

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, January 13, 2015

Members in attendance: Roger Allaire (Chairman), Maggie Moody (Vice Chair), Roland Legere, Diane Srebnick, Alternate Steve Foglio, Alternate Ann Harris and Barbara Felong (Secretary). Madge Baker was unable to attend. Code Enforcement Officer, Steven McDonough was also in attendance.

The following words are not verbatim unless accompanied by quotation marks “ ”.

Public Hearing started at 6:08 p.m.

Review of Proposed Amendments to the Zoning Ordinance, Subdivision Ordinance and Growth Ordinance

Roger read the changes to each. The changes are as follows (new language in bold, language to be removed crossed out):

1. Proposed Zoning Amendment to §105-15 & §105-19H, change to the definition of building height.

§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.**

Making a change to §105-15 also requires a change to 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. Proposed Zoning Amendment to §105-31 ‘Preservation of landscape; landscaping of parking and storage areas’.

Additions in Bold; Language to be Removed, Crossed Out.

§105-31 ‘Preservation of landscape; landscaping of parking and **outdoor** storage areas.’

- A. The landscape shall be preserved in its natural state, insofar as practical **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 asked if there were any questions? There were none.

Language to be Removed, Crossed Out.

3. Proposed Subdivision Amendment to §89-19. Submissions

§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.

Roger 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.

Roger noted these would be the changes presented at Town Meeting in March 2015 for the citizens to vote on. Nothing further was discussed.

The public hearing closed at 6:16 p.m.

Copies of proposed Ordinance Changes can be obtained at the Town Hall during normal office hours.

The planning board meeting started at 6:30 p.m.

The minutes were accepted as read.

Conditional Use Permit – Existing Business ‘Whole Nine Yards’ Adding Sales of Docks – Map 3, Lot 5 (299 Shapleigh Corner Road) – Marc & Cara Boisse’, Applicants.

Mr. Boisse’ was present for the review of the application.

Mr. Boisse’ presented to the board an application which stated ‘The current business “The Whole Nine Yards” will now be selling docks.’ Along with the application was a sketch plan which depicted the existing barn, a parking area, grass area, and that the opening onto the road would be 30 feet in width. There were also two notes that read as follows: ‘The 2 existing trees would be removed for visibility.’ ‘This drawing shows the driveway / parking area enlarged by 740 sq. ft.’

Roger A. asked Mr. Boisse’ to state what his intentions were. Mr. Boisse’ stated that the CEO had told him he needed to come before the board. He said his business installs docks in the spring and removes them in the fall and he noted they had been doing this for years. He believed selling aluminum docks would go hand in hand with this part of his business. He stated that he would be cutting down several trees so it would be easier to pull in and out. Also, the visibility in this location is great in both directions and there would be several docks on the patch of grass by the barn.

Roger A. asked how many docks would be on hand? Mr. Boisse’ stated excess docks would be behind the barn and there was a certain dollar value he was required to purchase up front. He stated whatever \$20,000 would buy is how many he would have.

Roger A. stated that the 30 foot opening on the road had to be 26 feet in width. Mr. Boisse’ asked why it was limited to 26 feet? Roger stated that was what the ordinance stated. (§105-43 ‘Off-street parking and loading’ 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.’) Roger noted that this had been in the ordinance for many years. He said there was a change to the ordinance for the board to allow an additional six feet for safety reasons, as the sand/salt shed needed the extra room for the plow trucks; other than this, the width is limited to 26 feet.

Roger A. stated most docks would be stored behind the barn? Mr. Boisse’ stated some would be stored where it says ‘grass’ and the remaining would be behind the barn. Ann H. asked if both of the trees still had to be removed if the entrance was limited to 26 feet? Mr. Boisse’ stated he wanted to remove them regardless for visibility. Roger agreed this would be a good idea.

CEO McDonough asked if there was a designated area for the docks on the plan? Mr. Boisse’ stated they would be where the word ‘grass’ was. CEO McDonough asked if this was the only area where the docks would be located? Mr. Boisse’ stated that was where the docks would be that are to be shown and the remainder would either be behind the barn or in the barn. Steve F. thought it sounded like it would be a substantial amount of docks initially. Mr. Boisse’ stated, “No, probably 10 or 15 but there are so many miscellaneous parts that go with it that it eats up a lot of the cash flow.”

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

Roger A. stated there would be a Public Hearing at 6 p.m. on Tuesday, January 27. A notice to abutters will be mailed as well.

Note: Board members did not feel a site inspection was warranted as they all knew the location and layout of the property.

Nothing further was discussed.

Conditional Use Permit – Addition to Parsonage for ‘Mother-in-law’ Apartment – Map 45, Lot 4 (600 Shapleigh Corner Road) – Trades Center, Inc., Applicant; Shapleigh First Baptist Church, Applicant

W. David Wade of Trades Center, Inc., was present along with Pastor Bosse of the First Baptist Church, and his wife.

The board received an application from Mr. Wade which stated ‘Proposed 1,000 SF w/deck addition to existing Parsonage for separate “Mother-in-law” apartment – Plans attached.’ Also presented was a site plan which depicted Map 45, Lot 4 in its entirety, the existing structures which include the Church and attached education center, the old parsonage with attached barn, the new parsonage and garage, along with the proposed addition w/deck and the existing parking areas. The plan also noted that the land area is 328,442 square feet in size and there is a minimum of 800 linear feet of street frontage.

In addition, Mr. Wade provided a picture of the proposed addition; a floor plan of the interior of the addition, including deck; the Subsurface Wastewater Disposal System Application, dated 11/26/2014, done by Kenneth Gardner, SE #73; a document entitled ‘Preliminary Scope of Work’ which gave a project description, shell construction, interior finishes, bathroom / kitchen description and utilities; a letter from Janie Silcocks, Church Clerk which stated Mr. Wade could represent the Church before the Planning Board; a list of abutters; and a letter written by Mr. Wade, dated December 18, 2014 which stated in part:

The initial use of this addition will be for a “mother-in-law” apartment. The future use would be for pastor support or education. The savings to use, light and heat large rooms of the church for small groups will be a plus. The floor plan includes a living and dining/kitchen area with a large bedroom with bathroom and closets and a den. Off of the kitchen will be a connecting enclosed porch accessing the existing house and a 10’ x 14’ deck as shown.

I have spoken with the CEO and by treating it as a duplex, the fire separation and separation of the electric and heating will adapt well to this use. The addition would have its own septic and the approved HHE-200 design sheet is attached.

Mr. Wade began by showing the board a copy of the plan he had provided them which was color coded for an easier depiction of the property. He then read from the letter he provided and noted the money savings in the future by using this structure for group meetings instead of having to heat an area in the church for small gatherings. He stated this structure will have its own heat, power and electric, as well as septic. It also will have the ability to be winterized should they want to shut it down in the future for the winter. He said, the Church had approved the addition by way of a Church meeting.

Mr. Wade stated the use of this structure will not have an adverse affect on the habitat of wildlife or surrounding area and is consistent with the Comprehensive Plan. He said with respect to traffic access and parking they would be working off of the existing parking and access. The site is in conformance with respect to flood hazard but noted they were near a stream but beyond the 75 foot setback requirement. The addition will add 1/3 of 1% more of additional runoff and would be handled by vegetation. Prior to excavation they will put up a silt fence. He noted again it would have its own septic system to handle solid waste and construction debris will be removed from the site. The parsonage itself was built within the past 10 years so he did not believe there would be any issue with hazardous material. He said because the addition is on the rear of the building and the property has existing trees and buffers, they did not plan on doing any additional landscaping, but ornamental flowers and plantings will be done by the homeowner.

Roger A. asked about the old parsonage, he believed the structure would have to be considered unsafe and not usable in any way for any reason. He stated the Church itself uses 2 acres, the old parsonage uses 2

acres, the existing parsonage uses two acres and a duplex takes up 4 acres, so because of the land requirements he did not believe the old parsonage would ever be able to be used in the future if this addition got approved. Roger believed if the old parsonage was never used in the future the board then could grant the additional dwelling.

Steve F. asked what the use of the old parsonage was at this time? Roger A. stated, “Nothing. In the permit to build the existing parsonage it stated that the old parsonage was never to be used unless a structural engineer were to state it was safe to use.” Roger thought at the present time it would have to be modified to say it can never be used, it is only a historical artifact. Mr. Wade did not disagree. Mr. Wade said if someone were to donate the cost to remove the building, many members of the church would like to see that. He thought there were repairs done to keep the roof from leaking and he believed they were using the barn but the house was not being used.

Pastor Bosse stated the old parsonage was actually put on Craig’s List because the Church was not planning on doing any engineering work to it or put it back into service. The barn is in use, no gatherings but is used actively for storage. Pastor Bosse asked what Roger was referring to? Roger stated he was referring to the parsonage itself as there was a kitchen, living quarters, etc. Mr. Wade said he has seen them storing things in the past. Pastor Bosse stated there was nothing in the building at this time. Roger wanted to be sure they understood that the old parsonage could not be used now or in the future. Roger did not see an issue with the barn being used, living spaces were the only issue.

CEO McDonough asked how much road frontage there was for the lot? Mr. Wade stated it was between 800 and 900 feet. CEO McDonough asked if Mr. Wade was sure it was 7.54 acres? Mr. Wade stated that was what the Town assessing card stated.

Roger A. noted the septic design only noted there was 5 acres. Mr. Wade wasn’t sure why? CEO McDonough thought it might be a threshold in the septic system regulations, it may not be the actual acreage.

Mr. Wade stated again that the figure for the acreage was taken from the Assessors sheet but if he has to revise the information he will. Steve F. looked up the information on the Town’s website and stated the property was listed as having 7.54 acres. Mr. Wade thanked Steve.

Roger A. stated that the person installing the silt fencing would have to have their DEP license to do so. Mr. Wade stated they would be using Labbe Excavating out of Arundel (Maine) and they are fully certified. He noted they do work on roads, State and Federal and a lot of construction in the Biddeford and Kennebunk area. Roger said he was noting this because there had been issues with Pump Box Brook, so he thought it was best to ensure they had the expertise to set up the silt fence, even though because of the distance to the brook it really wasn’t required. Mr. Wade stated he was very familiar with making sure this was done correctly with both residential and commercial construction. He stated he should have put the location of the silt fencing on the board’s copy of the plan but it was on his copy, noted in red.

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

Roger A. stated there would be a Public Hearing held after Mr. Boisse’s application for this application. Roger said again the Public Hearings would begin at 6:00 p.m. A notice to abutters will be mailed as well. There was no need for a site inspection as everyone was familiar with the property.

Nothing further was discussed.

The Planning Board meeting ended at 7:00 p.m.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Wednesday, January 28, 2015

Members in attendance: Roger Allaire (Chairman), Maggie Moody (Vice Chair), Madge Baker, Roland Legere, and Barbara Felong (Secretary). Diane Srebnick, Alternates Steve Foglio and Ann Harris were unable to attend. Code Enforcement Officer, Steven McDonough was also unable to attend.

The following words are not verbatim unless accompanied by quotation marks “ ”.

Public Hearing started at 6:05 p.m.

Conditional Use Permit – Existing Home Business ‘Whole Nine Yards’ Adding Sales of Docks – Map 3, Lot 5 (299 Shapleigh Corner Road) – Marc & Cara Boisse’, Applicants

Mrs. Boisse’ was present for the public hearing.

Roger A. began by stating the Conditional Use Permit being reviewed this evening was for selling docks because on the original permit approval for this property one of the conditions was: ‘There shall be no storage of any material incidental to the approved business stored on site (Map 3, Lot 5).’ Roger stated they were looking to change this condition. Roger also noted that there were no hours for business for Whole Nine Yards, as no business was conducted on site. Mrs. Boisse’ agreed.

Roger A. asked Mrs. Boisse’ to state what they wanted to do. Mrs. Boisse’ stated she would be adding the sales of docks to their business. She said there would be storage of parts, but she didn’t think there would be whole docks, they would be ordered for the customer; there would be samples of dock options and one dock set up on the front lawn as a display, so the customer could see what the product looks like. She said this is primarily what it would be.

Roger A. asked if there would be three or four docks on site to be sold? Mrs. Boisse’ did not believe so, she said the basic structure is the same, the insets are made of different materials which didn’t have to be on display. She said sample pieces would only be required, a dock looks like a dock regardless of its length. She added that she didn’t want a huge dock on her lawn. She said they only wanted something reasonable on display, so people could get an idea of what they look like.

Roland L. asked if there would be formal business hours? Mrs. Boisse’ stated they may move into that but she didn’t believe so to start. She thought they would let people know they were available by 9 a.m., she didn’t envision an open time and closed time presently. Roland asked her what she perceived would be a window for the future? Mrs. Boisse’ said with respect to dock sales maybe 9:00 a.m. to noon; with the present business people come to their house at all hours, so she didn’t think she could truly pick a time frame.

Roger A. said, if docks are going to be there, and should a neighbor complain about traffic at certain hours such as 4 in the afternoon, they would have to tell the customers to leave, as these hours were not approved. Roger stated because of this, she should consider hours of operation for the future. He said they might be able to grant 9 a.m. to noon, but again in the future what might they be? Mrs. Boisse’ asked if Roger wanted to know what future hours might be, and if so, she wasn’t sure as she would have to speak with her husband (who wasn’t present at the meeting at this time). Mrs. Boisse’ stated she could call him to discuss this with him. Roland L. noted she should also ask him what days they would be open.

Mrs. Boisse' asked the board if they wanted a wide window for hours, so people couldn't complain that they were going outside of the approved hours? Madge B. said, yes. Roger stated that otherwise they would have to come back before the board for a change in hours; this would require an amendment to their permit and another two meeting process. Roger stated, therefore, it would be best for them to consider the future hours they may want. Roland L. noted they didn't have to be open those hours but they could be if they wanted to. Mrs. Boisse' said that she understood.

Roland L. asked if there would be any signage involved? Mrs. Boisse' stated that there would be a banner put on the barn advertising the manufacturer. She said the signage that is there now for 'The Whole Nine Yards' would probably have a plaque on the bottom that said 'dock sales'. Maggie M. asked if the banner counted as additional signage? Roger A. stated, "That is the CEO, he will take care of signage". Madge B. thought it should be considered.

Roland L. asked if there was a designated area for customer parking? Mrs. Boisse' stated yes, and thought it was discussed at the first meeting. Roger A. stated it was but there also needed to be an area marked on the plan where the dock would be located. He said Mr. Boisse' stated it was going to be where the word *grass* was but again it had to be marked on the plan. Roger said that the board was told with respect to spare parts they would be either in the barn or behind the barn. Mrs. Boisse' agreed.

Roger A. asked if there were any additional questions? There were none. The public hearing for this application was closed at 6:15 p.m.

Conditional Use Permit – Addition to Parsonage for 'Mother-in-Law' Apt. – Map 45, Lot 4 (600 Shapleigh Corner Road) – Trades Center, Inc., Dave Wade, Applicant; Shapleigh First Baptist Church, Property Owner

Mr. Wade was present for the public hearing along with Pastor Bosse and his wife.

Roger A. stated this permit was for an in-law apt. and asked Mr. Wade to give a summary of what they wanted to do. Mr. Wade began by reviewing the letter he had presented to the board at the last meeting. This letter stated in part: On behalf of the Shapleigh First Baptist Church, I am pleased to submit information and plans for a proposed addition to the existing parsonage. The initial use of this addition will be for a "mother-in-law" apartment. The future use would be for pastor support or education. The savings to use, light and heat large rooms of the church for small groups will be a plus. The floor plan includes a living and dining/kitchen area with a large bedroom with bathroom and closets and a den. Off of the kitchen will be a connecting enclosed porch accessing the existing house and a 10' x 14' deck as shown.

Mr. Wade stated the addition would have its own power, heat and septic. It will be connected to the house water with the ability to be winterized if it's needed. I have spoken with the CEO and by treating it as a duplex, the fire separation and separation of the electric and heating will adapt well to this use. The addition would have its own septic and the approved HHE-200 design sheet has been attached.

Mr. Wade said the Church had approved the addition and is looking forward to the project. The addition will not have an adverse impact on the habitat of wildlife or surrounding area and is consistent with the Comprehensive Plan. Traffic access and parking already exist for this addition. The site is in conformance with municipal flood hazard protection. The addition will add 1/3 of 1% more of additional runoff and would be handled by vegetation and will not impact the adjacent property. Prior to excavation a silt barrier will be installed to control runoff and sedimentation. He noted it would have its own septic system to handle solid waste and construction debris will be removed from the site. Due to the age of the parsonage itself,

materials removed are not expected to be hazardous. He said because the addition is on the rear of the building and the property has existing trees and buffers, additional landscaping is not planned, but ornamental flowers and plantings will be done by the homeowner.

Mr. Wade then said he would be happy to answer any questions.

Madge B. asked if there was any issue with lot coverage? Roger A. stated there had been a lot coverage issue but it was remedied at the last meeting. He said adding this building brings the coverage up to 3.26%. Madge asked if the paved parking counts as lot coverage? Roger said, no. Madge asked if it factored into stormwater? Roger said, "Stormwater, yes." Madge asked if it was dealt with when the paving was put in? Roger asked Mr. Wade if the parking was figured in with respect to stormwater. Mr. Wade stated he believed the application referred to buildings. He said the paving is not included in his calculations, as it asked for what was occupied by structures. Roger said, right. Roger asked if Mr. Wade had anything calculated for what was currently existing. Mr. Wade said he could figure it out but did not have anything written down at this time. He said percentage of lot occupied by structures will be 3.26% on 7.5 acres.

Madge B. stated there was a fair amount of buffer between the parking area and the brook. Madge asked if the old parsonage counted? Roger A. said it did today but the board was notified at the last meeting that the old parsonage would not be used and they would like to have it removed. It was deemed non-habitable. Mr. Wade agreed and said it was on Craig's List for anyone that wanted to remove it. Roger noted it was too bad as it was a historic structure. Mr. Wade agreed.

Madge B. said she was only concerned because of Pump Box Brook. Mr. Wade stated he understood and that they were 151 feet from the brook. He said they were well beyond the 75 foot buffer and the amount of vegetation between the structure and the brook is substantial. Madge thought this would be the case. Mr. Wade said they were adding very little, 1/3 of 1% to the property, 1000 square feet on the entire property. He noted there would be sediment control during construction and beyond the trees were grasses and vegetation. He thought as a guess it would be adding 300 to 400 gallons of stormwater coming across and the area would absorb that without issue. Madge understood and thanked Mr. Wade.

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

Nothing further was discussed.

The public hearing closed at 6:25 p.m.

The planning board meeting started at 6:30 p.m.

The minutes were accepted as read.

Conditional Use Permit – Existing Business 'Whole Nine Yards' Adding Sales of Docks – Map 3, Lot 5 (299 Shapleigh Corner Road) – Marc & Cara Boisse', Applicants.

Mrs. Boisse' was present for the review of the application.

During the first review Mr. Boisse' presented to the board an application which stated 'The current business "The Whole Nine Yards" will now be selling docks.' Along with the application was a sketch plan which

depicted the existing barn, a parking area, grass area, and that the opening onto the road would be 30 feet in width. There were also two notes that read as follows: ‘The 2 existing trees would be removed for visibility.’ ‘This drawing shows the driveway / parking area enlarged by 740 sq. ft.’ Roger A. asked how many docks would be on hand and Mr. Boisse’ stated excess docks would be behind the barn and there was a certain dollar value he was required to purchase up front. He stated whatever \$20,000 would buy is how many he would have. It was noted that Mr. Boisse’ would need to put the location of the display dock(s) on the plan at the final review. Also noted was the fact that the opening on the road had to be 26 feet in width, not 30 feet as currently depicted on the plan, so that would have to be changed on the plan as well.

Roger A. began review of the pertinent ordinances.

105-21 – Traffic. *Roger A. stated access to the site was safe (minimum site distance in this location is 315 feet at 45 mph).*

Madge asked if the board has the site distances for the record? Roger thought they were mentioned at the last review. Maggie stated she went by this location and believed they were fine. Madge thought the board should get the distance for the record. Roger noted two trees were being taken down for better visibility as well.

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 home or barn.*

105-26 – Stormwater runoff. *There are no changes being made to the existing structures or property that would cause a stormwater problem.*

105-27 – Erosion control. *There are no changes being made to the existing structures or property that would cause an erosion problem.*

105-28 – Setbacks and screening. *There shall be only one single dock being displayed, all other materials shall be stored in the barn or behind the barn.*

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.*

105-31 – Preservation of landscape; landscaping of parking and storage areas. *There are no changes being made to the site with respect to the landscape, except for the removal of two trees for visibility.*

105-32 – Relation of proposed building to the environment. *The existing building(s) fits in well with the surrounding area.*

105-33 – Refuse disposal. *Refuse will be removed by the applicant.*

105-34 – Access control on Route 109 & 11. *There is an existing approved driveway entrance onto Route 11, minimum site distances can be met.*

105-40 – Home occupations. *Roger A. stated the original permit was approved under a home occupation and therefore he read what the rules governing this approval were:*

- A. Home occupations shall be carried on wholly within the principal building or within a building or other structure accessory to it.
- B. Not more than two persons outside the family shall be employed in the home occupation.
- C. There shall be no exterior display, no exterior sign (except as permitted by the provision of this chapter), no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building.
- D. No nuisance, heavy traffic, waste discharge, offensive noise, vibration, smoke, dust, odors, heat, glare or radiation shall be generated.
- E. If existing off-street parking is required to be expanded, it shall be adequately screened from the road and adjacent lots (for example, with a dense screen of evergreens) and shall not be located between the house and the road.

Madge B. asked if this was still a home occupation? Roger stated this was a home occupation. Madge thought this was being turned into a retail operation. Roger said they didn't have enough land to become retail, as they only have just over 2 acres. Madge asked how the board can approve this under the standards because there will be exterior display? Roger said the only exterior display will be the one dock outside the building. Madge asked if the off-street parking was being changed? Roger said, no, and when it was originally granted there were no customers going in and out. He said it was granted as a home occupation because there was not going to be customer(s) coming to the location. Plus there is not more than two persons outside the business employed. Mrs. Boisse' stated, "Correct, it's my sons and son-in-law." Madge asked if the hours should be limited to make it less likely a retail operation? Roger said the board could make it a condition and to be sure there is no additional outside storage of materials to keep it a home occupation. Madge noted the business isn't grandfathered because it has not been there very long. Roger agreed.

Mrs. Boisse' asked about the earlier conversation where the board asked for a broader range of hours of operation, should they also ask for the ability to store more docks on the lawn? She stated Mr. Boisse' voiced concern during their telephone conversation that if she stated only one dock would be on the lawn and then he wanted to put a boat lift, would that be a problem? Roger A. said this is starting to look like a business and that isn't allowed. Madge agreed because it didn't appear there was acreage for a retail operation and the board's job is to keep the retail as small as possible. Maggie M. stated that looking at the previous minutes they talked about the number of docks and Mr. Boisse' stated there would be 10 or 15 but perhaps he was exaggerating as he was talking about the cash flow requirement. Mrs. Boisse' said she was referring to putting two docks instead of one, is that going to be an issue, so she was asking if she should ask for more than one dock? Roger said Mr. Boisse' had stated he would have one in the grass area and the remaining items would be behind the barn for storage. Maggie thought perhaps he was talking about sections? Mrs. Boisse' stated that because she wasn't present, she could not speak as to what Mr. Boisse' said.

- 105-43 – Off-street parking and loading. *There is adequate parking for what is being proposed. The board had discussed that the entrance would be limited to 26 feet in width and not the 30 feet that was initially proposed on the sketch plan. This was changed on the plan.***
Madge asked if it was 30 feet at this time? Mrs. Boisse' didn't know how wide it was but agreed it was wide. Madge asked if there would be any new construction? Roger said the only thing would be the removal of two trees for visibility but he noted Mr. Boisse' was made aware he could not widen the entrance to 30 feet.
- 105-46 – Sanitary provisions. *There is an existing State approved septic system on site for the home, none is required for this change in use of the property.***
- 105-47– Signs and billboards. *Any signage shall be obtained through the Code Enforcement Office.***

Roger A. asked if there were any questions? Madge B. asked Mrs. Boisse' what hours her husband suggested for the business? Mrs. Boisse' stated they thought 8 a.m. thru 6 p.m., 7 days a week. She didn't think they would actually be in operation all these hours.

Roger A. stated the board received a message via the answering machine that there was a concern with Mr. Boisse' parking his vehicles on Route 11. The caller wanted the board to be sure this was not going to

continue, especially with the additional business being conducted. The message was left on Monday, January 26, 2015.

Roger A. stated there was no parking allowed on Route 11 and it could be subject to fines by the Sheriff's Office. Pastor Bosse was in the audience, as his application was to be reviewed next, and he asked how far the vehicle had to be off of Route 11? Roger said it had to be out of the State's right-of-way. Roger did not know what it was in this location. He stated it changed depending on the location, it could be 50 feet or 75. Mrs. Boisse' stated that she was under the impression that it was their property up to their rock wall. Roger said a surveyor would have to determine this based on the right-of-way. Mr. David Wade who was also in the audience for the next application, stated that usually where the telephone poles are located is where the right-of-way ends but he noted this isn't always the case. Roger said you could contact DOT but even there they may not have an answer right way, they would need to research the location. He said he believed that on Back Road the right-of-way was moved out to 80 feet.

Madge B. asked if the parking area on the plan was in existence at this time? Roger said, right. Madge asked if they park trucks there? Roger said, yes, they have their own vehicles they park there. Madge asked if they had space for retail that won't interfere with their parking? Roger thought their vehicles were usually in the barn. Mrs. Boisse' agreed and said at times they park on the other side of the property. Roger said during the day they are usually in and out. Madge asked Roger if he saw a problem with the parking plan? Roger did not. Maggie M. added that she never noticed it to be overly full of vehicles in this location. Madge didn't think they would have more than one customer at a time. Roger agreed. Mrs. Boisse' stated she could not guess how many there would be.

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

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

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. ***Roger stated, it will 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 stated it is, the Comprehensive Plan encourages small businesses along Rte 11. Roger noted this was a home occupation vs retail.***
- 4) Traffic access to the site is safe. ***Roger stated it is, the site distance meets the minimum required for the posted speed limit of 45 m.p.h. There shall be no vehicles parked on Route 11.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***Roger stated it is. The home is not in a flood zone.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***There is a State Approved septic design for the home and it is in place.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***Roger stated there was none generated, therefore, N/A.***
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***Roger said the existing home has been on site for a great period of time with no history of storm water issues. There are no changes being made to the existing home or landscape for this business.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***There are no changes being made to the site for the new business. N/A***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***Roger stated there is, the property is in close proximity to a fire hydrant / fire pond.***

- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. ***There are no changes being made to the surrounding area. There is no additional lighting being added.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

Roger A. stated the conditions of the permit would be:

- 1) Hours of Operation shall be 8:00 a.m. to 6:00 p.m., seven days a week.**
- 2) There shall be no further amendments to this home based business unless more land is obtained, as there is not enough property for a retail establishment.**
- 3) There shall be no more than one dock stored outside, placed in the designated area on the plan provided. All other docks shall be stored either inside or behind the existing barn.**

Madge B. asked if the condition was that there would be no more than one dock visible from the road? Mr. Boisse', who just arrived at the meeting, stated that people could see behind the barn as they drove down the road. He said the surplus would be behind the barn. Madge wanted Mr. Boisse' to know that there had been some discussion earlier about putting a banner on the barn advertising the product. Mr. Boisse' stated he had one banner, approximately 2' x 6' in size. Roger said signage was up to the CEO. Madge said her concern was that this should not start looking like a retail business because that isn't allowed in this location. She thought putting up a banner advertising a product could not be allowed. Madge didn't mind the business sign because they had a business but she said that technically the board should not be allowing them to do retail at this location. Mr. Boisse' asked if it was retail if he brought the dock to the customers house? Madge said, "The retail is encouraging people to come there to buy docks. Then you are selling docks. Unfortunately, you can't do that because you don't have the acreage." Mr. Boisse' stated he was confused. Roger said businesses require two acres and your home requires two acres. He said they would need 4 acres for both the house and the business. Roger noted that the home occupation was ok. He read from the ordinance again for Mr. Boisse' §105-40 'Home occupation', which notes that there can be no exterior sign or display of products.

Madge B. said that she wanted a condition that states they could not put up a sign or banner advertising a make of docks. She said she didn't care that they had a business sign but she believed the minute you put up what looks like an advertisement it becomes retail. Madge understood that the CEO hands out the signage but she wants it noted in the record that a banner isn't allowed. Roger said, ok. Roger said again the original conditions of approval were:

- 1) There shall be no storage of any material incidental to the approved business stored on site (Map 3, Lot 5).
- 2) Any signage shall be permitted through the Code Enforcement Office.

Roger added that the approval letter, dated August 27, 2008, also stated that 'The application is to operate a property maintenance business, having the office in your home. The business operation which includes landscaping and light carpentry will be conducted off-site.'

Roger added one additional condition of approval which is:

- 4) There shall be no signage advertising the dock manufacturer, or any other marketing of products sold.**

Maggie M. made the motion to approve the Conditional Use Permit to add the sales of docks on Map 3, Lot 5, allowing one dock to be placed on the grass area, as noted on the sketch plan provided and all other docks and related material shall be stored either inside the existing barn or behind it, with the above stated four conditions. Roland L. 2nd the motion. All members were in favor. Motion passed unanimously, 4 – 0.

Nothing further was discussed.

Findings of Facts

1. The Owners of Shapleigh Tax Map 3, Lot 5 are Marc & Cara Boisse’.
2. The property is located in the General Purpose District and according to the Assessor’s office contains 2.05 acres.
3. This location currently has a home-based business known as ‘The Whole Nine Yards’ which is a permitted property maintenance business, having a home office, permitted in August 2008. The business operations which includes landscaping and light carpentry, are all conducted off-site.
4. The applicants applied to sell docks at their current home / business location for ‘The Whole Nine Yards.’
5. The applicants provided a sketch plan along with their application which depicted the existing barn, parking area, grassed area, and location of where a single dock will be displayed.
6. The Planning Board reviewed Zoning Ordinance §105-40 ‘Home occupations’ in its entirety, along with all chapters that pertained to the proposed change to the existing use of the property. The board agreed the permit would meet the applicable ordinances with applied conditions.
7. A notice was mailed to all abutters within 500 feet of the property and a Public Hearing was held on Wednesday, January 28, 2015.
8. The board unanimously agreed to approve the Conditional Use Permit allowing the sales of docks on Map 3, Lot 5 with conditions, after review of the pertinent ordinances including §105-73 ‘Conditional Use Permits’, citing all conditions of approval could be met.
9. The conditions of the permit are as follows:
 - 1) Hours of Operation shall be 8:00 a.m. to 6:00 p.m., seven days a week.
 - 2) No further amendments shall be allowed on Map 3, Lot 5, to this home based business, unless more land is obtained, as there is not enough property for a retail establishment.
 - 3) There shall be no more than one dock stored outside, placed in the designated area on the plan provided. All other docks shall be stored either inside or behind the existing barn.
 - 4) There shall be no signage advertising the dock manufacturer, or any other marketing of products sold.

Conditional Use Permit – Addition to Parsonage for ‘Mother-in-law’ Apartment – Map 45, Lot 4 (600 Shapleigh Corner Road) – Trades Center, Inc., Applicant; Shapleigh First Baptist Church, Applicant
W. David Wade of Trades Center, Inc., was present along with Pastor Bosse of the First Baptist Church, and his wife.

The board previously received an application which stated ‘Proposed 1,000 SF w/deck addition to existing Parsonage for separate “Mother-in-law” apartment – Plans attached.’ Mr. Wade, representing Pastor Bosse at the public hearing earlier this evening and at the initial review, read from a letter he provided which described the intended use of the mother-in-law apartment, as well as possible future uses.

Roger A. stated there was a letter received and he read it to the board and applicants, it read as follows:

Dear Sir,

I own the house across from the church at 599 Shapleigh Corner Road. I do not object to Reverend and Mrs. Bosse’s project on the rectory, in fact I think it’s a wonderful gift to the church and town.

Sincerely,

*Anna Maz L. Fullerton
599 Shapleigh Corner Road
Shapleigh, ME 04076*

Roger began review of the pertinent ordinances.

- 105-21 – Traffic. *Roger A. stated the access to the site was safe. The driveway is currently in existence.***
- 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 glare as it is located well off the road.***
- 105-26 – Stormwater runoff. *Best Management Practices shall be used until construction is completed and a contractor licensed thru the DEP shall be used.***
- 105-27 – Erosion control. *The area shall be regrassed and landscaped once the addition is completed.***
- 105-28 – Setbacks and screening. *The existing screening shall not be removed and the structure is well away from neighboring properties.***
- 105-29 – Explosive materials. *There shall be none on site and none to be generated.***
- 105-30 – Water quality. *There is a State approved septic design submitted for the addition and there is no hazardous material being generated or stored on site.***
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *There are no changes being made to the site with respect to the landscape or parking areas. There will be minimal disruption with this project.***
- 105-32 – Relation of proposed building to the environment. *The existing building fits in well with the surrounding area.***
- 105-33 – Refuse disposal. *All construction material will be removed from site by way of a dumpster, recycled or small items to the Shapleigh Transfer Station.***
- 105-34 – Access control on Route 109 & 11. *There is an existing approved driveway entrance onto Route 11.***
- 105-42 – Multifamily dwelling units. *Roger stated this application meets or exceeds all the minimum requirements for a two-family dwelling unit.***
- 105-46 – Sanitary provisions. *Roger stated submitted was a Subsurface Wastewater Disposal System Application, dated 11/26/2014, done by Kenneth Gardner, SE #73 for a 1 bedroom apartment.***

105-51.1 – Soils. Roger stated the area will be returned to as near to existing as possible, and Soil Engineer Kenneth Gardner designed the septic system.

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

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

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. **Roger stated, it will not.**
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. **N/A**
- 3) The use is consistent with the Comprehensive Plan. **Roger stated he didn’t know if this was addressed in the Comprehensive Plan, but noted a residential structure is allowed on Rte. 11.**
- 4) Traffic access to the site is safe. **Roger stated it is, the entrance is in existence with no issues.**
- 5) The site design is in conformance with all municipal flood hazard protection regulations. **Roger stated it is. The home will not be in a flood zone.**
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. **There is a State approved septic design for this addition, done by Kenneth Gardner, SE #73, dated 11/26/14.**
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. **Roger stated there was none generated, therefore, N/A.**
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. **Roger stated the site would revert back to as close as existing once the project is completed. Roger stated the Best Management Practices shall be in place until the project is completed which includes landscaping.**
- 9) Adequate provisions to control soil erosion and sedimentation have been made. **Roger stated Best Management Practices shall be used to control soil erosion and sedimentation until the project is completed. The person doing the BMP shall have DEP certification for installation and maintenance.**
- 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 the buffer strip is in existence and isn’t going to be removed.**
- 12) All performance standards in this chapter applicable to the proposed use will be met. **They shall.**

• Roger A. stated the only condition of approval would be that Best Management Practices be used and maintained until the project is completed.

Pastor Bosse asked what that meant and Mr. Wade explained that the excavator had to be licensed to put up the silt fencing and oversee it during construction. He stated once the project is completed the fencing will stay up until the grass has regrown. It was important that it is removed correctly, so the silt is cleaned up. Roger A. said it is to ensure that no erosion would go into Pump Box Brook. He noted it was a sensitive area in town and there had been some issues in the past from previous development that should not have happened. Roger said DEP had fined the town and contractors, so the board tries to ensure it is protected. Pastor Bosse said he was glad to hear that. Mr. Wade agreed.

Madge B. moved for approval of the Conditional Use Permit to add a 1000 sq. ft. addition with an open deck, to the existing parsonage located at Map 45, Lot 4, per the plans provided and the above stated condition. Maggie M. 2nd the motion. All members were in favor. Motion passed unanimously, 4 – 0.

Nothing further was discussed.

Findings of Facts

1. The Owner(s) of Shapleigh Tax Map 45, Lot 4 is the Shapleigh First Baptist Church.
2. The property is located in the General Purpose District, and according to the Assessor's office contains 7.54 acres.
3. This location presently has an existing parsonage w/garage, church and education center, old parsonage and barn. Currently 2.95% of the property is covered by structures, with the addition lot coverage will be 3.26%.
4. The proposed addition meets side, rear and front setbacks to lots lines and road.
5. The applicants provided along with the application a description of the 'Preliminary Scope of Work' dated 11/10/2014 provided by Trades Center Inc.; a Site Plan Design drafted by W.D. Wade of Trades Center Inc., dated 12/13/2014; a Preliminary Addition Layout, done by Trades Center Inc., dated 11/10/2014; a Subsurface Wastewater Disposal System Application, dated 11/26/2014, done by Kenneth Gardner, SE #73 for a 1 bedroom apartment; a sketch of the proposed addition provided by Trades Center Inc., an introduction to the project letter from W.D. Wade, dated 12/18/2014 and a letter from Janie Silcoks, Church Clerk, dated 12/17/2014, which stated Mr. Wade could represent the church in all aspects of the parsonage project before the Planning Board.
6. The Planning Board reviewed Zoning Ordinance §105-42 'Multi-family dwelling units', along with all chapters that pertained to the proposed change to the existing use of the property. The board agreed the proposed project could meet all applicable ordinances.
7. A notice was mailed to all abutters within 500 feet of the property and a Public Hearing was held on Wednesday, January 28, 2015.
8. The board unanimously agreed to approve the Conditional Use Permit for a 1000 sq. ft. addition and open deck, to the existing parsonage on Map 45, Lot 4 with one condition, after review of the pertinent ordinances including §105-73 'Conditional Use Permits', citing all conditions of permit could be met.
9. The condition of permit is as follows: Best Management Practices shall be used and maintained until the project is completed.

Growth Ordinances – Growth Ordinances are available.

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

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, March 10, 2015

Members in attendance: Roger Allaire (Chairman), Maggie Moody (Vice Chair), Madge Baker, Roland Legere, Diane Srebnick, Alternate Ann Harris and Steve Foglio, as well as Barbara Felong (Secretary). Code Enforcement Officer Steven McDonough was also in attendance.

The following words are not verbatim unless accompanied by quotation marks “ ”.

The planning board meeting started at 6:30 p.m.

The minutes were accepted as read.

Best Possible Location – Replace Existing Camp – Map 32, Lot 16 (13 Dahlia Street) Scott Matthews, Applicant; Jason Desrochers, Property Owner

Scott Matthews was present to represent the applicant, along with his son Tyler.

Mr. Matthews provided at this evenings meeting three (3) pictures of the existing cottage; a copy of a topography map of Acton / Milton / Shapleigh and Newfield Maine (which was not specific to the property in question and therefore not of any use for this evenings meeting); a revegetation plan depicting a total of 15 Hemlocks would be planted along the side lot lines, 12 native shrubs (to be blueberry) and mulch to be placed where the existing cottage exists, and there is a notation that states ‘*All disturbed areas will be mulched & vegetated’. Also provided was a Storm Water Mitigation Plan which depicted the proposed location of the new home and driveway; mulch to be placed alongside the driveway; stone drip edge placed to contain rainwater coming off the roof; mulch bed with native shrubs to help stop water from running down the road and it was noted that the road would be pitched to get surface water into the ground.

At the first meeting Mr. Matthews stated the owners wanted to convert their 60 year old camp to a year round home for their retirement. He proposed to the owner that they should move it back away from the lake beyond the 100 foot setback. He realized in order to do this the new structure would be closer to the right-of-way but he believed this is the best possible location on site. He added that the abutting properties and those that used the existing right-of-way had no issue with the home being placed closer to the right-of-way, and they were willing to give the town a notarized letter that would state they have no problem with the home encroaching on the right-of-way.

The board asked Mr. Matthews to bring in photos of the property which could help the board better determine the best possible location. Mr. Matthews was also asked to bring in a revegetation plan, the topography of the lot / slopes, and the DEP Permit by Rule for the structure to be removed if it is within the distance required. It was determined the existing structure was beyond the 75 foot requirement and did not need the Permit by Rule for removal, however during the meeting this evening it was noted that if the stairs were to be removed or replaced the DEP would be required.

Roger A. began the meeting with reading a letter from Mike Morse, Shoreland Zoning Coordinator of the DEP which was written to address the application before the board and for clarification regarding the

relocation of a non-conforming structure, the letter, dated March 9, 2015 and received March 10th, read in part as follows:

As a matter of review procedure by the Board, the Town's Zoning Ordinance (Ordinance) contained the controlling provision on which I'll base my comments. Please note that these provisions have been deemed to be consistent with State minimum shoreland zoning requirements. Specifically, §105-4(D)(5)(a) and §105-4(D)(7)(b) outline the specific provisions to be considered by the Board.

Section 105-4(D)(5)(a) – In determining the relocation of a non-conforming structure such that it would meet the setback requirements to the greatest practical extent, the Ordinance dictates that the Board would first consider the relocation of the original structure's floor area and volume. Section 105-4(D)(5)(a) states in part: "if the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure." This establishes a very important procedure for the Board, that it must consider the relocation of the original structure and not the relocation of a proposed expanded / larger structure. This intends that the Board would consider the relocation of the original structure's "footprint".

Section 105-4(D)(7)(b) – This section provided the Board specific criteria to consider when determining relocation to meet setbacks to the greatest practical extent, and includes the size of the lot, the slope of the land, the potential for soil erosion (meaning the creation of or existence of a chronic erosion problem), the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed (particularly within the 100-foot shoreline buffer) to accomplish the relocation. It is important to note that this list of criteria is fairly limited and does not take into consideration the cost to the landowner to relocate the structure or any other considerations. The Board's review must be limited to only these criteria.

In terms of the Desrochers' application review, as noted above the proposed relocation satisfies the shoreline setback requirement within the Ordinance and therefore the Department would be satisfied with the proposed location (including the proposed structure expansion provided it meets other provisions such as lot coverage, etc.)

Additionally, however, I note that the Ordinance relocation provisions appear to apply town wide, meaning that it is not limited to only areas subject to Shoreland zoning. The above-cited Ordinance sections seem to relate to "Setbacks" in the broader sense, implying that the Board's relocation review applies to other Town established setback requirements (e.g. road, property line). Therefore, it appears that the Board would apply the same review process to all setback requirements within the Ordinance. Particularly, that is to state that the Board would consider the size of the Original structure (w/out a proposed expansion) when determining the relocation meeting all setbacks to the greatest practical extent.

Mr. Matthews asked for clarification with respect to being beyond the 100 foot mark, he did not believe that it was a DEP issue but up to the Planning Board. CEO McDonough stated that even inside the 100 feet it is up the Planning Board not the DEP to place the structure. Mr. Matthews stated, ok.

CEO McDonough stated the reason they asked for a clarification from DEP was because DEP wrote the rule and mandated that the town adopt it, so regardless of where the structure is, the board wanted a clarification for how they interpreted the rule. Mr. Matthews stated, "So they are looking at going by the existing size of structure." CEO McDonough stated yes, which is in the Ordinance. Mr. Matthews stated they were going

behind the 100 foot mark. CEO McDonough stated that it didn't matter, the Ordinance states when looking at a non-conforming structure you consider the original structure. He said, "The rule is written mainly for waterfront property but it doesn't specify that."

CEO McDonough stated that the board needed to know the size of the existing structure and then relocate it. Once they have done that, then expansions can be discussed. Madge B. stated the Planning Board didn't discuss expansion that is Code Enforcement. CEO McDonough stated, correct.

Madge B. stated that the existing stakes are incorrect because it's for the proposed structure not the size of the existing structure, so the applicant needed to restake to the size of the existing structure. Roger A. said the board asked Mr. Matthews what the size of the existing building was and to see what the distance was from the existing building to the side lot lines. Madge agreed. Mr. Matthews asked if the dimensions of the existing building were on the town website? Roger said they looked at it at the last meeting and couldn't determine the distance to lot lines. Tyler Matthews said the square footage of the existing structure was 576 square feet or 24' x 24'. Diane S. asked if he was sure? Tyler stated, 99.9% sure.

Roger A. asked if he knew what the existing distance was to the side lot lines? Tyler stated he did not know what the distance from the existing to the road was. Roger thought they asked him for that at the last meeting. Mr. Matthews and Tyler did not remember this. Tyler stated he wrote down he needed the distance to the well and left lot line to the new house. Madge B. thought this might be correct because as the time the board was still confused about how to review this or at least she was confused.

Madge B. stated that the board needed to know the measurements from the original structure, otherwise they did not know if moving the structure back was making the new structure more non-conforming than the existing. CEO McDonough noted that with best practical location, it was likely the new structure would be more non-conforming in some manner. If it would meet all the setbacks they wouldn't be before the board. He believed the final approval would be non-conforming. Madge agreed but she thought the board should know what the changes are, what is non-conforming now and what it will be. CEO McDonough agreed the board should have this information.

Mr. Matthews stated that typically if they were going to do a 30% expansion where the structure stood then they would have all those measurements, side setbacks, etc. He said once he convinced the property owner to go beyond the 100 foot mark, he didn't really pay attention to where the old structure was. Ann H. said that this is what the State wants, to get everyone beyond the 100 foot mark but it would put the new structure closer to the road. Madge B. said if you took the existing size of the building and set it back, it could be perfectly conforming. CEO McDonough stated the board could not know that because there were no distances for the size of the existing structure on the plan. Madge said, right.

Madge B. didn't think the board had to make a decision this evening. CEO McDonough stated that was correct. Madge noted that the board still hadn't seen the site yet. Mr. Matthews stated that he had brought pictures for the board to look at of the existing cottage. The pictures showed the front of the cottage and the rear of the cottage to which Mr. Matthews noted the area behind the cottage was flat. The pictures showed the elevation of the cottage and what there was for existing vegetation. Madge asked if Mr. Matthews had a vegetation plan so they would know what was being removed and how it was being replaced. Mr. Matthews stated he did bring it for this evenings meeting.

Mr. Matthews stated that whether he moved the existing structure size back or the proposed structure, either way the structure would be closer to the road. Madge B. stated she got that. He said the new structure was still more conforming than the existing, moving it beyond the 100 foot mark.

Madge B. asked CEO McDonough if he was comfortable with the board voting and he deals with where the building will be located? CEO McDonough stated, “Generally speaking, yes, with this particular one.” He noted it wasn’t a good practice.

Roger A. stated that there was an abutter in the audience that would like to speak. Joe Huggins, owner of Map 32, Lot 15, (85 Dogwood), stated his property was directly across from the Desrochers property and he wanted the board to know he had a right-of-way that ran thru the Desrochers property on the Gannon side of the property. He said when he received the notification he wanted to make sure it was on record that they do have a right-of-way (to the lake) going across the property, that they have a chain of title. Mr. Matthews said he was aware of it. Madge B. asked if he could show the board where it was located. Mr. Matthews showed the board on the town map where the 10 foot right-of-way was and noted that the relocation of the structure would not affect the right-of-way.

The board members reviewed the pictures Mr. Matthews provided. They discussed possible options of where to relocate the existing structure. Mr. Matthews pointed out that whether they relocate the existing size of the structure or use the new dimensions, the structure will conform to all lot lines except the road.

Steve F. said it looked like it was tight to the left side, he asked Mr. Matthews if he took into account overhangs of the new structure? He said if the structure was moved back and with a class D survey it is noted it is off by 2 feet one direction or another there could be an issue, are there any plans to have a class D before they start? Mr. Matthews said the property had been surveyed already. He said the new structure is going to be 30 feet from the line but they can go as close as 10 feet. He said typically they survey if they are going to be within 5 of 6 feet, so they don’t have an issue with a drip edge but where they are only 20 feet away they won’t resurvey. He said this property has been before the board before. Roger A. noted that anytime the board does a relocation it is a requirement to do the survey. He said it was in the Ordinance. CEO McDonough stated that before they backfill the foundation they will need a surveyor to state in writing it is in the correct location.

Roger A. asked if the board were to approve the new structure setting perpendicular to the road lengthwise, would it be an issue? Mr. Matthews stated it would because the owner wanted a view of the lake, and because there were trees along the lot line, it would be a problem. He said therefore, they want the structure perpendicular to the shore. Mr. Matthews asked if the board was trying to increase the distance to the road? Roger said yes, if they turn the structure they gain distance to the road. Mr. Matthews asked what number they were looking for? Roger said the more the better, realizing they still would not be in compliance. Mr. Matthews said if the board wanted 4 or 5 feet, they could relocate the right-of-way that much and not affect the road. He said he could not move to get the 75 feet due to the hill, but 4 or 5 feet would not be an issue.

Steve F. and Madge B. wondered if it was a good idea to move a road in order to increase a setback. He said this could lead to erosion problems or potential issues. Mr. Matthews said an excavator had already looked at the area because all the abutters have erosion issues due to the water running down the road. He thought they could put in storm catch basins to mitigate some of the existing issues.

Diane S. asked if the stairs that were in the picture of the cottage were going to remain on site? Mr. Matthews stated, “They are probably not going to work, so we are going to submit a DEP Permit by Rule because any soil moved within 75 of the water needs their approval.” He said the camp itself is outside of the 75’ but the stairs will probably be redone. He said until the new house is put in, he wasn’t sure. Diane noted that it looked like the stairs were anchoring the hill. She asked if they needed a retaining wall? Mr. Matthews said he didn’t think so, the property owner wanted the area lush with lots of blueberries, erosion mulch and other native natural plantings. Diane noted the whole hill will have to be regraded. CEO

McDonough asked if there was a replanting plan? Mr. Matthews stated he did submit one. Note: At this evening meeting Mr. Matthews provided a 'Revegetation Plan' and a 'Storm Water Mitigation Plan'.

Roger A. asked if they knew how far the well was from the 100' line. Mr. Matthews thought maybe 20 feet from the 100 foot line. Roland L. asked if the well was being relocated? Madge B. stated, no. She noted the septic system was being moved, however.

Diane S. said she noted that on the revegetation plan that all the trees were in one location, she asked if they needed to be spread out? Mr. Matthews said if you were removing trees they had to be located in a certain area. Roger A. stated if you remove a tree the new trees have to be the same distance from the lake as the one being removed. Mr. Matthews said there were only two being removed beside the house and a few behind the house that have a lot of rot that he will have CEO McDonough look at for possible removal. CEO McDonough asked if there were any trees within 100 feet being removed? Mr. Matthews stated, no. Roger agreed, the two being removed beside the house are beyond 100 feet. Diane noted they were putting in a lot more trees than were being removed. Mr. Matthews said that was correct.

Roger A. said the board needed the dimension of the old building where it would set beyond the 100 feet. He said after reading the letter from Mike Morse, the board has to approve the location of the existing dimensions, where that can be placed. He said after that it was up to the CEO for expansion. Roger drew a possible location to move the structure. Mr. Matthews said if they decide to take the existing building and add 30% to the Gannon side, they would gain a foot more than the setback from the lake is now, so they are not less non-conforming and then they would add a full basement under the existing. CEO McDonough said they could add 30% of the portion that is within the 100 feet. He said when you do the foundation the Planning Board has the right to move the existing structure back to the greatest practical extent. Mr. Matthews said at this point, because the homeowner wants to move forward, he would do the 30% expansion where it is now. Mr. Matthews said when he has done this in other towns they all want the structure moved back beyond the 100 foot mark which is why he suggested this to the property owner. He said if the board has an issue with the road setback then the owner would leave it where it is now and expand. He didn't think there was going to be an issue with the road setback. Maggie M. asked if adding the 30% would make it more non-conforming. CEO McDonough stated they could go to the side, as long as it doesn't encroach on the water side.

Diane S. asked if it was set in stone with the owner not to move it, so it better meets the road setback. Mr. Matthews said it would be an issue, to make a house a home 24' x 24' would not work. He said they would rather take 24' x 24' times two with a full basement and leave it where it is. He said if the road setback is an issue. Diane asked again if Mr. Matthews knew for certain the homeowner wouldn't be willing to turn the house. Mr. Matthews said for sure, as the owner wanted to have the lake view or keep it where it is.

Mr. Matthews said if the board could accept his initial proposal with a 50 foot setback to the center of the road, the owner had no issue with moving the road, building a suitable road base, to get more conforming.

Diane S. asked, "Now Steve correct me if I'm wrong but if he wants to leave the house exactly where it is and add 30% on it, he doesn't need our approval he just goes straight to you?" CEO McDonough stated, correct, until he wants to put a basement under it. Ann H. noted the structure couldn't be raised more than 3 feet. CEO McDonough stated correct, the basement cannot elevate the structure more than 3 additional feet. Madge B. said he would then have to come back to the planning board. CEO McDonough said, right.

Madge B. asked how far the existing building is from the road? Mr. Matthews said approximately 45 to 50 feet.

Ann H. asked, "If you have the existing structure and you get it behind the 100 footmark, how much closer(to the road), and if you turn it a little bit, how much footage are you going to lose from the road and the corner, about?" Mr. Matthews stated that he didn't know. He said he had one comment about the current discussion, if we do what the plan is here and we move the road enough to not make the new house any closer to the road than the existing, we are not going to be anymore non-conforming; we move it behind the 100, move the road back enough so if the structure is 50 feet from the road now, it will then also be 50 feet with the new structure, then we will not be anymore non-conforming.

CEO McDonough had a concern with moving the road with respect to future legal issues. Ann H. thought that by doing this you would get the new structure back beyond the 100 foot mark and no closer to the existing road than the existing structure is now, the proposal would be more conforming than what exists now. Steve F. asked if the right-of-way was in a specific location? Mr. Matthews agreed it would be a lot of work, including a survey. CEO McDonough asked if Mr. Matthews had any kind of road plan to build the road to? Roland L. said he didn't suggest the board approve moving the road without seeing a plan. CEO McDonough said moving a road was unprecedented and he thought it might be extreme. Maggie M. asked if the Road Commissioners would have to have input? CEO McDonough stated that it was not a town road. Diane S. was concerned that if it was a deeded right-of-way, all the deeds would have to be changed.

Madge B. stated they were stuck with the fact that no structure shall be relocated where it causes the structure to be more non-conforming, she said that was the board's problem. CEO McDonough thought a structure would be more non-conforming in some direction when it comes to best possible location. Madge said not in every case. Diane S. said that it could be more conforming if the owner would twist the house footprint but he didn't want to do that.

Madge B. said the board wants the building moved back, so she thought they needed to work toward that direction. Ann H. thought the applicant needed to stake out the footprint of the existing beyond the 100 foot mark. Madge agreed. Madge didn't want to approve it until the board knew exactly what they approved. Diane S. stated she didn't feel comfortable approving it without a site visit, she noted the board never did that before. Madge agreed. Mr. Matthews thought the board was going to go to the site visit prior to the meeting. Roger A. said the letter from Mike Morse changes things, as the board needs to relocate the old structure, not look at the location of the new structure.

Mr. Matthews thought in light of tonight's discussion the owner would prefer to keep the structure in the existing location. He asked if there would be an issue with expanding the structure in its existing location and if there was an issue with putting a basement under the structure within the 100 foot mark? CEO McDonough stated this was still best practical location. Mr. Matthews wanted to know if the board would have issue with keeping it where it is, expanding it and not getting any closer to the existing setbacks. Diane S. stated the board did not concern themselves with the expansion, their only issue was locating the existing structure. CEO McDonough took care of the expansion once the board approves the location.

CEO McDonough said the board wants to see a 24' x 24' footprint staked out, is that correct? Diane S. said yes, if that is the dimension of the existing structure. Ann H. added that it should be on the other side of the 100 foot line. Mr. Matthews said they would gain 8 feet by plotting the existing structure beyond the 100 foot mark, so it would put them 43 feet from the centerline. He said that narrows it to the point he can never expand in any direction because it would be less conforming. Diane said he could go up. Ann H. said she didn't think the board was allowed to make that decision, she believed they were only allowed to make the structure more conforming per the Ordinance. Mr. Matthews said he talked the owner into moving it back, the owner is good with leaving it where it is and expanding it with a basement. He said if the board wants to move it back and approve the 24' x 24' we are wasting our time, because he is not going to do it. He said the

owner would rather expand where it is now, have a better lake view and be closer to the water. Mr. Matthews said he was the one that asked the owner to move the structure back. Ann said she understood.

Roger A. asked Mr. Matthews if the board used the well as a point and they stayed 4 or 5 feet from it and are also 10 feet from the lot line, how does that set? Mr. Matthews said it would be in front of the 100 foot mark but he could not get the foundation in that location.

Mr. Matthews stated he believed his client would be willing to go thru the legal course of straightening out the corner of the right-of-way to make the new location no less conforming than the existing structure. He said he thought it made sense to put everything beyond the 100 foot mark and the new structure won't be any closer to the road than the existing structure. The new home would not be more conforming to the road but it won't be less conforming. He thought it would take expense, legal work and surveying and they would take care of erosion issues at the same time. Diane S. said she thought they were not going to move the road? CEO McDonough said he didn't say it couldn't be done, he was only present to interpret the Ordinance. Mr. Matthews said CEO McDonough was saying there would be issues to do that but it is the best possible scenario. Diane asked if the client would consider a second story? Mr. Matthews said there is going to be a second story. He said he wants a year round home and he has 3 children. Diane said, "So he has a basement, first floor and second floor." Mr. Matthews said, "Right, proposed."

Mr. Matthews asked if moving the road would make the board happy? Madge B. said it would solve some problems. Steve F. asked if it was a travel surface or legal right-of-way? Diane S. thought it was deeded. CEO McDonough stated that was a question for an attorney. Diane said right-of-ways are found by the certain points in your deed, so if it's moved he will have to redo everyone's deed on that road. Steve said the deeds may say the right to pass and repass over the property. He said they may not be specific. Diane said she had her property surveyed and it was very specific where the right-of-way is supposed to be. Mr. Matthews said they were changing the location of the road on his property only. The abutter, Mr. Huggins said in the chain of title it did say where the right-of-way is located and how many feet wide. He said when Corner Post did the survey it was spelled out. Diane said changing one deed you have to change them all. Ann asked, "Even if it's only on his property?" Diane said, yes, because everyone has a deeded right-of-way over that section, so it will have to be changed in all deeds. Mr. Matthews realized it would not be easy but he was willing to do it. Diane said again she wasn't an attorney, so they needed to ask an attorney or title company.

Maggie M. said since the board can't take any action this evening, isn't the board better off to start with Mr. Matthews staking the property and looking at both possibilities, then it may not be that complicated. The board seeing the property might easily decide the best location and the applicant may not have to go thru so much. Mr. Matthews said it didn't matter how complicated, that would be their issue, if 35 feet doesn't work for the board, then they will move the road and take care of the expenses.

Roger A. asked if the bump-out on the front on the lakeside was stairs? Mr. Matthews said, no, it was a bump-out and the drip edge will clear the 100 foot mark.

Madge B. believed in the past in order to get the structure beyond the 100 foot mark, the board has allowed the structure to be closer to the road. Roger A. agreed and said he had no issue with it. Madge believed there were structures closer to the right-of-way. Diane S. noted that the building the board approved would be about 43 feet from the road.

Mr. Matthews said that the board was going to approve the 24' x 24' with the setback to the road. Madge B. said that was all the board can do. She said it was clear the board cannot deal with the new house, the board

has to deal with the old house. Steve F. asked if CEO McDonough would then deal with expansion? CEO McDonough stated, “Correct.”

Mr. Matthews asked if the board was only dealing with the 24’ x 24’ structure? Roger A. said, yes. Diane S. noted the board still had to go look at it. Diane said the pictures are great but the board usually looks at it. Madge B. agreed, her vote would be to do the site inspection. Mr. Matthews was concerned with a delay. Diane said she had been on the planning board for almost 15 years and the board never approves a best possible location without a site visit. Mr. Matthews said, “In the winter.” Diane said, “We postpone it.” Diane said again she has never done a best possible location where the board didn’t go to the site. Madge stated, “That’s correct.” Diane thought the next meeting would work.

The board agreed to do a site inspection. **Roger A. stated the site inspection would be at 5:45 p.m. on Tuesday, March 24th, prior to the meeting. Members will meet at the town hall.**

Steve F. asked what the board was going to look for? Roger A. said the board needed to look at a 24’ x 24’ footprint. Mr. Matthews said the existing sized building moved back on the plan. Madge B. said, right.

Roger A. asked if everyone was satisfied with the revegetation plan? Madge B. said she hasn’t reviewed it yet. Diane S. asked if the trees coming down were marked? Roger said you can’t miss them, they are up against the building. Diane asked Mr. Matthews if the others to be removed could be marked as well.

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

Nothing further was discussed.

Growth Ordinances

There are growth permits available.

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

The next meeting will be held Tuesday, March 24th at 6:30 p.m., snow date Wednesday, March 25th.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, March 24, 2015

Members in attendance: Roger Allaire (Chairman), Maggie Moody (Vice Chair), Roland Legere, Diane Srebnick, Alternates Ann Harris and Steve Foglio, as well as Barbara Felong (Secretary). Code Enforcement Officer Steven McDonough was also in attendance. Madge Baker was unable to attend.

The following words are not verbatim unless accompanied by quotation marks “ ”.

The planning board meeting started at 6:30 p.m.

The minutes were accepted as read.

Best Possible Location – Replace Existing Camp – Map 32, Lot 16 (13 Dahlia Street) Scott Matthews, Applicant; Jason Desrochers, Property Owner

Scott Matthews was present to represent the applicant, along with his son Tyler.

The Planning Board members did a site inspection prior to this evenings meeting.

This best possible location application was presented to convert the existing 60 year old camp to a year round home. Mr. Matthews proposed to the owner that he believed the best possible location would be to move the camp back away from the lake beyond the 100 foot setback.

Mr. Matthews provided a sketch plan depicting the existing camp, along with the proposed location of the new 28' x 32' structure. Also on the sketch was the location of the existing well, the location of the 100 foot setback to the lake, and the fact the proposed structure would be 35 feet to the centerline of the right-of-way and 71 feet to the lot line of the Gannon property (Lot 10).

In addition, provided were three (3) pictures of the existing cottage; a copy of a topography map of Acton / Milton / Shapleigh and Newfield Maine (which was not specific to the property in question and therefore not of any use for this evenings meeting); a revegetation plan depicting a total of 15 Hemlocks would be planted along the side lot lines, 12 native shrubs (to be blueberry and juniper) and mulch to be placed where the existing cottage exists, and there is a notation that states ‘*All disturbed areas will be mulched & vegetated’. Also provided was a Storm Water Mitigation Plan which depicted the proposed location of the new home and driveway; mulch to be placed alongside the driveway; stone drip edge placed to contain rainwater coming off the new structures roof; mulch bed with native shrubs to help stop water from running down the road and it was noted that the road would be pitched to get surface water into the ground.

At this evenings meeting it was noted by board members the actual size of the existing structure is 26' x 29', not 24' x 24' as previously stated at the meeting on March 10, 2015.

Roger A. began the meeting by reading §105-4.D(7), the relocation of non-conforming structures, in its entirety.

Diane S. asked if the board was going to get a new plan from the applicant, depicting the correct size of the existing structure? Roger A. asked Mr. Matthews if he had a new plan depicting the size of the structure and where it was going to be located when it is moved back? Mr. Matthews stated he did not. Mr. Matthews said that he read the minutes and did everything the board requested.

Steve F. read from page 8 of 8 of the minutes of March 10, 2015, as follows: “Steve F. asked what the board was going to look for? Roger A. said the board needed to look at a 24’ x 24’ footprint. Mr. Matthews said the existing sized building moved back on the plan. Madge B. said, right.”

Mr. Matthews stated that talking to Roger A. he noted that they hadn’t taken into consideration the size of the existing building and they hadn’t measured it. He said they have all the exact measurements now but it is just to approve the location and then they will talk to CEO McDonough. Diane S. stated to CEO McDonough that the building was not 24’ x 24’ as previously stated by the applicants but it was in fact 26’ x 29’ in size. Mr. Matthews stated that was the size that was staked out for the site inspection.

Ann H. asked if the two small buildings on the site would be torn down? CEO McDonough asked if they were storage sheds? Mr. Matthews said, yes they were storage sheds and they would be removed.

Roger A. asked if the re-vegetation plan was going to stay the same? Mulch where the existing camp was and native shrubs that were blueberry to be placed along the front of the new building. CEO McDonough asked how many shrubs were on the plan? Diane S. stated the plan shows 12, a mix of blueberry and juniper, so six and six on each side of where the old structure was. She said there were also 15 hemlock trees to be place on site, 6 on one lot line and 9 along the other.

Ann H. asked if the concrete steps were staying where they are? Roger A. said there was nothing saying they were being removed. He said if they get removed the applicant will have to come back before the board. CEO McDonough asked why the steps were staying? Mr. Matthews said he didn’t say they were staying but they would try to have them stay. He said if they touched them he would need DEP approval as to what they were going to do with the stairs and the soil to be disturbed. Mr. Matthews said there was a good chance they would stay but if they did take them out he would say they would re-vegetate and get a DEP application stating what they intended to do. CEO McDonough asked if they were straight forward 3 foot wide steps? Mr. Matthews said, yes. CEO McDonough asked if there was a patio? Mr. Matthews said there was no patio.

Roger A. said the actual dimensions with the structure moved back would be as on the plan, 35 feet to the centerline of the road and 71 feet to Lot 10. Roger said this is how the new structure will sit on the property with overhangs. Mr. Matthews said yes, that is how it sets, the widest part of the house.

Barbara F. asked again exactly what the dimensions were? Roger A. said 35 feet from the back corner of the structure to the centerline of the road and 71 feet from the front corner to Lot 10. Roger placed the dimensions of the existing structure on the plan where the board agreed would be best possible, the dimensions of the existing structure are 26’ x 29’. Roger noted he would go to CEO McDonough for any changes to the size of the structure. The sketch plan was, therefore, corrected to the actual size of the existing structure.

Roger A. asked Mr. Matthews when this project would be completed? Mr. Matthews stated approximately a year after they begin the project. Mr. Matthews asked CEO McDonough if he had 18 months? CEO McDonough stated a building permit was good for two years. A best possible location permit must be acted upon within 90 days of approval. Mr. Matthews wasn’t sure of their schedule. Roger asked if the re-vegetation plan could be completed by August 15, 2015? CEO McDonough stated that was what the board

was concerned about that the area is re-vegetated in a timely manner. Mr. Matthews said the landscaping would be completed approximately 60 days after the project begins. Roger asked again if the board could use a date of August 15th? Mr. Matthews said he wasn't positive because the owner hadn't given him the exact go-ahead. The contractors are not lined up yet. Roger said nothing would grow in October. He asked if they could be done by September 15, 2015? He said if they were not completed by that date then they would have to come back and give a new date. Roger said the board needs a date. Mr. Matthews said if things are delayed he couldn't be sure. Mr. Matthews asked if October 1, 2015 was too late. Roger didn't think blueberry bushes would survive at that late date. Mr. Matthews thought fall was a great time to plant.

Diane S. noted there would be a silt fence put in to protect the area. Mr. Matthews said the silt fence would go in as soon as they break ground. Then they had to get the foundation in and shell up before they re-vegetate. He thought he could use an October 1, 2015 date, or 60 days from start. The board preferred it to be written that it would be completed by October 1, 2015.

Diane S. asked if the stairs were going to be removed? Mr. Matthews said, yes. Diane asked if he needed a DEP permit? Roger A. said yes, the board could make it a condition of approval that CEO McDonough handle the stair removal and made sure there was a DEP Permit acquired. Diane said, ok.

Diane S. stated again the re-vegetation plan stated there shall be 15 hemlock trees planted and 12 shrubs being blueberry and juniper. Mr. Matthews said there would be at least that many.

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

- 1) The existing stairs shall be removed and this will be overseen by the Code Enforcement Officer and he will make certain the DEP Permit by Rule is obtained.**
- 2) Best Management Practices shall be used and the work is to be done by a person certified by the DEP. The BMP shall be kept in place until all work is completed.**
- 3) The re-vegetation plan shall be completed by October 1, 2015. If this date cannot be met the board shall be notified and a new date will be approved by the board.**
- 4) The re-vegetation plan shall be done per the plans presented, consisting of a minimum of 15 hemlock trees, 12 shrubs consisting of blueberries and juniper and mulch to stabilize the area.**
- 5) The approved plans shall be confirmed in writing by a licensed surveyor that the placement of the structure is correct per the specifications approved by the Planning Board.**

Maggie M. made the motion to approve the best possible location to place the existing structure on Map 32, Lot 16, no closer than 35 feet to the centerline of the existing right-of-way and 71 feet to the side lot line of Lot 10 per the sketch plan provided, with the above stated five conditions. Roland L. 2nd the motion. All members were in favor. Motion passed unanimously, 4 – 0.

Findings of Facts

1. The Owners of Shapleigh Tax Map 32, Lot 16 (13 Dahlia Street) are Jason and Tammy Desrochers of 29 Spencer Knowles Road, Rowley, MA 01969.
2. The property is located in the Shoreland District and according to the Assessor's office contains .92 acres.
3. The existing non-conforming structure is 26' x 29' in size and sets in part within 100 feet of the high water mark. The percentage of lot occupied by structures is 1.9%.

4. There are two existing sheds on the property, one 8' x 8' in size, and the other 10' x 12' in size. Both to be removed as noted during the meeting on Tuesday, March 24, 2015.
5. The applicants provided a sketch plan along with their application which depicted the existing and proposed structure in relation to one lot line, the right-of-way and high water line; and the well location.
6. The applicants provided a revegetation plan depicting a total of 15 hemlocks would be planted along the side lot lines, 12 native shrubs (to be blueberry and juniper) and mulch to be placed where the existing cottage exists.
7. The applicants provided a Storm Water Mitigation Plan which depicted the proposed location of the new home and driveway; mulch to be placed alongside the driveway; stone drip edge placed to contain rainwater coming off the new structures roof; mulch bed with native shrubs to help stop water from running down the road and it was noted that the road would be pitched to get surface water into the ground.
8. The applicants provided a copy of the Subsurface Wastewater Disposal System Application done by John Large, SE #7, dated 9/22/2011, revised 10/22/2011.
9. A notice was mailed to all abutters within 500 feet of the property, Wednesday, February 25, 2015.
10. The board unanimously agreed to approve the Best Possible Location to move the existing 26' x 29' structure back beyond the 100 foot setback to the high water line, allowing it to be no closer than 35 feet to the centerline of the existing right-of-way and 71 feet to the side lot line of Lot 10, per the sketch plan provided.
11. The conditions of the permit are as follows:
 - 1) The existing stairs shall be removed and this will be overseen by the Code Enforcement Officer and he will make certain the DEP Permit by Rule is obtained.
 - 2) Best Management Practices shall be used and the work is to be done by a person certified by the DEP. The BMP shall be kept in place until all work is completed.
 - 3) The re-vegetation plan shall be completed by October 1, 2015. If this date cannot be met the board shall be notified and a new date will be approved by the board.
 - 4) The re-vegetation plan shall be done per the plans presented, consisting of a minimum of 15 hemlock trees, 12 shrubs consisting of blueberries and juniper and mulch to stabilize the area.
 - 5) The approved plans shall be confirmed 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.

Nothing further was discussed.

Best Possible Location – Replace Existing Camp – Map 23, Lot 18 (25 Director's Lane) – Scott McLeod, Applicant; David Landry, Property Owner

Mr. McLeod was present for the review of the application along with Mr. and Mrs. Landry.

In addition to the application, Mr. McLeod provided pictures of the existing property; the existing cubic and square foot measurements, 30% of existing, total allowable cubic and square feet w/30% expansion,

proposed ‘additional’ cubic feet and square foot calculations and proposed ‘total’ cubic and square foot calculations; and a site plan showing the existing building and decks along with distance to boundary lines, high water mark and the existing elevations on site. Also provided, was a Stormwater Treatment plan for the new structure; preliminary construction plans for the proposed new structure and the Subsurface Wastewater Disposal System Application, dated 10/8/2014, done by Mark Truman, SE #121.

Roger A. began by asking Mr. McLeod to present the application. Mr. McLeod began by showing the board pictures of the existing property. Mr. McLeod pointed out the existing retaining wall and the grade that inclines behind it. He stated their intent was to move the structure back to the retaining wall, so as to not disturb the area behind the wall. Mr. McLeod said the board would see the incline when they did the sight visit.

Mr. McLeod noted the location of the new septic system to board members on the site plan provided. Ann H. asked if there would be any driving over the septic area? Mr. McLeod stated only during construction of the system. He said you can’t gain access to that side of the property after construction.

CEO McDonough asked for the basic dimensions of the existing and proposed structure? Mr. Landry stated approximately 40.1’ x 28.5’ was the dimensions of the first floor. Mr. Landry stated the proposed structure is 40’ x 27’. Mr. McLeod noted the proposed is one foot narrower than the existing.

Roger A. asked if this included the deck? Mr. McLeod stated no, these measurements are the structure only.

Ann H. asked how tall the proposed structure would be? Mr. McLeod stated, 27 feet. Ann asked if that was to the peak? Mr. McLeod stated, yes.

Roger A. noted he didn’t have the dimensions of the existing decks on the plan. Mr. McLeod stated on one end it was 8 feet additional with the deck. He said that from deck to deck it was 68 feet wide with stairs that go out 9 feet. Roger asked if the decks were included in the calculations? Mr. Landry stated the decks were included in the square footage calculations but not the stairs, he didn’t think they had to be included. CEO McDonough agreed. Mr. Landry stated that both he and the designer took all the square footage into consideration, including the decks. Diane S. asked again if the decks were included in the square footage calculations? Mr. McLeod stated, yes.

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

Roger A. stated there would be a site inspection on Tuesday, April 14th at 7:00 p.m. 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.

Growth Ordinances- There are growth permits available.

The Planning Board meeting ended at 7:10 p.m. The next meeting will be held Tuesday, April 14th at 7:30 p.m.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, April 14, 2015

Members in attendance: Roger Allaire (Chairman), Maggie Moody (Vice Chair), Roland Legere, Alternates Ann Harris and Steve Foglio, as well as Barbara Felong (Secretary). Code Enforcement Officer Steven McDonough was also in attendance. Madge Baker and Diane Srebnick were unable to attend.

The following words are not verbatim unless accompanied by quotation marks “ ”.

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

The minutes were accepted as read.

Roger A. began by stating Steve Foglio and Ann Harris would sit in as regular members this evening due to the absence of Madge B. and Diane S.

Amendment to a Conditional Use Permit – Proposed 2nd Floor and Addition to the Showroom, Plus Adding a 105’ x 120’ Boat Storage Building – Map 3, Lot 16A (86 Emery Mills Road) – Mark Parker, Owner Jill Richards was present to represent Mark Parker.

Along with the application, Mr. Parker provided a sketch plan depicting the size of lot, the location of the existing showroom, three storage buildings, the proposed addition to the showroom and the proposed boat storage building. The distance of both the existing and proposed buildings to the lot lines was also on the plan, along with square foot dimensions for the foundations of the existing structures and the size of the lot now being 132,422.40 sq. ft. after the purchase of additional property. The 10% lot coverage equals 13,242.24 square feet.

Also provided were addition plans for the existing showroom, showing the 420 sq. ft. addition and 30’ x 30’ second floor addition; the basic plans of the proposed 105’ x 120’ boat storage building; the proposed Deed Description depicting the land purchase from Richard and Virginia Gallant which was added to the existing property; a survey of the lots purchased and added to the property; and a letter from Mark Parker which stated Jill Richards could represent him at the meeting on Tuesday, April 14, 2015.

Roger A. asked Ms. Richards, when looking at the plan, did the measurements of the footprint include the roof overhangs for the square footage. Ms. Richards stated, “I would say not.” Roger said, “You are going to have to look at that.” Ms. Richards said she had brought drawings and asked if the board wanted to review them to see if they depicted the overhangs.

Roger A. stated that they were within 200 square feet of reaching the maximum lot coverage of 10%. Ms. Richards gestured that she understood. He said if there are overhangs on the additions and new building they will exceed the lot coverage requirement.

Ms. Richard asked CEO McDonough if there was an average for an overhang? CEO McDonough said it’s

usually 16 inches. Roger A. said that that would put them over the lot coverage allowed. Ms. Richards stated she had the truss design if that would help. She showed the board the truss designs for the proposed 2nd floor addition. Roger said the overhangs appeared to be 12". Steve F. said the truss size for the addition was 32 feet. Ms. Richards stated, 'Correct'.

Roger A. said the storage building is 105' x 120'. Ms. Richards stated, "Correct, we are trying to maximize usable space." Roger said this would go over the 10% lot coverage. Ms. Richards said she would have to sit down and do the math figures. She asked if the board was saying the overhang was one foot? She noted the end did not overhang. Roger agreed. Ms. Richards thought the addition would only add another 28 feet. CEO McDonough noted that if the truss added a foot, you would add at least 4 inches to that and with both sides that is adding a total of 2 foot 8 inches for 120 feet. He said this would probably be the minimum.

Roger A. said the issue wasn't going to be with the additions to the existing structure, but with the new storage building. CEO McDonough said this was all one lot, therefore, it doesn't matter where they reduce the square footage from. Roger agreed.

Ms. Richards asked if the board could discuss the addition to the existing structure noted as 'B' on the site plan? Roger A. said doing 'B' was fine but noted that they would have to reduce the square footage of the storage building. Ms. Richards said they would not spend the money to do the storage building if they couldn't do the addition. Roger said that when combining both projects they would exceed the 10% with the roof overhangs. Ms. Richards asked if she could move forward with the addition 'B'? Roger said yes, there is no issue with just 'B'. She stated she was only trying to consolidate things. She said at this time they only have a rough sketch of the storage building. She added that they needed addition 'B' now.

Ms. Richards asked if she needed to table the storage building? CEO McDonough asked if there was a time limit on tabling an application? Barbara F. said, 'Yes'. Steve F. asked how long a time she would need between both project? Ms. Richards said the addition would be done within the next two months and the storage shed within a year. Roger A. noted that you could only table the application for 90 days. Ms. Richards said she could work with that. CEO McDonough noted that a building permit was a separate issue. Ms. Richards said she didn't want to continue moving forward without knowing first if the storage building was something they could pursue. Roger said they can pursue both, the only issue is the lot coverage and finding a way to meet it. Ms. Richards stated, "Primarily your only concern obviously is the 10%." Roger said, 'Yup'. Ms. Richards said, "Which we are well aware of and obviously will look to stay at or under." Roger again said, 'Yup'. Ms. Richards said, 'Ok'.

Ann H. asked how high the addition was up to the peak? The board looked at the plan and Roger noted it would not be over 35 feet. Ms. Richards agreed and said it was lower than they have now in the showroom building, if not the same. She said they tried to blend it with the existing.

Ms. Richards speaking about CEO McDonough said that he had noted the board might need a copy of the actual deed because the one she provided was only the proposed deed description. She asked the board if they wanted a copy of the actual deed? Roger A. asked if the properties had been merged in the deed? Ms. Richards said, "Yes." She noted the copy included with the application stated that it was a proposed deed description. She said she had a copy of the actual deed with the book and page stamped if the board wanted a copy. Roger said, "Yes, we'll need that."

Roger A. said the board would be holding a public hearing on this at 7:00 p.m. on Tuesday, April 28th. He said they would also do a site inspection at 6:00 p.m. A Notice to Abutters will be mailed as well.

Ms. Richards asked if the only question was with respect to the overhang and the total square footage?

Roger A. said yes, when looking down at the property from the sky, that is the actual footprint. He said with both the addition and storage building they would be over the lot coverage allowed. Ann H. asked if the area was staked out yet? Ms. Richards said, no. Roger said that was not an issue, the addition would be easy to see. Ms. Richards agreed.

Nothing more was discussed.

Best Possible Location – Replace Existing Home – Map 28, Lot 28 (16 17th Street) – Eric & Theresa Estochen, Applicants

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

Along with the application, provided was a letter from the applicant describing the project, that being they would like to replace the existing structure that was built in the 1930's which is located approximately 20 feet from the high water mark, and build a new structure moving it farther from the water. The letter also stated in 1997 a new septic system was installed on the property which does in part dictate the possible location of the new structure, along with setbacks. In addition, provided was a site plan done by Joe Stanley of LinePro Land Surveying in Shapleigh, which showed the location of the existing house, deck, retaining walls, patio(s), stairs, storage building, approximate septic location and elevation(s) on the lot. An additional site plan was provided, depicting the existing house, deck, patio(s), stairs, storage building, approximate location of the septic system, along with a 'proposed' structure location.

Roger A. said it appeared the applicant was moving the structure, keeping it the same size but turning it, and keeping it away from the water. Mr. Estochen stated they were trying to establish what area they had available to move the house. He said the existing septic system and setbacks were used to place the proposed location.

Roger A. stated, "So you are not sure what size building you are looking at?" Mr. Estochen said they were having to make sure they did not exceed the 10%, placing it no closer to the stream, so whatever is available in terms of space, they used.

Mr. Estochen asked if he could state what they were trying to do. Roger A. said, "Go ahead." Mr. Estochen said that currently the structure is a three season home but they would like to retire in this location. He said they wanted to convert it to year round. Mr. Estochen said because 23rd street had some issues with lot line location he had LinePro do a full survey, staking out the setbacks including the 100 foot line. He said they own 82 feet in width then it narrows to 50 feet. He said currently there are alot of steps that they didn't feel they would not be able to make in the future, so they want to be able to demo the existing home and move the new structure closer to the road. He said that when they purchased the property they put in a new septic system but he did need to be sure the actual corners of the system were where the plan stated they were. He said the location of the septic system was very constraining so he wanted to re-confirm the location. He said they penciled in where he thought the septic location was to put where he thought he could put a foundation in. He said they then took the size of the existing structure, cut out a replica and put it on the plan where it could be located farther from the lake and still meet other setbacks.

Mr. Estochen said they had approached an architect to give them some plans for a timber frame home. He said the footprint of the structure looks like it will fit within the footprint of the existing structures footprint. He said they took into account the location of the neighboring structures as well, when placing the home. He thought the location they chose taking all things into account would be optimum.

Mr. Estochen said they currently have a shallow well so they want to put in a new one. He noted the location of the neighbors well and chose his well location accordingly.

Ann H. asked that he show where the 100 foot mark was on the plan. Mr. Estochen showed her.

Roger A. stated that the only issue he had was when they grant a permit, it is for the actual size of the building that is going to be there. He said because of this, he thought they might be premature by not knowing what size building they would have. Roger noted they have to stay within 10% of the lot coverage for all buildings that exist or will be on the lot. He said the square footage is looking down on the building, not just the foundation. Mr. Estochen said he understood after listening to the previous applicant.

Mr. Estochen said they do have more work to do. Ann H. asked if the existing storage building was going away as well? Mr. Estochen said it was being removed but he wanted to put in a garage, so he had to figure out a location. He noted it was going to be on a slab, so it could be within 10 feet of the septic system. He thought he would have more leeway with that. He said he would like to attach it to the house but did not see that that would be possible. He said he had to work with the engineer on that.

Ann H. asked if he could go closer to the septic system, if he pushed it back further to get it beyond the 100 feet? Roger A. said you would have to move the septic and he didn't want them to have to do that. Steve F. asked if she was asking to move the house back to the 20 foot line, what happens if they push the house back to it? Mr. Estochen said the rough plan from the architect puts the corner of the new structure right at the 20 foot mark.

Barbara F. asked, "I thought we just look at moving the actual size back, not the proposed?" CEO McDonough said, "That is where you are supposed to start." Roger A. said, "We are, this is what is drawn on the plan to start with." Barbara said she didn't understand why Roger was asking for the new structure because she thought they only place the existing? Roger said, "He is still going to be in the Shoreland." Barbara agreed, but thought the board only moved the existing back? Steve F. said that was what he was looking at, the existing. She said that Roger said that because the board didn't have the size of the new structure that the board can't move forward, that was why she was confused. Roger said the board didn't know where he was going to physically sit the new structure on the lot. Barbara said, "So he's not sitting the new structure here." (As it is depicted on the plan) Roger said, 'No'. She said ok, that was why she was confused. Ann H. said that was why she was asking to move the existing structure beyond the 100 foot mark but it would not conform to the 20 feet to the septic system and she didn't know if that was acceptable or not? Barbara didn't think you could move closer to the septic than allowed. CEO McDonough said that you have to be 20 feet from the existing septic. Steve F. said the only movement he could see beyond what was on the plan was to ask them to move back the additional 10 feet that appears to be on the plan. Roger said, right. Steve thought they could look at it at the site inspection.

Mr. Estochen said what he thought he needed was the proposed footprint. Steve F. said the plan is correct for what they have to look at.

Roger A. stated that the board needed to know what was being revegetated. The area where the existing structure is located needed to have a plan. CEO McDonough and Roger said the board needed a detailed plan showing what vegetation will be around the new structure to prevent stormwater runoff and the area where the existing structure is located. Mr. Estochen said they would be moving the sand to make it more level and put mulch over the top.

Steve F. asked about the existing camp. Was it on a foundation, posts? Mr. Estochen said it was foundation on 3 sides with a dirt floor.

Roland L. asked if there would be any trees that would have to be removed with the proposed location?

Mr. Estochen said there would be. He said he would flag those. He said there were several small trees and some large pines. He said he would show the board at the site walk.

Roger A. said they would do a site visit at approximately 6:30 p.m. on Tuesday, April 28th. A Notice to Abutters will be mailed as well.

Barbara F. asked if he would need to bring a revegetation plan? Roger A. said yes, they would need a revegetation plan. CEO McDonough said to the applicants that Joe Stanley knew how to do a revegetation plan and could put the plan on his site plan for them. Steve F. agreed.

Roger A. stated that prior to removing the camp they would need a DEP Permit by Rule, 14 days prior to removal. He stated that once you send in the application, if you hadn't heard from the DEP, you are all set to continue. He said that they would only hear from the DEP if there was an issue.

Nothing further was discussed.

Best Possible Location – Replace Existing Camp – Map 23, Lot 18 (25 Director's Lane) – Scott McLeod, Applicant; David Landry, Property Owner

Mr. McLeod was present for the review of the application along with Mr. and Mrs. Landry.

At the first meeting Mr. McLeod provided pictures of the existing property; the existing cubic and square foot measurements, 30% of existing, total allowable cubic and square feet w/30% expansion, proposed 'additional' cubic feet and square foot calculations and proposed 'total' cubic and square foot calculations; and a site plan showing the existing building and decks along with distance to boundary lines, high water mark and the existing elevations on site. Also provided, was a Stormwater Treatment Plan for the new structure; preliminary construction plans for the proposed new structure; and the Subsurface Wastewater Disposal System Application, dated 10/8/2014, done by Mark Truman, SE #121.

Mr. McLeod stated he redid the 30% expansion figures and showed the changes to the board. The paperwork also showed a three foot walkway across the front of the new structure as discussed at the site visit. The deck sizes and layout were on the paperwork as well, along with the calculations using the building overhangs for both the existing and proposed. He asked if the board wanted a copy and they stated CEO McDonough would need this information, they did not take a copy for the file.

Steve F. stated the board's objective is to approve what exists in a new location. Roger A. agreed. Steve said the figures given to the board tonight are not what the board needs to review. Mr. McLeod agreed but as Barbara F. had stated there was some confusion with what the board was looking at, therefore, he wanted to be sure to bring all the information he had.

Board members looked at the plan previously submitted that showed the location of the existing structure, which is entitled 'Site Plan Prepared for David Landry' dated May 2014, done by Surveyor T. Bullard of Sanford, Maine. Steve F. said that he believed the board's job was to approve the existing structure, with overhangs, moved back. Roger A. agreed, stating back 7 feet.

Barbara F. asked what the board was approving? Board members stated, using T. Bullard's survey, the existing structure would be moved back 7 feet from its current location. Roger A. added that the existing retaining wall behind the structure would be rebuilt and moved back about 4 feet. Ann H. asked if there was anything being done with the retaining wall beside the existing structure? Mr. McLeod stated that was up to the septic designer as to whether or not it will be moved or if something is needed in that location.

Steve F. asked Mr. McLeod if Tom Bullard could show the size of the existing structure moved back on the plan, 7 feet, with overhangs? Mr. McLeod stated he was not sure if the structure on the plan before the board didn't include the overhangs. Mr. McLeod stated if the board was moving back the existing structure 7 feet then the existing overhangs are moving back 7 feet. Ann H. asked if the board needed a document in the files that shows the existing footprint moved 7 feet? Roger said it wasn't needed because it will be in the minutes that the structure is being pushed back and then Mr. McLeod will have to get a survey showing where it actually sits and that it was moved back 7 feet. Roger said when the foundation gets put back in it will have to be surveyed. Mr. McLeod agreed. Mr. Landry noted the new structure would be 3 feet narrower than the existing.

Steve F. wanted Mr. McLeod to be sure he knew that when the board approved moving the existing structure back 7 feet, as drawn on the paperwork provided, it was from the overhang back and not the foundation back. So if one structure has an 8" overhang and the other is 16", he didn't want them to be in trouble with the survey. Mr. McLeod stated that he understood. Mr. Landry wanted clarification. Mr. McLeod stated that the front of the new building with overhang, had to be 7 feet farther back away from the water, than the overhang of the structure you presently have. Mr. Landry said, "So we just have to measure the location of the overhang and move back 7 feet. Mr. McLeod stated, right. Mr. Landry believed the overhang of the new structure was wider than the existing.

Roger A. read Shapleigh Zoning Ordinance §105-4.D(7) for the relocation of non-conforming structures, in its entirety. Roger noted there is only one tree to be removed.

Roger A. asked Mr. McLeod and Mr. Landry when they expected to get started and how long it would take to complete. Mr. McLeod stated they were going to begin on Labor Day and have the foundation and site work done by the end of October. He said the revegetation would not happen until spring. Mr. McLeod said there would only be one tree replaced and nothing much more needed. Roger stated the area over the septic system would need to be vegetated. Mr. McLeod agreed. Roger said Best Management Practices would be in place for the duration of the project. Mr. McLeod said it would. Roger asked if it would be by a person licensed in the State of Maine? Mr. McLeod said, 'Yes'.

Barbara F. asked if the revegetation should be completed by June 1, 2016? Roger A. asked if this date would be ok? Mr. McLeod said that was fine.

Roger A. said the start day would be Labor Day? Mr. McLeod said it would be September. Mr. Landry stated he didn't want to disturb the neighbors during the summer. Roger said the foundation would be in by the end of October? Mr. McLeod stated, 'Yes'. Mr. McLeod stated that all demolition materials would be taken offsite to a landfill out of town. Roger said the reason the board usually asks where the material will be taken is because it cannot be taken to the Shapleigh Waste Facility.

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

- 1. Revegetation of the area to be done per the plans submitted and to include the replacement of one tree. Plan to be completed by June 1, 2016.**

2. **Best Management Practices shall be used and the work is to be done by a person certified by the DEP. The BMP shall be kept in place until all work is completed.**
3. **The approved plans shall be confirmed in writing by a licensed surveyor that the placement of the structure is correct per the specifications approved by the Planning Board.**
4. **The new structure shall be moved back 7 feet from the original location as depicted on the plan received, done by T.W. Bullard, this figure includes overhangs. On the left corner of the structure the new location shall be 23.5 feet and on the right corner the structure shall be 24.5 feet, from the high water line. These figures are taken from the water side facing the existing structure.**

Roger A. asked if there were any additional questions? Roland L. asked if this was going to be a year round home? Mr. Landry stated it was three season only. Roland said then they would not be applying for a growth permit. Mr. Landry stated he didn't think so, as they were not planning to use it year round. Mr. McLeod stated they could do it at a later date if they chose to. Barbara F. stated, 'Correct'.

Roger A. asked if there was a motion.

Maggie M. made the motion to approve the best possible location to place the existing structure on Map 23, Lot 18, 7 feet back from the existing location; this being 23.5 feet to the left corner of the new structure location and 24.5 feet to the right corner of the new structure while facing the structure from the lake, using the existing structure location per the plan provided, with the above stated four conditions. Steve F. 2nd the motion. All members were in favor. Motion passed unanimously, 5 – 0.

Findings of Facts

1. The Owner of Shapleigh Tax Map 23, Lot 18 (25 Director's Lane) is TML LLC, c/o David Landry of P.O. Box 6194, China, Maine 04926.
2. The property is located in the Shoreland District and according to the Assessor's office contains .60 acres.
3. The existing non-conforming structure sets wholly within 100 feet of the high water mark.
4. The applicants provided a site plan done by Surveyor T.W. Bullard of Sanford, Maine, which depicted the existing building, deck(s), and retaining walls in relation to the high water mark. Also on the plan were the site elevations.
5. The applicants provided a revegetation plan entitled 'Landry Property Stormwater Treatment Plan', done by Maine Environment Solutions which depicted a rain garden to be used for stormwater treatment along with a plan to enhance the existing buffer with native vegetation. It was also noted the existing retaining wall shall be replaced with a block wall which will include a 24" wide infiltration trench.
6. The applicants provided a copy of the Subsurface Wastewater Disposal System Application done by Mark Truman, SE #121, dated 10/8/2014.
7. A notice was mailed to all abutters within 500 feet of the property, Wednesday, April 8, 2015.

8. The board unanimously agreed to approve the Best Possible Location to move the existing structure as depicted on the plan by T.W. Bullard back 7 feet from the existing location. The new setback to the high water line will be no closer than 23.5 feet to the left corner of the new structure, 24.5 feet to the right corner of the new structure, when facing the structure from the lake, using the existing location per the plan provided.
9. The conditions of the permit are as follows:
 1. Revegetation of the area to be done per the plans submitted and to include the replacement of one tree. Plan to be completed by June 1, 2016.
 2. Best Management Practices shall be used and the work is to be done by a person certified by the DEP. The BMP shall be kept in place until all work is completed.
 3. The approved plans shall be confirmed in writing by a licensed surveyor that the placement of the structure is correct per the specifications approved by the Planning Board.
 4. The new structure shall be moved back 7 feet from the original location as depicted on the plan received, done by T.W. Bullard, this figure includes overhangs. On the left corner of the structure the new location shall be 23.5 feet and on the right corner the figure shall be 24.5 feet, from the high water line. These figures are taken from the water side facing the existing structure.

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

Nothing further was discussed.

OTHER:

Barbara F. gave out a copy of the new Shoreland zoning guidelines as received by the DEP. She asked the board to review the changes and be prepared to discuss in the future how they will incorporate the changes into the existing ordinance. She noted that the changes the board makes, to reflect what was just passed into law, will have to be approved by both the DEP and the townspeople. Also, when the changes are made there will need to be several public hearings on the changes prior to town vote.

CEO McDonough did not believe there was a time to complete imposed yet by the DEP. He did think the timing wasn't the best as both Code Enforcement and Planning Board was coming into the busy season.

Barbara F. also forwarded an email that had information on a webinar to be held on Thursday, February 23rd, that members could log in to, which would go over the imposed changes.

Barbara F. noted that the board would not have to deal with Timber Harvesting as the town voted to give that review process back to the State. She said there were also several sections that the town did not currently have in their ordinance that may be helpful to add such as revegetation plans. Adding this might make the review process easier for both the board and the applicants as it gives specific things to look for.

Barbara F. stated she would start making changes to the existing ordinance as a starting point. She noted to members that Shapleigh's ordinance has to be at least as strict as the guidelines being imposed.

Steve F. also brought up the fact he would like to see a more standardized plan required for the board to review. He wasn't sure how to require it. CEO McDonough said to review the new changes imposed by the State as they are requiring plans to be submitted to the Registry of Deeds. There may be something in the

new changes that will help the boards review process when imposed. The board agreed to review the standards and see if it would help with the review process.

Nothing further was discussed.

Growth Ordinances- There are growth permits available.

The Planning Board meeting ended at 8:50 p.m. The next meeting will be held Tuesday, April 28th at 7:30 p.m.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, April 28 2015

Members in attendance: Roger Allaire (Chairman), Maggie Moody (Vice Chair), Madge Baker, Roland Legere, Diane Srebnick, Alternate Ann Harris, as well as Barbara Felong (Secretary). Code Enforcement Officer Steven McDonough was also in attendance. Alternate Steve Foglio was unable to attend.

The following words are not verbatim unless accompanied by quotation marks “ ”

Public Hearing began at 7:00 p.m.

Amendment to a Conditional Use Permit – Proposed 2nd Floor and Addition to the Showroom, Plus Adding a 105’ x 120’ Boat Storage Building – Map 3, Lot 16A (86 Emery Mills Road) – Mark Parker, Owner Mr. Parker and Jill Richards were present for the public hearing.

At the first meeting, Mr. Parker provided a sketch plan depicting the size of lot, the location of the existing showroom, three storage buildings, the proposed addition to the showroom and the proposed boat storage building. The distance of both the existing and proposed buildings to the lot lines was also on the plan, along with square foot dimensions for the foundations of the existing structures and the size of the addition to the existing lot being 132,422.40 sq. ft. after the purchase of additional property.

Also provided were addition plans for the existing showroom, showing the 420 sq. ft. addition and 30’ x 30’ second floor addition; the basic plans of the proposed 105’ x 120’ boat storage building; the proposed Deed Description depicting the land purchase from Richard and Virginia Gallant which was added to the existing property; a survey of the lots purchased and added to the property; and a letter from Mark Parker which stated Jill Richards could represent him at the meeting on Tuesday, April 14, 2015.

Roger A. opened the public hearing by asking the applicant to state what they were going to be doing. Mr. Richards stated they would be building a 14’ x 30’ addition to the right of the showroom, when facing it, adding a 12 foot garage bay and the second floor will be office space. She stated that the proposed storage building would be 105’ x 120’, and it would be a metal storage building. There will be no power, lights, water or heat. It is for storage only.

Madge B. asked if there was an office there now? Ms. Richards stated it was a very small office. Ms. Richards stated the new addition would probably be more storage than anything else because they have no place at present to store anything.

Madge B. asked if the downstairs would be for service? Ms. Richards stated the addition over is going above the existing shop and the addition on the first floor is for an area to be able to work on larger items than what they can do at this time.

Madge B. asked if there would be any plumbing upstairs? Ms. Richards stated there would be a bathroom, and an employee break room area. She said again that there would be items stored as well, as they had no other area at present for storage of items.

Madge B. asked about waste oil and gasoline? Ms. Richards stated there would be no more waste oil or gasoline processed than what they are doing at this time. She said at this time they have 250 gallon waste oil containers that are disposed of approximately once a year by Clean Harbors. She said they did not dispose of any chemical products themselves.

Madge B. asked if there would be a concrete pad under the addition? Ms. Richards stated there would be and there is an existing drain in the service area for water. She noted that it was just water, not anything else that went into the drain. Roger A. said any additional drainage would be permitted by Code Enforcement.

Madge B. asked if there would be any additional lighting? She wanted to be sure no lights were shining towards the neighbors. Ms. Richards stated they had only one existing light and did not plan on adding anything new.

Mr. Bill Paladino, an abutter asked to speak. Mr. Paladino stated he had no issue with Mr. Parker's plans but he was concerned with the stormwater runoff created by the removal of the trees on the hillside where the proposed storage building would be going. He said he lived on 4th street and the stormwater from the hillside where Parker's business currently exists, runs across and under Route 109, down 3rd street then onto 4th street and across his property into the lake. He wanted to know how the water to be displaced by the new structure would be mitigated, so it did not add to the existing stormwater issue. He said he realized the water problem was not all from the Parker property and he noted he had spoken with the Board of Selectmen several years ago and they were going to hire an engineer to try to help with the issue by either resizing culverts or diverting water but he did not follow through due to a health issue and so the engineering never took place.

Mr. Paladino said he had already spent in excess of \$12,000 to replace the road and add rip rap down the side of his property. He stated that one large storm created a flood such that he had to use a plow truck at the end of 3rd street to help to divert water as there was a 2 foot wave of water. He provided pictures to show the board members of past storms and the water created.

Mr. Paladino was concerned that the addition and new building would only add to the water issue that currently exists. Mr. Parker stated that they were not going to add more hot top. Ann H. thought the new addition might divert some of the stormwater and help the situation. CEO McDonough noted that in the Ordinance it states that stormwater had to be reviewed. Roger A. agreed stating it is supposed to stay on the property of the applicant. §105-26 'Stormwater runoff' read in part: Surface water runoff shall be minimized and shall be detained on-site if possible and practicable. If it is not possible to detain water on-site, downstream improvements to the channel may be required of the developer to prevent flooding caused by this project. The natural state of watercourses, swales, berms, terraces, wooden areas and floodways, or rights-of-way shall be maintained as nearly as possible. The design period is the fifty-year storm (the largest storm which would be likely to occur during a fifty-year period).

CEO McDonough asked what the size of the new building would be? Ms. Richards stated 105' x 120' would be the size of the new storage building. CEO McDonough asked if there was a plot plan? Roger A. provided a copy for him. CEO McDonough asked Mr. Paladino to show where there was an existing water issue. Mr. Paladino showed the location of existing culverts in that area both on the side of the road of Mr. Parker's location and along the other side near Mr. Berube's property and 3rd Street.

Madge B. agreed the addition of the new structure would add to the problem, but agreed the overall problem was bigger than this project. Madge reviewed the ordinance once again. Mr. Paladino stated that when they removed the vegetation that was helping to mitigate the water problem on the hill, the issue got worse. He said once the new building is up and there is sheeting action off the roof the problem becomes worse. He said again the Town of Shapleigh agreed there was an existing issue but nothing was ever done. Ms.

Richards stated that they too have water issues and she did not know how she could help. Mr. Parker pointed out Ted's (restaurant) and the pavement and that that creates a stormwater issue but not the same issue as in this location.

CEO McDonough asked if they could put gutters on the proposed addition to direct the water to the ground and away from the paved surface? Madge B. agreed this would be the best solution in this location. Ann H. said that if they put a gutter on the front side they could direct it onto the ground beside the building.

Mr. Paladino asked if there would be an entrance from Route 109 to the new building? Ms. Richards and Mr. Parker stated there would not. Mr. Parker added that the area around the new building would be grass, it was not going to be a paved parking area. He added that the new building would have limited access.

Mr. Paladino said again that this was a serious issue that only continued to get worse. Mr. Parker said that perhaps the State needed to get involved and fix the culverts to help direct the water. Mr. Paladino agreed and said that the culverts were probably put in over 30 years ago and the size of them has not been changed. He thought there should also be an area to hold the water, some kind of retention area, because at present it goes directly into the lake and that was causing issues as well.

Maggie M. wondered if Mr. Paladino went to the Town now if they wouldn't look into this issue again, get an engineer to see what could be done? Maggie thought that the board could require gutters on the addition and then Mr. Paladino goes back to the town to discuss getting an engineer.

Roland L. asked when the pictures he showed the board were taken? Mr. Paladino stated some were three years ago, and others were from this year. Roland said, then these were multiple events. Mr. Paladino said, yes, and noted several could be from 5 years ago.

Mr. Parker asked how many things had changed on 3rd Street over the course of time? Mr. Paladino stated there had been some changes further down 3rd Street but not in the location where the water issue exists. Mr. Parker noted that Mr. Berube had made changes to his property. Mr. Paladino agreed and noted that now some of the water goes through his yard as well. Mr. Paladino said you can't change the amount of water that comes off the hill on Mr. Parker's property, but he said changing the landscape can add to the problem.

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

The public hearing closed at 7:33 p.m.

The planning board meeting started at 7:33 p.m.

The minutes were accepted as read.

Amendment to a Conditional Use Permit – Proposed 2nd Floor and Addition to the Showroom, Plus Adding a 105' x 120' Boat Storage Building – Map 3, Lot 16A (86 Emery Mills Road) – Mark Parker, Owner

Mr. Parker and Ms. Jill Richards were present for the review of the application. Note: Board members did a site review prior to this evenings meeting.

Roger A. began by stating that the applicant was before the board to add to the existing showroom. He noted that the new storage building would be discussed at another meeting. Ms. Richards said that was correct. Roger asked the applicant if he wanted to table the issue until they get the actual size for the new structure? Ms. Richards said yes, they would like to move forward with the 14' x 30' addition. She said they needed an engineer to look over where the best placement for the new structure would be. CEO McDonough noted that the application could only be tabled for 90 days. Ms. Richards asked if it was 90 days from this evening? Roger said, yes. She agreed tabling the application would be best at this time as long as she could move forward with the addition, as that is what they needed completed as soon as possible.

Madge B. made the motion to table the application for 90 days, for the 105' x 120' boat storage building only. Maggie M. 2nd the motion. All members were in favor. By a motion of 5-0, the motion passed unanimously.

Ms. Richards stated that the proposed addition was now smaller than what they originally proposed. The total square feet, including overhangs would be 434 sq. ft. She noted they eliminated the overhang on the gable end and back. They would only have the overhang on the front of the structure, so it would match the existing structure.

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

Roger A. stated the reason the applicants were before the board was because under §105-73.B(1), it states, 'A conditional use which existed prior to the effective date of this chapter may not be changed to another conditional use nor substantially expanded or altered except in conformity with all regulations of this chapter pertaining to conditional uses. Substantial expansion shall be defined as: (a) Floor space increase of 25%; or (b) New materials or processes not previously associated with the existing use'.

Roger A. began review of the pertinent ordinances.

- 105-21 – Traffic. *Roger A. stated access to the site was safe and in existence at this time. No changes were being made to the entrance to the business.***
- 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 structure.***
- 105-26 – Stormwater runoff. *The addition to the existing structure will have minimal impact to the stormwater issue but the proposed new structure will need to have a stormwater plan to mitigate water runoff.***
It was later discussed that gutters would be required on the front of the building to direct water into the ground.
- 105-27 – Erosion control. *There will be hay bales used while the addition is being constructed. A gutter will be placed on the front of building. When the new storage building is reviewed, a revegetation plan will have to be created along with an engineered stormwater plan.***
- 105-28 – Setbacks and screening. *No additional screening will be needed with the proposed addition. The business is in existence now with no issues.***
- 105-29 – Explosive materials. *There shall be no explosive material stored in the addition.***
- 105-30 – Water quality. *There is no waste or hazardous material being stored outside. There will be a cement slab under the addition.***

- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *There are no changes being made to the site with respect to the location of the addition, no additional parking is being created.*
- 105-32 - Relation of proposed building to the environment. *The existing building(s) fits in well with the surrounding area and existing structures on site.*
- 105-33 – Refuse disposal. *Refuse will be removed as it is currently being done for the existing business.*
- 105-34 – Access control on Route 109 & 11. *There is an existing approved entrance onto Route 109, minimum site distances can be met.*
- 105-43 – Off-street parking and loading. *There is are no changes being made to the existing parking area.*
- 105-46 – Sanitary provisions. *There is an existing State approved septic system on site for the home/business, additional plumbing shall be permitted through the Code Enforcement Officer.*

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

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

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. *Roger stated, it will 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 stated it is, the Comprehensive Plan encourages businesses along Rte. 109.*
- 4) Traffic access to the site is safe. *Roger stated it is, and the entrance for the business has been in existence for years and there will be no change.*
- 5) The site design is in conformance with all municipal flood hazard protection regulations. *Roger stated it is. The business is not in a flood zone.*
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. *There is a State approved system in existence.*
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. *Roger stated all waste oils shall continue to be disposed of as they are now by Clean Harbor and all waste oil will continue to be kept in the existing containment.*
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. *Gutters shall be added to the front of the building/addition to divert stormwater away from the paved area and into a downspout to the ground.*
- 9) Adequate provisions to control soil erosion and sedimentation have been made. *Hay bales shall be used during construction of the addition and a gutter system shall be placed on the front of the new addition, directing water to the ground to be dispersed.*
Mr. Parker did not think a gutter system would provide any relief. He also asked if the gutter would add to the square footage of the structure? CEO McDonough stated that it would. Mr. Parker stated, “Then I do not want it.” Madge B. stated it was up to the board whether or not the gutters would be required. Mr. Parker stated that he did not use gutters anywhere now, he found them to be more of a bother than a help. He noted that 15’ x 14’ is a small area and didn’t think gutters should be required. Madge stated that the board had to minimize the water problem.
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. *Roger stated there is.*

- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. ***There are no changes being made to the surrounding area. There is no additional lighting being added.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall with conditions.***

Roger A. stated the conditions of the permit would be:

- 1. There shall be gutters placed along the front of the showroom, including the addition, and downspouts to the ground, to keep the stormwater off any impervious surface.**
- 2. Hay bales shall be placed during construction to prevent an erosion issue.**

Ms. Richards asked if they could take the gutters down if an engineer redesigns the culvert? She didn't understand why the water issue was their responsibility. Madge B. stated that the existing water problem wasn't their issue but stormwater coming off their roof onto pavement was their issue. Roger A. explained how gutters keep the water from sheeting down across the driveway adding to the existing issue. He noted that an applicant had to mitigate stormwater in some fashion and gutters would be the easiest way in this situation.

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

Madge B. made the motion to approve the Amendment to the Conditional Use Permit for a 14' x 30' addition to the existing showroom on Map 3, Lot 16A with the above stated conditions that being adding gutters to front side of the structure with downspouts to the ground and using hay bales during construction. Maggie M. 2nd the motion. All members were in favor. Motion passed unanimously, 5 – 0.

Findings of Facts

1. The Owner of Shapleigh Tax Map 3, Lot 16A (86 Emery Mills Road) is Mark Parker, D/B/A Parker's Boathouse Inc., 86 Emery Mills Road, Shapleigh, Maine 04076
2. The property is located in the General Purpose District and according to the Assessor's Office contains 8.17 Acres.
3. The applicant provided a copy of the Proposed Deed Description for property purchased from Richard and Virginia Gallant which increased their existing lot size by 3.04 acres or 132,422 sq. ft.
4. The applicant provided a site plan depicting the lot lines in relation to the existing 3 storage structures and showroom, as well as the proposed addition to the showroom and 105' x 120' boat storage building.
5. The applicant provided a plan depicting a picture of the existing structure with proposed 14' x 30' first floor addition and the proposed 30' x 30' second floor addition.
6. The applicant provided a proposed plan for the 105' x 120' steel boat storage building.
7. The applicant provided a survey map depicting the 'Land of Mark Parker' as of October 2014.
8. A notice was mailed to all abutters within 500 feet of the property, Wednesday, April 15, 2015.

9. A site inspection was conducted on April 28, 2015, prior to the planning board meeting and a Public Hearing was held on that same evening.
10. The Planning Board made the motion to table the application for 90 days, for the 105' x 120' boat storage building only, until further information could be provided. All members were in favor. By a vote of 5-0, the motion passed unanimously.
11. The Planning Board unanimously agreed to approve the Amendment to the Conditional Use Permit for a 14' x 30' addition to the existing showroom on Map 3, Lot 16A, per the plans provided and as discussed at the board meeting on April 28, 2015, with conditions.
12. The conditions of the permit are:
 1. There shall be gutters placed on the front of the showroom, including the addition, and downspouts to the ground, to keep the stormwater off any impervious surface.
 2. Hay bales shall be placed during construction to prevent an erosion issue.

Mr. Paladino asked if the stormwater issue would come up at the next meeting to review the new building? Roger A. stated yes, stormwater would have to be addressed. Roger believed DOT should be contacted with respect to the culvert.

Nothing more was discussed.

Best Possible Location – Replace Existing Home – Map 28, Lot 28 (16 17th Street) – Eric & Theresa Estochen, Applicants

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

At the first meeting, provided was a letter from the applicant describing the project, that being they would like to replace the existing structure that was built in the 1930's which is located approximately 20 feet from the high water mark, and build a new structure moving it farther from the water. The letter also stated in 1997 a new septic system was installed on the property which does in part dictate the possible location of the new structure, along with setbacks. In addition, provided was a site plan done by Joe Stanley of LinePro Land Surveying in Shapleigh, which showed the location of the existing house, deck, retaining walls, patio(s), stairs, storage building, approximate septic location and elevation(s) on the lot. An additional site plan was provided, depicting the existing house, deck, patio(s), stairs, storage building, approximate location of the septic system, along with a 'proposed' structure location.

Mr. Estochen provided the board members with a revised plan, depicting the 'proposed' structure moved back, a replanting schedule, site elevations, location of the septic system, location of the existing house and stairs, existing and proposed retaining wall(s), existing storage building and proposed 14' x 24' garage.

Mr. Estochen stated that to stay within the lot coverage requirement, they will reduce the size of the proposed garage if necessary. Roger A. said the proposed retaining wall was to keep the grade to a minimum. Mr. Estochen agreed and said water coming off the roofline will be filtered there and noted there would be grass planted in that area as well.

Madge B. asked if the board had to look at the existing footprint and move it back, not the proposed? Board members showed Madge, who was unable to be at the first review of the application, the drawing which

depicted the original size of the structure moved back. Madge believed the board needed to use the drawing which showed the existing size of the structure moved back, not the proposed, but she believed they could use the replanting schedule on the plan they received this evening.

Madge B., looking at the plan, thought the septic location and the setbacks were the determining factor when locating the structure. She thought, looking at the plan, that the existing footprint might be able to be moved back beyond the 100 foot mark. Mr. Estochen showed Madge where on the new plan the 100 foot mark was located. He also noted that the footprint of the existing structure was moved back to 68 feet from the high water mark and the proposed structure was 73 feet from the high water mark.

Madge B. thought the board should say that they want the back of the existing structure to be moved back to 20 feet from the septic system location.

CEO McDonough stated that the existing location of the structure needed to be revegetated. Mr. Estochen pointed to the plan which denotes the area would be restored to existing grade and all disturbed areas will be stabilized with mulch. CEO McDonough said that mulch was not vegetation. §105-4.D(7)(2), 'Where feasible, when a structure is relocated on a parcel, the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.'

CEO McDonough also stated that the proposed retaining wall would not be allowed as it was within 100 feet of the high water mark. Board members were concerned with this due to the grade in that area. They believed the retaining wall was the best way to stabilize the area. CEO McDonough stated if there was an issue, an engineered plan may be required. Diane S. thought without the retaining wall there would be an erosion issue, therefore, more plants would be required in that area than what is depicted on the plan.

Roger A., looking at the plan, stated that the original structure could not be moved back more than another 10 feet due to the location of the septic system. Madge B. agreed but said that the board could move it back the 10 feet.

Madge B. stated that the board could approve the best possible location, then Mr. Estochen could go to CEO McDonough to work out the size of the house, then return to the board with a final revegetation plan. Roland L. asked if the Planning Board had to approve the revegetation plan or could the responsibility be given to CEO McDonough? Diane S. stated that the Planning Board always approves the revegetation plan. Roland said he understood this but asked again if CEO McDonough could do it? Diane said she did not feel the responsibility was up to the CEO. CEO McDonough read from the ordinance, 105-4.D(7)(b), 'When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation.' Madge believed CEO McDonough 'could' do it. CEO McDonough stated that he could approve the entire project if the board wanted him to but he thought it was before the board for their approval. Board members agreed the revegetation plan would come back before the board for approval.

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

Madge B. made the motion to approve the best possible location of the non-conforming structure located on Map 28, Lot 28, per the plan provided, moving the size of the existing structure back to 20 feet from the leach field envelope, with the following conditions:

- 1. The applicant shall return to the Planning Board for approval of the revegetation plan prior to construction.**
- 2. Best Management Practices shall be used and the work is to be done by a person certified by the DEP. The BMP shall be kept in place until all work is completed.**
- 3. The applicant shall file a DEP Permit by Rule for the removal of the existing structure.**
- 4. All construction materials shall be disposed of out of Shapleigh.**
- 5. The approved plan shall be confirmed in writing by a licensed surveyor that the placement of the structure is correct per the specifications approved by the Planning Board.**

Diane asked if the board needed the distance from the high water mark to the front of the structure? Madge didn't believe that was necessary as the dimensions of the structure would be the same when moved back to the 20 foot mark as they are at this time. The benchmark will be the 20 foot mark.

Diane S. 2nd the motion. All members were in favor. Motion passed unanimously, 5 – 0.

Findings of Facts

1. The Owners of Shapleigh Tax Map 28, Lot 28 (16 17th Street) are Eric & Theresa Estochen of 44 Steinbeck Street, Tyngsboro, MA 01879.
2. The property is located in the Shoreland District and according to the Assessor's office contains .50 acres. The survey done by LinePro Land Surveying, Joseph Stanley, MPLS #2453, states the property is 20,327 square feet in size.
3. The existing non-conforming structure sets wholly within 100 feet of the high water mark.
4. The applicants provided a site plan done by Surveyor Joseph Stanley of LinePro Land Surveying, of Shapleigh, Maine, which depicted the existing building, porch, concrete deck, walkway, retaining walls and stairs in relation to the 100 foot setback and current septic system location. Also on the plan were the site elevations and existing storage building.
5. The applicants provided a site plan depicting the size of the existing structure moved back and the approximate location of the existing septic system. The 100 foot setback was depicted on the plan along with the 20 foot mark to the septic system location.
6. The applicants provided a planting schedule which included the location of the proposed structure and deck, proposed retaining wall, existing retaining walls, proposed 14' x 24' garage, existing storage building, approximate location of the septic system and site elevations.
7. On file with the Code Enforcement Office is a copy of the Subsurface Wastewater Disposal System Application done by Kenneth Gardner, SE #73, dated 4/28/1997.
8. A notice was mailed to all abutters within 500 feet of the property, Wednesday, April 15, 2015.
9. A site inspection was conducted on April 28, 2015, prior to the planning board meeting.

10. The board unanimously agreed to approve the Best Possible Location to move the existing non-conforming structure as depicted on the plan by Joseph Stanley, dated January 2, 2015, back to 20 feet from the existing leach field envelope, with conditions.

11. The conditions of the permit are as follows:

1. The applicant shall return to the Planning Board for approval of the revegetation plan prior to construction.
2. Best Management Practices shall be used and the work is to be done by a person certified by the DEP. The BMP shall be kept in place until all work is completed.
3. The applicant shall file a DEP Permit by Rule for the removal of the existing structure.
4. All construction materials shall be disposed of out of Shapleigh.
5. The approved plan shall be confirmed 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.

Nothing further was discussed.

Amendment to a Conditional Use Permit – Enclose Concrete Ramp & Patio, Add New Handicap Ramp & Addition, Increase Seating of Keepin It Local to 45 Seats & Increase Parking Area – Map 18, Lot 32-A (120 Emery Mills Road – Paul Muse, Applicant

Mr. Muse was in attendance for the review of the application along with Mary Letourneau, of Keepin It Local.

Along with the application, Mr. Muse provided a detailed description of the project. The description read in part:

We propose to enclose the existing 8' x 38' concrete ramp and patio, totaling 304 square feet and also to add a new handicap ramp and new addition totaling 406 square feet. The total of the new enclosed addition will be 710 square feet. The existing building is now 1,168 square feet and the total structure after the addition will be 1,878 square feet. This will cause the loss of parts of three (3) parking spaces. We would also like to amend the existing conditional use permit to handle the seating for customers inside and outside to 45.

We also propose not to place the landscape bins in the places originally requested and this is for the purpose of supplying the needed parking spaces in order to finish the project to meet town requirements. The total parking spaces now available with the new plan will be 24 with the ability to easily expand to more spaces if needed by using a different parking design.

Also provided was a diagram depicting 24 parking spaces, the existing structure location and addition, and the location of the septic system; a sketch of the existing building with proposed additions, indoor kitchen and dining area, bathroom location(s), etc.

Roger A. asked Mr. Muse to state what he was intending to do. Mr. Muse stated that they would like to add to the existing structure as proposed on the information provided. He stated that with the additions they would be very close to 10% lot coverage with structures.

Roger A. stated the board would need a better parking plan than what was provided as parking spaces are 200 square feet in size and he didn't believe the 12 spaces noted along one lot line, which was denoted as 112' feet in length, would work as a typical parking space is 10 x 20 feet in size. He said based on this, to fit 12 parking spaces you would need 120 feet.

Mr. Muse thought they could possibly create parking spaces diagonally across the center of the parking lot but he realized they had to be mindful of traffic flow due to the takeout window traffic.

Roland L. asked if there was a certain number of spaces that would trigger a requirement for a handicap parking space? Mr. Muse stated there was a handicap space on site now. Roland asked if the dimensions of a handicap space was different than a regular space? Roger A. stated, no, they all have to be 200 square feet in size.

Roger A. asked if there would be any other changes? Mr. Muse stated that there were some concerns he had to address with CEO McDonough. The board stated that building issues were not anything they had to deal with.

Maggie M. asked about the seating of up to 45 seats, how many of those would be outside? Mr. Muse stated there would be a mixture of seats inside and outside. He provided a copy of a seating plan but stated this was not the final plan. The plan showed four tables inside. Ms. Letourneau agreed that there would be a mix of tables inside and out. She stated that they currently have picnic tables outside now. She wasn't sure how the tables would be arranged at this time. Diane S. asked if there would be up to 45 seats available? Ms. Letourneau stated, yes. Diane asked how much space was devoted to retail space? Ms. Letourneau stated, 450 square feet. Diane asked if the rest was the dining area? Mr. Muse stated dining and kitchen area.

Roland L. asked if the existing septic system could handle that amount of seating? Mr. Muse provided a copy of an email from James Jacobsen of the Division of Environmental Healthy Drinking Water Program, Subsurface Wastewater Unit, which stated that allowing for 6 employees at 12 gpd each and 7 gpd per seat for use of single service tableware, the system (septic) can accommodate as many as 68 seats. Madge B. stated that CEO McDonough handled the wastewater. Mr. Muse noted the email stated they could have up to 68 seats according to the State.

Diane S. stated based on the Ordinance and her calculations they would need 20 parking spaces. 15 for the dining / seating, 2 for 2 employees and 3 for the retail area. She asked if there were 2 employees? Ms. Letourneau stated there were two at this time. Mr. Muse stated it would not be an issue to create 20 parking spaces. He also said he wanted to have the best traffic flow and again thought 20 spaces could be created.

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

Roger A. stated a revised parking plan would be required for the next meeting.

A Public Hearing will be held at 7:00 p.m. on Tuesday, May 12th. A site inspection will be held at 6:30 p.m., members will meet on site.

Nothing further was discussed.

Growth Permits

Part of Map 5, Lot 6A – 23rd Street Loop – New Home – GP #03-15

This is a legal lot of record, meeting the minimum lot size requirement and setbacks could be met.

The Planning Board meeting ended at 8:20 p.m.

The next meeting will be held Tuesday, May 12th at 7:30 p.m.

Respectively submitted,

Barbara Felong

Land Use Secretary

planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, May 12, 2015

Members in attendance: Roger Allaire (Chairman), Maggie Moody (Vice Chair), Madge Baker, Roland Legere, Diane Srebnick, Alternates Ann Harris, as well as Barbara Felong (Secretary). Code Enforcement Officer Steven McDonough was also in attendance. Note: Steve Foglio was unable to attend the public hearing.

The following words are not verbatim unless accompanied by quotation marks “ ”

Public Hearing began at 7:00 p.m.

Amendment to a Conditional Use Permit – Enclose Concrete Ramp & Patio, Add New Handicap Ramp & Addition, Increase Seating of Keepin It Local to 45 Seats & Increase Parking Area – Map 18, Lot 32-A (120 Emery Mills Road) – Paul Muse, Applicant

Paul and Robert Muse were in attendance for the public hearing, along with Mary and Joseph Letourneau, of Keepin it Local.

Roger A. opened the public hearing by asking Paul Muse to state for the record why they were before the board.

Mr. Paul Muse stated that they proposed to put on an addition that is approximately 700 plus or minus square feet. He said they rearranged the parking and Mary and Joe Letourneau of Keepin it Local, want to increase the seating available for their business (up to 45 seats).

Roger A. asked if there were any questions? There were no questions.

Public hearing closed at 7:03 p.m.

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

The minutes were accepted as read.

Amendment to a Conditional Use Permit – Enclose Concrete Ramp & Patio, Add New Handicap Ramp & Addition, Increase Seating of Keepin It Local to 45 Seats & Increase Parking Area – Map 18, Lot 32-A (120 Emery Mills Road) – Paul Muse, Applicant

Paul and Robert Muse were in attendance for the review of the application, along with Mary and Joseph Letourneau, of Keepin it Local. *Board members did a site inspection prior to this evenings meeting.*

Previously provided along with the application, was a detailed description of the project. The description read in part:

We propose to enclose the existing 8' x 38' concrete ramp and patio, totaling 304 square feet and also to add a new handicap ramp and new addition totaling 406 square feet. The total of the new enclosed addition will be 710 square feet. The existing building is now 1,168 square feet and the total structure after the addition will be 1,878 square feet. This will cause the loss of parts of three (3) parking spaces. We would also like to amend the existing conditional use permit to handle the seating for customers inside and outside to 45.

We also propose not to place the landscape bins in the places originally requested and this is for the purpose of supplying the needed parking spaces in order to finish the project to meet town requirements. The total parking spaces now available with the new plan will be 24 with the ability to easily expand to more spaces if needed by using a different parking design.

The applicant also provided a diagram depicting 24 parking spaces, the existing structure location and addition, and the location of the septic system; as well as a sketch of the existing building with proposed additions, indoor kitchen and dining area, bathroom location(s), etc.

At this evenings meeting a new parking design was provided depicting 22 parking spaces on site and later in the evening the plans for the expanded structure were amended by the applicant to show an increase in building size, which is to the maximum lot coverage allowed of 10%.

Roger A. asked the applicant, Paul Muse, to explain one additional time what he wanted to do. Mr. Muse stated he wanted to expand the existing building by approximately 700 square feet and then add additional seating and rearrange the parking to handle the additional seating. He said there was a new roof going on the building as well.

Roger A. stated the reason the applicants were before the board was because under §105-73.B(1), it states, 'A conditional use which existed prior to the effective date of this chapter may not be changed to another conditional use nor substantially expanded or altered except in conformity with all regulations of this chapter pertaining to conditional uses. Substantial expansion shall be defined as: (a) Floor space increase of 25%; or (b) New materials or processes not previously associated with the existing use'.

Roger A. began review of the pertinent ordinances.

- 105-21 – Traffic.** *Roger A. stated access to the site was safe and in existence at this time. No changes were being made to the entrance to the business.*
- 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.** *Roger A. stated there are no dazzling lights being installed. There may be a light added in the rear of the structure but not on the street side.*
- 105-26 – Stormwater runoff.** *Roger A. stated the addition to the existing structure will have minimal impact to the stormwater issue because of the pitch of the roof and the parking area is pitched toward the rear of the property, so stormwater will run to the back.*
- 105-27 – Erosion control.** *Roger A. stated there are no changes to the location to create an erosion issue. Roger said the applicant stated more gravel may be added to the site.*
- 105-28 – Setbacks and screening.** *No additional screening will be added, as no further changes are being made to the site.*
- 105-29 – Explosive materials.** *There shall be no explosive material stored on site.*

- 105-30 – Water quality. *There is no waste or hazardous material being stored.*
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *There are no changes being made to the site with respect to the location of the addition.*
- 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 as it is currently being done for the existing business.*
- 105-34 – Access control on Route 109 & 11. *There is an existing approved entrance onto Route 109, minimum site distances can be met.*
- 105-43 – Off-street parking and loading. *The parking area can accommodate 22 parking spaces per the plan received and as seen at the site inspection. 20 parking spaces are required at a minimum, therefore the parking is adequate for the proposed amendment to the CUP.*
 1 space required for every 3 seats (45 = 15 seats req.); 1 space for every 150 sq. ft.; 1 space for each employee (3).
Maggie M. stated that for the record Mrs. Letourneau stated they had 3 employees not 2 as previously noted. Mrs. Letourneau stated, right. Maggie stated there were enough spaces for the one additional employee. Mrs. Letourneau agreed.
- 105-46 – Sanitary provisions. *There is an existing State approved septic system on site for the business, additional plumbing shall be permitted through the Code Enforcement Office. The system is adequate to accommodate as many as 68 seats per an email received from James Jacobsen, Division of Environmental Health Drinking Water Program – Subsurface Wastewater Unit, Augusta ME, dated 4/28/2015.*

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

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. *Roger stated, it will not.*
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. *N/A*
- 3) The use is consistent with the Comprehensive Plan. *Roger stated it is, the Comprehensive Plan encourages businesses along Rte. 109.*
- 4) Traffic access to the site is safe. *Roger stated it is, and the entrance for the business is in existence and there will be no change. It was approved on the previous CUP review in this location and met all criteria.*
- 5) The site design is in conformance with all municipal flood hazard protection regulations. *Roger stated it is. The business is not in a flood zone.*
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. *There is a State approved system in existence. Solid waste will continue to be placed in the existing dumpster on Mr. Muse’s property.*
Madge B. stated there would be more waste generated and asked how it is removed at this time, she was speaking of solid waste / trash. Mr. Muse stated there was an existing dumpster being used and it is picked up weekly. Madge asked if it was adequate to handle the additional waste? Mr. Muse stated it was.
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. *Roger stated this was N/A, none being generated or used on site.*
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. *Roger stated no changes are being made to the site to affect stormwater runoff.*
- 9) Adequate provisions to control soil erosion and sedimentation have been made. *Roger stated the water will continue to be directed toward the rear of the property.*

- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. **Roger stated there is, the Emery Mills fire hydrant is in close proximity.**
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. **There are no changes being made to the surrounding area. There is no additional lighting being added to the front of the building.**
- 12) All performance standards in this chapter applicable to the proposed use will be met. **They shall with conditions.**

Roger A. stated the conditions of the original permit are as follows:

- 1) The hours of operation shall be 5 a.m. thru 10 p.m., 7 days a week.
- 2) The menu for the cafe will be as provided with the application.
- 3) 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.
- 4) Best Management Practices for soil erosion shall be maintained on site.
- 5) Solid waste / refuse shall be disposed of in the dumpster located on the adjacent property.
- 6) The drive-thru window shall be for prepared foods only in order to keep traffic flowing smoothly and quickly.
- 7) There shall be no parking on Route 109 at any time.

Madge B. wanted it stated for the record that the new parking areas that are on gravel will remain gravel. She stated it was important to keep the impervious surface the same as it is.

It was asked what the lot coverage was? Madge B. was not sure. Maggie M. said it was close to 10% as stated at the previous meeting. Mr. Paul Muse stated it was 9%. Mr. Muse asked if he decided to go to the 10% would he have to come back before the Planning Board? Roger A. said yes, for a different size structure. Roger said if they were going to increase the 710 square feet they would need to come back with the change, unless it is changed now. Mr. Muse asked if they could state it would be 10%. Roger said the board needed to know the size of the structure, looking down onto the structure, the footprint. Mr. Muse stated they were thinking of making the handicap ramp larger and putting a bench seat in the handicap ramp. He said the board was including the handicap ramp as part of the structure, so they were going to put the trusses over the ramp, making it an enclosed ramp, keeping water off the clientele as they come into the building.

Robert Muse noted there would be a full foundation. Paul Muse stated there was a four foot frost wall under the existing ramp and the new ramp would also have a four foot frost wall. He asked what they needed to do next. Roger A. stated they could table the application until they have the size of the additional structure. Paul Muse stated if they keep the total size of the structure within 9% then are they ok? Roger said they have the structure depicted on the plans, therefore, any change to the plans would have to come back before the board.

Paul Muse stated they only wanted to add to the width of the handicap ramp. He asked if they could accomplish that this evening? Roger A. stated if they knew the size they were going to increase to, they could put it on the plan. Mr. Muse asked Mary and Joseph Letourneau if they thought it was worth it to have a bench seat on the ramp. They sat and discussed possible changes for about 10 minutes with each other.

Madge B. stated that Roland L. pointed out that in the record the last time it was stated by Mr. Muse that with the additions they would be very close to 10% but now he seems clear that it is 9%. Roger A. stated the application stated 9%. Madge wanted to know if this was correct?

Diane S. was concerned that a bench on the ramp would interfere with wheelchairs. She noted this to Paul Muse. He said he was concerned with this as well.

Steve F. calculated the size of the property and the structure before them and told the applicants they had 169 square feet left to work with before they reached their 10% lot coverage. He asked how long the ramp was? Mr. Muse stated, 10 feet. Mr. Muse asked if he now, just drew this on the plan, to be able to have it approved this evening? Roger said, yes, just draw it on the plan.

Paul Muse asked again if they could leave it a general ‘use up the square footage’, or if they had to draw what they intended on the plan tonight? Diane S. said, yup. Roger A. and Madge B. agreed, the board would be approving the structure per the plan provided. This is what the CEO would use for his approval.

Mr. Muse asked if the eve of the building was included in the calculations? Roger A. said, yes, as you are looking down from above that is the footprint and square footage. Roger said again any overhangs are included in the square footage calculations.

Roger A. read the conditions of approval for the Conditional Use Permit out loud for the board:

- 1) The hours of operation shall be 5 a.m. thru 10 p.m., 7 days a week.**
- 2) The menu for the cafe will be as provided with the application.**
- 3) 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.**
Roger noted this will be deleted because this will no longer take place on site.
- 4) Best Management Practices for soil erosion shall be maintained on site.**
- 5) Solid waste / refuse shall be disposed of in the dumpster located on the adjacent property.**
- 6) The drive-thru window shall be for prepared foods only in order to keep traffic flowing smoothly and quickly.**
- 7) There shall be no parking on Route 109 at any time.**

Maggie M. stated with respect to item 3, Roger said it would be deleted but she thought it shouldn't be deleted; because it had to do with landscaping, it had to be changed to a condition of no landscaping on site, because if there was any landscaping material it had to be in bins which will no longer be on site due to the parking area. Roger thought without number 3, it wasn't allowed on site. Maggie still felt that instead of deleting it, it had to say ‘no landscaping material on site’.

Paul Muse was concerned with the additions affecting the parking. Robert Muse didn't think this was a concern. The applicant and the Letourneau's continued to talk amongst themselves. Roger A. told them to continue to discuss matters while the board took care of another item on the agenda.

OTHER:

ELECTION OF OFFICERS

Diane Srebnick nominated Roger Allaire as Chairman of the Planning Board.

Roland Legere 2nd the motion.

Roger Allaire accepted the nomination.

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

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

Diane Srebnick 2nd the motion.

Maggie Moody accepted the nomination.

All members were in favor. ***Maggie Moody will remain Vice Chairman of the Planning Board.***

Diane S. spoke of the issue brought before the board by Mr. Paladino at the Parker Boathouse review, with respect to a stormwater runoff problem on 3rd Street, which was causing flooding of his property. Diane said Mr. Paladino stated he had met with the Selectmen but it got dropped. She asked if the board should ask one of the Selectmen to be present at the next review of the Parker property in case it is brought back up and there are questions that need to be asked of the Selectmen, such as are they going to resume looking into the problem? She thought that way the Planning Board would know what is going on. Madge B. thought it would be helpful to know but she noted they meet at the same time as the planning board, so perhaps the board could request a statement from them. Diane asked if maybe one could attend? Madge agreed it would be a good idea. Ann H. asked if there would be a file on it, or could we get a copy of the minutes? Diane said it was three years ago.

CEO McDonough did not believe it was relevant. He said the Selectmen deciding to get a larger culvert to go across 3rd Street had nothing to do with the Parker application. The Selectmen have nothing to do with the runoff from the Parker property. Mr. Paladino spoke about the Selectmen considering a larger culvert for 3rd Street which wasn't about the application. Diane S. stated that Mr. Paladino had stated they were going to do something but then Mr. Paladino got sick so nothing happened. CEO McDonough said that could be true but it has nothing to do with Parker's Boathouse. Roger A. stated the runoff from the boathouse itself should be separate and there should be a design for a 50 year storm, so whatever is coming off the roof of the new structure is what the planning board deals with.

Roger A. said this evening he noted, "Before you get to Parkers the ditch on the side is two feet deep approximately. When you get beyond Parkers driveway it is level. So anything coming off that lot today is going to run across the street." Diane S. agreed. Ann H. said she noticed that Mr. Berube dug a retainer ditch on his property to retain the water and put in a culvert to keep the water off his lawn.

Maggie M. noted that what Mr. Paladino was talking about was 3rd Street which is located before Parker's. CEO McDonough stated that anything to do with Route 109 is a State issue, so the board won't be dealing with that. Diane S. said at the last meeting she didn't think the board asked for a stormwater drainage system capable of handling a fifty-year storm without adverse impact on adjacent properties (§105-73.G(8)). CEO McDonough said Mr. Parker was told it would be addressed when he came back before the board with the storage building. Roger A. agreed. Diane said in case Mr. Paladino comes back she wanted to be sure they didn't go round and round on who was responsible for the stormwater issue. This is why she suggested a Selectman attend.

Barbara F. stated that she would ask Karla for a statement or information about what, if anything, is being done about 3rd Street; where the Selectmen stand on the issue, so the board would have that information for the next review. Diane S. agreed that would be a good idea.

Nothing further was discussed.

The board resumed review of the application before them.

Amendment to a Conditional Use Permit – Enclose Concrete Ramp & Patio, Add New Handicap Ramp & Addition, Increase Seating of Keepin It Local to 45 Seats & Increase Parking Area – Map 18, Lot 32-A (120 Emery Mills Road – Paul Muse, Applicant Continued....

Paul Muse gave the board a copy of an amended plan. He proposed 2 feet extra over the handicap ramp, making it 20' x 27' and a small overhang over the drive-up window, 5' x 18" wide.

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

Madge B. made the motion to approve the Amendment to the Conditional Use Permit for the addition to the existing structure per the plans amended this evening, accepting the parking plan presented for 22 parking spaces, increasing the seating capacity of Keeping It Local to 45 seats total, inside and outside, keeping the existing conditions of approval dated March 20, 2014 with one change, that being there shall be no landscaping material/business on Map 18, Lot 32A. The amendment met all conditions of §105-73.G 'Standards applicable to conditional uses' with conditions. Maggie M. 2nd the motion. All members were in favor. Motion passed unanimously, 5 – 0.

Findings of Facts

1. The Owner of Shapleigh Tax Map 18, Lot 32A (120 Emery Mills Road) is Paul Muse, P.O. Box 157, Acton, Maine 04001. The applicant for the Amendment to the Condition Use Permit is Paul Muse.
2. The property is located in the General Purpose District and according to the Assessor's Office contains .47 Acres.
3. The applicant provided a letter of intent stating he proposed to enclose the existing 8' x 38' concrete ramp and patio, totaling 304 sq. ft., add a new handicap ramp and addition totaling 406 sq. ft., and increase customer seating for Keepin it Local to 45 seats inside and outside. This letter also stated the landscaping bins would no longer be part of the business to comply with parking requirements.
4. The applicant provided a site plan depicting the lot lines in relation to the existing structure, proposed addition(s), septic system and parking plan.
5. The applicant provided a plan depicting the proposed size of structure, including layout of kitchen area, sandwich prep and take-out window area, 2 bathrooms, deli case, possible seating arrangement and storage area. This plan amended May 12, 2015, also noted the change to the size of the ramp enclosure and overhang area for take-out window.
6. The applicant provided an email from James Jacobsen, Project Manager, Division of Environmental Health Drinking Water Program, Subsurface Wastewater Unit, Augusta, ME, which stated that the existing septic system could accommodate as many as 68 seats in the restaurant.
7. A notice was mailed to all abutters within 500 feet of the property, Wednesday, April 29, 2015.
8. A site inspection was conducted on May 12, 2015, prior to the planning board meeting and a Public Hearing was held on that same evening.

9. The Planning Board unanimously agreed to approve the Amendment to the Conditional Use Permit for the addition to the existing structure per the plans amended this evening, accepting the parking plan presented for 22 parking spaces, increasing the seating capacity of Keeping It Local to 45 seats total, inside and outside, keeping the existing conditions of approval dated March 20, 2014 with one change, that being there shall be no landscaping material/business on Map 18, Lot 32A. The amendment met all conditions of §105-73.G ‘Standards applicable to conditional uses’ with conditions.

10. The conditions of the permit are:

- 1) The hours of operation shall be 5 a.m. thru 10 p.m., 7 days a week.**
- 2) The menu for the cafe will be as provided with the application.**
- 3) Best Management Practices for soil erosion shall be maintained on site during construction.**
- 4) Solid waste / refuse shall be disposed of in the dumpster located on the adjacent property.**
- 5) The drive-thru window shall be for prepared foods only in order to keep traffic flowing smoothly and quickly.**
- 6) There shall be no parking on Route 109 at any time.**
- 7) There shall be no landscaping material(s) / business on site.**

Nothing more was discussed.

Growth Permits

Part of Map 5, Lot 6A – 23rd Street Loop – New Home – GP #04-15

This is a legal lot of record, meeting the minimum lot size requirement and setbacks could be met.

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

The next meeting will be held Tuesday, May 26th at 7:30 p.m.

As a note: The 1st Planning Board meeting in June will not be held on Tuesday, June 9, but Wednesday June 10, due to elections being held on the 9th.

Respectively submitted,

Barbara Felong

Land Use Secretary

planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD

MINUTES

Wednesday, June 10, 2015

Members in attendance: Roger Allaire (Chairman), Maggie Moody (Vice Chair), Roland Legere, Diane Srebnick, Alternate Ann Harris, as well as Barbara Felong (Secretary). Code Enforcement Officer Steven McDonough was also in attendance. Note: Madge Baker and Steve Foglio were unable to attend the public hearing.

The following words are not verbatim unless accompanied by quotation marks “ ”

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

The minutes were accepted as read.

Barbara F. began by stating she wanted to discuss the approval for Parker's boathouse, the addition to the existing structure. She stated Jill Richardson contacted her with a concern about their conditions of approval. The condition which states 'There shall be gutters placed on the front of the showroom, including the addition, and downspouts to the ground, to keep stormwater off any impervious surface' Ms. Richardson believed was incorrect. Ms. Richardson and Mark Parker believed the gutter system only had to be place on the new addition, not the showroom as well. Barbara asked the board if they agreed and if they would like her to amend the conditions of approval? Board members agreed with Ms. Richardson stating the gutters were for the addition only. Roger A. stated it was in the front of the addition only.

Roland L. noted the applicant, Mark Parker, had asked if he could remove the gutters at some point and the board stated they could not remove them, other members agreed.

Roger A. said the reasons for the gutter was to keep water from running down the driveway, to keep it on site. He said where the downspout is to be place, the area is not going to be paved, it is ground and will remain so.

Barbara F. stated she would make the correction and mail it to the applicant stating the gutter is for the front of the addition only.

Nothing further was discussed.

Barbara F. began by stating she started doing the shoreland zoning changes and gave a copy to members. Preliminary changes were made to Chapters §105-4; 105-15; 105-38; 105-39; 105-49; 105-51; 105-51.1; 105-51.2; 105-51.3; 105-51.4.

Barbara F. stated everything written in Bold is new (a change or addition) and sections that are crossed out are changes required by the State.

Barbara F. stated she began with the working copy from the State that had areas crossed out (removed) and then added the new text. Barbara stated that where there are places in the chapter that are referring to a specific location in the ordinance, she believed she referred back to the correct section but asked the members to review to see if she was correct. She noted there may be an area that has a blank after the word 'section' as she didn't address it yet. She noted that several of the documents presented this evening were begun earlier in the day and she hadn't had time to thoroughly review them, adding that she would like members to also be sure her typing was correct, i.e. look for spelling errors or typos.

Roger A. stated that after viewing the webinar by the State it appeared they were getting rid of addressing volume calculations for expansions. Barbara F. agreed. He believed it was now going to be strictly by size of the footprint. Diane S. stated it was footprint and height. CEO McDonough thought there would be a choice to use the new draft or keep what the town had. Barbara stated she didn't present an either / or, she just took what the State presented and put that draft into section 105-4 'Nonconformance'.

Barbara F. told the board members if they felt they would like to address non-conforming structures differently, please let her know and she'll make the necessary changes. She noted there was a change to the height of the structure allowed, based on the distance to the water, so the board may want to review that area carefully. CEO McDonough noted that the square footage allowed also changed with respect to distance to the water. Barbara agreed.

Barbara F. stated that on the last page of the section on definitions she presented the board with a list of definitions that the State had in their shoreland zoning ordinance that the Town of Shapleigh did not. She said she wasn't suggesting the board add them but if the board thought it would make the ordinance easier to interpret they may want to add them, such as the definition of 'disability' or 'disruption of shoreline integrity'. She also noted there were two definitions that were in Shapleigh's ordinance but differed from the definitions the State used, 'recreational vehicle' and 'replacement system'.

Barbara F. stated the two sections that the Town of Shapleigh currently does not have in their ordinance that the State is requiring, 'Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal' and 'Revegetation Requirements' she believed would help the board while reviewing applications, as both give a more detailed description of what is required by the applicant with respect to submission requirements. It should make it easier for the applicant and for the board to be more specific in what they need for the review process. She believed the State created a more standardized requirement.

Barbara F. stated she was talking with CEO McDonough earlier in the day asking his opinion regarding giving the applicant a copy of the Zoning Ordinance or Subdivision Ordinance, along with the application. She stated with all the new changes and additions it would be difficult to put all these changes into an application, it would make it many pages longer. She thought perhaps the application fees could be raised by \$20 to cover the costs of the ordinance and then the applicant would have detailed instructions on exactly what is required by the Town. She asked members what they thought?

Barbara F. noted that presently she does make copies of various sections of the ordinance for applicants and they often do not read it or say they didn't receive it. She said if a copy of the ordinance went along with the application the board would at least be certain they had the requirements in writing, and therefore, should know what to present to the board.

Ann H. asked, what if you give the applicant the option of getting a copy of the ordinance, noting sometimes people come in for multiple permits. She said, that gives the applicant the option of paying the extra \$20 for a copy of the ordinance. She said if they don't want a copy then it's their fault if they don't have the additional information to help with their application.

Roger A. stated very few people do multiple applications. He said a contractor might do multiple applications, if he were doing several best possible locations, but he didn't see another reason for multiple applications. CEO McDonough asked what the cost of best possible location was? Barbara stated \$125. Diane S. noted the other application is \$150 (Conditional Use Permit). Barbara thought most of the shoreland zoning changes were for best possible location. Diane stated that the board could raise the cost of best possible location to \$150 as well, and give the applicant a book. Roland L. asked if changing the fee required a special vote? Barbara stated it did and Roger would go to the meeting regarding fee schedules. The board thought it was a good idea to raise the cost of the application and give an ordinance book with it, as the applicant would then not have an excuse that they did not know what was required of them and it was up to them to read the ordinance. Diane hoped this would also cut down on plans that were inadequate.

Maggie M. added that if the information is given in the form of a book she thought it would be easier to find; it is less likely you lose the book over a piece of paper. Diane S. stated that they could refer back to it for other issues, she noted that she used the ordinance often with respect to shoreland zoning questions for her own personal use. She said it lets her know what she can and can't do with her property.

CEO McDonough reminded members that they could find the information on line. Barbara F. agreed but noted she couldn't get contractors to go on line to look up the information but they do come in and buy the book. She said she finds it easier to review the book for information than look it up on line in certain circumstances. She said the website is much easier to navigate now, than in the past, but she was still meeting with resistance and wanted there to be no excuse not to review the information. CEO McDonough noted that he preferred a book as well.

Barbara stated that this would not come in to play until next year, when the changes took place and were added to the ordinance but she wanted the board to consider the option. Ann H. asked about adding a page to the application to show them how to make a vegetation plan. Roger noted that they don't use the description for what the board wants now. Diane S. agreed, the example given now didn't seem to help, so adding another example probably would not either. Barbara stated she has given them examples of very good examples that the State had given out and they still don't follow them very often.

Ann H. stated that if this is the case, perhaps the board should not accept the plan presented and tell them to redo it. CEO McDonough agreed. She said she hadn't been on the board long but thought if a plan isn't adequate, asking them to come back with an adequate plan would be what should be done. Diane S. agreed, stating sometimes it appears they took only minutes to draft a document with a pencil, crayon or magic marker on notebook paper and hand it to the board, putting little to no effort into it. Ann thought it also seemed that it insulted the board as well. Diane agreed. Maggie M. added that the board often gets a half hour into the discussion before they see the document isn't adequate, she believed the board should review it up front and state whether or not it was acceptable. CEO McDonough thought the board received the documents ahead of time now? Maggie said they did and it was nice to view before the meeting but she said often they do not receive the vegetation plan prior to the meeting.

Roger A. stated that by law if you designate you are missing a particular section, such as section 2, paragraph A, then that is the only thing they have to answer. If there is something else missing and the board notes it afterward, the applicant can state they do not have to do it, as the board didn't ask for it, they only asked for section 2, paragraph A. He believed by law the board would not have any choice if they asked for specifically one thing, so he thought you need to keep requirements more open ended.

Ann H. asked if the board could ask them to bring in specific documents? Roger A. stated yes, but don't be specific on what they need. Ann said if they need a vegetation plan, could you say something like, "After reviewing the application 'so far' you need a vegetation plan. Would that be leaving it open?"

Roger A. said when you go to classes you will find out the more you leave it open, the better off you are.

Roland L. asked, “Is this more or less restrictive than what we currently have?” Barbara F. asked if he was speaking of the new changes? Roland said, yes, and stated when he read it, it seemed like there were so many changes he couldn’t say. Barbara said she hadn’t reviewed it in detail yet, therefore she didn’t know. Roger A. thought in some areas it was more restrictive and in other areas more lenient. Roger also thought the State was trying to put timber harvesting back into the towns review process. Barbara didn’t think the town had to take it back? Roger said the State could ask for assistance down the road. Roger thought they might try to bring it back to the CEO.

Barbara F. stated she had not completed all the changes but has made progress.

Ann H. suggested the board add ‘bird’s eye view’ to the definition of footprint because people get confused with what the footprint actually is. Roger A. stated that when he reviewed the changes he thought the height changes were confusing, as they changed with distance to the water. Roland noted that square footage did as well. He believed it was consistent but wasn’t sure if it is more or less restrictive. Maggie M. thought it seemed the State was concerned with whatever you do near the lake, you don’t ruin everyone’s view behind you. Roland agreed.

Roland L., reviewing 105-4.D(b)(1) asked what the following meant, ‘The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater’. He asked if it was 15 feet greater than the existing structure? Maggie M. said, “No, ‘or the height of the existing, whichever is greater.’” CEO McDonough agreed stating it was not 15 more feet added to the existing. Maggie said if the structure is 14 feet they can go to 15 but they can’t go to 16. Diane S. stated they get cut off at 35 feet now because that is what the ordinance states now. Roland asked if it was 15 feet from the lowest grade? CEO McDonough stated if the board uses the same definition of building height, then yes.

Roger A. stated the biggest change will be for recording the plans. Roger said under 105-4.D(d) it states, ‘An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the registry of deeds, within 90 days of approval.’ Barbara F. stated that this is another reason the board needs to have a good plan, if it’s just a hand sketch it shouldn’t be recorded. Ann H. asked who checks on this. Barbara F. stated after they record it, they have to bring it back to the Planning Board showing that it has been recorded. Ann asked what happens if they don’t? Barbara said, then the plan is null and void. Ann asked if there would be a suspense file set up? CEO McDonough stated they would not get a permit from him until they record it. Barbara said most people act fast and return the documents back to her, for example with a division of land. She said the only time it doesn’t come back is if the person doesn’t want to follow thru with the land split. She said they are either in a hurry and do it right away or they go past the 90 days because they weren’t going to do it anyway.

Ann H. asked if this affects the mortgage? Diane S. said that wasn’t a planning board issue. CEO McDonough stated this was a recorded plan, not a change to the deed. Maggie M. added if the property transfers it doesn’t matter where the building is located or the vegetation plan. Roger A. agreed, he stated it was a method of tracking the 30% expansion. He said if someone has interest in the property, there now will be a way to see if the property has been expanded.

Roland L. asked what constitutes an approved plan? Is it the application and supporting documents? Roger A. stated it was an approved use. He said you bring in your plan and if it gets approved it’s an approved plan and that is the documentation. Roland asked if it was the approval letter drafted as well? Diane S. stated the letter goes along with the approved plan. Barbara F. stated that was a good question as to what that criteria

was.

Roland L. stated the plans are going to have to be much better than what we accept now. Barbara F. agreed, she believed this is what the State is looking for, a more consistent and better set of plans to review and approve. She said for the sake of the board members it will help the review process. As long as the homeowner knows up front it's part of the process, they will provide it. Diane S. thought it would be easier to enforce a plan as well. CEO McDonough agreed, stating they could review the plan on line at the registry.

Roland L. asked when this would take affect? Roger A. stated right after Town Meeting when it gets approved? Roland asked if this was 2016. Roger stated, yes. Roland asked if there would be public hearing before then? Barbara F. stated, "Absolutely, at least two."

Maggie M. stated where it talks about the approved plan, if revegetation isn't mentioned in that section, are they going to get by with just scribbling a plan on a napkin? Barbara F. stated you would go to the section on revegetation and that explains what is required. She noted that when reviewing an application the entire ordinance applies, not just one section. Maggie believed that was all the more reason for the applicant to have a copy of the ordinance.

Diane S. made a suggestion that one of the public hearings be held in August, so the people in Shapleigh just for the summer would be able to attend it. She said one of her neighbors was already concerned after hearing about the changes coming from the Square Pond Newsletter. Barbara F. stated that would be fine as long as the changes were ready. Roger A. stated the hardest part about that is they can hear it but they can't vote on it or do anything about it because it is mandated by the State. Diane agreed but said her neighbor's attitude was more along the lines of just wanting to be informed. Roger said it was great to have people that are interested.

Barbara F. noted that the copy of the section call 'Soils' was provided, not because there was a change to the section but because there was a change to where it is being placed in the ordinance due to the additions. That section of the ordinance remains the same.

Barbara F. asked if there are any questions, please write them down, because it would be easier for her to bring them to the DEP. Barbara stated these are change we have to make unless our ordinance is more strict. She thought some of the changes are great, as they require better plans to be presented.

CEO McDonough stated with respect to the changes, he will be reviewing them to note his concerns. He stated he already had a few concerns with the section on hazard trees. Barbara F. asked that he jot down any changes he thought would work and have them for a future review. Roland L. asked if in the area that it states 'stumps may not be removed', does grinding constitute removal? CEO McDonough stated, no. He said, "They could grind it and grade it?" CEO McDonough stated, "Yes."

Barbara F. noted that in the section for hazard trees the State wanted a tree at least 4 feet in height to replace a tree but she put 6 feet in height, as that is what the town asks for now. Maggie M. asked about the part that states 80% success after 5 years, did we have that before? CEO McDonough asked who was going to police that? Barbara thought it was odd. Diane S. stated CEO McDonough may need a tree assistant? She thought with all the new requirements, he may need an assistant.

Barbara F. stated she would continue to work on the changes. She reminded the board the DEP is open to suggestions, as long as the changes are as strict as what they have presented. Also, any changes or additions to the town ordinance have to be approved by the DEP, hopefully before town meeting, so no future changes will have to be made.

The following are the preliminary changes **in black or crossed out**:

§ 105-4. Nonconformance.

D. Nonconforming structures.

- (1) Expansions. **All new principal and accessory structures, excluding functionally water-dependent uses, must meet the water body, tributary stream, or wetland setback requirements contained in Section 105-18.** A nonconforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, ~~If such addition or expansion does not increase the nonconformity of the structure.~~ **if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs (a) and (b) below.**
 - (a) Expansion of any portion of a structure within 25 feet of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement.
 - (b) Notwithstanding paragraph (a), above, if a legally existing nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable municipal land use standards are met and the expansion is not prohibited in Section D(1).
 - (1) The maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.
- (c) All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as other applicable municipal land use standards are met and the expansion is not prohibited by Section D(1) or Section D(1)(a), above.
 - (1) For structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.
 - (2) For structures located less than 100 feet from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater. Any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section D(1)(b)(1) or Section D(1)(b)(2), above.
 - (3) In addition to the limitations in subparagraphs (1) and (2), for structures that are legally nonconforming due to their location within the Resource Protection District when located at less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal

high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section D(1)(b)(1) or Section D(1)(b)(2), above.

- (d) **An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the registry of deeds, within 90 days of approval. The recorded plan must show the existing and proposed footprint of the non-conforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zone boundary and evidence of approval by the municipal review authority.**
- (e) ~~If proposed addition or expansion of a nonconforming structure cannot meet the dimensional requirements of this chapter, a variance shall be applied for in accordance with the procedures set forth in this chapter. If any portion of a structure is less than the required setback from the normal high water line of a water body, or tributary stream, or the upland edge of a wetland, that portion of a structure shall not be expanded as measured in floor area or volume by 30% or more during the lifetime of the structure. If replacement structure conforms with the requirements of Section 105-4.D(5) and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date.~~
- (2) Patios, steps, decks. The addition of an open patio with no structures elevated above the ground level shall constitute the expansion of a nonconforming structure. The addition of steps shall not constitute the expansion of a nonconforming structure. But the addition of a deck does constitute the expansion of a nonconforming structure and must be in compliance with Subsection D(1).
- (3) Foundations.
 - (a) Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and the new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in Subsection D(7), Relocation, below.
 - (b) ~~If the completed foundation does not extend beyond the exterior dimensions of the structure; except for expansion in conformity with Subsection D(1) above, and the foundation does not cause the structure to be elevated by more than three additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.~~
- (4) Resumption. Discontinuance of the use of a legally existing nonconforming structure shall not constitute abandonment of the structure. Conforming use of the structure may be resumed at any time.
- (5) Removal, reconstruction or replacement.
 - (a) Any nonconforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed or damaged or destroyed regardless of the cause, by more than 50% of its Town-assessed value before such damage, destruction or removal, may be reconstructed or replaced, provided that a permit is obtained within one year of the date of said damage, destruction or removal and provided that such reconstruction or replacement must be in compliance with all water body, tributary stream or wetland setback requirements to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this chapter. In no case shall the structure be reconstructed or replaced so as to increase its nonconformity. If the reconstructed or replacement structure is less than the required setback is shall not be any larger than the original structure, except as allowed pursuant to Subsection D(1) above, as determined by the non-conforming ~~floor area and volume~~ **footprint** of the reconstructed or replaced structure at its new location. If the total amount of ~~floor area and volume~~ of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replaced in accordance with Section (D)(7)(b) below.
 - (b) Any nonconforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the Town-assessed value, or which is decaying, damaged or destroyed by 50% or less of the Town-assessed value of the structure, excluding normal

maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one year of such decay, damage or destruction or removal.

- (c) In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent, the Planning Board shall consider, in addition to the criteria in Subsection D(7) below, the physical condition and type of foundation present, if any.
- (6) Parking or loading space. A building or structure which is nonconforming as to the requirements for off-street parking space shall not be enlarged or altered to create additional dwelling units, or seats, as in the case of commercial, industrial, business or institutional or recreational buildings, or accommodations, unless off-street parking is provided for such addition, enlargement or alteration of the original buildings or structure, sufficient to satisfy the requirements of this chapter. A building which is nonconforming as to the requirements for off-street loading space shall not be enlarged or added to unless off-street spaces are provided sufficient to satisfy the requirements of this chapter for both the addition or enlargement and the original building or structure.
- (7) Relocation.
 - (a) A nonconforming structure may be relocated within the boundaries of the parcel on which the structure is located, provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of state law and the State of Maine Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more nonconforming.
 - (b) In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation **in accordance with Section D(7)**. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:
 - [1] Trees, woody vegetation and ground cover.
 - [a] Trees removed in order to relocate a structure must be replanted with at least one native tree, six feet in height, measured from the base of the trunk to the top of the tree, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.
 - [b] Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be established within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.
 - [2] Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.
 - (c) All approved plans shall require confirmation in writing by a licensed surveyor that the placement of the structure is correct per the specifications approved by the Planning Board.

§ 105-38. Individual private campsites not associated with campgrounds.

Individual private campsites not associated with campgrounds are allowed provided that the following conditions are met:

- A. One campsite per lot existing on the effective date of this chapter, or 30,000 square feet of lot area within the shoreland zone, whichever is less, may be permitted.
- B. When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.**

§ 105-39. Earth removal and filling for activities other than mineral exploration and extraction.

- D. Earthmoving in Shoreland District. Any filling, dredging or excavation of land above or below the normal high watermark, except earthmoving of less than 10 cubic yards which shall require a permit from the CEO (except as provided above) to ensure proper erosion and sedimentation, shall require a conditional use permit from the Planning Board.

- (1) When an excavation contractor will perform an activity that requires or results in more than one (1) cubic yard of soil disturbance, the person responsible for management of erosion and sedimentation control practices at the site must be certified in erosion control practices by the Maine Department of Environmental Protection. This person must be present at the site each day earthmoving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until erosion and sedimentation control measure have been installed, which will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion. The name and certification number of the person who will oversee the activity causing or resulting in soil disturbance shall be included on the permit application. This requirement does not apply to a person or firm engaged in agriculture or timber harvesting if best management practices or erosion and sedimentation control are used; and municipal, state and federal employees engaged in project associated with that employment.**

§ 105-49. Agriculture.

- A. All spreading of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the **former** Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).
- B. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the Shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
- C. Where soil is tilled, an untilled filter strip of natural vegetation shall be retained between the filled ground and the normal high-water elevation of the surface water areas protected by these districts. The average width of this strip shall vary according to the average slope of the land as follows:

Average Slope of Land Between Tilled Land and Normal High-Water Elevation Percent	Width of Strip Between Tilled Land and Normal High-Water Elevation (Feet Along Surface of the Ground)
0 to 4	50
5 to 9	70
10 to 14	90
15 and over	110

- D. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this chapter. NOTE: Assistance in preparing a Conservation Plan may be available through the local Soil and Water Conservation District office.
- E. Agricultural practices shall be conducted to minimize soil erosion, sedimentation, contamination and nutrient enrichments of ground- and surface waters.
- F. Agricultural practices not in conformance with these standards may be allowed by conditional use permit.
- G. There shall be no new tilling of soil within 100 feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within 75 feet, horizontal distance, from other water bodies; nor within 25 feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this chapter and not in conformance with this provision may be maintained.
- H. Newly established livestock grazing areas shall not be permitted within 100 feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within 75 feet, horizontal distance, of other water bodies, nor within 25 feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities and which is not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan **that has been filed with the planning board.**

§ 105-51.1. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal

- A. **Hazard trees in the Shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:**
 - (1) **Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least six (6) feet in height above ground level and no less than (2) inches in diameter. Stumps may not be removed.**
 - (2) **Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet,**
 - (3) **whichever is greater, replacement with native trees species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above ground level. If new growth is not present, then replacement trees shall consist of native species and be at least six (6) feet in height above ground level and no less than (2) inches in diameter.**
 - (4) **The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.**
 - (5) **The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the Shoreland zone.**
 - (6) **The Code Enforcement Officer may require more than a one-for-one replacement for hazard trees removed that exceed eight (8) inches in diameter measured at four and one half (4.5) feet above the ground level.**
- B. **Storm-damaged trees in the Shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:**

- (a) Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:
 - (1) The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
 - (2) Stumps from the storm-damaged trees may not be removed;
 - (3) Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and
 - (4) If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eight (80) square feet of lost canopy.
- (b) Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the Shoreland zone or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

§ 105-51. Clearing or Removal of Vegetation for Activities Other than Timber Harvesting.

- A. In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove ~~safety hazards.~~ hazard trees as described in Section **105-51.1**. Elsewhere, in any Resource Protection District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.
- B. Buffer strips of vegetation.
 - (1) Except in areas as described in Subsection A, above, ~~and except to allow for the development of permitted uses,~~ within a strip of land extending 100 feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA, or a river flowing to a great pond classified GPA, **and or within a strip extending** 75 feet, horizontal distance, from any other water body, tributary stream or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:
 - (a) There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a **single** footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed **for accessing the shoreline** provided that a cleared line of sight to the water through the buffer strip is not created.
 - (b) Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of this section, a “well-distributed stand of trees” adjacent to a great pond classified GPA, or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 12 or more in any twenty-five-foot-by-twenty-five-foot square (625 square feet) area as determined by the following rating system:

Diameter of Tree at 4 1/2 Feet Above Ground Level (inches)		Points
2 to 4		1
greater than 4 to 12		2
greater than to 12		4

- [1] Adjacent to other water bodies, tributary streams and wetlands, a “well-distributed stand of trees” is defined as maintaining a minimum rating score of eight per twenty-five-foot-by-twenty-five-foot square area.

[2] The following shall govern in applying this point system:

- (i) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this chapter;
- (ii) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this chapter;
- (iii) Where conditions permit, no more than 50% of the points on any twenty-five-foot by twenty-five-foot square area may consist of trees greater than 12 inches in diameter.

[3] For the purposes of Section 105-51(B)(1)(b) “other natural vegetation” is defined as retaining existing vegetation under three feet in height and other ground cover and retaining at least three (3) saplings less than two (2) inches in diameter at 4 1/2 feet above ground level for each twenty-five-foot by twenty-five-foot square area. If three saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until three (3) saplings have been recruited into the plot.

[4] Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period.

(c) In order to protect water quality and wildlife habitat, existing vegetation under three feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Subsections B(1) and B(1)(a) above.

(d) Pruning of tree branches on the bottom 1/3 of the tree is allowed.

(e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, ~~diseased, unsafe or dead~~ **or hazard** trees results in the creation of cleared openings, these openings shall be replanted with native tree species in accordance with Subsection B(1), below, unless existing new tree growth is present.

(f) When trees are required to be replanted for the purpose of maintaining a point system they must be a minimum of six feet in height, measured from the base of the trunk to the top of the tree.

(g) In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside the shoreline buffer, must comply with the requirements of Subsection B(1).

(2) The provisions contained in Subsection B(1) above shall not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

§105-51.2. Exemptions to Clearing and Vegetation Removal Requirements

A. The following activities are exempt from the clearing and vegetation removal standards set forth in Section 105-51, provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

- (1) The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Section 105-51 apply;**
- (2) The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of Section 105-18 are not applicable;**
- (3) The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;**

- (4) The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of Section 105-49 are complied with;
- (5) The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A. section 343-E, and that is located along:
 - (a) A coastal wetland; or
 - (b) A river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A. section 465-A.
- (6) The removal of non-native invasive vegetation species, provided the following minimum requirements are met:
 - (a) If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;
 - (b) Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and
 - (c) If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.
- (7) The removal of vegetation associated with emergency response activities conducted by the Department, The U.S. Environmental Agency, the U.S. Coast Guard, and their agents.

§ 105-51.3. Revegetation Requirements.

- A. When revegetation is required in response to violations of the vegetation standards set forth in Section 105-51, to address the removal of non-native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.
 - (1) The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be remove, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.
 - (2) Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed:
 - (3) If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.
 - (4) Revegetation activities must meet the following requirements for trees and saplings:
 - (a) All trees and saplings removed must be replaced with native noninvasive species;

- (b) Replacement vegetation must at a minimum consist of saplings;
 - (c) If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;
 - (d) No one species shall make up 50% or more of the number of trees and saplings planted;
 - (e) If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or saplings must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and
 - (f) A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) years period.
- (5) Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:
- (a) All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;
 - (b) Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
 - (c) If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;
 - (d) No one species shall make up 50% or more of the number of planted woody vegetation plants; and
 - (e) Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.
- (6) Revegetation activities must meet the following requirements for ground vegetation and ground cover:
- (a) All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
 - (b) Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and
 - (c) Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.

Nothing further was discussed.

OTHER:

Growth Permits:

Map 21, Lot 36 (77 24th Street) – Seasonal Conversion – GP #7-15

This is an approved Best Possible Location.

Map 5, Lot 20-9 (White Tail Lane) – New Home – GP #8-15

This is in an approved subdivision.

Map 23, Lot 18 (25 Director's Lane) – Seasonal Conversion – GP #9-15
This is an approved Best Possible Location.

The Planning Board meeting ended at 8:25 p.m.
The next meeting will be held Tuesday, June 23rd at 7:30 p.m.

Respectfully,
Barbara Felong
Land Use Secretary
planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday June 23, 2015

Members in attendance: Roger Allaire (Chairman), Maggie Moody (Vice Chair), Madge Baker, Diane Srebnick, Alternate Ann Harris, as well as Barbara Felong (Secretary). Code Enforcement Officer Steven McDonough was also in attendance. Note: Roland Legere and Steve Foglio were unable to attend.

Due to the absence of Roland Legere, Chairman Allaire stated Ann Harris was an acting member this evening.

The following words are not verbatim unless accompanied by quotation marks “ ”

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

The minutes were accepted as read. Note: The minutes were initially tabled for discussion until after the review of the Best Possible Location presented by Mr. & Mrs. Estochen.

Best Possible Location – Replace Existing Home – Review Re-vegetation Plan – Map 28, Lot 28 (16 17th Street) – Eric & Theresa Estochen

Mr. and Mrs. Estochen were present for the review of the re-vegetation plan.

The following is the Findings of Facts and conditions of approval for the application presented, which was acted on by the board on Tuesday, April 28, 2015.

Findings of Facts

1. The Owners of Shapleigh Tax Map 28, Lot 28 (16 17th Street) are Eric & Theresa Estochen of 44 Steinbeck Street, Tyngsboro, MA 01879.
2. The property is located in the Shoreland District and according to the Assessor's office contains .50 acres. The survey done by LinePro Land Surveying, Joseph Stanley, MPLS #2453, states the property is 20,327 square feet in size.
3. The existing non-conforming structure sets wholly within 100 feet of the high water mark.
4. The applicants provided a site plan done by Surveyor Joseph Stanley of LinePro Land Surveying, of Shapleigh, Maine, which depicted the existing building, porch, concrete deck, walkway, retaining walls and stairs in relation to the 100 foot setback and current septic system location. Also on the plan were the site elevations and existing storage building.
5. The applicants provided a site plan depicting the size of the existing structure moved back and the approximate location of the existing septic system. The 100 foot setback was depicted on the plan along with the 20 foot mark to the septic system location.
6. The applicants provided a planting schedule which included the location of the proposed structure and deck, proposed retaining wall, existing retaining walls, proposed 14' x 24' garage, existing storage building, approximate location of the septic system and site elevations.
7. On file with the Code Enforcement Office is a copy of the Subsurface Wastewater Disposal System Application done by Kenneth Gardner, SE #73, dated 4/28/1997.
8. A notice was mailed to all abutters within 500 feet of the property, Wednesday, April 15, 2015.

9. A site inspection was conducted on April 28, 2015, prior to the planning board meeting.
10. The board unanimously agreed to approve the Best Possible Location to move the existing structure as depicted on the plan by Joseph Stanley, dated January 2, 2015, back to 20 feet from the existing leach field envelope.

11. The conditions of the permit are as follows:

- 1. The applicant shall return to the Planning Board for approval of the revegetation plan prior to construction.**
- 2. Best Management Practices shall be used and the work is to be done by a person certified by the DEP. The BMP shall be kept in place until all work is completed.**
- 3. The applicant shall file a DEP Permit by Rule for the removal of the existing structure.**
- 4. All construction materials shall be disposed of out of Shapleigh.**
- 5. The approved plan shall be confirmed in writing by a licensed surveyor that the placement of the structure is correct per the specifications approved by the Planning Board.**

Roger A. stated the board would review the re-vegetation plan presented.

Madge B. asked if the applicants had applied for the DEP Permit by Rule? Mr. Estochen stated he had not. He wasn't sure how it worked and thought he had to do it just before he began the project. Roger A. said the permits were good for two years, so they could apply for the permit now. Roger said it was a 14 day window that once you apply for one, if you don't hear from them within 14 days then you are good to move forward with the project. Madge thought it would make sense to get the permit now because the CEO would require the permit before issuing a building permit. Mr. Estochen stated they were still in the design phase.

Madge B. stated she was curious as to whether or not the process made sense to send the applicants to the CEO to work out the new building, because the planning board only worked with the new location of the old building. She said then they had the applicants get a planting plan and come back before the board. Madge asked if it worked? CEO McDonough said, yes. Madge asked how it could work better? CEO McDonough stated that the applicants were exceptionally patient with the board and this was the first time the board tried this system. Madge agreed but said they needed a system that worked for both the board and the applicants. CEO McDonough stated he was not sure why they had to come to him then back to the board. He believed the applicants could have given the board the planting schedule from the beginning. Madge said the issue was that the board's job was to move the existing building back, then they had to work out what they wanted to replace the old building with. She said the reason she believed CEO McDonough was involved was to help make sure they reconfigured the property correctly. CEO McDonough stated that once the board moves the structure the applicant has a new set of parameters to work with. Madge asked CEO McDonough if the applicants had to go to him at this point, she asked him if this worked better? CEO McDonough believed they could have produced a replanting plan before they came to him. Mr. Estochen agreed. Ann H. said that the board didn't have a plan initially and at the site visit there were a couple of trees in question.

Madge said, "OK we could have said, forget about Steve (CEO McDonough), just come back?" CEO McDonough said, "You could have said, we moved your existing structure, give us a good replanting schedule, then go see Steve." Madge asked if that would have work better for them and for CEO McDonough? CEO McDonough said this process wasn't an issue for him but it made the applicants go back and forth quite abit. Ann H. said that that is what they were trying to avoid. CEO McDonough agreed and said it worked out this time because the applicants were patient but he thought they should try to streamline it. He felt the board could have gotten a planting plan without having them go to him and then back to the board again. Madge asked if even with the change in the house configuration, it would have been ok? CEO McDonough asked the applicants if they had a final plan yet and they said they did not.

The board thanked the applicants for their patience and CEO McDonough asked if he could talk further. Mr. and Mrs. Estochen said, “Go ahead.” CEO McDonough thanked them. CEO McDonough said that they could have produced this without the step to go to him but the reason the plan was done correctly is because they were sent to him. He said it doesn’t have to be that way, however. He spoke about an application the board approved a year ago came to him today for an occupancy permit. He asked the builder for the revegetation plan and had several times during the construction process. He noted the area was all sand and he said whenever you do new construction most of the lot vegetation gets destroyed due to the new construction, including the septic system. He said replanting is therefore very important. So during this particular job he said he was getting nervous that nothing was going to be done with respect to restoration. He said during the final inspection his only leverage was the replanting plan the board approved. The builder brought in the replanting plan which stated that he only had to replant 3 trees. He showed the board the plan they had approved and on the plan it noted that 3 trees had to be replaced and several bushes next to the house. No other area was addressed on the approval. CEO McDonough reiterated how important it was to get a quality plan. He said the board should not be accepting plans as the one he showed them. The board members agreed. Madge thanked CEO McDonough for the example of what they were doing wrong. CEO McDonough stated the board needed a plan as presented this evening. And he said again the board needs to address the ‘entire’ lot, as the area around the new construction will be all gravel at one point. CEO McDonough believed the board needed something professional, like the applicants provided this evening.

Mr. Estochen noted that had they been under a time constraint, the process may have been more stressful but they were not. He said they had planned it out, because they believed it would take time. He also stated that CEO McDonough was extremely helpful during the entire process which made it easier for them. Madge B. said, “He knows his stuff.” There were no other comments.

Madge B. moved for acceptance of the revegetation plan as presented this evening, as required under conditions of permit, number 1. This plan satisfied condition number 1 of the approval, dated April 28, 2015, for the best possible location to replace the existing structure on Map 28, Lot 28. Maggie M. 2nd the motion. All members were in favor. Motion passed unanimously, 5 – 0.

Roger A. reminded the Estochen’s that they would need DEP approval and the plan needed to be confirmed by a licensed surveyor the structure placement is correct. Mr. Estochen noted that he was aware as this was in the approval letter they received.

The board and CEO McDonough thanked Mr. and Mrs. Estochen again for their time and patience. Nothing further was discussed.

OTHER:

Board members discussed possibly using the re-vegetation plan given this evening as an example to people on what the board will require of applicants in the future. It was noted any specific reference to the applicants should be removed such as street location. Barbara F. had no issue with giving out the information. CEO McDonough noted a lot of the information was generic but page 2 was specific and he could work with this. Madge also liked that the soils were referenced on the first plan, she noted the board was supposed to have soils information for the record. Barbara will make a copy of this to attach to the applications.

CEO McDonough noted again that the board needs to address the entire lot, not just the square that represents the structure. Roger A. stated the board usually asks that the area be mulched. Steve said that was fine but it needs to be put on the plan as a requirement, the *entire area* that is disturbed.

Diane S. spoke of a replacement structure on Square Pond that the board only required mulch be placed and she thought the area was a disaster with no vegetation whatsoever on the lot. Ann H. asked if mulch was a native plant. Roger A. said it was erosion control. Madge B. agreed and said it wasn't a plant. CEO McDonough said mulch was great erosion control but more is required on the plan. The disturbed and undisturbed areas need to be put on the plan. Ann said what he was asking for was something he could use when he inspected the area. CEO McDonough agreed, stating he needed a detailed plan to follow.

Madge B. wanted to go back to the minutes at this time. Madge said one of the topics brought up in the minutes was whether or not the board should hand out a copy of the Ordinance along with the application and she agreed with both increasing the cost of the application and including a copy of the Ordinance. CEO McDonough asked if that was for everything being applied for? The board felt it should be part of all applications. Madge noted that only giving out certain sections wasn't adequate because other sections of the Ordinance may apply in certain situations.

Maggie M asked about the case where a contractor may be before the board several times in a month for different applications. Should they be required to get a copy of the Ordinance for each? Diane S. stated the Ordinance was actually for the homeowner they were working for. She added that the contractor wasn't technically paying for the permit, it was the homeowner, and therefore the Ordinance belongs to them. Roger A. stated that the Ordinance would also assist the contractor, it shows the homeowner why the contractor has to do things in a particular manner.

Barbara F. asked if this was for Conditional Use Permits as well, giving out the Ordinance? The board stated yes, it was for all permits.

Roger A. stated that any fee increase would not be done until the committee meeting is held with the Selectmen regarding fee increases.

Madge B. stated another area she wanted to discuss was the paragraph at the bottom of page 3 of the minutes which stated: *Roger A. stated that by law if you designate you are missing a particular section, such as section 2, paragraph A, then that is the only thing they have to answer. If there is something else missing and the board notes it afterward, the applicant can state they do not have to do it, as the board didn't ask for it, they only asked for section 2, paragraph A. He believed by law the board would not have any choice if they asked for specifically one thing, so he thought you need to keep requirements more open ended.* Madge said at first she was confused about the statement but after re-reading it she thinks the point is you can't ask 'later' which is true. She said you can't keep changing your mind. She said in light of this, she reviewed the checklist which is handed out with the applications and she believed the board was still not following the checklist. She asked why the board couldn't begin the review of the application with the checklist? Ann H. didn't think everything was on the checklist. Madge said, "Right, but at least a lot is there." Ann asked if more stuff could be put on the checklist. Madge said, yes, but she believed if the board followed the existing checklist they would be close, and she wouldn't worry about anything not on it. She asked the board if they would start a habit of every time they reviewed an application for a best possible location, if they would use the checklist on the first night of review. Barbara F. said on occasion a contractor will use the checklist and those plans are much better to review, they are more accurate and have the information that is required.

Madge B. thought the checklist was a crib sheet for the board and it reminds the board of what needs to be reviewed. Ann H. asked if they fill it out if it becomes part of their file. (All information presented becomes part of their file at this time.)

Madge B. stated the board needed to be more consistent with the review process. CEO McDonough agreed but did note he felt the checklist was more for the board to use than the applicant because often the applicant doesn't understand what is required. He said the board reviews the Ordinance all the time but to the applicant, they feel they need to go to a meeting to see what they need to do.

Board members agreed reviewing the checklist would be helpful for future reviews.

Roger A. noted the board received a copy of a letter, dated June 9, 2015, from Alice Meader (Map 3, Lot 6), which was for information only. Roger said it was nothing for the board to act upon. The letter read as follows:

To Whom It May Concern:

My neighbors, Marc and Cara Boisse have informed me that they plan to increase parking at their place of business. They want to know if it would be okay to "cut the bushes on your property" to increase parking for them. They told me I need to let them know if it is okay to cut by today. I will need to contact my attorney if they start to use my property for their personal use. Be aware that I am not allowing them to use my property for their business. Thank you. Sincerely, Alice E. Meader

Ann H. stated she drove by the property and noted where the docks were placed near a small bench. She said if you pull in to look at the docks there is hardly any parking. She saw in the back behind the house there was sand and an excavator digging an area up. She asked where Ms. Meader was located. Maggie M. said she had the big field to the right when facing the Boisse' property. Ann said the digging is on the left. Maggie thought the original plan was to put any docks behind the barn. Ann believed the board asked if the docks would affect the parking and they said it would not. Roger A. agreed, stating they said nothing would be in the way of the parking. Ann asked if this letter was a complaint? Diane S. thought so. Barbara F. said it was just for information because this isn't anything the Town has to deal with, if there is an issue it is a civil matter. Madge B. agreed the board had nothing to do with this.

Diane S. asked about the person having a yard sale daily across the street from Partners. She said they even had an open sign. She believed it had become a business and she did not recall them coming in for a permit. She wanted everyone aware of this if they were not. CEO McDonough knew of the location and would look into it. Maggie M. thought there was a 3 day limit on yard sales. CEO McDonough agreed. Maggie noted there was also a camper there, perhaps they were staying there as well? Diane asked if the Planning Board should send a letter. Madge B. said this had nothing to do with the Planning Board, only Code Enforcement had the authority to do something about this.

Barbara F. stated the minutes were revised based on some suggestions by Madge prior to the meeting so that is why members had a new copy of the minutes. She said also they had another revision to §105-51.1 'Hazard Trees, Storm-Damaged Trees and Dead Tree Removal' and §105-51.3 'Revegetation Requirements', both had changes made by CEO McDonough after his review.* She asked members to look at his changes and give their opinion about the changes. Also if they had any questions to ask CEO McDonough why he made the changes.

Madge B. also wanted to mention Diane's suggestion about holding a Public Hearing on the Ordinance changes in August. Madge stated that the board could hold an informational meeting in August, so it would not matter if the changes were completed or not. She thought it would be a good idea. Barbara F. asked if this could be done at a regular meeting? Madge said, "We could." Barbara said she could post notices as she did for a Public Hearing, in the local businesses and in the newspaper. Diane did say many of the people who come for the summer are not here on Tuesdays. Barbara stated that she didn't think the board was going to meet on the weekend to accommodate them. Diane agreed. It was agreed that at one of the meetings in August the board would hold an informational meeting on the State's Shoreland Zoning changes.

Nothing further was discussed.

OTHER:

Growth Permits: *There are growth permits available.*

**Copies of preliminary ordinance changes can be obtained from the Land Use Secretary during normal town hall hours.*

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

The next meeting will be held Tuesday, July 14th at 7:30 p.m.

Respectfully,
Barbara Felong
Land Use Secretary
planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday July 14, 2015

Members in attendance: Roger Allaire (Chairman), Maggie Moody (Vice Chair), Diane Srebnick, Alternates Ann Harris and Steve Foglio, as well as Barbara Felong (Secretary). Code Enforcement Officer Steven McDonough was also in attendance. Note: Madge Baker was unable to attend.

The following words are not verbatim unless accompanied by quotation marks “ ”

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

The minutes were accepted as read.

Conditional Use Permit – Mineral Extraction – Part of Map 5, Lot 44 (Goose Pond Road) – Gloria & Frank Clark II, Applicants. Mr. & Mrs. Clark were present for the review of their application.

The Conditional Use Permit application for Map 5, Portion of Lot 44 stated, ‘After loam / stump removal, mineral extraction. Materials on-site to be excavated to elevation 530 and trucked off-site. This is to occur in 5 acre increments, so that no more than 5 acres are ‘active’ or up to 10 acres are opened / cleared.’ There would also be a 12’ x 20’ utility building placed on site.

Also provided were the following:

- A copy of the deed showing ownership, dated June 24, 2015; the description of the 20 acres to be affected by the mineral extraction operation;
- An authorization form stated James Logan of Albert Frick Associates could act as an agent in obtaining permits for the proposed activities with both the Shapleigh Planning Board and the Maine Dept. of Environmental Protection;
- A site location plan;
- A list of abutters;
- A copy of the Dept. of Environmental Protection Notice of Intent to Comply Performance Standards for Excavations for Borrow, Clay, Topsoil or Silt; a letter from John Perry of the Maine Dept. of Inland Fisheries & Wildlife, dated March 20, 2015, stating in part there are no locations of Endangered, Threatened, or Special Concern Species within the project area;
- A copy of the Environmental Review of Fish and Wildlife Observations and Priority Habitats for the proposed area of extraction;
- The Proposed Gravel Extraction Site Closure Plan done by Albert Frick Associates, Inc., Environmental Consultants;
- A Memorandum from George Chobanian, of Civil Consultants, listing 14 test pits that were done on the property, along with a map showing the test pit locations, which calculated there being 330,000 cubic yards of material over a 13 acre +/- area which excavate only to the lower point of existing ground;
- Estimate from Levesque Excavation of Sanford, Maine, dated 7/13/2015, which stated the cost to reclaim five acres, including spreading of on-site topsoil and seeding would be \$15,000.;

Continued

- A letter and data provided to Thomas Harmon, P.E. of Civil Consultants, Inc., from R.W. Gillespie & Associates, Inc. which states in part that ‘Although some of the samples do not meet gradation requirements of selected Standard Specifications, it appears that with screening and/or mixing more of the Standard Specifications could be met.’;
- Summary of the Laboratory Testing Program – Test Pits Proposed Sand and Gravel Pit, including the Particle Size Distribution Report;
- and the site plan entitled Proposed Mineral Extraction Site Plan, prepared for Frank Clark, Goose Pond Road (Map 5, Lot 44), Shapleigh, Maine, dated 1/27/15, drafted by Albert Frick Associates, Inc., Environmental Consultants, Gorham, Maine.

Roger A. began by asking Mr. & Mrs. Clark to state why they were before the board.

Mr. Clark began by stating he owned property on Goose Pond Road and it had been wooded for years and recently has been logged off, as people have probably seen. He said there were a lot of hills on the property and they would like to flatten some of them out and they would like to see grass, possibly some fruit trees or agriculture in the future. He said part of this entails taking out some of the hills to flatten it, as well as put some of that money toward what they would like to do in the future and to help pay the taxes. He stated, “We do not want to make a hole, it does say gravel extraction but we don’t want a gravel pit like there is in South Sanford or behind Agway. We would like to level the ground and there is quite a detailed map showing how far we are going.” He said, “It will be sloped, there would be erosion control, it will be reseeded after every five acres before we start another five acres.” He asked if the board had any questions?

Roger A. asked where the material would be going? Mr. Clark stated he did not have a buyer at this time but they have been talking to some buyers. Roger asked if it would be staying in Shapleigh? Mr. Clark didn’t know, he said it would depend if there was a need in Shapleigh, he was open to that, it would be a 20 acre site. Roger wanted Mr. Clark aware that if anyone accepted the gravel in Shapleigh, depending on the number of yards, they may need to come before the Planning Board to get a Conditional Use Permit to accept it. Mr. Clark said, “To accept it, ok.” Mr. Clark asked if Acton needed a permit. Roger said he did not know, that was not this board’s issue.

Mr. Clark said that his property abutted several roads. He noted that twice a year Shapleigh grades their roads, Acton does not, so he would be willing to offer gravel to people in Acton if they need it to repair their roads privately.

Mr. Clark asked if someone were to need a permit to accept gravel in Shapleigh, would the process be the same, a minimum of two meetings before the board? Roger A. stated yes, anytime there is a Conditional Use it takes a minimum of two meetings in order for the board to notify abutters. He said at times it takes more than two meetings.

Roger A. stated he noticed the first five acre site was in the front, he asked if there would be a road going in for the second five acres? Mr. Clark stated there would be a dirt access road only, coming along the edge of the excavation site. Mr. Clark said he originally was going to start in the back and work toward the front but you would need a road to do that. Roger asked if the gravel road would be reclaimed at a later date? Mr. Clark stated he would like to have an access road on site. He said if the town needed the road reclaimed he would do that.

Roger A. asked if the depth would be no lower than 530 feet on any sections? Mr. Clark stated, “Right.” He said there were one or two existing spots that are lower now but that is being used as the drainage area. He said they would not be ‘digging any lower than the depth you mentioned’.

Roger A. asked if the stumps would be left until they decomposed? Mr. Clark stated he planned on hiring Simpsons drum grinder and using it to help reclaim the property or possibly selling some of the stump grindings. He thought Simpson's may take the material for payment but the stumps would not stay on site. Mr. Clark stated that he realized he could bury the stumps on site but he didn't like that idea because they eventually rot. He said they would be removed in some manner.

Roger A. asked if there were any other questions? Diane S. asked how heavy the dump trucks weighed when loaded with gravel? Ann H. stated it depended on the size of the truck. Diane noted that the road is posted with a 27 ton weight limit. Ann asked if it is year round? Diane said she did not know. Nick Clark, Frank Clark's son, stated they were under that loaded. Diane said, 'OK.'

Ann H. asked if they were doing five acres, then reseeding it, then going to the next five acres? Mr. Clark stated, "That is correct." CEO McDonough asked Mr. Clark if they spoke with the DEP? Mr. Clark stated they had, the permit is in process and to date the DEP has not stated the project is causing them concern.

Ann H. asked if the board had to set a time limit for reseeding? Roger A. stated the permit was valid for 3 years only. He said the reseeding depended on how quickly the area is excavated. Barbara F. noted they have to check in with the town every three years. Ann asked if there was a time frame for putting the loam back and reseeding? Roger said, "No, as long as it is in process."

Roger A. asked Mr. Clark if he realized the permit would only be good for 3 years, then it would need to be renewed if the project was not complete? Mr. Clark said yes, but he hoped that process would not be quite as lengthy. Roger said it was not, the engineering has been done.

Roger A. said with respect to the clearing of the trees and brush, would it be cleared all at once or 5 acres at a time? Mr. Clark stated it depended on who they used. He thought they would want to clear half of it for an area for gravel piles and screening. He said once they get their permits they would shop the gravel out. He stated they were not here to make an ugly area, he wanted it to look nice. He said again he wanted rolling fields or fruit trees or both.

Roger A. asked if they were going to put up cash for the reclamation or would it be a bond? Mr. Clark was not sure at this time, he had to look into his options. Mr. Clark asked if he could get a line of credit? He also thought the buyer might be able to put up a bond. Roger stated that the board needed something that would be valid for three years, so if the area was not completed, the town could exercise the right to reclaim it. Mr. Clark asked, what if the site was not totally done in three years? Roger said you would just have to renew the permit. Mr. Clark stated he did not want the site open for 10 years, he was hoping for three years but he was not sure. CEO McDonough asked if he looked into getting a bond? Mr. Clark stated he had not. CEO McDonough and Ann H. stated they did not think it would be difficult to get a surety bond. Ann stated he could contact whomever he had for insurance, or have the person doing the extraction get a surety bond to cover him. She stated the bonds were not expensive and he could get a bond for every five acres. She said several companies do surety bonds. Roger noted it had to last for the life of the permit.

CEO McDonough asked if Mr. Clark had any idea what it would cost to reclaim five acres? Mr. Clark stated roughly \$15,000 (he had provided an estimate from Levesque Excavation, dated 7/13/2015 stating the cost to reclaim 5 acres would be \$15,000 including spreading on site topsoil & seeding).

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

Roger A. stated a public hearing will be held on Tuesday, July 28th at 7:00 p.m. Prior to that will be a site inspection at 6:00 p.m. and a notice to abutters shall be mailed.

Barbara F. asked if the site was flagged? Mr. Clark stated that the entire area was flagged by someone from Al Frick and Associates. He stated he didn't see the guy do it but he was told by the gentlemen that he used 4 rolls of tape flagging the area. Mr. Clark stated the road onto Goose Pond Road was marked as well.

Nothing further was discussed.

Best Possible Location – Replace Existing Shed – Map 34, Lot 22 (174 Cedar Drive) – Philip Lemay, Applicant; Deborah Taranto, Property Owner Mr. Lemay and Ms. Taranto were present for review of the application.

The Best Possible Location application for Map 34, Lot 22 stated, 'Demo old shed and replace with new. Existing not repairable'. Presented along with the application were the following:

- A sketch depicting the existing structures on site; a house, garage and shed. Distance from the shed to the water is shown as 24 feet; distance from the shed to the house is 69 feet ±; distance from the shed to the garage is 38 feet ±, distance to a property marker, 35 feet. Two large trees near the existing shed were also depicted along with a notation for 'lawn', 'driveway', 'slope & trees'. The existing structure is 214 square feet in size, not including rake or soffit overhangs.
- A second sketch was presented which depicted the house, garage and 'proposed' shed. In this sketch it showed the distance to the water to be 30 feet ±; distance to the house 63 feet ±, to the garage 32 feet ±, to the property marker 41 feet. Two large trees near the proposed shed were also depicted along with a notation for 'lawn', 'driveway', & 'slope'. The proposed footprint of the structure will be 216 square feet, this measurement does not include rake or soffit overhangs.

Roger A. asked the applicants to briefly explain why they were before the board. Mr. Lemay stated that currently there is an oddly shaped structure that at one time was used for boat storage. He said it was poorly constructed and is now in complete disrepair, and there was nothing he could do to repair it. He said they wanted to have it torn down, they would put up silt fence for erosion control and would do whatever was necessary around the structure. He would be using Caleb Chessie and Caleb knew what was required with respect to Shoreland zoning. He said they would tear down the existing structure and also replace the concrete slab that exists, as it is all heaved up and cracked and the new structure would be square instead of the odd shape of the existing. He explained the new structure would be wider than the existing by two feet but shorter in length by 2 feet. The new structure would be moved away from the lake six feet farther from the existing location.

CEO McDonough asked if the square footage of the new structure was the same as the existing. Mr. Lemay stated that the new structure would be 2 square feet larger. Mr. Lemay stated that if he had to reduce the size by the two feet he could do so.

Roger A. asked if the materials from the existing structure would be removed from site? Mr. Lemay stated, "Yes". Roger asked where they would go, noting they could not be taken to the transfer station. Mr. Lemay said he did not know where Caleb would be taking the material. Roger said he would need to know where the material would be taken.

Roger A. said if the plan is approved, the area where the building is going to sit on the face of the earth, has to be surveyed. Roger said that because the plan states the structure is 30 feet from the lake and 41 feet from the property marker, if this is approved, the structure will have to be in that 'exact' location. He said if

during construction there is a discrepancy, they would have to come back before the board for approval of the new location. Steve F. asked the applicants if they had an existing survey of the property? Ms. Taranto stated she has survey markers on the property. Steve stated that it would be cheaper to use the surveyor that already did the property, for this application, because it would be cheaper.

Roger A. stated the board needed a landscaping plan for all the disturbed soils, what will be put in after the project is completed. Steve F. asked what was there at this time? Mr. Lemay stated, 'Just gravel'. Ms. Taranto said there was some grass. Mr. Lemay stated they might have to bring a few yards of gravel for the area where the concrete will be removed. He said looking at the existing there is gravel on the right of the property and some grass on the left of the property, and some grass behind the existing shed. He said they planned on adding more grass seed in the areas that are disturbed.

Roger A. asked if any trees would need to be removed? Mr. Lemay stated, "No, actually the two trees that are there, by moving it forward, it avoided having to do anything." He said he didn't want to cut trees next to the water.

Roger A. asked if there were any additional questions or comments?

Ann H. asked if there would be gutters on the building? Mr. Lemay said, "No." He said the plan shows the dimension of the walls, it doesn't include the gable ends and the soffit side overhangs. It is walls only. Maggie M. asked since the plan doesn't include the overhangs, doesn't it count toward the square footage? Diane S. stated that was not up to the board, that is for CEO McDonough. The board is only supposed to look at the structure. Steve F. noted the surveyor will plot to the edge of the overhang.

Roger A. stated a site inspection will take place on July 28th at approximately 6:30 p.m. A notice to abutters shall be mailed as well.

Mr. Lemay stated he would speak with Caleb Chessie with respect to where the debris will go. Ann H. stated that a re-vegetation plan should be done. CEO McDonough added that how the exposed soil will be stabilized should also be on the plan.

Nothing further was discussed.

OTHER:

Roland L. asked Roger A. that he be recused from the Clark Conditional Use Permit application. Roger accepted.

Growth Permits: There are growth permits available.

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

The next meeting will be held Tuesday, July 28th, the Planning Board meets the 2nd and 4th Tuesday of each month unless it falls on a holiday or Election Day. Any scheduled public hearing takes place at 7:00 p.m. prior to the scheduled meeting.

Respectfully,
Barbara Felong
Land Use Secretary
planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday July 28, 2015

Members in attendance: Roger Allaire (Chairman), Maggie Moody (Vice Chair), Madge Baker, Roland Legere, Diane Srebnick, Alternates Ann Harris and Steve Foglio, as well as Barbara Felong (Secretary). Code Enforcement Officer Steven McDonough was also in attendance.

The following words are not verbatim unless accompanied by quotation marks “ ”

Public Hearing began at 7:10 p.m.

Conditional Use Permit – Mineral Extraction – Map 5, Part of Lot 44 (Goose Pond Road) – Gloria & Frank Clark II, Applicants. Mr. & Mrs. Clark were present for the public hearing.

The Conditional Use Permit application for Map 5, Portion of Lot 44 stated, ‘After loam / stump removal, mineral extraction. Materials on-site to be excavated to elevation 530 and trucked off-site. This is to occur in 5 acre increments, so that no more than 5 acres are ‘active’ or up to 10 acres are opened / cleared.’ There would also be a 12’ x 20’ utility building placed on site.

Roger A. opened the meeting, introduced himself as Chairman, asked audience members to speak through him to the applicant, and then he asked Mr. Clark to speak to the audience members about what he wanted to do. Mr. Clark began by stating, “OK, my name is Frank Clark, I own property on Goose Pond Road. My family has paid taxes on it for over 60 years. We would like to do some gravel extraction. We would like to level some of the property, reclaim it, grass it and maybe put some trees in and make it look better than it does now, instead of just having woods. Right now we have a lot of rolling hills, and to help pay for the taxes, we would like to sell some of the gravel.” He said again it would help pay taxes and level some of the property. He said they didn’t know what they would use it for, farming or something agricultural, they had several ideas and want to get to the point where they could use the property. He realized people didn’t like the idea of gravel extraction but this is what they want to do, so they can get to the point where they could use the property. He stated, “I had a civil engineer do a professional write-up on what we want to do. Everything is labeled. Any questions, fire away.”

Audience Member (A.M.) – “Can you talk about the process of extraction and timing?”

Mr. Clark – “The permit I understand is good for 3 years. I don’t want to tie the land up for 10 years and have something that looks like out back at Agway, I don’t want to do that. I’d like to have this 20 acre parcel reclaimed within the 3 years if possible. I’ve spoken with several buyers and they won’t even look at me until the current process has worked its way thru and I understand why now. I am three years deep in this and have spent quite a bit of money and it’s not an easy process to get a permit to do this.”

A.M. – So it’s a three year process, it will be constructed in three years?

Mr. Clark – Maybe sooner, I don’t know it depends on the company that I get.

CEO McDonough – He has said it took three years to get to this point.

Mr. Clark – Also, if I am allowed the permit, it is good for three years and then it has to be renewed, if the gravel is not gone in three years.

A.M. – The plan is for three years. The process of construction is exactly what?

Mr. Clark – I can't tell you exactly, I don't have a buyer yet. No one will look at it until I can get close to a permit. I would like to have it gone as soon as possible. I cannot promise an exact time.

A.M. – Buyer?

Mr. Clark – I had two fairly good sized companies walk the site.

A.M. – These are subcontractors?

Mr. Clark – Right, they will lease the site and take the gravel off and adhere to what we do here.

A.M. – Do we know what the elevation is to the surrounding lakes?

Mr. Clark – It is all on the map.

Roger A. – We know the elevation at the deepest point, he will be going down 18 feet.

A.M. – How does that compare to the elevation of the lakes?

Several others were talking amongst themselves and Roger A. asked that all questions be directed through the Chairman.

A.M. – You said something about 18 feet.

Roger A. – The depth of the actual excavation will be going down 18 feet at the deepest point. Some areas on site at the present time happen to be 550 feet at the highest point, so from there, at the back of the property there is a hill that goes up by 15th Street. That is the highest point and that is 550 feet. That is where the figure of 18 feet comes from. Other elevations are 520 feet.

A.M. – Do you have any idea of how many trucks would be going in and out of the area on a daily basis, the size of the trucks, the impact it will have on the road?

Roger A. – We don't know that at the present time. Impact on the road, all trucks will be going in and out of the site through Acton. He said as far as going over Goose Pond culvert, they will not be.

A.M. – What is the safe load on that bridge?

Roger A. – 27 Ton

A.M. – Do they anticipate blasting, dust?

Mr. Clark – “Blasting, absolutely not.”

A.M. – Will there be crushing of rocks?

Mr. Clark – There is a good chance they will be crushing rocks.

A.M. – When they were crushing rocks in the Pickerel Cove area, we could hear it all over.

A.M. – Will there be any impact to the wells in the area?

Roger A – At the present time, no.

A.M. – Will we be able to know that?

Roger A. – We would look at what the engineers have sent to the board and see if it complies with the provisions in the ordinance. If it complies with all the ordinance provisions, we cannot deny a permit.

A.M. – Can you explain the provisions?

Roger A. – We will go through Section 105-61 ‘Mineral exploration and extraction, processing, and removal, including sand and gravel.’ He said it was quite detailed.

A.M. – And it covers wells?

Mr. Clark – “Excuse me, regarding the wells, I have given the Department of Environmental Protection a package of everything they have asked for. I have complied with them. At this point they have no problems.” He noted they have 45 days to ask for further information but to date there is no issue. He said again that the DEP had been notified. As far as an impact to wells, some wells are 900 feet from the operation. He did not believe there would be an impact but he believed the DEP would answer the question better than he.

A.M. – You understand our concern.

Mr. Clark – Yes I do.

A.M. – The vibration of digging into the ground will have impact and it gives me concern where we don’t know the process.

Mr. Clark – I understand, until recently I did not know either.

A.M. – I have a well, it was drilled by my Dad in 1971. It was doused from the property across the street, where there will be excavation. We get about 2 to 3 gallons per minute of good, not rusty water. I’ll be darned if I have to go get water out of the lake. In fact, I want something from somebody that says my well will not go dry and I want a hydrology report on what aquifers are in that area that are feeding Square Pond, which is a much larger issue to the Square Pond Association. If that is an aquifer and it is feeding the lake, it is going to damage the lake and I can’t have that. I am not against Mr. Clark and his wanting to pay taxes but I go back three generations since 1911 with my cottage and I would be darned if I want this to impact my residence and lake.

Mr. Clark – “I will tell you that we dug as far as we could, we dug deeper than we are going to dig on the gravel that we are extracting, and we hit no water at any point. At the lower point we dug 11 feet deeper with a backhoe and that is 10 feet lower than we are digging.”

A.M. – And you never struck any water.

Mr. Clark – “Never struck any water.”

A.M. – But you haven’t dug everywhere.

A.M. – I want some assurances from the Town of Shapleigh for the taxes that I pay, that my well won’t go dry.

Roger A. – In our criteria for a permit, it depends on that criteria as to whether or not the Town can allow this project to happen.

A.M. – It has to have DEP approval which has to take into consideration ground conditions.

Roger A. – The DEP is in review of this at the present time. They haven’t gotten back to the Town yet with their results.

A.M. – The DEP hasn’t approved it then.

Roger A. – No.

A.M. – Are they looking at runoff as well?

Roger A. – Everything is being contained on site. Any runoff will be contained on site.

A.M. – In some towns they require the applicant to get a second opinion to be sure the engineering is done right in the first place. Would the board require that?

Roger A. – We can, it will depend on what we see on the DEP report. We don’t know at this time if it will be required.

A.M. – Where will the gravel pit be accessed, will it be from Goose Pond Road?

Roger A. – Yes.

A.M. – So not 16th street.

Roger A. – No.

A.M. – How close are we coming to the back lot on 15th Street?

Mr. Clark – “I haven’t measured it but it isn’t very close, several thousand feet.” He said he wasn’t even close to the hill, 2000 to 3000 feet minimum at the back of the lot.

A.M. – I am confused about access, I thought you said traffic wouldn’t go on Goose Pond Road?

Roger A. – It is going Goose Pond Road to Acton.

A.M. – But it will go on Goose Pond Road.

Roger A. – It’s not going over the Goose Pond Road culvert.

A.M. – We don’t know anything about the amount of traffic?

Roger A. – It’s going to depend on how he sells it. If he ends up selling to a company that wants to transport a thousand yards a day, it’s a thousand yards a day. We don’t know that at this time.

A.M. – You would give a permit without knowing those details?

Roger A. – Yes.

CEO McDonough – I am the Code Enforcement Officer, and I can tell you this, he will be limited to trucks of a certain size that must meet the road maximum weight limits. Mr. Clark will not be allowed to use vehicles that are not allowed on the road.

A.M. – Is there any thought to the fact that Goose Pond Road has increasingly becoming a traffic hazard; a shortcut between Route 11 and Route 109. The vehicles on that road, particularly the summer folks travel 50 to 60 miles per hour and when I come out of my driveway, I take my life in my hands. Now you are going to add this traffic to that mix and you are playing with dynamite. Just an observation.

Roger A. – Both Shapleigh and Acton have the same Sheriff and so certain days the town could request he be in that vicinity to help to control the traffic. It’s the best we can do on that.

A.M. – What about the people walking on the road and the bicyclist going up some of those hills. There are blind hills and in Acton there is no white strip in the middle of the road.

Roger A. – As far as the strip in the road, there is nothing we can do about that. We can’t tell Acton what to do and how to spend money. As far as bicyclist, State law requires a 3 foot distance between a bicycle and a vehicle. There is State law that the bicycle has primary, he can even block the lane, that is State law.

A.M. – But some of the hills you can’t see, they are blind hills. And what about our eagle, is that going to affect our eagle. What about our wildlife?

Roger A. – A lot of times, with the other gravel pits in town, we find that the wildlife actually come into the pit at times and cross it.

A.M. – So you are saying this gravel pit will not affect any wildlife?

Roger A. – I’m not saying it will not affect them.

Mr. Clark – Inland Fisheries and Wildlife have been notified and noted there is nothing endangered in the area. I have seen the eagle and he is wonderful.

A.M. – When trucks pull out of these sites, it takes them awhile to get up to speed, so in some areas they have a wider shoulder, so the truck can get out of the way until it gets up to speed. Would you consider this?

Roger A. – This will unlikely be a requirement in that vicinity. This is a temporary use and at the present time we don’t even know if we are going to have two vehicles a day or 15 or 20. It will depend on who he sells it too and how much they want to remove at a time.

A.M. – After we know the particulars about the trucks coming in and out, will there be another hearing?

Roger A. – No, once this permit is granted it is valid for three years. Then at that time it will be reviewed to see if they want to continue or if the project is finished.

A.M. – So the conditions you place tonight...

Roger A. – If we place any, if we approve it tonight, any conditions as of this evening would be in effect.

A.M. – Well I would like to suggest two things. One, that the hours of operation be from 9 o'clock in the morning until about 4 o'clock in the afternoon during the week only and not on holidays. The second thing I would like to suggest that the town highway department stick up some signs. Blind driveway, speed limit 35; and I would encourage you the Planning Board to speak to the Selectmen next Tuesday night. I am more than willing to go because I think the Selectmen of Shapleigh should approach the Selectmen of Acton and get that road, the middle of the road striped and then put a couple of signs on the Acton side. I came in the other day from 109, down the Goose Pond Road going east and at the top of that hill, what did I meet, but one of Mr. Plante's trucks (a local contractor), now fortunately we did not have an encounter. But that is a busy hill. I know you cannot tell Acton what to do, but we can try can't we?

Roger A. – We can ask them.

A.M. – I am finding real trouble with providing approval before we understand the impact. I would respectfully request we do have a second opinion, so we understand no permits are given until we understand the impact to the neighborhood. This is a family, residential area. How can we give a point of view whether or not it is ok until we understand the implications?

Roger A. – As far as road traffic we will not know that because until he sells it to someone. And he can't sell it to anyone until he receives a permit.

A.M. – Can't we request a proposal? And it isn't just traffic, ground water and noise are an issue.

Roger A. – The proposal is for three stages, five acres at a time will be disturbed, then reclaimed.

A.M. – It bothers me that we are blindly voting on a permit, when we don't know what the process is. I know the term fracking has been floating about, or drilling, and we don't know the impact of that. How can we issue a permit without understanding of the process by which the gravel will be pulled out?

Roger A. – There will be no fracking done on site.

A.M. – My understanding of the process is, the board may not withhold this permit if the conditions are met, however the board has leeway to impose restrictions on how things are handled, such as number of trucks, hours of operation, so I am not sure why the board is taking the position that they don't know until after the gravel is sold. I believe the board has a right to say the board won't allow more than x amount of trucks, operating certain hours, etc. Why isn't the board entertaining this?

Roger A. – This is true but the board hasn't discussed the criteria yet. This will be taken up later in the regular meeting. He agreed the board has the capability to impose conditions on the permit, and whatever conditions the board deems necessary for the health and welfare of Shapleigh residents.

A.M. – Where this is in the middle of a huge tax base between Mousam Lake and Square Pond, does DEP restrict or monitor decibel levels when the crusher sets up.

Roger A. – We have decibel levels in force at this time in the ordinance.

A.M. – At the site?

Roger A. – In the whole town. They have to stay below those decibel ratings.

A.M. – Who will be policing that?

Roger A. – The actual policing will be done by complaints to the CEO (Code Enforcement Officer), he will have the enforcement authority.

A.M. – Can we seek that legal protection for the wells be a condition?

Roger A. – We can impose any conditions that we feel are necessary.

A.M. – This may not happen right away, it may come a year or more after.

Roger A. – If it is an issue that comes about because of the process, then it could be dealt with, but if it is a fact of nature that something happened, it may not be the applicant's issue.

A.M. and Roger A. – Both agreed it would be hard to determine.

A.M. – What is going to happen tonight? Does the public hearing close, then you discuss amongst yourselves tonight, then you put the conditions if there are any, if you see fit? Is that what will happen tonight?

Roger A. – I cannot answer that right now.

A.M. – If it doesn't happen tonight?

Roger A. – Then it would be postponed to another meeting.

A.M. – Will we all be notified?

Roger A. – It will be on the agenda.

A.M. – How will we find out?

Roger A. – The board determines whether or not another public hearing should be held based on additional information, beyond what has been received to date.

A.M. – Deliberations are open to the public.

Roger A. – That is true.

A.M. – So if you do have to reconvene at some later date, a notice will be posted but not by certified letter.

Roger A. – That is correct.

A.M. – How do we know, do we come to the Town Hall to check in?

Barbara F. – The agenda is posted the Friday before the Planning Board meeting in the Town Hall.

A.M. – Downstairs?

Roger A. – Correct.

A.M. – This is not cut and dry tonight?

Roger A. – No, I can't answer that. We will be deliberating once we go into our regular meeting and if we feel all the criteria has been met, we may take a vote. If not, it will be postponed.

A.M. – All of this is open for us to sit here and listen.

Roger A. – Yes.

A.M. – The minutes are available?

Roger A. – At the next Planning Board meeting they will be reviewed and approved.

A.M. – Who sets the bond to be sure the land is reclaimed properly?

Roger A. – We hold the bond and approve the amount along with the Selectmen, the Road Commissioner, and a contractor that states this is the cost to reclaim the area.

A.M. – Based on the location and possible impact on the lakes, do you think it would be reasonable to get a second opinion on this?

Roger A. – We could.

A.M. – You mentioned sound, is there a benchmark for what crushing would have for a decibel level?

Roger A. – Not at this time.

A.M. – That should be something that the board should know before making a decision. 60 decibels is not very loud and it seems to me crushing would exceed that. So how would the board answer this question?

Roger A. – The condition on the permit would be that the project cannot exceed the Shapleigh Code, if they do, then we would take action at that time.

A.M. – What about the dust? Does it have to be contained on the property?

Roger A. – That is true.

A.M. – How do they contain it on site?

Roger A. – They could water it?

A.M. – Would that be impacting ground water?

Roger A. – They could be bringing a truck in to spray it down.

A.M. – The board would restrict that.

Roger A. – Sure.

A.M. – This is a legal operation to do with a permit?

Roger A. – This is true.

A.M. – If you issue the permit tonight, what about putting some restrictions as far as operating hours and at least trying to have a maximum amount of traffic. Rather than just having a blank check.

Roger A. – Actually, there will be conditions attached to the permit, I just can't go thru the conditions at this time because we haven't gone thru the permit in detail with the Ordinance. There would be conditions for hours, no dust on the road, no mud tracked out onto the road, etc.

A.M. – When does that happen?

Roger A. – We review the information, and listen to input. We have approved other gravel pits in this town and so we know what conditions we put on those. It is likely the board would mirror those.

A.M. – Do you know what those are? Are they uniform?

Roger A. – No, they vary depending on the age of the pits.

A.M. – On the reclamation of the site, are there time periods on that?

Roger A. – Reclamation is once he does five acres, that is when that area is reclaimed. It has to be done prior to him moving on to the next five acres, he has to verify it has been reclaimed.

A.M. – Is there a specific time period?

Roger A. – No, the permit is valid for three years, so at the end of the third year he comes back before the town. If it is not completed, he has to decide if he wants to continue, if not he has to reclaim it. If he doesn't reclaim it, the Town has the authority to reclaim and the Town has the bond to do so.

A.M. – How big is this? Five acres?

Roger A. – They are working on five acres at a time, it is a 20 acre piece of land.

A.M. – Once that is exhausted, five acres, then it is reclaimed before they move on.

Roger A. – That is true.

A.M. – So it could be five times four or a period of 12 years?

Roger A. – It could be, depending on how they sell the gravel. If someone wants the gravel quickly, it could be much less time.

A.M. – How do the leases work? Is it signed and all the conditions are on it, what they can and cannot do?

Mr. Clark – The restrictions will be on the contract. The amount of trucks they restrict us to, the hours of operation. It will all be in the contract. And I do not want to have this open for 12 years. I can see everyone's concerns but I am not looking to have it open for 12 years. And he added that he also pays taxes.

A.M. – The DEP permit limits 10 acres open at a time, will we go by that or five acres at a time.

Roger A. – He is requesting five acres open at a time.

A.M. – How many times can a permit be renewed?

Roger A. – Unlimited, but what happens is every time it goes through renewal, if the board has complaints or sees issues, they can impose more conditions. If the reclamation costs go up, we can ask for a bigger bond. Each renewal is a new review.

A.M. – What happens if they go against the rules or restrictions that are put on it?

Roger A. – Stop work order and then they are fined per day and then it goes to court.

A.M. – We are all Shapleigh tax payers, and some of us are higher tax payers; I think what is important in that is that this sits between Square Pond and the base of Mousam, now I've heard it debated 65 to 75% of the tax base of Shapleigh and Acton comes from lakefront property. My concern is not only as a taxpayer but what's going to happen to these towns if this has a long term effect on property values in this area? And as far as the position of the board, now it seems to be a very reactionary position. My understanding is you will debate this, we would like to go on record that it be less reactionary and more proactive. We would like to see restrictions on it first.

Roger A. – What was asked earlier is what happens if the conditions are not followed.

A.M. – The problem is we don't know what the conditions are or what they will be.

Roger A. – Right now, no. Until we go through review and discussion we will not know.

A.M. – Once we cut this swath through the two lakes, what will be on that property? Houses, what are you going to do with it?

Mr. Clark – If anything it will make your property worth more. We would like to see some grassland, some trees. We would like to be able to use it instead of having it just wooded. We want to make it look better than it is now.

A.M. – Then you will sell it.

Mr. Clark – I took care of my father until he passed and that is one of the things I promised him, that I would not put a bunch of house up and I would do my best not to sell it. This is what I'm trying to do, make it beautiful and keep my promise to my father.

A.M. – You do not want to put houses on it? You want the money to pay the taxes, is this correct?

Mr. Clark – Exactly, and have a better looking piece of property. Mr. Clark said again he understood their concerns.

A.M. – One more comment about trucks. They are going to go out the Acton end. Today I went to the post office and got chased by a truck going over the culvert by Goose Pond, so you have to enforce with signage and trucks turning signs.

Road Commissioner John Burnell – It depends on what size truck it is. Trucks are allowed on that road up to 54,000 pounds.

A.M. – This was not a big one, you know one of those 8 – 10 wheelers.

R.C. Burnell – 10 wheelers are allowed on that road.

A.M. – Well we need a sign.

R.C. Burnell – There is a sign stating 27 Tons.

A.M. – We need a line on the road.

R.C. Burnell – We just got done paving the road.

A.M. – We need a speed limit sign.

R.C. Burnell – The speed limit is 35 mph until you get to Treasure Island Road then it is 25 mph.

A.M. – Nobody does 35.

R.C. Burnell – That is how posted signs work.

A.M. – The property has been worked by a forester / timber harvest, is the gravel more of a sustainable money operation?

Roger A. – The board does not care about the money aspect.

A.M. – I understand that, the question was for the applicant.

Roger A. – Earlier the applicant stated he wanted some agricultural uses once the property is leveled out.

A.M. – I think the bottom line is we won't know what the impact is until everything is signed and sealed, plain and simple. All I hear are the words maybe, it could, we have to wait and see. So some of us will be happy and some of us might be upset.

Selectman William Mageary – How much will the surety bond be?

Roger A. – We don't know yet. We have a proposal from Levesque Excavating for the reclamation.

Selectmen Mageary – If the new pavement is damaged, could that surety bond be used for roadwork as well?

Roger A. – We prefer not. The ordinance states that if the applicant disturbs the road he will have to repair it, if we need additional monies then we will ask for it. At present, reclamation is a separate item. Maybe we will hold two bonds.

A.M. – How far is the Acton town line from the site?

Mr. Clark – The actual site is 200 feet from the town line, it goes further from the line as it goes back off the road.

A.M. – How many gravel operations are in Shapleigh right now?

Roger A. – There are two.

A.M. – What are the surety bonds for those two?

Roger A. – One pit belongs to the town and the other one is \$16,000.

A.M. – That is sufficient for how much land?

Roger A. – On the other one, there were 3 contractors that bid on that project. It is where the Alpaca farm is. There was also input from the Selectmen and Road Commissioner. The board does not just grab a number. The board reviews proposals and in three years the board has the right to adjust the number or perhaps the project will be finished.

A.M. – Could I see a picture of the project.

The board showed the person the plan they were presented with and invited anyone else up that wanted to look at it.

A.M. – The DEP has not approved this yet?

Mr. Clark – I have been in constant contact with them, to date they do not have an issue but they have not made any decision as yet.

A.M. – Is there a tree buffer between Goose Pond and the actual project?

Mr. Clark – 150 feet.

Roger A. – I believe that is for the lot lines as well. Mr. Clark agreed it was over 150 feet from lots lines.

A.M. – If this is going to be a temporary operation, that is one thing, but my parents have owned the property since 1951 and I'm really concerned about the effects on the lake and peoples wells. If something happens

to that lake there is no going back. It is also our vacation property, we go up to enjoy the lake, get away from the city and we are going to hear this noise for three years or more. I realize Mr. Clark doesn't want it to go beyond that but it is a concern.

Roger A. – If you have the 150 foot buffer, the noise will be minimal.

A.M. – There was one all the way across the lake and we can hear it.

Roger A. – It depends on how the sound is carrying that day. Where I live, there are people that are over a mile away and they can hear my radio. If I go down in my backyard I have a hard time hearing it. It depends on the air and how the sound goes.

A.M. – The backing up the trucks, that constant beep, hearing it, it is annoying.

Roger A. – Usually when loading tracks they don't like to back them in, they make a swing and load them and drive off.

A.M. – I hope that happens.

A.M. – Under what conditions would you not approve this?

Roger A. – If it doesn't meet the criteria in the ordinance or if we need additional items and he couldn't meet the conditions, then we may not approve it. But at this time there is no answer to that question.

A.M. – What are the conditions they must meet now?

Roger A. – All the conditions in the ordinance for mineral extraction. The board hasn't reviewed them yet.

A.M. – Is there a chance to have a second meeting when the board has more answers to what they have or have not met?

Roger A. – Once the criteria is reviewed, if they meet it, the board will make a determination with conditions.

A.M. – Is hours of operation a condition imposed?

Roger A. – Yes, it will be. All others have these conditions. We have in the past limited time of day trucks can travel past the school. With this project we do not know what they will be at this time.

Selectman Mageary – Are you looking at this as a total package or are you looking at this as an initial five acre section, then complete that and then come back? If possible do five acres to see how they perform the first five, then if to satisfaction, they will feel more comfortable on the next phase.

Mr. Clark – I believe that is one of the stipulations of what I am asking for. The Town has to see if the first five acres have been reclaimed before I can take dirt out of the next five, but the permit is for the whole operation. He said to do a permit for every five acres, it would not be worth it.

Roger A. – Roger agreed the bond is for five acres at a time, then the board has to approve the reclamation before he can go onto the next five acres. He said he may never get the bond back after the first five, or he may have to add another \$2000 to it. Or if it is the same to reclaim, the bond will stay in place for the next five acres.

A.M. – Does Shapleigh have any requirements where you can or cannot have a quarry?

Roger A. – No, this is the general purpose area, so it is allowed.

A.M. – How will you find out what the board has decided?

Roger A. – Stay here, we will be reviewing it later this evening in the regular meeting. That is when we review criteria. We may postpone it if more information is required. I don't know right now when.

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

The public hearing was closed at 8:00 p.m.

The planning board meeting started at 8:05 p.m.

The minutes of July 14, 2015, were accepted as read.

Roger A. began by stating that due to the fact the mineral extraction application would be a more lengthy review, he would like to move it to later in the meeting and he decided to review the applications out of the order listed on the agenda. No board member or applicant had issue with the decision.

Conditional Use Permit – Convert Existing Garage into a Quilt Shop – Map 7, Lot 34C (52 Jones Road) – Donna & John Johnson Jr., Applicants

Mr. and Mrs. Johnson, Jr. were present for the review of their application.

Along with the application, presented to board members was a business plan which stated, “We would like to open a Quilt Shop in our existing attached 22 x 24 garage. We will enclosed garage door openings with a 3’ x 6’8” entry door and a 36” x 60” double hung window. We need no plumbing and are not adding a public restroom. May add a porta potty at a future date. The store hours will be 10 a.m. to 4 p.m., Tuesday thru Sunday and open on Mondays, 7 days a week the month of April. (Quilt Shop Hop.) The name of the business will be Primitive Quarters. If you have any questions you may call John or Donna.”

Also presented was a sketch of the proposed change to the garage, and a site plan depicting the location of the existing home, attached garage, parking area, proposed garage to be built, sign location and distance of parking area to the road and distance of proposed garage to the property lines.

Roger A. asked the applicants to state to the board what they were proposing to do. Mrs. Johnson stated they were going to build a small garage for her husband, so he could move his belongings that currently are in the existing garage to the new building. The existing attached garage has sheetrock in it but she said they would need to add a door and windows to create a small quilt shop. Mr. Johnson stated the new garage would be 20’ x 30’.

Roger A. asked what the hours of operation would be? Mrs. Johnson stated, “10 to 4.” Madge B. noted there was a business plan that had the hours of operation listed.

Madge B. stated there would need to be a public hearing and a site inspection. She didn’t feel there needed to be much discussion this evening until after the hearing and site inspection.

Roger A. stated the site inspection would be on August 11th at 6:30 p.m. The public hearing would be held at 7:00 p.m. at the town hall. A notice to abutters would be mailed as well.

Steve F. asked how large the lot was? Mr. Johnson stated it was alittle over 5 acres. Barbara F. concurred and stated he had more than enough road frontage as well, at 600 feet.

Madge B. asked if there would be stakes on site for the location of the garage and parking. Madge asked if they would be there and they stated they would be there and could stake the location of the new structure. Nothing further was discussed.

Best Possible Location – Replace Existing Shed – Map 34, Lot 22 (174 Cedar Drive) – Philip Lemay, Applicant; Deborah Taranto, Property Owner

Mr. Lemay and Ms. Taranto were present for the review of the application.

At the meeting on July 14, 2015, the board reviewed the Best Possible Location application for Map 34, Lot 22 which stated, ‘Demo old shed and replace with new. Existing not repairable’. Presented along with the application were the following:

- A sketch depicting the existing structures on site; a house, garage and shed. Distance from the shed to the water is shown as 24 feet; distance from the shed to the house is 69 feet ±; distance from the shed to the garage is 38 feet ±, distance to a property marker, 35 feet. Two large trees near the existing shed were also depicted along with a notation for ‘lawn’, ‘driveway’, ‘slope & trees’. The existing structure is 214 square feet in size, not including rake or soffit overhangs.
- A second sketch was presented which depicted the house, garage and ‘proposed’ shed. In this sketch it showed the distance to the water to be 30 feet ±; distance to the house 63 feet ±, to the garage 32 feet ±, to the property marker 41 feet. Two large trees near the proposed shed were also depicted along with a notation for ‘lawn’, ‘driveway’, & ‘slope’. The proposed footprint of the structure will be 216 square feet, this measurement does not include rake or soffit overhangs.

Note: Prior to this evenings meeting was a site inspection of the property by board members.

At this evenings meeting, Mr. Lemay presented the board with a plan which depicting the proposed new 12’ x 18’ structure as being 30 feet from the high water line; ‘all exposed ground behind shed and side of shed to be hayed and seeded to edge of property’; the location of the existing house and driveway, and hill with trees.

Also provided this evening was a work order / invoice from Caleb C. Chessie Excavation of Shapleigh Maine, which stated, “Torn down building to be disposed of at J.A. Simpson’s in Sanford. Erosion control berms installed around area of construction. Gravel and loam will come from Rudy Pepins. Hay & Seed”

The board reviewed the information presented. Roger A. stated the applicant was requesting the new building be moved back six feet farther from the water’s edge than the existing. Madge B. stated the replanting plan talked about reseeding the area but she noted the board did not like grass as a ground cover. The applicant asked why? Madge B. stated that usually to have nice grass you have to have fertilizer and that isn’t allowed near the water. Mr. Lemay stated they have never fertilized the area. He said they just water it and are patient. Madge said the board does want a ground cover.

Madge B. asked about planting around the building where the roof runs off. She asked how they would catch the roof runoff? CEO McDonough asked which direction the roof rake would be going? Mr. Lemay stated it would be going the same direction that it is now. He said they have Hostas and grass on one side, the left hand side, and the other side is all shaded. He said they usually can’t get anything to grow on that side, so they could put crushed stone on that side.

Madge B. asked CEO McDonough if he dealt with the crushed stone? CEO McDonough stated that if it isn’t part of the permit process, here, then no. Steve F. stated, “You want it on the replant plan.” CEO McDonough stated, “Exactly.”

Madge B. said they knew the old slab would be removed and a new one would be poured. When that is done, the area is disturbed, so she wanted to know what he would do with that area. If it is shady there, then

there should be gravel. CEO McDonough stated he needed something in writing of how the area would be taken care of. Mr. Lemay asked what he should do? CEO McDonough said exposed soil is unacceptable. He said even bark mulch would be acceptable, but he didn't know what the applicant wanted. He said something would need to go down. Ms. Taranto stated they would put down whatever the board wanted, shade plants would be fine. CEO McDonough stated that this needed to be addressed at this level, because a year from now he needs to know what was discussed this evening for a plan. If he doesn't have a viable plan when the project is done, he has nothing to enforce.

Roger A. stated on the existing plan it shows behind the shed and beside the shed, the exposed areas will be seeded right to the edge of the property and from behind the building to the water's edge. Madge B. asked if that was what the board wants? Ms. Taranto stated she planned on removing the existing Hostas and putting them back into place once the new shed is up. She stated she would put them in five gallon buckets, she said they would be fine until they were replanted.

Roland L. stated the current structure is opened at both ends, he then asked if the plan for the new structure was the same? Mr. Lemay stated the back of the new structure would not be open to the lake. Roland said it was possible that area could have some junipers or more Hostas. Mr. Lemay said the area is all bushes and shrubs now. Roland asked if they would have access and egress as they do now? Mr. Lemay stated, no, there will be no access to the outside from the back of the shed.

Mr. Lemay said he would put down bark mulch and stone where he plows, but after the plowing season there will be a mound of mulch or stone and none where he plows. Steve F. asked what is there now? Mr. Lemay stated it was gravel. CEO McDonough agreed it was very sandy soil, very little loam. Madge B. said the ordinance states the vegetation must consist of similar native vegetation and / or ground cover similar to what is there now. Roger A. stated the only thing similar to what is there now is grass. Madge said it will have to be re-established. Roger said they were asking that the area be the same as it is now, reseeding. Madge asked Roger if he thought then, that they should plant grass? Madge said the only thing she worried about is the rain runoff. She asked if grass would take care of rain runoff? Roger said that he believed it would and further down on the left is a lagoon area where rainwater would be held before it entered the lake. Diane S. stated they could do crushed stone around the shed so when the runoff comes off the roof it hits the crushed stone first. Madge said that she was used to seeing drainage around the buildings. Roger said due to existing ground, and the fact that the peak of the new structure would be minimal in height, and this is a 12' x 18' building, there would be minimal runoff. He thought grass on both sides, and with the existing lagoon, he didn't think anything further should be required.

Roger A. asked if it would be a metal roof? Mr. Lemay said it would be. Madge B. asked what the scheduled plan was? She said the board liked to put in a date for the replanting to be completed. Mr. Lemay stated it would be up to when Caleb Chessie could get to the site. He said he would be pouring the concrete himself, then laying block, then building the structure. He said he would like it finished by the end of September or the beginning of October. Madge asked if the planting should be done in the spring? Mr. Lemay said he could put down winter rye. Diane S. thought October would be a good time to plant grass. Mr. Lemay said he would probably leave the hay on site until spring. Mr. Lemay said again he believed it would be done by the end of September. Diane thought the board could give him a deadline to replant of October 15, 2015.

Diane S. asked if the grass went all the way to the water? She thought there was a buffer on site between the grass and the water. Mr. Lemay agreed, stating the area after the grass sloped up and there were bushes there now.

Roger A. stated the conditions of approval would be:

- 1) **Replanting / reseeding the area shall be done by October 15, 2015. If this date cannot be met a new date shall be discussed and approved by the Code Enforcement Officer.**
- 2) **Best Management Practices shall be used and the work is to be done by a person certified by the DEP. The BMP shall be kept in place until all work is completed.**
- 3) **All construction materials shall be disposed of out of Shapleigh. Nothing shall be taken to the Shapleigh transfer station.**
- 4) **The approved plan shall be confirmed in writing by a licensed surveyor that the placement of the structure is correct per the specifications approved by the Planning Board.**

Roger A. explained that the survey for the approved location of the building needed to be done prior to construction. Mr. Lemay stated once the slab is formed, then you need a survey. CEO McDonough stated that he needed a letter from a surveyor stating the building is in the correct location before he signed off on the foundation inspection. Mr. Lemay stated, ok.

Mr. Lemay asked if he needed to bring in a slip stating the debris went to Simpson's? Madge B. stated she did not want a receipt, but he could not bring anything to the Shapleigh transfer station.

Madge B. moved for approval of the Best Possible Location on Map 34, Lot 22, to replace the existing structure with a 12' x 18' structure, 30 feet from the high water mark, per the plans presented on July 28, 2015, with the above stated conditions. Maggie 2nd the motion. All members were in favor. Motion passed unanimously, 5 – 0.

Nothing further was discussed.

Conditional Use Permit – Mineral Extraction – Part of Map 5, Lot 44 (Goose Pond Road) – Gloria & Frank Clark II, Applicants. Mr. & Mrs. Clark were present for the review of their application.

The Conditional Use Permit application presented on July 14, 2015, for Map 5, Portion of Lot 44 stated, 'After loam / stump removal, mineral extraction. Materials on-site to be excavated to elevation 530 and trucked off-site. This is to occur in 5 acre increments, so that no more than 5 acres are 'active' or up to 10 acres are opened / cleared.' There would also be a 12' x 20' utility building placed on site.

Note: Prior to this evenings meeting was a site inspection of the property by board members.

Also provided were the following:

- A copy of the deed showing ownership, dated June 24, 2015; the description of the 20 acres to be affected by the mineral extraction operation;
- An authorization form stated James Logan of Albert Frick Associates could act as an agent in obtaining permits for the proposed activities with both the Shapleigh Planning Board and the Maine Dept. of Environmental Protection;
- A site location plan;
- A list of abutters;
- A copy of the Dept. of Environmental Protection Notice of Intent to Comply Performance Standards for Excavations for Borrow, Clay, Topsoil or Silt; a letter from John Perry of the Maine Dept. of Inland Fisheries & Wildlife, dated March 20, 2015, stating in part there are no locations of Endangered, Threatened, or Special Concern Species within the project area;
- A copy of the Environmental Review of Fish and Wildlife Observations and Priority Habitats for the proposed area of extraction;

Continued

- The Proposed Gravel Extraction Site Closure Plan done by Albert Frick Associates, Inc., Environmental Consultants;
- A Memorandum from George Chobanian, of Civil Consultants, listing 14 test pits that were done on the property, along with a map showing the test pit locations, which calculated there being 330,000 cubic yards of material over a 13 acre +/- area which excavate only to the lower point of existing ground;
- Estimate from Levesque Excavation of Sanford, Maine, dated 7/13/2015, which stated the cost to reclaim five acres, including spreading of on-site topsoil and seeding would be \$15,000.;
- A letter and data provided to Thomas Harmon, P.E. of Civil Consultants, Inc., from R.W. Gillespie & Associates, Inc. which states in part that ‘Although some of the samples do not meet gradation requirements of selected Standard Specifications, it appears that with screening and/or mixing more of the Standard Specifications could be met.;
- Summary of the Laboratory Testing Program – Test Pits Proposed Sand and Gravel Pit, including the Particle Size Distribution Report;
- and the site plan entitled Proposed Mineral Extraction Site Plan, prepared for Frank Clark, Goose Pond Road (Map 5, Lot 44), Shapleigh, Maine, dated 1/27/15, drafted by Albert Frick Associates, Inc., Environmental Consultants, Gorham, Maine.

Roger A. began by reading Shapleigh Zoning Ordinance §105-61 ‘Mineral exploration and extraction, processing, and removal, including sand and gravel.’ in its entirety. Roger noted there were no streams on the property and that there was a plan drafted by Albert Frick Associates that showed all sedimentation shall be kept on site.

Madge B. asked if there is any lagooning on site? Roger A. stated there would be none on site. Madge stated if you dug a deep pit, you could get a lagoon. Roger said that was correct, but due to the height of the existing hills and that the project is to make it flat, not below grade – except for the slopes, there is none. Steve F. asked what the elevation was at the road? Roger reviewed the plan and it appeared the road elevation was 550 feet. Steve asked what the lowest excavation was? Mr. Clark stated 530’ was the deepest excavation. It was noted that at the lowest level naturally occurring on site was 520 feet.

Roger A. asked if there would be any rock crushing? Mr. Clark stated that he didn’t want to say no because he didn’t know at this time. Diane S. stated, “According to the application that you submitted, you wrote, ‘After loam / stump removal, mineral extraction. Materials on site to be excavated to elevation 530 and trucked off-site. This is to occur in 5 acre increments, so that no more than 5 acres are ‘active’ or up to 10 acres are opened / cleared’. Now nowhere on your application does it specify that you are going to be processing. So if you are going to be processing there, you are going to have to amend your application because it doesn’t say anywhere on here you are going to be doing processing. It says everything you take is going to be trucked somewhere else.” Mr. Clark, “So you would take that literally to mean that everything is going to go off site.” Diane said that is what he wrote so she is taking it literally. She said if he wants to do processing, he would have to add it onto his application. Mr. Clark said, “Understood.”

Roger A. stated there was a letter from Inland Fisheries and Wildlife, written March 20, 2015 by John Perry, Environmental Review Coordinator. Roger read the letter in its entirety. It said in part, “Our information indicates no locations of Endangered, Threatened, or Special Concern species within the project area. Additionally, our Department has not mapped any Essential Habitats or fisheries habitats that would be directly affected by your project.” (You can obtain a copy of the letter from the Land Use Secretary during regular town hall hours.) Madge B. noted that it was written on the plan drafted by Albert Frick Associates, Inc., dated as updated 6/26/15 that ‘No wetlands or vernal pools exist on the proposed extraction site.’ Roger said the letter goes beyond vernal pools and noted there was nothing of significance to be affected on site.

Madge B. asked what addressed the well / water issue in question? Madge B. stated under Basic Performance Standards it addresses water quality but she didn't see where it addressed the water quality in wells. Roger A. didn't know of a specific section. Madge asked if §105-51 applied 'Water quality protection'. CEO McDonough stated, "Yes". It was not specific to wells, however.

Madge B. asked if the board hired another engineer to do a groundwater impact study, if we don't have any ability to regulate that, what does that net the board? Steve F. thought the only thing they could possibly do was to tie the surety bond in to cover the wells.

Roger A. reminded the board that Roland L. was not part of the review process for this application and he asked Steve F. if he would sit in as a voting member.

Madge B. stated the condition could say no wells within a certain distance of this shall be adversely affected. Roger A. stated this was hard because trying to determine if the project did affect the well or was it a fact of nature. He said a house could be put in within a hundred feet and because they put in their well it could affect yours. You could get iron, you may have your well go dry. He didn't think the board could determine that. Madge didn't feel the well issue could be addressed.

Madge B. said another issue was, will this project adversely impact the two lakes. Roger A. said that because of the depth of excavation and reviewing the 14 test pits they have done throughout the area at the present time, it doesn't seem as though they are excavating low enough to affect any water. They are removing fill from the property and going no lower than 530 feet at any point. CEO McDonough asked what the difference was between the 530 feet and the water level of the lake? Madge stated they didn't know what the water table was. CEO McDonough stated it should be easy enough to determine the level of the lake. He said it should be on any topo map. Madge agreed it was a good piece of information to have on record.

CEO McDonough asked what the board said again about the wells. Madge B. said, "What I was saying was we don't seem to have any standards for that." CEO McDonough stated, "That is true." Madge said, "Can we condition things, yes." CEO McDonough stated, "Right." Madge said it seemed the condition would have to limit the geographic reach. CEO McDonough said he didn't feel anyone on the board was qualified to make the determination of what that distance should be. Madge agreed. Barbara F. asked Mr. Clark if the DEP review was considering the wells? Mr. Clark stated, "Yes they are, any wells within 1000 feet." He said he was still waiting for their review.

Madge B. believed the board should not approve this permit before they see the DEP permit. Roger A. agreed. Ann H. asked if the DEP gave Mr. Clark a time frame. He said the application said no longer than 45 days. Ann asked how many days it had been. He said it had only been less than a week since he gave them all the information. Madge didn't think the DEP would consider it in less than two weeks, which is the next time the board meets.

Madge B. asked about controlling dirt bikes. She wanted to know if the board worried about this? Barbara F. stated that in the past the board only was concerned with this on Town property, the Town's gravel pit (due to liability issues), not with private property. Roger A. agreed.

Madge B. stated she was concerned like several people about processing. She said noise and dust needs to be addressed. Diane S. stated that he had to figure out whether or not he was going to do processing on site. Madge agreed. Diane said the current application states that he is not processing. Mr. Clark asked if he amended the application what the fee would be. Barbara F. stated that if he does it prior to approval there would be no fee. Diane stated that if he did it after approval then there would be an amendment fee of \$125.

Diane S. stated that on the application it states, 'This is to occur in 5 acre increments, so that no more than 5 acres are 'active' or up to 10 acres are opened / cleared.' but at the previous meeting he had stated that if someone wanted to do all 20 acres at once that would be fine. Mr. Clark stated, "No, they were asking about clearing the trees." He said they are going to clear up to 10 acres at a time, so they can get on the property, otherwise they wouldn't be able to move. Diane said the amount of area exposed would affect the bond. If he wanted more than 5 acres at a time open for removal, the bond would need to be larger to cover it. Mr. Clark understood and stated no more than 5 acres would be open for gravel removal.

Roger A. stated that Road Commissioner Burnell had noted that the electric and phone cable in front of the property is too low, so he may need to have CMP or the phone company raise it, so the trucks won't hook onto it. Mr. Clark said he did look at that today. RC Burnell said in one spot it was only 13 feet from the road base. Mr. Clark asked what he needed? RC Burnell stated at least 13' 9". RC Burnell also stated he needed to know exactly where the entrance would be onto Goose Pond Road because at present the existing ribbons are 300 feet apart. He needs an exact location. Roger A. stated the curb cut can't be larger than 26 feet in width. Mr. Clark stated he understood. RC Burnell said that height of the wire, depending on the area he chose, could change.

CEO McDonough stated that a condition is Mr. Clark needs RC Burnell's curb cut approval. RC Burnell said site distance wasn't an issue. CEO McDonough stated that the board would want to know if RC Burnell had any conditions for Mr. Clark. Mr. Clark asked what a curb cut entailed? RC Burnell said he needed an exact location of where the entrance would be, basically it is a driveway entrance. CEO McDonough asked about the size of the apron required or depth of pad required. Steve F. said it would be stone or pavement. RC Burnell said yes, and the size would vary depending upon the size of the truck. CEO McDonough asked if there was a limit on the road? RC Burnell said 250 feet of the road in Shapleigh had a limit on it. CEO McDonough asked what that was. RC Burnell said 54,000 pounds. CEO McDonough asked what size truck that would allow? RC Burnell said, "A 10 wheeler." CEO McDonough said, "Then you don't want anything bigger than a 10 wheeler there, right." RC Burnell stated, "The only reason that road is posted is because of the bridge at Goose Pond." CEO McDonough asked if it applied to the whole road. RC Burnell said it did, but it could be changed. Roger A. asked who would change it? RC Burnell said they are only traveling 200 feet in Shapleigh, there should be some sort of leeway if he goes out through Acton. Steve F. noted that the board could hold a bond for road repair, as well, if it is needed in the future.

Ann H. asked if a sign could be placed, so they have to go left when pulling out, to keep the trucks off the bridge, if it is worrisome due to capacity. RC Burnell said yes, this could be done. He did note that currently there are thousands of trucks that currently go over the culvert on Goose Pond Road, and they are not limited. Ann said the board would only regulate the traffic coming out onto Goose Pond Road from this project. CEO McDonough said the board can require all traffic exit to the left. Roger A. agreed. Steve F. noted that the ordinance did talk about regulating routes for transporting material under §105-61.C(4).

Madge B. said there is more likelihood of injuring people if you go over the culvert than if you don't. She believed the board was in agreement this should be a condition of the permit to go out to Route 109 through Acton. Roger stated that Mr. Clark knows that he has to go through Acton, and he will tell the buyers that they have to go through Acton. Steve noted the permit runs with the land.

Steve F. asked if the engineers stated how much gravel was on site? Mr. Clark stated that he had two consultants work on that information. He stated that Civil Consultants out of South Berwick looked at the project as a 13 acre site and they estimated it at 340,000 cubic yards. He said based on the fact it is now approximately an 18 acre site, he believed it would be approximately 400,000 to 450,000 cubic yards.

Roger A. read §105-22 'Noise' in its entirety. Within the ordinance it does state that between 7:00 a.m. to 10:00 p.m. sound levels are not to exceed 60 dB(A). Between 10:00 p.m. to 7:00 a.m., sound levels are not

to exceed 45 dB(A). These levels may not be exceeded by 10 dB(A) for a single period, no longer than 15 minutes in any one day. Mr. Clark asked CEO McDonough if he had a meter? CEO McDonough stated, no, but if it got to that he would require from Mr. Clark a meter reading from all four corners of the lot. Mr. Clark stated he understood. Roger said the York County Sheriff's do have one and they may let the board use it. Mr. Clark stated he was willing to comply with any issues. Ann H. asked if there was an issue when the area was logged. Mr. Clark stated that he would say some of the residents would state there was, at times they started at 6:30 a.m. Steve F. noted the noise levels would be checked at the property line. Madge said there was a buffer.

Roger A. asked Mr. Clark if he had any questions for the board? Mr. Clark stated that at this point he did not. Roger stated that he was going to ask that this be tabled until Mr. Clark is contacted by the DEP to see if they attach any conditions to the permit or if the board should be aware of any special considerations. Mr. Clark said that until he has permits in place, he could not get anyone to commit to remove the gravel. He asked who did the curb cut, his contractor? RC Burnell said the curb cut is a permit process. He told Mr. Clark he would meet him on site and they would decide the location. Then he would be issued a curb cut permit. Mr. Clark said there was also talk about stone being brought in. CEO McDonough stated there needed to be a stone apron to remove dirt but the board won't care if the contractor does it or you (Mr. Clark) do it, but it has to be done before any work begins. Mr. Clark asked if this would be a condition of the permit? The answer was yes. Roger stated the stone apron keeps the mud off the road, otherwise Mr. Clark would have to clean the road. It's a safety issue keeping dirt off the road.

Mr. Clark also voiced concern over having to wait for CMP to move the lines higher. Roger A. stated that depending on the curb cut location, if he moves it down abit, the trucks may be able to clear it. Mr. Clark asked RC Burnell if he would meet him on site. RC Burnell stated that he would.

CEO McDonough asked about processing, at this point it appears this permit does not include processing. Mr. Clark stated that was correct. CEO McDonough asked Mr. Clark how he would address dust? Roger A. read §105-23 'Dust' in its entirety. Roger noted that no dust can go beyond the lot lines. CEO McDonough asked how he was going to do this? Roger said he could water the site. CEO McDonough said there needed to be a plan. Mr. Clark stated the plan was to water the area to keep dust down.

Roger A. stated that with all the test pits on site, there was nothing larger than 8" minus except for one pit. CEO McDonough stated in light of this, the odds of needing any gravel processing was unlikely. Diane S. stated this would make the residents a lot happier than processing it on site.

CEO McDonough asked about the wells? The board stated they were going to wait for the DEP report before going further with that. CEO McDonough asked Mr. Clark if he could get the elevation of the lakes (Mousam and Square). Mr. Clark stated that he would.

Madge B. moved to table the application until the DEP Permit is obtained. Maggie 2nd the motion. All members were in favor. Motion passed unanimously, 5 – 0.

Barbara F. asked if Mr. Clark needed to bring in anything further besides the DEP report for the next meeting? She was told, the elevation of Mousam Lake and Square Pond.

Roger A. stated that when he got the DEP information to contact Barbara F. and she will put him on the next scheduled meeting. Mr. Clark asked if he needed to bring anything else? Roger said no, not until after the review of the DEP Permit.

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

Nothing further was discussed.

Growth Permits:

Map 7, Lot 42C-1 – Owl’s Nest Road – GP #10-15

This lot is a legal lot of record, meeting all lot size requirements.

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

The next meeting will be held Tuesday, August 11th, the Planning Board meets the 2nd and 4th Tuesday of each month unless it falls on a holiday or Election Day. Any scheduled public hearing takes place at 7:00 p.m. prior to the scheduled meeting.

Respectfully,
Barbara Felong
Land Use Secretary
planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, August 11 2015

Members in attendance: Roger Allaire (Chairman), Maggie Moody (Vice Chair), Madge Baker, Roland Legere, Diane Srebnick, Alternate Ann Harris, as well as Barbara Felong (Secretary). Code Enforcement Officer Steven McDonough was also in attendance. Alternate Steve Foglio was unable to attend.

The following words are not verbatim unless accompanied by quotation marks “ ”

Public Hearing began at 7:05 p.m.

Conditional Use Permit – Convert Existing Garage into a Quilt Shop – Map 7, Lot 34C (52 Jones Road) – Donna & John Johnson Jr., Applicants

Mr. and Mrs. Johnson were present for the public hearing.

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

Board members had received along with the application, a business plan which stated, “We would like to open a Quilt Shop in our existing attached 22 x 24 garage. We will enclose garage door openings with a 3’ x 6’8” entry door and a 36” x 60” double hung window. We need no plumbing and are not adding a public restroom. May add a porta potty at a future date. The store hours will be 10 a.m. to 4 p.m., Tuesday thru Sunday and open on Mondays, 7 days a week the month of April. (Quilt Shop Hop.) The name of the business will be Primitive Quarters. If you have any questions you may call John or Donna.”

Also received was a sketch of the proposed change to the garage, and a site plan depicting the location of the existing home, attached garage, parking area, proposed garage to be built, sign location and distance of parking area to the road and distance of proposed garage to the property lines.

Roger A. began the public hearing by asking the applicants to state why they were before the board for the record. (There were no audience members in attendance.)

Mrs. Johnson stated that they were going to build a 20’ x 30’ garage for Mr. Johnson, for his belongings, then turn their existing attached garage into a Quilt Shop. Madge B. stated that the Planning Board would only be reviewing the Quilt Shop, the garage goes to the Code Enforcement Officer. Roger A. added that any modifications to turn the existing garage into the Quilt Shop would also be permitted by the CEO.

Roger A. stated the board would be looking at the parking area, hours of operation, if there will be any safety issues with respect to driveway line of site, etc. He said that would be the things the board would look at, including lighting to be sure there would be none that could blind someone going up the road.

Mrs. Johnson stated the hours of operation would be Tuesday thru Sunday from 10 to 4. Mr. Johnson stated they did not plan on putting lighting on the sign, so there would be no traffic issue. He said there would be a light on the garage, such as a mercury vapor or LED on the end so people could see, but mostly it would be for their own personal use. He said it would not be near the road.

Mr. Johnson said the parking area would be 25' x 25' in size. Mrs. Johnson said there was room for additional parking if more was needed. Mr. Johnson said there were at least two additional parking spaces in addition to the 25' x 25' foot area. He added that there would also be two areas to turn around, so no traffic would back out onto the road.

Madge B. said the board always asked about the hours of operation and they let the applicants know that if they plan to have them longer in the future, they would have to come back in, so it would be a good idea to expand them now, if they feel they would want longer hours in the future. She encouraged the applicants to think if there would ever be a chance they might want to be open more days per week or for more than six hours a day, she recommended they tell the board now. Mrs. Johnson stated they could list it as being open 7 days a week from 9:00 a.m. to 5:00 p.m. She said there was also a possibility for evening classes. Madge said if she didn't want to come back when she started classes to add that now. Mrs. Johnson decided to state 9:00 a.m. to 8:00 p.m. Maggie M. stated that they would not 'have to be open' for those hours but now it would be an option. Mr. and Mrs. Johnson agreed this would be a good idea, and Mrs. Johnson concluded they would ask for 7 days a week from 9:00 a.m. to 8:00 p.m.

Roger A. agreed with Madge B. and stated that any change to a Conditional Use Permit would require an amendment. Roger said even for a change in hours, an amendment would be required which would include another public hearing. He agreed it was best to get it approved now for anything they might want to do.

Madge B. asked how many parking spaces there were? Mr. Johnson stated there were a total of four, two below and two above. Madge stated with the option of having classes they would need to think about having enough parking. Diane S. calculated the square footage of the attached garage, which was 520 sq. ft. She stated this would require 3 spaces per the ordinance, as you need one space for each 150 sq. ft. Mrs. Johnson stated they could add additional parking now on the plan, as there was room. She asked what the distance or size of a parking space was? Diane stated they needed 200 sq. ft. for each parking space and told them the figure she came up with is based on the square foot calculation of the garage. CEO McDonough stated the size of a parking space is usually 10' x 20'. Diane asked if there would be any employees? Mrs. Johnson stated, no.

Mr. Johnson asked how many spaces they needed? Diane S. stated they needed a total of four. 3 for the square foot calculation and one for Mrs. Johnson. Mrs. Johnson asked what the size of the area should be, currently they had 25' x 20' on the plan. Roger A. stated they would need 30' x 20' to accommodate 3 spaces above and there were two spaces already in the lower parking area, for a total of five spaces. Diane S. had them change their original parking plan to show the additional parking space.

Roland L. asked if there would be material, threads, patterns, sewing machines, quilting machines? Mrs. Johnson stated she had a sewing machine and quilting machine. Roland asked if she would be selling machines? Mrs. Johnson stated, no. Mrs. Johnson stated she would be selling sewing notions, needles, thread, rulers, cutters, magazines, patterns, and quilt books.

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

The public hearing closed at 7:17 p.m.

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

The minutes from Tuesday, July 28, 2015 were accepted as read.

Roger A. began by stating that the reason they are before the board is because a business requires a Conditional Use Permit. He stated the lot is large enough to have both a residence and a business use, the lot being over 5 acres in size with 600 feet of road frontage.

Roger A. began review of the pertinent ordinances.

- 105-21 – Traffic.** *Roger A. stated access to the site was safe and in existence at this time. The speed limit is 35 mph since the road is not posted and this requires a minimum site distance of 245 feet, recommended distance is 350 feet. Roger stated when in the driveway, facing Route 11, the site distance is greater than 350 feet. He stated that in the other direction it exceeds 245 feet.*
- 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.** *There will be no obnoxious odors generated.*
- 105-25 – Glare.** *There shall be no additional lighting added to the existing structure, or on the sign.*
- 105-26 – Stormwater runoff.** *There is no exterior change to the existing structure, therefore, there will be no impact from stormwater runoff.*
- 105-27 – Erosion control.** *There is no exterior change to the existing structure, therefore, there will be no issues with erosion.*
- 105-28 – Setbacks and screening.** *No additional screening will be needed with the proposed addition. The home / attached garage is in existence now and there is existing vegetation on site.*
- 105-29 – Explosive materials.** *There shall be no explosive material stored in the addition.*
- 105-30 – Water quality.** *There is no waste stored outside or hazardous material associated with this business.*
- 105-31 – Preservation of landscape; landscaping of parking and storage areas.** *The existing landscaping shall remain in place. Minimal changes to the existing parking are being made.*
- 105-32 – Relation of proposed building to the environment.** *The existing building fits in well with other homes in Shapleigh.*
- 105-33 – Refuse disposal.** *Refuse will be minimal and disposed of by the applicant to the transfer station.*
- 105-40 – Home Occupation –** *Roger read this section in its entirety. Roger stated it met all the criteria of a home occupation.*
- 105-43 – Off-street parking and loading.** *There shall be adequate parking for this business based on the square footage of the business and number of employees. There is a total of four spaces required, five shall be on site. There is existing landscaping on site.*
- 105-46 – Sanitary provisions.** *There is an existing State approved septic system on site for the home/business.*
- 105-47 – Signs and billboards.** *Roger noted the signage is taken care of by the Code Enforcement officer.*

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

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

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. **Roger stated, it will 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 stated it is, the Comprehensive Plan encourages home based businesses.**
- 4) Traffic access to the site is safe. **Roger stated it is, and the entrance for the existing home has been in existence for years and meets site distances in both directions.**
- 5) The site design is in conformance with all municipal flood hazard protection regulations. **Roger stated it is. The business is not in a flood zone.**
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. **There is a State approved system in existence.**
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. **N/A – None generated.**
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. **The home is in existence and no changes are being made to the exterior, therefore, no adverse impact shall be made by this business.**
- 9) Adequate provisions to control soil erosion and sedimentation have been made. **The home is in existence and no changes are being made to the exterior, therefore, no erosion issues shall occur due to the business.**
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. **Roger stated there is, a water holding tank is located on State Route 11.**
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. **There are no changes being made to the surrounding area. There is no additional lighting being added to the existing garage.**
- 12) All performance standards in this chapter applicable to the proposed use will be met. **They shall.**

Roger A. stated the condition of the permit would be:

1. The hours of operation shall be 9:00 a.m. thru 8:00 p.m., 7 days a week.

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

Madge B. made the motion to approve the Conditional Use Permit to open a Quilt Shop in the existing attached garage on Map 7, Lot 34C with the above stated condition. Diane S. 2nd the motion. All members were in favor. Motion passed unanimously, 5 – 0.

Findings of Facts

1. The Owner of Shapleigh Tax Map 7, Lot 34C are Donna and John Johnson, Jr., of 52 Jones Road, Shapleigh, Maine 04076
2. The property is located in the General Purpose District and according to the Assessor's Office contains 5.13 Acres.
3. The applicant provided a business plan which stated, "We would like to open a Quilt Shop in our existing attached 22 x 24 garage. We will enclosed garage door openings with a 3' x 6'8" entry door and a 36" x 60" double hung window. We need no plumbing and are not adding a public restroom. May add a porta potty at a future date. The store hours will be 10 a.m. to 4 p.m., Tuesday thru Sunday and open on

Mondays, 7 days a week the month of April. (Quilt Shop Hop.) The name of the business will be Primitive Quarters. If you have any questions you may call John or Donna.”

4. The applicant provided a sketch of the proposed change to the garage, and a site plan depicting the location of the existing home, attached garage, parking area, proposed garage to be built, sign location and distance of parking area to the road and distance of proposed garage to the property lines.
5. A notice was mailed to all abutters within 500 feet of the property, Wednesday, July 29, 2015.
6. A site inspection was conducted on Tuesday, August 11, 2015, prior to the planning board meeting and a Public Hearing was held on that same evening.
7. The Planning Board unanimously agreed to approve the Conditional Use Permit to open a Quilt Shop in the existing garage on Map 7, Lot 34C per the plans provided and as discussed at the board meeting on August 11, 2015, with one condition.
8. The condition of the permit is:
 1. The hours of operation shall be 9:00 a.m. thru 8:00 p.m., 7 days a week.

Nothing further was discussed.

Growth Permits

Map 28, Lot 28 (16 17th Street) – Seasonal Conversion – GP #11-15

This was a best possible location approved earlier this year, there is a new septic design on file with the Code Enforcement Office.

Map 12, Lot 9 (Gray Road) – New Home – GP #12-15

This is a conforming lot of record with adequate road frontage and a recorded deed was presented.

The Planning Board meeting ended at 7:45 p.m.

The next meeting will be held Tuesday, August 25th at 7:30 p.m. The Planning Board meets the 2nd and 4th Tuesday of each month unless it falls on a holiday or Election Day. Any scheduled public hearing takes place at 7:00 p.m. prior to the scheduled meeting.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, August 25 2015

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

The following words are not verbatim unless accompanied by quotation marks “ ”

Public Informational Hearing began at 7:00 p.m. for the review of the proposed Shoreland Zoning Ordinance Changes mandated by the State of Maine DEP

No citizens were in attendance.

Board members carefully took the time to review the ordinance changes. Several typographical changes were made, as well as several changes to the existing documents. The ordinance changes will be sent to the DEP for review. They are attached below except for the Section 105-15 ‘Definitions’. Due to overall size of this section, copies can be obtained from the Land Use Secretary during regular Town Hall hours.

Changes are in bold or crossed-out.

§ 105-4. Nonconformance.

A. Purposes. It is the intent of this chapter to disfavor nonconformities and to encourage their elimination. However, acknowledging their resilience to traditional zoning techniques designed to secure their elimination, it is also the intent of this chapter to treat them realistically by allowing certain improvements. Therefore, nonconformities may continue subject to the following conditions.

B. Definitions. As use in this chapter, the following terms shall have the meanings indicated:

NONCONFORMING USE – Use of premises that is not permitted to locate in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this chapter or subsequent amendment took effect.

NONCONFORMING STRUCTURE – A structure that does not meet any one or more of the following dimensional requirements: setbacks, height, yard and lot coverage. It is allowed solely because it was in lawful existence at the time this chapter or subsequent amendments took effect.

NONCONFORMING LOTS OF RECORDS – A single lot of record which, at the effective date of adoption or amendment of this chapter, does not meet the frontage, width or depth requirements of the district in which it is located.

C. Nonconforming uses.

- (1) Continuance. The use of land, building or structure, lawful at the time of adoption or subsequent amendment of this chapter, may continue although such use does not conform to the provisions of this chapter.
- (2) Resumption Prohibited. A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.

- (3) Discontinuance. A nonconforming use which is discontinued for a period of one year may not be resumed. The uses of the land, building or structure shall thereafter conform to the provisions of this chapter.
- (4) Change of Use. An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 105-4.D.
- (5) Expansion. A nonconforming use, including a nonconforming open use of land, shall not be extended or expanded in area or function, unless the following conditions are met:
 - (a) A nonconforming use may not be extended within a building or another structure to any portion of the floor area that was not occupied by such use on the effective date of this chapter (or on the effective date of subsequent amendment hereto that causes such use to become nonconforming); provided, however, that a nonconforming use may be extended throughout any part of such building or structure that was lawfully and manifestly designed or arranged for such use on such effective date.
 - (b) A nonconforming use may not be extended to any building or other structure or land area other than the one(s) occupied by such use on the effective date of this chapter (or on the effective date of a subsequent amendment hereto that causes such use to become nonconforming), except when the use of the building or structure is changed from a nonconforming to a conforming use, or when a garage is added to a single residential dwelling in a resource protection zone, provided that all the dimensional requirements and filling requirements are met.
- (6) Earth removal. In the case of earth removal operations, the removal of earth may not be extended as a nonconforming use beyond the setback lines required in this chapter of the specific lot or parcel of land upon which such use has become nonconforming without securing a variance from the Board of Appeals. Adjacent parcels in the same or different ownership shall not be eligible for exemption under the nonconforming use provisions unless earth removal operations have been in progress prior to the enactment of these provisions.

D. Nonconforming structures.

- (1) Expansions. **All new principal and accessory structures, excluding functionally water-dependent uses, must meet the water body, tributary stream, or wetland setback requirements contained in Section 105-18.** A nonconforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, ~~if such addition or expansion does not increase the nonconformity of the structure.~~ **if such addition or expansion does not increase the nonconformity of the structure and is in accordance with subparagraphs (a) and (b) below.**
 - (a) **Expansion of any portion of a structure within 25 feet of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement.**
 - (b) **Notwithstanding paragraph (a), above, if a legally existing nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable municipal land use standards are met and the expansion is not prohibited in Section D(1).**

- (1) The maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.
- (c) All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as other applicable municipal land use standards are met and the expansion is not prohibited by Section D(1) or Section D(1)(a), above.
- (1) For structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.
- (2) For structures located less than 100 feet from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater. Any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section D(1)(b)(1) or Section D(1)(b)(2), above.
- (3) In addition to the limitations in subparagraphs (1) and (2), for structures that are legally nonconforming due to their location within the Resource Protection District when located at less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section D(1)(b)(1) or Section D(1)(b)(2), above.
- (d) An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the registry of deeds, within 90 days of approval. The recorded plan must show the existing and proposed footprint of the non-conforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zone boundary and evidence of approval by the municipal review authority.
- (e) If proposed addition or expansion of a nonconforming structure cannot meet the dimensional requirements of this chapter, a variance shall be applied for in accordance with the procedures set forth in this chapter. ~~If any portion of a structure is less than the required setback from the normal high-water line of a water body, or tributary stream, or the upland edge of a wetland, that portion of a structure shall not be expanded as measured in floor area or volume by 30% or more during the lifetime of the structure. If replacement structure conforms with the requirements of Section 105-4.D(5) and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date.~~
- (2) Patios, steps, decks. The addition of an open patio with no structures elevated above the ground level shall constitute the expansion of a nonconforming structure. The addition of steps shall not constitute the expansion of a nonconforming structure. But the addition of a deck does constitute the expansion of a nonconforming structure and must be in compliance with Subsection D(1).

- (3) Foundations.
 - (a) Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and the new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in Subsection D(7), Relocation, below.
 - (b) ~~If the completed foundation does not extend beyond the exterior dimensions of the structure; except for expansion in conformity with Subsection D(1) above, and the foundation does not cause the structure to be elevated by more than three additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.~~
- (4) Resumption. Discontinuance of the use of a legally existing nonconforming structure shall not constitute abandonment of the structure. Conforming use of the structure may be resumed at any time.
- (5) Removal, reconstruction or replacement.
 - (a) Any nonconforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed or damaged or destroyed regardless of the cause, by more than 50% of its Town-assessed value before such damage, destruction or removal, may be reconstructed or replaced, provided that a permit is obtained within one year of the date of said damage, destruction or removal and provided that such reconstruction or replacement must be in compliance with all water body, tributary stream or wetland setback requirements to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this chapter. In no case shall the structure be reconstructed or replaced so as to increase its nonconformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Subsection D(1) above, as determined by the non-conforming ~~floor area and volume~~ **footprint** of the reconstructed or replaced structure at its new location. If the total amount of ~~floor area and volume~~ the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replaced in accordance with Section (D)(7)(b) below.
 - (b) Any nonconforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the Town-assessed value, or which is decaying, damaged or destroyed by 50% or less of the Town-assessed value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one year of such decay, damage or destruction or removal.
 - (c) In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent, the Planning Board shall consider, in addition to the criteria in Subsection D(7) below, the physical condition and type of foundation present, if any.
- (6) Parking or loading space. A building or structure which is nonconforming as to the requirements for off-street parking space shall not be enlarged or altered to create additional dwelling units, or seats, as in the case of commercial, industrial, business or institutional or recreational buildings, or accommodations, unless off-street parking is provided for such addition, enlargement or alteration of the original buildings or structure, sufficient to satisfy the requirements of this chapter. A building which is nonconforming as to the requirements for off-street loading space shall not be enlarged or added to unless off-street spaces are provided sufficient to satisfy the requirements of this chapter for both the addition or enlargement and the original building or structure.
- (7) Relocation.

- (a) A nonconforming structure may be relocated within the boundaries of the parcel on which the structure is located, provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of state law and the State of Maine Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more nonconforming.
- (b) In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation **in accordance with Section D(7)**. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

[1] Trees, woody vegetation and ground cover.

- [a] Trees removed in order to relocate a structure must be replanted with at least one native tree, six feet in height, measured from the base of the trunk to the top of the tree, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.
- [b] Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be established within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

[2] Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

- (c) All approved plans shall require confirmation in writing by a licensed surveyor that the placement of the structure is correct per the specifications approved by the Planning Board.

(8) Change of Use of a Non-conforming Structure.

- (a) The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the water body, tributary stream, or wetland, or on the subject or adjacent properties and resources than the existing use.
- (b) In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, and functionally water-dependent uses.

E. Nonconforming lots of record.

- (1) Vacant lots. A nonconforming lot of record as of the effective date of this chapter or amendment thereto may be built upon, provided that such lot shall be in separate ownership and not contiguous with any other lot in the same ownership, and that all the provisions of this chapter, except lot area, lot width and shore frontage, can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained only by action of the Board of Appeals.

- (2) Built lots. A nonconforming lot of record that was built upon prior to the enactment or subsequent amendment of this chapter is subject to the following restrictions. The structure(s) may be repaired, maintained or improved and may be enlarged, reconstructed or replaced in conformity with all the dimensional requirements of this chapter except lot area, lot width or lot frontage and in conformity with the requirements of Subsection D of this section. If the proposed enlargement of the structures cannot meet the dimensional requirements of this chapter, a variance shall be applied for in accordance with the procedures set forth in this chapter.
- (3) Contiguous built lots. If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption or amendment of this chapter, if all or part of the lots do not meet the dimensional requirements of this chapter and if a principal use exists on each lot, the nonconforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. section 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.
- (4) Contiguous vacant lots. If two or more vacant, contiguous lots or parcels are in single or joint ownership of record at the time of adoption or amendment of this chapter and if these lots do not individually meet the dimensional requirements of this chapter or subsequent amendment, the lots shall be combined to the extent necessary to meet the dimensional standards, except in situations where the contiguous lots front on different streets, or except where rights have been vested as described in Section E(5) below.

This provision shall not apply to 2 or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on the effective date of this chapter and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

- (a) Each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or
 - (b) Any lots that do not meet the frontage and lot size requirements of Section E(3) are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.
- (5) Vested rights. Nonconforming use rights cannot arise by the mere filing of a notice of intent to build, an application for required building permits or an application for the required state permits and approvals. Such rights arise only when actual construction of roads, utilities or buildings has begun. Such construction must be legal at the time it is commenced and must be in possession of and in compliance with all validly issued permits, both state and local.
- F. Transfer of ownership. Ownership of lots and structures which remain lawful but become nonconforming by the adoption or amendment of this chapter may be transferred, and the new owner may continue the nonconforming use or continue to use the nonconforming structure or lot, subject to the provisions of this chapter.
 - G. Restoration or replacement. Nothing in this chapter shall prevent any building or any part of a building or structure declared unsafe by the Code Enforcement Officer from being strengthened or restored to a safe condition. Similarly, conforming structures containing nonconforming uses may be rebuilt or replaced if destroyed by fire, flood or other casualty, provided that reconstruction or replacement is started within 12 months of the original destruction.
 - H. Maintenance. Nothing in this chapter precludes the normal upkeep and maintenance of nonconforming uses and structures; repairs, renovations or modernizations which do not involve expansion of the nonconforming use or structure; and such other changes in a nonconforming use or structure as federal, state or local building and safety codes may require.
 - I. Pending applications for building permits. Nothing in this chapter shall require any change in plans, construction, size or designated use for any building, structure or part thereof for which application for a building permit has been made or a building permit has been issued or upon which construction commenced prior to the adoption or amendment of this chapter, provided that construction shall start within 60 days after the issuance of such permit.

- J. Expire of permits. Permits issued under this chapter shall expire after 90 days, unless a building permit is issued. This time period may be extended by the Code Enforcement Officer if issuance of a building permit is delayed due to a technical problem.
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§ 105-38. Individual private campsites not associated with campgrounds.

Individual private campsites not associated with campgrounds are allowed provided that the following conditions are met:

- A. One campsite per lot existing on the effective date of this chapter, or 30,000 square feet of lot area within the shoreland zone, whichever is less, may be permitted.
 - B. When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.**
 - C. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back 100 feet, horizontal distance, from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and 75 feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams or the upland edge of a wetland.
 - D. Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
 - E. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to 1,000 square feet.
 - F. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, a written authorization from the receiving facility or land owner is required.
 - G. When a recreational vehicle, tent or similar shelter is placed on-site for more than 120 days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules, unless served by public sewage facilities.
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§ 105-39. Earth removal and filling for activities other than mineral exploration and extraction.

- A. General. The following provisions shall apply to filling, grading, lagooning, dredging, excavation, processing and storage of soil, earth, loam, sand, gravel, rock and other mineral deposits. Filling, grading, lagooning, dredging and other earthmoving activity which would result in erosion, sedimentation or impairment of water quality, of fish and aquatic life are prohibited.
- B. Earthmoving not requiring a conditional use permit. The following earthmoving activity shall be allowed without a permit:
 - (1) The removal and filling of less than 10 cubic yards of material from or on any lot in any one year, except within the Resource Protection District, the Floodplain District or the Shoreland District.
 - (2) The removal or filling of material incidental to construction, alteration or repair of a building, or in the grading and landscaping incidental thereto.
 - (3) The removal and filling or transfer of material incidental to construction, alteration or repair of a public road or essential services.

- (4) Removal and fill or transfer of material for the repair of an existing private way in the General Purpose District.
- C. Earthmoving in the General Purpose District. Movement of material in excess of 10 but not more than 50 yards is permitted. Movement of materials from 50 cubic yards to 150 cubic yards requires the approval of the Code Enforcement Officer. Movement of materials in excess of 150 cubic yards requires the approval of the Planning Board. In either case, all relevant performance standards below shall be observed, including binding agreements to guarantee proper reclamation of the site after operations cease.
- D. Earthmoving in Shoreland District. Any filling, dredging or excavation of land above or below the normal high watermark, except earthmoving of less than 10 cubic yards which shall require a permit from the CEO (except as provided above) to ensure proper erosion and sedimentation, shall require a conditional use permit from the Planning Board.
 - (1) **When an excavation contractor will perform an activity that requires or results in more than one (1) cubic yard of soil disturbance, the person responsible for management of erosion and sedimentation control practices at the site must be certified in erosion control practices by the Maine Department of Environmental Protection. This person must be present at the site each day earthmoving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until erosion and sedimentation control measure have been installed, which will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion. The name and certification number of the person who will oversee the activity causing or resulting in soil disturbance shall be included on the permit application. This requirement does not apply to a person or firm engaged in agriculture or timber harvesting if best management practices or erosion and sedimentation control are used; and municipal, state and federal employees engaged in project associated with that employment.**
- E. Earthmoving in Resource Protection and Floodplain Districts. Filling shall be prohibited in these two districts, but excavation or dredging may be permitted within the Floodplain District in accordance with the performance standards of this chapter, after review and approval as a conditional use by the Planning Board.
- F. Application for permit. Application for a permit from the Planning Board for excavation, processing and storage of soil, loam, gravel, rock and other mineral deposits shall be accompanied by a plan which shall show:
 - (1) The name and current address of the property involved.
 - (2) The location and the boundaries of the lot or lots for which the permit is requested.
 - (3) The location of all proposed access roads and temporary structures, and the sight distances from all entrances and exits.
 - (4) The proposed provisions for drainage and erosion control, including drainage calculations.
 - (5) Other information necessary to indicate the physical characteristics of the proposed operation, including existing topography and the proposed horizontal and vertical limits of the excavation or filling and proposed reclamation measures (grading, loaming, seeding, mulching, planting, etc.)
- G. Conditions of permit. The Planning Board may issue a permit, provided that the following conditions shall be met:
 - (1) The smallest amount of bare ground shall be exposed for the shortest time feasible. The Planning Board shall set a specific date after which bare ground shall not be exposed.
 - (2) Temporary ground cover (such as mulch) and temporary runoff filter (such as hay bales in swales) shall be used as required to prevent stream sedimentation. The Planning Board shall set a specific date by which permanent ground cover shall be planted.
 - (3) Diversions, silting basins, terraces and other methods to trap sediment shall be used.

- (4) Lagooning shall be conducted in such a manner as to avoid creation of fish trap conditions. The applicant shall submit written approval from the Department of Marine Resources or Department of Inland Fisheries and Wildlife, as applicable, prior to consideration by the Planning Board.
- (5) The extent and type of fill shall be appropriate to the use intended. The applicant shall specify the type and amount of fill to be used.
- (6) Fill shall not restrict a floodway, channel or natural drainageway.
- (7) The sides and bottom of cuts, fills, channels and artificial watercourses shall be constructed and stabilized to prevent erosion or failure. Such structures are to be designed and built according to the Maine Soil and Water Conservation Commission, Technical Guide, Standards and Specifications.
- (8) Where activities carried out under this article require the removal of existing ground cover, revegetation should be carried out.
- (9) (Reserved)
- (10) Specific plans are established to avoid hazards from excessive slopes or standing water. Where embankment must be left upon the completion of operations, it shall be at a slope not steeper than one foot vertical to four feet horizontal.
- (11) No excavation shall be extended below the grade of an adjacent street, except for drainageways, unless 100 feet from the street line. No excavation below the grade of the surrounding land shall be allowed within 100 feet of any side or rear lot line. However, removal of earth material deposits from hills or knolls may be allowed within 50 feet of a side or rear lot line if no excavation below the grade of abutter's properties occurs.
- (12) Sufficient topsoil or loam shall be retained to cover all areas, so that they may be seeded and restored to natural conditions.
- (13) No existing rock, gravel or sandpit will be extended or expanded until the operator has complied with the provisions of this chapter and obtained a permit therefore.

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

- (1) Methods of removal or processing.
- (2) Days and hours of operation.
- (3) Type and location of temporary structures.
- (4) Routes for transporting material.
- (5) Area and depth of excavations.
- (6) Provision of temporary or permanent drainage.
- (7) Disposition of stumps, brush and boulders.
- (8) Cleaning, repair and/or resurfacing of streets used in removal activity which has been adversely affected by said activity.
- (9) The need for written approval of soil and erosion and sedimentation plan by a State of Maine licensed civil engineer selected by the applicant for the Planning Board.

I. Surety and terms of permit.

- (1) No permit shall be issued without a surety bond or other equivalent security to ensure compliance with such conditions as the Planning Board may impose. The bond or surety shall be in an amount recommended by the Code Enforcement Officer and approved by the Planning Board, as sufficient to guarantee conformity with the conditions of approval, taking inflation into account.
- (2) No permit shall be issued for a period to exceed three years, although such permits may be renewed for additional periods in the same manner.

J. Existing operations. Any operation involving the excavation, processing or storage of soil, earth, loam, sand, gravel, rock or other mineral deposits in lawful operation at the time this chapter became effective (March 12, 1983) may operate for a period of three years from the effective date. Discontinuance of any existing operation for a period of more than one year shall require application for a new permit. Continuance of any existing operation for more than three years shall require a permit from the Planning Board.

Board changed last sentence 8/11

§ 105-49. Agriculture.

- A. All spreading of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the **former** Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).
- B. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the Shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
- C. Where soil is tilled, an untilled filter strip of natural vegetation shall be retained between the filled ground and the normal high-water elevation of the surface water areas protected by these districts. The average width of this strip shall vary according to the average slope of the land as follows:

Average Slope of Land Between Tilled Land and Normal High-Water Elevation Percent	Width of Strip Between Tilled Land and Normal High-Water Elevation (Feet Along Surface of the Ground)
0 to 4	50
5 to 9	70
10 to 14	90
15 and over	110

- D. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this chapter. NOTE: Assistance in preparing a Conservation Plan may be available through the local Soil and Water Conservation District office.
- E. Agricultural practices shall be conducted to minimize soil erosion, sedimentation, contamination and nutrient enrichments of ground- and surface waters.
- F. Agricultural practices not in conformance with these standards may be allowed by conditional use permit.
- G. There shall be no new tilling of soil within 100 feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within 75 feet, horizontal distance, from other water bodies; nor within 25 feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this chapter and not in conformance with this provision may be maintained.

- H. Newly established livestock grazing areas shall not be permitted within 100 feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within 75 feet, horizontal distance, of other water bodies, nor within 25 feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities and which is not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan **that has been filed with the planning board in the Shoreland Zone.**

§ 105-51. Clearing or Removal of Vegetation for Activities Other than Timber Harvesting.

- A. In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove ~~safety hazards~~ hazard trees as described in Section **105-51.1**. Elsewhere, in any Resource Protection District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.
- B. Buffer strips of vegetation.
- (1) Except in areas as described in Subsection A, above, ~~and except to allow for the development of permitted uses,~~ within a strip of land extending 100 feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA, or a river flowing to a great pond classified GPA, ~~and or within a strip~~ **extending** 75 feet, horizontal distance, from any other water body, tributary stream or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:
- (a) There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a **single** footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed **for accessing the shoreline** provided that a cleared line of sight to the water through the buffer strip is not created.
- (b) Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of this section, a “well-distributed stand of trees” adjacent to a great pond classified GPA, or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 12 or more in any twenty-five-foot-by-twenty-five-foot square (625 square feet) area as determined by the following rating system:

Diameter of Tree at 4 1/2 Feet

Above Ground Level

(inches)

Points

2 to 4

1

greater than 4 to 12

2

greater than to 12

4

- [1] Adjacent to other water bodies, tributary streams and wetlands, a “well-distributed stand of trees” is defined as maintaining a minimum rating score of eight per twenty-five-foot-by-twenty-five-foot square area.
- [2] The following shall govern in applying this point system:
- (i) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this chapter;
- (ii) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this chapter;
- (iii) Where conditions permit, no more than 50% of the points on any twenty-five-foot by twenty-five-foot square area may consist of trees greater than 12 inches in diameter.
- [3] For the purposes of Section 105-51(B)(1)(b) “other natural vegetation” is defined as retaining existing vegetation under three feet in height and

other ground cover and retaining at least three (3) saplings less than two (2) inches in diameter at 4 1/2 feet above ground level for each twenty-five-foot by twenty-five-foot square area. If three saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until three (3) saplings have been recruited into the plot.

- [4] Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period.

(c) In order to protect water quality and wildlife habitat, existing vegetation under three feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Subsections B(1) and B(1)(a) above.

(d) Pruning of tree branches on the bottom 1/3 of the tree is allowed.

(e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, ~~diseased, unsafe or dead~~ **or hazard** trees results in the creation of cleared openings, these openings shall be replanted with native tree species in accordance with Subsection B(1), below, unless existing new tree growth is present.

(f) When trees are required to be replanted for the purpose of maintaining a point system they must be a minimum of six feet in height, measured from the base of the trunk to the top of the tree.

(g) In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside the shoreline buffer, must comply with the requirements of Subsection B(1).

(2) The provisions contained in Subsection B(1) above shall not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

C. At distances greater than 100 feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and 75 feet, horizontal distance, from the normal high-water line of any other water body, tributary stream or the upland edge of a wetland, there shall be allowed on any lot, in any ten-year period, selective cutting of not more than 40% of the volume of trees four inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the 40 % calculation. For the purposes of these standards, volume may be considered to be equivalent to basal area.

In no event shall cleared openings for any purpose including but not limited to principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate 25% of the lot area within the Shoreland zone or 10,000 square feet, whichever is greater, including land previously cleared.

D. Legally existing nonconforming cleared openings may be maintained but shall not be enlarged, except as allowed by this chapter.

E. Fields and other cleared openings which have reverted to primarily shrubs, trees or other woody vegetation shall be regulated under the provisions of Section 105-51.

CEO CHANGES are in red – done 6/23

§ 105-51.1. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal

A. Hazard trees in the Shoreland zone may be removed ~~with~~**out** a permit after consultation with the Code Enforcement Officer if the following requirements are met:

- (1) Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least six (6) feet in height above ground level and no less than (2) inches in diameter. Stumps may not be removed.
- (2) Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native trees species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above ground level. If new growth is not present, then replacement trees shall consist of native species and be at least six (6) feet in height above ground level and no less than (2) inches in diameter.
- (3) The removal of standing dead trees, resulting from natural causes, is permissible ~~without the need for replanting or a permit~~, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.
- (4) The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the Shoreland zone.
- ~~(5) The Code Enforcement Officer may require more than a one-for-one replacement for hazard trees removed. that exceed eight (8) inches in diameter measured at four and one half (4.5) feet above the ground level.~~

B. Storm-damaged trees in the Shoreland zone may be removed ~~with~~out a permit after consultation with the Code Enforcement Officer if the following requirements are met:

- (a) Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:
 - (1) The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
 - (2) Stumps from the storm-damaged trees may not be removed;
 - (3) Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and
 - (4) If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eight (80) square feet of lost canopy.
- (b) Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the Shoreland zone or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

§105-51.2. Exemptions to Clearing and Vegetation Removal Requirements

- A. The following activities are exempt from the clearing and vegetation removal standards set forth in Section 105-51, provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:
- (1) The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Section 105-51 apply;
 - (2) The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of Section 105-18 are not applicable;
 - (3) The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;
 - (4) The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of Section 105-49 are complied with;
 - (5) The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A. section 343-E, and that is located along:
 - (a) A coastal wetland; or
 - (b) A river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A. section 465-A.
 - (6) The removal of non-native invasive vegetation species, provided the following minimum requirements are met:
 - (a) If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;
 - (b) Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and
 - (c) If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.

The removal of vegetation associated with emergency response activities conducted by the Department, The U.S. Environmental Agency, the U.S. Coast Guard, and their agents.

CEO CHANGES are in red – done 6/23

§ 105-51.3. Revegetation Requirements.

- A. When revegetation is required in response to violations of the vegetation standards set forth in Section 105-51, to address the removal of non-native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.
- (1) The property owner must submit a revegetation plan, prepared with and signed by a qualified professional that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.
 - (2) Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed.
 - (3) If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.
 - (4) Revegetation activities must meet the following requirements for trees and saplings:
 - (a) All trees and saplings removed must be replaced with native noninvasive species;
 - (b) Replacement vegetation must at a minimum consist of saplings;
 - (c) If more than ~~three (3)~~ **six (6)** trees or saplings are planted, then at least three (3) different species shall be used;
 - (d) No one species shall make up 50% or more of the number of trees and saplings planted;
 - (e) If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or saplings must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and
 - (f) A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) year period.
 - (5) Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:
 - (a) All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;
 - (b) Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;

- (c) If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;
 - (d) No one species shall make up 50% or more of the number of planted woody vegetation plants; and
 - (e) Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.
- (6) Revegetation activities must meet the following requirements for ground vegetation and ground cover:
- (a) All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
 - (b) Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and
 - (c) Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.

The planning board meeting started at 7:50 p.m.

The minutes from Tuesday, August 11, 2015 were accepted as read.

Amendment to Conditional Use Permit – 3 Year Renewal for Gravel Extraction – Map 10, Lot 22 (2 Oakhill Road) – Robert Ferrera, Applicant

Mr. Ferrera was not in attendance for his application review.

Roger A. stated that for the final review, Barbara F. needed to contact Mr. Ferrera and tell him that he must be present for the Public Hearing and review so he can answer questions that the board may have, otherwise, it is unlikely the permit will be approved.

Members briefly reviewed §105-61 ‘Mineral exploration and extraction, processing, and removal, including sand and gravel.’ and it was noted that under section B(15) it read in part ‘Within 12 months following the completion of extraction operations at any extraction site, *which operations shall be deemed complete when less than 100 cubic yards of minerals are removed in any consecutive twelve-month period*, ground levels and grades shall be established in accordance with the following:.....’ Members wanted to be certain Mr. Ferrera did in fact move 100 cubic yards of gravel in the last year, otherwise, the area would need to be reclaimed. Roger A. asked Barbara F. to contact Mr. Ferrera and tell him he would need to provide proof that in fact 100 cubic yards had been moved in the past year and have this information for the next meeting.

Roger A. also stated the existing escrow agreement expired in 2014 and Mr. Ferrera would need to have it re-established with the Planning Board. Roger was referring to the Escrow Agreement which stated in part, ‘3.

Ferrera and Town agree that the parties shall have the right to review the amount of the Escrowed Funds every five years and increase or decrease the amount of the Escrow Funds to reflect current prices.’ The Escrow Agreement was established in 2009. As a note, Mr. Ferrara did provide the board with an estimate to reclaim the 5 acre gravel pit, from Caleb Chessie Excavation, dated 7/31/2015, in the amount of \$14,800.00.

Board members had nothing further to discuss on this application until Mr. Ferrara was present.

Growth Permits - There are Growth Permits Available.

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

The next meeting will be held Tuesday, September 8th at 7:30 p.m. The Planning Board meets the 2nd and 4th Tuesday of each month unless it falls on a holiday or Election Day. Any scheduled public hearing takes place at 7:00 p.m. prior to the scheduled meeting.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, September 8, 2015

Members in attendance: Roger Allaire (Chairman), Maggie Moody (Vice Chair), Madge Baker, Diane Srebnick, Alternate Ann Harris, as well as Barbara Felong (Secretary). Code Enforcement Officer Steven McDonough was also in attendance. Roland Legere was unable to attend. Alternate Steve Foglio came to the meeting but missed the Public Hearing.

The following words are not verbatim unless accompanied by quotation marks “ ”

Public Hearing began at 7:00 p.m.

• Amendment to a Conditional Use Permit – 3 Year Renewal for Gravel Extraction – Map 10, Lot 22 (2 Oakhill Road) – Robert Ferrera, Applicant

Mr. Ferrera was present for the public hearing. There were no audience members.

Roger A. opened the public hearing and asked Mr. Ferrera if there were any changes to the 3 year extension for the gravel pit operation. Mr. Ferrera stated that everything was going to stay exactly the same.

Madge B. said the biggest issue the public worried about was trucks going by the Shapleigh Memorial School. She said the board had conditions to take care of this issue. She asked Mr. Ferrera if he was going to ask the board to change those conditions? Mr. Ferrera stated, “No”. He said when the economy dropped out, Hissong Corporation dropped out, so now there were only local contractors getting gravel from his location.

Roger A. read the original conditions of the permit, they are as follows:

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

Roger stated that the board should add that there is an escrow account required for this project in the amount of \$16,000. He said this will be added to the conditions today.

Madge B. asked if he never applied for processing? Mr. Ferrera said, “Right.” Madge said, “So there is no processing of gravel on site and you still don’t have intentions.” Madge asked the board if he did, would he have to come back before the board?

Barbara F. stated that Mark Stebbins of the MDEP had called her today on another application and he wanted

the board to know that when they look at a mineral extraction permit, all processing is included. From the DEP's standpoint a mineral extraction permit covers all aspects of mineral extraction. Mr. Stebbins also stated that the information she had given to the board at the previous meeting regarding the requirements for mineral extraction, that is what they look at. Diane S. noted that Shapleigh's Zoning Ordinance, §105-61, included under C. Optional conditions of permit, (1) Methods of removal or processing, therefore, the board may require additional information regarding processing.

Madge B. asked if Barbara F. was saying Mr. Ferrera didn't have to come back before the board if he wants to make changes? Barbara said she wasn't stating that, she was telling the board what the State has already looked at during the review process and that they include processing as part of their review.

Maggie M. asked if they are counting it separately, if it has to be a condition of the permit? Mr. Ferrera stated that generally anyone who has a gravel pit processes gravel, he noted he was the only one that did not. He said his goal is to get to that point and it is the standard procedure. He said in his case Hissong was processing it at their location. Madge B. said the reason it seems relevant to address it, isn't because he could not do it but the impact it may have on the neighbors. She stated the other application before the board had a lot of neighbors, where Mr. Ferrera did not have many close neighbors. She thought with respect to processing the hours of operation would need to be taken into account.

Ann H. wondered if there would be an issue with the ball fields? Mr. Ferrera didn't think his operation would be heard over the noise made on the field during the games and practice. Diane S. noted they were not there all day either.

Madge B. thought if Mr. Ferrera considered processing he should do it now, otherwise he would have to come back in the future for an amendment to his permit. She felt they would need to address the impact. Mr. Ferrera stated there was a possibility that he would want to do some screening in the near future.

Mr. Ferrera asked if he could ask for processing this evening? Roger A. and Madge B. thought he could ask for it this evening during the regular meeting.

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

The public hearing closed at 7:15.

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

The minutes from Tuesday, August 25, 2015 were accepted as read.

Amendment to Conditional Use Permit – 3 Year Renewal for Gravel Extraction – Map 10, Lot 22 (2 Oakhill Road) – Robert Ferrera, Applicant

Mr. Ferrera was in attendance for the review of his application.

The application before the board is for a three year renewal of the earth moving permit to excavate approximately 200,000 yards of material. The Board had received in 2009, a proposed grading plan for the sand / gravel borrow pit area, prepared by Albert Frick Associates, Inc. of Gorham, Maine, with a final amendment date of 7/30/09. Mr. Frick also provided a closure plan which depicted how the topsoil would be

stockpiled, the erosion and sediment plan for the loam, and a closure grading/reseeding plan, dated March 2009. The Dept. of Inland Fisheries and Wildlife was notified along with the Dept. of Environmental Protection. Both agencies concurred that the removal of gravel in the location of the blueberry field would not require an Incidental Take Permit from IF&W, or a permit from the DEP based on the size of the project. At that time, using the estimated cost of reloaming and reseeding, an Escrow agreement was received by the Town of Shapleigh; it was approved by the Planning Board and Board of Selectmen in the amount of \$16,000 and is valid through July 2014.

The board received for this renewal process a statement which read as follows: I am submitting an application to renew my permit for operating the pit on Oakhill Ranch, located at 2 Oakhill Road. There are no changes requested to the previous permit at this time. There has been a slight increase in demand but overall it has been an extremely slow year for sales. The topsoil remains stockpiled on site along with composting woodchips for when reclamation of the pit is needed. Included is an estimate for reclaiming the pit which is below what is being held in escrow, the lower fuel prices have helped keep the cost relatively stable. Any question please contact me at 207-XXX-XXXX.

The board also received an estimate for reclamation of the area from Caleb Chessie Excavation, dated 7/31/15, which stated that to reclaim the 5 acre gravel pit with materials on site, #2 seed and 50 lbs. of fertilizer, with overall of mulch hay would cost \$14,800.00. In addition, as requested at the August 25th Planning Board meeting, Mr. Ferrera provided the board with a letter, dated 9/4/15, which stated in part, ‘During 2015 I purchased 166 yards of sand and loam from the pit at Oak Hill Ranch, Route 11, Shapleigh, Maine; Wayne Moulton, W. Newfield, Maine’.

Roger A. began by stating the board just held a public hearing for this application and that Mr. Ferrera wanted to add the ability to do processing on site, this would be the only change. Roger stated that the existing conditions of permit will be maintained and continued forward.

Madge B. stated that the starting hour of operation is 6:00 a.m. and she was concerned with this in terms of the processing. She asked if the board could move the time to 7:00 a.m. for processing. Diane S. agreed this would be best. Diane stated the hours of operation can remain between 6:00 a.m. and 5:00 p.m. but the processing should not begin until 7:00 a.m. and can go thru 5:00 p.m. The other board members agreed.

Roger A. reiterated the existing conditions of permit, they are as follows:

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

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

- 7) **The Escrow Account shall be maintained at \$16,000 and shall be signed and accepted by the Board of Selectmen.**

- 8) **Hours to process materials on site shall be 7:00 a.m. thru 5:00 p.m., Monday thru Saturday. Hours to extract and haul material shall be extended from 12:30 p.m. to 5:00 p.m. on Saturday, and morning hours shall remain at 6:00 a.m.**

Roger A. reviewed §105-61 'Mineral exploration and extraction, processing, and removal, including sand and gravel, B) Mineral Extraction may be permitted under the following conditions:

- 1) Reclamation Plan – *The Board received in 2009 a proposed grading plan for the sand / gravel borrow pit area, prepared by Albert Frick Associates, Inc. of Gorham, Maine, with a final amendment date of 7/30/09. Mr. Frick also provided a closure plan which depicted how the topsoil will be stockpiled, the erosion and sediment plan for the loam and a closure grading/reseeding plan, dated March 2009.*
- 2) No part of the extraction operation shall be permitted within 100 feet of a great pond, or 75 from any other water body. – *This was reviewed under the original permit and met the criteria.*
- 3) Developers of new gravel pits along significant river segments shall demonstrate that no reasonable mining site outside the shoreland zone exists. – *This was reviewed under the original permit and met this criteria.*
- 4) The smallest amount of bare ground shall be exposed for the shortest time feasible. - *This is an extension of the permit, and 100 yards has been extracted according to the letter received on 9/8/15 from Wayne Moulton of Newfield, Maine, so therefore this is not being looked at this time, it is an on-going operation.*
- 5) Temporary ground cover and runoff filter shall be used as required to prevent stream sedimentation. – *The location is self-draining / self-contained according to the plans originally submitted in 2009.*
- 6) Diversions, silting basins, terraces and other methods to trap sediment shall be used. – *This is not an issue in the location per the plans submitted with the original application.*
- 7) Lagooning shall be conducted in such a manner as to avoid creation of fish trap conditions. The applicant shall submit written approval from the MDIF&W prior to consideration by the Planning board – *The Dept. of Inland Fisheries and Wildlife was notified along with the Dept. of Environmental Protection. Both agencies concurred that the removal of gravel in the location of the blueberry field would not require an Incidental Take Permit from IF&W, or a permit from the DEP based on the size of the project. These letters written in 2009.*
- 8) The extent and type of fill shall be appropriate to the use intended. – *This information was provided with the original application and there has been no change.*
- 9) Fill shall not restrict a floodway, channel or natural drainageway. – *This is not applicable per the original plans submitted.*
- 10) The sides and bottom of cuts, fills, channels and artificial watercourses shall be constructed and stabilized to prevent erosion or failure. – *There are no changes from the originally approved plan.*
- 11) Where activities carried out under this article require the removal of existing ground cover, revegetation shall be carried out. – *This will occur as warranted, areas not being used shall be reclaimed to as natural as possible and per the plans originally presented.*
- 12) Specific plans are established to avoid hazards from excessive slopes or standing water. – *There is no standing water on site and no excessive slopes.*
- 13) No excavation shall be extended below the grade of an adjacent street. – *The original plan allows for the creation of a pond when the five acre areas has been excavated and excavation is completed.*
- 14) Topsoil or loam shall be retained to cover all disturbed land areas. – *Topsoil has been retained on site, the need for additional topsoil can be purchased thru the use of the escrow account if deemed necessary for reclamation.*
- 15) Within 12 months following the completion of extraction operations, which operations shall be deemed complete when less than 100 cubic yards of minerals are removed in any consecutive twelve-

month period, ground levels and grades shall be established in accordance with (a), (b) & (c) in this section of the ordinance. – ***At this time a date has not been addressed for final grade and permanent ground cover. This will be reviewed at the next three year renewal process.***

- 16) No existing rock, gravel or sandpit will be extended or expanded until the operator has complied with the provision of this chapter and obtained a permit therefor.

C. Optional conditions of permit.

- 1) Methods of removal or processing. – ***Methods of removal were established with the original permit and per the plans submitted by Albert Frick and Associates, Inc. This evening the board is allowing processing to take place on site from 7:00 a.m. thru 5:00 p.m., six days a week.***
- 2) Days and hours of operation. – ***Monday thru Saturday, 6:00 a.m. thru 5:00 pm., for hauling and extraction of gravel; Monday thru Saturday 7:00 a.m. thru 5:00 p.m. for processing gravel on site.***
- 3) Type and location of temporary structures. – ***None on location or approved.***
- 4) Routes for transporting material. – ***State Route 11, with restrictions during school hours as noted in the conditions of approval.***
- 5) Area and depth of excavations. – ***These were established with the original application, provided by Albert Frick and Associates, Inc.***
- 6) Provision of temporary or permanent drainage. – ***All water is contained on site and the information was provided with the original application.***
- 7) Cleaning, repair and/or resurfacing of streets used in removal activities which have been adversely affected by said activity. – ***This was addressed in the original application, the stipulation shall continue as approved.***
- 8) The need for written approval of a soil and erosion and sedimentation plan by a State of Maine licensed civil engineer selected by the applicant for the Planning Board. – ***This was provided by the applicant during the original approval process in 2009.***

D. Surety and terms of permit.

- 1) No permit shall be issued without a surety bond or other equivalent security to ensure compliance with such conditions as the Planning Board may impose. – ***There is an escrow account held by the Town of Shapleigh in the amount of \$16,000. This account shall remain in place until the mineral extraction operation is completed and the area has been reclaimed per the plans provided with the original application.***
- 2) No permit shall be issued for a period to exceed three years, although such permits may be renewed for additional periods in the same manner. – ***This amendment to the Conditional Use Permit for Mineral Extraction is the 3 year review and renewal of said permit.***

Roger A. stated Mr. Ferrera was asking for the following changes to his permit:

- 1) The ability to process gravel on site, in addition to gravel extraction.
- 2) The hours of operation for gravel extraction to be extended on Saturday from 12:30 p.m. to 5:00 p.m.
- 3) The hours of operation for gravel processing shall be 7:00 a.m. thru 5:00 p.m., Monday thru Saturday.

Roger A. stated the conditions of approval for the amendment to the conditional use permit for the mineral extraction operation on Map 10, Lot 22, including all existing conditions shall be as follows:

- 1) **The hours of operation for gravel extraction shall be 6:00 a.m. through 5:00 p.m., Monday thru Saturday.**
- 2) **The hours of operation to process gravel on site shall be 7:00 a.m. thru 5:00 p.m., Monday thru Saturday.**
- 3) **There shall be no 18 wheel trucks traveling past the Shapleigh Memorial School between 8:30 a.m. and 9:00 a.m. or between 3:00 p.m. and 3:30 p.m. throughout school season operating hours.**
- 4) **A letter from the Shapleigh Memorial School principal shall be given to the Planning Board stating the hours of children drop-off and pickup, prior to the transport of gravel.**
- 5) **It is the applicant's responsibility to make certain the entrance onto State Rte. 11 is clean of all sand and stone dust to prevent a hazardous situation.**
- 6) **The Planning Board must approve any additional borrow pits on site.**
- 7) **As a note, this permit is valid for a period of three years from the date of approval per the ordinance.**
- 8) **The Escrow Account shall be maintained at \$16,000 and shall be signed and accepted by the Board of Selectmen.**

Madge B. made the motion to approve the amendment to the conditional use permit for gravel extraction on Map 10, Lot 22 with the above stated conditions. Maggie M. 2nd the motion. All members were in favor. Motion passed unanimously, 4 – 0.

Findings of Facts

1. The owners of Shapleigh Tax Map 10, Lot 22 are Donna and Robert Ferrera, Jr., of 2 Oakhill Road, Shapleigh, Maine 04076
2. The property is located in the General Purpose District and according to the Assessor's Office contains 76.71 Acres.
3. The applicant was before the board to extend the existing mineral operation permit for three years to extract a total of approximately 200,000 yards of material. The original approval for the mineral extraction operation is dated August 12, 2009, with a subsequent renewal date of August 14, 2012.
4. In 2009 the applicant provided a proposed grading plan for the sand / gravel borrow pit area, prepared by Albert Frick Associates, Inc. of Gorham, Maine, with a final amendment date of 7/30/09. Mr. Frick also provided a closure plan which depicted how the topsoil will be stockpiled, the erosion and sediment plan for the loam and a closure grading/reseeding plan, dated March 2009. The Dept. of Inland Fisheries and Wildlife was notified along with the Dept. of Environmental Protection. Both agencies concurred that the removal of gravel in the location of the blueberry field would not require an Incidental Take Permit from IF&W, or a permit from the DEP based on the size of the project. At that time, using the estimated cost of reloaming and reseeding an Escrow agreement was received by the Town of Shapleigh; it was approved by the Planning Board and Board of Selectmen in the amount of \$16,000 and is was valid through July 2014.
5. All original information is valid for this renewal process with respect to proposed amount of gravel extraction and reclamation plan. The board received an estimate for reclamation of the area from Caleb Chessie Excavation, dated 7/31/15, which stated that to reclaim the 5 acre gravel pit with materials on site, #2 seed and 50 lbs. of fertilizer, with overall of mulch hay would cost \$14,800.00.

6. As requested at the August 25th Planning Board meeting, Mr. Ferrera provided the board with a letter, dated 9/4/15, which stated that in part, ‘During 2015 I purchased 166 yards of sand and loam from the pit at Oak Hill Ranch, Route 11, Shapleigh, Maine; Wayne Moulton, W. Newfield, Maine’.
7. Mr. Ferrera requested during this renewal process that he be allowed to process gravel on site as needed.
8. Mr. Ferrera requested the hours of operation on Saturday be extended from 12:30 p.m. to 5:00 p.m. The board allowed the extension of hours but limited gravel processing hours to be 7:00 a.m. to 5:00 p.m., instead of 6:00 a.m. to 5:00 p.m. as allowed for gravel extraction.
9. A notice was mailed to all abutters within 500 feet of the property, Wednesday, August 26, 2015.
10. A Public Hearing was held on Tuesday, September 8, 2015.
11. The Planning Board unanimously agreed to approve the Amendment to the Conditional Use Permit for mineral extraction, including processing on Map 10, Lot 22 per the plans provided and as discussed at the board meeting on September 8, 2015, with conditions.
12. The conditions of the permit are:
 1. The hours of operation for gravel extraction shall be 6:00 a.m. through 5:00 p.m., Monday thru Saturday.
 2. The hours of operation for to process gravel on site shall be 7:00 a.m. thru 5:00 p.m., Monday thru Saturday.
 3. There shall be no 18 wheel trucks traveling past the Shapleigh Memorial School between 8:30 a.m. and 9:00 a.m. or between 3:00 p.m. and 3:30 p.m. throughout school season operating hours.
 4. A letter from the Shapleigh Memorial School principal shall be given to the Planning Board stating the hours of children drop-off and pickup, prior to the transport of gravel.
 5. It is the applicant’s responsibility to make certain the entrance onto State Rte. 11 is clean of all sand and stone dust to prevent a hazardous situation.
 6. The Planning Board must approve any additional borrow pits on site.
 7. As a note, this permit is valid for a period of three years from the date of approval per the ordinance.
 8. The Escrow Account shall be maintained at \$16,000 and shall be signed and accepted by the Board of Selectmen.

Nothing further was discussed.

Best Possible Location – Replace Existing Stairs and Landing, Increase Size of Porch and Install a Foundation Under Existing Structure – Map 28, Lot 49 (45 Carpenters Cove Road) – Louis Nieto, Applicant, John Sullivan, Property Owner

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

The application description of the project states ‘Remove and rebuild stairs and landings that go down to the shore. Lift house and install foundation, increase size of porch’.

Along with the application, board members were provided a copy of Shapleigh Tax Map 28, showing the location of Lot 49; a copy of the soils map indicating the location of Lot 49; pictures of the existing

property; foundation and floor plan; Permit by Rule Notification Form with project description; and a site plan depicting the existing and proposed structures, grade, plantings and mulch locations. In addition, a copy of the deed was provided.

Roger A. asked Ann H. to sit in as a regular member because Roland Legere wasn't present. He noted that he didn't have her sit in for the mineral extraction review because she wasn't present for the initial review process in 2009.

Mr. Nieto began by stating that the application was for John Sullivan and himself. He stated they had already applied for a DEP Permit by Rule and met on site with Chris Coppi of the DEP to review what they proposed to do. He said Mr. Coppi's recommendation was to take the existing deck, which is approximately 15 feet from the high water mark, and move it back to the flat location behind the existing deck. He said this location would have less effect on the lake and currently there is an erosion issue under the existing deck. Mr. Nieto said this wasn't necessarily Permit by Rule but best possible location by the Planning Board.

Mr. Nieto stated the other aspect of the application is the existing dwelling. He stated Mr. Sullivan wanted to put a foundation under the existing dwelling and raise the dwelling about 30 inches. He said they wanted to move the location to make it more conforming. Currently it is roughly 8 ½ feet from the side lot line and the code minimum is 10 feet, therefore, they plan to move it the additional 1 ½ feet. He stated the structure still would be non-conforming because it does not meet the setback to the road.

Mr. Nieto stated he discussed the application with CEO McDonough and created the plan based on the conversation with CEO McDonough and Chris Coppi. Mr. Nieto felt the board would get a better understanding of what he was talking about on the site inspection.

Madge B. stated she just reviewed the plan looking for things that should be on it. Mr. Nieto stated that Mr. Coppi wanted erosion control mulch. Madge asked if the septic system location was on the plan? Mr. Nieto stated the town didn't have anything on record about the existing system. He believed he knew the location of the tank which they will point out on the site inspection. Madge thought that information needed to be on the plan. CEO McDonough stated they needed a septic design, showing they had the ability to put in a new system. Mr. Nieto stated they had an approved system, as there was a tank on site now. CEO McDonough disagreed stating there was no HHE-200 Form (Subsurface Wastewater Disposal System Application). Madge said the board needs the information regarding the septic system. Roger A. agreed, there needs to be something on record. Mr. Nieto asked if they had to upgrade the existing system. Roger said no, but that they have the capability to put one in. Madge said the location also needs to be on the plan. (§105-4.D(7) 'Relocation', (a) A nonconforming structure may be relocated within the boundaries of the parcel on which the structure is located, provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, **and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of state law and the State of Maine Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with the law and said Rules.** In no case shall a structure be relocated in a manner that causes the structure to be more nonconforming.)

Madge B. asked if the location of the well was on the plan? Mr. Nieto stated that it was. Madge said the board also wants an enforceable planting plan. She noted the plan did show places where the applicant intended to plant. She asked if there were any trees being removed? Mr. Nieto stated only one tree would need to be removed. He said it would not hamper the construction but it is dead and he would show them on the site walk. Madge said again the board wants a planting plan and she asked Barbara F. if she could give him an example. She stated she could. Madge stated that for every structure that gets moved a replanting

plan needs to be addressed. Roger agreed and said there needs to be a clear plan for CEO McDonough to follow at the final inspection. Madge said where the deck is being moved from, that area will need to be addressed and the board needs to know what they will be doing there for the next meeting. Mr. Nieto stated there is a note that states there will conservation mulch in that area. Madge said the board thinks mulch is great but not forever, the board prefers native plants. Mr. Nieto said after the board sees the area they will understand why there is mulch there. Roger asked if the Permit by Rule had been sent? Mr. Nieto said it had. Roger said there were a lot of areas on the permit that were not filled in. Mr. Nieto said with the Permit by Rule they put in for a permit for the stairs, excluding the deck, if the board approves the location of the deck, then they will submit that information on a separate permit. He said they wanted to begin some of the work right away.

Madge B. said she was fine with going on a site visit but could not promise Mr. Nieto the board would approve the deck at the next meeting, as they may not, after looking at the site, have a plan they can approve.

CEO McDonough told Mr. Nieto with respect to revegetation, there would be a huge area disturbed and he noted the area on the plan in front of the board. The board needs to know how that the area will be restabilized. Mr. Nieto stated that when they go to the site they will understand what is going to happen. CEO McDonough stated he had already been to the site.

Mr. Nieto spoke about adding a retaining wall and CEO McDonough stated he could not do that because a retaining wall is considered a structure and no new structures are allowed within 100 feet of the water. CEO McDonough again spoke about the area around the new foundation, the fact that area will be disturbed and that it had to be addressed with a replanting / stabilization plan. Mr. McDonough stated that plan had to be in writing. Mr. Nieto stated, "Ok".

Madge B. said one more time that she wanted Mr. Nieto aware that he may or may not get approval the next time depending on what the board finds at the site visit and what they require for additional information. Mr. Nieto said he understood.

Roger A. stated board members will meet at the town hall at 6:30 p.m. for the site visit on Tuesday, September 22nd. A notice to abutters will be mailed as well.

Nothing further was discussed.

Best Possible Location – Replace Existing Structure with Expansion – Map 30, Lot 40 (30 Hawthorne Street), Lawrence & Elaine Mason, Applicants/Owners

Mr. John Hutchins was present to represent the applicants as Joe Stanley of LinePro Land Surveying, Inc. was unable to attend due to illness.

The application description of the project states 'Remove existing structure (nearest point to shoreline 48', no foundation) build new structure on full foundation, 52' from shoreline with a 29.3% increase in area (including deck) within 100' of shoreline. Total area 1,296 square feet, total proposed lot coverage 3.3%'.

Along with the application, board members were provided a copy of Shapleigh Tax Map 30, showing the location of Lot 40; a copy of the soils map indicating the location of the Lot 40; pictures of the existing structure & property; a 3D plan of the existing and proposed structure; and a site plan showing the existing structure and proposed structures location on the property. In addition, a copy of the deed was provided.

Mr. Hutchins began by stating Mr. Stanley was unable to attend due to an illness.

Mr. Hutchins stated this was a best possible location for Lawrence & Elaine Mason. The property is on Hawthorne Street. He said the situation with this application is the existing building is very small, 588 square feet and the 30% expansion isn't going to be large enough or worthwhile. He said they want to put in a foundation as well. Therefore, they want to put some of the structure behind the 100 foot mark, so they can get the size they want. He said they came up with a t-shaped building as a proposal.

Mr. Hutchins showed the 100 foot mark on the plan, where the expansion would be, and the remaining area beyond the 100 foot mark. Diane S. asked if there were power lines that cut through the lot. Mr. Hutchins said there were and there was a pole that would need to be moved.

Madge B. said the board needs more information than presented. Mr. Hutchins stated he understood. He believed the owners wanted to see if what they were proposing is possible before they expend more time and money into the project. He said this was the first proposal with respect to the building.

Madge B. said at this point the only thing the board could do was a site visit to determine anything further. Diane S. noted that the board only had the ability to move the existing structure. Madge agreed.

CEO McDonough stated this proposal was way out of line. He said he couldn't speak for the planning board and noted this application was not brought to him prior to the meeting, but his opinion is the way the board does the best practical location is they move the existing structure to its best location, then see how it can or if it can be expanded. He said if there is any chance that you can get 30% of the structure inside of 100 feet, and the best location of the structure is right here (he was pointing to the plan), inside the 100 foot line, then you are done. You can only expand by 30% of the existing.

Mr. Hutchins asked about the 100 foot setback? CEO McDonough stated that with best practical location all setbacks are irrelevant. Diane S. agreed, stating the board looks at terrain, how far can they move it from the water, taking into consideration slopes. Mr. Hutchins said, "So you are saying if we can get this building back behind the 100 foot line completely, then that is it. You won't allow anything within 100 feet of the water." CEO McDonough said, "That is correct, if the existing structure will fit entirely beyond the 100 foot line, then none of the structure will be within 100 feet of the water." Mr. Hutchins stated, "Gotcha, ok".

Steve F. said he could go up beyond that point. Mr. Hutchins said if they have to be behind the 100 foot line it will be a no go, he already discussed this with them. Diane S. said, "If it looks like we can't get them back behind the 100 foot line, then they will have this and add 30% onto the existing structure they have and that is what they will have to live with." Mr. Hutchins said, "I can put this behind the 100 foot line, there are no two ways about that." CEO McDonough said, "Commonly you can't get a structure beyond the 100 foot mark, but in theory if you could, then that is the end of story. If you want to add additions and can meet the other setbacks, you can still do that. Many times the structure can't go back that far."

Mr. Hutchins stated he was confused at this point. Diane S. said he should wait until the board decides what the best possible location for the existing structure is, then go from there. CEO McDonough said he could propose where it could go based on tonight's discussion. Mr. Hutchins said he would need to discuss this with the applicants before proceeding as he wasn't sure if they would want to proceed based on tonight's information. Diane S. said again they could add 30% to the existing. Mr. Hutchins said that was unacceptable to them at this point.

The board decided to schedule a site visit on Tuesday, September 22nd in case the applicants decided to go forward, it will be done at approximately 7:00 p.m. A notice to abutters will be mailed as well.

CEO McDonough asked if there was a septic design? Mr. Hutchins stated no, there was not one on file and they didn't want to get that far until they could see what the planning board would allow. CEO McDonough stated that one would be required if they move forward. Roger A. noted the septic design could affect location depending on where a new system could be located.

Nothing further was discussed.

Growth Permits - There are Growth Permits Available.

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

The next meeting will be held Tuesday, September 22th at 7:30 p.m. The Planning Board meets the 2nd and 4th Tuesday of each month unless it falls on a holiday or Election Day. Any scheduled public hearing takes place at 7:00 p.m. prior to the scheduled meeting.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, September 22, 2015

Members in attendance: Roger Allaire (Chairman), Maggie Moody (Vice Chair), Madge Baker, Diane Srebnick, Roland Legere, Alternate(s) Ann Harris & Steve Foglio, as well as Barbara Felong (Secretary). Code Enforcement Officer Steven McDonough was also in attendance.

The following words are not verbatim unless accompanied by quotation marks “ ”

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

The minutes from Tuesday, September 8, 2015 were accepted as read.

Best Possible Location – Replace Existing Stairs and Landing, Increase Size of Porch and Install a Foundation Under Existing Structure – Map 28, Lot 49 (45 Carpenters Cove Road) – Louis Nieto, Applicant; John Sullivan, Property Owner

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

The application description of the project states ‘Remove and rebuild stairs and landings that go down to the shore. Lift house and install foundation, increase size of porch’.

For the first meeting, board members were provided a copy of Shapleigh Tax Map 28, showing the location of Lot 49; a copy of the soils map indicating the location of Lot 49; pictures of the existing property; foundation and floor plan; Permit by Rule Notification Form with project description; and a site plan depicting the existing and proposed structures, grade, plantings and mulch locations. In addition, a copy of the deed was provided.

Prior to this evenings meeting, board members did a site inspection of the property. Mr. Nieto provided board members with a Subsurface Wastewater Disposal System Application, done by Kenneth Gardner, SE #23, dated 9/14/2015.

Mr. Nieto began by stating that the planting plan was described to members at the site inspection. He also noted that any exposed soil was to be covered with conservation mulch. Roger A. asked if the DEP was notified about the deck being moved. Mr. Nieto stated that they were notified at the site inspection with Chris Coppi (MDEP) about their plans, and it was discussed that if the board approved the best possible location for the deck, then they would move the deck. Mr. Nieto stated Mr. Coppi was the one who suggested it was a better placement for the deck at the site walk.

Madge B. asked if the deck was the only issue? Roger A. stated the dwelling was being moved as well. Madge asked if it was behind the 100 foot mark? Roger stated that it was, but it was also going to be moved so it would meet the side setback, which it currently did not. Ann H. noted it was not going to be closer to the road. Roger said, correct. Ann asked if any trees would be removed? Mr. Nieto stated none were being removed due to construction, one may be removed because it is dead.

Diane S. asked if it was a 2 bedroom house now? Mr. Nieto stated that it was a 2 bedroom but based on the septic design it could be a three bedroom. Diane asked if they were going to put in a new septic system now? Mr. Nieto stated they were not, the one in existence was working.

Roland L. asked if the changes to the structure were going to affect the leachfield? Mr. Nieto did not believe so but if it had to be replaced then they would do so. Madge B. asked if the plan showed the leachfield? Mr. Nieto stated that it did not because it was existing, he believed only a new one had to be on the plan. Roland asked what the distance to the leachfield from the building had to be? Mr. Nieto stated the distance to the tank had to be 8 feet, and the distance to a leachfield was 20 feet. CEO McDonough stated that was correct for a new system but a replacement system could get a waiver from those requirements if needed. Roland was concerned with the board approving a foundation closer to the leachfield than required, was this a violation and could the board approve a violation? CEO McDonough stated a best possible location was a variance, therefore, setbacks are not an issue, so no, the board is not agreeing to a violation.

Madge B. asked if the new deck was 30 % larger than the existing? Mr. Nieto stated that it was. Mr. Nieto noted that they did not calculate the steps they were removing, so in fact they were not increasing the overall coverage by 30%.

Madge B. stated that she agreed this proposal would make the area better. Roger A. agreed and stated that only one tree would be removed and it was dead. Roger said there would be more plantings on site than what exists at this time, noting the plan showed blueberries, Hostas, daylilies, grass and conservation mulch. He said the stairs would be reconfigured. Madge agreed stating there was a safety issue on site at this time.

Roger A. asked if the concrete stairs would be fixed? Mr. Nieto stated they would be repairing the concrete as necessary.

Roland L. asked what the time frame would be? This fall? Mr. Nieto stated he believed it would take approximately a year to complete everything, stair & deck replacement, new foundation and replanting. He said they would start with the stairs this fall and do the foundation in the spring. He said they would not have time to do both by winter. Madge B. said the board was asking, as they want to set a re-planting deadline. Mr. Nieto stated he would be using conservation mulch until the replanting could be done. Madge asked if the board could set a replanting deadline of 9/16/2016? Mr. Nieto stated he didn't have an issue with that, they should be done by then. Roger said the only disturbance this fall would be the stairs. Madge stated if they replace the wall that would create an area of disturbance as well. Mr. Nieto stated again he would use conservation mulch as needed. Mr. Nieto noted he would prefer to do the plantings in the fall, instead of summer, just because they have a better chance of taking root.

CEO McDonough asked if there was going to be a new wall within 100 feet of the high water mark? Mr. Nieto stated no, there would be a two tiered wall behind the 100 foot mark; that by doing a two tiered wall they would not exceed 4 feet in height. CEO McDonough said, that is fine.

Roger A. asked Mr. Nieto if he had a Best Management Practice license from the DEP, as this is a requirement now? Mr. Nieto stated he did not but would have someone on site that did.

Roger A. reviewed §105-4.D(5) 'Removal, reconstruction or replacement. Then §105-4.D(7)(b) which addresses the replanting requirement for relocation. Roger stated that no trees were being removed except a dead tree and there was a replanting plan to replace or revegetate the areas to be disturbed. Roger also reviewed §105-4.D(2) 'Patios, steps, decks.'

Roland L. asked where the old material would be taken? Mr. Nieto stated most likely put in a dumpster and it will be taken to Simpson's in Sanford.

Roger A. stated the conditions of permit would be:

- 1) The stairs & deck materials, and any waste material to be removed, shall be taken out of Shapleigh and disposed of properly.**
- 2) Best Management Practices shall be used and the work is to be done by a person certified by the DEP. The BMP shall be kept in place until all work is completed.**
- 3) The re-vegetation plan shall done per the plans presented, consisting of low bush blueberries, Hostas, day lilies, grass and conservation mulch; and it shall be completed by September 15, 2016. If this date cannot be met the board shall be notified and a new date will be approved by the board.**

Madge B made the motion to approve the best possible location to replace the existing stairs & decks, and add a new foundation to the existing structure, moving the structure 1.6 feet from the side lot line to make it more in conformance, on Map 28, Lot 49, per the plan provided, with the above stated three conditions. Maggie M. 2nd the motion. All members were in favor. Motion passed unanimously, 5 – 0.

Findings of Facts

1. The Owner of Shapleigh Tax Map 28, Lot 49 (45 Carpenter's Cove) is John Sullivan of 27 Barna Road, Dorchester, MA 02124. Warranty Deed, Book 9219, Page 123-124, York County Registry of Deeds.
2. The property is located in the Shoreland District and according to the Assessor's office contains .35 acres.
3. The applicant provided a copy of Shapleigh Tax Map 28, depicting the location of the lot, and a copy of a soils map depicting the location of the lot.
4. The applicant provided a copy of a survey plan depicting the existing dwelling location and proposed, the existing stairs and proposed location, existing deck and proposed location, the approximate road location, proposed two retaining walls that set behind the 100 foot mark, and proposed re-vegetation plan which includes low bush blueberry, Hostas, daylilies, and grass. Conservation mulch will be used as well.
5. The applicant provided a copy of the survey plan which described the project in detail, noting where structures would be removed and where new structures would be placed, and a note which stated, 'Lift house and install full foundation, raise elevation 2' 6", move house 1'6" north to place it within setbacks from sidelines, maintain existing distance from center of road, increase area of porch.'
6. The applicants provided a copy of the Permit by Rule sent in to the DEP which stated on the application front page, 'Remove and rebuild stairs and decks from house to waterfront.' A project description page to the DEP was also provided which further described in detail what the project would entail. Pictures of the property were also received.
7. The applicants provided a copy of the Subsurface Wastewater Disposal System Application done by Kenneth Gardner, SE #23, dated 9/14/2015 for a 3 bedroom house.
8. A notice was mailed to all abutters within 500 feet of the property, Wednesday, September 9, 2015.

9. The board unanimously agreed to approve the Best Possible Location to replace the existing stairs & decks, and add a new foundation to the existing structure, raising the structure 2'6" and moving the structure 1'6" from the side lot line to make it more in conformance per the plans provided.
10. The conditions of the permit are as follows:
 - 1) The existing stairs & deck materials to be removed, and any other waste material, shall be taken out of Shapleigh and disposed of properly.
 - 2) Best Management Practices shall be used and the work is to be done by a person certified by the DEP. The BMP shall be kept in place until all work is completed.
 - 3) The re-vegetation plan shall done per the plans presented, consisting of low bush blueberries, Hostas, day lilies, grass and conservation mulch; and it shall be completed by September 15, 2016. If this date cannot be met the board shall be notified and a new date will be approved by the board.

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

Nothing further was discussed.

Best Possible Location – Replace Existing Structure – Map 30, Lot 40 (30 Hawthorne Street) – Lawrence & Elaine Mason, Property Owners/Applicants; Joe Stanley of LinePro Surveying, Representing

Joe Stanley was present for the review of the application. Richard Levesque, General Contractor on the project was also present to answer questions.

The application description of the project states 'Remove existing structure (nearest point to shoreline 48', no foundation) build new structure on full foundation, 52' from shoreline with a 29.3% increase in area (including deck) within 100' of shoreline. Total area 1,296 square feet, total proposed lot coverage 3.3%'. Along with the application, board members were provided a copy of Shapleigh Tax Map 30, showing the location of Lot 40; a copy of the soils map indicating the location of the Lot 40; pictures of the existing structure & property; a 3D plan of the existing and proposed structure; and a site plan showing the existing structure and proposed structures location on the property. In addition, a copy of the deed was provided.

Prior to this evenings meeting, board members did a site inspection of the property. On 9/18/15, a letter was received by Barbara F., for the board, stating in part that Richard Levesque, Excavator / General Contractor, Joe Stanley of LinePro Surveying, and J. Winslow Hutchins, Drafting and Design would be working with the applicants on this project.

Mr. Stanley began by stating he wanted to hear feedback from the board with respect to the site visit and the information they had provided so far. He said he realized after the site visit that the plan didn't have the existing location on it and it needed to be there. He said they pushed the structure back another 12 – 15 feet to gain distance from the water but it would be closer to the road, and the size of the structure on the plan presented this evening was the same as the existing.

Roger A. stated that after the site inspection, the board believed moving the existing structure back 6 feet would have less impact on the lot based on the topography. Mr. Stanley stated that the Mason's wanted a walkout basement and he didn't think it would be possible if the structure was only moved back six feet. Mr. Levesque stated that the Mason's were looking for a bigger structure and the only way they could do that was moving it back farther. Roger stated that if the structure was only moved back six feet then 2 big pine trees would not have to be removed and there would be less earth moved out of the hillside.

Diane S. stated that even though the structure would be within 100 feet of the water, they still could expand by 30% and add a basement giving them additional living area. Mr. Levesque stated that 30% of the existing wasn't very much, noting the existing was only 588 square feet in size.

Ann H. stated that by moving it only six feet there would be much less impact on the lot and that is what the board had to take into consideration. Diane S. agreed and did not believe they would get much of the structure back beyond the 100 foot mark, so they would have to stick with the 30% expansion.

Mr. Stanley didn't think the property owners would want to proceed if they couldn't move the structure back enough to be able to expand it more than the 30%. He said with the cost to rebuild, it would not be worth it to them.

Roger A. stated that if they move the structure back six feet, jack it up the allowed 3 feet, they would have a 7 foot cellar. Mr. Stanley didn't believe moving it back six feet would gain him six feet for the basement, he thought it would only gain him four feet. Madge B. agreed with Mr. Stanley. Roger did not agree based on what he saw at the site visit. Mr. Stanley stated he would take another look at the site. Madge thought he should because she believed no one on the board wanted to move the structure back any more than six feet based on the site inspection. Ann H. agreed, it keeps them from taking out trees and much less overall impact on the lot.

Madge B. asked how close you could get to trees without impacting them? Mr. Levesque stated that often the tree roots get damaged when putting in a foundation. CEO McDonough stated that where there are branches, there are roots underneath them. Where there is canopy, there are roots.

Ann H. said again that moving the structure to the back of the lot would have too much effect on the lot. Mr. Levesque thought the trees were old now, so replanting might be a good idea. Roger A. stated that moving the structure back six feet and raising it was the best option. CEO McDonough stated that you cannot raise the structure more than 3 feet from the existing. Roger stated the structure was 8" off the ground now, so it could be raised 3' 8" at the proposed location.

Mr. Stanley stated he would discuss this with his client. Madge B. asked what the foundation was made out of now? Mr. Stanley stated, cement blocks. Mr. Stanley said he would modify his plan, add trees, so the board would get a better idea of what they wanted.

Roland L. noted the area has some erosion issues at this time, due to the sandy soil. He thought the owners could possibly address that, using erosion control measures, while doing this project. He noted the road itself had issues. Mr. Stanley stated that if they move the building they might address that as well, he will discuss it with them.

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

Madge B. made the motion to table the application for further information. Diane S., 2nd the motion. All members were in favor. Motion passed unanimously, 5 – 0.

The application will be review again on Tuesday, October 13, 2015.

Nothing further was discussed.

Best Possible Location – Addition to Cottage and Raise 3'; Replace Porch with Deck & Patio; Map 35, Lot 39 (472 Cedar Drive) – Carl & Nancy Beal, Applicants / Property Owners

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

Along with the application, provided to the board was the following: A copy of Shapleigh's Tax Map 35, depicting the location of Lot 39; A project narrative, done by Carl Beal, P.E. #5013, dated September 3, 2015, which described the project in detail; The square foot and volume calculations for the existing and proposed structures; A copy of the warranty deed showing ownership of the property; A copy of an Easement Deed for maintenance and repair of the existing well; A copy of the Subsurface Wastewater Disposal System Application, done by John Large, SE #7, dated 6/6/97; A copy of the replacement system variance request, done by John Large, accepted by James Gerrish, LPI for Shapleigh, dated 6/26/97; An existing conditions plan, showing existing structures, including septic system, with distances to the high water mark noted on the plan; An existing conditions plan showing all existing vegetation on site; A proposed improvement plan depicting a replanting schedule, and location of proposed new structures; An existing drainage plan, with property elevations noted; Drainage and erosion control plan(s); and the proposed structure plans, depicting interior plans and exterior dimensions from all sides, including structure elevations.

Roger A. asked Mr. Beal to explain to the board what he was proposing. Mr. Beal stated he was before the board for a best possible location for the structures located on 472 Cedar Drive, Square Pond, that he and his wife recently purchased. He said they wanted to improve the structure because it was in rough shape at this time. They would be using the 30% for expansion and that the lot was .34 acres in size, being approximately 50' x 300'. He said using the topo map the property is 40 feet in elevation, and slopes down to Square Pond. Access to the lot is provided by a deeded right-of-way over the abutting Lot 40, Johnson.

Mr. Beal stated the existing setback from the lake is 38 feet, this is from the front porch, and the first floor of the cottage is 11 feet above the lake. He said that overhead power and utility lines bisect the property, about 130 from the shore. The wastewater was installed in 1997 and it includes a pump station. He noted the system had issues and the tank had to be replaced because it was leaking. Water is provided to the property from a dug well which is located on the neighboring property.

Mr. Beal stated the existing vegetation is a mix of soft and hardwoods, both young and mature growth. He said there were several large pines around the existing cottage that he noted decay in, therefore, he felt they would need to be removed. He also believed they would be impacted by the project. With the need for a new septic tank, the roots of the trees will be affected. He stated 14 trees would be removed and replaced, but they would be kept away from the new septic systems to keep roots from impacting it. He said the shoreline is well buffered by pines, birches, maples and shrubs. Silt fencing will be installed to protect disturbed areas during the project.

Mr. Beal stated they wanted to start the project this fall by clearing trees. He stated he did have the contractor lined up, so if the board approves the project, they were ready to begin.

Diane S. asked Mr. Beal to flag the trees for the site visit. Mr. Beal stated that he had already done so. Ann H. asked if he was just raising the cottage, not moving it? Mr. Beal stated he wanted to raise the 1st floor 3 feet, which would allow more space inside. They also would be putting an addition on the rear of the structure. He said overall they would be expanding by 30%.

Mr. Beal stated they would like to remove the existing 2 story porch and put a deck in its place. This would be no closer than the existing, so it will have no additional impact to the area. Roland L. asked if it was a covered porch? Mr. Beal stated yes, the existing is a 2 story covered porch with no basement access.

CEO McDonough asked if he was replacing the existing septic system? Mr. Beal stated they had to replace the tank because it was leaking. CEO McDonough, looking at the plans provided, told Mr. Beal that the trees being replaced could be no further from the lake than those being removed. He stated with respect to those beyond the 100 foot mark, the point system in the ordinance would be used.

CEO McDonough asked about the new curb being installed along the driveway. Mr. Beal stated it was a stormwater diversion to direct runoff into a new stone-lined recharge area to reduce the erosion below the driveway. Mr. Beal noted there was a mature buffer of vegetation along the lake.

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

Roger A. scheduled a site inspection for 9:00 a.m. on October 10th. Members will meet on site. A notice to abutters will be mailed as well.

Nothing further was discussed.

Conditional Use Permit – Mineral Extraction – Map 5, Part of Lot 44 (Goose Pond Road) – Gloria & Frank Clark II, Owners/Applicants

Mr. & Mrs. Clark were present for the review of their application.

The Planning Board received an application from Gloria J. & Frank W. Clark II, dated 6/30/2015, for a mineral extraction operation described as ‘After loam / stump removal, mineral extraction. Materials on-site to be excavated to elevation 530 and trucked off-site. This is to occur in 5 acre increments, so that no more than 5 acres are ‘active’ or up to 10 acres are opened/cleared.’

In addition to the application, the Planning Board had received the following:

- A copy of a Quickclaim Deed dated June 24, 2015, showing Frank W. & Gloria S. Clark of 2 Freemont Street, Sanford, Maine to be owners of the 20 acre parcel that the proposed mineral extraction operation would take place on.
- A copy of a further description, including meets and bounds, of the 20 acre parcel / mineral extraction site.
- An authorization dated 6/26/2015, allowing James Logan of Albert Frick Associates, Inc. to represent the Clark’s interest with the Planning Board and the Maine Dept. of Environmental Protection. *Note: Mr. Logan did not attend the Planning Board meetings, Mr. Clark represented himself at the meetings.*
- A site location plan showing the general location of the 20 acre parcel in Shapleigh.
- A list of abutters as required in the application for both Shapleigh and Acton residents.
- A copy of the front page of the application to the Dept. of Environmental Protection – Notice of Intent to Comply – Performance Standards for Excavations for Borrow, Clay, Topsoil or Silt (For Use with 38 MRSA Section 490-C).
- A letter dated March 20, 2015, from the Dept. of Inland Fisheries & Wildlife, stating in part, ‘Our information indicates no locations of Endangered, Threatened, or Special Concern species within this project area. Additionally, our Department has not mapped any Essential Habitats or fisheries habitats that would be directly affected by your project.
- A copy of a map provided by MDIF&W showing the location of the proposed mineral extraction site on a map plotted for Environmental Review of Fish and Wildlife Observations and Priority Habitats, which noted no indication of Essential Habitats.
- A copy of the Proposed Gravel Extraction Site Closure Plan, dated March 2015, done by Albert Frick Associates, Inc., Environmental Consultants.

- A copy of the 14 Test Pits results taken on site along with a map showing the approximate Test Pit locations, done in July of 2013 by Civil Consultants of South Berwick, Maine.
- A copy of the Laboratory Test Results of the Test Pit Samples sent to Thomas Harmon, P.E. of Civil Consultants, Inc., letter dated July 16, 2013, done by the firm R.W. Gillespie & Associates, Inc., Geotechnical Engineering – Geohydrology – Materials Testing Services.
- A copy of the ‘Summary of Laboratory Testing Program – Test Pits’ results & Particle Size Distribution Report also provided by R.W. Gillespie & Associates, Inc.
- A copy of the estimate to reclaim each 5 acre pit, done by Levesque Excavation of Sanford, Maine, in the amount of \$15,000.00, dated 7/13/2015.
- A copy of the curb cut location onto Goose Pond approved by Road Commissioner John Burnell, dated 8/7/2015.
- A copy of a letter dated August 6, 2015, from the Dept. of Environmental Protection, stating that Mr. Clark’s gravel pit is licensed and subject to the standards under the Performance Standards for Excavations, 38 M.R.S.A. §490-D.
- A copy of the placard from the MDEP, Permit Number L-860, dated 8/6/2015, which states ‘This excavation has been permitted pursuant to the Performance Standards for Excavations (38 M.R.S.A. Section 490-C) administered by the Bureau of Land and Water Quality, Department of Environmental Protection, 312 Canco Road Portland (822-6367).
- A site plan drafted by Albert Frick Associates, Inc., Environmental Consultants, Gorham, Maine, dated 1/27/15; entitled Proposed Mineral Extraction Site Plan prepared for Frank Clark, Goose Pond Road (Map 5, Lot 44), Shapleigh, Maine.

Further details on the site plan drafted by Albert Frick Associates, Inc., dated 1/27/15 include:

- 1) Cross Section View depicting limits of Mineral Extraction / Regrading of Slopes, which includes areas for control of internal drainage / runoff, existing grades, areas for extraction and limits of mineral extraction / regrading of slopes.
- 2) Location of the 20 acre parcel is depicted within the larger parcel owned by Mr. & Mrs. Clark, known as Map 5, Lot 44. Within the 20 acre parcel it is further noted:
 - a) The location of the proposed site access.
 - b) The site distances from the site access location, those being 1005’ toward Acton and 964’ toward State Route 11.
 - c) Proposed location of a future office building.
 - d) Proposed location of a watertight enclosure for fuel storage.
 - e) Location of (2) five acre extraction locations / restoration-reclamation area.
 - f) Location of (1) 7.89 acre for future removal once previous 10 acre area is completely restored-reclaimed.
 - g) Stump storage and future stump areas.
 - h) 50 foot area/setback for regrading to match surrounding existing slopes (only around extraction area).
 - i) Location of stockpiled/stabilized loamy surface materials (to be seeded & mulched).
- 3) Information box stating: Proposed mineral extraction area (as depicted): 779,288+/- Sq. Ft. (18 +/- AC). Proposed bottom elevation of extraction: 530’ +/- (See Cross-Section Diagram).
- 4) Notes box stating: No wetlands or vernal pools exist on the proposed extraction site. All drainage/runoff from the extraction area will remain subsurface or will drain internally on-site. No water table exists within 5’ of the ground surface in the proposed extraction area. Clear/Stump 10 acres at a time, as shown. Once materials are removed and ground surface is leveled/smoothed, reclaim in 5 acre increments as shown. Reclaimed slopes not to exceed 4:1. No more than 5 acres of area may be active for mineral extraction at any one time.

To date, two meetings have been held on this project, the first on Tuesday July 14, 2015 and the second Tuesday, July 28, 2015. In addition, a notice to abutters was mailed on Wednesday, July 15, 2015 and a public hearing was held on Tuesday, July 28, 2015.

For this evenings meeting, Mr. Clark provided additional information of what may take place on site, it read as follows: Methods of gravel extraction may include any piece of equipment needed such as tractors, loaders, dump trucks, excavators, etc. If partial processing is required the use of any piece of equipment like separators, screens, conveyors, crushers, etc. will be used in adherence of the town/state codes.

On September 2, 2015, the Land Use Secretary received a copy of a letter in the mail from Sarah A. McDaniel, of Douglas, McDaniel, Campos & Schools, Attorney's and Counselors at Law to Mark Stebbins, Mining Coordinator, MDEP, Bureau of Land Resources, regarding Notice of Intent to Comply, Project No. 860 (Town of Shapleigh, York County). The letter was in regard to Mr. Clark's DEP approval for his proposed mineral operation. Attorney McDaniel was representing an abutting property owner to the Clark Pit, Susan Closs, and in the letter it alleges Ms. Closs was not notified, therefore, not all abutting property owners were notified; that the Notice of Intent to Comply was not signed by both record owners of the property, nor was a certified statement made attesting to their compliance; the Notice did not provide the mailing address and telephone number of the operator as required, operator listed as "Isaac Clark", the owners son, but does not reveal contact information; the Notice did not include a plan that depicts any water sources within 1000 feet of the Clark Pit and that the plan shows a setback for regrading, but fails to identify that 50' must be maintained as a natural buffer between the excavation and property line. Attorney McDaniel stated for the above reasons, the applicant should be informed that the Notice was insufficient and should not be accepted. (A copy of the actual letter can be viewed in its entirety during regular town hall hours.) All members received a copy of the letter from Attorney McDaniel prior to this evenings meeting.

On September 21, 2015, Mark Stebbins replied via email to Attorney McDaniel's letter regarding the Frank Clark Gravel Pit. Mr. Stebbins concludes, after replying to all Attorney McDaniel's statements of insufficiencies that the Department (MDEP) had determined that Mr. Clark's NOITC (Notice of Intent to Comply) is complete as required by the statute. (A copy of this email can be read in its entirety during regular town hall hours.)

An email was received on Tuesday, September 22, 2015 from Sarah McDaniel to the Planning Board regarding Mr. Clark's gravel pit application. Board members received a copy of this email at the meeting. It was addressed when the meeting began and members had a moment to review it.

Roger A. opened the meeting by asking Mr. Clark if there was anything further he wanted to state to the board of if he had any additional information than what had already been presented. Mr. Clark asked if the board had received the email from Mark Stebbins of the MDEP? Roger stated they had this evening. Mr. Clark stated that he had given Barbara F. an equipment list and that he had always intended on processing gravel on site. He said the DEP knew of his plans to process gravel and they had no issue with his project. He said he realized he would meet opposition and knew it was up to the board how to best deal with it.

Mr. Clark spoke about the recent letter from Attorney McDaniel to the Planning Board that he had also received. He believed he did provide all the information to answer the issues mentioned in the letter, all everyone had to do was read the information he provided. Mr. Clark pointed out that Attorney McDaniel stated he did not provide an adequate erosion control plan, he disagreed citing the fact she may not have reviewed the reclamation and sloping plan because this was addressed there. He said where she stated he was planning on possibly removing trees all at once on the 20 acre piece, he stated he never said that he would do that. He said that 10 acres of trees would be removed, so there would be an area to stockpile. He said you cannot extract from five acres and not have an area to process or stockpile the gravel or equipment.

Mr. Clark stated that he understood that the trucks have to turn left on site and go toward Route 109. He said with respect to the size of the trucks on site, Road Commissioner John Burnell said that because he would not be going over the culvert on Goose Pond Road, and only traveling 250 feet in Shapleigh, he had no issue with the size of the trucks being used.

Mr. Clark stated he understood there was a review recently of another extraction operation and the hours of operation were 6:00 a.m. to 5:00 p.m., six days a week. He realized being in the area he is in, he should not begin before 7:00 a.m. and he didn't believe he would need to be open all day on Saturday, so 7:00 a.m. to 12:30 p.m. would be sufficient.

Mr. Clark stated he had no way of knowing how many trucks or some of the details Attorney McDaniel was asking for because no contractor would look at his property until he gets approval from the Planning Board, so he has no idea how many trucks there would be.

Mr. Clark stated there is a 50 foot buffer strip indicated on his plan and noted that the only person abutting this lot was himself, that he in fact owned the land surrounding this property.

Mr. Clark stated with respect to children, he could not monitor what children were doing, no more than you can predict if a child could be hurt falling off a dock and that isn't regulated. He noted his project was more than 150 feet off the road with a buffer between the road and his project.

Mr. Clark stated this is not an ongoing gravel pit; he said he was trying to improve his property, making it look better than it does at this time with a grass field and leveled area. He believed the points addressed in Attorney McDaniel's letter were addressed by the information he provided to the board.

Mr. Clark also wanted it noted that that at no time did he ever state he would be using explosives on site.

Board members took a moment to review Attorney McDaniel's letter to the board.

Attorney McDaniel spoke about the MDEP license and believed it was not an in depth application process, she noted the staff at the DEP office was not adequately staffed to do an in depth review, so although Mr. Clark received approval it was up to the Planning Board to make sure all Mr. Clark's submissions are complete. The board cannot rely on the DEP approval with respect to things such as water quality. Attorney McDaniel stated that once there is a new operator at Mr. Clark's operation they will have to submit for a new Notice but that doesn't minimize the risks to residents, it was important that the board make certain the requirements in the Town's ordinance would be met by Mr. Clark.

Attorney McDaniel stated the board needed to address safety issues such as odor, dust, smoke, fumes, and noise from processing. The board needed to take into consideration the worst of all possible scenarios. She believed at this time the board had no idea what the volume of noise would be, it was up to Mr. Clark to provide the board with this information.

Attorney McDaniel stated with respect to the safety of children, she believed the conditional use itself had express standards to protect children and these need to be applied to Mr. Clark's proposal. She spoke of the issues of traffic and erosion control measures. Attorney McDaniel had concerns with the number of trucks, there was no way of knowing at this time that number and she believed Mr. Clark needed to have a set number of trucks allowed to control traffic now and in the future, as this was a safety issue.

Attorney McDaniel stated under §105-61(B)(2) the ordinance requires a minimum of 75' setback from all property lines, but this application only shows a 50' setback. She believed this setback should be increased

since the permit runs with the land and if Mr. Clark sells the property and is no longer the abutting property owner, it would affect the next property owner. Attorney McDaniel spoke about the specifics in the ordinance that talk about no excavation below grade of a neighboring property, but Mr. Clark's plan shows only a 50 foot buffer. She stated again that she did not feel the basic performance standards of the ordinance had been met. She said the burden of proof was on the applicant to show all the standards could be satisfied and at this time there was insufficient evidence.

Mr. Clark stated with respect to the Notice of Intent, when a new operator comes on site, they have to fill out a new Notice of Intent as 'operator', and then the liability of the operation to the DEP is theirs. He stated it was an easy process and all other conditions of approval run with the new operator.

Mr. Clark stated with respect to the buffers, he owns 200' to the closest point of excavation on site. He said the closest abutter to the project is Goose Pond Road and that is 150 feet away. He said the nearest abutter to this project is 200 feet, so all the buffer distances can be met.

Mr. Clark stated that with respect to erosion control, there is a plan in place and the area is self-contained, all water stays on site. He stated that there are (3) five acre parcels to be extracted but they are not to be done all at once. He said again that at no time did he state all 20 acres would be cleared, only 10 acres of trees would be removed and 5 acres of gravel extracted before he moves on to the next five acre section.

Steve F. asked Attorney McDaniel about the 50 foot setback reference, it is on the plan. Attorney McDaniel stated the plan she looked at showed the buffer to be 50 feet when it should be a minimum of 75 feet for excavation work. She was referring to §105-61.B (2) which states in part 'No part of any extraction operation including drainage and runoff control features, shall be permitted.....within 75 feet, horizontal distance, of any property line without written permission of the owner of such adjacent property'. Mr. Clark noted he was the adjacent property owner and he had no issue.

Steve F. spoke about on site processing, there would be noise, what was she looking for? Attorney McDaniel's stated she wanted more specifics on how noise and dust would be controlled at the property line. She noted that Mr. Clark could sell the adjoining property to someone else and it would be an issue.

Steve F. stated that the board was going to put conditions on Mr. Clark, they were not just going to say here is your gravel pit, go ahead. He said Mr. Clark would have to comply with what is established in the ordinance and that the board is limited by what the ordinance requires. He said that there was no way at this time to know what the noise level would be, there is a level limit in the ordinance and it is subject to enforcement. Attorney McDaniel stated there was research done on noise levels for equipment that could be cited. Steve stated that the noise level at the property line would be different than at the site of excavation. Attorney McDaniel didn't believe the board could make a decision without more specific information for noise and dust at the property line, sufficient information had not been presented.

Mr. Clark noted that he had two different consultants tell him to wait to present this project until the fall as there would be less people in the area, so the process might be easier. He said he did not do that because he wanted to be above board and let everyone know what he was proposing to do. He was not here to hide anything.

Roger A. stated with respect to dust, Mr. Clark had proposed to use a truck to water the area down. He said with respect to the 50 feet from the rear and side lot lines, there is no area where the excavation is below grade according to the plans. Attorney McDaniel read §105-61.B(2) and the fact this was not met. (See above) She was concerned that if Mr. Clark's sells the abutting property there needs to be limitations. Steve F. stated that all conditions imposed are in the approval letter Mr. Clark will receive.

Roger A. discussed decibel levels at the property line, that if they are exceeded, then it is an enforcement issue. Attorney McDaniel stated a truck averages 90 decibels and that exceeds what the ordinance allows. Diane S. stated that Attorney McDaniel was correct but according to OSHA, 90 decibels for 8 hours is safe. Attorney McDaniel's stated that may be true but it isn't allowed in the ordinance.

Roger A. read §105-22.B 'No person shall engage in, cause or permit any person to be engaged in very loud construction activities on a site abutting any residential use between the hours of 10 p.m. of one day and 7 a.m. of the following day. Construction activities shall be subject to the maximum permissible sound levels specified for industrial uses for the periods within which construction is to be completed pursuant to any applicable building permit. The following uses and activities shall be exempt from the sound pressure level regulations: (1) Home maintenance activities, for example, mowing lawns, cutting ones' own firewood, etc. (2) Noises created by construction and maintenance activities between 7 a.m. and 10 p.m. Attorney McDaniel stated that a gravel pit was not construction.

Maggie M. disagreed stating it was just a different type of construction. Attorney McDaniel did not agree, she believed they were referring to the type of construction when you were building a Walmart for example, equipment is used for a short period of time. She stated in this case gravel extraction is going on for years, so it is subject to the decibel restrictions in the ordinance. Maggie stated that this project could be done in 3 years. Attorney McDaniel thought that would be worse, as there would be more activity. Maggie stated that this would be allowed, as long as it meets the conditions in the approval letter.

Roger A. stated that the applicant has submitted all the information he could for the board. Roger said that because Mr. Clark didn't have a contractor yet, he could not know the types of vehicles or equipment on site or whether or not it would exceed noise levels. He said although Mr. Clark cannot answer this condition, he will be expected to meet the criteria in the ordinance. If he exceeds the noise level maximum for more than 15 minutes in a day, Code Enforcement will have to step in.

Roger A. stated that with respect to the distance to the side lots lines, Mr. Clark is the owner of the abutting property and he was certain he would allow the use of the 50 foot buffer. Attorney McDaniel noted that the abutting property could be sold tomorrow and then there would be an issue. Mr. Clark wrote a letter to the board and handed it to them which stated, "I Frank Clark II do give to the owners of the 20 acre borrow pit site (Gloria S & Frank Clark) permission for a 50' buffer to my property. Frank Clark 9/22/15". Roger stated that if the property changed hands tomorrow the new owner would have to honor the letter. He added that it would be up to the new owner to research the property, due diligence, that they buy the property with condition.

Roger A. stated that the Dept. of Inland Fisheries and Wildlife had no issue with the project, there are no endangered species or areas of concern on site.

Roger A. stated there are no areas of excavation that will be below grade level of the road, according to the plans presented. He added that the operation would only be taking off knolls and leveling the area to 530 feet.

Roger A. stated that there would be 10 acres of trees removed and 5 acres of gravel removed, then the 5 acres would be reclaimed prior to moving on to the next 5 acres.

Roger A. stated that with respect to concerns about the water, there were 14 test pits made to determine where water levels were. Attorney McDaniel believed that although the DEP looks at that, they do not enforce it well. Roger stated that in his personal opinion, not speaking for the board, this gravel operation would not affect water, it was not an issue. Madge B. noted that the test pits showed there was no ground

water, and the test pits were dug below the level of excavation that Mr. Clark is proposing. Mr. Clark agreed stating that they dug 11 feet lower than any area he would be excavating and there was no water. He stated this was done in several locations.

Roger A. read the Test Pit numbers and the fact there was no water, they are as follows:

Test Pit #1 – Bottom @ 11' – No Water
Test Pit #2 – Bottom @ 11' – No Water
Test Pit #3 – Bottom @ 11' – No Water
Test Pit #4 – Bottom @ 11' – No Water
Test Pit #5 – Bottom @ 11' – No Water
Test Pit #6 – Bottom @ 11' – No Water
Test Pit #7 – Bottom @ 11' – No Water
Test Pit #8 – Bottom @ 11' – No Water
Test Pit #9 – Bottom @ 11' – No Water
Test Pit #10 – Bottom @ 11' – No Water
Test Pit #11 – Bottom @ 10' – No Water
Test Pit #12 – Bottom @ 8' – No Water
Test Pit #13 – Bottom @ 10' – No Water
Test Pit #14 – Bottom @ 9.5' – No Water

Roger noted again that no water was found on site below the excavation depth, therefore, it was unlikely this project was going to affect any neighboring wells.

Roger A. stated that mineral extraction operations only process gravel if it is over 8" in size. He stated that all the test pits showed the coarse rocky gravel to be 8" minus or less, except Test Pit #12 which showed 12 & 18" minus. He said this showed a minimal amount of area that would require processing.

Mr. Clark stated that gravel extraction did not mean this project would be ongoing. He wanted to have the least impact on the property, as well as the neighbors.

Roger A. began reviewing §105-61. 'Mineral exploration and extraction, processing, and removal, including sand and gravel.

- A. Mineral exploration to determine the nature or extent of mineral resources – **Roger stated 14 Test Pits were done and recapped by Civil Consultants, Inc. in July 2013.**
- B. Mineral extraction may be permitted under the following conditions:
 - 1) A reclamation plan shall be filed with the Planning Board before a permit is granted. Such plan shall describe in detail procedure to be undertaken to fulfill the requirements of Subsection B(15) – **Roger stated a reclamation plan had been received done by Albert Frick & Associates, Inc., dated March 2015.**

Roger went on to read Subsection B(15). He stated this is a new permit and runs for a period of 3 years and it can be extended by another review process.

Roger went back to reviewing §105-61 as follows:

- B. 2) No part of any extraction operation including drainage and runoff control features, shall be permitted within 100 feet of the normal high-water line of a great pond or river, and within 75 of any other water body, tributary stream or the upland edge of a wetland. Extraction operations shall not be permitted within 75 feet of any property line without written permission of the owner

- of such adjacent property – **Roger stated the board had written permission from the adjacent property owner, Mr. Clark, and this project was not within 100 feet of a water body.**
- 3) Developers of new gravel pits along significant river segments shall demonstrate that no reasonable mining site outside the shoreland zone exists. – **Roger stated this does not apply.**
 - 4) The smallest amount of bare ground shall be exposed for the shortest time feasible. – **Roger stated this would be a condition of approval.**
 - 5) Temporary ground cover and temporary runoff filter shall be used as required to prevent stream sedimentation. – **Roger stated there are no streams on site and all runoff remains on site per the plans provided.**
 - 6) Diversions, silting basins, terraces and other methods to trap sediment shall be used. – **Roger stated that all water and sediment shall be contained on site per the plans provided.**
 - 7) Lagooning shall be conducted in such a manner as to avoid creation of fish trap conditions. – **Roger stated that the Maine Dept. of Inland Fisheries and Wildlife reviewed this location and in a letter dated March 2015, stating they had no issues with this location.**
 - 8) The extent and type of fill shall be appropriate to the use intended. – **Roger stated there is no fill being brought in, it is being removed from site.**
 - 9) Fill shall not restrict a floodway, channel or natural drainageway. – **Roger stated there are no floodways, channels or drainageways on site per the site plan provided.**
 - 10) The sides and bottom of cuts, fills, channels, and artificial watercourses shall be constructed and stabilized to prevent erosion or failure. – **Roger stated there are no cuts, fills or channels being constructed on site, gravel is to be removed, the area leveled and no excavation shall be below road level.**
 - 11) Where activities carried out under this article require the removal of existing ground cover, revegetation shall be carried out. – **Roger stated this is why there will be a bond posted to be certain if the applicant does not do the required revegetation, the Town will have the money to be certain it is completed.**
 - 12) Specific plans are established to avoid hazards from excessive slopes or standing water. – **Roger stated that there will be no standing water or excessive slopes per the plans presented.**
 - 13) No excavation shall be extended below the grade of an adjacent street, except for drainageways, unless 100 feet from the street line. – **Roger stated that this project is 150 feet from Goose Pond Road and the excavation is not below street level.**
 - 14) Topsoil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. – **Roger stated this will be accomplished per the reclamation plan provided.**
 - 15) Within 12 months of completion of the extraction operation: a) All debris, stumps and similar material shall be removed to an approved location or buried on site. b) The final graded slope shall be 2 ½ to 1 slope or flatter. c) The Planning Board shall set a specific date by which permanent ground cover shall be planted. – **Roger stated that he read these earlier and there are plans provided that show this will be met. He stated no date for permanent ground cover will be set until the next review in three years as this is a new operation.**
 - 16) No existing rock, gravel or sandpit will be extended or expanded until the operation has complied with the provision of this chapter and obtained a permit therefore. – **Roger stated this is a new operation.**

Roger A. reviewed the Optional Conditions of Permit, Section 105-61.C.

- 1) Methods of removal or processing. – **Roger stated the exact methods of removal cannot be known until a contractor requests to purchase the gravel. Roger said the applicant did provide test pits showing the type of gravel on site and did request the ability to process, providing a list of possible equipment to be on site for excavation and processing.**

- 2) Days and hours of operation. – **Roger stated Mr. Clark requested 7:00 a.m. thru 5:00 p.m., Monday thru Friday and 7:00 a.m. thru 12:30 p.m. on Saturday.**
- 3) Type and location of temporary structures. – **Roger stated on the site plan it depicts a proposed office building and a watertight fuel storage enclosure.**
- 4) Routes for transporting material. – **Roger stated all traffic would be taking a left off site, traveling approximately 250 feet down Goose Pond Road in Shapleigh and then traveling thru Acton on Goose Pond Road to State Route 109. At no time can any construction equipment travel over the culvert on Goose Pond Road.**
- 5) Area and depth of excavations. – **Roger stated that per the plans provided the excavation will be no lower than the lowest depth currently on the property. The plan shows a final depth of 530 feet to make the property nearly level.**
- 6) Provision of temporary or permanent drainage. – **Roger stated there is no need for drainage, the area is self-draining and all water will remain on site as noted on the plans presented.**
- 7) Cleaning, repair and/or resurfacing of streets used in removal activities which have been adversely affected by said activity. – **Roger stated that Mr. Clark would only be using 250 feet of road in Shapleigh but any damage to the road would have to be repaired by him. He also noted there could be no rocks or sand left on the road and an apron (stone) would need to be created on site to clean off the tires before they enter Goose Pond Road.**
- 8) The need for written approval of a soil and erosion and sedimentation plan by a State of Maine licensed civil engineer selected by the applicant for the Planning Board. – **Roger said there is a soil and erosion plan provided by a licensed engineer at Albert Frick and Associates, Inc.**

Roger reviewed §105-61.D Surety and terms of permit.

- 1) No permit shall be issued without a surety bond or other equivalent security to ensure compliance with such conditions as the Planning Board may impose. – **There will be a surety bond or escrow account in the amount of \$16,000, payable to the Town of Shapleigh. This security shall remain in effect until the mineral extraction operation is completed and the area has been reclaimed per the plans provided with the original application. This security shall need to be received by the Town within 90 days of receipt of the date on the approval letter.**
- 2) No permit shall be issued for a period to exceed three years, although such permits may be renewed for additional periods in the same manner.

Roger A. stated additional conditions of permits are as follows:

- 1) **Per the plans provided, no more than 5 acres can be excavated at one time or 10 acres cleared of trees. When the first 5 acres have been excavated and proof is provided the area has been reclaimed, then the next five acres can be excavated.**
- 2) **Dust shall be maintained thru the use of a water truck, watering the area as needed to prevent dust from going onto neighboring properties.**
- 3) **The applicant / property owner must abide by the noise levels in the Town of Shapleigh Zoning Ordinance, §105-22 ‘Noise.’**

Board members discussed the fact that Road Commissioner John Burnell wanted a stone apron created and maintained at the entrance onto Goose Pond Road. Members agreed they would not specify a size but that it had to be large enough to keep sand and gravel from going onto Goose Pond Road. This would be a condition of the permit as stated above under optional conditions of permit.

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

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. ***Roger stated, it will not according to the Maine Dept. of Inland Fisheries and Wildlife, letter dated March 20, 2015.***
- 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 stated at this time the Comprehensive Plan is not in effect. Amended 10-13-2015, to state it is consistent with the Comprehensive Plan. Details for change in minutes of 10-13-2015.***
- 4) Traffic access to the site is safe. ***Roger stated it is, the site distances are on the site plan provided and exceed both the minimum and recommended site distance at 35 mph.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***Roger stated it is per the plans provided and this location is not in the flood zone.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***Roger stated there will be a portable toilet on site.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. *N/A – None generated.*
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***Roger stated there was an engineered plan done by Albert Frick and Associates, Inc. All stormwater shall be kept on site, this location is self-contained with all water remaining on location.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***Roger stated there was an engineered site plan done by Albert Frick and Associates, Inc. which depicts appropriate sloping and containment of stormwater on site.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***Roger stated there is.***
- 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 is a 50 foot buffer between neighboring property lines and 150 foot buffer to Goose Pond Road per the site plan provided.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***Roger stated they shall.***

The conditions of the permit are as stated above listed in Section 105-61.C, numbers 1 thru 8; as stated above under Section 105-61.D, number 1 and as follows:

- 1) Per the plans provided, no more than 5 acres can be excavated at one time or 10 acres cleared of trees per the plans provided. When the first 5 acres have been excavated and proof is provided the area has been reclaimed, then the next five acres can be excavated.
- 2) Dust shall be maintained thru the use of a water truck, watering the area as needed to prevent dust from going onto neighboring properties.
- 3) The applicant / property owner must abide by the noise levels in the Town of Shapleigh Zoning Ordinance, §105-22 ‘Noise.’

Maggie M. made the motion to approve the Conditional Use Permit for mineral extraction on Map 5, Part of Lot 44 per the plans and information provided, with the above stated conditions. Madge B. 2nd the motion. All members were in favor. Motion passed unanimously, 4 – 0.

(Roland L. declined from the review of this project due to personal reasons.)

Findings of Facts

1. The owners of Shapleigh Tax Map 5, Part of Lot 44 are Frank W. Clark and Gloria S. Clark, of 2 Freemont Street, Sanford, Maine 04073.
2. The property is located in the General Purpose District and according to the Quickclaim Deed, dated June 24, 2015, contains 20 Acres, more or less.
3. The applicants are before the board for a mineral extraction permit for three years to excavate to an elevation of 530 feet and truck the gravel off-site. This is to occur in 5 acre increments, so no more than 5 acres are active or up to 10 acres are open / cleared. Approximately 330,000 cubic yards were calculated for quality material over a 13 acre + or – area.
4. A Notice of Intent to Comply – Performance Standards for Excavations for Borrow, Clay, Topsoil or Silt (For Use with 38 MRSA Section 490-C) was applied for to the Maine Dept. of Environmental Protection, Division of Land Use Regulation. Approval was received on August 6, 2015, Permit Number L-860.
5. A copy of a letter was received, dated March 20, 2015, from the Dept. of Inland Fisheries & Wildlife, stating in part, ‘Our information indicates no locations of Endangered, Threatened, or Special Concern species within this project area. Additionally, our Department has not mapped any Essential Habitats or fisheries habitats that would be directly affected by your project’. Also provided was a copy of a map provided by MDIF&W showing the location of the proposed mineral extraction site on a map entitled Environmental Review of Fish and Wildlife Observations and Priority Habitats, which noted no indication of Essential Habitats.
6. A copy of the Proposed Gravel Extraction Site Closure Plan was received, dated March 2015, done by Albert Frick Associates, Inc., Environmental Consultants of Gorham, Maine.
7. Provided were 14 Test Pits results taken on site along with a map showing the approximate Test Pit locations, done in July of 2013 by Civil Consultants of South Berwick, Maine.
8. Provided was a copy of the Laboratory Test Results of the Test Pit Samples sent to Thomas Harmon, P.E. of Civil Consultants, Inc., letter dated July 16, 2013, done by the firm R.W. Gillespie & Associates, Inc., Geotechnical Engineering – Geohydrology – Materials Testing Services, as well as the Summary of Laboratory Testing Program – Test Pits results & Particle Size Distribution Report. These results showed the amount of topsoil, depth and size of course rocky gravel, the fact that no water was seen on site, along with the type of sand and gravel.
9. Provided was an estimate to reclaim each 5 acre pit, done by Levesque Excavation of Sanford, Maine, in the amount of \$15,000.00, dated 7/13/2015.
10. A copy of the approved curb cut onto Goose Pond by Road Commissioner John Burnell, dated 8/7/2015, was received.
11. Provided was a site plan drafted by Albert Frick Associates, Inc., Environmental Consultants, Gorham, Maine, dated 1/27/15; entitled Proposed Mineral Extraction Site Plan prepared for Frank Clark, Goose Pond Road (Map 5, Lot 44), Shapleigh, Maine. Details on the site plan drafted by Albert Frick Associates, Inc., dated 1/27/15 include:

- a) Cross Section View depicting limits of Mineral Extraction / Regrading of Slopes, which includes areas for control of internal drainage / runoff, existing grades, areas for extraction and limits of mineral extraction / regrading of slopes.
 - b) Location of the 20 acre parcel is depicted within the larger parcel owned by Mr. & Mrs. Clark, known as Map 5, Lot 44. Within the 20 acre parcel it is further noted:
 - The location of the proposed site access.
 - The site distances from the site access location, those being 1005' toward Acton and 964' toward State Route 11.
 - Proposed location of a future office building.
 - Proposed location of a watertight enclosure for fuel storage.
 - Location of (2) five acre extraction locations / restoration-reclamation area.
 - Location of (1) 7.89 acre for future removal once previous 10 acre area is completely restored-reclaimed.
 - Stump storage and future stump areas.
 - 50 foot area/setback for regrading to match surrounding existing slopes (only around extraction area).
 - Location of stockpiled/stabilized loamy surface materials (to be seeded & mulched).
 - c) Information box stating: Proposed mineral extraction area (as depicted): 779,288+/- Sq. Ft. (18 +/- AC). Proposed bottom elevation of extraction: 530' +/- (See Cross-Section Diagram).
 - d) Notes box stating: No wetlands or vernal pools exist on the proposed extraction site. All drainage/runoff from the extraction area will remain subsurface or will drain internally on-site. No water table exists within 5' of the ground surface in the proposed extraction area. Clear/Stump 10 acres at a time, as shown. Once materials are removed and ground surface is leveled/smoothed, reclaim in 5 acre increments as shown. Reclaimed slopes not to exceed 4:1. No more than 5 acres of area may be active for mineral extraction at any one time.
12. The applicants requested the hours of operation to be 7:00 a.m. to 5:00 p.m., Monday thru Friday and 7:00 a.m. thru 12:30 p.m. on Saturday.
 13. A notice was mailed to all abutters within 500 feet of the property, on Wednesday, July 15, 2015 and a public hearing was held on Tuesday, July 28, 2015.
 14. The Planning Board unanimously agreed to approve the Conditional Use Permit for mineral extraction, including processing on Map 5, Part of Lot 44 per the plans provided and as discussed at the board meetings held on July 14, 2015, July 28, 2015 and September 22, 2015 with conditions.
 15. The conditions of the permit are:
 1. The hours of operation for gravel extraction shall be 7:00 a.m. through 5:00 p.m., Monday thru Friday, 7:00 a.m. thru 12:30 p.m. on Saturday.
 2. There shall be no trucks traveling over the Goose Pond Road culvert; all gravel pit traffic shall exit left onto Goose Pond Road and travel to State Route 109.
 3. Gravel extraction shall be per the plans provided, no excavation shall be within the 50 foot buffer strip as depicted on the plan provided by Albert Frick and Associates, plan dated 1/27/2015, the depth of excavation shall be no lower than 530 feet to eventually make the property near level.
 4. It is the applicant's responsibility to make certain the entrance onto Goose Pond Road is clean of all sand and stone dust to prevent a hazardous situation. A stone apron shall be constructed to remove gravel and dust from the tires of the equipment used for hauling gravel.
 5. Dust shall be maintained thru the use of a water truck, watering the area as needed to prevent dust from going onto neighboring properties.

6. Per the plans provided, no more than 5 acres can be excavated at one time or 10 acres cleared of trees. When the first 5 acres have been excavated and proof is provided the area has been reclaimed, then the next five acres can be excavated.
7. The applicant / property owner must abide by the noise levels in the Town of Shapleigh Zoning Ordinance §105-22 'Noise'.
8. A surety bond or escrow account shall be established and maintained, payable to the Town of Shapleigh in the amount of \$16,000. This bond or escrow account shall remain in effect until the mineral extraction operation is completed and the area has been reclaimed per the plans provided. The bond or escrow account shall be signed and accepted by the Board of Selectmen. This must be established within 90 days of the date on the approval letter.

Nothing further was discussed.

Growth Permits - There are Growth Permits Available.

The Planning Board meeting ended at 10:00 p.m.

The next meeting will be held Tuesday, October 13th at 7:30 p.m. The Planning Board meets the 2nd and 4th Tuesday of each month unless it falls on a holiday or Election Day. Any scheduled public hearing takes place at 7:00 p.m. prior to the scheduled meeting.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, October 13, 2015

Members in attendance: Roger Allaire (Chairman), Maggie Moody (Vice Chair), Madge Baker, Diane Srebnick, Roland Legere, Alternate Ann Harris, as well as Barbara Felong (Secretary). Code Enforcement Officer Steven McDonough was also in attendance. Alternate Steve Foglio was unable to attend.

The following words are not verbatim unless accompanied by quotation marks “ ”

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

The minutes from Tuesday, September 22, 2015 were accepted as amended. Amendment comments at the end of the meeting.

Best Possible Location – Replace Existing Structure – Map 30, Lot 40 (30 Hawthorne Street) – Lawrence & Elaine Mason, Property Owners/Applicants; Joe Stanley of LinePro Surveying, Representing

Richard Levesque, General Contractor on the project was the only one present for the review of the project.

The application description of the project states ‘Remove existing structure (nearest point to shoreline 48’, no foundation) build new structure on full foundation, 52’ from shoreline with a 29.3% increase in area (including deck) within 100’ of shoreline. Total area 1,296 square feet, total proposed lot coverage 3.3%’. Along with the application, board members were provided a copy of Shapleigh Tax Map 30, showing the location of Lot 40; a copy of the soils map indicating the location of the Lot 40; pictures of the existing structure & property; a 3D plan of the existing and proposed structure; and a site plan showing the existing structure and proposed structures location on the property. In addition, a copy of the deed was provided.

On 9/18/15, a letter was received by Barbara F., for the board, stating in part that Richard Levesque, Excavator / General Contractor, Joe Stanley of LinePro Surveying, and J. Winslow Hutchins, Drafting and Design would be working with the applicants on this project.

Roger A. opened the meeting by stating that unless an application fee was received the board would not be hearing the application. (Mr. Stanley was told prior to the meeting that the application was not paid and the board could not hear the application until the fee was received.) Mr. Levesque stated ok, and left the meeting. Later in the evening, just before the meeting concluded, Mr. Hutchins came in and was also told that the application fee had not been received and the board could not proceed with this application until the fee was paid. Mr. Hutchins stated, ok as well.

Nothing further was discussed.

Best Possible Location – Addition to Cottage and Raise 3'; Replace Porch with Deck & Patio; Map 35, Lot 39 (472 Cedar Drive) – Carl & Nancy Beal Applicants / Property Owners

Mr. and Mrs. Beal were present for the review of the application. *Note: Planning Board members did a site inspection on Saturday, October 10 at 9:00 a.m.*

Prior to the first meeting, along with the application, provided to the board was the following: A copy of Shapleigh's Tax Map 35, depicting the location of Lot 39; A project narrative, done by Carl Beal, P.E. #5013, dated September 3, 2015, which described the project in detail; The square foot and volume calculations for the existing and proposed structures; A copy of the warranty deed showing ownership of the property; A copy of an Easement Deed for maintenance and repair of the existing well; A copy of the Subsurface Wastewater Disposal System Application, done by John Large, SE #7, dated 6/6/97; A copy of the replacement system variance request, done by John Large, accepted by James Gerrish, LPI for Shapleigh, dated 6/26/97; An existing conditions plan, showing existing structures, including septic system, with distances to the high water mark noted on the plan; An existing conditions plan showing all existing vegetation on site; A proposed improvement plan depicting a replanting schedule, and location of proposed new structures; An existing drainage plan, with property elevations noted; Drainage and erosion control plan(s); and the proposed structure plans, depicting interior plans and exterior dimensions from all sides, including structure elevations.

This evening Mr. Beal provided board members with pictures of the existing structure; a new Proposed Improvements Plan and a new Planting Plan.

Roger A. asked if there were any questions for Mr. Beal. Madge stated at the site visit there was a lot of talk about the trees. She said looking at the plan that it appeared the applicants were now leaving the trees in the front, based on the concerns at the site visit. Mr. Beal said based on the feedback at the site walk, he adjusted his plan. Madge said because the front structure is being removed and replaced with a deck and patio, she felt the trees could stay. She said if they won't be damaged, she is in favor of leaving them. Diane S. agreed with Madge, noting Mr. Beal could trim them up. Mr. Beal said he would looking into doing that, the lower limbs. Diane asked CEO McDonough if they could remove 30%? CEO McDonough stated he could limb one-third of the tree.

Mr. Beal said based on the site walk on Saturday and the concerns with the trees in front, he indicated they would stay, on the plan, and he also revised the proposed pine trees being removed, only eight would be removed in the back. He stated there were eight pine trees being added along the property line, and they would also be adding Dwarf Honeysuckle and Sweet Ferns along the southern side of the building and along the front, in front of the new deck. He said he talked to Springvale Nurseries for the suggestions, and would supplement with some Hostas and day lilies and other small plantings, then mulch all the disturbed area with erosion control mulch to hold up the runoff. He thought the new plan reflected what the board discussed at the site visit on Saturday. He said the banking in front of the deck is stable now and with leaving the pine trees, adding mulch and new plantings, he thought it would continue to be stable.

Madge B. said that Roger A. looked at the wall at the site visit and noted it was in good shape. Roger said it had two cracks, probably expansion cracks, because the wall itself was completely straight. Mr. Beal agreed the wall was in good shape. Madge said that was another reason why she didn't want the trees in the front to be moved because at present everything in that area appeared stable and working well.

Diane S. asked if the two big pines in the back were being removed because of construction? Mr. Beal asked if she was referring to the ones by the driveway? Diane said, yes, and actually there were three large pines, one after the driveway. Mr. Beal said there were three beyond the 100 foot setback. He said the two at the end of the driveway are damaged, at the bottom the bark is coming off. He said the largest pine is

outside the 100 foot mark and stated there were many more trees beyond the 100 feet. Diane asked how he was going to stabilize the area where the large pines are being removed? She thought the trees were holding up the earth. Mr. Beal said the stone walkway will go in. Diane didn't see any plantings in that area. Mr. Beal stated he could add more erosion mulch. He said he would probably riprap the edge of the driveway because it was steep. Diane asked if they could plant Junipers because they hold embankments well. Mr. Beal said they could do that. Roland L. asked if the intent to remove the three large pines was to cut and remove, then was he going to leave the stump or remove it? Mr. Beal stated based on the size of the root structure they would probably leave the stumps there.

Diane S. stated the other concern with removing the large pines is the tree canopy, which helps with erosion; when it is removed the rain doesn't get dissipated on the way down, so something will have to be added to the ground to prevent an erosion issue. Mr. Beal stated there were two large and two small maples that have a good canopy. He felt there was still canopy that would be there. He said they could do more plantings in that area to help as well. Roland L. noted hardwood canopy is seasonal and often times the most rain is in the off season, early spring, when the leaves are not out yet. Roland agreed with Diane there needs to be more to stabilize the area after removing the pines. Mr. Beal stated they wanted to stabilize the area because of the driveway location. Diane noted that because a retaining wall cannot be built, there has to be something put in place to take care of the problem. Mr. Beal agreed.

Roland L. noting the replacement of the septic tank, said there is the assumption the line to the leachfield is intact, so there won't be excavation all the way up the hill. Mr. Beal said, right. He said if that line had to be excavated he would look at relocating the septic tank to the area between the driveway and the cottage. He said at present it would be easiest to replace it where it is now. He said the line was inspected and it works at present, just the tank is leaking.

Diane S. asked CEO McDonough if the stone walkway was considered square footage because it is stone? CEO McDonough stated it was not part of the primary structure. Diane wanted to make sure it wasn't counted, she knew a concrete patio was counted. Madge B. agreed a patio was counted as structure but a walkway isn't. CEO McDonough stated that was his policy. Madge said they were putting in a patio, taking out living space and putting a patio under the deck. Mr. Beal said in the same footprint. CEO McDonough said the patio counts but not the walkway.

Madge B. asked Mr. Beal to write where the Junipers will be going on the plan received this evening. Mr. Beal did so.

Roger A. read §105-4.D 'Nonconforming structures.' (1) 'Expansions'. Then he read §105-4.D (3) 'Foundations'. Madge B. noted that what the applicants were proposing complied with subsection (b) of this section. Roger agreed that this is what was in the plans. Roger then read §105-4.D (7) 'Relocation'. Roger stated that the septic tank is leaking and will be replaced and will meet the State of Maine Subsurface Waste Water Rules. Roger noted that the structure was not being removed, therefore, no replanting will need to take place for that area.

Roger A. stated that the structure is not being relocated, they are removing the front porch and there is no foundation in that area. Roger said the slab will remain and an open deck will be placed over it. Roland L. thought in the minutes it stated it would be a covered porch. Mr. Beal stated it was a covered porch now, it would be an open deck when finished.

Diane S. stated she counted trees to be removed, and looked at the number to replace, it appeared to be enough. She said while reviewing the ordinance it stated, if more than five trees are planted, no one species

of tree shall make up more than 50% of the number of trees planted. She said the plan showed all the replacement trees as being Austrian White Pine. Mr. Beal said it would be Austrian or White Pine, that is what the plan meant. Diane said, ok. Mr. Beal said they are relatively in the same area as those being removed and no further from the lake. Diane wanted to be sure the Junipers were added to the plan. Madge B. stated she wanted a condition of approval stating he would be adding Junipers and Sweet Fern. She didn't think there needed to be a number, there is no rule there has to be. Diane said the board could say enough to sufficiently hold the bank. CEO McDonough stated the board should have him put it on the plan. Madge asked which plan. Roger A. stated the plan that will go in the file.

Roger A. asked about the time frame for the project and planting. Mr. Beal stated he would like to start by cutting the trees this fall and excavate for the foundation this fall. He wanted to get the foundation in before winter and work on the framing during the winter. Roger asked if the new plantings could be in by September 15, 2016? Mr. Beal said that would be fine.

Roger A. noted that someone had to overlook the project who was licensed by the State of Maine in Best Management Practices. CEO McDonough asked if he was having Scott McLeod oversee the project? Mr. Beal stated, yes. CEO McDonough said there would be no problem, Scott knew what had to be done.

Roger A. stated the conditions of permit would be:

- 1) Best Management Practices shall be used and the work is to be done by a person certified by the DEP. The BMP shall be kept in place until all work is completed.**
- 2) The re-vegetation plan shall be done per the planting plan presented on October 13, 2015, including the hand written addition of Junipers and Sweet Fern at this evenings meeting; and it shall be completed by September 15, 2016.**

Madge B. made the motion to approve the Best Possible Location to raise the cottage 3 feet, construct an addition to the rear (East side) of the structure, remove the 2-story West side porch and replace it with a deck and patio, leaving it in the same location on Map 35, Lot 39, per the plan provided, dated October 13, 2015; and the above stated two conditions. Maggie M. 2nd the motion. All members were in favor. Motion passed unanimously, 5 – 0.

Findings of Facts

1. The Owners of Shapleigh Tax Map 35, Lot 39 (472 Cedar Drive) are Carl V. Beal and Nancy A. Beal of 15 Deborah Avenue, Sanford, Maine 04073. Warranty Deed Executed August 26, 2015.
2. The property is located in the Shoreland District and according to the Assessor's office contains .34 acres.
3. The applicants provided a copy of Shapleigh Tax Map 35, depicting the location of Lot 39.
4. The applicants provided a copy of the Existing Conditions Plan which depicted the existing structure, septic system in relation to the lot lines, as well as the lot elevations.
5. The applicants provided a copy of the Existing Conditions Plan depicting the existing vegetation, as well as the vegetation to be removed, in relation to the existing structures and lot lines.

6. The applicants provided a copy of Proposed Improvements which depicted the existing and proposed structures, existing and proposed plantings, silt fencing location, new curb and stone runoff recharge area, and new 1000 gallon septic tank.
7. The applicants provided a copy of the Existing Drainage Plan depicting stormwater runoff direction, existing structures, and topography.
8. The applicants provided two Drainage and Erosion Control Plans depicting the flow of future stormwater runoff, as well how this will be mitigated thru the use of re-vegetation and the stone runoff recharge area.
9. The applicants provided the actual home improvement plans, depicting both inside and outside views.
10. The applicants provided the existing and proposed area and volume calculations. The percent area of expansion would be 10.5% and the proposed volume would be 28.7%. Both falling under the 30% allowed.
11. The applicants provided pictures of the existing structure, dated September 2015. The pictures showed views of all sides of the existing cottage, stairway and trees closest to the structure.
12. The applicants provided a copy of the Planting Plan, dated October 13, 2015, which was revised at the meeting on October 13, 2015 to add additional plantings of Junipers and Sweet Fern at the rear of the lot for stormwater mitigation. It also depicted the planting of Austrian and White Pine – a total of 7; and Hosta, Daylily, Dwarf Honeysuckle and Sweet Fern, along the side and front of the structure.
13. The applicants provided a copy of Proposed Improvements, dated October 13, 2015 which depicted the existing and proposed structures, new 1000 gallon septic tank, a temporary water diversion berm, silt fence location, stone walks, and trees to be cut.
14. The applicants provided a copy of the Subsurface Wastewater Disposal System Application done by John Large, SE #7, dated 6/6/1997 for a 2 bedroom house.
15. A notice was mailed to all abutters within 500 feet of the property, Wednesday, September 23, 2015.
16. The board unanimously agreed to approve the Best Possible Location to raise the cottage 3 feet, construct an addition to the rear (East side) of the structure, remove the 2-story West side porch and replace it with a deck and patio, leaving it in the same location per the plans provided.
17. The conditions of the permit are as follows:
 - 1) Best Management Practices shall be used and the work is to be done by a person certified by the DEP. The BMP shall be kept in place until all work is completed.
 - 2) The re-vegetation plan shall be done per the planting plan presented on October 13, 2015, including the hand written addition of Junipers and Sweet Fern at the October 13, 2016 meeting; and it shall be completed by September 15, 2016.

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

Nothing further was discussed.

Amendment to a Best Possible Location – Change left setback to 25.16 feet from approved setback of 23.5 feet & Replace Part of Existing Retaining Wall – Map 23, Lot 18 (25 Directors Lane) – David Landry / Diane Brandt, Property Owners

Mr. Landry and Ms. Brandt were present for the review of their application.

Mr. Landry began by stating they were requesting an amendment to the Best Possible Location approval location, dated April 14, 2015. This was to replace the existing structure on Mousam Lake. He stated the condition of approval, number 4, read in part, that the left structure looking at the lake should be 23.5 feet setback from the lake. He said they were before the board to ask to increase that distance. He stated they thought when the Planning Board approved something you had to be ‘at least’ that far from the lake, in this case 7 feet back, but after they did the excavation they realized they had a little more room to move the structure farther back but their contractor told them they could not move back farther without approval.

Mr. Landry stated there were two reasons they wanted to move the left side back about 20” more. He said the 1st reason was when they presented their plan, they created several rain gardens and they are sized based on the surface area of the roof. He stated the rain garden on the left is twice as large as the rain garden on the right. He said on the left hand side there are two maples in line with where the rain garden is going to go. When they were excavating they realized the roots extend into the rain garden. He said moving the structure back would help with the rain garden.

Mr. Landry said the other reason is, part of the new construction is a new septic system on the left hand side of the camp for which there is no access except for going in front of the camp. If they ever have to service it the area between the trees in front of the camp, which are being kept, and the structure itself is very narrow. He believed another 20 inches would be helpful if needed in the future.

Mr. Landry said they are, therefore, requesting the corner of the structure be moved back from the lake from 23 ft. 5 in. to 25 ft. 2 in. Mr. Landry provided a diagram showing the new location.

Roland L. asked if moving it back 20 plus inches would require them to cut into the bank behind the structure? Mr. Landry stated no, when they excavated they saw it was wide enough and stable where they want to push back to, so he had told his contractor to move it back more but Scott McLeod stated he couldn’t without Planning Board approval. Roland stated he had seen the progress of the project from the water while fishing.

Roger A. stated he didn’t have any issue with moving the structure back. Roland L. agreed, stating he thought it was commendable they chose to come back to the board instead of going forward with moving it back and then permitting it after-the-fact.

Madge B. made the motion to amend the original approval for Best Possible Location on Map 23, Lot 18, moving the structure’s left side back to 25 feet 2 inches per the plans provided, and as discussed this evening. Maggie M. 2nd the motion. All members were in favor. Motion passed unanimously, 5 – 0.

Replace 75 Feet of the Existing Retaining Wall – Map 23, Lot 18 (25 Directors Lane) – David Landry / Diane Brandt, Property Owners

Mr. Landry stated there was a second issue they wanted to discuss with the board this evening. He said there was a retaining wall that was built in 1949 that should have been replaced 10 years ago but they have been

putting it off. He stated the wall is now starting to move and shift. They hired a civil engineer to prepare the information he provided this evening for the wall replacement. He said he gave the board a copy of the Permit by Rule that has been approved by the DEP. The permit stated that they were applying to rebuild approximately 75 feet of retaining wall. He stated that on the 3rd page of the permit, depicted is the height of the retaining wall which is 5 ft. 6 in. It showed the typical wall section which is engineered by Civil Consultants of North Berwick. He stated the run to be replaced is 75 feet, the subsequent wall was built in the 1950's, early 60's, using a modern technique and these wall sections were fine.

Mr. Landry noted the picture of the wall really showed why the wall needed to be replaced. He noted picture no. 2 showed what is happening to the wall; the top of the wall is leaning out, the middle is compressing (bulging in) and there is a large unstable area now that is falling into the lake. He said all the pictures were telling but picture no. 5 showed the extreme western end of the wall, which he said looked relatively normal until 3 years ago, now it is falling apart as the wall shifts. He stated two engineers looked at the wall and stated the wall was in bad shape.

Mr. Landry stated on the next page it shows the location of the existing trees and the diameter of the trees that will have to be removed. On the last page is a picture of the trees next to the wall. He stated one of the reasons they waited so long to replace the wall was because they didn't want to have to remove the trees. He said they did ask the engineers if they could put in a wall without removing the trees and both said no, the middle two trees actually touch the wall. He stated he did ask if they could move the wall closer to the lake and he was told there was no way he could encroach upon the lake.

Madge B. agreed, that she could not find a way to be able to save the trees. Mr. Landry stated their plan was to replant with a combination of White Pine and Hemlock, and White Birch. He said that the first 8 or 10 feet from the wall will be a buffer strip, as in the past they have planted Huckleberry, Blueberry, and Juniper, keeping it natural. He stated the parking area is going to be bermed somewhat to keep the rainwater from going toward the lake.

Madge B. asked if they had to go see the wall? Roger A. didn't think so, due to the quality of the pictures received. Madge agreed. Ann H. asked if the wall was 75 feet or 100 feet? Mr. Landry stated the wall to be replaced is 75 feet. The engineer originally put 100 feet on the description page but he crossed it out because there is only 75 feet being replaced. He believed when the board went to the original site inspection for the house he pointed out, that in the future, part of the wall would have to be replaced. Ann asked if the 75 feet included the stairs? Mr. Landry stated, no, the stairs are not included. He said they will probably be replaced with premade stairs. The wall going beyond the stairs is good quality wall. He said the rest of the wall he uses a trowel to patch as needed but the wall's construction is solid. Mr. Landry stated the first wall was built with no footing or anything behind it but stumps and rocks, whatever they had. The rest of the wall was built with footings and gravel behind. He said again that part is in good shape.

Diane S. asked Mr. Landry to put (on the plan) where the replacement trees would be placed and the buffer. Mr. Landry stated while the board was talking he sketched out the area on the plan where the replacement trees will go and the location of the buffer area. Mr. Landry said they planned on getting trees as big as possible at the nursery to replace the existing. Roger A. stated that in the Ordinance it is required from the ground to the top of the tree has to be six feet in height. Mr. Landry said the key trees he might try to get even larger. Ms. Brandt asked if it was a one to one ratio for replacement. Madge B. read from §105-4.D (7)(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. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.' She noted that they

could not do that. Mr. Landry agreed, stating the engineer said he should be a minimum of eight feet back from the wall. Madge said the board had to use common sense, agreeing with Mr. Landry.

Roger A. stated that when replacing the wall a person licensed by the DEP would have to be used. Roger said there is a website you can look at to see if the person he is using is licensed. Mr. Landry asked if that was the excavator? Roger said, right, and this is until the wall is actually replaced. Mr. Landry asked what the name of the website was? CEO McDonough stated he didn't remember but if you searched DEP, erosion control certified contractors, it will come up. CEO McDonough also noted that Scott McLeod was aware of this rule, so he was sure they wouldn't use someone that wasn't certified.

Madge B. asked when they were planning to work on the wall? Mr. Landry stated November or early December. Mr. Landry stated they were waiting to be sure the water was low enough. He said he spoke with Marcel Blouin and he said they are still leaning toward dropping the lake more to do dam work, and at present they were still a bit higher than winter draw down levels. He said the water was about 8 to 10 feet out from the wall.

Madge B. said she was asking for a date to replant, and usually people like the date of September for the plants to take root. Mr. Landry thought they might be ready for the spring. Ms. Brandt stated with having to replant for the house as well, she preferred to have a fall date to be certain they could meet the date. She said June 1, 2016 was the date for the landscaping around the house to be completed.

Roger A. suggested a date of September 15, 2016 for replanting. Madge B. agreed to this date for the trees and the buffer strip along the wall. CEO McDonough asked how the area behind the wall will be addressed? Mr. Landry said they would have loose fill with loam on top, then erosion control mulch for the winter. Then when they can do the planting in the spring they will begin. He stated for the trees, they will be purchased but for the local vegetation, Blueberry, Huckleberry and Sweet Fern, those he will dig them from other areas of his property. He said there would be an eight foot buffer and the trees. CEO McDonough asked if it was drawn on the plan? Diane S. said they had a plan with lines showing the buffer area, she would write, '8 foot buffer' on the plan as well. Ms. Brandt stated they were working with a man from JoAnne's Nursery and he was advising what would be best to control stormwater. CEO McDonough said he just wanted to be sure it was on the plan, so a year from now he had something to reference when doing the inspection.

Roger A. stated the conditions of approval are:

- 1) Best Management Practices shall be used and the work is to be done by a person certified by the DEP. The BMP shall be kept in place until all work is completed.**
- 2) The re-vegetation plan shall be done per the planting plan presented on October 13, 2015, including the hand written addition of White Birch, White Pine and Hemlock trees and an 8 foot buffer consisting of native vegetation; it shall be completed by September 15, 2016.**

Madge B. moved for approval of the 75 foot replacement wall according to the engineered drawings received and the planting plan presented this evening, on Map 23, Lot 18 with the above two conditions. Maggie M. 2nd the motion. All members were in favor. Motion passed unanimously, 5 – 0.

Nothing further was discussed.

Findings of Facts

1. The Owner of Shapleigh Tax Map 23, Lot 18 (25 Director's Lane) is TML LLC, c/o David Landry of P.O. Box 6194, China Village, Maine 04926.
2. The property is located in the Shoreland District and according to the Assessor's office contains .60 acres.
3. The existing non-conforming structure sets wholly within 100 feet of the high water mark.
4. The applicants provided a site plan depicting the approved location of the new structure, that being 23.5 feet from the high water mark on the left side and 24.5 feet from the high water mark on the right side. Also depicted was the requested new setback on the left side of 25.16 feet.
5. The applicants provided a copy of the NRPA Permit by Rule to replace 75 feet of retaining wall along the shore of Mousam Lake. The permit by rule, submitted 9/30/2015 and approved 10/7/2015, had attachments as follows: Description of Project from Geoffrey Alewa, PE #9679 of Civil Consultants, dated September 18, 2015; Typical Wall Section describing the construction of the replacement retaining wall done by Geoffrey Alewa, PE #9679; Plan depicting area where wall will be replaced and trees removed; Copy of Shapleigh Tax Map 23, depicting Lot 18; Copy of USGA Map, Mousam Lake Quadrant, depicting general location of Lot 18; Pictures of existing wall and trees to be replaced; Plan denoting number and size of the trees to be removed; and Picture of the trees to be removed.
6. The applicants provided a replanting plan depicting the location of the proposed structure, the 75 foot retaining wall with an eight (8) foot buffer consisting of native vegetation such as Blueberry, Huckleberry, Sweet Fern and Juniper, as well as seven (7) replacement trees consisting of White Birch, White Pine and Hemlock.
7. The applicants are requesting the Planning Board amend the ruling of approval, dated 4/22/2015, Findings of Fact, condition #4, changing the setback from the high water mark on the left side of the structure from the approved 23.5 feet to 25.16 feet.
8. The applicants requested that 75 feet of the existing retaining wall be replaced as approved by Chris Coppi of the Dept. of Environmental Protection on 10/7/2015.
9. The board unanimously agreed to approve the amendment to the Best Possible Location to move the existing structure on the left hand side from 23.5 feet to 25.2 feet as discussed during the meeting and per the plans provided.
10. The Planning Board unanimously agreed to approve the 75 foot replacement wall according to the engineered plans received and the planting plan presented at the meeting.
11. The conditions of approval for the 75 foot replacement wall are as follows:
 - 1) Best Management Practices shall be used and the work is to be done by a person certified by the DEP. The BMP shall be kept in place until all work is completed.
 - 2) The re-vegetation plan shall be done per the planting plan presented on October 13, 2015, including the hand written addition of White Birch, White Pine and Hemlock trees and an 8 foot buffer consisting of native vegetation; it shall be completed by September 15, 2016.

OTHER:

Minutes of the meeting dated September 22, 2016

Madge B. began by stating she would like to revisit the section in the minutes on mineral extraction that was approved at the last meeting, for Mr. Clark (Map 5, Part of Lot 44). She stated on item 3 of the review of Section 105-73.G, page 16 of 19, the standard is 'The use is consistent with the Comprehensive Plan', and Roger's response was, 'Roger stated at this time the Comprehensive Plan is not in effect'. Madge said it took her by surprise, so she didn't address this at the meeting. She stated it was not an acceptable response to item 3.

Madge B. stated, "State law, if you like I could read it to you, requires our zoning to be in compliance with the Comprehensive Plan. So everything we do and approve has to be consistent with the Comprehensive Plan. I went back to the Comp Plan of 2005. I would like us to change that but I thought you would like to know why I think we can change that. The Comp Plan was adopted in 2005 and runs through 2015, as stated in the plan. It seems the relevant provisions in the Comp Plan that I think this proposal is consistent with are one, Natural Resources.....the Comp Plan talks about preserving and protecting natural resources. It's my opinion that this excavation will preserve and protect natural resources. The record shows there will be no impact on water quality, it will be restored, the land will be restored, there will be trees on it and as far as I can see it will remain a natural area. You will have a time in which that natural area is disturbed but not in any way destroyed and the Comp Plan also calls for commercial and industrial development in the town. It is on that basis we have approved in the past, since this Comp Plan was in effect, mineral extraction."

Madge B. stated, "The Zoning Ordinance allows mineral extraction in any of the general purpose areas, therefore, I don't see any basis where we can say this isn't in conformance with the Comp Plan. I would like to have that statement changed to what we normally say which is it is in conformance with the Comp Plan."

Roger A. stated, "I have no problem with that, it's just that I realized it is outdated and that is the only reason why I was saying it is not in affect." Madge B. stated, "We have to have a Comp Plan until this one is replaced, it is in effect, in my opinion. It is a good reminder that we, you, me, somebody, I am happy to do it, should go to the Selectmen and say we need it." Roger stated he did mention it to them but nothing came from it. Madge stated she would go to them and speak about updating it and make the legal argument why it is essential to do it. She said meanwhile she wanted item 3 changed in the minutes.

Maggie M. stated, "It's adopted and you said it's good through the end of 2015." Madge said it does not expire, it is in effect until it is replaced. CEO McDonough asked why there is a date at all? Madge said the plans are supposed to last 10 years and then be reviewed. CEO McDonough said it should be reviewed every 10 years, not expired. Madge said again it did not expire, there is nothing in it that says it expires. Maggie asked about the Comprehensive Plan group? CEO McDonough stated there isn't one at this time. Madge agreed, it dissolves once the plan is approved. Maggie asked if they could be called back together? Madge said they could. Barbara F. noted several members are no longer with us and one moved. Madge wanted the board to realize that if at any time anyone states it is not in effect then we don't have a Zoning Ordinance because State law requires we have a Comp Plan in order to have a Zoning Ordinance.

Roger A. agreed based on Madge's argument that we are not detrimentally impacting the natural resources and commercial operations are allowed in the general purpose area, he agreed the use is consistent with the Comprehensive Plan, so item 3 can be met.

Madge B. made the motion to amend the Planning Board Minutes of September 22, 2015, page 16 of 19, Item 3 of the review of Section 105-73.G, during the review of Map 5, Part of Lot 44 – Conditional Use Permit for Mineral Extraction, which had an error in statement; the statement ‘Roger stated at this time the Comprehensive Plan is not in effect’, shall be corrected to state, ‘it is consistent with the Comprehensive Plan. Diane S. 2nd the motion. All members were in favor. Motion passed unanimously, 5 – 0.

Note, it now reads as follows in the minutes of 9-22-2015:

- 3) The use is consistent with the Comprehensive Plan. ~~Roger stated at this time the Comprehensive Plan is not in effect.~~ Amended 10-13-2015, to state it is consistent with the Comprehensive Plan. Details for change in minutes of 10-13-2015.

Growth Permits - There are Growth Permits Available.

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

The next meeting will be held Tuesday, October 27th at 7:30 p.m. The Planning Board meets the 2nd and 4th Tuesday of each month unless it falls on a holiday or Election Day. Any scheduled public hearing takes place at 7:00 p.m. prior to the scheduled meeting.

Beginning with the 1st meeting in November and running through April 1st, the Planning Board meeting will be held at 6:30 p.m. Also, should there be a cancellation due to a storm event, holiday or Election, the meeting will be held the following Wednesday, also at 6:30 p.m.

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

SHAPLEIGH PLANNING BOARD
MINUTES
Tuesday, October 27, 2015

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

The following words are not verbatim unless accompanied by quotation marks “ ”

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

The minutes from Tuesday, October 13, 2015 were accepted as amended. There were several typographical errors that were corrected.

One being, within the review of the Best Possible Location to raise the existing cottage 3', replace the porch with deck and patio on Map 35, Lot 29; and the other, within the review of the Amendment to a Best Possible Location to change the left setback of the proposed structure to 25.16 feet on Map 23, Lot 18; for both, the 2nd condition of approval should have read in part as follows:

- 2) The re-vegetation plan shall be done per the planting plan presented on October 13, 2015,

Maggie M. asked with respect to page 3 of 11, the statement 'Mr. Beal stated based on the size of the root structure they would probably leave the stumps there', should the board have pinned him down to do just that. CEO McDonough and the board members believed they should have made that a condition of the permit, and that this is something to do in the future.

Maggie M. asked with respect to page 4 of 11, where it stated the board made the motion to approve the Best Possible Location to raise the cottage 3 feet, should the board have stated no more than 3 feet? CEO McDonough stated this statement was ok because a structure cannot be raised more than 3 feet, and because this states it is to be raised 3 feet, it has to be raised exactly 3 feet. He said the board could have said no more than 3 feet but again in this case it will have to be 3 feet, so as written it is fine.

Steve F., going back to Maggie's comment about the stumps, asked if it was a condition of approval to leave the stumps? Diane S. stated Mr. Beal had said he would leave the stumps. Barbara F. stated that it was not made a condition of approval, if that was what Steve was asking. He said it was. She said if this is important to the board, it will need to be made a condition of the approval in the future.

Roger A. stated tonight's meeting would be about reviewing the additional changes to the Shoreland Zoning, after a review by Mike Morse, Shoreland Zoning Coordinator, MDEP. The following are the proposed changes and whether or not the board agreed to adopt the changes as noted by Mr. Morse.

§105-4, ‘Nonconformance’, Section D (5)(a) – the proposed change by Mike Morse is written in italic (red for board members):

Any nonconforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed or damaged or destroyed regardless of the cause, by more than 50% of its Town-assessed value before such damage, destruction or removal, may be reconstructed or replaced, provided that a permit is obtained within one year of the date of said damage, destruction or removal and provided that such reconstruction or replacement must be in compliance with all water body, tributary stream or wetland setback requirements to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this chapter. In no case shall the structure be reconstructed or replaced so as to increase its nonconformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Subsection D(1) above, as determined by the non-conforming ~~floor area and volume~~ **footprint** of the reconstructed or replaced structure at its new location. If the total amount of ~~floor area and volume~~ **footprint** of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replaced in accordance with Section (D)(7)(b) below.

Mr. Morse changed floor area and volume to read ‘footprint of the original structure’ as written in the previous sentence.

Board members agreed to this change to keep it consistent with what the paragraph was trying to convey.

§105-4, ‘Nonconformance’, Section D (7)(b) - the proposed change by Mike Morse is written in italic (red for board members):

- (b) In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation **in accordance with Section D(7) §105-51.3**. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

Mr. Morse changed Section D(7) to §105-51.3.

Board members agreed to this change as it was the correct reference now that the new Section 105-51.3 ‘Revegetation Requirements’ is being proposed to be added to the ordinance.

§105-15, ‘Definitions’, - the proposed change by Mike Morse is written in italic (red for board members):

EXPANSION OF A STRUCTURE – An increase of the **footprint, floor area, or volume** of a structure, including all extensions, such as but not limited to attached decks, garages, porches and greenhouses.

Mr. Morse asked the board to remove ‘floor area, or volume’ as these are no longer used for expansion in the shoreland district.

CEO McDonough noted that this definition does not only pertain to shoreland zoning but to buildings outside the shoreland district, therefore, he did not want to remove it. He stated other towns have a separate shoreland zoning ordinance but Shapleigh incorporates shoreland zoning in with all other zoning, so he wanted to be certain any expansion, such as a 2nd floor expansion outside the shoreland district was still being regulated. Board members agreed to keep ‘floor area or volume’ in the definition as stated.

~~FRONTAGE, SHORE – The horizontal distance, measured in a straight line, between the intersections of the side lots lines with shoreline at normal high water elevation.~~

Mr. Morse asked the board to delete this definition because it was in conflict with the definition of SHORE FRONTAGE also listed in this chapter.

Board members agreed to delete the definition based on Mr. Morse’s recommendation.

NON-CONFORMING **BUILDING STRUCTURE** OR USE – A building, structure, use of land or portion thereof existing at the effective date of adoption or amendment of this chapter which does not conform to all applicable provisions of this chapter.

Mr. Morse asked the board to change the wording from building to structure as that is the term used under §105-4 ‘Nonconforming structures.’

Board members agreed to change the wording based on Mr. Morse’s recommendation.

PRINCIPAL **BUILDING STRUCTURE** – The ~~building~~ **structure** in which the primary use of the lot is conducted.

Mr. Morse asked the board to change the wording from building to structure as that is the term used under §105-4 ‘Nonconforming structures.’

Board members agreed to change the wording based on Mr. Morse’s recommendation.

REPAIR – The act of normal maintenance of a structure or its parts, ~~and the replacement of the structure or its parts as a result of damage.~~

Mr. Morse suggested the board remove ‘and the replacement of the structure or its parts as a result of damage, as he believed it was in conflict with Section 105-4(H) and 105-4.D(5).

The board members and CEO McDonough agreed to keep ‘its parts as a result of damage’, they didn’t see a conflict.

§105-51, ‘Clearing or Removal of Vegetation for Activities Other than Timber Harvesting’, Section B(1)(e) - the proposed change by Mike Morse is written in italic (red for board members):

- e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, ~~diseased, unsafe or dead~~ **or hazard** trees results in the creation of cleared openings, these openings shall be replanted with native tree species in accordance with **§105-51.1 Subsection B(1), below**, unless existing new tree growth is present.

Mr. Morse suggested the board remove ‘Subsection B(1) below’, as the correct reference was the newly proposed ordinance §105-51.1 ‘Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal’.

Board members agreed that the correct reference was §105-51.1, now that the new Section 105-51.1 ‘Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal’ is being proposed to be added to the ordinance.

§105-51, ‘Clearing or Removal of Vegetation for Activities Other than Timber Harvesting’, Section C - the proposed change by Mike Morse is written in italic (red for board members):

- C. At distances greater than 100 feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and 75 feet, horizontal distance, from the normal high-water line of any other water body, tributary stream or the upland edge of a wetland, there shall be allowed on any lot, in any ten-year period, selective cutting of not more than 40% of the volume of trees four inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the 40 % calculation. For the purposes of these standards, volume may be considered to be equivalent to basal area.

In no event shall cleared openings for any purpose including but not limited to principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate 25% of the lot area within the Shoreland zone or 10,000 square feet, whichever is greater, including land previously cleared.

This provision applies to the portion of a lot within the Shoreland zone, including the buffer area.

Mr. Morse suggested the board add the last sentence.

Board members agreed this addition would be beneficial as stated.

§ 105-51.2 ‘Exemptions to Clearing and Vegetation Removal Requirements, Section A (5) & (7) - the proposed change by Mike Morse is written in italic (red for board members):

- (5) The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district, ***commercial fisheries and maritime activities district or other equivalent zoning district approved by the Commissioner*** that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A. section 343-E, and that is located along:

(a) A coastal wetland; or

(b) A river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A. section 465-A.

(7) The removal of vegetation associated with emergency response activities conducted by the Department, The U.S. Environmental Agency, ~~the U.S. Coast Guard~~, and their agents.

Mr. Morse stated the board should delete the above because Shapleigh has no oceanfront property.

Board members agreed any reference to coastal property should be omitted.

All changes to the Zoning Ordinance will be presented to the public on Tuesday, November 24th, at a public hearing to begin at 6:00 p.m. Barbara F. will begin posting for the public hearing on Wednesday, October 28th.

Nothing further was discussed.

Growth Permits - There are Growth Permits Available.

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

The next meeting will be held Tuesday, November 10th at 6:30 p.m. The Planning Board meets the 2nd and 4th Tuesday of each month unless it falls on a holiday or Election Day. Any scheduled public hearing takes place at 6:00 p.m. prior to the scheduled meeting. Should there be a cancellation due to a storm event, holiday or Election, the meeting will be held the following Wednesday, also at 6:30 p.m. unless otherwise posted. These are the scheduled hours thru April 1st, 2016.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, November 10, 2015

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

The following words are not verbatim unless accompanied by quotation marks “ ”

The planning board meeting started at 6:30 p.m.

The minutes from Tuesday, October 27, 2015 were accepted as read.

Conditional Use Permit – Replace Existing Retaining Wall – Map 16, Lot 16 (208 31st Street) – Luke Pepin of Pepin Precast, Applicant; Margaret D’Amour, Property Owner

Luke Pepin of Pepin Precast was present to review the application.

The application description of the project states ‘Removing existing deteriorated retaining wall made from railroad ties and replacing with precast concrete block wall’. Along with the application, board members were provided a copy of the tax bill which listed William A. and Margaret A. D’Amour as property owners; a copy of the Permit by Rule Notification Form which was mailed to Chris Coppi of the MDEP on 9/21/2015 and approved on 9/30/2015; a sketch depicting the existing camp and garage, septic tank and leach field location, and paved driveway that extends to the retaining wall to be replaced; and the existing walls that will be replaced and those that will remain as is. Also provided were pictures of the existing retaining wall.

Maggie Moody asked Mr. Pepin to describe to the board what he was proposing to do. Mr. Pepin stated there was an existing retaining wall at the end of 31st Street in Shapleigh. He stated it is a retaining wall that is falling apart and it also holds up a telephone pole that holds wires that go across the lake and the pole is starting to lean due to the condition of the wall. He said they wanted to remove part of the section of the existing structure and rebuild it with a concrete wall.

Mr. Pepin stated they had the Permit by Rule from the DEP and it was approved.

Ann H. asked if they were leaving the telephone pole in place? Mr. Pepin stated, yes, and that CMP was going to come on site to hold it up while they rebuild the wall.

Madge B. asked how high the wall would be? Mr. Pepin stated it would be 6 feet in height and the section that is being rebuilt is 62 feet long, along with a 23 foot turn. He stated part of the wall was not going to be replaced as noted on the plan. He said erosion control measures would have to be done as well.

Madge B. asked if there was an engineered drawing for the wall? Diane S. agreed they needed an engineered drawing due to the height of the wall. Mr. Pepin stated it would be no problem to provide one.

Madge B. stated the board would have to come to the site, so they needed to schedule a site visit. She said they would have to do it on the weekend.

CEO McDonough asked if Mr. Pepin could get a drawing with an engineer's stamp on it for the next meeting? Mr. Pepin stated that he could.

Ann H., looking at the pictures provided, asked if the area she was looking at was what they were going to replace? She asked if the concrete pillars would be removed? Mr. Pepin stated everything she was looking at was wooden and it would all be removed and replaced with concrete block.

CEO McDonough asked Mr. Pepin if he was doing the work himself? He stated, yes. He also asked him if he was certified by the DEP in erosion control measures? Mr. Pepin stated that he was.

Board members agreed to do a site inspection on Saturday, November 21st, at 10:00 a.m. Members will meet at the Town Hall. A notice to abutters will be mailed as well.

Mr. Pepin stated it was easy to find, and noted the pavement went right up to the wall at this time. He said the pavement would be pulled back two feet, the blocks would be put in and crushed stone would be put on top when finished.

Nothing further was discussed.

Best Possible Location – Replace Existing Structure – Map 28, Lot 42 (19 18th Street) – Scott McLeod, Applicant; Philip & Ligia Mcauley, Property Owners.

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

The application description of the project states 'Remove burnt building and rebuild new camp of similar size'. Along with the application, board members received a Letter of Consent which stated Scott McLeod of Ash Cove Construction was their authorized contractor to rebuild their home at 19 18th Street; a copy of the Subsurface Wastewater Disposal System Application dated 10/15/2015, done by Mark Truman, SE #121; a site summary which described the soils on location, how erosion control would be mitigated, and the number of trees to be removed and replaced; and a copy of the proposed improvement plan drafted by Dana Libby PLS 1350 of Corner Post Land Surveying, dated 10/27/2015. The plan depicts the existing and proposed structure, the distance of the structure to the nearest lot line and high water mark, the location of a shed on site, the location of overhead utilities, the location of the 15 new trees to be planted, and notation that 16 inches of crushed stone would be placed around the foundation, the location of the proposed leach field, the location of 18th Street, and the location of an existing stone walk & patio, with attached wooden stairs.

Maggie M. asked Mr. McLeod to tell the board what he wished to do. Mr. McLeod stated that the applicants wanted to replace their camp that was damaged by fire. He said they wanted to demo the structure and he was before the board for a best possible location. He said given the location and what is on site, it appears the existing structure is in the best possible location at this time. He realized the board had the right to decide what the best location is.

Mr. McLeod stated, looking at the plot plan he provided, it shows the existing structure and noted they were working on the 30% expansion. He said due to setback requirements to the road and the location of the septic system, they had to put a nook in the design of the house to make the setback work off the septic. He stated the front wall of the house was pulled back from the lake, so it is being moved back from the water. CEO McDonough asked if it was three feet back? Mr. McLeod said, three or four feet roughly.

Mr. McLeod stated the dotted lines on the plan reflected the overhang of the structure, the solid line was the foundation location. He said they wanted to leave the existing walkways. He said the one thing that was not on the plan that they wanted to add was a 12' x 12' deck, and that they had the ability with the expansion allowed. He said there was a deck lost in the fire but he wanted to move the deck from where it existed to the opposite side of the house, it would be no closer to the lake than the existing structure.

CEO McDonough asked what the 22' x 23' area on the plan represented? Mr. McLeod stated it was the paved parking area. He said he wasn't sure if that was included in the square foot calculations for lot coverage, so he put it on the plan and included it in the density calculation. He said the dotted area, 22' x 23', is what the parking area will be when it is done. He said the lot coverage was less than he calculated because he had included the paved area.

Diane S. asked what the red box on the plan was? Mr. McLeod stated, that is the septic.

CEO McDonough wanted Mr. McLeod to know that lot coverage was a maximum of 10%. Mr. McLeod stated he did not think that was an issue. Mr. McLeod said he would recalculate the coverage again.

CEO McDonough noted that the existing trees to be removed were not on the plan, only the replacement trees. Mr. McLeod stated that was because the proposed trees were in a similar location as the existing. CEO McDonough stated that the ordinance requires that a proposed tree be no farther from the water than the existing. Mr. McLeod stated that he understood and that actually some of the replacement trees were closer to the water than the existing to be removed. He said several in the location of the new septic system area that will be removed, would not be replaced in that area and were moved closer to the water. Mr. McLeod stated he didn't put the old trees and new on the plan because he thought it would be too confusing. He said the trees coming down are marked and the board will be able to see them at the site inspection.

Ann H. asked if the deck was moved to the opposite side of the house, wouldn't it be closer to the water? Mr. McLeod said it would not in the sense that it will be closer than it is now, but the structure itself is not closer to the water and the deck is behind the front of the structure, therefore, no new structure would be closer to the water. Maggie M. noted that the distance to the side lot line would be much better if the deck was on the opposite side. Mr. McLeod agreed, stating the existing was very close to the property line.

Mr. McLeod stated the existing improvements were done over time and there is existing shrubbery along the walkways. Roland L. stated that he wasn't questioning as to whether or not the owner got permission for the walkways but he didn't ever remember going to the site as a board. Mr. McLeod stated he was telling the board what he was told, he couldn't comment any further on that. He said he could tell this had been there for some time, it was not new growth.

Ann H. asked if the septic design was for a new system? Mr. McLeod said it was.

Mr. McLeod asked if the board could go to the site before November 21st to look at the trees? He wanted to remove the trees as soon as possible, after getting a permit from CEO McDonough. After some discussion the board members agreed they would prefer to go as a board on November 21st to look at the trees.

A site inspection was scheduled for Saturday, November 21st at approximately 10:30 a.m. A notice to abutters will be mailed as well.

Nothing further was discussed.

Growth Permits –

Map 1, Lot 20 (Murray Road) – *New Home* – Growth Permit #13-15

The lot is a legal lot of record, meeting the requirements in the Zoning Ordinance.

The Planning Board meeting ended at 6:55 p.m.

The next meeting will be held Tuesday, November 24th at 6:30 p.m. The Planning Board meets the 2nd and 4th Tuesday of each month unless it falls on a holiday or Election Day. Any scheduled public hearing takes place at 6:00 p.m. prior to the scheduled meeting. Also, should there be a cancellation due to a storm event, holiday or Election, the meeting will be held the following Wednesday, also at 6:30 p.m.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, November 24, 2015

Members in attendance: Roger Allaire (Chairman), Maggie Moody (Vice Chair), Madge Baker, Diane Srebnick, Roland Legere, Alternate Ann Harris, as well as Barbara Felong (Secretary). Code Enforcement Officer Steven McDonough was also in attendance. Alternate Steve Foglio was unable to attend.

The following words are not verbatim unless accompanied by quotation marks “ ”

The Public Hearing began at 6:05 p.m.

Review of the State mandated Shoreland Zoning Changes which will be incorporated into the Zoning Ordinance in 2016.

Maggie M. opened the public hearing as Roger A. had not arrived. Maggie began by reading the ordinance changes, Diane S. also read some of the changes. When Roger arrived he read the final changes proposed. The ordinances were read in the following order. Copies of all ordinances can be obtained at the Town Hall. There will be one additional hearing prior to Town Meeting, likely to be held on Tuesday, February 9, 2016.

As a note, there was no citizen participation for this hearing.

Shoreland Zoning changes will be made to the following Zoning Ordinances:

§105-4. ‘Nonconformance’, Section D ‘Nonconforming structures’

§105-15 ‘Definitions’

§105-38 ‘Individual private campsites not associated with campgrounds’, Section B

§105-39 ‘Earth removal and filling for activities other than mineral exploration and extraction’, Section D ‘Earthmoving in Shoreland District’

§105-49 ‘Agriculture’, Section A & Section H

§105-51 ‘Clearing or Removal of Vegetation for Activities Other than Timber Harvesting’, Section A, Section B & Section C

The following three ordinances will be added to the Zoning Ordinance:

§105-51.1 ‘Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal’

§105-51.2 ‘Exemptions to Clearing and Vegetation Removal Requirements’

§105-51.3 ‘Revegetation Requirements’

The following ordinance is having its numbering changed only:

§105-51.1 ‘Soils’ will now be §105-51.4 ‘Soils’

During the review of the above ordinances there were several typographical errors noted that will be corrected for the final review. The ordinances have been reviewed by the Dept. of Environmental Protection and the changes made met their guidelines to date.

Again, all of the ordinance changes can be viewed in their entirety at the Town Hall during regular town office hours.

The planning board meeting started at 6:40 p.m.

The minutes from Tuesday, November 10, 2015 were accepted as read.

Conditional Use Permit – Replace Existing Retaining Wall – Map 16, Lot 16 (208 31st Street) – Luke Pepin of Pepin Precast, Applicant; Margaret D’Amour, Property Owner

Luke Pepin of Pepin Precast was not present for the review of the application, nor was the property owner, therefore, the board did not review the application. Barbara F. will contact Mr. Pepin to see when the next review will take place.

Several board members did a site inspection for this application on Saturday, November 21st at 10:00 a.m. At the previous meeting the board had asked Mr. Pepin for an engineered plan for the new wall due to the walls height. Several members received an 8 ½” x 11” copy of the plan at the site inspection but the details are hard to read and the plan did not have the engineer’s stamp & signature. A larger more visible copy will be needed for the final review and the final copy will require the engineer’s stamp and signature.

Nothing further was discussed.

Best Possible Location – Replace Existing Structure – Map 28, Lot 42 (19 18th Street) – Scott McLeod, Applicant; Philip & Ligia Mcauley, Property Owners.

Mr. McLeod was present for the review of the application. Several board members did a site inspection for this application on Saturday, November 21st at approximately 10:30 a.m.

Board members had received a copy of the application prior to the meeting held on Tuesday, November 10th. The application description of the project stated ‘Remove burnt building and rebuild new camp of similar size’. Along with the application, board members received a Letter of Consent which stated Scott McLeod of Ash Cove Construction was their authorized contractor to rebuild their home at 19 18th Street; a copy of the Subsurface Wastewater Disposal System Application dated 10/15/2015, done by Mark Truman, SE #121; a site summary which described the soils on location, how erosion control would be mitigated, and the number of trees to be removed and replaced; and a copy of the proposed improvement plan drafted by Dana Libby PLS 1350 of Corner Post Land Surveying, dated 10/27/2015. The plan depicts the existing and proposed structure, the distance of the structure to the nearest lot line and high water mark, the location of a shed on site, the location of overhead utilities, the location of the 15 new trees to be planted, and notation that 16 inches of crushed stone would be placed around the foundation, the location of the proposed leach field, the location of 18th Street, and the location of an existing stone walk & patio, with attached wooden stairs.

Mr. McLeod asked if everyone went out to the location for a site inspection. Roger A. stated he was not able to get to the site. Diane S. also did not attend the site inspection but went on her own time. Mr. McLeod presented a new site plan which had a note added. The note states, ‘Existing house and deck equals 767 square feet or a lot coverage of 7.12%. The new house and deck equals 977 square feet or a lot coverage of 9.07%.

CEO McDonough asked if this figure included all the structures? Mr. McLeod stated that it did. CEO McDonough stated that the note did not state that it included the shed. Mr. McLeod said it did include the shed but it wasn’t written in the note.

Ann H. stated, “So it’s existing house, deck and shed.” Mr. McLeod stated, “Yes.” The board members, using the figures presented on the plan, said they did not believe lot coverage calculations included either shed. Mr. McLeod stated, “OK.” He said even including the sheds he believed they were under 10% lot coverage, but if this is not the case, he believed the owner had no issue with removing the existing sheds. He said one of the sheds was nothing more than an old outhouse.

CEO McDonough asked if the solid line on the plan was the foundation and the dotted line was the overhang? Mr. McLeod stated, “That is correct.” Mr. McLeod said the side setback was to the dotted line. CEO McDonough was concerned with the lot coverage, he said the dotted line is the lot coverage, not the solid red line. Roger A. agreed, stating the lot coverage is calculated from looking down upon the structure from above it, whatever you see is considered lot coverage or the size of the building. CEO McDonough said the structure with the overhang is likely under the 10% but the shed may not be able to stay. Mr. McLeod asked if CEO McDonough would handle the lot coverage figure? CEO McDonough said, yes. Mr. McLeod said the best possible location was for the planning board to decide. CEO McDonough said, yes.

Mr. McLeod asked the board what they felt about leaving the structure in the existing location? Maggie M. stated based on the site inspection she believed it was in the best possible location now, creating minimal disturbance to the property. Diane S. said that it made sense to keep it where it is based on the location of the walkways, walls, and the rest of the lot won’t be disturbed by keeping it where it is. Mr. McLeod noted it would be moved farther from the adjoining lot as well.

Madge B. stated she could see no advantage to moving the structure to another location on the property. She said it would have to be moved laterally based on the location of the septic system and driveway, but again she said there would be no advantage to moving it laterally, it would just cause a lot of disturbance to the ground. She said if you could easily move it back then the question would be more difficult to answer as to whether or not it was in the best location but there is no need to move it back in this case. She said she was totally comfortable leaving it where it is located now. She added that it would meet the side setback now, where it did not previously. She also noted the plantings between the water and the house were well established and stabilized, so the less that is disturbed the better. Maggie M. said with all the stonework in the front, if that were disturbed it would be worse than if it were not. Madge agreed.

Roger A. said one of the conditions of the permit would be that the two outbuildings on site cannot push the lot coverage over the 10% requirement in the ordinance, if they do, they will have to be removed. He said CEO McDonough would look at that calculation.

Madge B. said they looked at the trees that had to be removed due to the fire or because of construction. She said the replanting plan has to be what CEO McDonough will use when he looks at the revegetation. She said as long as the plan is not going to change, the plan is fine based on what the board saw at the site inspection but if Mr. McLeod is going to change anything it needs to be put on the plan. Mr. McLeod did not feel there was a need to change anything on the plan, the neighbor, Mr. Griffin (Map 28, Lot 41), inquired if it was possible to add another tree. Mr. McLeod, looking at the plan before the board, stated that it made sense to add an additional tree for the privacy of both parties. He said if he can put two additional trees in he will. He said currently they were replacing exactly what they are taking out in the same location, except for over the septic system. Madge believed the plan was fine.

Roger A. read §105-4.D(7) in its entirety. Roger noted that the building was essentially going in the same location as the existing.

Madge B. stated the board needed to set a date for re-planting. Mr. McLeod stated he believed a date of July 1, 2016 would work. Madge said that was fine, the board didn’t want him to rush.

Roger A. stated the conditions of approval would be:

- 1) **Best Management Practices shall be used and the work is to be done by a person certified by the DEP. The BMP shall be kept in place until all work is completed. The DEP license number shall be given to the Code Enforcement Officer prior to construction.**
- 2) **The re-vegetation plan shall be done per the improvement plan presented on November 24, 2015, and the site summary plan, it shall be completed by July 1, 2016.**
- 3) **Lot coverage shall be verified by the Code Enforcement Officer that in fact the lot will not be covered by more than 10% as required in the Zoning Ordinance.**

Roger A. asked if there was anything further to discuss. Mr. Griffin, the abutting property owner (Map 28, Lot 41), stated that he had no problem with what they were going to do. He said his only concern was the fact the fire destroyed all the trees between the two properties, so he would like to see as many trees as they could put in, several more than is shown on the drawing, so there is no erosion and he could get some of his privacy back. Ann H. asked how many trees were damaged? Mr. McLeod said there were large trees, some smaller trees and undergrowth that will take time to come back. He agreed with Mr. Griffin wanting more privacy, he will plant as many trees as he can in that location. He noted that he did not want to crowd too many trees together so they would not grow successfully. He agreed both property owners wanted the same thing. Mr. Griffin believed this was a good plan. Ann noted there would no longer be a deck near the property line but instead there would be trees planted in that location. Ann asked if there was a maximum number of trees? Roger stated the minimum was 1 to 1 but they could add more if they wanted to. He said the issue is the number of species of trees. Mr. McLeod said they would keep the proper balance. Roger noted the plan stated 'White Pine or Hemlock Tree (Typical) 6 Foot Minimum' but he said there had to be a mix of more than one type of tree. Diane S. agreed stating that one type of tree could not make up more than 50% of the trees replaced. Maggie M. said after six trees he has to use more than three types of species. Diane said the plan shows four types, Maple, Oak, White Pine or Hemlock. Diane asked if the trees on the plan were the ones being planted? Mr. McLeod said, yes.

Roland L. made the motion to approve the Best Possible Location on Map 28, Lot 42 (19 18th Street) to replace the existing structure and deck, leaving the main structure in the approximate same location, being 37.72' from the high water mark at the closest point, and moving the deck to the opposite side from where it existed before the fire, per the plan provided, dated October 27, 2015 and presented November 24, 2015, with the above stated conditions. Madge B. 2nd the motion. All members were in favor. By a unanimous vote of 5 – 0, the motion to approve the Best Possible Location was accepted.

Nothing further was discussed.

Findings of Facts

1. The Owners of Shapleigh Tax Map 28, Lot 42 (19 18th Street) are Philip & Ligia McAuley, of 131 Amherst Street, Amherst, New Hampshire.
2. The property is located in the Shoreland District and according to the Assessor's Office contains .26 acres.

3. The applicant provided a Letter of Consent, dated 10/17/2015, from Philip and Ligia McAuley which stated, 'Scott McLeod, Ash Cove Construction is our authorized contractor to rebuild our home at 19 18th Street, Shapleigh, Maine.'
4. The applicant provided a site summary which described the soils on site, how the disturbed areas would be re-vegetated, and the number of trees to be removed and replaced due to the fire that occurred on site and due to reconstruction.
5. The applicant provided a Subsurface Wastewater Disposal System Application, dated 10/15/15, done by Mark Truman, SE #121, for a replacement system accommodating a 3 bedroom home.
6. The applicant provided a proposed improvement plan, drafted by Dana Libby, PLS 1350 of Corner Post Land Surveying, Inc., of Springvale, Maine. The plan depicted the existing and proposed structure location, including foundation dimensions and location of the overhang on the new structure; the location of the existing deck that was damaged by fire; the existing walkways, retaining wall, wood fence, driveway and shed(s); and the proposed location of the leachfield and parking area. Also on the plan were the locations of 15 new trees to replace those being removed; the distance of the proposed structure to the high water mark, that being 37.72' at the closest point; and it showed with the removal of the existing deck, the nearest side lot line will be 10 feet at the closest point, making the new structure more conforming than the existing, being able to meet the side lot line requirement in the ordinance.
7. The applicant provided the existing square footage of the damaged structure with deck, that being 767 square feet, which is 7.12% lot coverage; and the calculation for the proposed new house and deck equals 977 square feet or lot coverage of 9.07%. It was noted by members this figure did not appear to include the existing sheds on site, that calculation will have to be presented to the Code Enforcement Officer during the building permit process to be certain the lot is not covered by more than 10% with structures.
8. A notice was mailed to all abutters within 500 feet of the property, Wednesday, November 11, 2015.
9. A site inspection was conducted on November 21, 2015 at 10:00 a.m.
10. The board unanimously agreed to approve the Best Possible Location to replace the existing structure and deck on Map 28, Lot 42, leaving the structure in the same location and moving the deck to the opposite side of the structure, whereby making the structure in conformance with the side lot line, per the plans provided.
11. **The conditions of the permit are as follows:**
 - 1) **Best Management Practices shall be used and the work is to be done by a person certified by the DEP. The BMP shall be kept in place until all work is completed. The DEP license number shall be given to the Code Enforcement Officer prior to construction.**
 - 2) **The re-vegetation plan shall be done per the improvement plan presented on November 24, 2015, and the site summary plan, it shall be completed by July 1, 2016.**
 - 3) **Lot coverage shall be verified by the Code Enforcement Officer that in fact the lot will not be covered by more than 10% as required in the Zoning Ordinance.**

Motion:

A motion was made on Tuesday, November 24, 2015, to approve the Best Possible Location to replace the existing structure and deck on Map 28, Lot 42, leaving the main structure in the approximate same location, being 37.72' from the high water mark at the closest point, and moving the deck to the opposite side from where it existed before the fire, per the plan provided, dated October 27, 2015 and presented November 24, 2015; with the above stated three conditions.

Vote:

By a unanimous vote of 5 – 0, the motion to approve the Best Possible Location was accepted.

Decision:

The Best Possible Location was approved.

Other:

There were several citizens in the audience who had come to listen to the review of the application from Margaret D'Amour for a replacement retaining wall on Map 16, Lot 16. Roger A. stated he would listen to any concerns they had even though the applicant did not attend the meeting.

The citizen stated they were curious to know what they were going to do? Board members showed them the sketch provided at the first meeting. Maggie M. also had a small copy of an engineered plan given to her at the site inspection but stated it was too small to read the writing on the plan. Diane S. stated the applicant was supposed to bring the board a copy of the engineered plan to this evening's meeting, because due to the height of the wall being over four feet, an engineered plan is required.

The citizen said in years past they had talked about replacing the wall. Ann H. stated at the site inspection they said they were removing the railroad ties which had creosote in them and replacing them with concrete blocks. She said during the process the power company would be coming out to hold the pole up. She said everyone would still have power and the pole would be returned to the same location as it is now. She was not sure if tar would go on top of the concrete or if they would leave a space where the telephone pole is and leave a space open for groundwater. Roland L. stated that the minutes of the last meeting said they were going to put crushed stone near the wall. Diane S. stated that that should be on the engineered plan.

The citizen stated the plan that he looked at made sense to him. He noted that there was a situation with respect to this location that he wasn't sure the current owner was aware of. He said the former owner signed off an easement for maintenance for the Town. Road Commissioner Goodwin plows all of the paved area in the winter to get the plows turned around, so they can get back out again. It was originally mentioned during the easement process that if the Town didn't have a place to turn around, that end of the road would not be plowed. Ann H. said she didn't believe they were changing the size of the area. She noted she was concerned with supporting the pole and the road but she believed this is why an engineered plan was required. She said it was good they were getting rid of the creosote.

Roger A. said they could call the Town Hall prior to the next meeting to see if the application was back on the agenda. Barbara F. told them to call either the Friday before the meeting or on the day of the meeting and she will let them know. She reminded them the board meets the 2nd and 4th Tuesday of every month. The next meeting will be held Tuesday, December 8th.

Nothing further was discussed.

Growth Permits –

There are growth permits available.

The Planning Board meeting ended at 7:10 p.m.

The next meeting will be held Tuesday, December 8th at 6:30 p.m. The Planning Board meets the 2nd and 4th Tuesday of each month unless it falls on a holiday or Election Day. Any scheduled public hearing takes place at 6:00 p.m. prior to the scheduled meeting. Also, should there be a cancellation due to a storm event, holiday or Election, the meeting will be held the following Wednesday, also at 6:30 p.m.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, December 8, 2015

Members in attendance: Roger Allaire (Chairman), Maggie Moody (Vice Chair), Madge Baker, Roland Legere, Alternates Ann Harris and Steve Foglio, as well as Barbara Felong (Secretary). Code Enforcement Officer Steven McDonough was also in attendance. Diane Srebnick was unable to attend.

The following words are not verbatim unless accompanied by quotation marks “ ”

The planning board meeting started at 6:30 p.m.

The minutes from Tuesday, November 24, 2015 were accepted as amended. Page 2 of 7, next to last paragraph, 3rd sentence, should read: ‘Diane S. also did not attend the site inspection **but went on her own.**’ Page 4 of 7, Item 2) of conditions of permit, should read, ‘The re-vegetation shall **be** done per the improvement plan presented on November 24, 2015, and the site summary plan, it shall be completed by July 1, 2016.’ Page 5 of 7, Item 2) of conditions of permit should read, ‘The re-vegetation shall **be** done per the improvement plan presented on November 24, 2015, and the site summary plan, it shall be completed by July 1, 2016.’

Conditional Use Permit – Replace Existing Retaining Wall – Map 16, Lot 16 (208 31st Street) – Luke Pepin of Pepin Precast, Applicant; Margaret D’Amour, Property Owner

Luke Pepin of Pepin Precast was present for the review of the application.

The application description of the project states ‘Removing existing deteriorated retaining wall made from railroad ties and replacing with precast concrete block wall’. Along with the application, board members were provided a copy of the tax bill which listed William A. and Margaret A. D’Amour as property owners; a copy of the Permit by Rule Notification Form which was mailed to Chris Coppi of the MDEP on 9/21/2015 and approved on 9/30/2015; a sketch depicting the existing camp and garage, septic tank and leach field location, and paved driveway that extends to the retaining wall to be replaced; and the existing walls that will be replaced and those that will remain as is. Also provided were pictures of the existing retaining wall.

On Saturday, November 21st at 10:00 a.m. a site inspection was held.

Roger A. asked Mr. Pepin to explain what they intended to do. Mr. Pepin stated they would be removing the railroad tie wall and replacing it with cement blocks. Steve F. asked if he brought the engineered plans? Mr. Pepin stated that he did and provided the Board with plans drafted by Eric Merluzzi, P.E. #13003, of Wentworth, NH, dated November 19, 2015. Sheet 1 of 2, provided information which included 1) Site Preparation, 2) Leveling Pad & Bottom Block, 3) Wall Drain, 4) Backfilling & Compaction, and 5) General Wall Layout & Construction. Sheet 2 of 2 provided information which included the Block Legend & Quantities, Wall Face Drawing, Detail of Wall Sta. 0+00 Wall abutting Existing Wall, Detail Wall Sta. 0+86 Wall abutting Existing Wall, and Vicinity Sketch which showed the location of the existing wall, face of proposed Loc-Block™ wall and location of the existing camp.

Roland L. spoke of several property abutters that attended the last meeting and that they had asked if the hot top would be going all the way to the top of the blocks? Mr. Pepin stated it would be 2 feet back, there would be crushed stone on top for rainwater to filter thru. Roland stated there was also a concern with power being off at any time during the project due to the telephone pole that needed to be held up while they removed the existing wall. Mr. Pepin stated that at no time will power be affected and he added that CMP stated they wouldn't even need a truck to hold the pole up, as previously thought. He said they were going to use a chain to hold the pole up as needed. Roland asked when they would begin the project and how long it would take. Mr. Pepin stated they wanted to begin shortly after approval. He believed it would take only one or two weeks. He said they would be done by the end of December.

Madge B. said that there would be no planting and asked if there would be gravel on top of the wall? Mr. Pepin stated she was correct, there was no vegetation involved and there would be gravel only on top of the wall for water filtration.

Roland L. asked if the existing material (wall) would be taken out of Shapleigh? Mr. Pepin was told by board members that material could not be taken to the Shapleigh Transfer Station. Mr. Pepin stated he would likely be taking the material to Simpson's in Sanford to be recycled. Roland asked if the board needed to require something from Simpson's stating they would take the material? Roger A. stated that it wasn't necessary as long as it is noted the materials cannot be taken to the transfer station in Shapleigh.

Ann H. asked if there would be a change in the size of the structure from what is there now? Mr. Pepin stated, no. Mr. Pepin also noted that at present the wall is dangerous as it is collapsing, the new wall will be an improvement to the location. The board agreed.

Ann H. asked if the DEP regulated the protection of the water during the project? Mr. Pepin stated that they did and that after he put up his silt fence they would come to the job site to make sure it was done correctly, and then they sign off that they inspected it.

Roger A. reviewed §105-4.D(5), 'Removal, reconstruction or replacement.' of a non-conforming structure. Roger noted that no re-vegetation was required, because none would be removed, and crushed gravel would be placed on top of the new wall for stormwater filtration. Roger also stated that Section 7 did not apply as there would be no relocation of the structure.

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

- 1) Best Management Practices shall be used and the work is to be done by a person certified by the DEP. The BMP shall be kept in place until all work is completed. The DEP license number shall be given to the Code Enforcement Officer prior to construction.**
- 2) The existing wall to be removed shall be taken out of Shapleigh and disposed of properly.**
- 3) The project shall be completed by January 15, 2016.**

Madge B. made the motion to approve the Conditional Use Permit to replace part of the existing retaining wall located on Tax Map 16, Lot 16, per the engineered plan provided, done by Eric Merluzzi, P.E. #13003, dated November 19, 2015, with the above stated conditions, as it meets the criteria in the Zoning Ordinance. Roland L. 2nd the motion. All members were in favor. By a unanimous vote of 4 – 0, the motion to approve the Conditional Use Permit was accepted.

Nothing further was discussed.

Findings of Facts

1. The Owners of Shapleigh Tax Map 16, Lot 16 (208 31st Street) are William & Margaret D'Amour of 3 Mead Street, Kittery, Maine. The applicants provided a copy of their 2015 tax bill as proof of ownership.
2. The property is located in the Shoreland District and according to the Assessor's Office contains .50 acres.
3. The applicant provided a copy of the Permit by Rule Notification Form sent to Chris Coppi at the MDEP which was dated 9/21/2015 and accepted by the MDEP on 9/30/2015.
4. The applicant provided a sketch plan depicting the location of the existing camp & garage, septic tank and field, rock walls that will remain in place and the retaining wall that will be replaced. The existing telephone pole location adjacent to the retaining wall was also noted on the plan.
5. The applicant provided pictures of the retaining wall that would be replaced, along with the existing telephone pole.
6. The applicant provided an engineered plan for the replacement wall using a Loc-Block TM Retaining Wall System. The plan was drafted by Eric Merluzzi, P.E. #13003, dated November 19, 2015.
7. A notice was mailed to all abutters within 500 feet of the property, Tuesday, November 10, 2015.
8. A site inspection was conducted on November 21, 2015 at 10:30 a.m.
9. The board unanimously agreed to approve the Conditional Use Permit to replace the existing retaining wall on Map 16, Lot 16, per the engineered plan provided, done by Eric Merluzzi, P.E. #13003, dated November 19, 2015, with three conditions, as it meets the criteria in the Zoning Ordinance.
10. The conditions of the permit are as follows:
 - 1) Best Management Practices shall be used and the work is to be done by a person certified by the DEP. The BMP shall be kept in place until all work is completed. The DEP license number shall be given to the Code Enforcement Officer prior to construction.
 - 2) The existing wall to be removed shall be taken out of Shapleigh and disposed of properly.
 - 3) The project shall be completed by January 15, 2016.

Motion:

A motion was made on Tuesday, December 8, 2015, to approve the Conditional Use Permit to replace the existing retaining wall on Map 16, Lot 16, per the engineered plans provided, done by Eric Merluzzi, P.E. #13003, dated November 19, 2015, with the above stated three conditions, as it meets the criteria in the Zoning Ordinance.

Vote:

By a unanimous vote of 4 – 0, the motion to approve the Conditional Use Permit was accepted.

Decision:

The Conditional Use Permit was approved.

Conditional Use Permit – Change of Use of a Nonconforming Structure from Shed to Residential Use – Map 43, Lot 28 (105 Pine Cone Drive) – Robert Sullivan, Applicant; Kenneth Keating, Representing
Mr. Keating was present for the review of the application.

Along with the application, provided was a letter, dated November 4, 2015, from Mr. Sullivan stating that Mr. Kenneth Keating, Esquire of Roberts & Shirley Law Offices could represent him at the meeting; a letter of intent written by Mr. Keating to Chairman Allaire, dated November 18, 2015; a copy of the Warranty Deed, Book 7902, Pages 208 & 209, registered at the York County Registry of Deeds, showing that Mr. Sullivan owned the property being reviewed; a copy of Shapleigh Tax Map 53, which depicted Lot 28 on Pine Cone Drive; and a copy of the Subsurface Wastewater Disposal System Application, done by Kenneth Gardner, SE #73, dated 8/19/1996, for a 2 bedroom home.

Roger A. asked Mr. Keating to state before the board what the applicant intended to do. Mr. Keating stated that they were applying for a Conditional Use Permit for a change of use of a non-conforming structure. He stated that currently the site was occupied by a Recreational Vehicle in seasonal use and there was also a nonconforming shed. Mr. Sullivan is seeking a change of use of the nonconforming shed to residential use, pursuant to §105-4.D(8) of Shapleigh's Zoning Ordinance.

Mr. Keating stated that Mr. Sullivan intended to remove the existing RV from the lot when the shed is converted to residential use, as he explained in the letter to Chairman Allaire, dated November 18, 2015. Mr. Keating stated there is an existing well on the lot that provides an adequate water supply for the intended change of use. He also noted there is an existing subsurface wastewater disposal system on site that was approved by the Town in 1999 for a two bedroom house.

Mr. Keating stated that the transition of the dwelling space to a permanent structure and the removal of the RV from the lot is more likely to improve the public's visual access to the lake and should not produce any adverse impact on functionally water-dependent uses or flood plain management. Mr. Keating stated that he was ready to address any issues of concern by the Board with respect to erosion and sedimentation control, vegetative cover, buffers strips and landscaping and that if the application is approved Mr. Sullivan's intent is to improve landscaping on the lot by planting trees and vegetative cover.

Roger A. asked if the RV on site was registered? Mr. Keating did not know. CEO McDonough asked why Roger was asking this question, why was it relevant? CEO McDonough noted it was a camper, not a vehicle, and was not sure where Roger was going with the question as Mr. Keating stated it would be removed from site. Roger wanted to be sure the new structure was not going closer to the water than the shed. Mr. Keating stated that the new structure will not encroach beyond the 100 foot setback to the water.

Roger A. stated that the subsurface wastewater disposal system application showed the shed was closer to the water than 100 feet. Mr. Keating stated that the structure that the application was referring to is no longer on site. The shed near the road is the one that will be converted.

Madge B. asked if the camper was being converted to residential use? Mr. Keating stated, no, the shed was being converted, the camper will be removed.

Madge B. asked if the shed was being converted to a house? Mr. Keating stated, yes.

Mr. Keating was asked what the size of the house was going to be; he stated the intention was to build a 21' x 31' house. He said they were cognizant of the 10% lot coverage requirement and the structure would fall within the 10% allowed.

Maggie M. asked about exceeding the 30% expansion requirement? Board members stated that the structure would be over 100 feet from the water, therefore, this would not apply.

Mr. Keating was asked if the lot was marked to show where the new structure would be? Mr. Keating stated that he believed so but it would not be hard to figure out if it is not. The shed is on site and the new structure will be in the same location. CEO McDonough noted that the only reason Mr. Sullivan was before the board was because he wanted a change of use of the existing structure. He said if he only wanted to expand the shed and keep it a shed, he could do so with a building permit from him. He could get the dimensions he is asking for because the expansion will not make the structure more non-conforming.

Roger A. asked members when they would prefer to do a site inspection? Due to the time of year and schedules, board members decided to do an inspection on an individual basis prior to the next meeting. Roger noted the next meeting to review the application will be Tuesday, December 22nd at 6:30 p.m.

Ann H. spoke about the fact that removing the RV didn't make a difference with respect to square footage as it was not a permanent structure. Mr. Keating stated Mr. Sullivan was swapping living space in the RV with living space in the new structure. Madge B. asked if RV's were only allowed on site for 3 months? CEO McDonough stated, 120 days.

Madge B. asked if Mr. Sullivan would need a Growth Permit? CEO McDonough stated, yes, if the structure is approved for residential use it will require a Growth Permit.

Roland L. asked if the existing septic system was designed to fit the needs of the new structure? Mr. Keating stated that it was, it is adequate for a 2 bedroom home and the new structure shall not exceed 2 bedrooms.

Nothing further was discussed.

Growth Permits – Map 7, Lot 5C-2 – New home – Growth Permit #14-15

This is a legal lot of record, meeting all the dimensional requirements for a new lot.

The Planning Board meeting ended at 7:10 p.m.

The next meeting will be held Tuesday, December 22nd at 6:30 p.m. The Planning Board meets the 2nd and 4th Tuesday of each month unless it falls on a holiday or Election Day. Any scheduled public hearing takes place at 6:00 p.m. prior to the scheduled meeting. Also, should there be a cancellation due to a storm event, holiday or Election, the meeting will be held the following Wednesday, also at 6:30 p.m.

Respectively submitted, Barbara Felong, Land Use Secretary

planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, December 22, 2015

Members in attendance: Roger Allaire (Chairman), Maggie Moody (Vice Chair), Madge Baker, Roland Legere, Diane Srebnick, Alternate Ann Harris, as well as Barbara Felong (Secretary). Code Enforcement Officer Steven McDonough was also in attendance. Alternate Steve Foglio was unable to attend.

The following words are not verbatim unless accompanied by quotation marks “ ”

The planning board meeting started at 6:30 p.m.

The minutes from Tuesday, December 8, 2015 were accepted as read.

Conditional Use Permit – Change of Use of a Nonconforming Structure from Shed to Residential – Map 43, Lot 28 (105 Pine Cone Drive) – Robert Sullivan, Applicant; Kenneth Keating, Esquire, Representing

Kenneth Keating was present for the review of the application.

Mr. Keating supplied along with the application, a letter dated November 4, 2015, from Mr. Sullivan stating that Mr. Kenneth Keating, Esquire of Roberts & Shirley Law Offices could represent him at the meeting; a Letter of Intent written by Mr. Keating to Chairman Allaire, dated November 18, 2015; a copy of the Warranty Deed, Book 7902, Pages 208 & 209, registered at the York County Registry of Deeds, showing that Mr. Sullivan owned the property being reviewed; a copy of Shapleigh Tax Map 43, which depicted Lot 28 on Pine Cone Drive; and a copy of the Subsurface Wastewater Disposal System Application, done by Kenneth Gardner, SE #73, dated 8/19/1996, for a 2 bedroom home.

Mr. Keating stated at the meeting on December 8, 2015 that they were applying for a Conditional Use Permit for a change of use of a non-conforming structure. Currently the site is occupied by a Recreational Vehicle in seasonal use and there is also a nonconforming shed. He stated that Mr. Sullivan is seeking a change of use of the nonconforming shed to residential use, pursuant to §105-4.D(8) of Shapleigh's Zoning Ordinance, and that Mr. Sullivan intended to remove the existing RV from the lot when the shed is converted to residential use.

Roger A. opened the review up asking Mr. Keating to briefly explain why he was before the board. Mr. Keating stated he was before the board for the second hearing for Mr. Sullivan's request to change the use of the existing non-conforming structure and to comply with the ordinance. He said he was willing to answer any questions the board might have.

Ann H. asked if everyone saw the site? Madge B. said it was very helpful to see the site because she was confused at the first meeting because there was talk about non-conforming uses and it makes a difference with respect to what part of the ordinance the board reviews. She said seeing it made it more clear.

Roger A. stated the board received two letters regarding this application. He read both as follows:

Received 12/18/2015 at 11:00 a.m.

From Stephen and Tina Joubert (69 Pine Cone Drive)

We have received notification that abutter Robert Sullivan (105 Pine Cone Drive) would like to obtain a permit to change the use of a nonconforming structure from a shed to a residential structure and that the RV on this site will be removed. As abutters, we are in full support of this application and would like to state that this would be a welcome addition to the lake as well a positive improvement. A residential structure would be more appropriate for the Silver Lake community. It is apparent that Mr. Sullivan has made a long term investment in the lake community and we are confident that he would build an appropriate structure and continue to be a positive influence on the neighborhood. We strongly encourage the planning board to approve Mr. Sullivan's petition. Thank you for your consideration.

Received 12/22/2015 at 1:00 p.m.

From Richard & Donna Herbert (101 & 102 Pine Cone Drive)

We are writing in regards to the application from Robert Sullivan, 105 Pine Cone Drive. We are concerned on the location of the said proposed structure and the legal sizes of the shed. It is our understanding buildings may be increased by 1/3 of the existing structure. We were also under the impression from the last application this was a non-buildable lot, due to the size and position of the septic system. Due to the fact it took a week to receive this notice, we are unable to attend this meeting and would appreciate notification on the outcome of the meeting.

Barbara F. stated that she spoke with Donna Herbert shortly after receiving the letter on the 22nd and explained to her that the location of the new structure would be in the exact location of the existing shed, no closer to the water. With this information Mrs. Herbert was satisfied with the information and had no further issue with the project.

Roger A. asked if there were any concerns? Roland L. said he didn't have a concern. When he visited the site he wasn't 100% certain where the structure was going to be located because his package of information was delayed due to his change of address. He said his initial impression was the structure was going to be in excess of 100 feet from the water. Mr. Keating said, correct. Roland said when he looked at the septic system application, it appeared the structure was on the front side of the septic system. Mr. Keating stated that the structure shown on the septic design is no longer on site, the only structure on the lot is the shed that is right next to the road. He added the new structure would go to the left and right of the shed, it would not encroach on the 100 foot setback to the water.

Roland L. asked if the area that appears to be a mound is where the septic system is? Mr. Keating did not know. Roland said given the topography and material to cover the septic system, and he realized this had no impact on the new structure location, he hoped there would be some type of landscaping brought in. He said the only area to protect the lake from runoff was the indoor/outdoor carpeting put along the shoreline just above the water. He thought in the best interest of the lake, if some type of landscaping was put in, it would be best if it is at all possible. He also hoped the lawn furniture, grills, five coolers, etc. would be cleaned up. Mr. Keating thought once the RV was removed from the site, the use of the property would be different and he will address the landscaping with Mr. Sullivan, bringing in trees along the property lines.

Ann H. asked if the board was just approving the location and then the applicant would come back with a landscaping plan. CEO McDonough stated the board was in charge with assessing the change of use of the structure. Roland L. said again he felt there was opportunity for landscaping to benefit the lake.

Roger A. read §105-4.C(4), Nonconforming uses, Change of use. ‘An existing nonconforming use may be changed to another nonconforming use, provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Subsection D.’

Madge B. stated she had some concerns with what section to review because the use of the property is not changing. Therefore, she believed Subsection C did not apply. She said when she reviewed Subsection D, which is Nonconforming structures, she wasn’t sure how to apply that section either. She believed this was an unusual case. She said it is a nonconforming structure which will be added to. The use of the property is residential and it will remain residential. It is a change of the use of the building but not of the property. She thought Subsection C was a change of the use of the property. Maggie B. wondered if it has to do with the fact that the other building is no longer on site. Madge said it was being used residentially. Maggie said, yes, with the camper but maybe because the other house was gone more than a year and there was a discontinuance, which is why it ties in with Subsection C. Madge still believed the property was being used as a residence. She thought the end result would end up the same, but she was confused which ordinance to use to address this.

Roger A. asked Madge B. if she wanted to review it under §105-4.D(8) Change of use of a nonconforming structure? Madge believed they could make §105-4.C work but agreed D(8) would work best. Roger reviewed this section in its entirety.

- (a) The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the water body, tributary stream, or wetland, or on the subject or adjacent properties and resources than the existing use.
- (b) In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, and functionally water-dependent uses.

Madge B. stated that the letter from Mr. Keating addressed these issues, but she noted there is no public access to the water in this location. Diane S. believed (b) gave Roland the ability to ask for vegetation. Maggie M. agreed. Madge said that sounded correct and believed this section did address the change of use properly.

Madge B. asked if the board required Best Management Practices? Roger A. stated, yes, on all shoreland changes and the person doing it has to be licensed by the MDEP.

Diane S. asked Roland L. if he wanted to make it a condition to require plants? Roland L. stated he would like to make the recommendation if it is possible, it is very sparsely vegetated. Diane said he could recommend or make it a condition of approval. Madge B. said the board didn’t have specifics in this case. Normally if you remove five trees you replace five trees but that isn’t the case in this situation. Diane said the ordinance allows the board to protect the water. She said she didn’t go to the site, so she couldn’t recommend what to do, but Roland could.

Roger A. asked if the new building would have a foundation? Mr. Keating stated that he believed it would. Roger said that area would be affected, so there would need to be something to stabilize the area. Roger said the building was beyond 100 feet from the water. CEO McDonough stated that the ordinance did not say it had to be within 100 feet of the water to apply. Roger noted the applicant cannot meet setbacks to the road.

Ann H. said he would have to bring in a set of plans for the new structure. Madge B. said that goes to CEO McDonough. Ann asked if the revegetation plan could be on those plans. Diane S. said there was never a plan presented for the new structure. Madge said the board didn't need that plan, only the CEO needed it. Diane asked if the board needed to know where the building was going? Madge said no, only the CEO does. Roger A. agreed, it was a change of use of the structure only.

Roland L. asked if the board should say a revegetation plan is encouraged or recommended. He said the only vegetation that will be disturbed is sparse at present. He hoped they would replant more than grass, possibly ground cover. Maggie M. said a row of low bushes between the septic hump and the lake would keep the erosion down. She thought a heavy rain would wash the area out. Roland was concerned with the addition of the roof area, more water would be generated going toward the lake. He thought berms made out of mulch or low bush shrubs, Hostas or something similar would work; they would not impact seeing the lake but would reduce the flow of runoff.

Roger A. thought a condition would be to add plants toward the lake to prevent runoff. He said because that was vague, it would be up to CEO McDonough to see if it was acceptable or not. CEO McDonough stated the board should require a plan. He believed Section 8(b) justifies you can ask for a plan. He said 8(b) requires a written plan to prevent erosion and sedimentation, water quality, vegetative cover; he believed the entire paragraph allowed the board to require a plan. Madge B. asked if the plan came to the CEO or to the Planning Board? CEO McDonough stated, "The Planning Board."

Madge B. asked Roland L. what the language should be? Roland said the vegetative cover and actual point of access to the water, he initially thought they were referring to the general public but he believed in this case it was the applicant's access. CEO McDonough agreed. CEO McDonough did not think it was too much to ask, to have a vegetation plan. He added that the book didn't give him authority to say what is and isn't acceptable. The board has the authority. Madge added that where the RV is located now needs to be addressed, as there is no vegetative cover at present. Roger A. agreed.

Roger A. stated the condition(s) of approval shall be:

- 1) Pursuant to §105-4.D(8)(b), and because this lot is excessively erosion prone, where there is a lack of vegetation, a revegetation plan is required and must be approved by the Planning Board prior to construction.**
- 2) Best Management Practices shall be used and the work is to be done by a person certified by the MDEP. The BMP shall be kept in place until all work is completed. The DEP license number shall be given to the Code Enforcement Officer prior to construction.**

Madge B. made the motion to approve the Conditional Use Permit for a change of use of the nonconforming structure, with the removal of the RV, on Tax Map 43, Lot 28 per the information provided and as discussed during the Planning Board meeting held on December 8, 2015 and this evening's meeting, with the two conditions as stated. Roland L. 2nd the motion. All members were in favor. By a unanimous vote of 4 – 0, the motion to approve the Conditional Use Permit was accepted.

(Diane S. abstained from the vote because she was unable to go to the site inspection.)

Barbara F. asked how they proceed from here. Madge B. stated the applicant can move forward once they provide a revegetation plan.

Mr. Keating asked if they approved the nonconforming use? Roger A. stated, yes, as long as they provide a revegetation plan. Mr. Keating asked if he submitted it back to the board? Roger said, “Yes”. Ann H. added that the next meeting was the 2nd Tuesday in January, January 12, 2016.

Nothing further was discussed.

Findings of Facts

1. The Owner of Shapleigh Tax Map 43, Lot 28 (105 Pine Cone Drive) is Robert Sullivan of 36 Carberry Street, Medford, MA 02155. The applicant provided a copy of his Warranty Deed, Book 7902, Page 208-209, as registered at the York County Registry of Deeds on July 5, 1996.
2. The property is located in the Shoreland District and according to the Assessor’s Office contains .15 acres.
3. The applicant provided a copy of a letter dated November 4, 2015, which authorized Kenneth D. Keating, Esquire of Roberts & Shirley Law Offices to represent him at the Shapleigh Planning Board meetings.
4. The applicant provided a copy of a letter from Attorney Kenneth Keating, dated November 18, 2015, which stated the intentions of Mr. Sullivan’s application in detail, which included the change of use, the intention to remove the existing RV from the location, the fact there is a well and septic system on the property, the fact the change of use should not produce adverse impact and will meet the requirements imposed under §105-4.D.(8).
5. The applicant provided a sketch plan of the property denoting the location of the 10’ x 12’ shed, the existing leachfield and septic tank and the location of the well in relation to the lot lines and lake.
6. The applicant provided a copy of Shapleigh Tax Map 43, which included Lot 28 (105 Pine Cone Drive).
7. The applicant provided a copy of Subsurface Wastewater Disposal System Application, dated 8/19/1996, done by Kenneth Gardner, SE #73, for a two bedroom system.
8. A notice was mailed to all abutters within 500 feet of the property, Wednesday, December 9, 2015.
9. The board unanimously agreed to approve the Conditional Use Permit for a change of use of the nonconforming structure on Tax Map 43, Lot 28 per the information provided and as discussed during the Planning Board meeting held on December 8, 2015 and December 22, 2015, with two conditions, as it meets the criteria in the Zoning Ordinance.
10. The conditions of the permit are as follows:
 - 1) **Pursuant to §105-4.D(8)(b), and because this lot is excessively erosion prone, where there is a lack of vegetation, a revegetation plan is required and must be approved by the Planning Board prior to construction.**

- 2) **Best Management Practices shall be used and the work is to be done by a person certified by the MDEP. The BMP shall be kept in place until all work is completed. The DEP license number shall be given to the Code Enforcement Officer prior to construction.**

Motion:

A motion was made on Tuesday, December 22, 2015, to approve the Conditional Use Permit for a change of use of the nonconforming structure, with removal of the RV, on Tax Map 43, Lot 28 per the information provided and as discussed during the Planning Board meeting held on December 8, 2015 and December 22, 2015, with the above stated two conditions, as it meets the criteria in the Zoning Ordinance.

Vote:

By a unanimous vote of 4 – 0, the motion to approve the Conditional Use Permit was accepted.

Decision:

The Conditional Use Permit was approved.

Best Possible Location – Replace Existing Structure with Expansion – Map 16, Lot 37 (32 Cattail Loop) – Raymond Pelletier, Applicant
Mr. Pelletier was present for the review of the application.

The application description states, ‘Demo existing building and replace by 30%. Add foundation, rebuild cottage’. Along with the application, provided was a copy of Shapleigh Tax Map 16 with Lot 37 circled on the map; a copy of the Well Setback Release Form, dated 5/15/2004; a copy of the Subsurface Wastewater Disposal System Application, dated 5/18/2004, done by Michael Cuomo, SE #211, for a 2 bedroom home; and a copy of the Boundary Survey and Site Plan done by LinePro Land Surveying, LLC, dated December 7, 2015. The site plan depicts the location of the existing camp and proposed location in relation to the lot lines, the location of an existing concrete patio, walkway, deck and shed, the location of the existing leachfield and trees on the property.

Mr. Pelletier provided a larger plan for the board to review. Mr. Pelletier noted the location of the existing structure and location of the leachfield. He proposed moving the structure slightly but added that he did not have a lot of room to move, due to the distance to the lot line and the septic system. The location on the plan was suggested by Joe Stanley of LinePro.

Looking at the plan, the board noted the structure could not be moved back farther because of the septic location. It appeared the structure would be moved seven feet from its existing location. Madge B. asked why he was proposing to move the structure? Mr. Pelletier stated that the structure was old and it would be easier to remove and rebuild than to remodel. Madge understood that but asked why he wasn’t putting it back in the same location? Mr. Pelletier stated he could do just that but Mr. Stanley suggested moving it back from the water a few feet because the board liked to see the structure moved. He said he had no issue leaving it in the same location if the board felt that was best. Madge said sometimes there are advantages with leaving it in the same location. Diane S. said after looking at the structure and the lot, it would be easier to tell what would be best.

Roland L. said, “Basically it is a tear down, you are removing the existing and then rebuild.” Mr. Pelletier said, “Right”. Diane S. asked if a foundation was being put in? Mr. Pelletier said, “Correct, right now it is on sauna tubes”.

Roland L. asked if any trees would be cut? Mr. Pelletier stated that no trees would be touched, wherever it gets moved to. Roland asked if the board will be able to tell where the property lines are? Mr. Pelletier noted the location of pins on the plan.

Diane S. asked if the concrete wall would be kept that is noted on the plan? Mr. Pelletier said it would be removed when the new foundation goes in. Diane asked if there would be a walkout basement? Mr. Pelletier said if he could get it, yes. Ann H. asked if the concrete walkway would be removed? Mr. Pelletier said, yes.

Mr. Pelletier said there were some shrubs on the property that are not on the plan. He noted the location of erosion mulch as well, which he added due to the erosion issue on site when he purchased the property. He said by adding the mulch he slowed down much of the problem that was there a year ago. He said he’s taken several measures to reduce the water issue on site.

Board members agreed to do a site inspection on an individual basis. A notice to abutters will be mailed as well.

Nothing further was discussed.

Growth Permits – There are Growth Permits available.

The Planning Board meeting ended at 7:10 p.m.

The next meeting will be held Tuesday, January 12, 2016 at 6:30 p.m. The Planning Board meets the 2nd and 4th Tuesday of each month unless it falls on a holiday or Election Day. Any scheduled public hearing takes place at 6:00 p.m. prior to the scheduled meeting. Also, should there be a cancellation due to a storm event, holiday or Election, the meeting will be held the following Wednesday, also at 6:30 p.m.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, November 24, 2015

Members in attendance: Roger Allaire (Chairman), Maggie Moody (Vice Chair), Madge Baker, Diane Srebnick, Roland Legere, Alternate Ann Harris, as well as Barbara Felong (Secretary). Code Enforcement Officer Steven McDonough was also in attendance. Alternate Steve Foglio was unable to attend.

The following words are not verbatim unless accompanied by quotation marks “ ”

The planning board meeting started at 6:30 p.m.

The minutes from Tuesday, October 27, 2015 were accepted as read.

Conditional Use Permit – Replace Existing Retaining Wall – Map 16, Lot 16 (208 31st Street) – Luke Pepin of Pepin Precast, Applicant; Margaret D’Amour, Property Owner

Luke Pepin of Pepin Precast was present to review the application.

The application description of the project states ‘Removing existing deteriorated retaining wall made from railroad ties and replacing with precast concrete block wall’. Along with the application, board members were provided a copy of the tax bill which listed William A. and Margaret A. D’Amour as property owners; a copy of the Permit by Rule Notification Form which was mailed to Chris Coppi of the MDEP on 9/21/2015 and approved on 9/30/2015; a sketch depicting the existing camp and garage, septic tank and leach field location, and paved driveway that extends to the retaining wall to be replaced; and the existing walls that will be replaced and those that will remain as is. Also provided were pictures of the existing retaining wall.

Maggie Moody asked Mr. Pepin to describe to the board what he was proposing to do. Mr. Pepin stated there was an existing retaining wall at the end of 31st Street in Shapleigh. He stated it is a retaining wall that is falling apart and it also holds up a telephone pole that holds wires that go across the lake and the pole is starting to lean due to the condition of the wall. He said they wanted to remove part of the section of the existing structure and rebuild it with a concrete wall.

Mr. Pepin stated they had the Permit by Rule from the DEP and it was approved.

Ann H. asked if they were leaving the telephone pole in place? Mr. Pepin stated, yes, and that CMP was going to come on site to hold it up while they rebuild the wall.

Madge B. asked how high the wall would be? Mr. Pepin stated it would be 6 feet in height and the section that is being rebuilt is 62 feet long, along with a 23 foot turn. He stated part of the wall was not going to be replaced as noted on the plan. He said erosion control measures would have to be done as well.

Madge B. asked if there was an engineered drawing for the wall? Diane S. agreed they needed an engineered drawing due to the height of the wall. Mr. Pepin stated it would be no problem to provide one.

Madge B. stated the board would have to come to the site, so they needed to schedule a site visit. She said they would have to do it on the weekend.

CEO McDonough asked if Mr. Pepin could get a drawing with an engineer's stamp on it for the next meeting? Mr. Pepin stated that he could.

Ann H., looking at the pictures provided, asked if the area she was looking at was what they were going to replace? She asked if the concrete pillars would be removed? Mr. Pepin stated everything she was looking at was wooden and it would all be removed and replaced with concrete block.

CEO McDonough asked Mr. Pepin if he was doing the work himself? He stated, yes. He also asked him if he was certified by the DEP in erosion control measures? Mr. Pepin stated that he was.

Board members agreed to do a site inspection on Saturday, November 21st, at 10:00 a.m. Members will meet at the Town Hall. A notice to abutters will be mailed as well.

Mr. Pepin stated it was easy to find, and noted the pavement went right up to the wall at this time. He said the pavement would be pulled back two feet, the blocks would be put in and crushed stone would be put on top when finished.

Nothing further was discussed.

Best Possible Location – Replace Existing Structure – Map 28, Lot 42 (19 18th Street) – Scott McLeod, Applicant; Philip & Ligia Mcauley, Property Owners.

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

The application description of the project states 'Remove burnt building and rebuild new camp of similar size'. Along with the application, board members received a Letter of Consent which stated Scott McLeod of Ash Cove Construction was their authorized contractor to rebuild their home at 19 18th Street; a copy of the Subsurface Wastewater Disposal System Application dated 10/15/2015, done by Mark Truman, SE #121; a site summary which described the soils on location, how erosion control would be mitigated, and the number of trees to be removed and replaced; and a copy of the proposed improvement plan drafted by Dana Libby PLS 1350 of Corner Post Land Surveying, dated 10/27/2015. The plan depicts the existing and proposed structure, the distance of the structure to the nearest lot line and high water mark, the location of a shed on site, the location of overhead utilities, the location of the 15 new trees to be planted, and notation that 16 inches of crushed stone would be placed around the foundation, the location of the proposed leach field, the location of 18th Street, and the location of an existing stone walk & patio, with attached wooden stairs.

Maggie M. asked Mr. McLeod to tell the board what he wished to do. Mr. McLeod stated that the applicants wanted to replace their camp that was damaged by fire. He said they wanted to demo the structure and he was before the board for a best possible location. He said given the location and what is on site, it appears the existing structure is in the best possible location at this time. He realized the board had the right to decide what the best location is.

Mr. McLeod stated, looking at the plot plan he provided, it shows the existing structure and noted they were working on the 30% expansion. He said due to setback requirements to the road and the location of the septic system, they had to put a nook in the design of the house to make the setback work off the septic. He stated the front wall of the house was pulled back from the lake, so it is being moved back from the water. CEO McDonough asked if it was three feet back? Mr. McLeod said, three or four feet roughly.

Mr. McLeod stated the dotted lines on the plan reflected the overhang of the structure, the solid line was the foundation location. He said they wanted to leave the existing walkways. He said the one thing that was not on the plan that they wanted to add was a 12' x 12' deck, and that they had the ability with the expansion allowed. He said there was a deck lost in the fire but he wanted to move the deck from where it existed to the opposite side of the house, it would be no closer to the lake than the existing structure.

CEO McDonough asked what the 22' x 23' area on the plan represented? Mr. McLeod stated it was the paved parking area. He said he wasn't sure if that was included in the square foot calculations for lot coverage, so he put it on the plan and included it in the density calculation. He said the dotted area, 22' x 23', is what the parking area will be when it is done. He said the lot coverage was less than he calculated because he had included the paved area.

Diane S. asked what the red box on the plan was? Mr. McLeod stated, that is the septic.

CEO McDonough wanted Mr. McLeod to know that lot coverage was a maximum of 10%. Mr. McLeod stated he did not think that was an issue. Mr. McLeod said he would recalculate the coverage again.

CEO McDonough noted that the existing trees to be removed were not on the plan, only the replacement trees. Mr. McLeod stated that was because the proposed trees were in a similar location as the existing. CEO McDonough stated that the ordinance requires that a proposed tree be no farther from the water than the existing. Mr. McLeod stated that he understood and that actually some of the replacement trees were closer to the water than the existing to be removed. He said several in the location of the new septic system area that will be removed, would not be replaced in that area and were moved closer to the water. Mr. McLeod stated he didn't put the old trees and new on the plan because he thought it would be too confusing. He said the trees coming down are marked and the board will be able to see them at the site inspection.

Ann H. asked if the deck was moved to the opposite side of the house, wouldn't it be closer to the water? Mr. McLeod said it would not in the sense that it will be closer than it is now, but the structure itself is not closer to the water and the deck is behind the front of the structure, therefore, no new structure would be closer to the water. Maggie M. noted that the distance to the side lot line would be much better if the deck was on the opposite side. Mr. McLeod agreed, stating the existing was very close to the property line.

Mr. McLeod stated the existing improvements were done over time and there is existing shrubbery along the walkways. Roland L. stated that he wasn't questioning as to whether or not the owner got permission for the walkways but he didn't ever remember going to the site as a board. Mr. McLeod stated he was telling the board what he was told, he couldn't comment any further on that. He said he could tell this had been there for some time, it was not new growth.

Ann H. asked if the septic design was for a new system? Mr. McLeod said it was.

Mr. McLeod asked if the board could go to the site before November 21st to look at the trees? He wanted to remove the trees as soon as possible, after getting a permit from CEO McDonough. After some discussion the board members agreed they would prefer to go as a board on November 21st to look at the trees.

A site inspection was scheduled for Saturday, November 21st at approximately 10:30 a.m. A notice to abutters will be mailed as well.

Nothing further was discussed.

Growth Permits –

Map 1, Lot 20 (Murray Road) – *New Home* – Growth Permit #13-15

The lot is a legal lot of record, meeting the requirements in the Zoning Ordinance.

The Planning Board meeting ended at 6:55 p.m.

The next meeting will be held Tuesday, November 24th at 6:30 p.m. The Planning Board meets the 2nd and 4th Tuesday of each month unless it falls on a holiday or Election Day. Any scheduled public hearing takes place at 6:00 p.m. prior to the scheduled meeting. Also, should there be a cancellation due to a storm event, holiday or Election, the meeting will be held the following Wednesday, also at 6:30 p.m.

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