got anything less than what they asked for. She said, “It is stated in Justin’s first meeting that and I think that was part of the reason it had to be moved when they moved, that was Steve saying the sign and the displays. It was never discussed we would have never agreed upon it.”

Barbara F. stated, “Your approval for your original Earth Works Landscaping was for an office in the building that Justin was just approved to use. So he is approved for the Soup Shack. He did not state that you were going to continue to run an office for Earth Works Landscaping in that building.” Mrs. Letourneau stated, “First of all I didn’t relinquish that permit. Second of all that got amended when the store went in and became the store and not an office.” Barbara said, “The first permit for Earth Works was for an office on that property, correct? Because you have to have a business on the property. You stated in your original minutes for Earth Works...” Mrs. Letourneau stated, “According to who?” Barbara continued, “You stated in your original approval for Earth Works Landscaping that you would be using the office for your landscaping business.” Mrs. Letourneau stated, “And then it got amended that when the store went in, it became the store.” Barbara agreed that it became the store. Mrs. Letourneau stated that it became two separate businesses under two separate numbers. Barbara stated, “You never said your office was no longer in that structure for Earth Works. You never said that you were moving Earth Works. You have an approval for an office in that structure that is now approved for somebody else.” Mrs. Letourneau stated, “I didn’t relinquish, so how can you set up another Conditional Use Permit for that property?” Barbara stated, “Because Mr. Gallant (the property owner) signed a piece of paper stating this man can use that structure. He didn’t say anyone else would be using the structure at the time.” Mrs. Letourneau stated again, “But I didn’t relinquish the permit.”

Roger A. stated, “I asked you personally whether or not you were relinquishing it in order to move over.” Mrs. Letourneau asked if it was at the end of the second meeting because it wasn’t in any of the approved minutes. Roger said that upon granting the permit for them to move to go over... Mrs. Letourneau disagreed stating that she had listened to the minutes several times. Barbara F. asked the other board members how they felt about what was being discussed?

Maggie M. stated, “On the March 20<sup>th</sup> amendment to a Conditional Use Permit it says that the application is for the ability to move the existing businesses Keepin it Local and Earth Works to the new location.” Mrs. Letourneau stated, “Again, it’s not said in the minutes itself.” Barbara F. asked, “Do you have the application for when she moved to 18?” (Map 18, Lot 32A)

Barbara F. reviewing the Conditional Use Permit application from Mr. and Mrs. Letourneau read the following: ‘Business Plans for the new location of Blackbird Farm Enterprises, LLC DBA Earth Works Landscaping & Property Maintenance and Keepin it Local Country Store’. She asked what the board was missing when they applied for this? Mrs. Letourneau stated, “I discussed with you, because we used to be when we first opened up Earth Works at that location, that first location, we were Joseph Letourneau doing business as Earth Works and we were Mary Letourneau doing business as Keepin it Local. In November I discussed this with you down in the office Barbara and you told me exactly how to write that out.” Barbara F. replied, “No I did not.” Mrs. Letourneau disagreed. Barbara said again, “No I did not.” It was clear they did not agree.

Mrs. Letourneau stated that they restructured in November of last year and they became Blackbird Farm Enterprises doing business as both businesses for the purpose of payroll. Barbara F. stated the only thing she knew about Blackbird Enterprises was when she asked Mrs. Letourneau if she had to come in to file paperwork for their new location and Mrs. Letourneau stated no because now she is an LLC. Barbara agreed because an LLC is already registered with the State, both business are under the LLC umbrella. She said that was why she didn’t have to file with the Town of Shapleigh that the business was moved up the street. Mrs. Letourneau didn’t recall any of this conversation. Barbara added that the Town Clerk asked why the new business wasn’t registered and Barbara told her it was because they were LLC and she agreed the new location didn’t have to be registered with the Town. Members in the audience asked if Barbara was on the board. Barbara stated, no. They wondered why the board members were not speaking? CEO McDonough agreed, as did Barbara.

Roger A. stated that he had only began to review the paperwork this evening. Roger said he didn’t have anything prior to June of this year. Roger said the minutes from 2012 for the office for Earth Works said there would be no materials on site and it was just for the existing office building and displays of product only. Roger said there were no objections for that at the time and the permit was granted. He said the only condition was the hours of operation would be 7:00 a.m. thru 9:00 p.m. He added that the approval passed unanimously on July 24, 2012. Roger stated the approval letter went out on July 25, 2012, stating it had been approved and the applicants had to see the CEO for signage.

Stephen F. asked the applicants if they moved the bins up to the store? Mrs. Letourneau stated, “We didn’t open that; we didn’t end up doing that because we didn’t feel as though there was really enough room once everything got in there and so we made that judgment call of not putting them in.”

Diane S. stated, “The question is, if somebody comes and gets a Conditional Use Permit to move a business but then doesn’t end up moving the business is the original Conditional Use still in effect? Because Roger said the business travels with, the Conditional Use travels with the business.” Mrs. Letourneau stated, “The Conditional Use Permit is with the property and it’s not with the business.” Diane S. said, ok. Diane said, “So if they didn’t end up moving, wouldn’t the Conditional Use still be ok for the first property? Even though they paid to move, they didn’t move.” Mrs. Letourneau, speaking over Diane S. stated, “It was never discussed.” Diane said, “If the Conditional Use Permit stays with the property, then basically you paid for one to move but you never used it and the original one is still in effect.”

Roger A. stated that on May 29<sup>th</sup> the applicants came back for an amendment to add a retail/consignment store on Mr. Gallant’s property and that was approved as well. Mrs. Letourneau agreed. Roger said that was approved with conditions. The board had asked for a parking plan and he said the board had that.

Stephen F. asked if the Ordinance allowed for their business to stay where it is and the Soup Shack as well? CEO McDonough asked if he was asking if the Ordinance allowed for two businesses on Mr. Gallant’s property? Stephen said, yes. CEO McDonough said, yes.

Maggie M. asked, “Does it allow the Earth Works display to stay there without an office? Can you call the outdoors an office or business?” CEO McDonough said, “Let’s take one question at a time. She wants to contest that they moved. In my opinion they moved, they applied to move. The board the last I thought, thought that they moved because they didn’t address two businesses when the Soup Shack went through to look for extra parking or looked at the lot size or any of that.” Stephen F. said, “Well that’s my question.” CEO McDonough stated, “It’s the Town’s Attorney’s opinion that they moved.” He said because the applicant doesn’t agree, he wasn’t sure why the applicant was before the board.

Mrs. Letourneau asked if the attorney was going by the printed minutes or by the tapes? CEO McDonough asked Mrs. Letourneau if the application was to move the two businesses? Mrs. Letourneau stated, “No it wasn’t.” Mrs. Letourneau stated that in her plan it showed nothing about displays. She said she didn’t ask for an Earth Works sign and they didn’t put in Earth Works displays. She asked why she would tear down the displays they had up the street. She said she wouldn’t do it and she didn’t agree to it. She added that it was never discussed at any of the meetings. She said she would be happy to play the meetings for the board, she made a copy on her phone. CEO McDonough asked the board what their opinion was?

Roger A. stated that back on March 20<sup>th</sup> he had an application which read, ‘Business Plans for the new location of Blackbird Farm Enterprises, LLC DBA Earth Works Landscaping & Property Maintenance and Keepin’ It Local Country Store.’ Roger said that was the application to move over to Paul Muse’s. Mrs. Letourneau stated, “That was the application to ‘see attached’ and it states that that we wanted to only sell and deliver landscape materials and supplies out of there. It says nothing about moving the sign or displays.” Roger agreed there was nothing about the sign. Mrs. Letourneau said that on the approved minutes, as much as Steve wanted to say it was one of the conditions, it is clearly not. She said she had listened to the meeting time and time again and nowhere does it say she relinquished the first permit.

Roger A. stated that he had asked if she was relinquishing that in order for the soup kitchen to be able to take over or any business that was going to be there. Mrs. Letourneau stated that it was not on tape or in the notes. Roger stated that he knew he had asked. Mrs. Letourneau stated again, it wasn’t one of the conditions and it was not discussed. Roger said the actual permit that was granted was for ‘maximum yardage of landscaping materials’ and it was to move the existing business to a new location and expand. Roger said a sketch plan was provided that showed the location and the building to be used, septic system, parking area, drive-thru pattern, area to be used to hold the landscaping material and for the existing building showing the retail area for the kitchen, pantry, seating, bathroom and whatever.

Maggie M. stated, “....this letter says the application is for the ability to move the existing businesses, Keeping it Local and..” Mrs. Letourneau interrupted asking, “Which one, is that on the approved minutes?” Maggie M stated it was on the March 20<sup>th</sup> letter. Roger A. and Maggie stated the letter says for the ability to move both businesses, Keepin it Local and Earth Works Landscaping. Mrs. Letourneau asked if it came out after the approved minutes? Mrs. Letourneau stated that on March 11<sup>th</sup> it states ‘moving existing business and expand’. Maggie wondered why she didn’t question the letter she received at the time. Roger said it was the approval letter and in the subject line it stated ‘Move Existing Business to New Location & Expand’ and in the context it says ‘Dear Joseph & Mary, it says Keepin It Local and Earth Works Landscaping from 185 Emery Mills Road to 120 Emery Mills Road.

Mrs. Letourneau stated that the letter was worded with not what actually came out of the meeting. She said again that what she submitted with the application was to sell and deliver landscape materials and supplies in that location because they were not allowed that at location one. Mrs. Letourneau noted again there was nothing on the sketch for the Earth Works sign or display. Roger A. noted that the board does not deal with signage, that was Code Enforcement, so the board did not deal with that. Roger did not want to deal with the sign issue as it wasn’t a planning board issue.

Roger A. stated that on the 20<sup>th</sup> the applicants were sent the approval letter for the application for the Conditional Use, both businesses were noted and the board approved with a condition for maximum yardage of landscaping materials for the bins that were going to be in the back, and it was for both businesses to be located on Map 18, Lot 32A. Roger stated that it was on the letter. Mrs. Letourneau stated that she had the minutes and they did not state this. Roger said the minutes reflect what the board did but the approval letter governs it. Mrs. Letourneau claimed she never got the approval letter and asked if it was sent certified. Barbara F. stated, no. Roger said they did not have to. Mrs. Letourneau stated she only had the approved minutes. Maggie M. asked, "How did you move the store if you didn't know that you had your approval?" Mrs. Letourneau stated, "I walked out of here knowing I had the approval that everything got approved." Maggie stated that it was always followed up with an official letter, so you have it on record. Mrs. Letourneau stated that she did not know that. Maggie noted that it is usually stated at the end of the meeting. Mrs. Letourneau wanted the board to listen to the tape of the meeting. Roger allowed it. Roland L. asked if it was March 11th<sup>t</sup>. Mrs. Letourneau said it was. The board listened to the tape.

After listening to the tape Maggie M. stated, "On that last paragraph (of the minutes from 3/11/2014) it says that Madge moved for approval of the Amendment to the Conditional Use Permit to open Keepin it Local and Earth Works Landscaping.." Mrs. Letourneau interrupted stating, "That's what it says there, is it what it said on there, it's not what it said on here, she made the motion to move." Maggie said, "But you said you have the minutes." Mrs. Letourneau stated, "I do have the minutes, yup, and I tell ya, I got this and I saw move existing business to new location and expand. I left that meeting thinking I got what I asked for." Maggie asked her if she read the minutes at the time, as that would have been a good time to challenge the fact that it says both businesses. Mrs. Letourneau agreed.

Stephen F. stated, "For the last 15 minutes, on that recording, talks a little bit about the store but the majority of that all talks about moving the landscaping down." Mrs. Letourneau stated, "It talks about the bins of material." Stephen said, "OK, I need to tell ya, I don't have a problem where your sign is, where your display is or your stuff is. It seems like at some point what you thought and what the board thought were different. So we can sit here until 10 o'clock if you want and try to figure out who said what and when and what the minutes said but it seems like we should try and figure out what we need to do to get you back in business." Mrs. Letourneau agreed.

Stephen F. stated, "My question is where are we at with the permit for the Soup Shack? And can that business be there and the Soup Shack be there, the way you want?" Roger A. said, "The Soup Shack has been approved." Stephen didn't know if the board needed a legal opinion and table this but he wanted to know if the board was under the understanding that the Letourneau's moved their business from point A to point B and if that did in fact happen, does it void the previous Conditional Use Permit? He said if not, can they have a business in two places? He said that with all the paperwork and what the board listened to, it appeared the board approved moving the Letourneau's business. Mrs. Letourneau wanted to play the board the tape of the first meeting. Stephen stated he did not want to listen to anymore tape, he said he was there. Mrs. Letourneau stated that at the first meeting it said 'to move the store'. Stephen started to refer to the application and Mrs. Letourneau said the application was to be able to sell landscape material and supplies that they could not sell out of the first location.

Mrs. Letourneau stated that she had discussed with CEO McDonough staying at the Gallant location for as long as Mr. Gallant would allow. She said it was never stated that it would be a problem or would not be allowed or that she would have to have possession of the building. Stephen F. said they were going back to where they were a moment ago.

An audience member, Francis O'Neil, asked if he could speak. He stated he lived on the Hooper Road in Shapleigh. Mr. O'Neil believed Stephen Foglio's suggestion was the best. He believed the Town and Mary (Mrs. Letourneau) should seek a compromise so that that a great business in the part of Shapleigh that is suitable for business, should be allowed to operate and the sign should be allowed to stay there. Stephen F. stated that he agreed. Mr. O'Neil encouraged the board to seek a compromise. Stephen said it wasn't a compromise, the board needed to see where they were at. Mr. O'Neil thought everything was a compromise. Roger A. stated the board could not have a compromise because of the Ordinance. He said the Ordinance is black and white and the board cannot over ride it. Mr. O'Neil felt there was a misunderstanding between what the record said and what the record indicates in written text. He noted that Mrs. Letourneau stated she did not have the document. He felt there was always room for compromise. Mr. O'Neil believed a mistake was made and didn't want another one made. Roger A. again noted the minutes for approving Keepin it Local and Earth Works to move to Map 18, Lot 32A which is the Muse property. Roger believed they were asked to move both businesses and there was no issue with it. He said now the issue was Mrs. Letourneau is stating that was not what she asked for. Roger believed there was a difference of opinion.

A member of the audience asked, "Because it's there, and so it was approved, it's been there for two years, instead of ripping it up, it cost him a lot of money, just leave it. Because it's already been approved and has been there for two years." She felt everyone should move on.

Nancy Small said, "I guess we should know what does the Planning Board want us, Mary to do?" Roger A. stated that the Town Attorney asked for a new application to put the business at the Gallant's which she has put in. Roger said this entails a public hearing at the next meeting and the board acts on it. A question was asked if there had to be an office there? Roger said there was nowhere in the Ordinance that states an office had to be on site. Mrs. Letourneau stated that she had a letter from the MDOT that it wasn't an illegal sign. Roger noted that the DOT did not govern the Town. Mrs. Letourneau stated that she was cited for the sign. Roger said there were billboard laws, a sign wasn't allowed greater than 1000 feet from a business. He said this was a different issue. Stephen F. asked Mrs. Letourneau who she was cited by? Mrs. Letourneau stated CEO McDonough for M.R.S.A. 23. (On August 13, 2014, CEO McDonough sent a letter to Mr. Gallant and copied Joseph and Mary Letourneau, which stated in part that the Town of Shapleigh Planning Board voted to address the existing signage for Earth Works Landscaping during the review process for the Soup Shack on Map 1, Lot 41, whereas a sign must be located within 1000 feet of the advertised business.)

An audience member asked about the process for the application. The application was presented this evening and she asked if then the applicants come back before the board in two weeks. She also asked if it would be voted on and over and done with? It was also asked why it could not be acted on this evening? Roger explained the review process, that abutters needed to be notified on a new application. Mrs. Letourneau asked again why she had to do a new application when she didn't relinquish the first application? Stephen F. stated they were back to 'he said / she said'. Roger said if Mrs. Letourneau wanted to continue to debate he would ask the board to get a legal opinion.

Roland L. stated, "I can truthfully tell you that I sat thru all of those meetings and I left after that vote believing that both businesses were going over." He said it wasn't stated because he heard the tape but everything, the tone of it and setting up the jersey barriers to put the materials, in his mind, he left the meeting believing that both businesses were going over. Mrs. Letourneau stated again it was just the material because she was not allowed that at the first location and it was clearly stated. Roland said he would not disagree with that point. He said he was telling Mrs. Letourneau what he heard.

Maggie M. said, "It sounds like you want a permit for a separate location now." Diane S. believed it was an interpretation problem between the Planning Board and what Mary and Joe interpreted as happening. It was asked how the board was leaning for the next meeting? Roland L. stated, "We make that determination at



the time. We got to hear from the abutters first. I want to hear that definitely two businesses are allowed on that particular space. That there will be adequate parking and that you don't need an office there. Once those questions are answered then we vote." Diane S. said, "And you might get public turnout too, people from the public." Roland said, "We cannot override the Ordinance. Many times I sat here and wished that we had the power, the authority to override the Ordinance and one of the painful things I've learned in my years on the board is we can't do that. Decisions aren't driven by feelings or emotions, whether you like what they are proposing or not. It has to be based on what the Ordinance says. At this point a new application calls for a Public Hearing, information coming forth, a motion being made, if someone chooses to make that. And a vote being taken." Roland said the other option was calling for a legal opinion and he didn't think anyone wanted to go down that road.

An audience member supported Mary and Joseph and thought the signage was beautiful. Roger A. agreed that the signage was nice. Roger reviewed the approval once again and noted everything leading to the approval, including the storage bins, the board thought the business was moving. An audience member was concerned with what was on tape and what was written. Roger said again he knew that he asked the applicants if they were relinquishing their permit at the Gallant's and they said yes, and he also said he understood Mrs. Letourneau did not agree. He noted that he had been on the board over 20 years and he had no issue with owning up to a mistake but he knew he had asked the question, even though it was not on tape.

Nancy Small asked what happened if everything got approved, what did they (the Letourneau's) have to do? Roger A. stated, "Start collecting phone calls." Mrs. Small asked if they would have to move the sign? Roger said, "Not if it gets approved, start collecting phone calls." Mrs. Small said, "So come back in two weeks for the public hearing."

An audience member asked if a business could exist without a physical office, was this what the board was looking in to? Stephen F. said there was no definition for business in the Ordinance. The audience member said this would be a non-issue. She said if the abutters don't have an issue, and it doesn't have to be a physical office, what is the third thing? Parking was noted. Again it was asked if there was a reason why the board would not approve the application? Maggie M. stated, "We won't know until that night." Diane S. said the board had no idea if abutters would show up or someone else from the public. Maggie agreed.

Roland L. noted to the applicants and board members that the next meeting would be held on Wednesday, November 12, 2014 due to the holiday on the 11<sup>th</sup>.

Roger A. asked Mrs. Letourneau, "So are you satisfied with that?" She stated, "I guess I have to be." He said they could get legal counsel.

It was asked what constituted an abutter. Roger A. stated, "Anybody within 500 feet of a property line." It was asked if anyone could come to say they had an issue with this? Roger A. said they could and the board looks to see if it was a viable issue. Diane S. noted the board also had to publish to the general public that there would be a public hearing. If someone else has concerns they can show up as well.

Nothing further was discussed.

**Other:**

Roger A. stated after reviewing the Growth Ordinance he agreed keeping the numbers the same as at present were what he would suggest. Selectman Mark Cobb asked Roger A. what the number of Growth Permits were based on? Roger said the figure came from Southern Maine Regional. He said they review the

surrounding areas, population and growth and give the town a number they feel would be adequate. Roger and Diane S. noted that Southern Maine Regional (now known as Southern Maine Planning and Development Commission) had given the board a number lower than what we have, they thought it was around 25 but the board kept the number at 35. Diane said the board didn't want to go through the campers on site again. Stephen F. asked what number the town was at now? Barbara F. stated that as of this evening 13. Diane added that the Town can handle 35 new residents. Roger added that six years ago the town could have gone down based on the numbers but the board agreed to leave the number where it was. Roger said at this time he didn't think the number should be changed and in three years the board will have to review the Growth Ordinance again. He didn't want there to be an issue in two years, prior to review, where the town needs the 35 but can't increase until the next review. Roger noted that a builder, once they receive a Growth Permit, has only 90 days to get a building permit. The board agreed to keep the number at 35.

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Barbara F. told Roger A. that at the last meeting the board asked CEO McDonough to contact the DEP regarding the wording of the definition of building height because there was a definition in Shoreland Zoning as well as under definitions and any change needed to be done with the approval of the DEP in §105-19H. Also the board wanted the definition to be easily understood. Below is the proposed change to the definition that is tentatively approved by Mike Morse of the DEP.

Proposed change to the definition of building height.

Current definition:

**§105-15. Definitions.**

**BUILDING HEIGHT** – The vertical distance between the highest point of the roof and the average grade of ground adjoining the building.

**Proposed Changes:**

**§105-15. Definitions.**

**BUILDING HEIGHT** – The vertical distance between the highest point of the roof **and the lowest ground grade adjoining the building.**

This would also require changing the definition in **§105-19.H** to read as follows:

**Building Height.** No building shall exceed 2 ½ stories or 35 feet in height, as measured between ~~the mean original grade at the downhill side of the structure~~ **the lowest ground grade adjoining the building** and the highest point of the structure. Exception: In public, semipublic, institutional and agricultural buildings, a height not to exceed 40 feet is allowed in the General Purpose District only, and must be in compliance with NFPA 101. Features of building and structures, such as chimneys, towers, ventilators and spires, may exceed 35 feet in height but shall be set back from the nearest lot line a distance not less than the height of such feature or structure, unless a greater setback is required by other provisions of this chapter.

CEO McDonough stated that the Ordinance had to be at least as restrictive as the one in Shoreland zoning. Stephen F. asked if mean and average were the same. CEO McDonough said he and Mr. Morse were not sure, as at times some people argue it is not. CEO McDonough stated the issue is, there are two definitions that do not agree, so that had to be changed to make them agree. He said the board at the last meeting found the words 'mean original grade' to sound complicated, perhaps having to hire a surveyor, so we wanted to

make it simple and still be as restrictive as what the DEP stated. Roger A. had no issue with the new definitions.

Roger A. said with respect to §89-19. Submissions, there are two reproducible originals, one for recording and one for the Selectmen to put in the vault. Roger stated that should stay the same. Roger believed the ordinance as written stated the same thing, two sentences stating the same thing. Barbara F. asked why the board needed a Mylar copy? Roger A. stated the paper copies over time disappear. Barbara understood but didn't think both sentences were required, if they in fact say the same thing, to make it clear to anyone reading the Ordinance. Roger noted that the applicant has to return the Mylar with the book and page but the Registry no longer will reproduce a copy for the applicant, so they will need to bring two copies to the Registry (Registry of Deeds in Alfred).

The change will be as follows:

§89-19. Submissions.

- A. The final plan shall consist of one or more maps or drawings drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 75 acres may be drawn at a scale of not more than 200 feet to the inch. Plans shall be no larger than 24 inches by 36 inches in size, and shall have a margin of two inches outside of the border line on the left side of the binding and a one-inch margin outside the border along the remaining sides. Space shall be reserved thereon for endorsement by the Board. **Two reproducible, stable based transparent originals, one to be recorded at the Registry of Deeds, the other to be filed at the municipal offices, and three copies of the plan shall be submitted. ~~The subdivider may instead submit one reproducible stable based transparent original of the final plan and one recording plan with three copies of the final plan.~~** In addition, one copy of the final plan, reduced to a size of 8 ½ inches by 11 inches, and all accompanying information shall be mailed to each Board member no less than seven days prior to the meeting.

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Roger A. reviewed the changes to §105-31 as presented by Madge Baker on July 23, 2014. This pertains to "Preservation of landscape; landscaping of parking and storage areas." Roger stated he had no issues with these changes. The changes are as follows:

Madge's draft 7/9/14

- A. The landscape shall be preserved in its natural state, insofar as practicable as determined by the PB, by minimizing ~~tree~~ natural vegetation removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas. Parking lots shall be landscaped ~~with shrubbery along all lot lines (except for street entrances)~~ to prevent erosion and stormwater runoff onto neighboring properties and streets. Boundaries with existing residential properties shall be screened according to the buffering standards in sec. 105-28 An effective visual screen of native vegetation, including evergreens, shall be established and maintained between the parking or storage area and any abutting residential property. The PB may require additional trees planted in and around large parking lots. ~~shall be provided with at least one tree (of two-inch caliper) for every 35 car spaces (four trees per acre), to be located at representative points throughout such lots~~
- B. All parking or outdoor storage areas shall be separated from any public road by a landscaped buffer strip at least 15 feet wide. The PB may require that within the buffer strip a visual screen of plantings be established and maintained. ~~Planted with shade trees (minimum two-inch caliper, planted at least every 50 feet along the road frontage) and dense, medium-height shrubs (three feet in height) to screen parked vehicles. All such plantings shall be maintained as an effective visual screen. Shrubs or trees which die shall be replaced within one growing season.~~

Roger A. noted there was a conference presented by Maine Municipal Association to be held on Tuesday, December 9, 2014. There is money for members to attend should they want to. Just let Barbara know ahead of time. Board members had received a copy of the information.

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

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

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

# **SHAPLEIGH PLANNING BOARD**

## **MINUTES**

**Wednesday, November 12, 2014**

Members in attendance: Roger Allaire (Chairman), Maggie Moody (Vice Chair), Madge Baker, Roland Legere, Diane Srebnick, Alternate Stephen Folio, Alternate Ann Harris and Barbara Felong (Secretary). Code Enforcement Officer, Steven McDonough was also in attendance.

\*\*\*\*\*

***The following words are not verbatim unless accompanied by quotation marks “ ”.***

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**Public Hearing started at 7:04 p.m.**

**Conditional Use Permit – Earth Works Landscaping – Map 1, Lot 41 (184 Emery Mills Road) – Joseph & Mary Letourneau, Applicants; Richard Gallant, Property Owner**

Mr. and Mrs. Letourneau were present for the public hearing.

Roger opened the public hearing stating it was for Earth Works and he asked the applicants to let the board and audience know what they wanted to do. Mrs. Letourneau stated, “I would like to keep the sign and display there.”

Roger asked how they would be meeting customers, would they drive in and meet them if they call? Mrs. Letourneau stated, “Really we never met customers there, per se”. People stopped and looked at the displays and they call Joe, meeting people at their location.” She said they do walls and patios and it’s hard to talk about a wall or patio off location.

Roger asked if the hours of operation would remain the same (as the first approval). Mr. Letourneau stated, “Yup”. Madge B. asked what they were? Mr. Letourneau said, “I guess whenever somebody wants.” Mrs. Letourneau stated the sign wasn’t lit so it’s from dawn to dusk. Madge noted the board always put down hours of operation, so she asked what the board should put down. Diane S. looking at the previous approval in 2012, it stated the hours were 7:00 a.m. to 9 p.m., 7 days a week. The applicants didn’t object to these hours.

Madge B. asked what the nature of the business was? Mrs. Letourneau stated, “It’s landscaping, it’s hardscaping, it’s the retaining walls and the patios. Walkways and patios, that kind of stuff.” Madge asked if there would be any materials on site? Mrs. Letourneau said there would be nothing at this location.

Madge B. said, “There will be no change, no new construction, nothing. It’s just as it is.” Mr. Letourneau stated, “We are leaving it the way it is.”

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

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

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**The planning board meeting started at 7:30 p.m.**

**The minutes were accepted as amended. *First full paragraph had a typographical error, 3<sup>rd</sup> sentence should read “as well” instead of ‘at’ well.***

**Conditional Use Permit – Earth Works Landscaping – Map 1, Lot 41 (184 Emery Mills Road) – Joseph & Mary Letourneau, Applicants; Richard Gallant, Property Owner**

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

Roger opened the review by stating the application was for Mary and Joe Letourneau, for Earth Works on Mr. Gallant's property.

Roger A. reviewed the following ordinance standards:

**105-17 - Land Uses. *A Conditional Use in the General Purpose Zone for Commercial Property is allowed.***

*Roger noted there would be no additional changes to the property whatsoever.*

**105-21 – Traffic. *Roger stated that the traffic was safe.***

**105-22 – Noise. *Roger stated there would be no additional noise.***

**105-26 – Stormwater runoff. *Roger stated stormwater runoff was fine.***

**105-27 – Erosion control. *Roger stated erosion control was fine.***

**105-29 - Explosive materials. *Roger stated there would be no explosive materials.***

**105-33 – Refuse disposal. *Roger stated there was no refuse disposal, none generated.***

**105-43 – Off-street parking and loading. *Roger stated that even though there is another conditional use on the property for the Soup Shack, this should not impact them. He felt Soup Shack had one additional parking space.***

Mrs. Letourneau stated she had a letter from Justin Lowell of the Soup Shack. Roger read the letter, it read in part as follows:

*This letter will serve to inform all parties concerned in this matter that I, Justin W. Lowell, clearly and fully understood that the Earthworks stone and landscaping display located at 184 Emery Mills R.D. (Richard Gallant, Property Owner) would remain a permanent fixture on the property when I rented the building soon to be known as "The Soup Shack" from Mr. Gallant.*

*It also should be understood that the owner of Earthworks, Joe Letourneau and any person employed by him, will be allowed to conduct business meetings with his clientele at or on the property where The Soup Shack is located as this arrangement between our businesses is felt to be mutually beneficial.*

Roger added that at the most two parking spaces would be used by the Letourneau's.

Roger stated there was a parking plan for the Soup Shack and the original application for the Letourneau's.

**105-47 – Signs and billboards. *Roger stated that signs are permitted by the CEO not the Planning Board. Roger said there were provisions in the ordinance that state when a business goes defunct, within 90 days the applicants are to remove the signage. Roger wanted it noted for the future. Roger stated the displays would have to be removed as well.***

Madge B. stated that she wanted to make clear that the Finding of Facts will state that this lot is at least 4 acres in size with at least 400 feet of frontage. Barbara F. believed it met both criteria. Madge wanted the size of the lot, the front footage and also the site distances listed, so they will continue to be in the record. CEO McDonough stated there wasn't a number on the road frontage but it was obvious there was a large amount of road frontage but there is no number on the Town map.

The board reviewed the tax map. Madge B. stated from now on the board needs to put numbers in the Findings of Fact, it keeps the board documenting correctly. Roger noted that the lot frontage is on Route 109 and Simon Ricker Road. It was agreed there was well over 1000 feet of road frontage. Roger believed it was approximately 1300 feet based on the scale on the Town map. Diane S. agreed with Madge. An audience member asked if this was ever done before. Madge noted it had been done but not in this location because the lot is so large, nobody required the road frontage. Madge said it is usually in the record and wanted it known she was not picking on this applicant but wants the board to make sure the records are correct. Madge also noted road frontage was different from site distance.

Roger A. then reviewed §105-73 and made findings of fact.

*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. **Roger stated, it would not.**
- 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. **Roger said, it is, the Comprehensive Plan wants businesses along Route 109.**
- 4) Traffic access to the site is safe. **Roger said, it is, because of the speed in this location, realizing people go faster than what is posted.**
- 5) The site design is in conformance with all municipal flood hazard protection regulations. **Roger said it is, it is not on the flood hazard map.**
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. **Roger stated there was none generated on the property, so N/A.**
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. **Roger stated, it was N/A., none on site.**
- 8) A stormwater drainage system capable of handling a twenty-five-year storm without adverse impact on adjacent properties has been designed. **Roger stated, there is no changes to the property and it's been in existence longer than 50 years without any impact.**
- 9) Adequate provisions to control soil erosion and sedimentation have been made. **Roger stated that everything has been fine.**
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. **Roger stated there was.**
- 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. **Roger stated there was.**
- 12) All performance standards in this chapter applicable to the proposed use will be met. **Roger said they would.**

**Roger A. stated the conditions of the approval are:**

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

Madge B. stated the second condition of approval she had written and she shared it with the board.

**Madge wrote the second condition of approval as follows:**

**This conditional use approval is for Earth Works Landscaping. If Earth Works Landscaping ceases doing business at this site, and/or ceases renting space at this site for its landscaping display and sign, the property owner shall notify the Shapleigh Code Enforcement Officer within 90 days and remove the display and sign in compliance with the requirements of the Shapleigh Zoning Ordinance, Section 105-47.A(11).**

*Note: The number of days was stated in the ordinance (90) and the fact the burden falls upon the property owner was noted by Steve F., Madge agreed.*

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

**The Findings of Facts show:**

- 1) Mary and Joseph Letourneau are the applicants.  
Mailing Address of: 1110 Milton Mills Road, Acton, Maine 04001 (The application stated the zip code was 04076 but this is not correct for the Town of Acton.)
- 2) Richard Gallant is listed as the property owner.  
Mailing Address of: 190 Emery Mills Road, Shapleigh, Maine 04076
- 3) Richard Gallant gave Joseph and Mary Letourneau permission to rent his property on 10/10/2014, located at 185 Emery Mills Road.
- 4) The Physical Location for the Business Location is: 185 (formerly 184) Emery Mills Road
- 5) The Property is Known As: Shapleigh Tax Map 1, Lot 41
- 6) The Size of the Property As Listed with the Town of Shapleigh is: 57 Acres
- 7) The Road Frontage was estimated by Roger Allaire to be approximately 1300 feet.
- 8) The Site Distances were stated to be 600 feet toward Sanford and 430 feet toward Acton, per a telephone conversation with Mary Letourneau which took place on 6/28/2013.
- 9) The applicants provided a sketch plan of the existing structure, display area, listed the number of parking spaces on site, turn-around area, and the plan is entitled 'Already on File'.
- 10) The application was for a sign and display for Earth Works Landscaping to be located on Shapleigh Tax Map 1, Lot 41.
- 11) The board reviewed the material provided and a meeting was held on Tuesday, October 28, 2014, and Wednesday, November 12, 2014. A Public Hearing was also held on Wednesday, November 12, 2014.
- 12) The pertinent ordinances were reviewed as noted in the minutes.

**Madge B. made the motion to move for approval of the application for Earth Works Landscaping to have a display and signage at Map 1, Lot 41, subject to the following conditions:**

- 1) **The hours of operation shall be 7:00 a.m. through 9:00 p.m., seven days a week.**
- 2) **This conditional use approval is for Earth Works Landscaping. If Earth Works Landscaping ceases doing business at this site, and/or ceases renting space at this site for its landscaping display and sign, the property owner shall notify the Shapleigh Code Enforcement Officer within 90 days and remove the display and sign in compliance with the requirements of the Shapleigh Zoning Ordinance, Section 105-47.A(11).**

**Diane S. 2<sup>nd</sup> the motion. All members were in favor. Vote 5 – 0. Roger stated the vote was unanimous.**



Nothing further was discussed.  
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**Growth Permits**

• Map 4, Lot 9 (Back Road) – New Home – **Growth Permit #14-14**

The property meets all the requirements of a legal lot. A deed was provided along with a sketch plan showing the dimensions of the lot.  
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**OTHER:**

Barbara F. asked the board their opinion on holding the public hearing for the Zoning Ordinances changes on Tuesday, December 9, 2014. The board agreed to this date.

Roland L. asked if the board had thought anymore of changing the planning board hours for the winter from 7:30 p.m. to 6:30 p.m. All the board agreed this would be preferable. They decided these hours would begin in December, and continue thru the end of March. Barbara F. will discuss this with Karla and have the new hours posted on the website and in the town hall.

Nothing further was discussed.  
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***The Planning Board meeting ended at 8:47 p.m.***

Respectively submitted,  
Barbara Felong, Land Use Secretary  
[planningboard@shapleigh.net](mailto:planningboard@shapleigh.net)

# **SHAPLEIGH PLANNING BOARD**

## **MINUTES**

**Tuesday, October 14, 2014**

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

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*Note: The minutes are not verbatim unless in quotes.*

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We want to welcome Ann Harris as a new alternate member of the board. We know Ann's expertise in the home insurance industry, as well as interest in the building trade will help aid the board in their decision making process.

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**Planning board meeting began at 7:30 p.m.**

**The minutes from Tuesday, September 9, 2014, were accepted as read.**

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### **Review Proposed Ordinance Changes to §105-31 'Preservation of Landscape...'; §105-15, Definition of Building Height; §89-19 'Submissions'; and the required 3 year review of the Growth Ordinance**

**The board reviewed the following proposed ordinance changes:**

#### **§105-32. Preservation of Landscape; landscaping of parking and storage areas.**

- A. The landscape shall be preserved in its natural state, insofar as practicable as determined by the PB, by minimizing ~~tree~~ natural vegetation removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas. Parking lots shall be landscaped ~~with shrubbery along all lot lines (except for street entrances)~~ to prevent erosion and stormwater runoff onto neighboring properties and streets. Boundaries with existing residential properties shall be screened according to the buffering standards in sec. 105-28 An effective visual screen of native vegetation, including evergreens, shall be established and maintained between the parking or storage area and any abutting residential property. The PB may require additional trees planted in and around large parking lots. ~~shall be provided with at least one tree (of two-inch caliper) for every 35 car spaces (four trees per acre), to be located at representative points throughout such lots~~
- B. All parking or outdoor storage areas shall be separated from any public road by a landscaped buffer strip at least 15 feet wide. The PB may require that within the buffer strip a visual screen of plantings be established and maintained. ~~Planted with shade trees (minimum two-inch caliper, planted at least every 50 feet along the road frontage) and dense, medium height shrubs (three feet in height) to screen parked vehicles. All such plantings shall be maintained as an effective visual screen. Shrubs or trees which die shall be replaced within one growing season.~~

Madge B. explained to Ann H. that the Planning Board found that the ordinance as written was not being enforced as it should be, because in certain circumstances it is not useful, applicable or suitable. She said, therefore, the board tried to come up with changes that made sense. Barbara F. noted that in places the word mandatory does not work as there is no flexibility, such as screening between a business and roadway that may not be appropriate, as you couldn't see the storefront and this could lead to possible vandalism.

Barbara F. noted the board would still want a screen between a business and neighboring properties but again not along the road. Also, it could be an issue with being able to see to pull out. CEO McDonough stated it also applied to parking lots and Maggie M. noted the Town Sand/Salt shed, the fact the board didn't want that screened off from the road, so it would be visible.

Barbara F. explained that the board had discussed most of the changes being noted this evening at prior meetings. She said there would be a public hearing held before the end of the year because these are zoning changes and they would have to be voted on by the townspeople of Shapleigh. She said if there are any changes the board needs to address, those changes can be discussed at the first Public Hearing. She also stated there would be a second Public Hearing in late January, or early February but at that time no changes could be made. This process allows the public the ability to ask questions at the first public hearing and voice concerns. Barbara also noted Executive Secretary Karla Bergeron had to have the proposed changes by the end of January, so they can be published prior to town meeting which is where they will be voted on.

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Maggie M. stated the next proposed change is as follows:

Current definition:

§105-15. Definitions.

BUILDING HEIGHT – The vertical distance between the highest point of the roof and the average grade of ground adjoining the building.

**Proposed definition:**

BUILDING HEIGHT – The vertical distance between the highest point of the roof **and the mean original grade at the downhill side of the structure.**

(Taken in part from §105-19.H)

Roland L. asked CEO McDonough if he would draw an example for him, so he understood what it meant.

CEO McDonough stated, "Sure, but the reason we are changing this ordinance is because I just became aware that building height is defined in two separate places in the ordinance and they are not the same." He added that he didn't care how it was defined but he wanted to be sure in both sections it was the same. Roland said, "Right."

CEO McDonough drew a sketch of what the mean original grade would be. He stated it is the average of the low side. Roland asked if it would be used for raising a building? CEO McDonough stated, yes or constructing a new building. CEO McDonough stated he wasn't a fan of the word 'mean original' grade, he was fine with lowest ground grade. Maggie M. thought the mean and the average were too different things. Maggie said that CEO McDonough stated you would use only the low side. CEO McDonough asked what the definition said? Maggie said, "The mean of the down side, so you aren't taking the whole mean, just that section." CEO McDonough, "Of the low side." Maggie believed the average and the mean were two different things. Roland L. noted it was being changed from average to 'mean'. CEO McDonough stated again in the book its defined two different ways, the board has to pick one. Both definitions have to match. Barbara F. noted that the mean original grade was taken from Shoreland zoning which is mandatory. Barbara said it may not necessarily be the best but it is why we chose it. Maggie thought the mean was best.

Steve stated that he would rather use lowest ground grade but again this was chosen because it was how the State wanted it defined. Madge B. agreed.

Madge B. asked if the board should call the State to see if they had an issue with it. Maggie M. stated the board could be stricter than the State but has to be at least as strict. CEO McDonough agreed to contact the DEP to get their opinion and he noted they have to approve the change.

CEO McDonough agreed to call Mike Morse to see if the definition could be changed to the lowest ground grade.

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§89-19. Submissions.

- A. The final plan shall consist of one or more maps or drawings drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 75 acres may be drawn at a scale of not more than 200 feet to the inch. Plans shall be no larger than 24 inches by 36 inches in size, and shall have a margin of two inches outside of the border line on the left side of the binding and a one-inch margin outside the border along the remaining sides. Space shall be reserved thereon for endorsement by the Board. **Two reproducible, stable based transparent originals, one to be recorded at the Registry of Deeds, the other to be filed at the municipal offices, and three copies of the plan shall be submitted. The subdivider may instead submit one reproducible stable based transparent original of the final plan and one recording plan with three copies of the final plan.** In addition, one copy of the final plan, reduced to a size of 8 ½ inches by 11 inches, and all accompanying information shall be mailed to each Board member no less than seven days prior to the meeting.

Barbara noted that the highlighted section of this ordinance gave the applicant two choices as to what to submit as a final plan. She stated a recent applicant, because the board did not specifically state that they wanted ‘two reproducible, stable based transparent originals’, did not feel he had to submit a second one, only a paper copy. She said based on this example, what did the board feel they wanted an applicant to submit, what was indicated in the first sentence or the second sentence? She felt the board should make a choice, then if during the review process they forgot to ask for the number or type of copies required, the ordinance would dictate what should be submitted.

Barbara F. asked, “Should we choose one or the other or leave it up to the applicant?” She believed it would be best to simplify the ordinance. Madge B. agreed. Roland L. asked if Barbara had a preference. Madge thought the Mylar’s are harder to keep. Barbara agreed and noted the Town Hall did not have a machine that could copy the Mylar’s so anyone wanting a copy had to go to the Registry of Deeds in Alfred regardless. Barbara had no issue with a recorded paper copy.

Madge B. thought the board should ask Roger A. if he had an opinion. Barbara F. agreed and would bring it up at the next meeting.

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Barbara F. noted the change to the Growth Ordinance was only to the figures with respect to the cost of the school to the Town of Shapleigh. She stated she didn’t change the section with respect to the census, as there has not been another census since the last revision, so there could be no relevant change to that section,

therefore, she actually removed the section. Barbara also stated that she did not change the number of Growth Permits allowed, because she did not see a reason to increase them based on current building trends, nor did she feel the board should reduce the number, as either change would not be beneficial at this time. She felt the numbers should remain unchanged but wanted the board's opinion.

The proposed change to the Growth Ordinance is as follows:

### **Growth Ordinance**

- (f) To allow growth of the residential population of the town at a rate which would not impose an undue burden upon the provision of community services (including education, fire protection, road maintenance, waste disposal, health services and welfare) and which would be compatible with the orderly and gradual expansion of said services.
- (1) During the most current review of the tax base for **2013**, the Education system accounts for **67.47%** of the cost to taxpayers. **The figure calculated per child per year for 2012-2013 in RSU #57 is \$10,388. Although the number of children enrolled in the school system is not expected to rise in the next several years, the cost to Shapleigh taxpayers continues to have a slight increase each year. The most recent figures of cost increase to taxpayers projected for the year 2014-2015 is 3.72%, creating a cost per child of \$10,774.** With this figure it is apparent that any household with even one child would be an impact since there are not enough property taxes derived from the average house to generate enough money to pay for one child's education. Therefore, the Growth Ordinance system must calculate growth in such a way as to assure the town can fund education at the current levels and those of the future.
- (g) To guide Shapleigh's expansion so that the annual increase in population and dwelling units shall not exceed the average rate of population and housing growth which occurred within the sub-region. **During this time period, 2010 thru 2014, there is no census data but the number of single family dwellings permitted in the town has steadily increased from (3) in 2010, (5) in 2011, (7) in 2012 to (15) in 2013.** With the current projected need for housing, the maximum annual number of Growth Permits should remain unchanged at 35 dwelling units.
- (h) To guide Shapleigh's expansion so that the increases in education costs are predictable and manageable.

Roland L. asked if the number of unclaimed permits rolled over to the following year? Barbara F. stated, "It does not." Maggie M. asked if we were in the teens yet? Barbara said, yes, we were up to 13 as of tonight.

Roland L. asked if this was something that has to be voted on? Barbara F. stated that yes, this is something that would be voted on at Town Meeting in March. She noted that the State required the Town review the ordinance every 3 years and present it to the voters.

CEO McDonough noted that nothing is limited to the board's authority, it all has to be voted on.

Nothing further was discussed.

Maggie M. asked about the letter received regarding Earthworks Landscaping and Signage. Barbara F. stated she received a Conditional Use Permit application which states that the business is still in the same location as the Soup Shack that it never moved, therefore, they can keep their sign. The Town is contending the business received a permit to move to another location and the Soup Shack was approved to move into the existing building and location. This will be brought before the board at the next meeting.

Nothing further was discussed.

**Growth Permits**

• Map 23, Lot 10 (37 Starboard Lane) – Seasonal Conversion – **Growth Permit #11-14**

The property had a Planning Board approval to rebuild the existing structure and a State approved septic design.

• Map 12, Lot 29C (23 North Shore Road) – New Home – **Growth Permit #12-14**

The property is a legal lot by the Town of Shapleigh's standards.

• Map 34, Lot 40 (31 Chestnut Road) – Seasonal Conversion – **Growth Permit #13-14**

There is a State approved septic design on file for this property and the system has been put in.

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

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

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

# **SHAPLEIGH PLANNING BOARD**

## **MINUTES**

**Tuesday, December 9, 2014**

Members in attendance: Roger Allaire (Chairman), Maggie Moody (Vice Chair), Roland Legere, Alternate Ann Harris and Barbara Felong (Secretary). Madge Baker, Diane Srebnick and Stephen Foglio were unable to attend. Code Enforcement Officer, Steven McDonough was also in attendance.

In addition to the above stated board members, in attendance was Selectman Mark Cobb and Selectman William Mageary.

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*The following words are not verbatim unless accompanied by quotation marks “ ”.*

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**Public Hearing started at 6:00 p.m.**

### **Review of Proposed Amendments to the Zoning Ordinance, Subdivision Ordinance and Growth Ordinance**

#### **1. §105-15 & §105-19.H ‘the definition of Building Height’**

Roger read the changes to each. The changes are as follows, new language in bold:

§105-15. Definitions.

**BUILDING HEIGHT** – The vertical distance between the highest point of the roof and the average grade of ground adjoining the building. **and the lowest ground grade adjoining the building.**

This would also require changing the definition in **§105-19.H** to read as follows:

**Building Height.** No building shall exceed 2 ½ stories or 35 feet in height, as measured between the mean original grade at the downhill side of the structure **the lowest ground grade adjoining the building** and the highest point of the structure. Exception: In public, semipublic, institutional and agricultural buildings, a height not to exceed 40 feet is allowed in the General Purpose District only, and must be in compliance with NFPA 101. Features of building and structures, such as chimneys, towers, ventilators and spires, may exceed 35 feet in height but shall be set back from the nearest lot line a distance not less than the height of such feature or structure, unless a greater setback is required by other provisions of this chapter.

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

#### **2. §105-31, extensive changes to ‘Preservation of landscape; landscaping of parking and storage areas.**

- A.** The landscape shall be preserved in its natural state, insofar as practicable **as determined by the PB**, by minimizing ~~tree~~ **natural vegetation** removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas. Parking lots shall be landscaped ~~with shrubbery along all lot lines (except for street entrances)~~ **to prevent erosion and stormwater runoff onto neighboring properties and streets.** ~~Boundaries with existing residential properties shall be screened according to the buffering standards in sec. 105-28~~ **An effective visual screen of native vegetation, including evergreens, shall be established**

**and maintained between the parking or storage area and any abutting residential property. The PB may require additional trees planted in and around large parking lots.** ~~shall be provided with at least one tree (of two-inch caliper) for every 35 car spaces (four trees per acre), to be located at representative points throughout such lots~~

- B. All parking or outdoor storage areas shall be separated from any public road by a landscaped buffer strip at least 15 feet wide. **The PB may require that within the buffer strip a visual screen of plantings be established and maintained.** ~~Planted with shade trees (minimum two-inch caliper, planted at least every 50 feet along the road frontage) and dense, medium-height shrubs (three feet in height) to screen parked vehicles. All such plantings shall be maintained as an effective visual screen. Shrubs or trees which die shall be replaced within one growing season.~~

Roger A. asked if there were any questions? Selectman Mageary asked, “On storage areas, what kind of storage; what is the definition of storage?” CEO McDonough asked if they were talking about outside storage areas? Roger said, yes. Selectman Mageary asked, “Could this include boat storage and u-store units?” CEO McDonough said this section of the ordinance didn’t refer to residential property, only commercial. He also stated that it was questionable if what Selectman Mageary was referring to was outdoor storage. Roger asked if he was referring to the storage area on Route 109? CEO McDonough stated the storage structure on 109 was not outdoor storage. Maggie M. stated the title didn’t refer to ‘outdoor’ storage. Ann H. noted in section B it stated, ‘All parking or outdoor storage areas’. CEO McDonough stated a building is not an outdoor storage area; an outdoor storage area could be boat storage. Ann asked if people store RV’s and boat’s, is that considered outside storage? CEO McDonough stated it was.

Selectman Mageary stated he had a business person contact him to get a clarification on this. Roger A. stated the changes in the section make it easier for a business. He said that currently shrubs are mandatory, these changes leave it up to the board whether or not it is required. Roger said the ordinance requirements in this section are now more flexible.

Roland L. noted that there could be a typo in the first sentence, he thought it should read ‘insofar as practical’ instead of ‘insofar as practicable’. Roland also noted that A & B were crossed out at the beginning of each section, so now there would not be two sections. Barbara F. said that very often codification will renumber or re-letter sections as they deemed necessary. CEO McDonough asked if Roland thought it would matter? Roland did not believe so, but he thought that it was two different items. Barbara stated that Madge may not have wanted to delete the A & B, but Word may have automatically done it as she typed. Barbara said she would type it however the board thought it was best. Roland thought it should be two separate items. Maggie believed each paragraph addressed different issues. Ann H. thought in the description line ‘outdoor’ should be added because this is what the second section talked about. Barbara stated she could add it in the description. The board agreed it would be a good idea.

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

### **3. Amendment to §89-19, a change to the submission requirement.**

- A. The final plan shall consist of one or more maps or drawings drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 75 acres may be drawn at a scale of not more than 200 feet to the inch. Plans shall be no larger than 24 inches by 36 inches in size, and shall have a margin of two inches outside of the border line on the left side of the binding and a one-inch margin outside the border along the remaining sides. Space shall be reserved thereon for endorsement by the Board. Two reproducible, stable based



transparent originals, one to be recorded at the Registry of Deeds, the other to be filed at the municipal offices, and three copies of the plan shall be submitted. ~~The subdivider may instead submit one reproducible stable based transparent original of the final plan and one recording plan with three copies of the final plan.~~ In addition, one copy of the final plan, reduced to a size of 8 ½ inches by 11 inches, and all accompanying information shall be mailed to each Board member no less than seven days prior to the meeting.

Roger A. stated the reason for the change is because the applicant has to submit one stable based transparent original of the final plan, this is a Mylar, and also a recording plan which is also a Mylar, because the Registry of Deeds will not accept regular paper to file. He said the three copies is what is always asked for. Roger said both sentences refer to the same thing due to the Registry's requirements, so the second sentence isn't necessary. Roger also noted the Town of Shapleigh does not have the ability to produce a Mylar, so the applicant must do so for the Town's record.

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

#### **4. Amendment to the Residential Growth Ordinance after the required 3 year review.**

Roger A. stated the numbers are staying the same with respect to the amount of permits given in a calendar year. Roger said the change to the language in the Ordinance is as follows:

##### **Growth Ordinance**

- (f) To allow growth of the residential population of the town at a rate which would not impose an undue burden upon the provision of community services (including education, fire protection, road maintenance, waste disposal, health services and welfare) and which would be compatible with the orderly and gradual expansion of said services.
  - (1) During the most current review of the tax base for **2013**, the Education system accounts for **67.47%** of the cost to taxpayers. **The figure calculated per child per year for 2012-2013 in RSU #57 is \$10,388. Although the number of children enrolled in the school system is not expected to rise in the next several years, the cost to Shapleigh taxpayers continues to have a slight increase each year. The most recent figures of cost increase to taxpayers projected for the year 2014-2015 is 3.72%, creating a cost per child of \$10,774.** With this figure it is apparent that any household with even one child would be an impact since there are not enough property taxes derived from the average house to generate enough money to pay for one child's education. Therefore, the Growth Ordinance system must calculate growth in such a way as to assure the town can fund education at the current levels and those of the future.
- (g) To guide Shapleigh's expansion so that the annual increase in population and dwelling units shall not exceed the average rate of population and housing growth which occurred within the sub-region. **During this time period, 2010 thru 2014, there is no census data but the number of single family dwellings permitted in the town has steadily increased from (3) in 2010, (5) in 2011, (7) in 2012 to (15) in 2013.** With the current projected need for housing, the maximum annual number of Growth Permits should remain unchanged at 34 dwelling units.
- (h) To guide Shapleigh's expansion so that the increases in education costs are predictable and manageable.

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

The public hearing closed at 6:17 p.m.

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**The planning board meeting started at 6:30 p.m.**

**The minutes were accepted as read.**

Nothing more was discussed.

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*Copies of proposed Ordinance Changes can be obtained at the Town Hall during normal office hours.*

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***The Planning Board meeting ended at 6:30 p.m.***

Respectively submitted,  
Barbara Felong, Land Use Secretary  
[planningboard@shapleigh.net](mailto:planningboard@shapleigh.net)