

SHAPLEIGH PLANNING BOARD

MINUTES

Wednesday, January 13, 2016

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

Ann Harris and Steve Foglio were regular members for this evenings meeting, due to the absence of the above-mentioned regular members.

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 22, 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 nonconforming 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.

During the meeting on Tuesday, December 22, 2015, the board made the following 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 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.

The two conditions 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.

Roger A. opened the review by stating the board was looking for a landscaping plan this evening. He said everything else the board received was in order and approved. Mr. Keating provided the board with a copy of the revegetation plan. He stated he spoke with Maine DEP and someone from Skillins Greenhouse and they both recommended a multi-level planting of vegetation. He stated the plan reflects what was discussed. In section A on the plan the area will be vegetated with Sweet Fern, planted on 3 foot centers, and interspersed would be 5 or 6 larger shrubs consisting of high bush blueberries or Sea Green Juniper. He noted he had been to the site yesterday and wasn't totally certain where the leach field was but he believed the 25 foot vegetated area was placed between the leach field and the lake. He stated there would be a meandering path through the vegetated area which would consist of bark mulch and stepping stones.

Steve F. asked if stepping stones were ok in the path? CEO McDonough stated yes, the DEP recommended the six foot winding path. Steve asked if the plan was ok as presented? CEO McDonough stated it was. Steve asked Roger A. if it was fine with him and he stated it was.

Steve F. made the motion to accept the revegetation plan as presented. Roland L. 2nd the motion. All members were in favor. By a unanimous vote of 4 – 0, the condition of permit, number 1, which reads, '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', was approved.

Nothing further was discussed.

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, concrete walls, walkway, deck and shed, the location of the existing leach field and trees on the property.

Roger A. asked Mr. Pelletier to state briefly what he proposed. Mr. Pelletier stated he wanted to rebuild the existing structure and move it back as much as possible, but noted there wasn't alot of choices due to the location of the leach field and distance to side lot lines. He asked members if they went to the site and added that if they believed it was best to leave it where it is located now, he had no problem with that.

Board members agreed that any movement would be minimal. Roland L. stated he got on site before the snow and thought it was unfortunate the building had to be torn down, as it appeared to be in good shape. Mr. Pelletier stated that he sided it last year but inside and underneath needs additional work and the structure itself is very small. He would prefer to replace it.

Mr. Pelletier stated he did the best he could do when he purchased the property, to slow down the water to prevent an erosion issue. Roland L. stated he saw the mulch on site. Mr. Pelletier said it looked like a river when it rained, so he had to try to mitigate the problem.

Ann H. asked Mr. Pelletier if he wanted to move it or keep it in the same place? Mr. Pelletier said he could only move it several feet back due to the location of the leach field.

Mr. Pelletier said he could keep the front where it is and move it to the side for the expansion. Roger A. stated that the board could only look at the size of the existing structure, not the expansion, that would be between him and CEO McDonough. Mr. Pelletier said based on that, it would probably be best to keep it in the existing location. Roland L. asked if keeping the structure in the same location changed removing the walkway and the retaining wall in the back? Would those still be removed? Mr. Pelletier said he would prefer to remove the existing retaining wall and use the foundation as the retaining wall. Roger A. stated that that would put the structure back about six feet? Mr. Pelletier said roughly five feet toward the road.

Roland L. asked if there was a plan to cut any trees? Mr. Pelletier said he had no plan to cut any trees, he didn't believe there was a need to. CEO McDonough asked if there was a landscaping plan? Ann H. and Mr. Pelletier stated that he had erosion control mulch there now and would be adding more as needed. Roger A. said that was discussed at the initial meeting, that any areas around where the existing camp is located would be mulch after it is removed. CEO McDonough thought the board should have a condition that any exposed areas be covered with erosion control mulch prior to occupancy. Mr. Pelletier asked if he had to mulch all the way to the water? Steve F. said any disturbed area. Ann added that the area where the walkway will be removed and the wall, those areas needed to be mulch, or any area disturbed during construction. Mr. Pelletier said, right.

Steve F. asked if the plan had to be amended? Roger A. said the distance was on the plan, to the red line. Roger stated it was 21 feet to the Witham property (Map 16, Lot 36) and 10'6" to the overhang from the Vennard property (Map 16, Lot 38).

CEO McDonough asked if he was going back five feet? Steve F. said, whatever is on the plan is where he is moving it to. The rear lines from Cattail Loop read as 55.7 feet to the jog and 58.4 feet to the rear corner closest to the lot line of Lot 36.

CEO McDonough asked what the setback to the road was? The existing setback on the plan is 62.7 feet to the center. CEO McDonough said the setback is 75 feet to the center of the road, therefore, the camp cannot be moved back. Mr. Pelletier asked how he could move? CEO McDonough said he could go no closer than the existing. CEO McDonough noted areas where he could fill in and be no more non-conforming. CEO McDonough asked about lot coverage? Mr. Pelletier said he was fine. The Note on the plan stated the existing lot coverage is at 11% including walkways, shed, deck, stairs and concrete patio.

Mr. Pelletier said based on this, he would leave the structure in the same location, same distance to the high water mark and road setback. The side setback would be moved from 18 feet from the overhang to Lot 38 to 10'6" to the overhang. The setback to the water from the overhang appears to be 51.9", excluding the overhang or existing concrete wall.

Steve F. asked what the time frame was for construction? Mr. Pelletier thought he would be doing it early spring. CEO McDonough asked if it would be revegetated by October 2016? Mr. Pelletier stated it would be done long before that.

Roger A. stated the conditions of approval will be:

- 1) All areas disturbed and exposed due to construction and removal of walkways or retaining walls shall be covered with erosion control mulch prior to occupancy.**
- 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. The DEP license number shall be given to the Code Enforcement Officer prior to construction.**
- 3) The existing structure shall be removed and taken out of Shapleigh.**
- 4) The project will be completed and area revegetated / mulched by October 2016.**

Steve F. made the motion to approve the Best Possible Location to replace the existing structure per the plans provided, drafted by Joseph Stanley, PLS #2453, dated 12/7/2015, and revised during the review process, placing the structure 10 foot 6 inches from the overhang to the lot line of Lot 38, and keeping the front of the structure in the same location, that being 51.9 feet from the high water mark, with the above stated four conditions. Roland L. 2nd the motion. All members were in favor. By a unanimous vote of 4 – 0, the motion to approve the Best Possible Location was accepted.

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Findings of Facts

1. The Owners of Shapleigh Tax Map 16, Lot 37 (32 Cattail Loop) are Evelyn & Raymond Pelletier, Jr. of 293 Morrells Mill Road, North Berwick, Maine 03906.
2. The property is located in the Shoreland District and according to the Assessor's Office contains .12 acres.
3. The application description of the project stated, 'Demo existing building and replace by 30%, add foundation, rebuild cottage'.
4. The applicant provided a copy of Shapleigh Tax Map 16, denoting the location of Lot 37.
5. The applicant provided a Subsurface Wastewater Disposal System Application, dated May 18, 2004, done by Michael Cuomo, SE #211, for a replacement system accommodating a 2 bedroom home.
6. The applicant provided a copy of a Well Setback Release Form, dated 5/15/04, between Map 16, Lot 37 and Map 16, Lot 38, which stated the leach bed on Map 16, Lot 37 would be 77 feet from the well located on Map 16, Lot 38.
7. The applicant provided a Boundary Survey and Site Plan done by Joseph Stanley, PLS #2453, of LinePro Land Surveying, LLC, dated December 7, 2015. The plan stated the total lot coverage by structure is 793 sq. ft., the occupied lot area is 7,197 sq. ft., and that the current lot coverage by structure is 11%.
8. The Boundary Survey depicts all existing structures on site, which include a fire pit, concrete patio, concrete walkway, existing camp, deck, shed and concrete walls. Also depicted on the plan are the existing trees, erosion control mulch and gravel parking area. The existing camp is 52.9 feet from the

high water mark, excluding the overhang or concrete wall; 14.9' from the lot line of Map 16, Lot 36, including overhang; 18' from the lot line of Map 16, Lot 38, including overhang and 62.7 feet, not including overhang, from Cattail Loop. The proposed structure location is 52.9' from the high water mark, not including the concrete wall; 11' from Map 16, Lot 38; 55.7' from Cattail Loop.

9. Mr. Pelletier, at the meeting held on December, 22, 2015, penned in adding shrubs to help mitigate erosion. The existing trees on site shall remain as depicted on the plan. Erosion mulch is also depicted on the plan and is in place at this time.
10. A notice was mailed to all abutters within 500 feet of the property, Wednesday, December 23, 2015.
11. A site inspection was conducted on an individual basis prior to the final review.
12. The board unanimously agreed to approve the Best Possible Location to replace the existing structure on Map 16, Lot 37, leaving the structure the same distance from the high water mark and from Cattail Loop, moving it laterally such that the distance to Lot 38 will be 10 foot 6 inches to the overhang, per the plans provided and as amended during the meeting on January 13, 2016.
13. **The conditions of the permit are as follows:**
 - 1) **All areas disturbed and exposed due to construction and removal of walkways or retaining walls shall be covered with erosion control mulch prior to occupancy.**
 - 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. The DEP license number shall be given to the Code Enforcement Officer prior to construction.**
 - 3) **The existing structure shall be removed and taken out of Shapleigh.**
 - 4) **The project will be completed and area revegetated / mulched by October 2016.**

Motion:

A motion was made on Wednesday, January 13, 2016 to approve the Best Possible Location to replace the existing structure per the plans provided, drafted by Joseph Stanley, PLS #2453, dated 12/7/2015, and revised during the review process, placing the structure 10 foot 6 inches from the overhang to the lot line of Lot 38, and keeping the front of the structure in the same location, that being 51.9 feet from the high water mark, with the above stated four conditions.

Vote:

By a unanimous vote of 4 – 0, the motion to approve the Best Possible Location was accepted.

Decision:

The Best Possible Location was approved.

Nothing further was discussed.

Conditional Use Permit – Renewal of CUP for Gravel Extraction – Map 7, Lot(s) 7 & 22A (Square Pond Road) – Town of Shapleigh, Applicant

Road Commissioner Richard Goodwin and Selectman Michael Perro represented the Town. Selectman William Mageary was also in attendance.

Roger A. opened the review by asking if everything would be staying the same as it is now? RC Goodwin stated that they would be making it a little bigger but overall it is the same. He said they hadn't done the reclaiming yet. He noted they wanted to do it but didn't have time to get to it. He said the pit by Square Pond Road would no longer be used, so that area would be reclaimed. Roland L. asked what area he was talking about. RC Goodwin stated it was the area you could see from Square Pond Road, he said they were no longer getting any material out of that location.

Roger A. asked how many yards they remove from the gravel pit a year? RC Goodwin stated last year they removed around 4000 yards of gravel, and 3500 yards of sand. He added that 2015 was a big year. He thought this year, 2016, would be around 2000 yards of gravel.

Steve F. asked if there was anything in the ordinance that states they have to reclaim the area before the permit is renewed? Roger A. stated, "No, reclamation should be done in the least amount of time after the area is no longer being used; you should reclaim as you are going along". Steve asked RC Goodwin if there was enough loam on site to reclaim? RC Goodwin stated, "Yes". Ann H. added that they just ran out of time. RC Goodwin stated it was a good gravel pit, everything needed is on site. He said the Square Pond location has more than enough loam to reclaim the area.

RC Goodwin stated that quite a few years ago the Town started an account with \$30,000, so when they work on the pit it comes out of that account and when gravel is hauled out, the price of the material goes back into that account. Selectman Perro stated that the Town buys gravel from themselves to keep enough money in the account to be able to cover the expenses related to the account. RC Goodwin stated that the account is actually making money. He said it works well and this is where the money will come from to reclaim the area.

Roger A. stated a Public Hearing would be held on Tuesday, January 26th since this is a Town project and it assures anyone interested in Town business is informed. The meeting will take place at 6:00 p.m. and a notice to abutters will be mailed as well.

Nothing further was discussed.

Growth Permits

Map 35, Lot 39 (472 Cedar Drive) – Seasonal Conversion – GP #01-16

This property is a previously approved Best Possible Location and has a State approved Septic System on site.

The Planning Board meeting ended at 7:25 p.m.

The next meeting will be held Tuesday, January 26, 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, January 26, 2016

Members in attendance: Roger Allaire (Chairman), Maggie Moody (Vice Chairman), Madge Baker, Roland Legere, Diane Srebnick, Alternate(s) 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 Public Hearing Began at 6:00 p.m.

Conditional Use Permit – Renewal of CUP for Gravel Extraction – Map 7, Lot(s) 7 (Cedar Drive & Square Pond Road) – Town of Shapleigh, Applicant

Road Commissioner Richard Goodwin and Selectman Michael Perro represented the Town. Selectmen William Mageary and Mark Cobb were also in attendance.

Roger A. opened the public hearing by asking Road Commissioner Goodwin and/or Selectman Perro to speak about the application.

Selectman Perro stated they were before the board to renew the application to continue to use the gravel pit on the property that the town purchased specifically for gravel extraction. He said to date everything has been going as planned with the gravel pit, it has been very beneficial to the town.

Roper A. asked if there were any questions regarding the application? Citizen(s) William and Sheila Hayes were in the audience. Mr. Hayes stated he was in full support of the use of the property and believed it was a great purchase for the town and that he was glad it was working out as well as it is. He said he recalled at the time of the original permit process, he was not sure if it was a State requirement or Town, but he believed there was criteria that they would keep a 100 foot buffer between Square Pond and the pit. He wanted to know if that was being maintained? He also inquired as to whether or not there was a reclamation requirement. He thought as it was developed they were going to turn pieces of it over to reclamation. He believed 15 acres was the amount of acreage to be developed and then the town would come back when that was exhausted and they would ask for more development. He wanted to know if some of that is going to be reclaimed or turned back into town forest. He also wanted to know what those requirements were in the original Conditional Use Permit.

Mr. Hayes said the only negative thing to date that he wanted to bring up, as a direct abutter to the property, he believed there is a noise ordinance in the town and that work that involves equipment is not supposed to start before a certain time, but there have been occasions where between 6:00 and 6:30 a.m. equipment is banging which wakes him up. He wanted to emphasize that there are people that live in the vicinity that are concerned and he is concerned. He said he wanted to be able to sleep.

Mr. Hayes wanted to know that the initial conditions of permit were and if they are being adhered to. Roger A. stated that after reviewing the original paperwork he did not see reference to a 15 acre piece. He said there is a 100 foot buffer noted in the paperwork and Roger asked RC Goodwin if the buffer was being maintained? RC Goodwin stated there is a buffer greater than 100 feet being maintained. Mrs. Hayes asked

if the buffer was only to the road? RC Goodwin and Roger stated the buffer was all the way around the property. RC Goodwin stated they had no plans to go closer than 100 feet to the property line. Roger added that they could not go closer than 100 feet to the property line. He said that is on file.

Roger A. stated there is a noise ordinance and asked RC Goodwin how early they start in the morning? RC Goodwin said there was a logging operation going on last year and they started earlier than 7:00 a.m. He said they (Road Commissioners) try not to make much noise early in the morning. (Note: The noise ordinance, §105-22, states in part that excessive noise at unreasonable hours shall be muffled between 10:00 p.m. and 7:00 a.m.)

Roger A. stated with respect to reclamation, the area will be reclaimed, not to sell the area, but to get the area back to what it looked like prior to extraction to prevent erosion. He said in this area there will probably be scrub pine and grasses. He said RC Goodwin stated at the last meeting they would be reclaiming the area that they were no longer using, they just didn't have time to do so in 2015.

Mr. Hayes said he heard the eventual plan was to straighten Square Pond Road. RC Goodwin stated that Road Commissioner John Burnell had this plan for the future. Mr. Hayes thought the curve should remain as it kept people going slower. Selectman Perro stated there was no written plan to make this happen. He said there was discussion about it but there is a fair amount of opposition for the same reason Mr. Hayes spoke about, the curve slows people down. Mr. Hayes asked if the townspeople would have warning if this plan is being discussed? Selectman Perro said again there were no plans to straighten the road out at this time. RC Goodwin stated there had been discussion only. Selectman Perro said if this were to happen, it is not a small fix, so there would have to be a warrant article to be voted on at Town Meeting to be able to work on the road. He said there would be an open discussion about it.

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

The public hearing closed at 6:10 p.m.

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

The minutes from Wednesday, January 13, 2015 were accepted as read.

Conditional Use Permit – Renewal of CUP for Gravel Extraction – Map 7, Lot(s) 7 (Cedar Drive & Square Pond Road) – Town of Shapleigh, Applicant

Road Commissioner Richard Goodwin and Selectman Michael Perro represented the Town.

Roger A. stated because the same people were at the regular meeting as at the public hearing they didn't have to go over the same information a second time. Roger said there was a question to proximity to side lot lines so he read from the Ordinance, Chapter 105-61.B(13), 'No excavation shall be extended below the grade of an adjacent street, except for drainageways, unless 100 feet from the street line. No excavation below the grade of the surrounding land shall be allowed within 100 feet of any side or rear lot line. However, removal of earth material deposits from hills or knolls may be allowed within 50 feet of a side or rear lot line if no excavation below the grade of the abutter's properties occurs'. Roger stated the town is staying 100 feet from the lot line.

Roger A. then read Chapter 105-61.B(4), ‘The smallest amount of bare ground shall be exposed for the shortest time feasible. The Planning Board shall set a specific date after which bare ground shall not be exposed’. Roger stated this was left open realizing it was a large project and the town was continuously working on site, they didn’t want the area reclaimed then have to dig it up again, therefore, there was no date initially stated for reclamation. Roger said since the town is done in a certain area, the area will now be reclaimed. He asked if anyone wanted to discuss this? There were no comments.

Roger A. then read Chapter 105-61.B(15)(a), ‘All debris, stumps and similar material shall be removed for disposal in an approved location or shall be buried on site. Only materials generated on site may be buried or covered on site. (NOTE: The State of Maine Solid Waste Laws, 38 M.R.S.A. §1301, and the solid waste management rules, Chapters 400-419 of the Department of Environmental Protection’s regulations, may contain other applicable provisions regarding disposal of such materials.)’ Roger believed during another review it was mentioned Jeff Simpson would come in and grind them up to be used for mulch, so there wouldn’t be stumps on site. RC Goodwin stated there were stumps on site at this time but there are none buried. Roger agreed they were not buried.

Roger A. then read Chapter 105-61.B(15)(b), ‘The final graded slope shall be 2 ½ to 1 slope or flatter’. Roger stated these conditions are the same as what were reviewed three years ago. Roger asked if there were any other questions?

Madge B. asked if it would be a good idea to put a date in for reclaiming some of the area because as they said, they just haven’t gotten around to it. She thought a date might give an incentive to get it done. She said the board could not tell the town what to do but she wanted to encourage them to do some reclamation. Roger A. stated the original intention was not to reclaim an area they would be reusing. Madge agreed but said there is an area they are no longer going to use. She said they stated it could be reclaimed. Roger said it will be done this year. Madge asked if there could be a condition that they reclaim it by the end of 2016?

Steve F. asked RC Goodwin how big the area was that they were finished with? RC Goodwin stated it was the area you could see from Square Pond Road. Steve asked if they could loam it and put in grass? Steve also asked if it is reclaimed will it have to be maintained, and what will it look like? RC Goodwin stated they were going to put in pine trees. Steve asked about mulch for erosion? RC Goodwin stated they could loam it and reseed it. He said they were thinking of getting the Boy Scouts to come in and plant some trees, but he wasn’t sure. He said it should go back to a forest at some point. Selectman Perro said he would like to see pine saplings go in, so it will return to the same condition of surrounding ground. Steve asked if it could be done by the end of October? RC Goodwin stated it should be done by then. Madge said she wasn’t sure what the acreage was but it would be nice to have it reclaimed. Selectman Perro wanted to remind the board there would be a road going in to the pit in that area to access the backside of the hill. Madge said she understood. Madge asked if it was going to be a couple of acres? RC Goodwin said it would be on the plus side of that. Madge thought the White Pine made sense to use. Selectman Perro agreed noting the town forest is all around that area.

Madge B. said it sounded like the town had the money to buy the seedlings based on the discussion at the last meeting. She thought it was more a case of having someone put them in. Selectman Perro said, yup, and it would be nice to have them in there. He said there are those who put seedlings in using a tractor. CEO McDonough stated he had heard of pine tree seeding. Selectman Perro noted that pine trees grow fast.

Ann H. asked if there was a specific time to put pine trees in? Roger A. thought it would have to be before the end of summer or early fall.

Roger A. stated the condition of approval would be:

- 1) Reclamation of the area no longer being used, consisting of approximately 2 plus acres, will be completed no later than October 31, 2016.**

Selectman Perro stated that if it is determined that the planting cannot be done until 2017, the ground will be stabilized. Madge said the board didn't say it had to be replanted but the process of stopping erosion must be dealt with. Selectman Perro said there wasn't much erosion on site. Madge agreed.

Madge B. made the motion to approve the Conditional Use Permit to extend the gravel extraction operation for another three years. Maggie M. 2nd the motion. All members were in favor. By a unanimous vote of 5 – 0 the motion to approve the Conditional Use Permit was accepted.

The permit for gravel extraction will have to be renewed by January 26, 2019.

Nothing further was discussed.
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The Findings of Facts

1. The owners of Shapleigh Tax Map 7, Lot 7, is the Town of Shapleigh, 22 Back Road, Shapleigh, Maine 04076.
2. The property is located in the General Purpose District and according to the assessing file, it contains 67 acres.
3. The applicants are before the board to renew the mineral extraction permit for three years to excavate sand and gravel for the Town of Shapleigh. The original application was dated 12/5/2006 and approved on 1/23/2007. Subsequently, the permit was also renewed on 1/26/2010 and 1/8/2013.
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 October 25, 2006, Permit Number L-636.
5. Originally provided was a copy of a document entitled Real Estate Inquiry, dated 7/27/2006, which listed the Town of Shapleigh as owner, as listed by deed reference, Book 14461, Page 121. The document also listed the number of acres, that being 67, and the location of the property being Cedar Drive. In addition, handwritten on the document was the following: Subject Parcel, Access Road – 2800 feet + or – length, 20 feet traveled portion, clearing 40 + 50 feet; Area to be Mined – whole parcel w/limitations of setbacks – minimal of 5 acres.
6. During the review process on December 12, 2006, Road Commissioner Richard Goodwin stated the gravel pit would be accessed from Square Pond Road; the Town wanted to be able to stockpile stumps on site, to be ground up at a later date and used for mulch; the gravel used would not be dug below the existing grade; all activity would take place more than 100 feet from the road and more than 100 feet from the adjacent property lines; a reclamation plan was not needed at the time of initial review because of the limited amount of gravel to be initially extracted, a reclamation plan would be presented and put into place when the exposed area is no longer going to be used.
7. On January 13, 2016, Road Commissioner Richard Goodwin and Selectman Michael Perro stated no changes were required from the original permit. The location will continue to be used for gravel extraction and on-site gravel storage, as well as a location to store tree stumps.

8. On January 13, 2016, Road Commissioner Richard Goodwin stated reclamation of the area next to Square Pond Road, which is no longer being used, had not been done to date. The loam is on site but the Town ran out of time to do the reclamation in 2015.
9. A notice was mailed to all abutters within 500 feet of the property, on Wednesday, January 13, 2016 and a Public Hearing was held on Tuesday, January 26, 2016.
10. The Planning Board unanimously agreed to approve the Conditional Use Permit to renew the permit for mineral extraction, on Map 7, Lot 7, as originally permitted on January 23, 2007, with one condition.
11. **The condition of the permit is:**
 1. **Reclamation of the area no longer being used, consisting of approximately 2 plus acres, will be completed no later than October 31, 2016.**

Motion:

After careful consideration and a review of all material presented to the Board, as well as Ordinance 105-61, ‘Mineral exploration and extraction, processing, and removal, including sand and gravel’, a motion was made on Tuesday, January 26, 2016, to approve the Conditional Use Permit to renew the permit for mineral extraction for three years from date of approval, on Map 7, Lot 7, per the information provided, with the above stated condition.

Vote:

By a unanimous vote of 5 – 0, the motion to approve the Conditional Use Permit for gravel extraction was accepted.

Decision:

The Conditional Use Permit for gravel extraction was approved. The permit is valid through January 26, 2019.

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, along with Joe Stanley of LinePro Land Surveying, LLC.

On Wednesday, January 13, 2016, the Planning Board approved the Best Possible Location to replace the existing structure as follows:

The board unanimously agreed to approve the Best Possible Location to replace the existing structure on Map 16, Lot 37, leaving the structure the same distance from the high water mark and from Cattail Loop, moving it laterally such that the distance to Lot 38 will be 10 foot 6 inches to the overhang, per the plans provided and as amended during the meeting on January 13, 2016.

This evening, Mr. Pelletier provided the board with a new boundary survey plan. Mr. Stanley stated they came this evening to request a slight revision to the approved plan. He said he had worked with Mr. Pelletier on the plan and then he reviewed the minutes to see where the building envelop was. He said when he plotted the new location of 10.5 feet from the side lot line, the two large hemlocks by that same lot line would be only 4 1/2 feet from the foundation. Mr. Pelletier stated he was concerned that when he did the overdig for the foundation he would kill the trees. Mr. Stanley said if they back the structure up another six to seven feet and move it off the property line another 2 feet, it will create additional clearance from the tree roots. He said otherwise the trees would probably need to be removed.

Mr. Pelletier stated he spoke with Barbara F. and CEO McDonough and they told him to come back before the board to amend the original plan. He also noted his wife didn't want to lose the trees, as they are great for shade. Madge B. noted the board wants to save trees as well.

Mr. Stanley said after reading the previous discussions he updated the dimensions to include the overhangs. He said he showed the size of the existing structure moved back, and has the water setback, the side setback and the setback to the road. Roger A. asked if the red marked area on the plan is the same size as the existing structure? Mr. Stanley said, yes, it is no larger than the existing structure. (The red marked area is the proposed location of the new structure.) Roger said the board can only look at the size of the existing building. Mr. Pelletier said he understood.

Roger A. asked if they would clear the leachfield if it was moved to this location? Mr. Pelletier said, yes. He said he double checked with Mr. Stanley for this plan.

Steve F. said this plan is similar to what was approved the last time. Mr. Pelletier agreed, the structure just moved several feet.

Roger A. said he had no issue with this, Madge said she did not either. Roger asked if there was a motion to grant the revision?

Roland L. moved for approval of the amendment to the Best Possible Location to revise the plan dated 12/7/2015, drafted by Joseph Stanley, PLS #2453, to replace the existing structure per the plans provided this evening, dated January 26, 2016, placing the structure 12 foot, 5 inches from the overhang to the lot line of Lot 38, 56.3 feet from the high water mark, and 52.5 feet from the centerline of Cattail Loop, with the existing four conditions. Maggie M. 2nd the motion. By a unanimous vote of 4 – 0 the motion to approve the amendment to the Best Possible Location was accepted.

Diane S. abstained from voting as she was not in attendance for the last review of this application.

The conditions of approval are:

- 1) All areas disturbed and exposed due to construction and removal of walkways or retaining walls shall be covered with erosion control mulch prior to occupancy.**
- 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. The DEP license number shall be given to the Code Enforcement Officer prior to construction.**
- 3) The existing structure shall be removed and taken out of Shapleigh.**
- 4) The project will be completed and area revegetated / mulched by October 2016.**

Findings of Facts

1. The Owners of Shapleigh Tax Map 16, Lot 37 (32 Cattail Loop) are Evelyn & Raymond Pelletier, Jr. of 293 Morrells Mill Road, North Berwick, Maine 03906.
2. The property is located in the Shoreland District and according to the Assessor's Office contains .12 acres.
3. The application description of the project stated, 'Demo existing building and replace by 30%, add foundation, rebuild cottage'.
4. The applicant provided a copy of Shapleigh Tax Map 16, denoting the location of Lot 37.
5. The applicant provided a Subsurface Wastewater Disposal System Application, dated May 18, 2004, done by Michael Cuomo, SE #211, for a replacement system accommodating a 2 bedroom home.
6. The applicant provided a copy of a Well Setback Release Form, dated 5/15/04, between Map 16, Lot 37 and Map 16, Lot 38, which stated the leach bed on Map 16, Lot 37 would be 77 feet from the well located on Map 16, Lot 38.
7. The applicant provided an amended Boundary Survey and Site Plan done by Joseph Stanley, PLS #2453, of LinePro Land Surveying, LLC, dated December 7, 2015, amended January 26, 2016. The plan stated the total lot coverage by structure is 793 sq. ft., the occupied lot area is 7,197 sq. ft., and that the current lot coverage by structure is 11%.
8. The amended Boundary Survey depicts all existing structures on site, which include a concrete patio, concrete walkway, existing camp, deck, shed and concrete walls. Also depicted on the plan are the existing trees, erosion control mulch, grass, and gravel parking area. Note: The fire pit is not on the revised plan. The existing camp is 52.9 feet from the high water mark, excluding the overhang or concrete wall; 14.9' from the lot line of Map 16, Lot 36, including overhang; 18' from the lot line of Map 16, Lot 38, including overhang and 61.7 feet including the overhang, from the centerline of Cattail Loop.
9. The amended Boundary Survey, dated January 26, 2016, depicts the proposed structure location as 56.3' from the high water mark, 12.5' from Map 16, Lot 38, 52.5' from the centerline of Cattail Loop.
10. Mr. Pelletier, at the meeting held on December, 22, 2015, on the Boundary Survey dated December 7, 2015, penned in adding shrubs to help mitigate erosion. The existing trees on site shall remain as depicted on the plan. Erosion mulch is also depicted on the plan and is in place at this time.
11. A notice was mailed to all abutters within 500 feet of the property, Wednesday, December 23, 2015, and a site inspection was conducted on an individual basis prior to the review on January 13, 2015.
12. The board unanimously agreed to approve the amendment to the Best Possible Location, to replace the existing structure per the plans provided this evening, dated January 26, 2016, to replace the existing structure on Map 16, Lot 37; placing the structure 56.3 feet from the high water mark, 52.5 feet from the centerline of Cattail Loop, moving it laterally such that the distance to Lot 38 will be 12 foot 5 inches to the overhang, per the plans provided.

13. The conditions of the permit remain as follows:

- 1) All areas disturbed and exposed due to construction and removal of walkways or retaining walls shall be covered with erosion control mulch prior to occupancy.
- 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. The DEP license number shall be given to the Code Enforcement Officer prior to construction.
- 3) The existing structure shall be removed and taken out of Shapleigh.
- 4) The project will be completed and area revegetated / mulched by October 2016.

Motion:

A motion was made on Tuesday, January 26, 2016 to approve the amendment to the Best Possible Location to replace the existing structure per the plans provided, drafted by Joseph Stanley, PLS #2453, dated 12/7/2015, revised January 26, 2016, placing the structure 12 foot 5 inches from the overhang to the lot line of Lot 38, 56.3 feet from the high water mark, and 52.5 feet from the centerline of Cattail Loop, with the above stated four conditions.

Vote:

By a unanimous vote of 4 – 0, the motion to approve the amendment to the Best Possible Location was accepted.

Decision:

The amendment to the Best Possible Location was approved.

Nothing further was discussed.

Growth Permits

There are growth permits available.

The Planning Board meeting ended at 7:15 p.m.

The next meeting will be held Tuesday, February 9, 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, February 9, 2016

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

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

Public Hearing begins at 6:00 p.m.

Review of the State mandated Shoreland Zoning Changes which will be incorporated into the Zoning Ordinance in 2016.

Roger A. opened the public hearing by stating with respect to the changes to the ordinance, if there is a line thru the words, they are stricken from the existing ordinance, if they are bold without a line thru them, they are an addition to it. He also noted the changes were being imposed by the Legislature and the Maine Department of Environmental Protection; the Planning Board incorporated them into the existing ordinance, then the changes were submitted to and approved by the MDEP, as written. These changes will have to be voted on at Town Meeting in March but if the Town does not approve them, the State will issue a court order stating that the Town has to enforce the changes, and the Town would still have to put them into the Ordinance at a future date.

Roger A. read the sections with ordinance changes in their entirety. The changes are as follows:

§ 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)(c)(1), 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)(c)(1), 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~~ **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.
 - (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 §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:

[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.

~~~~~  
**§ 105-15. Definitions.**

**AGRICULTURE** – The production, keeping or maintenance for sale or lease, of plants ~~and/or~~ animals, including, but not limited to, forages and sod crops, grains and seed crops, dairy animals and dairy products, poultry and poultry products, livestock, fruits and vegetables; ~~and~~ ornamental and green house products. Agriculture does not include forest management and timber harvesting activities.

**BUREAU OF FORESTRY** – State of Maine Department of **Agriculture, Conservation and Forestry**, Conservation's Bureau of Forestry

**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.

**EXPANSION OF USE** – The addition of weeks or months to a use's operating season; additional hours of operation; or the use of more ~~floor area~~ **footprint of a structure** or ground area devoted to a particular use.

**FLOOR AREA** – The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls. ~~plus the horizontal area of any unenclosed portions of a structure, such as porches and decks.~~

**FOOTPRINT** – **The entire area of ground covered by the structure(s) on a lot, including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patio and decks.**

~~**FRONTAGE, SHORE** – The horizontal distance, measured in a straight line, between the intersections of the side lot lines with shoreline at normal high water elevation.~~

**FUNCTIONALLY WATER-DEPENDENT USES** – Those uses require, for their primary purpose, location on submerged lands or that require direct access to, or location in, inland waters and which cannot be located away from these waters. The uses include but are not limited to commercial and recreational fishing and boating facilities ~~(excluding recreational boat storage buildings)~~, fish processing, fish-related storage and retail and wholesale fish marketing facilities, waterfront dock and boat building facilities, marinas, navigation aides, basins and channels, **shoreline structures necessary for erosion control purposes**, and industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water, and uses which primarily provide general public access to water. **Recreational boat storage buildings are not considered to be a functionally water-dependent use.**

**HAZARD TREE** – **A tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to: hurricanes; hurricane-force winds; tornadoes; microbursts; or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk of bank stability. A target is the area where personal injury or property damage could occur if the tree or a portion of the tree fails. Targets include roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger.**

**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.

**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.

**NON-NATIVE INVASIVE SPECIES OF VEGETATION** – Species of vegetation listed by the Maine Department of Agriculture, Conservation and Forestry as being invasive in Maine ecosystems and not native to Maine ecosystems.

**OUTLET STREAM** – Any perennial or intermittent stream, as shown on the most recent highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map, that flows from a freshwater wetland.

**PRINCIPAL BUILDING STRUCTURE** – The building structure in which the primary use of the lot is conducted.

**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.

**SAPLING** – A tree species that is less than two (2) inches in diameter at four and one half (4.5) feet above ground level.

**SEEDLING** – A young tree species that is less than four and one half (4.5) feet in height above ground level.

**STORM-DAMANGED TREE** – A tree that has been uprooted, blown down, is lying on the ground, or that remains standing and is damaged beyond the point of recovery as a result of a storm event.

**STREAM** – A free-flowing body of water from the outlet of a great pond or the confluence of two perennial streams as depicted on the most recent ~~edition of the~~ **highest resolution version of the national hydrography dataset available from the** United States Geological Survey ~~7.5 minute series topographic map on the website of the United States Geological Survey or the national map~~ to the point where the ~~body of water~~ **stream** becomes a river ~~or where the stream meets the Shoreland zone of another water body or wetland. When a stream meets the Shoreland zone of a water body or wetland and a channel forms downstream of the water body or wetland as an outlet, that channel is also a stream.~~

**STRUCTURE** – Anything **temporarily or permanently located**, built, **constructed or erected** for the support, shelter or enclosure of persons, animals, goods or property of any kind, ~~together with~~ **or anything constructed or erected with a fixed location** on or in the ground. ~~exclusive of fences and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors.~~ The term includes structures temporarily or permanently located, such as decks, patios and satellite dishes. **Structure does not include fences; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface waste water disposal systems as defined in Title 30-A, section 4201, subsection 5; geothermal heat exchange wells as defined in Title 32, section 4700-E, subsection 3-C; or wells or water wells as defined in Title 32, section 4700-E, subsection 8.**

**TIMBER HARVESTING** – The cutting and removal of timber for the primary purpose of selling or processing forest products. **“Timber harvesting” does not include the cutting or removal of vegetation within the Shoreland zone when associated with other land use activities.** The cutting or removal of trees in the Shoreland zone on a lot that has less than two (2) acres within the Shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 105-51, Clearing or removal of vegetation for activities other than timber harvesting.

**TREE** – A woody perennial plant with a well-defined trunk(s) at least two (2) inches in diameter at four and one half (4.5) feet above the ground, with a more or less definite crown, and reaching a height of at least ten (10) feet at maturity.

**UPLAND EDGE OF A WETLAND** – The boundary between upland and wetland. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) ~~foot~~ **feet**) tall or taller.

**§ 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.
- D. 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.

§ 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 **§105-51.1 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. **This provision applies to the portion of a lot within the Shoreland zone, including the buffer area.**

- 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.

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

- A. **Hazard trees in the Shoreland zone may be removed with 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 half (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, 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.

B. Storm-damaged trees in the Shoreland zone may be removed with 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 eighty (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.

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§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, that is part of a state or federal brownfields program or a voluntary response action program pursuant to 38 M.R.S.A. section 343-E, and that is located along 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 State of Maine Department of Environmental Protection, The U.S. Environmental Protection Agency, and their agents.

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**§ 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 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.**
- ~~~~~

Madge B. asked with respect to Section 105-4, what the real change was? Roger A. stated that now the plans would have to be recorded. CEO McDonough added that currently a structure cannot be expanded by more than 30% by both square footage and volume, this has been in effect since 1989. Now, the 100 foot buffer zone has been cut into three sections, less than 25 feet to the high water mark, less than 75 feet to the high water mark and less than 100 feet to the high water mark, there is a square footage and height limitation, volume is no longer an issue. The closer to the water, the more strict the height restriction is and square footage. He agreed with Roger that then the plan has to be recorded so the plan has to be correct, because if it is not, then there will be an issue if the structure is sold and is not placed on the property as approved. A bank will not finance a structure that is not as permitted with the Town. Roger agreed that the existing ordinance is easier to work with.

Madge B. added that if the Town does not adopt it, it will be imposed on the Town. An audience member asked if the Town was required to adopt it? Roger A. stated that if the Town does not adopt it, it will be State imposed through a court order. Roger and Madge noted that the Town's ordinance has to be at least as restrictive as the State's rules.

Madge B. asked how striking out 105-4.D(3)(b), under Foundations, affected the ordinance? CEO McDonough stated the 3 foot measurement from sill to the ground was no longer being used because there is an overall height restriction based on the distance to the water. Each distance has its own height restriction, you can't raise the camp anymore than what the top height limitation is. Madge stated that as it is written, you could put in a new foundation, raise it three feet, and it wouldn't trigger the 30% rule. Madge asked if the new foundation would trigger an expansion? CEO McDonough stated that if the basement did not have at least 7 feet of head height he didn't think it counted as living space. Maggie M. asked if the board should add additional information? Madge said that at this point it was too late and that wasn't what she was suggesting. Roger A. said the board would have to be more restrictive to make a change but he didn't think it was necessary. CEO McDonough noted that the new changes to the ordinance restricts by footprint and height limitation, floor area is no longer an issue.

There was also a comment from an audience member regarding Section 105-39.D(1) requiring a person to be certified by the DEP to do earth moving of more than one cubic yard in the shoreland district. Both CEO McDonough and Roger A. noted this has actually been in effect for several years, it now was being added to the Ordinance that it is a requirement, so people would be more aware it is required.

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

The public hearing closed at 6:55 p.m.

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The planning board meeting started at 7:00 p.m.

The minutes from Tuesday, January 26, 2015 were accepted as read.

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**Amendment to a Conditional Use Permit – Reduce Seating Capacity for Keepin It Local to 40 or Fewer Seats Total – Map 18, Lot 32A (120 Emery Mills Road) – Paul Muse, Applicant & Owner**  
Mr. Muse was present for the review of the application.

The application description states, ‘Request a lower seating capacity from existing to 40 or fewer to allow one handicap toilet facility’. The existing application approval is as follows:

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.
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.

Mr. Muse presented board members with a copy of the legislation entitled ‘An Act To Amend the Requirements Concerning Small Restaurants That Serve Alcoholic Beverages’, which stated in part, *Section 1. 22 MRSA §1686-A Eating establishments that permit consumption of alcoholic beverages ‘Any eating establishment regardless of the number of seats that permits consumption of alcoholic beverages is bound by section 1686, regarding the provision of a toilet facility. An eating establishment that has a seating capacity of 40 or fewer persons is required to have at least one toilet facility but may not be required to have more than one toilet facility.’*

*Section 2. 28-A MRSA §1051, sub-§7 is enacted to read:*

*7. Toilet facilities. ‘An eating establishment licensed in accordance with this chapter is required to have toilet facilities as prescribed by rule, except that an eating establishment that has a seating capacity or 40 or fewer persons is required to have at least one toilet facility but may not be required to have more than one toilet facility.’*

Roger A. began by stating that the applicant was requiring a change in seating so he would not be required to put in an additional bathroom. Mr. Muse stated, correct. Roger said Mr. Muse wanted to limit the total seating capacity to 40. Mr. Muse stated, correct.

Madge B. did not see an issue. She didn’t see how the board could have an issue with what Mr. Muse was proposing as it would be less people which meant a smaller impact to the area. Madge asked if there were any code issues? CEO McDonough stated that was why Mr. Muse was before the board because he wanted only one bathroom and the permit currently is for more than 40 seats which requires two bathrooms. Madge said, correct.

Diane S. asked if a public hearing was required because it is a business? Roger A. and Madge B. did not feel it was necessary because it would not be impacting anyone in a negative way. CEO McDonough asked Mr. Muse if he wanted a public hearing? Mr. Muse stated he did not and wondered why CEO McDonough asked. CEO McDonough said there were many situations where questions are asked as to why someone is doing something different than what they were approved for and why they were not notified. Maggie M. agreed that someone could ask why there was no public hearing. CEO McDonough stated that is why he wanted to be sure it wasn’t just up to the board that one wasn’t being held.

Roger A. stated he had no issue with making a motion to approve and granting it this evening.

**Madge B. moved for approval to reduce the seating capacity for Keeping It Local Country Store to 40 or fewer seats in total, inside and outside, located on Map 18, Lot 32A, leaving all other conditions of approval as stated on May 12, 2015 in affect. Maggie M. 2<sup>nd</sup> the motion. All members were in favor. By a unanimous vote of 4 – 0 the motion to approve the Amendment to a Conditional Use Permit was accepted.**

Nothing further was discussed

**Other:**

**Brief Discussion of Comprehensive Plan**

Barbara F. gave out copies of the Comprehensive Plan and also a work sheet. She asked members to review the existing plan, as well as the areas that pertain to the Planning Board within the plan. She asked members to see if they believe these sections are still part of the planning boards' realm of responsibility and if not

please indicate why; see what sections in the Comp. Plan still need to be addressed by the planning board and/or if further action is required by the board; also there may be sections that need to be removed as they are no longer relevant or new sections may need to be added. She thought over the next few months the board could address the plan and then present their comments to the Selectmen or whomever would be making changes or additions to the plan as needed.

Madge B. noted there were things the board could not do anything about and items the townspeople have not been receptive to. There will be future discussions and possibly a workshop in the near future.

Madge B. had other ideas to discuss with members in the future from other workshops she attends such as Three Rivers Land Trust and the Conservation Committee.

Nothing further was discussed.

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**Growth Permits**

There are growth permits available.

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**The Planning Board meeting ended at 7:15 p.m.**

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***The next meeting will be held Tuesday, February 23, 2016 at 6:30 p.m. The Planning Board meets the 2<sup>nd</sup> and 4<sup>th</sup> 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](mailto:planningboard@shapleigh.net)

# **SHAPLEIGH PLANNING BOARD**

## **MINUTES**

**Tuesday, February 23, 2016**

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

Steve Foglio was appointed a regular member for this evening due to Diane Srebnick's absence.

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

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

**The minutes from Tuesday, February 9, 2016 were accepted as read.**

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**Best Possible Location – Replace Existing Structure – Map 30, Lot 40 (30 Hawthorne Street) – Lawrence and Elaine Mason, Applicants**

Joseph Stanley of LinePro Land Surveying was present to represent the applicants along with contractor Richard Levesque who will be doing the ground work for this project.

The original application was dated August 26, 2015 and the project description was as follows: 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%.

Also provided with the original application was a copy of the Quitclaim Deed showing Elaine and Lawrence Mason, Jr., of 300 Andover Road, Syracuse, NY, as owners, YCRD Book 16907, Pages 792-794; a copy of Shapleigh Tax Map 30, noting the location of Lot 40; a plan dated July 29, 2015, which depicted the proposed building location, it also showed the location of the existing structure; a 3D plan of the existing and proposed structure; pictures of the existing structure; and a copy of the soils map which depicted the location of the site.

A letter was received by Land Use Secretary, Barbara Felong, denoting a list of people who the applicants would be working with on this project and who could represent them at the meeting(s), those being Excavator Richard Levesque, Surveyor Joe Stanley, and John Winslow Hutchins, Drafting and Design. An email was received on October 8, 2015 by the Land Use Secretary and Code Enforcement Officer, which was a further description of what the applicants intentions were for the proposed project. The letter addressed the time frame and expense of the project, the White Pine trees on site and their wish to remove some of them, erosion control measures, and an email they sent to Abbott Hill Tree Service regarding the possible removal of trees on site.

Meetings were held on September 8, 2015 and October 13, 2015. A notice to abutters was mailed on September 9, 2015. Because no application fee was ever presented to the board, the application was tabled until payment was received.

On February 9, 2016, Barbara F. received a telephone call from Elaine Mason stating they wished to be put back on the agenda, and she asked what was needed in order for that to occur, which included the fact a new application would have to be filled out because the tabled application had expired as it had been over 90 days since the previous review. After receipt of the application fee and a copy of the updated plans from Joe Stanley of LinePro Land Surveying, the application was placed on the agenda for Tuesday, February 23, 2016.

The current application description states: Best Possible Location, possible future plan is to remove existing structure (nearest point to shoreline 48', building on blocks) and build new structure on full foundation. A letter was received by Joe Stanley, dated 2/16/2016, which stated in part:

The enclosed sketch shows our most-recent version of our 'Best Possible Location' plan for Lawrence & Elaine Mason on Hawthorne Road.

The proposed best possible location shown on the sketch was arrived at by moving the building back away from the water exactly 6 feet, as was suggested by multiple planning board members at our September 22, 2015 meeting.

The subject building has existing combined side setbacks of 26.5 feet, as described in Note 7 of the plan, which is less than the 30 feet required for new construction in the shoreland zone. We believe/request that any future construction should be allowed this 'grandfathered' combined side setback measurement, as has been allowed in the past for many other projects on these small lakeside lots, provided the minimum side setback of 10 feet is met for any future proposed building.

A new plan was presented, dated February 15, 2016 which depicted the original structure location; the relocation of the structure; the existing trees; the side setback to Lot 39A that being 10.6 feet, the distance to the road centerline of the existing structure that being 57.8 feet, and the distance to the road centerline of the proposed structure that being 55.5 feet. The distance to the high water mark of the existing structure is 47.8 feet and the proposed distance to the high water mark is 52.1 feet. The existing gravel driveway and site elevations are also depicted on the plan. The existing and proposed structure are within 100 feet of the high water line.

Roger A. asked Mr. Stanley to explain to the board what the applicants were proposing at this time. Mr. Stanley stated after reviewing the minutes from 2015, he believed the board did not want the existing structure moved back more than six feet because of the existing trees and terrain. He stated that because this was significantly different than what the applicants were hoping for, he wanted to discuss this with the Mason's to see how they wanted to proceed. He said the plan proposed this evening is what the Mason's agreed to, which is moving the building back six feet from the existing location. He said the only other issue was the side setbacks currently are not met and with the proposed new location they would not be met either. The existing has a combined of 26.5 feet which is less than the 30 that is required. He said they were hoping the proposed could also be at 26.5 feet. Madge B. said, "So you are proposing to have the same." Mr. Stanley said, "Yes".

Steve F. asked if there was a retaining wall? Mr. Stanley said there was not, he believed the wall would be the back of the concrete basement wall. He did not think a major wall would be required based on this new location. Roger A. asked about reclaiming the area where the existing structure sits now. Mr. Stanley said he did not have a specific plan but he said they were aware erosion control measures must be put in place.

Steve F. asked about overdig with respect to the trees? He asked if it would affect the existing trees? Roger A. did not believe it would; based on the site inspection and moving the structure back only six feet, the trees would not be affected. He thought only going back six feet would help to preserve them. Madge B. agreed

from what she remembered from the site inspection. She also didn't have an issue with the side setbacks, because they were not more non-conforming. Steve noted that the setback to the road would be less conforming moving it back. Madge said she understood that but that was preferable than being closer to the water. CEO McDonough noted that with best possible location setbacks are already an issue, so you try to put the structure in the best location possible, knowing you won't meet all the setbacks.

Steve F. asked about vegetation on site? Mr. Stanley said it was mostly raked pine spills at this time. Madge B. asked where the septic system was located? Mr. Stanley said he was told it was in the driveway. CEO McDonough pulled out a copy of the septic design from his files for the board to review. The design was created in 2010. CEO McDonough noted that the ordinance requires a copy of the septic design when reviewing for best possible location.

Roger A. asked if a notice to abutters had been mailed? Barbara F. stated that notices were mailed during the last review process. Madge B. asked if there were any comments from abutters? Mr. Stanley remembered one neighbor attended a meeting but did not have any concerns, they just wanted to know what the project entailed. Madge thought she remembered that.

The board, looking at the septic design, noted it appeared the system was across the street. Steve F. said there were concrete chambers according to the plan.

Madge B. thought it would be good to add a few bushes along with mulch to the site. Madge asked about the roof, what it would look like? Mr. Stanley said at this time he did not know but he thought it would be similar to what is there now. Madge was concerned with the water coming off the roof. Mr. Stanley said the applicants would be open to suggestions.

Steve F. stated that because the board didn't know exactly what was going to be built, they could say something would have to be done to stop the runoff from going into the lake but he thought it would fall on CEO McDonough to say what would work. Madge B. said that the CEO would say the board should get a plan. CEO McDonough said if there was nothing in writing from the planning board, he had no authority to say 'now I want this or that' after they get the building permit. Steve said there were some runoff issues at this time. Mr. Stanley asked if they were talking about the six feet the building was being moved back or was the board talking about the entire site? Roger A. said any areas that are being disturbed have to be addressed.

Roger A. asked Mr. Levesque if a berm could be built to prevent water from going to the lake. He said it did not have to be elaborate but raised enough to slow the water down. Madge B. said then mulch could be added. Mr. Levesque said some small plantings could be added as well. Mr. Levesque agreed he could create a berm to slow down the water. Steve F. thought it wouldn't take much because it wasn't a steep slope in that area. Roger agreed.

Mr. Levesque drew on the plan where a berm would be located, as well as a notation mulch would be added to the area as well. The plan was marked as Final, 2/23/16. Madge B. said that the entire disturbed area would need to be mulched.

Roger A. asked about a time line. Mr. Stanley and Mr. Levesque were not sure. Both thought the applicants wanted to use the existing structure for the summer, so the construction would not start until after summer. Roger noted best management practices would have to be kept in place during the project, until it is completed. Mr. Levesque said CEO McDonough could vouch for how he keeps a job site, that would not be an issue.

Madge B. asked if they needed a Growth Permit? Roger A. said they did if they wanted to stay year round.

Roger A. asked if a date of June 15, 2017, for a date of completion, would work? Mr. Stanley thought that would work.

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

- 1) Erosion control mulch shall be placed on all disturbed areas, and a berm shall be created as indicated on the plan, as drawn by Mr. Richard Levesque this evening, also as an erosion control measure.**
- 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. The DEP license number shall be given to the Code Enforcement Officer prior to construction.**
- 3) The project is to be completed, included erosion control measures, by June 15, 2017. If this date cannot be met, a new date will have to be agreed upon by the Planning Board.**

**Madge B. made the motion to approve the Best Possible Location to replace the existing structure on Map 30, Lot 40, per the plans presented, dated February 15, 2016, and as amended by Richard Levesque, with the above stated 3 conditions. Steve F. 2<sup>nd</sup> 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.  
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### **The Findings of Facts**

1. The owners of Shapleigh Tax Map 30, Lot 40, are Elaine and Lawrence Mason, Jr., of 300 Andover Road, Syracuse, New York 13210; proof of ownership was received by way of Quitclaim Deed, recorded on 10/14/2014 at the YCRD, Book 16907, Pages 792-294.
2. The property is located in the Shoreland District and according to the assessing file, it contains .83 acres.
3. The applicants are before the board for a Best Possible Location to replace the existing structure and add a full foundation. The original application was dated 8/26/15. The final detailed project description states: Best Possible Location Application, possible future plan is to remove existing structure (nearest point to shoreline 48', building on blocks) and build new structure on full foundation.
4. Received was a copy of Shapleigh Tax Map 30, noting the location of Lot 40; a preliminary plan drafted by Joseph Stanley, PLS #2453, of LinePro Land Surveying, LLC, dated July 29, 2015, which depicted the proposed building location, it also showed the location of the existing structure; a 3D plan of the existing and proposed structure; pictures of the existing structure; and a copy of the soils map which depicted the location of the site.
5. A new plan was presented, drafted by Joseph Stanley, PLS #2453, of LinePro Land Surveying, LLC dated February 15, 2016 which depicted the original structure location; the relocation of the structure; the existing trees; the side setback to Lot 39A that being 10.6 feet, with a combined side setback of 26.5 feet; the distance to the road centerline of the existing structure that being 57.8 feet, and the distance to the road centerline of the proposed structure that being 55.5 feet. The distance to the high water mark of the existing structure is 47.8 feet and the proposed distance to the high water mark is 52.1 feet. The existing



gravel driveway and site elevations are also depicted on the plan. The existing and proposed structure are within 100 feet of the high water line.

6. On file is the Subsurface Wastewater Disposal System Application, dated July 21, 2010, drafted by John M. Toothaker, SE #347, for a replacement system for a 2 bedroom home, which the planning board reviewed during the meeting on Tuesday, February 23, 2016.
7. A site inspection was held on Tuesday, September 22, 2015 and a notice was mailed to all abutters within 500 feet of the property on September 9, 2015. Meetings were held on September 8, 2015, October 13, 2015 and February 23, 2016.
8. The Planning Board unanimously agreed to approve the Best Possible Location to replace the existing structure on Shapleigh Tax Map 30, Lot 40, per the plan dated February 15, 2016 and amended on February 23, 2016 to add erosion control measures, with three conditions.
9. **The conditions of the permit are:**
  - 1) **Erosion control mulch shall be placed on all disturbed areas, and a berm shall be created as indicated on the plan, as drawn by Mr. Richard Levesque at the meeting on 2/23/16, also as an erosion control measure.**
  - 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. The DEP license number shall be given to the Code Enforcement Officer prior to construction.**
  - 3) **The project is to be completed, included erosion control measures, by June 15, 2017. If this date cannot be met, a new date will have to be agreed upon by the Planning Board.**

**Motion:**

After careful consideration and a review of all material presented to the Board, a motion was made on Tuesday, February 23, 2016, to approve the Best Possible Location to replace the existing structure on Map 30, Lot 40, per the plans drafted by Joseph Stanley, PLS #2453, dated February 15, 2016 and amended on February 23, 2016 by Richard Levesque to add erosion control measures, placing the structure 52.1 feet from the high water line at the closest point, 10.6 feet from the lot line of Map 30, Lot 39A, and 53.3 feet to the centerline of Hawthorne Road, with the above stated three conditions.

**Vote:**

By a unanimous vote of 5 – 0, the motion to approve the Best Possible Location to replace the existing structure was accepted.

**Decision:**

**The Best Possible Location application to replace the existing structure was approved.**

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**Other:**

**Begin Discussion of the Comprehensive Plan**

Barbara F. gave Roland L. and Steve F. a copy of the Comprehensive Plan along with the worksheet to use to review items pertaining to the Planning Board. She also gave all members a copy of the definition of Urban Infill and information about LESA, Land Evaluation & Site Assessment, both are noted in the Comp. Plan. Barbara F. stated after reading what each refers to, she did not believe they belonged in the Shapleigh Comprehensive Plan. They are for areas with a much higher population density or large scale farming areas such as you would find in the Midwest. Madge B. agreed.

Madge B. said the entire Comp. Plan process is governed by State law. She thought when they did the first one around 1990, the law was in effect and the State had the idea that towns were going to confirm to their concept of growth areas and rural areas, regardless of the town's size or whether it was appropriate. She said there are remnants in the existing Comp. Plan., and as she started working on reviewing it, she decided to speak with the Regional Planning Commissioner; this is still on the books but all the enforcement is gone. She said she read thru the law again today and she liked the section about what you want in a comp. plan., which includes things like 'ensure that land use policies and ordinances are consistent with applicable State law, critical natural resources, that the plan protects agricultural and forestry resources, that it calls for protecting water resources', things that are in our plan and belong there. She said the town no longer has to worry about growth areas because there is no one to enforce it. She said this was great since the townspeople never agreed with growth areas.

Madge B. said there is no State assistance or incentives to adhere to the original dictates of the Comp. Plan. She said, therefore, the board can go back and review the plan to update it and get rid of stuff that doesn't belong because it doesn't fit well with Shapleigh's direction. The plan can now be right for us.

Madge B. said she started going through the worksheet Barbara F. passed out at the last meeting, crossing out what no longer works for the town and leaving what does, or change the language to make it more appropriate, changing words such as 'have to'. The word 'consider' works best in some instances, instead of adopt. She felt the board could review and make changes without a lot of trouble, removing things the town never wanted.

Madge B. also noted that she did not believe the town should be in the business of developing mobile home parks. CEO McDonough thought the plan asking that there be affordable housing meant that mobile home parks should be allowed, not necessarily that the town should create them. He noted that they are allowed per the ordinance. Madge said there was a section in the Comp. Plan that is not good, as it is asking for more than that, directing the town to assess town-owned property, and appoint some of it for mobile home parks or affordable housing. All the board members felt this should not be in the plan.

Roger A. agreed he did not feel the town should get into the Real Estate market. He said they discussed this back in the 1990's, Mann Road, a parcel is owned by the State. Madge B. didn't think anyone ever wanted the town to set aside land for a mobile home park. Roger agreed. Maggie M. believed some thought of affordable housing for the elderly and noted that the City of Sanford was doing that in a central area but it works for Sanford. She thought being in a town where you can walk to stores makes sense. She didn't think being on the Mann Road, with no services, would make sense for anyone having a harder time to get around. Steve F. said the only option would be the end of town closest to Sanford. Maggie added that they would still need a car to go to town, so it would not be very attractive, vs. living in Sanford where everything you need is available within walking distance. CEO McDonough stated that as long as the town allowed these things, he felt that was all that was necessary. Roger did not see a developer wanting to create this in Shapleigh, he would need water and sewer, it would be too much money.

Madge B. felt the board could continue to work on it. Everyone agreed to do the first three Policy's for the next meeting, and go from there. Roger A. noted much of what is in the Comp. Plan is being done now and that can be noted. Madge added that anything difficult that needs more discussion can be set aside and dealt with at the end. Madge noted you could skip over anything that doesn't pertain to the board.

Nothing more than discussed.

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### **Growth Permits**

There are growth permits available.

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**The Planning Board meeting ended at 7:25 p.m.**

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***The next meeting will be held Tuesday, March 8, 2016 at 6:30 p.m. The Planning Board meets the 2<sup>nd</sup> and 4<sup>th</sup> 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](mailto:planningboard@shapleigh.net)

# **SHAPLEIGH PLANNING BOARD**

## **MINUTES**

**Tuesday, March 8, 2016**

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

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

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

**The minutes from Tuesday, February 23, 2016 were accepted as read.**

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### **Best Possible Location – Clarify Drawing Details & Approval – Map 28, Lot 49 (45 Carpenters Cove) – Louise Nieto, Applicant**

Mr. Louis Nieto was present for the application, along with John Hutchins, of J. Winslow Hutchins, Drafting & Design, who brought a set of revised plans for the project.

The original application description of the project stated ‘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 and Subsurface Wastewater Disposal System Application, done by Kenneth Gardner, SE #23, dated 9/14/2015.

On September 22, 2015, 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, with three conditions.

The conditions of the permit were 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 be 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.

Maggie M. asked Mr. Nieto to explain why he was before the board. Mr. Nieto asked Mr. Hutchins to speak and he presented the new plan. Mr. Hutchins said he revised the plan to reflect what actually took place on site.

Mr. Hutchins stated that the applicant thought they would be able to keep the block wall in which a platform was sitting on top, but when replacing the platform they realized they had to replace the wall as well. Mr. Hutchins was asked if the wall was in the same location as the previous wall and he said it was.

Mr. Hutchins also noted another wall that was replaced due to deterioration. Mr. Nieto stated that he had spoken about removing this second wall but it was never noted on the plan. He said at the site inspection he discussed with the board replacing the wall. Mr. Nieto said that CEO McDonough pointed out that what he wanted to do was not on the approved plan, therefore, he had to come back before the board. CEO McDonough noted that it appeared Mr. Nieto has already done the work since their conversation.

Mr. Hutchins said on the original plan, it stated one of the walls needed to be removed but in fact it had to be replaced. Mr. Nieto said he told board members the wall would be removed and replaced but the plan didn't show it. He said the issue is, it is not specific on the drawing and the description of the project was fairly vague, therefore, he wanted to clarify everything. He said nothing was made larger than the existing, nor was anything moved closer to the lake. He said they replaced what was damaged.

Mr. Hutchins presented pictures of what was existing and what is there now. He noted there was less of an erosion issue on site at this time, as well. Madge B. asked if the plan presented this evening was what was actually done? Mr. Hutchins said, "Yes, it is what has been done".

Steve F. believed it made sense to replace the retaining walls. Diane S. asked if they were going to be over four feet in height? Mr. Hutchins said no, and they were already done. He showed her the picture of the walls, noting the new wall is the same height as what was there. Madge B. asked if the area around the walls had been replanted yet? Mr. Nieto stated it was not, as he wasn't done with the project yet. He said the house still had to be moved. Mr. Hutchins said the area is very well mulched at this time, until the plantings are done, there should be no issue with erosion.

Steve F. asked if the board wanted to do another site visit? Madge B. didn't think she needed to see it. Maggie M. said they could make sure it is what the board wants. Mr. Hutchins said what is there now is definitely an improvement over what was there. CEO McDonough said if the board is going to go back over the approval, and do a site visit, then there needs to be another application and fee. Maggie said it was a change to the original approval. Mr. Nieto said the only change that wasn't on the original drawing is past the 75 feet or within 10 feet of the boundaries, so he didn't need a permit. He said the only discrepancy is in that the wall was not put on the drawing. Maggie didn't understand why he said he didn't need a permit past 75 feet? Mr. Nieto did not believe he needed a permit for a retaining wall if it didn't exceed four feet in height beyond 75 feet. CEO McDonough said he absolutely needed a permit and the restriction is within 100 feet, not within 75 feet. Madge agreed stating it was a structure within 100 feet of the water. Steve, looking at the plan, said it appeared the entire project was within the 100 feet.

Madge B. asked how the board should address the change? CEO McDonough said there is an approved plan, and this is a change to the approved plan. He believed it was an amendment to the approval. Madge reviewed the ordinance, under §105-73.B(2) which states, 'No changes shall be made in any approved conditional use without approval of the change by the Planning Board'. Madge wasn't sure exactly how to deal with a change in a best possible location, so she felt the board needed to do what they believed was appropriate for the situation. She added that the board had to review and approve the change. Steve F. asked if the walls were already in, and if so, would it cause an issue if the board moved this forward for two weeks? Mr. Nieto said, "It isn't an issue as long as if in two weeks the board then doesn't want to do a site visit".

Maggie M. suggested the board schedule a site inspection. Madge B. believed the board needed a new application, an amendment to the best possible application. Madge said the applicant should not have made a change without approval to begin with, so this was appropriate to ask for a new application.

Mr. Hutchins stated that they did a good job on the replacement of the walls. The board members agreed to do a site inspection on an individual basis, and ask for a new application due to the change from the originally approved plan.

Nothing further was discussed.

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**Other:**  
**Begin Discussion of the Comprehensive Plan**

**Changes will be in bold, crossed out, or both. Board member discussion will be in Italics.**

The board members began discussion of the Comprehensive Plan, reviewing POLICIES AND RECOMMENDED ACTIONS as follows:

**Policy 1**

Although Shapleigh should remain a community primarily of single-family homes, other types of housing should be considered. These should include:

- Accessory apartments to existing single-family homes, including in-law apartments
- Modular homes on individual single-family lots
- Modular or prefabricated home parks, only in selected environmentally-sound locations
- Cluster housing

**Action A**

Continue to permit modular homes on individual lots and cluster housing in all districts except in Resource Protection zones.

***Board members agreed this is already being done and can be left as it is written.***

**Action B**

**Consider amending** ~~Amend~~ the zoning ordinance to permit accessory apartments and in-law apartments without additional land area if performance standards are met, **except in the Shoreland district.**

***Board members had an issue with ‘without additional land area’ because then you have to be concerned with road access, site distance, one driveway, septic system, distance of well to septic, etc. Therefore, it should say ‘consider amending’. The concern is one of the places these are going in is on small camp lots, apartments above the garage, and that is an issue. Several members agreed in the Shoreland zone it would not be appropriate and CEO McDonough stated his fear was the larger septic systems that would be required. When you make a rule it has to be acceptable to everyone, not just certain lots. It was agreed that being close to the water, where most lots are not 2 acres in size, is the biggest issue with this consideration. CEO McDonough added that septic systems and distances to wells is also a huge issue, and down the road when issues become prevalent, you may have to require town water or sewer or both to mitigate the problem.***

Action C

~~In accordance with state law, designate selected areas of town where modular and prefabricated home park development would be permitted if performance standards were met. Possible areas for future study are the residential growth areas identified in the land use plan.~~

*Board members believed this action should be eliminated entirely. Mobile homes and modular's can go anywhere now if they meet the town's standards. There can also be cluster housing now, it doesn't have to be a particular kind of home to be in a park, it can be a mobile home.*

**Policy 2**

~~Consider the use of town owned property for affordable housing for the elderly.~~

Action A

~~Work with the private sector or non-profit group to pursue development of elderly housing on town owned property; specifically, the town owned plot off Mann Road.~~

*Board members agreed that the Town is not in the business of developing land, whether it is town land or other kind of land.*

**Policy 3**

Continue to assess the affordability of Shapleigh's housing stock. Affordable housing requirements are being met. If future analyses indicate a need, additional strategies should be developed to maintain the proper balance between upper, middle and affordable housing.

*The board believed this was adequate as written.*

**Policy 4**

All housing in Shapleigh shall be built in a safe, sound manner using the existing Building Codes as administered by the Town's Code Enforcement Officer.

*Ongoing, no change, not a Planning Board issue.*

**Policy 5**

Town-owned land, excluding the Community Forest, should be evaluated for future development. Special attention should be given to: the needs of the elderly, the creation of affordable housing, the expansion of recreational facilities, municipal facilities, and infrastructure.

Action A

**Selectmen shall continue to** form work-groups to investigate the best use of Town-owned land.

Action B

~~Work with local developers, and share the town's desire to create affordable housing, elderly housing, recreational facilities, and any town building or facilities required.~~

*Members believed Action A was a Selectmen issue and Action B should be removed.*

## Policy 6

**Consider changing** ~~Change~~ the zoning to allow for smaller lots ~~in growth areas~~ to encourage commercial and residential development. Existing woods must be left in their current natural state.

*Board members noted there are no growth areas, so that should be removed. They did not see where you would want to encourage residential development. They discussed possibly putting commercial on smaller lots, depending on the use of the property. Currently you need double the lot size for a house and commercial use, this could be looked at in the future.*

### Action A

**Consider changing** ~~Change~~ zoning laws to create smaller building lots ~~within a half mile radius of the villages for both commercial and residential use.~~

### Action B

~~Change zoning in designated growth areas especially on town owned property to allow for the construction of elderly housing, cluster housing and affordable housing on smaller lots.~~

*Board members noted that cluster housing is allowed at this time on a smaller lot. The board did not see where they would want to reduce the two acre requirement for a lot, therefore this section was removed.*

### Action C

**Require** ~~Encourage~~ builders and developers to leave natural buffers. Debris and brush may be removed, but no trees or bushes may be cleared, except for the building site.

*Members noted that buffers are now required, therefore the wording was changed to reflect this.*

## Goals, Policies and Actions

### Action A

Provide for a Shapleigh building code to incorporate the latest health and safety standards.

### Action B

Require inspection and an occupancy permit to be issued before buildings are allowed to be occupied.

*Board members agreed Action A & B are adequate as written. The Town currently meets these requirements with the existing Building Code.*

Nothing more than discussed.

\*\*\*\*\*

## Growth Permits

### **Map 4, Part of Lot 45A (Walnut Hill Road) – New Home – GP #02-16**

This new lot will meet the minimum lot requirements for the Town of Shapleigh and does not require subdivision approval.



**The Planning Board meeting ended at 7:25 p.m.**

\*\*\*\*\*

*The next meeting will be held Tuesday, March 22, 2016 at 6:30 p.m. The Planning Board meets the 2<sup>nd</sup> and 4<sup>th</sup> 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](mailto:planningboard@shapleigh.net)

# **SHAPLEIGH PLANNING BOARD**

## **MINUTES**

**Tuesday, March 22, 2016**

Members in attendance: Roger Allaire (Chairman), Maggie Moody (Vice Chairman), 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.

Ann Harris sat in as a regular member this evening due to Diane Srebnick's absence.

\*\*\*\*\*

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

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

**The minutes from Tuesday, March 8, 2016 were accepted as read.**

\*\*\*\*\*

**Best Possible Location – Clarify Drawing Details & Approval – Map 28, Lot 49 (45 Carpenters Cove)**  
**– Louise Nieto, Applicant**

Mr. Louis Nieto was present for the application, along with John Hutchins, of J. Winslow Hutchins, Drafting & Design, who brought a set of revised plans for the project.

*Board members did a site inspection on an individual basis to see the work that has taken place to date.*

On September 22, 2015, 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, with three conditions.

The conditions of the permit were 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 be 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.

This evening Mr. Nieto provided pictures of what the platforms looked like before they were replaced, which included retaining walls.

Roger A. stated they were before the board because there was a change on site that was not indicated on the approved plans. Mr. Nieto agreed stating that although he discussed the changes that took place at the site inspection, he failed to have Mr. Hutchins put all those changes on the plan. The plan stated the walls would be removed but not replaced, which was the intent.

Roger A. asked if there was going to be any additional changes to what is on site now that isn't on the plan? Mr. Nieto stated there would be no additional changes.

Roger A. asked if there were any questions from board members? Roland L. stated he was curious about the metal brackets on site that looked like the brackets for sign posts, there were several of them that were listing and he wanted to know if they were going to be replaced? Mr. Nieto said some on site were being used for additional support, the project was not completed yet. Roland was referring to the ones that were upright below the deck area, there were several that looked like they needed to be replaced. Mr. Nieto stated again that the project wasn't finished yet and there were several walls that needed to be removed and replaced. Roland thought that was consistent with his recollection.

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

**Madge B made the motion to approve the amendment to the plan originally approved on September 22, 2015, for 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, with three conditions. The amended plan added the notations 'Replace Existing Retaining Wall' and 'Add Retaining Wall as Needed Along Concrete Block Steps' to represent what actually has taken place on site. Maggie M. 2<sup>nd</sup> the motion. All members were in favor. Motion passed unanimously, 5 – 0.**

Nothing further was discussed.

~~~~~  
The original 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 be 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.

Amendment to a Major Subdivision – Red Pine Estates – Add an Additional Lot to 5 Lot Subdivision, 6th Lot to Consist of 5.6 Acres – Map 11, Lot 28F (Newfield Road) - Nickolas Richardson, Applicant

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

Mr. Richardson began by stating he was before the board to create an additional lot.

Roger A. asked how he was going to access the lot? Mr. Richardson stated he had an existing road and showed Roger the road on his plan. Roger asked if there would be access on the Newfield Road? Mr. Richardson said, no.

Roger A. asked if he had a topographic map of the subdivision? Mr. Richardson thought he had provided one to members, but they did not have a copy. Roger asked if there were test pits for the lot? Mr. Richardson stated there were but they are not shown on the plan for the lot. He said the plan for his approved subdivision showed the pits that were on the area that this lot will be located in. Mr. Richardson stated he could add them to the final plan.

Roger A. asked if there would be any changes to the road? Mr. Richardson said, no. Roger asked if he was going to pave it? Mr. Richardson said, no. Roger said it was a requirement for a major subdivision. Mr. Richardson asked why it wasn't required during the last approval (November 2007). Roger didn't know why. Roger said they could discuss it at the next meeting.

Roger A. asked if he was going to have underground power? Mr. Richardson said there was already utility poles and power on site, therefore, no. Madge B. said they could waive that requirement. Roger A. asked if he would have sidewalks? Mr. Richardson said, no. Roger said he could waive that requirement. Roger said that was why he was asking, so Mr. Richardson could decide for the next meeting what he wanted to waive. Mr. Richardson asked where he would ask for it, should he place it on the final plan? Roger said, yes.

Roger A. asked Mr. Richardson if he received the subdivision checklist and if he filled it out? Mr. Richardson stated he did have it but thought it was for him to reference. Roger said they would need it filled out, so the board would know what he had done. Mr. Richardson said at this point he wasn't sure exactly what he had completed. Roger said that Mr. Richardson did not have a complete application. He said he would need to get all the information together and mail it to members seven days prior to the next meeting. Roger said they needed the location of the test pits and the criteria that goes with the test pits. Mr. Richardson asked if the board needed a septic design? Roger said the board needed what soils are on site. He said they also need a 15 minute USGS topographic map to show the contours on the property. Roger said on the original subdivision plan it only did part of the property, it didn't do the entire property. Mr. Richardson asked if he had to do areas that he wouldn't be developing now? Roger said the entire lot had to have topography. Mr. Richardson asked if there was a waiver for that? Roger said, no.

Mr. Richardson asked if there was a list of waivers? Roger A. said you could waive sidewalks, underground power, granite monuments, noting there were only a few items that could be waived. Mr. Richardson noted that there was a requested waiver for granite monuments on the plan. Roger said Mr. Richardson will have to see if the board will waive the 16 feet of pavement for the road, with a three foot shoulder. Roger said the board will have to know exactly where the driveway will be located. Mr. Richardson wanted to know if the board needed that on the map as well. Roger said, yes. Mr. Richardson asked if they needed the building envelope? Roger said no, only where the driveway will be located so the board knows you aren't coming in off the Newfield Road.

Roger A. noted that Mr. Richardson did have a fire pond and that should be mentioned because it is a requirement of a major subdivision, some type of fire protection is required. Roger said the town would need an easement to be able to access the fire pond.

Roger A. gave Mr. Richardson his copy of the subdivision ordinance, to which Mr. Richardson paid him for it. The money was transferred to the Town Clerk the following day.

Mr. Richardson stated he needed a topo of the lot and the test pits. Roger A. said yes, and the soils. Mr. Richardson asked if the location of the test pit was an issue with respect to the actual location of the septic system? Roger said no, that would be dealt with when it was time for the building permit, a design would be required then.

Roger A. told Mr. Richardson to review the section on Major Subdivision. He said he would want to ask for a waiver on the paving. Mr. Richardson said that he would like to pave it but it was cost prohibitive. Roger said he understood. He said at times the board allows the developer to put down a base coat and let that be sufficient until they sell a lot then put the top coat down to help defray some of the cost. Mr. Richardson said he wasn't planning on selling any lots.

Mr. Richardson ask when the next meeting was? The board said April 12th.

Nothing more was discussed.

Other:
Discussion of the Comprehensive Plan

Changes will be in bold, crossed out, or both. *Board member discussion will be in Italics.*

The board members continued discussion of the Comprehensive Plan as follows:

Madge B began by stating after reviewing Policy 6, from the last meeting, she still had issues with how it was written, specifically regarding the sentence, ‘Existing woods must be left in their current natural state’. She asked, “If you have woods all over your lot you have to leave them?” She believed it was in contradiction to the first sentence which would allow a small lot for commercial development. Maggie M. thought perhaps the sentence was talking about clustering the structures and then some woods for green space? Madge said this isn’t what is being addressed here, it is speaking of allowing a commercial structure on a smaller lot, not multiple structures such as in a cluster development. Maggie didn’t think anyone would want this because it looked like every lot has to leave the trees. Madge agreed, this was her concern. Both Madge and Maggie believed the sentence referring to the woods should be removed.

Roger A. said he didn’t see any issue for Policy 6. He said originally the State wanted smaller lots but this would create the necessity for town water and sewer, and Shapleigh could not afford that. He thought the entire Policy should be removed. Madge B. believed you could put a commercial enterprise on less than 2 acres without the need for public water and sewer. Roger said it would depend on the location. Madge agreed and said she wasn’t saying that you can do it, but it should be considered a possibility depending on the location and type of business. She added that you would have to have performance standards for this which would include adequate septic and water, etc. She believed the board wants to encourage commercial development, therefore, it is a case about talking and thinking how to encourage that. CEO McDonough thought a way to look at this was to allow for a higher percentage of lot coverage for commercial structures to encourage business. Madge agreed that that might be the way to proceed. She said they were trying to scratch any reference to growth areas. She said they were not looking to create smaller lots, just allowing a business on a smaller lot.

Board members agreed to remove the sentence referring to keeping the existing woods as follows:

Policy 6

Consider changing ~~Change~~ the zoning to allow for smaller lots ~~in growth areas to encourage commercial and residential development. Existing woods must be left in their current natural state.~~

Action A

Consider changing ~~Change~~ zoning laws to create smaller building lots ~~within a half-mile radius of the villages for both commercial and residential use.~~

Action B

~~Change zoning in designated growth areas especially on town-owned property to allow for the construction of elderly housing, cluster housing and affordable housing on smaller lots.~~

Action C

Require ~~Encourage~~ builders and developers to leave natural buffers. Debris and brush may be removed, but no trees or bushes may be cleared, except for the building site.

~~~~~

**The board continued their review:**

LAND-USE GOALS

To encourage orderly growth that does not compromise the rural character of the town or its natural environment.

**POLICIES AND RECOMMENDED ACTIONS**

**Policy 1**

Ensure that new development is in keeping with the rural character of the Town.

Action A

Prohibit new incompatible uses in town that would detract from the historic small-town character of Shapleigh.

Action B

Continue site plan review of developments and subdivision with consideration of the layout and impact of proposed projects.

Action C

Provide for buffer areas and screening in areas of new development to minimize noise, glare and visual impact of changes in Shapleigh.

***The board members agreed this Policy was fine as written.***

**Policy 2**

Discourage sprawl by encouraging new development adjacent or near existing built-up areas. Discourage new development on lakeshores and in designated rural areas.

Action A

~~Promote appropriate in-fill development in the village by allowing smaller lot sizes.~~

***Board members agreed to remove Action A, as smaller lots are not something the townspeople or board members want for Shapleigh.***

Action B

Utilize the cluster provision to reduce sprawl and promote efficient use of land and retention of open space, particularly to protect prime agricultural land.

***Madge B. noted that Action B is a provision the board looks at and promotes now. Roger A. noted that developers have not been keen on this idea to date, however, this Action will stay in place.***

Action C

Encourage utilization of the Farm and Open Space Law as incentive for open space preservation, especially in designated rural areas. Enrollment in such a plan provides a tax reduction.

***Madge B. believed the Town has been good at encouraging open space, Roger A. agreed. Board members agreed this should stay in place.***

Action D

Revise the existing zoning ordinance to be consistent with the land-use plan.

*Madge B. pointed out that this is the job of the Planning Board now. This Action remains in place.*

**Policy 3**

Encourage a rate of development in keeping with the Town's ability to provide facilities and services.

Action A

Aim to limit housing growth over the next decade by maintaining the existing growth cap, which must be reviewed every three years.

Action B

Consider this maximum growth rate in making capital improvement and level of service planning decisions.

*Board members agreed both Actions should remain, as they are fine as written.*

**Policy 4**

Encourage land-use controls that discourage "strip development" along roadways.

Action A

~~Establish commercial zones at selected "nodes" or intersections along major road corridors.~~

*Board members agree this should be stricken as the townspeople have not favored establishing commercial zones.*

Action B

Require development to leave open space along frontages when scenic vistas exist.

Action C

Require the construction of internal roads in new subdivisions.

*Board members agreed Action B & C were fine as written.*

**Policy 5**

Protect the major roads in town by controlling development detrimental to traffic safety, convenience and scenic qualities.

Action A

Continue zoning standards limiting the number of driveway openings in subdivisions.

Action B

Continue to include traffic standards, buffering, and landscaping in site plan review provisions.

*Board members agreed both Actions are fine as written.*

**Natural Resources**

Goal – To preserve and protect Shapleigh's natural resources, including water bodies, land-based resources, and scenic and historic resources.



POLICIES AND RECOMMENDED ACTIONS

**Policy 1**

Protect potential water supply sources in each section of town.

Action A

**Consider adopting** Adopt ordinance provisions protecting high-yield aquifers.

*Board members believed the word ‘consider’ should be placed in this sentence as this would require much more expertise outside of the board, such as environmental specialists, to create such a provision. It was also noted that the DEP currently has provisions to protect high-yield aquifers. It was brought up that the board looks at all water bodies currently, not just high yield aquifers. The board agreed there may be a time they have to tighten up the current provisions.*

Action B

Evaluate the purchase of land or easements over high-yield aquifers and their recharge areas.

*Madge B. noted that both the Town and State own some land over a high-yield aquifer at this time.*

Action C

Monitor development to ensure that the quality and quantity of groundwater in critical watersheds are maintained and protected.

*The board agreed that at this time they do not monitor groundwater but did not feel it was an issue to consider, leaving this Action as written.*

Action D

**The Selectmen shall** manage storage and use of road salt to protect water sources.

Action E

**The Selectmen should** consider establishing land banks to purchase aquifer areas.

*Board members agreed Action D & E did not fall under the jurisdiction of the Planning Board but was a Selectmen issue.*

~~~~~

Policy 2

The density or extent of development should not exceed the capacity of the land to support the development.

Action A

Apply “net area” provisions to ~~other residential~~ **subdivision** projects ~~besides Planned Unit Developments or cluster development.~~ Net area provisions tie development densities to “buildable area” rather than gross area and require deduction of areas with poor soils, steep slopes and other environmental constraints.

Board members agreed that ‘net area’ provisions applied only to subdivision projects. With respect to residential structures, it did not make sense doing this on a lot by lot basis. It was also noted that Planned

Unit Development and Cluster Development was part of the subdivision review process, so it did not need to be part of the sentence.

Action B

~~Establish~~ **Consider applying** a land-use ranking system such as the Land Evaluation Site Assessment System to aid in review of development projects.

Roger A. noted this was referring to soils and the board had the ability to review this during the subdivision process only. It was also noted that this was already established at this time, therefore, the words ‘consider applying’ replaced the word ‘establish’.

~~~~~  
**Policy 3**

River and lake quality should be improved.

Action A

Continue to reduce the impact that development has on the town’s surface water bodies. Consider adopting development restrictions on highly-erodible soils and steep slopes, and standards that encourage retention of existing vegetation.

Action B

Continue a phosphorus control program to protect water quality. Keep, as part of the zoning ordinance, phosphorus allocation standards for all development located within the watersheds of Shapleigh’s lakes.

***Madge B., Roger A. and CEO McDonough noted that erosion issues caused from roads and driveways, and additional impervious surfaces add to the phosphorus problem. Some of these issues are not Planning Board related. The board agreed to keep Action A & B as is.***

Action C

In accordance with state law, keep the updated Shoreland Zoning guidelines in Shapleigh’s zoning ordinance.

***Roger A. and Madge B. agreed this is ongoing.***

Action D

Work with neighboring towns on planning for protection of shared water bodies and watersheds.

***Madge B. stated Shapleigh works with neighboring towns.***

Action E

Manage and monitor the conversion of seasonal lake front property to year-round use.

***Madge B. noted the board does this now.***

Action F

Protect the quality of surface and groundwater. ~~by directing development into areas with adequate soil capacity for waste disposal.~~

***Madge B. did not believe the board has a mechanism for directing development, and she did not believe the board was considering it, therefore, the sentence was modified to what the board does review.***

Action G

Develop and provide education about water quality protection practices.

Action H

**Maintain** ~~Consider increasing lake water protection by requiring a~~ **keeping a minimum** 75 foot buffer on all streams.

***Board members noted that there is a 75 foot buffer in place at this time for stream protection so Action H was modified to reflect that.***

~~~~~

Policy 4

Identify and promote the preservation of important areas of open space as permanent resources to the community. The Conservation Committee is working on this.

Action A

Develop and implement an open space plan within the next 5 years in conjunction with neighboring communities whenever possible.

Action B

Consider instituting a land bank program.

Action C

Support work of a local land trust.

All board members agreed this Policy is fine as written.

~~~~~

**Policy 5**

Protect significant wetlands to maintain their ability to provide cover and habitat for wildlife, absorption of phosphorus and other nutrients, as well as other values associated with wetlands.

Action A

**Maintain** ~~Adopt additional~~ Shoreland Zoning standards protecting forested wetlands over 10 acres, and wetlands smaller than 10 acres that are deemed particularly valuable.

***The board agreed this is done on an ongoing basis now, shoreland zoning standards are always being updated as required, therefore, the word ‘maintain’ replaced ‘adopt additional’ in this Action.***

Action B

Develop as part of an open space plan, a plan to connect woodlands, wetlands, and deer wintering areas with wildlife travel lanes.

Action C

Require that all development projects have mapping of, and protection for, existing wetland areas.

*The board believed Action B & C were fine as written.*

~~~~~

Policy 6

Identify and protect areas critical to the occurrence and maintenance of endangered species.

Action A

Encourage voluntary private landowner protection of rare and endangered flora and fauna as identified by the State Critical Area Program and Natural Heritage Data Base.

Action B

Require mapping of, and education on, the critical natural features in the Town.

Action C

Require proposed development near identified endangered species and sensitive natural areas to conduct natural resource assessments and to provide protective measures if such species or features are found.

Board members agreed no changes were required under Policy 6. This is ongoing at this time.

~~~~~

**Policy 7**

Protect habitat suitable for use as deer wintering yards.

Action A

Increase awareness of deer wintering yard maps.

Action B

Continue to require development to consider and protect significant wildlife habitat and to develop a protection plan with the Maine Department of Inland Fisheries and Wildlife.

*Board members agreed no changes were required under Policy 7. This is ongoing at this time.*

~~~~~

Policy 8

Support existing farm areas in town and encourage the development of additional small-scale farming.

Action A

Encourage co-ops or farmers markets (possibly in conjunction with Acton and/or Newfield).

Action B

Encourage low-input, alternative agriculture.

Action C

Publicize the existence of the State Farm and Open Space Law.

Action D

Promote clustering and conservation easements as a method of preserving agricultural land and uses.

Action E

Include large tracts of prime agricultural soils and existing farmland in the rural area designation.

The board members made no recommendations to change any action in Policy 8. It was noted that Shapleigh does not have large tracts of agricultural land.

~~~~~

**Policy 9**

Maintain forest areas to the maximum extent possible, recognizing the beneficial effects of forest on water quality, phosphorus interception, rural character, wildlife values, and open space preservation. Forested areas contribute to the economic base of the town, with low demand for town services.

Action A

Continue appropriate, environmentally-sound timber-harvesting practices. Promote incentives for including more woodlands in the State Tree Growth Tax Laws.

Action B

Adopt new, and maintain current, State Shoreland Zoning standards for timber harvesting and removal of vegetation.

Action C

Include large tracts of undeveloped forestland in the designated Rural Areas.

***The board members made no recommendation to change any action in Policy 9. Timber harvesting practices are currently regulated by the State per the town zoning ordinance. There are currently forested areas owned by the Town of Shapleigh and State that are regulated and maintained for the benefit of all, with mindful harvesting practices keeping the wildlife, environment, and best use of the property in mind. There are tree growth incentives in place at this time.***

~~~~~

Policy 10

Maintain the character of existing historic village areas, and protect the Town's archeological resources.

Action A

Develop requirements that protect and preserve the architectural and aesthetic integrity of historic and village areas.

Action B

Investigate other methods to preserve Shapleigh's historic resources, including National Register designation, easements and marker programs.

Action C

Work with the Acton-Shapleigh Historical Society to identify and inventory archeological sites, and assess the value of identified sites, with assistance from the Maine Historic Preservation Commission, the University of Maine and other relevant agencies.

Action D

Propose protection measures if valuable archeological resources are discovered during activities involving structure development or soil disturbances.

Board members made no recommendation to change Policy 10. At present the board does look at sites for their historical value or possible archeological value in the shoreland district and under general standards during the subdivision review process. Further requirements may possibly be looked at or required in the future.

The board will continue to review the Comprehensive Plan at subsequent meetings.

Nothing more than discussed.

Growth Permits

Map 4, Lot 11 (541 Back Road) – New Home – GP #03-16

This new lot will meet the minimum lot requirements for the Town of Shapleigh and does not require subdivision approval.

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

The next meeting will be held Tuesday, April 12, 2016 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. Also, should there be a cancellation due to a storm event, holiday or Election, the meeting will be held the following Wednesday, also at 7:30 p.m.

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

SHAPLEIGH PLANNING BOARD

MINUTES

**Tuesday,
April 12, 2016**

Members in attendance: Roger Allaire (Chairman), Maggie Moody (Vice Chairman), Roland Legere, Diane Srebnick, 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, March 22, 2016 were accepted as read.

Amendment to a Major Subdivision – Red Pine Estates – Add an Additional Lot to 5 Lot Subdivision, 6th Lot to Consist of 5.6 Acres – Map 11, Lot 28F (Newfield Road) - Nickolas Richardson, Applicant

Mr. Richardson was not present for the application, he was unable to have the required additional information ready for members, and therefore, the board will wait for further information before they put him back on the agenda.

Construction of a Private Way – Map 5, Lot 43 (16 Hooper Road) – Douglas & Sharon Ridley, Applicants

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

Members received, in addition to the application, a letter from Steven Horne, LLC, Professional Land Surveyor, which gave a summary of the information provided and cited that Mr. Ridley was creating the Private Way as access and frontage for his existing single family residence which contains 15 +/- acres. The letter also referenced a ‘proposed lot’ which will contain approximately 81,000 square feet. This lot is being conveyed to a family member, therefore, exempt from subdivision review, and the new lot will not be using the new private way access but will be accessed directly from Hooper Road. The letter also spoke about the direction of storm water flow on the property and the fact there is an 8” culvert under the driveway; that the turnaround area as built is not to private way specifications (24’ x 24’) at this time but a turnaround does exist, so the applicant requests consideration to waive the requirement. And because of driveway location and the fact the driveway only serves one lot, the letter states MDEP review or a maintenance review is not required. Lastly, the letter states that the driveway cross section is depicted on the site plan.

Also provided was a site plan depicting the proposed private way and lot to be conveyed to family, drafted by Steven Horne, PLS #2389, dated 4/4/2016; a partial copy of Shapleigh Tax Map 5 highlighting the location of Lot 43; a copy of the deed for Lot 43, as registered at YCRD July 1, 1981, Book 2813, Pages 99-100; and a Memo dated 11/1/2014, from John Auger, PE #6060, citing the driveway specifications and stating that the driveway as built meets the minimum standards for a Private Way for the Town of Shapleigh.

Roger A. began by asking Mr. Ridley if any of the private way had been constructed yet? Mr. Ridley stated that it was all done. Roger asked if at the present time Mr. Ridley was going to stop at approximately 250 feet. Mr. Ridley was under the impression the board had to approve 200 feet of it for road frontage. Roger said the private way could go any distance, and on the plan it shows it as being 255 feet in length. Mr. Ridley said whatever Mr. Horne put on the plan is what he wanted approved.

Roger A. asked if there would be a second lot accessed from the private way? Mr. Ridley said, no. He said the lot he was proposing to create for family will be accessed from the Hooper Road.

The board continued to review the plan and specifications received. The board also reviewed §105-60.1 'Private ways.', specifically, Section E) The construction of private ways shall meet the following minimum standards:

Standard	Number of Lots Served	
	1	2 or more
Minimum roadway width (feet)	12	16
Minimum subbase (heavy road gravel, maximum size 4 inches) (inches)	12	15
Wearing surface (crushed gravel) (inches)	2	2
Maximum length of dead end (feet)	1,500	1,500
Maximum grade	10%	8%
Minimum grade	0.5%	0.5%
Turnaround at dead end	Hammerhead or T	Hammerhead or T

Steve F. noted that the private way at this time would only be serving one lot. Roger A. asked if the private way would be paved? Mr. Ridley stated it was already paved, and the paved surface would not serve more than what was already there (one lot). Mr. Ridley also stated that the plan showed the full size required (16 feet) but the pavement was actually only 12 feet wide. Roger stated that if another lot was added the pavement would have to be widened.

CEO McDonough and Diane S. asked if the drainage was on the plan? Roger said the road was crowned and there was one culvert. There are arrows on the plan that denote the movement of surface water. Roger noted that both a Licensed Engineer, John Auger, and Steven Horne, Land Surveyor, were used for this project. The surveyor depicted the location and size of the private way and the engineer stated how it is built. There is also a road cross section on the plan. Roger said that unless at the site inspection the board feels they need additional information, there appears to be enough. Mr. Ridley stated he had lived at this location for over 30 years and there has not been a water issue, other than one time when there was heavy rain and the fields were frozen, then there was some runoff. He noted the property was relatively flat.

Roger A. noted that the plan does state that the Town of Shapleigh is not responsible for the road and no maintenance agreement is required because only one residence will be using the private way. Roger said the criteria for the construction of the private way was certified by an engineer. The right-of-way needed to be a minimum of 200 feet for road frontage and it is 255 feet in length. A hammerhead turn-around was created, 24' x 24', but the paved area isn't quite to that specification, so if the private way ever accesses more than one lot the pavement will have to be widened.

Roger A. stated the board would need two mylar copies for the next meeting. One copy will get recorded at the York County Registry of Deeds, and one copy will be returned to the Planning Board for the Assessor's office, once there is a book and page number received from YCRD. The board also needs a paper copy for

the file. Roger said the mylars would have to be returned back to the Planning Board within 90 days or the approved plan will be null and void.

Roger A. stated a notice to abutters will be mailed and a site inspection will be held at 6:30 p.m. Roger will meet members on site, the other members will meet at the town hall and then go to the site.

Nothing further was discussed.

Conditional Use Permit – Repair Existing Retaining Wall – Map 27, Lot 5 (188 16th Street Loop) – Kris Glidden, Applicant

Mr. Glidden did not attend the meeting, so the application was not reviewed. Barbara F. will send a memo reminding Mr. Glidden of the next meeting and requesting his attendance.

Board members will do a site inspection prior to the next meeting.

Other:

Roland Legere asked fellow board members if a marijuana production facility was considered agricultural? He noted that Sanford was trying to slow down the number of facilities. CEO McDonough stated he had received telephone calls regarding this as well.

Barbara F. said that at this time she has several local ordinances on her desk, along with the State guidelines, this at a request of Madge B. She stated she has not had time to read them thoroughly to date but would give board members a copy to review prior to the next meeting. Roland L. asked if they were related to marijuana production? Barbara said, yes. She asked board members to review it once received, to see how it should be addressed, and by whom, the Planning Board or Selectmen, etc.

Roland L. agreed the Town should be proactive. Board members discussed whether or not it was agricultural, which does not require Planning Board review or is it a business. Roger A. believed it was a business. Barbara F. noted that after a brief review of one ordinance, she read several rules for the establishments such as they required 24 hour surveillance and outdoor lighting, a security system and the plants must be grown wholly indoors. A State license is always required.

Board members could not decide whether or not this would fall under agricultural or commercial. CEO McDonough thought at the very least it needed to be noted under §105-17 'Land Uses', put into the table, and also the board has to decide how to regulate it. If they want to require a Conditional Use Permit, it should be listed in the table. Barbara F. reminded the board that a State permit is required, regardless if it is agricultural or not. Diane S. believed they could be talking about two different things, dispensaries and actual growing sites. She thought perhaps the growing sites could be agricultural.

Board members agreed the board needed to discuss this further. Barbara F. will get a copy of current ordinances and the State's guidelines to members for future discussions.

Growth Permits

There are Growth Permits available.

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

The next meeting will be held Tuesday, April 26, 2016 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. Also, should there be a cancellation due to a storm event, holiday or Election, the meeting will typically be held the following Wednesday, also at 7:30 p.m. Please contact the Land Use Secretary if there is a question in scheduling, 207-636-2844, x404.

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

SHAPLEIGH PLANNING BOARD

MINUTES

**Tuesday,
April 26, 2016**

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

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, April 12, 2016 were accepted as read.

Construction of a Private Way – Map 5, Lot 43 (16 Hooper Road) – Douglas & Sharon Ridley, Applicants

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

At the previous meeting members received, in addition to the application, a letter from Steven Horne, LLC, Professional Land Surveyor, which gave a summary of the information provided and cited that Mr. Ridley was creating the Private Way as access and frontage for his existing single family residence which contains 15 +/- acres. The letter also referenced a ‘proposed lot’ which will contain approximately 81,000 square feet. This lot is being conveyed to a family member, therefore, exempt from subdivision review, and the new lot will not be using the new private way access but will be accessed directly from Hooper Road. The letter also spoke about the direction of storm water flow on the property and the fact there is an 8” culvert under the driveway; that the turnaround area as built is not to private way specifications (24’ x 24’) at this time but a turnaround does exist, so the applicant requests consideration to waive the requirement. And because of driveway location and the fact the driveway only serves one lot, the letter states MDEP review or a maintenance review is not required. Lastly, the letter states that the driveway cross section is depicted on the site plan.

Also provided was a site plan depicting the proposed private way and lot to be conveyed to family, drafted by Steven Horne, PLS #2389, dated 4/4/2016; a partial copy of Shapleigh Tax Map 5 highlighting the location of Lot 43; a copy of the deed for Lot 43, as registered at YCRD July 1, 1981, Book 2813, Pages 99-100; and a Memo dated 11/1/2014, from John Auger, PE #6060, citing the driveway specifications and stating that the driveway as built meets the minimum standards for a Private Way for the Town of Shapleigh.

At this evening’s meeting Mr. Ridley provided members with two mylar copies of the private way plan and one paper copy as requested at the previous meeting and required for recording purposes.

Roger A. noted the plan shows the turnaround to be 24’ x 24’, he asked Mr. Ridley if this was going to be done now or in the future (the existing turnaround is not this size at present). Mr. Ridley said he could do

it anytime. Roland L. said any questions he had were answered at the site inspection. Madge B. stated that if there were questions they needed to be recorded for information. Roland said it wasn't as much a question but it was an understanding as to what was being requested. As a result of the site visit and seeing what is there, the area that is marked off for the lot, he understood the plans before the board.

Madge B. said the plan shows the turnaround to be larger than it actually is. Roger A. stated that the plan has a notation that the area will be enlarged to 24' x 24' in the future, it actually states 'Improve turnaround area to 24' x 24'.' Roger A. reviewed §105-60.1 in its entirety as follows:

The Planning Board shall approve the use of a fifty-foot wide private right-of-way to provide frontage and access to individual lots of land in accordance with the following provisions:

- A. A plan showing the private way shall be prepared by a registered land surveyor or licensed engineer. The plan shall be labeled "Plan of Private Way" and shall provide an approval block for the signatures of the Planning Board members. The plan shall delineate the proposed way and each of the lots to be served by the private way.

Roger A. stated this has been done, it is on the plan which was done by a licensed surveyor. Only one lot will be using the private way but the lot to be conveyed is also depicted on the plan.

- B. A street plan, cross section, and drainage plan shall be submitted for each private way.

Roger A. stated this has been done, it's on the plan.

- C. The plan shall bear notes that the Town of Shapleigh will not be responsible for the maintenance, repair, or plowing of the private way and that further lot divisions utilizing the private way are prohibited without prior approval of the Shapleigh Planning Board.

Roger A. stated that it is written in the 'Notes' section of the plan.

- D. If the private way is to provide access to two (2) or more lots, a maintenance agreement shall be required by the Planning Board and recorded in the York County Registry of Deeds. The maintenance agreement shall specify the rights and responsibilities of each lot owner with respect to the maintenance, repair and plowing of the private way.

Roger A. stated that the private way will only access one lot at this time and if additional lots are added the applicant will have to come back before Planning Board, therefore, a maintenance agreement is not required at this time.

- E. The construction of private ways shall meet the following minimum standards:

Standard	Number of Lots Served	
	1	2 or more
Minimum roadway width (feet)	12	16
Minimum subbase (heavy road gravel, maximum size 4 inches) (inches)	12	15
Wearing surface (crushed gravel) (inches)	2	2
Maximum length of dead end (feet)	1,500	1,500
Maximum grade	10%	8%
Minimum grade	0.5%	0.5%
Turnaround at dead end	Hammerhead or T	Hammerhead or T

- (1) One turnout to provide space for 2 vehicles to pass shall be provided for every 500 feet of private way.
 (2) The Hammerhead or T shall have a useable surface area that is a minimum of 24 feet deep and 24 feet wide.

Roger A. stated the road standards are met for one lot with respect to road width, if additional lots are added the road will have to be widened. He stated the other minimum requirements for 2 or more lots are met at this time, even though only one lot will be using the private way.

Roger A. stated that the turnaround is not 24' x 24' usable area at this time but it shows on the plan it can be improved to 24' x 24'.

F. The plan shall be recorded in the York County Registry of Deeds within ninety (90) days of the date of the Planning Board approval. If the plan is not recorded within this time period, the approval of the Planning Board shall be null and void.

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

Roger A. stated the project is completed at this time.

I. The applicant shall pay a Private Way Application fee of \$100, payable to the Town of Shapleigh, prior to review of the Private Way Application by the Planning Board.

Madge B. asked about the 24' x 24' turnaround area, that it wasn't as wide as it should be. Roger A. stated he didn't measure it while on site but agreed it didn't appear to be 24' x 24' in size.

Roper A. stated that while on the site inspection it was asked where the driveway for the new lot would be located, access from the private way or Hooper Road. He stated that if it came from the private way there would need to be an easement. Mr. Ridley stated he was going to keep his name on the deed for the new lot, along with his nephew, so he didn't feel an easement would be needed.

Madge B. said she was still confused about the hammerhead, is it not as wide as it has to be or is it wide enough but it's just gravel? Roger A. stated it was gravel but that was all that was required. Madge asked if he had to make any changes to the private right-of-way. Mr. Ridley stated that when Mr. Plante put in the road, he was supposed to put it in to the private way standards at the time. Mr. Ridley thought the turnaround area was 16' x 16', so another four feet on all three edges may be needed. Madge asked if the board needed to condition that it be done prior to issuing a permit? She wanted to know if the standards only needed to be met in a year or two? Roger believed because his house is in, and the other property has nothing to do with the private way, he didn't think anything further needed to be done unless another lot accesses the private way then it will have to be done. Roger said at this time he needed the road frontage for his lot and this takes care of that. Roger said no one would in fact be using the turnaround at this time, but it is on the plan that it can be expanded, so he did not believe the board needed to condition that it be widened at this time. Roger said the board needed to approve the plan as submitted.

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

Madge B. made the motion to approve the private way plan as drafted by Steven C. Horne, LLC, LS #2389, dated 4/4/2016 for Map 5, Lot 43 to access a single lot. Maggie M. 2nd the motion. All members were in favor. Motion passed unanimously, 5 – 0.

Nothing further was discussed.

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**Findings of Facts**

1. The Owners of Shapleigh Tax Map 5, Lot 43 are Douglas and Sharon Ridley, of 16 Hooper Road, Shapleigh, Maine 04076. A Warranty Deed was presented as proof of ownership, registered at the York County Registry of Deeds on July 1, 1981 as Book 2813, Page 99-100.
2. The property is located in the General Purpose District and according to the Assessor's Office contains 18.13 Acres.
3. A Private Way Plan presented by Steven Horne, LLC, PLS #2389, dated 4/4/2016, shows the lot being accessed by the private way will be 15.66 acres in size when an adjacent lot is gifted to a family member. The plan also shows the private way to be 255 feet in length, 50 feet in width and having a hammerhead turnaround located 150.31' from Hooper Road; a 'typical cross section' for construction of a private way; and the site location.
4. The Private Way Plan Notes state:
  - 1) The Town of Shapleigh shall not be responsible for the maintenance, repair, plowing or similar services for the private way shown on this plan.
  - 2) Further lot divisions utilizing this private way are prohibited without prior approval of the Shapleigh Planning Board.
  - 3) Construction of the driveway within the private way shall be in accordance with Town of Shapleigh Zoning, Chapter 105, Article VI, subsection 105-60.1 Private Ways.
  - 4) Soil erosion control measures shall also conform to the York County Soil and Conservation District BMP Standards.
5. A copy of part of Shapleigh Tax Map 5 was received, with the location of Lot 43 highlighted.
6. A Memorandum to Douglas and Sharon Ridley, dated November 1, 2015, from John Auger, P.E. #6060 was received entitled Existing Private Roadway – Inspection and Certification. The memo stated Mr. Auger did a site inspection and the private way meets or exceeds the requirements of the 'Town of Shapleigh' minimum standards for a Private Way serving two or more lots.
7. A letter was received from Steven C. Horne, LLC, dated April 5, 2016, which listed the materials Mr. Ridley would be presenting to the board; that the driveway depicted on the plan was constructed in 2014 by Plante Excavation and used the standards to be able to access two lots, per Shapleigh Zoning Ordinance 105-60.1; that Mr. John Auger, PE #6060 made sure materials and grades met said ordinance; that the turn-around is not quite 24' x 24' as required but will be enlarged to those dimension if the Planning Board deems it necessary; that there is an 8" culvert to allow spring run-off to flow freely, and there has been no issue to date, also there are arrows on the plan showing the direction of exiting flow of storm water over the property; a waiver was requested for §105-60.1 (f) & (g), turning radii and centerline gradients; and it stated that because the private way only accesses one lot a road maintenance agreement is not necessary, nor does the location qualify for MDEP review.
8. A notice to abutters was mailed Wednesday, April 13, 2016. A site inspection was conducted on Tuesday, April 26, 2016, prior to the planning board meeting.
9. After review of Zoning Ordinance §105-60.1 'Private Way's, the Planning Board unanimously agreed to approve the Construction of a Private Way to access one lot, consisting of 15.66 acres, per the plans drafted by Steven C. Horne, LLC PLS #2389, dated 4/4/2016, as the private way as depicted on the plan met all the requirements in the ordinance.

10. The applicant has 90 days to register the approved plan with the York County Registry of Deeds and return a mylar copy, with the book and page number, back to the planning board. If a registered copy is not returned to the board, the approved plan will be null and void.

**Motion:**

**A motion was made on Tuesday, April 26, 2016 to approve the Construction of the Private Way plan to access one lot consisting of 15.66 acres, per the plan provided by Steven C. Horne, LLC PLS #2389, dated 4/4/2016.**

**Vote:**

By a unanimous vote of 5 – 0, the motion to approve the Construction of the Private Way plan was accepted.

**Decision:**

**The Construction of the Private Way plan was approved.**

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**Conditional Use Permit – Repair Existing Retaining Wall – Map 27, Lot 5 (188 16<sup>th</sup> Street Loop) – Kris Glidden, Applicant**

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

Mr. Glidden provided, along with the application, a mortgage survey (not a boundary survey) which depicted the location of the existing house and paved driveway and an additional smaller structure, along with a hand drawn line with an arrow pointing to it which stated ‘wall to be repaired’; two sketches which depicted the length of the wall and the height of the wall; and a picture of the existing wall.

Roger A. began by asking what type of material Mr. Glidden would be using to replace the wall with? Mr. Glidden stated 6” x 6” pressure treated lumber. Members noted how the wall was substantially leaning and Mr. Glidden believed it was never put in correctly to begin with, it wasn’t anchored properly. Roland L. asked how tall the wall was going to be and Mr. Glidden replied, 36 to 40 inches. Steve F. asked if this qualified for being under the four foot rule (anything over four feet requires an engineered plan)? Madge B. stated, yes. Madge asked when the project would be started? Mr. Glidden stated he wasn’t sure. He said he wanted to do it in the spring but he thought they may wait until after summer and do the project in the fall.

Madge B. stated the board needs a revegetation plan and therefore, they need to know when the project will be finished because that determines when the vegetation will get done. She asked if he was having someone do the project? Mr. Glidden stated he was going to hire someone and they were in the process of getting their DEP licensing. He said the person’s name was Tad Butterfield.

Roger A. asked if Mr. Glidden had applied for his DEP Permit by Rule? Mr. Glidden wasn’t sure. Roger said the board needed to know if it was mailed out. He said that after an application is received, DEP has 14 days to inform you if there are any issues with your project. If you don’t hear back within 14 years, they have no problem with what you presented to them. Roger said the board needs to know whether or not DEP has approved the project.

Madge B. asked where the old wall would be taken. Roland L. told Mr. Glidden that the Town of Shapleigh does not accept material at the transfer station for these types of project.

Madge B. stated that the board needed a revegetation plan before they can approve the project. Roger A. stated the board also needed to know the DEP Permit by Rule had been applied for and again he noted there was a 14 day turnaround for their approval or disapproval.

Madge B. noted that some of the lawn would be removed, so Mr. Glidden would have to put on the plan what he intended to do in that area. Steve F. thought he could put lawn back in. Madge stated the board preferred not to have lawn, as it wasn't as good at stormwater protection as plantings. Madge B. believed Best Management Practices had to be done and Roger A. agreed and again stated the person doing the job would need a license to do the job from the DEP, therefore, they would know silt fences or something similar would have to remain in place until the project is completed.

Diane S. stated she felt the board needed a better project plan, something better than the sketch they received. She didn't feel the sketch they received gave much information about the overall project. Other board members agreed.

Roger A. stated the board needed the following:

- 1) A revegetation plan and estimated time of completion.
- 2) A copy of the DEP Permit by Rule and when it was applied for.
- 3) A plan for the project which contains more details of what is taking place.

Steve F. told Mr. Glidden that Simpson's in Sanford would take the old timber from the existing wall.

**Roger A. told Mr. Glidden to let Barbara F. know when he had the updated plan, revegetation plan and when he mailed out the Permit by Rule, so she could put him back on the agenda 14 days out from that date.**

Nothing further was discussed.

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**Conditional Use Permit – In-home Child Day Care – Map 6, Lot 21 (342 Back Road) – Anjali Madison, Applicant**

Mrs. Madison was present for the review of her application, along with Mr. Madison.

Mrs. Madison provided, along with her application, a Septic Inspection Report done by Advanced Leachfields LLC of Westbrook, Maine, which stated the existing system which was installed in 1992 was designed for a six-bedroom home; a building sketch which shows the layout of the existing structures on site; and a boundary plan which shows existing structures in relation to the lot lines, existing right-of-way and Back Road.

Roger A. opened the discussion by asking Mrs. Madison to state what her intentions were. She began by stating she wanted to open a day care for 4 or 5 children. She said she has two boys currently with one on the way, so she felt this was her best option at present and something she wants to do.

Steve F. asked about State inspections. Mrs. Madison stated she has been working on this for some time. She said the Fire Marshal had been to her home on Monday and she has been conferring with the State



licenser and her supervisor. She stated they cannot go forward with approvals until she receives Town approval and she realizes the Town wants State approvals. She is going to talk with the licenser tomorrow about her coming out to do her inspection. She wasn't sure exactly how it's going to work. She stated she has had her background check done and there were no concerns. She said again the State licenser wanted to know how things went at the Planning Board meeting this evening.

Mrs. Madison stated there were a few things she was told she needed to do to her home before opening such as putting a gate at the top of the stairs. She said there was going to be a playroom downstairs. She said also there is a fireplace in the house, it isn't being used but it is brick so she has to put up a bumper. There also has to be bumpers around the island in the kitchen. She said she was waiting until the licenser came to the house before she purchased the bumpers so they would be the correct size etc. and she would only have to do it once.

Steve F. said the majority of what the board would be looking at are exterior things that might impact the children.

Mrs. Madison stated that the State said she could have up to 12 children but she did not want 12 children. She said to start she wanted perhaps five, this was not being done solely for financial gain. She said there may be some before and after school care. She stated the State told her that even though she didn't want 12 children at this time, she would be allowed up to 12 children and should apply for that number now. Madge B. agreed.

Diane S. asked about the hours of operation. Mrs. Madison stated the hours of operation were going to be 6:30 a.m. thru 5:30 p.m., Monday thru Friday. Diane said if she thought she may want to do Saturdays, she should say so, otherwise if it's not on the permit she will have to come back before the board to change the hours.

The board asked Mrs. Madison when she planned on opening? She stated she had completed her on-line course and thought she would start advertising in May. Then she would conduct interviews in June and open in July.

Roger A. asked if there would be a fenced in area for the play area? Mrs. Madison stated there was a small area in the backyard that would be used for a play area, but she was leaving it up to the Town as to whether or not it is required. Roger stated that it would be hard to watch all children, especially as they got older, and you wouldn't want them to get into the front yard as Back Road is a busy road and the speed limit is 45 mph. Mrs. Madison stated she didn't want to fence in her entire backyard. Madge B. read from §105-40.1 'Child day care.' Section D, 'Outside play areas shall be buffered from adjoining uses, including neighboring properties, and the parking area(s), by appropriate fencing or plantings.' The board decided they could not make a determination at this time, they will view the yard at the site inspection and determine what might be needed and the size.

Ann H. asked if she would be having any employees? Mrs. Madison stated she would not have any paid employees. She said her sister-in-law may help out for a few hours if she had to take one of her children to an appointment, maybe once a month.

Roland L. asked if there was a place to turnaround in the driveway? Mrs. Madison stated there was a turnaround in place on site. Steve F. asked how much the board reviews on the inside of the house? Madge B. stated the board looked at the outside. Roger A. agreed saying the State Fire Marshal inspected inside the house, along with the State licenser.

Roger A. stated there would be a notice to abutters mailed and a public hearing at 7:00 p.m. on Tuesday, May 10<sup>th</sup>. Prior to the Public Hearing will be a site inspection, members will meet at the Town Hall at 6:00 p.m. and at Mrs. Madison's at approximately 6:30 p.m.

Nothing further was discussed.

**Amendment to a Conditional Use Permit – Additional Boat Storage Building – Map 3, Lot 16A (86 Emery Mills Road) – Mark Parker, Applicant**

Mr. Parker was present for the review of the application, along with Jill Richards.

Mr. Parker provided, along with the application, a preliminary site plan which depicted the proposed new structure which would be approximately 46 feet from the side lot line and 142 feet from State Route 109. The structure will be 104' x 120' in size. There is also a proposed gravel access to the new building depicted and part of the existing buildings on site that will be closest to the new structure. The plan is dated 4/13/2016 and drafted by Middle Branch Professional Land Surveyors, but it is noted on the plan 'This Site Plan is for conceptual purposes only, no field work has been performed to verify the information shown hereon. The existing improvements shown hereon, were traced from an aerial overlay'.

Roger A. asked the applicants to stated what they intended to do, if there were any changes. Ms. Richards stated they wanted to continue with the addition of the storage building but wanted to come before the board to see what they wanted from them and how to proceed. She said they didn't want to incur a lot of out-of-pocket expense for additional information before knowing if the location would be approved by the board.

Mr. Parker stated they would be accessing the new building from behind the existing structure, as shown on the plan, and would not have any access to it from Route 109. Ms. Richards stated there would be no additional pavement added to the site for this project, this should help with the stormwater, allowing it to go into the ground. Mr. Parker stated the area in front of the new building is flatter than it was, so this too would help with stormwater runoff, along with a trench. Ms. Richards said there would be no pavement.

Mr. Parker said they can't do any additional work, until they know than the location of the foundation will meet with the board's approval. He said the engineers don't want to put together a plan until they know the location of the foundation, and we can't get foundation information without a location.

Roger A. asked which way the roof would pitch? Mr. Parker stated 1/2 of the roof would go toward the road and 1/2 would go the other way, much like the existing structure. Ms. Parker stated the building is the same as the existing in that you would enter it from the side, not the front.

Roger A. asked if they were exceeding the 10% lot coverage? Ms. Richards stated they were not, they were close to the 10% but they were not over.

Roland L. stated that after reviewing the minutes from a year ago, the reference to the new boat storage building stated the board would require a revegetation plan and an engineered stormwater plan. Roland said this is still an expectation. Diane S. agreed and stated the reason the new building was separated out from the addition to the existing structure was because a stormwater plan was required and the applicants had not done one at that time. Ms. Richards stated they had been in talks with an engineer and a DOT surveyor. Mr. Parker stated those who would provide this information want to know where the structure will be located. Ms. Richards stated she asked them what the best placement would be for the building and they said they couldn't do that. She said the location they chose along with the builders, they believe will cause the least

amount of disturbance and also be the least amount of work. She also added that they cannot get a price for the concrete foundation until they determine the soils and so they need the location. She said they did not want to go through the costs before the board says they will permit the location.

Roger A. stated that once the board permits a location, it will be an exact location, so the structure cannot deviate from that. Madge B. noted that they could come back before the board, if the location had to be changed, to get permission to make a change. Ms. Richards asked if they find they have to go four feet deeper or move the structure they can move it as long as they come back for permission. Roger agreed.

Ms. Richards said if they got approval for the location they want to use now, then they can move forward with the engineering. Mr. Parker said he wasn't totally confident in the engineering because when Ted's Fried Clams did their work, right up the street, they messed up. He said the water goes through the rocks, over the blacktop and straight across the road. He said once the engineer gives them plans, what if something goes wrong? Roger A. stated then the problem falls on the engineer to correct it. Mr. Parker thinks the contractor will do a better job mitigating the issue as they work than an engineer would. Diane S. said the reason for an engineered plan is because if someone were to sue Ted's because of the water issue, then Ted's can sue the person that drafted the plan. Ann H. said often the contractor and the engineer work together to fix any issues that come up during the process. Diane agreed, not the business owner.

Steve F. asked if there was any intention of building a road up to the building from Route 109 in the future? Mr. Parker stated, no. He said he doesn't want the area around the new building to pitch down. Ms. Richards stated that it added a measure of security not having direct road access.

Maggie M. agreed that the area around the new building is flatter but there still was an issue below the building where it is all rocks. Mr. Parker stated he wanted to finish that area with grass or shrubs. Diane S. stated that was part of the revegetation plan. Ann H. asked about a retention pond. Mr. Parker stated they could do that, so the water stays there longer to seep in. Mr. Parker thinks the area is already better since they flattened an area.

Roland L. asked if the stormwater plan recommended that the gable end was changed to create the runoff to both sides, would this be possible? Mr. Parker said it would be possible. He said there is only half that comes toward the road at this time. He said the building is out of square now because of the size of the building and location.

Madge B. asked if the area was marked on the ground with stakes where the building is going to be? Mr. Parker stated there were no stakes but the board could see where it will go because it is dug out. Madge said the board would be going out to see it. Mr. Parker said the surveyor is going to be staking it out. Madge said the board can't do anything more until they see the location.

**Roger A. stated members will meet at the Town Hall at 6:00 p.m. to do a site inspection on Tuesday, May 10th.** The board will hold off with notices to abutters and a public hearing until more information is provided.

Mr. William Palladino, an abutter within 500 feet of the property, on 4<sup>th</sup> Street, asked about a stormwater study, would it be done? The board stated one would be required. Mr. Palladino was worried the board would go to the site, say ok go build the building, and nothing would be done for stormwater. Roger A. said additional information will be required after the site visit which will include a stormwater report.

Mr. Parker asked if the Town was going to do anymore with the stormwater problem, as this was discussed last year. Mr. Palladino stated the Town was aware of the problem but said they can't do anything about the

water coming across the street. He said that Mr. Parker was aware of the water problem coming across the street because he made a trench last fall to help divert water. Mr. Parker said the trench was put back in because it was damaged when the loggers came through. Mr. Palladino stated that Mr. Parker knew there was a water problem. Mr. Parker agreed and said the trench was there before and they put it back in, along with a new culvert that got damaged.

Mr. Palladino said the culvert isn't a problem, and he was concerned by creating more stormwater it becomes an even bigger issue. He said he had no issue with a new building going in, he was just concerned with more water coming across the street through his yard and into his home. Roger A. said the board would be looking at it during the site inspection. Madge B. said the board may have to contact the Road Commissioner to help with this problem. Mr. Palladino said the Road Commissioner was aware of the problem. Mr. Parker noted that all the roads move the water into Mousam Lake, it is how the State has created the roads. Mr. Palladino agreed stating that before it gets to the lake it goes into his house.

**Roger A. stated to begin the board will do the site inspection.** Mr. Palladino asked the board if they want to go across the street at the same time? Roger said the board will look at it.

Nothing further was discussed.

**Other**

Madge B. stated she would create a draft proposal for regulations regarding marijuana facilities after reading current State law and other existing town ordinances. She thought this would be the easiest way to start the process. The other board members agreed.

Nothing further was discussed.

**→ June Planning Board Meetings**

**Due to elections being held on Tuesday, June 14<sup>th</sup>, the Planning Board will hold their meetings on Tuesday, June 7<sup>th</sup> and Tuesday, June 28<sup>th</sup>.**

**Growth Permits**

**Map 7, Lot 1F (Goose Pond Road) – New Home**

After careful review of Lot 1F, board members could not determine if the lot was a legal lot of record due to insufficient evidence. The board, therefore, required additional information in order to process the application, and they asked for the following:

- 1) The actual deed description for Lot 1F. The deed description received, dated February 4, 1963, appears to be for the parent lot, '1' and not Lot '1F'.
- 2) Because there is no evidence Lot 1F is part of a legal subdivision, the board needs a statement from a Title Attorney that Lot 1F is a legal lot.

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**The Planning Board meeting ended at 8:45 p.m.**

***The next meeting will be held Tuesday, May 10, 2016 at 7:30 p.m. The Planning Board meets the 2<sup>nd</sup> and 4<sup>th</sup> 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. Also, should there be a cancellation due to a storm event, holiday or Election, the meeting will typically be held the following Wednesday, also at 7:30 p.m. Please contact the Land Use Secretary if there is a question in scheduling, 207-636-2844, x404.***

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

# **SHAPLEIGH PLANNING BOARD**

## **MINUTES**

**Tuesday,  
May 10, 2016**

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

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

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**The Public Hearing started at 7:05 p.m.**

**Conditional Use Permit – In-home Child Day Care – Map 6, Lot 21 (342 Back Road) – Anjuli Madison, Applicant**

Mrs. Madison was present for the review of her application, along with Mr. Madison.

Roger A. opened the public hearing by asking Mrs. Madison to state her intentions. Mrs. Madison stated she wanted to open a child day care service for ages one to twelve. She said she would be caring for four or five children to start and may expand to more in the future. She stated these children would join her three children. Roger asked for the total number of children she would have for a maximum. Mrs. Madison stated she would ask for twelve (12), as that is the maximum amount allowed by the State, but to begin it would be four or five full time children and there may be before and after school care for siblings. Roger agreed it would be best to ask for the maximum amount of twelve, otherwise if she expanded that number, she would have to return to the board for an amendment to her approval.

Roger A. asked what the hours of operation would be? Mrs. Madison stated the hours of operation would be 6:00 a.m. to 7:00 p.m. Roger asked how many days per week? Mrs. Madison stated five, Monday thru Friday.

Roger A. asked if she would have an assistant. Mrs. Madison stated her sister-in-law may volunteer once a month on a Monday if she had to leave for a doctor's appointment for her child, where she will be having an infant there will be appointments required. She stated that when she applied to the State, she also had them do a background check for her sister-in-law and all other paperwork necessary for her to be able to step in as needed. She stated she would not be a paid employee, just someone to step in for an hour or two. She said there would be no employees, the day care will be run solely by her.

Roger A. stated there are age limits with respect to the number of people required per age group. Mrs. Madison stated that she was aware of that.

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

The public hearing closed at 7:10 p.m.

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

The minutes from Tuesday, April 26, 2016 were accepted as read.

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**Conditional Use Permit – In-home Child Day Care – Map 6, Lot 21 (342 Back Road) – Anjuli Madison, Applicant**

Mrs. Madison was present for the review of her application, along with Mr. Madison.

At the initial review of the application, Mrs. Madison also provided a Septic Inspection Report done by Advanced Leachfields LLC of Westbrook, Maine, which stated the existing system which was installed in 1992 was designed for a six-bedroom home; a building sketch which shows the layout of the existing structures on site; and a boundary plan which shows existing structures in relation to the lot lines, existing right-of-way and Back Road. She also stated there were a few things she was told she needed to do to her home before opening such as putting a gate at the top of the stairs, putting a bumper in front of the existing fireplace and bumpers around the island in the kitchen. Mrs. Madison intention was to start advertising her business in May, conduct interviews in June, and open in July.

Roger A. began review of the pertinent ordinances for a child day care facility for up to 12 children.

- 105-21 – Traffic. *Roger A. stated access to the site was safe (minimum site distance in this location is 315 feet at 45 mph). Roger stated at the site inspection it was noted the site distance was in excess of 315 feet.*
- 105-22 – Noise. *There will be no noise generated from the activity, other than children playing in the backyard.*
- 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.*
- 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. *All activity will take place within or behind the home. No activity shall take place in the front yard.*
- 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. Water quality should be monitored but it is not required by the Planning Board.*
- 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.*
- 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.*
- 105-40.1 – Child day care.
  - A. A child day-care home or center may be conducted as a conditional use.  
*Roger A. stated that this is why the applicant was before the board.*
  - B. A child day-care home shall be allowed in a single-family dwelling located on a residential lot that meets the minimum lot size requirement, providing care for up to 12 children, which charges for their care and which holds all legally required licenses and approvals by the Town of Shapleigh and the State of Maine.  
*Roger A. stated the lot was greater than 2 acres in size so the minimum lot size is met.*

- (1) A child day-care home may also include part-time care. “Part-time” in this use shall mean four hours per day, per child.
- (2) The parking area shall be large enough to accommodate the two spaces required for the dwelling unit, as well as two additional spaces minimum.

***Roger A. stated that it was important that the applicant not allow people to back out onto Back Road, so a turnaround area must be provided. Mr. Madison stated that her husband’s car would not be home as he would be at work and that her car would be in the garage, therefore, there will be ample room for vehicles to turn-around in her yard. She asked if she had to put it in writing that people needed to use the turn-around? Roger stated that she just needed to be sure they understood they had to use the turn-around area to prevent accidents. Mrs. Madison stated that she understood.***

**105-46** – Sanitary provisions. ***There is an existing State approved septic system on site for the home.***

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

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

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

- 1) Vehicles shall not be allowed to back out onto the Back Road. All vehicles shall use the existing turn-around on site.**
- 2) The hours of operations shall be 6:00 a.m. thru 7:00 p.m., Monday through Friday.**
- 3) The in-home day care shall not open for business until all required State permits are obtained and a copy of the permits are given to the Planning Board.**

**Maggie M. made the motion to approve the Conditional Use Permit for an in-home child day care for up to 12 children on Map 6, Lot 21, with the above stated three conditions. Madge B. 2<sup>nd</sup> the motion. All members were in favor. Motion passed unanimously, 5 – 0.**

Nothing further was discussed.

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The Findings of Facts

- 1. The owners of Shapleigh Tax Map 6, Lot 21, are Aaron and Anjuli Madison of 342 Back Road, Shapleigh Maine 04076. The property is located in the General Purpose District and according to the assessing file, the property is 2.79 acres in size.**
- 2. The applicant is before the board for a Conditional Use Permit to open an in-home child day care for up to 12 children in the existing residence.**
- 3. Received, along with the application, was a copy of a Building Sketch which depicted the size of the existing residence, showing the dimensions of the first and second floor, along with the size of an existing shed on site. Also provided was a parcel description showing the location of the existing structure on the property in relation to the lot lines and Back road; and a Site Inspection Report from**

Advanced Leachfields LLC, of Westbrook, Maine, which stated the existing septic system was installed in 1992 and was designed for a six-bedroom home.

4. Meetings were held on Tuesday, April 26, 2016 and Tuesday, May 10, 2016. A notice was mailed to all abutters within 500 feet of the property on April 27, 2016. A site inspection and a Public Hearing were held on May 10, 2016.
5. After careful consideration of all information received, the pertinent Zoning Ordinances, including §105-40.1 'Child day care', the Planning Board unanimously agreed to approve the Conditional Use Permit to open an in-home child day care for up to 12 children on Shapleigh Tax Map 6, Lot 21, with three conditions.
6. **The conditions of the permit are:**
 - 1) **Vehicles shall not be allowed to back out onto the Back Road. All vehicles shall use the existing turn-around on site.**
 - 2) **The hours of operations shall be 6:00 a.m. thru 7:00 p.m., Monday through Friday.**
 - 3) **The in-home day care shall not open for business until all required State permits are obtained and a copy of the permits are given to the Planning Board.**

Motion:

After careful consideration and a review of all material presented to the Board, a motion was made on Tuesday, May 10, 2016, to approve the Conditional Use Permit for an in-home child day care for up to 12 children on Shapleigh Tax Map 6, Lot 21, with the above stated three conditions.

Vote:

By a unanimous vote of 5 – 0, the motion to approve the Conditional Use Permit for an in-home child day care for up to 12 children on Shapleigh Tax Map 6, Lot 21 was accepted.

Decision:

The Conditional Use Permit application for an in-home child day care for up to 12 children on Shapleigh Tax Map 6, Lot 21 was approved.

Amendment to a Conditional Use Permit – Additional Boat Storage Building – Map 3, Lot 16A (86 Emery Mills Road) – Mark Parker, Applicant

Mr. Parker was present for the review of the application, along with Jill Richards.

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

At the initial review, Mr. Parker provided a preliminary site plan which depicted the proposed new structure which would be approximately 46 feet from the side lot line and 142 feet from State Route 109. The structure will be 104' x 120' in size. There is also a proposed gravel access to the new building depicted and part of the existing buildings on site that will be closest to the new structure. The plan is dated 4/13/2016 and drafted by Middle Branch Professional Land Surveyors, but it is noted on the plan 'This Site Plan is for

conceptual purposes only, no field work has been performed to verify the information shown hereon. The existing improvements shown hereon, were traced from an aerial overlay’.

Board members, during the meeting of Tuesday, April 26, 2016, stated that a stormwater plan would be required, as well as a revegetation plan prior to approval or additional review. Mr. Parker requested that the board do a site visit to decide if the proposed building location would meet their approval, because a stormwater plan or revegetation plan cannot be devised until the building location is known. Board members agreed to do a site inspection, which took place this evening.

Roger A. stated after the site inspection the board wanted to give some input on how to proceed. Roger said this was before the board as an amendment due to the fact there is an increase in floor space for the business. Roger said one of the things the board needs is a stormwater design. Roger noted under the standards applicable for a conditional use it states criteria for the permit, he cited (8) ‘A stormwater drainage system capable of handling a fifty-year storm without adverse impact on adjacent properties has been designed’; and (9) ‘Adequate provisions to control soil erosion and sedimentation have been made’. He stated these two items need to be addressed.

Roland L. asked if a revegetation plan would also be required? Madge B. stated, yes, and noted the board has stated it several times. She also believed the revegetation would help with the stormwater.

Roger A. reviewed §105-26 ‘Stormwater runoff’ and §105-27 ‘Erosion control’ in their entirety. Roger then read §105-34 ‘Access control on Routes 109 and 11’, which reads: ‘Land lying on Routes 109 and 11 may be divided into lots, but all vehicular movements to and from the highway shall be via a common driveway or entranceway serving adjacent lots or premises. All lots of record existing at the time of the ordinance amendment shall be allowed direct access to Routes 109 and 11, provided that minimum safe sight-distance standards can be met’. He noted that there may be a road put in temporarily to construct the new building but after construction is complete, the road will have to be closed off as no new access from Route 109 can be put in, they will have to use the existing entrance.

CEO McDonough asked Mr. Parker if he wanted a new access? Mr. Parker stated his only concern was if he needed a fire truck to get to the structure. Roger A. stated that with the way the ordinance is written all vehicles have to come through the existing driveway. Jill Richards asked why? Roger stated that they already have one entrance and that is all that is allowed. She stated that this is a new lot. CEO McDonough explained that the ordinance only allows existing lots to maintain their access onto Route 109. The purpose is to reduce the number of entrances as each creates a hazard coming onto a main road. Roger said if he himself owned the lot, he would have to see if he could join with a neighboring driveway for access. Ms. Richards asked if they could have a temporary entrance? Roger said they could but it would have to be removed once construction is complete.

Roger A. noted that the other entrance they have on the existing lot was in question in the past as to whether or not it was a legal entrance. Steve F. asked how long this has been in the ordinance. Roger was not certain but because there is no date listed, it has been in the ordinance for a long time.

Steve F. asked if the structure was going to be a metal building? Mr. Parker stated, yes. Ann H. stated there was concern if the existing area, where the gate is located, would be wide enough for a fire truck. Mr. Parker said he thought size wise a truck would be able to go thru because a pontoon boat will fit in that area. Maggie M. stated perhaps there should be a condition of approval that there is an area cleared and large enough for a fire truck to be able to access the new building.

Madge B. stated that after looking at the minutes from the previous meeting, what Mr. Parker wanted to know was if the proposed location of the new structure would be approved by the board. She thought the board should make a statement regarding this. She said she had no issue with the proposed location. She felt it was back far enough. Ann H. stated there was no way of knowing if putting a building in this location would make stormwater worse until a stormwater plan is created. Madge stated, correct. Madge agreed that it would be best to have no building there but if there is a building she felt the location was a good location. Roger A. and Diane S. agreed.

Madge B. thought Steve F. wanted the entrance wider from a fire perspective. Steve said he also wondered if there should be a Knox Lock Box on the gate, so the fire department has access. Roger A. stated that only one access can be utilized. Mr. Parker asked if he put the property in another name could he have a driveway on it. Roger said no, he would have to try to share a neighboring existing access. Steve said the State would allow the entrance but Shapleigh Ordinance would not. CEO McDonough stated that grandfathered lots would be granted a right-of-way but this is a new lot. Mr. Parker stated he understood.

Mr. Parker asked if he could change the location of the existing access. CEO McDonough stated he would need to put it on the plan. Steve F. asked if he wanted to move the existing? Mr. Parker said perhaps. Ms. Richards asked if they could utilize the existing second entrance? Maggie M. did not believe it was a legal access. CEO McDonough asked why it wasn't legal? Maggie said they were only allowed one and they have one they are using. CEO McDonough stated that they have two existing entrances now, he thought it was grandfathered. Roger A. believed they were created when the buildings went in. CEO McDonough stated he would consider them grandfather due to the length of time they have been in existence.

Roger A. stated that currently the board needs a stormwater plan for a fifty-year storm, a revegetation schedule and to ensure they do not exceed the 10% lot coverage including the building overhangs.

Madge B. asked if paved driveways count toward the 10% lot coverage. Roger A. and CEO McDonough stated, no. She said, just the buildings. Roger said, yes.

Diane S. stated that they need to put the driveway on the plan if they are going to relocate it. Mr. Parker stated, yes, if we are going to relocate it. Diane said whatever they are going to use to access the new building should be on the plan.

Barbara F. asked if she needed to put off notify abutters and holding a public hearing until the additional information was ready for the board. Roger A. stated, correct.

Nothing further was discussed.

Other

Madge B. brought in her initial draft of proposed changes to the Zoning Ordinance in relation to regulating Marijuana Dispensary's. She provided the board with a copy and it read as follows:

Draft 5/9/16 by Madge Baker

Registered Marijuana Dispensary zoning regulations for the Town of Shapleigh

1. Add to 105-15 a new definition for Registered Marijuana Dispensary (I have not researched the state definition yet)

2. Amend 105-17 to add Registered Marijuana Dispensary and associated growing facility as a prohibited use except in the GP district.
3. Amend 105-18 to state that a Registered Marijuana Dispensary shall be located on an 80,000 sq. ft. lot with 200 feet of frontage on a public road.
4. Add a new 105-61.6 Registered Marijuana Dispensary
 - a. Only one Dispensary shall be allowed in the Town.
 - b. A valid state license shall be submitted with the application for a CU permit.
 - c. The associated growing area for the Dispensary shall be treated as a principal use and shall be located on 2 acres with 200 feet of frontage on a public road, whether the associated growing area is on the same lot as the Dispensary or is on a separate lot.
 - d. The CU permit shall be renewed annually by the Planning Board only if the owner presents a valid, current state license at the time of renewal and all zoning regulations are being complied with.
 - e. All applicable performance standards of the Shapleigh Zoning ordinance for a CU permit shall be met by the applicant.
 - f. A public hearing is required by the Shapleigh Zoning ordinance. Notice of the hearing shall be sent to the York County Sheriff's Department, the Shapleigh Fire Department, and the Board of Selectmen in addition to the recipients designated in the Shapleigh Zoning ordinance. Attendees at the public hearing will not be permitted to ask detailed questions about the security system(s) or the interior layout of any building.

Madge B. began by stating it was her opinion to have one person draft something rather than sitting as a group. She offered to do this and she reminded the board that nothing would happen with this until next March (2017). She said she remained skeptical that the board needed to spend much time on this at the moment, but it at least gives the board a starting place, so as the board gets closer to next March the board could use this. She said that a lot could happen on the State level, so it may change the boards' views.

Madge B. stated that towns seemed to be worried about getting more than one dispensary, so she put in only one per town. She said she had the sense that the concern is, if a town allowed them in they would become a center for the dispensing of marijuana. She did not share that view, that Shapleigh would become the State's dispensary for marijuana.

Madge B. said they do need a valid State permit, as the State is the one that regulates this and since the State license has to be renewed every year the Town should also do so. She did not get in to how much the Town would charge. She said that could be figured out.

Madge B. said the Public Hearing issue is tricky because there is some concern about how much you want the public to know about what is going on in the building which could attract people who might try to break in. She said she suggested that the Planning Board would look at the location and site distances and that kind of thing but not permit comment at a public hearing as to what would be going on inside with respect to growing. She said the State regulates the growing and doesn't allow it to be grown outside, so she didn't feel the board needed to keep repeating what the State does not allow.

Ann H. believed you had to keep the growing part separate from the dispensary. Madge B. disagreed, she believed it could be at the same location. She said it is all regulated by the State and there has to be a growing facility connected to the dispensary and they can be on the same parcel or they can be on two different parcels. Ann wanted to know if the board would want them on the same? Madge didn't see any problem with that, because the same people will run both, normally. Ann stated the growers had to be in a windowless growing facility. Madge stated, correct. Ann said they need a security system. Madge stated, correct. Ann said there were different rules for the dispensary. Madge said, correct. Ann said the dispensary needed a contract with the growers. Madge again said, correct. Ann wasn't sure about putting the two together. Madge stated it was her understanding they can be put together, located on one parcel or on two separate parcels.

Madge B. said this was not the final draft but it was a starting point. She said she would be glad to make changes now if the board thought it was necessary.

Steve F. agreed the board shouldn't spent a lot of time going over this now. He questioned if going down the road, it becomes legal in November, does that mean if people want to grow a greenhouse full of pot, will the board have any say over it? Diane S. said it depends on what the wording is on what is voted on. Madge agreed. Steve asked if marijuana becomes completely legal in November, would the board just be dealing with someone that wanted to dispense it to the public, not the greenhouse part? Roger A. thought the greenhouse was part of the business. Steve asked if he had a greenhouse full of marijuana for himself, would it be regulated? Diane S. and Maggie M. thought there would be a specific legal amount but it has not been written yet as to what that would be. Diane also did not believe it would be legal right away. Madge B. believed the State would regulate it and Shapleigh's ordinance would have to reflect that. Roger said one condition with respect to the State is no Town can be more strict than the State. Madge said that would continue to be true, even if it becomes legal. She stated it would become like alcohol. Diane added that it would be taxed where it is sold.

Ann H. asked how the Town regulated bars. Roger A. stated the business was a Conditional Use Permit but the alcohol was regulated by the Selectmen. Madge B. said it was licensed by the State. She said at the moment it is all speculation and she said again, she didn't feel the board needed to spend a lot of time on it.

Nothing further was discussed.

Comprehensive Plan

Madge B. believed they were up to the sections that the Planning Board had nothing to do with, so she asked what was next? Economic Development, Road and Transportation, Public Services, Historic Resources, Regional Coordination, and Capital Investments were all issues for the Board of Selectmen. The next section, called the Implementation Matrix, was the next step. Barbara F. stated in this section the board reviewed whether or not this was ongoing at this time, if it was something to do in the future, or if it was no longer something the board dealt with. Madge B. then questioned if this meant all the things previously discussed would go into these boxes in some form? Barbara wasn't sure if it was what they reviewed or if there was additional information in this section.

Madge B. quickly reviewed the first page and much of that page would be ongoing from 2016 forward. She wasn't sure if more information needed to be added. Some things were for the Selectmen. Rather than go on with this section, Madge suggested she and Barbara go over it and make changes and suggestions then review that with the board to make it easier and quicker to go thru. CEO McDonough asked about a workshop on the material. Madge did not think that was a bad idea but again suggested she begin the process, making it less time consuming.

It was agreed she would contact Barbara F. and set up a time to review the material and it will be brought back to the board at a meeting in the near future.

There was also a general discussion on what the board looks at with respect to the review of how growth impacts the town. CEO McDonough wanted to be certain there was actual data reviewed. Roger A. spoke of things such as impact to the schools, roads, infrastructure, etc. It was not just a number picked but how additional homes impact Shapleigh and what would be considered manageable growth.

Roger A. also stated the board has the ability to review the Comprehensive Plan in five years instead of ten, if there seems to be issues affecting the town that need further control.

Madge B. noted there may be a need in the future for a workshop with the Selectmen once the Planning Board has drafted their information.

Nothing further was discussed.

ELECTION OF OFFICERS

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

Diane Srebnick 2nd the motion.

Roger Allaire accepted the nomination.

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

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.***

Madge Baker nominated Barbara Felong as Secretary.

Diane Srebnick 2nd the motion.

All members were in favor.

It was also noted that the Selectmen were also in charge of who filled this position and actually hired Barbara for the position.

Growth Permits

Map 7, Lot 1F (Goose Pond Road) – New Home

At the meeting held on April 26th, the board could not determine if the lot was a legal lot of record due to insufficient evidence, therefore, the board required the following:

- 1) The actual deed description for Lot 1F. The deed description received, dated February 4, 1963, appears to be for the parent lot, '1' and not Lot '1F'.
- 2) Because there is no evidence Lot 1F is part of a legal subdivision, the board needs a statement from a Title Attorney that Lot 1F is a legal lot.

Mr. Berube provided a legal document from Attorney Jessie L. Krall, dated May 4, 2016, which stated that the subject lot did not appear to violate the subdivision provisions set forth in 30-A MRSA §4002. She also provided the proposed legal description, together with a copy of the Plan use to prepare the description.

Based on the information received the board approved the growth permit. Growth Permit #04-16 was assigned to Map7, Lot 1F.

→ **June Planning Board Meetings**

Due to elections being held on Tuesday, June 14th, the Planning Board will hold their meetings on Tuesday, June 7th and Tuesday, June 28th.

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

The next meeting will be held Tuesday, May 24, 2016 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. Also, should there be a cancellation due to a storm event, holiday or Election, the meeting will typically be held the following Wednesday, also at 7:30 p.m. Please contact the Land Use Secretary if there is a question in scheduling, 207-636-2844, x404.

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

SHAPLEIGH PLANNING BOARD

MINUTES

**Tuesday,
May 24, 2016**

Members in attendance: Roger Allaire (Chairman), Maggie Moody (Vice Chairman), 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 7:30 p.m.

The minutes from Tuesday, May 10, 2016 were accepted as read.

Conditional Use Permit – Repair Existing Retaining Wall – Map 27, Lot 5 (188 16th Street Loop) – Kris Glidden, Applicant

Lance Richardson was present for the review of the application, as Mr. Glidden was unable to attend.

During the initial review on Tuesday, April 26, 2016, Mr. Glidden provided, along with the application, a mortgage survey (not a boundary survey) which depicted the location of the existing house and paved driveway and an additional smaller structure, along with a hand drawn line with an arrow pointing to it which stated ‘wall to be repaired’; two sketches which depicted the length of the wall and the height of the wall; and a picture of the existing wall.

This evening Mr. Richardson provided a letter to the board from Mr. Glidden which gave him permission to represent Mr. Glidden at the meeting; a copy of the Certification in Erosion Control Practices certificate for Mr. Tad Butterfield, who will be performing the work to rebuild the wall; a sketch of the existing wall location in relation to the high water line and length of structure to be repaired; a front elevation sketch which depicted the height and location of the wall to be replaced, the block wall that will remain in place and the fact lawn will be behind the new wall; 2 sketch plans depicting how the wall will be constructed; the application for DEP Certification in Erosion and Sedimentation Control Practices for Mr. Tad Butterfield; and a picture of the existing wall.

Roger A. stated that at the previous review the board asked for a revegetation plan, an estimated completion date, and a copy of the DEP Permit by Rule. Mr. Lance Richardson stated that he had copies of the plan that were more clear than what was originally presented and he gave them to the board members.

Diane S. asked what the height of the new wall would be, looking at the sketches she couldn’t tell. Mr. Richardson stated that it ranged in height from 36” to 42” at the highest point.

Madge B. stated that the board had talked about the fact that lawn was listed as the revegetation plan and she didn’t think lawn was the best choice. She noted on the new sketch it still noted lawn as what would be around the new wall. CEO McDonough wanted Mr. Richardson to know that no fertilizer was allowed within 100 feet of the water, so he thought it would be hard to replace lawn with the type of soil present. He also pointed out that they were going to be digging down four feet and back three feet and then piling the earth up, therefore, there would be quite a large area of disturbance.

Mr. Richardson stated that they would be removing railroad ties which were not good for the environment. Roger A. asked what the time of completion would be? Mr. Richardson was not certain, he thought it was going to be done as soon as possible. Roger asked if the board set a completion date of September 15, 2016, if that would work? Mr. Richardson believed it would. Roger said that if this date did not work, then the applicant would have to provide a new date of completion. Madge B. stated they wanted to be sure the area was revegetated at a time that the vegetation could be established, if it is too late in the season it becomes an issue.

Maggie M. asked about putting in blueberry bushes in instead of grass, she believed it would take better. Mr. Richardson was not sure if the applicants had discussed this. He noted that the applicant did plan on leaving the birch trees that were on site. Madge also thought blueberry bushes would be easier, as they would grow much better in the soil that is present than lawn.

Roger A. stated the wall height would 42 inches for 24 feet and then there was another 24 feet that would be 36 inches in height, 16 feet on one side and 8 feet on the other.

Roger A. asked if there were any questions for Mr. Richardson and there were none. Roger said after the site visit it appeared to be very straight forward, the wall would be replaced in the same location, 50 feet back from the high water mark.

Roger stated conditions of the permit would be:

- 1) The person doing the work has to be certified by the DEP in erosion control practices. Roger noted that a copy of the certificate for a Tad Butterfield was provided. The actual certification number will have to be presented to the Code Enforcement Officer.
- 2) The project is to be completed, including revegetation, by September 15, 2016.
- 3) No fertilizer shall be used within 100 feet of the high water mark.
- 4) The existing railroad ties to be removed shall be taken out of town for disposal, they cannot be taken to the Shapleigh transfer station.

Madge B. thought blueberry bushes would be easier to grow below the new wall than lawn. She asked if the board could request blueberry bushes be added? She did not think lawn would take in the sandy soil without fertilizer and none was allowed. Mr. Richardson said there were three small birch trees on site now that would not be disturbed. Madge didn't mind if there was lawn above the wall, up to the wall but again she didn't think it would fare well below the wall area. Roger A. stated they could request that the birch trees remain in place. Ann H. asked if they could use sod below the wall? Madge thought that might work if they don't want blueberry bushes.

CEO McDonough stated that they could make it a condition of approval that the existing trees be kept alive or replaced. Roger A. didn't feel that due to the distance from the wall that the trees would be affected by the project. Roland L. agreed, but if they do get damaged or die off they should be replaced. Madge B. requested that the area below the wall be required to have either sod or blueberry bushes.

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

- 1. All fertilizer shall be banned within 100 feet of the high water mark.**
- 2. The project shall be completed by September 15, 2016, including all revegetation.**
- 3. The person doing the work shall be certified in erosion control measures by the DEP and the certification number shall be given to the Code Enforcement Officer.**
- 4. The existing railroad ties to be removed shall be taken out of Shapleigh and brought to Simpsons in Sanford or a similar location for disposal.**

5. **The existing birch trees shall remain in place, if they die off they shall be replaced.**
6. **The disturbance on the lower portion of the wall shall be revegetated with either sod or blueberry bushes. The top of the wall shall be grass.**

Roland L. made the motion to approve the conditional use permit to replace the existing retaining wall on Shapleigh Tax Map 27, Lot 5, per the plans provided and with the above stated six conditions. Maggie M. 2nd the motion. Members voted for approval, 5 – 0. The motion passed unanimously.

Nothing further was discussed.

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### **Findings of Fact**

1. The owners of Shapleigh Tax Map 27, Lot 5, 188 16<sup>th</sup> Street Loop, are Kristan and Stacy Glidden of 34 Creek View Drive, Eliot, ME 03903.
2. The property is located in the Shoreland District and according to the assessing file, it contains .69 acres.
3. The applicants are before the board for a Conditional Use Permit to replace the existing retaining wall. The original application was dated 3/16/16. The final detailed project description states: Old retaining wall is falling towards lake and is in need of repair.
4. Received was a mortgage survey (not a boundary survey) which depicted the location of the existing house and paved driveway and an additional smaller structure, along with a hand drawn line with an arrow pointing to it which stated 'wall to be repaired'; two sketches which depicted the length of the wall and the height of the wall; and a picture of the existing wall.
5. Also provided was a letter to the board from Mr. Glidden which gave Mr. Lance Richardson permission to represent him at the meeting on May 24, 2016; a copy of the Certification in Erosion Control Practices certificate for Mr. Tad Butterfield, who will be performing the work to rebuild the wall; a sketch of the existing wall location in relation to the high water line and length of structure to be repaired; a front elevation sketch which depicted the height and location of the wall to be replaced, the block wall that will remain in place and the fact lawn will be behind the new wall; 2 sketch plans depicting how the wall will be constructed; the application for DEP Certification in Erosion and Sedimentation Control Practices for Mr. Tad Butterfield; and a picture of the existing wall.
6. A site inspection was held on Tuesday, April 26, 2016 and a notice was mailed to all abutters within 500 feet of the property on May 13, 2016. Meetings were held on April 26, 2016 and May 24, 2016.
7. The Planning Board unanimously agreed to approve the Conditional Use Permit to replace the existing retaining wall for a distance of 48 feet, and it shall not exceed 42 inches in height, on Shapleigh Tax Map 27, Lot 5, per the plans provided with six conditions.
8. **The conditions of the permit are:**
  1. **All fertilizer shall be banned within 100 feet of the high water mark.**
  2. **The project shall be completed by September 15, 2016, including all revegetation.**
  3. **The person doing the work shall be certified in erosion control measures by the DEP and the certification number shall be given to the Code Enforcement Officer.**

4. The existing railroad ties to be removed shall be taken out of Shapleigh and brought to Simpsons in Sanford or a similar location for disposal.
5. The existing birch trees shall remain in place, if they die off they shall be replaced.
6. The disturbance on the lower portion of the wall shall be revegetated with either sod or blueberry bushes. The top of the wall shall be grass.

**Motion:**

After careful consideration and a review of all material presented to the Board, a motion was made on Tuesday, May 24, 2016, to approve the Conditional Use Permit to replace the existing retaining wall for a distance of 48 feet, and it shall not exceed 42 inches in height, on Map 27, Lot 5, per the plans provided with the above stated six conditions.

**Vote:**

By a unanimous vote of 5 – 0, the motion to approve the Conditional Use Permit to replace the retaining wall was accepted.

**Decision:**

**The Conditional Use Permit to replace the existing retaining wall was approved.**

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**Letter from Robert & Elaine Hamel Regarding Junkyard Properties**

Mr. & Mrs. Hamel were present for the review of the letter they presented.

The Planning Board received a copy of a letter from Mr. and Mrs. Hamel, dated May 2016. The letter began by stating its intent was to bring awareness before the proper authorities, regarding a very serious situation that has developed over the last 5 years in Shapleigh with respect to junkyard properties. Note: The letter can be read in its entirety at the Town Hall; the Selectmen, Planning Board and Code Enforcement Officer received a copy of the letter along with pictures of a neighboring property of concern from the Hamel's.

Roger A. began by stating the board members received a copy of the letter and noted that under Shapleigh's Ordinance 105-17 'Land uses', automobile graveyards and junkyards are regulated in accordance to State law and would require a Conditional Use Permit by the board. Roger stated that they are not allowed anywhere except in the General Purpose District and again noted they are 'regulated' by the Planning Board. He said with respect to enforcement, as to whether or not someone has a junkyard, that falls under the jurisdiction of Code Enforcement. If it is deemed there is an unregulated junkyard, the Code Enforcement Officer would have to get the property owner to clean it up.

Roger A. stated there is a definition of a junkyard in the ordinance, it is defined as:

Junkyard – A yard, field or other area used as a place of storage for:

- A. Discarded, worn-out or junked plumbing, heating supplies, household appliances and furniture.
- B. Discarded, scrap or junk lumber.
- C. Old scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material.
- D. Garbage dumps, waste dumps and sanitary fills.

Mrs. Hamel spoke of the neighboring property, how small the property itself was and how it was covered in numerous items that are listed in the definition of a junkyard. She stated the odor from the items alone was horrible and she was certain things had to be leaching into the soil. Mrs. Hamel pointed out that CEO McDonough had been to the site many times and made attempts to have them clean up the property. She stated the property gets cleaned up just enough so it doesn't look as bad from the road and then after several months it returns to the original condition or worse. She said again how bad it smells during the hot summer months and that there is so much debris on site now it is hard for anyone to maneuver on site and get around it. She stated there was not only material outside but also a shed filled with it as well.

Diane S. asked if the Hamel's had their well tested for contamination? Mrs. Hamel stated that they had not to date.

Mrs. Hamel stated that she had asked CEO McDonough if they could put up a fence and he stated that they could but it had to be 10 feet from the property line. She noted that the residents of the neighboring property put their shed right 'on' the property line to be antagonistic and wondered why she had to stay 10 feet from the property line? She noted again that the shed was full of junk, as you can see into the window and it is piled high. CEO McDonough asked when this shed was put there, because he would not have permitted a shed on the property line? Mrs. Hamel stated that the shed was in a different location but after they were cited the last time they moved the shed onto the property line in what she believed was retaliation.

Ann H. asked if there were any children living in the camp? Mr. Hamel stated that he believed there were two children, one was very young and one about 13 years old. Ann and Diane S. wondered if child protective services should be contacted? They asked Mrs. Hamel if she contacted anyone and she said she had not. She said she was concerned as the back of the camp was full of mold and she could smell it on her property, therefore, she knew the children were having to breathe in this unhealthy environment.

Mrs. Hamel again stated that she had to follow the rules and felt her neighbor should have to as well. The board agreed but stated that rewriting the rules was not the answer, it was enforcement of the existing rules that had to take place. CEO McDonough agreed. He stated that he had cited the neighbors, located on Shapleigh Tax Map 24, Lot 2, twice last fall and there was an attempt made by the residents to make the area look presentable. He said although he felt the area was 'borderline' it was still much improved from what it looked like prior to the notice of violation. CEO McDonough, looking at the current photos from May of this year stated that it was apparent the yard was once again in violation and perhaps even worse that it had been originally.

Madge B. asked why the Town could not force the residents to clean up the property under the existing rules? CEO McDonough believed the Town can but you when it gets to be this extreme most often court action is necessary and to do this you need approval from the Selectmen to proceed. He also noted that if the people do not have the resources to clean up a property then the Town is left to do it and currently there is no fund to clean up junkyard properties established. Mr. and Mrs. Hamel believed the residents had the money to clean up the property since they had the money to buy cigarettes, fireworks, etc.

Mrs. Hamel also noted the large number of tires on site. CEO McDonough stated that in fact you are allowed a large number of tires per State DEP rules, more than most people realize, they just have to be covered. He also noted that you are allowed two junk cars plus two cars you own that are registered and sometimes these cars look as bad as the junk cars. He said you are also allowed a boat, rototiller, lawn mower, etc. He said the property has to be egregious in general for it to get to the level of a fine and you can only impose a fine after it goes to court. He was not saying that this property was not at that level, he just was speaking of junkyards in general. He also stated that the Town would need a general maintenance code to create a fund to clean up junkyard property but it can be done.

Diane S. wanted to know if there was a Board of Health in Shapleigh? CEO McDonough was not sure, he thought matters relating to a health issue would be brought to the Selectmen, such as garbage left on a property, again because they would have to authorize further enforcement. Mrs. Hamel noted that skunks would come into the yard at night attracted to the odors on the neighbor's property.

The board members asked the Hamel's if other neighbors would be willing to come in to complain about the property? Mrs. Hamel stated that they were afraid of retaliation. She noted that she and her husband put in a security system for protection themselves. Ann H. told her she could notify the Sheriff. Mr. Hamel stated that they did contact the Sheriff's office and were asked if they were threatened. Mrs. Hamel stated that the threats were made on Facebook but not directly. She said they knew what the neighbor meant. She said that the neighbor had no respect for CEO McDonough, or anyone else for that matter. CEO McDonough stated that was clear. It was noted that with the last violation, the Town had to use the Sheriff's office to deliver the violation as they would not acknowledge that they had received a letter after several attempts were made and would not pick up the certified letter.

Roger A. stated again that all the Planning Board had to work with was the Zoning Ordinance with respect to regulating a junkyard, they could not do anything about an illegal junkyard, that was an enforcement issue. Roger stated that the board could look at the existing ordinance to see if anything additional should be added but again, someone not following the ordinance was not a Planning Board issue, it was enforcement. He agreed with CEO McDonough that only the court system could impose a fine, it is not something that you put in the Zoning Ordinance.

Roger A. also agreed with CEO McDonough that in the past the Town wanted to clean up properties and it was brought up as to what to do with them but in the end, because there is no money set aside, nothing was done. He stated that others in the past have talked about setting up a fund and then using the money to pay the Road Commissioners, because they have equipment that they could use for a cleanup such as dump trucks and backhoe's etc., but no one could agree to create the fund, so the discussion never went any further. He said it became a dead end.

Mrs. Hamel again noted that she did not believe money was an issue for her neighbor, talking about the fact both she and her husband and the neighbor in question had to get an attorney, when the neighbor was trying to take part of their land. She said they had money to get an attorney.

CEO McDonough stated that collecting fines by the Town is not legal in the State of Maine, so he was not sure changing the existing ordinance is the answer. He believed it was an enforcement issue, the Selectmen would have to back the issue of enforcing this to the next level which is taking the violator's to court. He suggested that that is likely the next step in this case, since a notice of violation did not solve the problem.

Mrs. Hamel asked why CEO McDonough cannot go 'onto' a property to look at whether or not a person is cleaning up the violation, especially if there is a legitimate complaint? CEO McDonough stated it is because a violation is alleged until a judge states that it is an actual violation. Once that happens, then you have a legal right to enter the property. He stated that a Code Enforcement Officer does not have the authority to trespass or collect fines until there is a conviction. Mrs. Hamel stated that this property just gets worse and worse. CEO McDonough agreed with her.

Roland L. stated that he went to the site and felt the pictures underestimate the condition of the area, and stated that the word terrible doesn't even properly describe it. Ann H. stated that the board agrees with the issue, that there is a huge problem.

Maggie M wondered with respect to the neighbors being threatened, if the Selectmen were informed, perhaps there would be less of a threat? The Hamel's didn't think that would bother the neighbor as all.

Roger A. reiterated again that the Selectmen have the authority to put up money for an attorney for further enforcement. He said the Planning Board's enforcement is CEO McDonough, and the Planning Board can only follow the rules in the ordinance which are put into place by Town vote. He said the Planning Board can make recommendations to change the ordinance, or a citizen can bring possible changes to the board for review to see if they should be added to the ordinance. Roger said in this case the definition of a junkyard is also defined in State law and he noted again enforcement is through the Code Enforcement Office. The Selectmen will have to authorize additional action, then it would go to court where a fine could be imposed and a forced cleanup of the property.

Diane S. asked if any additional neighbors would go to the Selectmen? Mr. and Mrs. Hamel both noted that they are not there year round and are afraid of what would happen to their property if they got involved. Diane said that it appeared the neighbor was a bully. Mrs. Hamel stated that was a good way to describe the neighbor and added that if he finds out she attended this meeting he was likely to do something.

The board members felt for the Hamel's but at this point there is nothing for the Planning Board to do. They told the Hamel's that this is an enforcement issue to be discussed with the Selectmen, perhaps they will authorize CEO McDonough to take further legal action.

Nothing further was discussed.

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## **Other**

### **Comprehensive Plan**

Nothing further was discussed this evening. Barbara F. needs to organize the information she and Madge B. discussed and that had not been done yet. The board agreed to try to get a meeting with the Selectmen on Tuesday, June 7<sup>th</sup> to inform the Selectmen where they were with respect to the Comprehensive Plan review.

Madge B. noted that she would like to bring up the fact that the board has discussed getting rid of the notion of 'growth areas' as that has met with resistance from the Townspeople in the past. She also wanted to discuss the idea of making it easier to have a duplex on town property, outside of the Shoreland District, and to perhaps allow more lot coverage on a lot for businesses, but again not in the Shoreland District. Diane S. agreed that lots in the Shoreland District are much too small to be adding additional living space, she could see this as a huge problem if it were allowed. Madge agreed, the board did not want to intensify shoreland coverage.

Barbara will notify Karla to see if they can meet at 6:00 p.m., prior to the next Planning Board meeting on June 7th.

Nothing further was discussed.

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**Growth Permits**

• **Map 8, combining Lots 62B & 62C (Gulf Road) – New Home – GP #05-16**

Lot 62B consists of 12.7 acres with 673+ feet of road frontage and Lot 62C consists of 5.04 acres with 241+ feet of road frontage. Both existing lots will be combined and exceed the minimum lot size requirements.

• **Map 4, Part of 39 (Walnut Hill Road) – New Home – GP #06-16**

This newly created lot has 200 feet of road frontage and meets the dimensions of a legal lot. The lot is a gift to a relative, therefore, is exempt from subdivision. It also is the first lot taken out of the parent lot.

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→ **June Planning Board Meetings**

***Due to elections being held on Tuesday, June 14<sup>th</sup>, the Planning Board will hold their meetings on Tuesday, June 7<sup>th</sup> and Tuesday, June 28<sup>th</sup>.***

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

***The next meeting will be held Tuesday, June 7<sup>th</sup>, 2016 at 7:30 p.m. The Planning Board meets the 2<sup>nd</sup> and 4<sup>th</sup> 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. Also, should there be a cancellation due to a storm event, holiday or Election, the meeting will typically be held the following Wednesday, also at 7:30 p.m. Please contact the Land Use Secretary if there is a question in scheduling, 207-636-2844, x404.***

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

# **SHAPLEIGH PLANNING BOARD**

## **MINUTES**

**Tuesday,  
June 7, 2016**

Members in attendance: Roger Allaire (Chairman), Maggie Moody (Vice Chairman), 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.

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

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A workshop was held with the Selectmen at 6:00 p.m. going over changes made to date to the Comprehensive Plan by the Planning Board. The Planning Board noted that they have been discussing modifying the lot size requirement for a duplex, which now requires 300 feet of road frontage and 4 acres. There would be no change suggested for the Shoreland District as there is already an excessive amount of residential structures in the Shoreland District at this time. The board also noted that they are considering increasing the lot coverage allowance for commercial structures, going from a maximum of 10% to possibly 15% lot coverage. This also would not apply in the Shoreland District. Review of the Comprehensive Plan will continue throughout 2016. The Selectmen thanked the board for their work to date.

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

**The minutes from Tuesday, May 24, 2016 were accepted as read.**

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### **Conditional Use Permit – Replace Retaining Wall – Map 27, Lot 3D (9 Narrows Lane) – Mark Hourigan, Applicant**

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

Along with the application, Mr. Hourigan provided an addendum which described what his intention was in detail and a sketch plan which depicts the existing camp, location of the septic tank & leach field, shed, patio area, existing trees on site and the location of the retaining wall to be replaced. The detailed description on the application itself read as follows: Replace failed stone retaining wall with new stone block wall. Add steps down to lake using same materials. Add plantings at top of wall to stabilize slope.

Roger A. began by asking Mr. Hourigan if he was certain the retaining wall would be no taller than 4 feet in height? Mr. Hourigan stated that it was right around four feet and his intent was to build it at the same height as the existing. Roger stated that anything greater than four feet in height would need to be engineered. Mr. Hourigan stated that he had been advised of that.

Roger A. asked if someone would be building the wall for him? Mr. Hourigan stated he had spoken with Joe Letourneau of Earthworks Landscaping. He said he hadn't received a proposal yet but he believed that is who he would be using. Roger stated that whomever worked on the wall would need a DEP license to do so because they will be working in the shoreland zone.



Roger A. asked if there would be any plantings put in after the wall was done? Mr. Hourigan stated that he intended to put some bushes in at the top of the wall. Roger said the actual plantings should be depicted on the plan, so when CEO McDonough reviewed the plan he would know it was being done according to what the Planning Board approved. Mr. Hourigan stated he was looking at the DEP guide lines for shoreland plantings but he hadn't picked the actual bushes out yet. He said he would be using mulch and some native plants.

Roger A. stated there would need to be a Permit by Rule approved by the DEP. Mr. Hourigan said he received an email stating the permit had been approved and the information would be provided to the Town.

Roland L. asked if there were any trees that needed to be removed in the area of the wall? Mr. Hourigan stated, no.

Roger L. asked what Mr. Hourigan's intention was for the existing stone wall, where would it be going? Mr. Hourigan said the existing stone wall had already been taken down by about 75%. He said he could have Mr. Letourneau remove it or he could try to use it on the property. He stated he hadn't really thought about what he was going to do with it. Roland asked where it is a non-wood structure, could it stay on site? Roger A. believed it could. He said it could be buried. Roland wanted Mr. Hourigan to know it could not be put in the water. CEO McDonough stated that if it were going to stay on site, there needs to be a plan as to what will be done with it. Mr. Hourigan thought he may have it removed as he had no plans for it.

**Roger A. stated the board needs a detailed revegetation plan, what is going to go in after the wall is completed. He also stated there would be a site inspection done on Tuesday, June 28<sup>th</sup>. Board members will meet at the town hall at 6:50 p.m. and be at the site by 7:00 p.m.**

Mr. Hourigan asked if he needed to be there. Roger A. stated it is always a good idea, so if board members have any questions or needed clarity, Mr. Hourigan could have the answers for the board meeting, which will take place right after the site inspection at 7:30 p.m. He let him know at that time the board will either approve or disapprove, or approve with conditions.

Ann H. asked if Mr. Hourigan could have someone else represent him? Roger A. stated, yes, as long as he gives the board a letter stating whomever could represent him and speak for him to answer any questions. Also, that they could make decisions for him if needed.

Roland L. stated the board would also need the time table for the project and when the replanting would take place. Roland said those questions will need to be answered.

Mr. Hourigan stated he didn't have those answers yet, the lake is high at present, and he didn't have the contractor. Roger A. stated it is important to have a time frame, so the board can set a replanting date to be sure the plants are put in at a time when they will be able to get established. If it is in the fall that is fine but the plants will have to go in before winter or he should have mulch put down. The board needs to have an idea what is going to take place and when. Roger noted the date can be changed, Mr. Hourigan would have to notify the board and a new date can be established. The board will need an idea for the next meeting, but there is some leeway, it does not have to be completed within a few weeks.

**Roger A. stated again there needed to be a replanting plan and an estimated time of completion for the next meeting. The board will be on site by 7:00 p.m. A notice to abutters will be mailed as well.**

Nothing further was discussed.

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### **Growth Permits**

#### **• Map 43, Lot 28 (105 Pine Cone Drive) – New Home – GP #07-16**

This lot had been reviewed by the Planning Board as a Best Possible Location. There is an existing structure that is being converted from a shed to a year round home. It is on an existing lot of record.

#### **• Map 16, Lot 4 (Cattail Loop Road) – New Home – GP #08-16**

This lot is an existing lot of record. There is an existing septic system currently on the lot which will continue to service an existing structure and the new structure.

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### **→ June Planning Board Meetings**

***Due to elections being held on Tuesday, June 14<sup>th</sup>, the Planning Board will hold their meetings on Tuesday, June 7<sup>th</sup> and Tuesday, June 28<sup>th</sup>.***

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**The Planning Board meeting ended at 7:45 p.m.**

***The next meeting will be held Tuesday, June 28<sup>th</sup>, 2016 at 7:30 p.m. The Planning Board meets the 2<sup>nd</sup> and 4<sup>th</sup> 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. Also, should there be a cancellation due to a storm event, holiday or Election, the meeting will typically be held the following Wednesday, also at 7:30 p.m. Please contact the Land Use Secretary if there is a question in scheduling, 207-636-2844, x404.***

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

# **SHAPLEIGH PLANNING BOARD**

## **MINUTES**

**Tuesday,  
June 28, 2016**

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

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**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, June 7, 2016 were accepted as read.**

*Due to Maggie Moody's absence, Roger A. had Ann H. sit in as a regular member.*

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### **Conditional Use Permit – Replace Retaining Wall – Map 27, Lot 3D (9 Narrows Lane) – Mark Hourigan, Applicant**

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

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

For the first meeting, held on Tuesday, June 7, 2016, Mr. Hourigan provided an addendum which described what his intention was in detail and a sketch plan which depicts the existing camp, location of the septic tank & leach field, shed, patio area, existing trees on site and the location of the retaining wall to be replaced. The detailed description on the application itself read as follows: Replace failed stone retaining wall with new stone block wall. Add steps down to lake using same materials. Add plantings at top of wall to stabilize slope.

This evening Mr. Hourigan provided a replanting schedule which included hydrangea, phlox, junipers, lilies, and blueberry plants. He also provided a plan which depicted a visual of what the new wall, stairs and plantings would look like when completed.

Roger A. stated the board members did a site inspection prior to this evenings meeting. He said that after looking at the existing wall, it appeared to be greater than 4 feet in height. He stated they measured the wall and it was an average of 50 inches with other areas higher than that and that was coming from the beach level, he stated that after putting down a stone footing it would be even higher. Roger said because of the height of the wall it would require an engineered plan.

Roger A. stated the board had asked Mr. Hourigan for a vegetation plan, which was shown to board members at the site inspection and he provided a copy to the members at the meeting as well. He also provided a sketch showing what the wall and plantings should look like when completed. Roland L. asked if the stairs were going to be moved from their present location, would they be more toward the center of the wall, he was basing this question on the sketch provided this evening. Mr. Hourigan stated, yes, they would be more central.

Roland L. asked how wide the stairwell would be? Mr. Hourigan stated the DEP representative stated the stairs could be no wider than 4 feet in width, so that will be the width.

Ann H. asked if the wall was going to be 60 feet in length? Madge B. stated 50 feet, Mr. Hourigan agreed it was 50 feet.

Roger A. asked what the time frame would be? Mr. Hourigan stated it would probably be started after labor day. He stated he didn't have a contractor lined up at this time. Roger asked if the planting deadline could be no later than June 1, 2017? Mr. Hourigan said he definitely could meet that deadline. He said the wall itself should only take three weeks from start to finish. Roger said depending on the time it's finished, that would dictate a fall or spring planting schedule. He noted that if the plantings could not be established in the fall, bark mulch would have to be put down to stabilize the area. Mr. Hourigan understood he would need to do the mulch right away for stabilization.

Roger A. stated that the person doing the work would have to be DEP certified to be certain the soils are contained on site during the project. Mr. Hourigan asked if it was the business itself that had to be DEP certified? CEO McDonough stated there had to be someone certified on site the entire time the project is being done to certify best management practices are being maintained. Roger agreed. CEO McDonough stated that after Planning Board approval Mr. Hourigan will need a building permit prior to beginning the project, at that time he would need information that states someone with DEP certification is on site. He will need a copy of their certification number.

Roger A. stated at this time the board should table the project until drawing specifications can be provided from a certified engineer, the plan will need the engineers stamp on it. Madge B. did not believe any additional conditions would be required. Roger agreed. Madge did not feel he would need to be present for the next meeting, which would be held on Tuesday, July 12<sup>th</sup>, the board would just need the engineered plan to move for approval. Roger agreed, Mr. Hourigan could mail the plan if it was easier. Madge stated as long as the board receives it, it doesn't matter how it gets to the board.

**Roland L. made the motion to table the application until the engineered plan is provided for the new retaining wall. Diane S. 2<sup>nd</sup> the motion. All members were in favor.**

**The conditions of approval to replace the existing retaining wall on Map 27, Lot 3D, per the engineered plans to be received, are as follows:**

- 1) Best Management Practices shall be kept in place until the project is completed, including the revegetation plan. The person doing the work has to be certified by the DEP in erosion control practices. The actual certification number will have to be presented to the Code Enforcement Officer during the permitting process.**
- 2) The project is to be completed, including revegetation, by June 1, 2017.**

Nothing further was discussed.

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### **Other**

Roger A. stated that recently there was a question regarding plantings or the revegetation requirement and whether or not the person could get an occupancy permit before the revegetation was completed. Roger said with regards to getting an occupancy permit the conditions of the conditional use permit had to be satisfied which includes the revegetation plan. He said the plantings have to be done. Roger said that

because the date of completion is off in the distance but the structure is completed, it does not entitle a person to the occupancy permit without the plantings. Roger said the project completion date, including the revegetation much be done, the project completion date doesn't allow them to put off the plantings to that date. It just gives a time table for completion. Madge B. agreed. Ann H. stated that the State of Florida is the same way, if you do not have your vegetation in, you cannot get an occupancy permit.

CEO McDonough noted that this has come up recently and withholding the occupancy permit is the only tool he has to be certain the revegetation is completed. Roger A. stated that the board should note this during approval, so the applicant is aware. Madge B. stated that was a good idea because that is what the board wants.

Nothing further was discussed.

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Barbara F. gave members a copy of the Comprehensive Plan changes to date. Barbara said she hadn't done the questionnaire yet and asked the board to be thinking about what questions they would want. Roland L. asked if the Selectmen were planning to do one? Barbara stated she did not know. She said there was no rush but would like members to be thinking about it.

Nothing more was discussed.

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### **Growth Permits**

**There are growth permits available.**

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**The Planning Board meeting ended at 7:55 p.m.**

***The next meeting will be held Tuesday, July 12, 2016 at 7:30 p.m. The Planning Board meets the 2<sup>nd</sup> and 4<sup>th</sup> 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. Also, should there be a cancellation due to a storm event, holiday or Election, the meeting will typically be held the following Wednesday, also at 7:30 p.m. Please contact the Land Use Secretary if there is a question in scheduling, 207-636-2844, x404.***

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

# **SHAPLEIGH PLANNING BOARD**

## **MINUTES**

**Tuesday,  
July 26, 2016**

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

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**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, June 28, 2016 were accepted as read.**

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**After-the-Fact Conditional Use Permit – Regrade Road and Driveway / Earth Moving in Excess of 10 yards in the Shoreland District – Map 32, Lot 36 (28 Gate House Road) – William Hayes, Applicant**  
Mr. Hayes was present for the review of the application.

Mr. Hayes provided the board members, along with a copy of the application, a copy of the Town's tax map which depicted the area in which the gravel was placed, which included Gate House Road and the applicant's driveway. Also provided were emails to abutting property owners from Mr. Hayes, along with their reply's stating they had no issue with what Mr. Hayes was trying to accomplish. The property owners contacted were Ken & Kathe Lobdell, Shapleigh Tax Map 34, Lot 2; Lynda Brearey, Map 34, Lot 1; and Leonard & Theresa Paine, Map 34, Lot 46. Mr. Hayes's email read as follows:

“Just to keep you guys in the loop...I spoke with both of you last year about my ongoing battle with our road. My snowblower is on my trailer now for a trip to Westcott to be completely rebuilt. On one of my blows this past winter I was able to shear 4 pins. I am realizing that if we are to continue to live here as we are getting older, we have to try and do what we can to make life easier. To that end I have been in contact with a number of contractors to see what could be done to our drive. The best solution seems to be to cover the drive with reclaimed asphalt. There are very few sources for 99% reclaimed asphalt, which is what I would want to assure good bonding. Most of the outfits strip the asphalt out, add gravel, and sell it as underlayment. That would not work for our road. I am very impressed with one guy in particular. He said that he would leave the rises that we have incorporated to divert the flow of water, but in his prep work he would slightly slant the drive toward one side to encourage the water to run off rather than run down our road. He would also incorporate a small skirt at each of your drives so you weren't driving over a lip going in and out. I liked that. I actually like his entire approach.

The reclaimed asphalt road won't hold up as well as straight new asphalt would but it would look much better on a wooded road, not to dissimilar than the gravel that we have now. Reclaimed asphalt is about ½ the cost of new asphalt. Maintenance might involve filling a pothole from time to time and hand tamping it down, which I could do. The estimate on the project, including a turn-around for service trucks at the bottom of our drive, the front of our garage and our parking area at the top of our hill is \$8,000. If either of you feels the road itself would be a benefit to you now or in the future, you are welcome to chip in any amount you feel appropriate. With your permission only though, we will proceed with the project.

Thank, Bill and Sheila”

Mr. Hayes also provided a copy of the Minutes of the Meeting for The Town of Shapleigh Selectmen's meeting of May 10, 2016, in which Mr. Hayes spoke to the selectmen about the improvements he would like to make to Gate House Road. Mr. Hayes told the Selectmen he had spoken with the Planning Board Chairman, Code Enforcement Officer and Road Commissioner of the North (John Burnell) regarding the project. Mr. Hayes stated that a Conditional Use Permit was not necessary since the work that was being done falls under the exception of regular maintenance. A motion was made by the Selectmen, as the Town was an abutting property owner, to give permission to move forward.

(Note: Code Enforcement Officer, Steven McDonough had told Mr. Hayes, prior to the Selectmen's meeting, that in fact he needed a Conditional Use Permit for this work from the Planning Board and provided him with an application, because in his opinion, the project being in the Shoreland District required approval from the Planning Board for any material being moved in excess of 10 cubic yards.)

Roger A. opened the discussion by asking Mr. Hayes how many yards of material had been moved? Mr. Hayes stated that he did not know how many yards of material were put down but there was 11,800 square feet of recycled asphalt put down, at a rate of 2 to 3 inches. Mr. Hayes stated that there was more than 10 yards.

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

Mr. Hayes asked if he could speak to the board? Roger A. told him he could. Mr. Hayes felt he did due diligence with respect to this project. He stated he went to Code Enforcement McDonough to discuss what he needed to do and CEO McDonough told him he needed to go to the Planning Board for earth moving in the Shoreland District and gave him an application. He then spoke with Road Commissioner Burnell, to explain what it was he wanted to do, and RC Burnell believed because it was recovering and retaining an existing road, therefore, it was exempt from needing a permit.

Mr. Hayes stated that he then contacted Planning Board Chairman Roger Allaire and Roger stated that he believed it sounded like road maintenance and therefore was exempt from needing a permit. Mr. Hayes stated that he then left a message for Code Enforcement McDonough but did not hear back, so he scheduled a meeting with the Selectmen to discuss the project with them, as the Town is an abutter to the property. He stated the Selectmen had no issue with the project and noted he provided a copy of the minutes from that meeting.

Mr. Hayes stated that he did receive a call from Barbara Felong, she asked if he had any questions he needed answered and he believed at that time all his questions had been answered. He also stated that he did not realize Barbara worked for CEO McDonough. (Note: Barbara has been the Land Use Secretary and has worked for both the Planning Board and Code Enforcement for over 10 years.)

Mr. Hayes stated that after he had the work done, he received a letter from CEO McDonough stating he was in violation of the Zoning Ordinance and must obtain an after-the-fact permit. He then contacted the Selectmen to have a meeting set up between the Selectmen, CEO McDonough and Chairman Allaire (Roger A.). At this meeting to discuss the violation, Roger A. stated that if more than 10 yards of material was moved, Mr. Hayes would need a permit. Mr. Hayes believed perhaps Roger A. thought he had told him that, but he did not hear that during their original discussion. Mr. Hayes also thought it was possible Roger A. did not remember the facts as they were presented on the evening he spoke with him. He didn't feel Roger A. intentionally misled him, but something was not construed correctly or Mr. Hayes would not be before the board in this way. He said if Roger A. had told him he needed to come before the planning board, he would have.

Roger A. stated that during the telephone conversation with Mr. Hayes, he had a red flag that something wasn't right, because of the fact CEO McDonough had given him an application. Roger believed if Steve believed a permit was required there was more to it than he was hearing. Roger stated that he told Mr. Hayes that he needed to get his copy of the Zoning Ordinance to be sure he wasn't missing something but Mr. Hayes stated that he had all the information he needed. Roger added that he believed Mr. Hayes was speaking about a public way, he was unaware of the amount of material that was being placed on Mr. Hayes driveway. Mr. Hayes stated that he felt if Roger had mis-spoken he could have called him back to tell him so. But he added that he did not feel there was malicious intent involved.

Mr. Hayes just wanted to state that he believed a mistake was made.

Roland L. asked if anyone else believed this exchange was pertinent to the application? He did not feel it was. The board was here to review what took place and address it. The other board members agreed.

***Roger A. stated a notice to abutters will be mailed and a site inspection will be scheduled. The board members agreed to do the site inspection on Tuesday, August 9<sup>th</sup>, meeting at the town hall at 6:45 p.m. Diane S. and Roland L, will meet on site.***

Nothing further was discussed.

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### **Growth Permits**

- **Map 36, Lot 25 (248 Indian Village Road) – Seasonal Conversion** **GP #09-16**  
Existing home with a State of Maine approved septic system, done by John Large, SE #7, dated 9/19/1986, for a 3 bedroom home.
- **Map 7, Lot 30-1 (Shapleigh Corner Road) – New Home** **GP #10-16**  
Existing lot of record which meets the dimensional requirements for a building lot in Shapleigh. A copy of the deed was provided.
- **Map 12, Lot 22-1 (Newfield Road) – New Home** **GP #11-16**  
Existing lot of record which meets the dimensional requirements for a building lot in Shapleigh. A copy of the purchase and sale agreement was provided.
- **Map 18, Lot 5A-1 (4 4<sup>th</sup> Street) – New Home** **GP #12-16**  
Existing grandfathered lot of record. A copy of the deed was provided.

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**The Planning Board meeting ended at 7:55 p.m.**

***The next meeting will be held Tuesday, August 9<sup>th</sup>, 2016 at 7:30 p.m. The Planning Board meets the 2<sup>nd</sup> and 4<sup>th</sup> 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. Also, should there be a cancellation due to a storm event, holiday or Election, the meeting will typically be held the following Wednesday, also at 7:30 p.m. Please contact the Land Use Secretary if there is a question in scheduling, 207-636-2844, x404.***

Respectively submitted, Barbara Felong, Land Use Secretary

[planningboard@shapleigh.net](mailto:planningboard@shapleigh.net)



# **SHAPLEIGH PLANNING BOARD**

## **MINUTES**

**Tuesday,  
August 9, 2016**

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

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**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, July 26, 2016 were accepted as read.**

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**After-the-Fact Conditional Use Permit – Regrade Road and Driveway / Earth Moving in Excess of 10 Yards in the Shoreland District – Map 32, Lot 36 (28 Gate House Road) – William Hayes, Applicant**  
Mr. Hayes was present for the review of the application.

Previously, Mr. Hayes provided the board members, along with a copy of the application, a copy of the Town's Tax Map 32 which depicted the area in which the gravel was placed, which included Gate House Road and the applicant's driveway and parking area. Also provided were emails to abutting property owners from Mr. Hayes which stated his intention to resurface Gate House Road with reclaimed asphalt, along with their reply's stating they had no issue with what Mr. Hayes was trying to accomplish.

Mr. Hayes also provided a copy of the Minutes of the Meeting for The Town of Shapleigh Selectmen's meeting of May 10, 2016, in which Mr. Hayes spoke to the Selectmen about the improvements he would like to make to Gate House Road. Mr. Hayes told the Selectmen he had spoken with the Planning Board Chairman, Code Enforcement Officer and Road Commissioner of the North (John Burnell) regarding the project. Mr. Hayes stated that a Conditional Use Permit was not necessary since the work that was being done falls under the exception of regular maintenance. A motion was made by the Selectmen, as the Town was an abutting property owner, to give permission to move forward. (Note: Code Enforcement Officer, Steven McDonough told Mr. Hayes, prior to the Selectmen's meeting, that in fact a Conditional Use Permit for this work from the Planning Board was required and provided him with an application. At no time did CEO McDonough tell Mr. Hayes a permit was not required.)

At the July 26<sup>th</sup> meeting Roger A. asked Mr. Hayes how many yard of material had been moved. Mr. Hayes stated that he did not know how many yards of material were put down but there was 11,800 square feet of recycled asphalt put down, at a rate of 2 to 3 inches. Mr. Hayes stated that there was more than 10 yards.

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

Roger A. began by reviewing §105-39 'Earth removal and filling other than mineral exploration and extraction'. He reviewed the following:

- 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.

***Roger A. stated this wasn't applicable because this is associated with the General Purpose District and the board is dealing with the Shoreland District.***

- 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.

***Mr. Hayes wanted to know what this meant, 'except as above'? He asked if this could be taken to mean, repair a roadway in the shoreland zone? Roger A. stated no, the only thing exempt is the removal and filling of less than 10 yards of material but not in the shoreland district, Section B(1). Mr. Hayes stated that Roger read something about repairing public roadways. Roger said private ways in the 'general purpose' district, Section B(4). Mr. Hayes asked where the general purpose district was? Roger stated anywhere beyond 250 feet of a water body. Mr. Hayes didn't understand what 'except as above' referred to? Roger said the exemptions are listed B(1) thru B(4). Roger then reviewed D(1). Mr. Hayes entire lot is within the shoreland district, as is a good portion of Gate House Road.***

- (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.

***Roger A. did not review Section E because it was for Resource Protection, not applicable.***

- 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.)

***Roger A. stated there was no processing or storage of material on site, so he didn't feel all of the sections here were applicable.***

- 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.  
***Roger A. stated this was a driveway, so the area will remain open.***
  - (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.  
***Roger A. stated the ground cover was established and he didn't see there was an issue with this.***
  - (3) Diversions, silting basins, terraces and other methods to trap sediment shall be used.  
***Roger A. stated they were used to prevent the sedimentation from going into the lake.***
  - (4) Lagooning shall be conducted in such a manner as to avoid creation of fish trap conditions. The applicant shall submit written approval from the Department of Marine Resources or Department of Inland Fisheries and Wildlife, as applicable, prior to consideration by the Planning Board.  
***Roger A. stated there is no lagooning to be done.***
  - (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.  
***Roger A. stated the board saw what material was used on the site visit.***
  - (6) Fill shall not restrict a floodway, channel or natural drainageway.  
***Roger A. stated that it did not.***
  - (7) The sides and bottom of cuts, fills, channels and artificial watercourses shall be constructed and stabilized to prevent erosion or failure. Such structures are to be designed and built according to the Maine Soil and Water Conservation Commission, Technical Guide, Standards and Specifications.  
***Roger A. stated that from what he viewed there were no issues in the design of how it was built.***

- (8) Where activities carried out under this article require the removal of existing ground cover, revegetation should be carried out.

***Roger A. stated there was no existing ground cover removed.***

- (9) (Reserved)

- (10) Specific plans are established to avoid hazards from excessive slopes or standing water. Where embankment must be left upon the completion of operations, it shall be at a slope not steeper than one foot vertical to four feet horizontal.

***Roger A. stated they covered the ground as it is, making no changes.***

- (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.

***Roger A. stated gravel was brought in to make it level.***

- (12) Sufficient topsoil or loam shall be retained to cover all areas, so that they may be seeded and restored to natural conditions.

***Roger A. stated this was not required.***

- (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.

***Roger A. stated this was not applicable.***

H. Optional conditions of permit. ***Roger A. stated in Section H there was nothing applicable.***

***Roger A. stated Section I, 'Surety and terms of permit', and Section J 'Existing operations', were not applicable. This was not the review of a gravel pit.***

**Roger A. stated all the conditions of Section 105-39 were met.**

Roger A. then reviewed §105-73.G and made findings of fact.

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

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. ***Roger A. stated, it will not.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. ***Roger A. stated, it will.***
- 3) The use is consistent with the Comprehensive Plan. ***Roger A. stated, this is not addressed in the Comprehensive Plan.***
- 4) Traffic access to the site is safe. ***Roger A. stated, it is.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***Roger A. stated, it is, there hasn't been any issues to date.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***N/A, none generated by this activity.***

- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. *N/A*
- 8) A stormwater drainage system capable of handling fifty-year storm without adverse impact on adjacent properties has been designed. ***It was not, but Roger A. did not feel there would be any issues with the way it was graded.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***Roger A. stated that they had.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. *N/A*
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. ***Roger A. stated everything is in existence, no changes are being made.***
- 12) All performance standards in this chapter applicable to the proposed use will be met.

Roger A. asked if there were any comments? Madge B. suggested that Alternate Steve Foglio vote in her place as she was unable to attend the previous meeting and review of this application. Roger A. appointed Steve as a voting member for this evening.

Roger A. didn't feel there were any conditions to be attached to the approval. The other board members had no conditions. Nothing further was discussed.

**Maggie M. made the motion to approve the after-the-fact Conditional Use Permit for earth moving in excess of 10 yards in the Shoreland District to regrade/fill a private way, driveway and parking area. Roland L. 2<sup>nd</sup> the motion. All members were in favor. The motion passed unanimously, by a vote of 5-0.**

### **The Findings of Facts**

1. The owners of Shapleigh Tax Map 32, Lot 36, are William and Sheila Hayes of 28 Gate House Road, Shapleigh, Maine 04076.
2. The property is located in the Shoreland District and according to the assessing file, it contains 1.5 acres.
3. The applicant, William Hayes, is before the board for an after-the-fact Conditional Use Permit for earth moving in excess of 10 cubic yards in the Shoreland District. The earth moving consisted of regrading / filling Gate House Road, and the applicant's driveway/parking area.
4. Received was a copy of the Town's Tax Map 32 which depicted the area in which the gravel was placed, which included Gate House Road and the applicant's driveway and parking area. Also provided were emails to abutting property owners from Mr. Hayes which stated his intention to resurface Gate House Road with reclaimed asphalt, along with their reply's stating they had no issue with what Mr. Hayes was trying to accomplish.
5. Mr. Hayes also provided a copy of the Minutes of the Meeting for The Town of Shapleigh Selectmen's meeting of May 10, 2016, in which Mr. Hayes spoke with the Selectmen about the improvements he would like to make to Gate House Road. Mr. Hayes told the Selectmen he had spoken with the Planning Board Chairman, Code Enforcement Officer and Road Commissioner of the North (John Burnell) regarding the project. Mr. Hayes stated that a Conditional Use Permit was not necessary since the work that was being done falls under the exception of regular maintenance. A motion was made by the Selectmen, as the Town was an abutting property owner, to give permission to move forward.

6. Code Enforcement Officer, Steven McDonough, told Mr. Hayes, prior to the commencement of the earth moving, that a Conditional Use Permit for this work was required from the Planning Board and provided him with an application. At no time did CEO McDonough tell Mr. Hayes a permit was not required.
7. At the July 26<sup>th</sup> meeting Roger A. asked Mr. Hayes how many yards of material had been moved. Mr. Hayes stated that he did not know how many yards of material were put down but there was 11,800 square feet of recycled asphalt put down, at a rate of 2 to 3 inches. Mr. Hayes stated that there was more than 10 yards.
8. A site inspection was held on Tuesday, August 9, 2016 and a notice was mailed to all abutters within 500 feet of the property on July 27, 2016. Meetings were held on July 26, 2016, and August 9, 2016.
9. The Planning Board unanimously agreed to approve the after-the-fact Conditional Use Permit for earth moving in excess of 10 cubic yards to regrade / fill Gate House Road and the applicant's driveway and parking area on Shapleigh Tax Map 32, Lot 36, with no conditions.

**Motion:**

**After careful consideration and a review of all material presented to the Board, a motion was made on Tuesday, August 9, 2016, to approve the after-the-fact Conditional Use Permit for earth moving in excess of 10 yards in the Shoreland District to regrade/fill a private way, driveway and parking area.**

**Vote:**

By a unanimous vote of 5 – 0, the motion to approve the after-the-fact Conditional Use Permit for earth moving in excess of 10 yards in the Shoreland District to regrade/fill a private way, driveway and parking area was accepted.

**Decision:**

**The after-the-fact Conditional Use Permit application for earth moving in excess of 10 yards in the Shoreland District to regrade/fill a private way, driveway and parking area was approved.**

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**Conditional Use Permit – Pave Driveway / Moving Material in Excess of 10 yards in Shoreland District – Map 27, Lot 2 (200 16<sup>th</sup> Street Loop) – Leonard Spallone**

Mr. Spallone was present for the review of his application, along with Chris Baldwin, an engineer who works with York County Soils and Water Conservation District.

Along with the application, members received a site plan which depicted the location of the existing house and garage, and the proposed improvement plan. The plan was drafted by Chris Baldwin on June 1, 2016. The plan gave details of all the ways they would be mitigating the stormwater runoff, including porous pavers, asphalt, ditch turnout area and channel, and showing the location of the existing wooded buffer.

Roger A. asked the applicant to explain why he was before the board. Mr. Spallone stated that he has had an erosion problem with his driveway for a number of years. He stated he had spoken with CEO McDonough several times, he had done a Permit by Rule a number of times, working with CEO McDonough but to date hasn't been able to get the problem under control. CEO McDonough suggested to him to go to York County

Soils and Water Conservation District. He stated they came up with a plan to help mitigate the problem. He then introduced Chris Baldwin who would speak about the plan they created.

Mr. Baldwin stated that he met with Mr. Spallone on site and realized it was more than he could do with a two-hour technical assist, so they contracted with the Spallone's to come up with a plan to alleviate the erosion that is occurring.

Mr. Baldwin showed members photos of what was occurring on site at this time with respect to erosion after a rainfall event. He noted there was a steep slope going all the way down to the lake. The existing driveway is gravel and is impervious, all the water runs down during the rain events, across the existing beach and into the water. He said first he wants to put in an asphalt cap to keep the soil in place, but to do that they still have to handle the stormwater runoff. He noted they were not increasing the runoff, and the water will be going into different areas. It will be ditched so some of it goes into an existing wooded buffer, and there will be a spot graveled that will take some stormwater. He noted along the top is an existing turnout but over time the shape of the driveway changed, so it doesn't allow the water to go in that direction, therefore, they want to elevate one area to pitch the stormwater into the direction they want it to go. There will be an additional drainage swell at the bottom and there will also be course pavers with a course sand layer, and along with that adding a one foot crushed stone layer to act as a reservoir. He believed they could collect a 1.7" rainfall and store it on site. He felt 1.7" was about 90% of the storms that are seen in the area. He stated they were speaking with Bill Plante who would do the work and noted he was certified in erosion and sedimentation control. Mr. Baldwin stated he was certified as well, and he would be out there to be sure it was done correctly. He believed it would be a great improvement for the site.

Mr. Baldwin noted it was a very expensive project to do but he felt it was the only way to take care of the problem.

Ann H. asked where the pavers would be? Mr. Baldwin showed her where they would be located, it was above the beach area. Steve F. asked if these were the new rain diverting pavers? Mr. Baldwin stated they were and explained that the pavers were not porous but it was the space around them that allowed the rainwater to be dissipated quickly.

Roger A. asked if there were any other questions? Steve F. asked if there would be an issue with lot coverage with the pavers? Steve believed they were doing the right thing. Roger said it depends on the size of the lot. Mr. Baldwin noted that most of the area stayed gravel.

Mr. Baldwin added that there would be an under drain pipe that will be attached to a dry well that is already in existence. This is another layer of storage of stormwater on site. Mr. Baldwin stated they would be applying for another Permit by Rule for this project.

**Roger A. stated a site inspection would be scheduled prior to the next meeting, Tuesday, August 23rd at 6:00 p.m. A notice to abutters will be mailed as well.** Roland noted he would meet members on site.

Nothing further was discussed.

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**Best Possible Location – Repair Existing Foundation – Map 12, Lot 1 (282 Mann Road) – Joan Hill, Applicant**

Ms. Joan Hill was present, along with her brother, Mr. Trafton, her sister Martha and her husband, Bill.

Ms. Hill stated that they inherited her father's property on the river and they discovered the foundation under the original part of the building, built around 1953, is starting to bow in. She said they wanted to repair this part of the foundation, along with two other walls that were also made of block. Ms. Hill stated that her sister, Martha, prepared the application and Bill has spoken with the contractor who has a proposal to fix the problem.

Along with the application, members received a site plan which depicted the existing structure, when each section of the structure was built and depicting what portion of the foundation they wanted to repair. Also provided is a copy of the estimated cost to repair the foundation from Tom's Masonry Service, along with a description of how the wall will be repaired; site photo's showing the existing structure from various angles and noting the walls to be repaired; site photo's and Shapleigh Tax Map 12, noting the location of the property and where it sits on the lot in relation to the Mann Road and Little Ossipee River.

Ms. Hill stated they needed the board to tell them how to proceed as they were unfamiliar with the process. Mr. Trafton stated the contractor said it was a simple repair because it was a crack in the block and he suggested they replace the block. Martha provided the board with colored pictures which were easier to follow. She explained to the board what they were looking at. She said the cabin is made up of three sections, the original section is the part that will be repaired. She thought it was built back in the early 50's by her father and grandfather. Another section was built in the 70's and had multiple stories, and the back section was a bunk room with no foundation.

Martha said the only section being repaired is the original section. She numbered the walls on the diagram to note which walls will be repaired and she pointed out to members which section would be repaired. She said the proposal was to take the block out from inside of the basement. The structure is post-n-beam which will be supported during the project. She said the block will be removed from the inside, then Tom (contractor) will excavate dirt from the inside, as well. She said they will be taking dirt out and reconstruct with cement block and adding a footing in that location. She added that just enough dirt would be removed to be able to work and add the footing. Equipment cannot be used due to the stone wall along the driveway location, so it will be done by hand.

Martha said the wall facing the front of the cabin, there is only structural membrane being added. She said the wall facing the river, they will remove the bottom pane of the window and add cement block there but no excavation is involved in that location. She noted that not the entire basement would be done, just these sections, and it was being done because they didn't want the cabin to fall in.

Martha showed where the structure was located on the tax map. She said again the structure was post and beam and she pointed out the location of the existing chimney. She also pointed out what section was being repaired on the pictures that were placed on the tax map.

Roger A. stated that because of the proximity to the river this permit will be reviewed under §105-4 'Nonconforming structures', Section (3) 'Foundations'. Roger read Section (a): Whenever a new, enlarged, or replacement foundation is constructed under a nonconforming 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. Roger said he felt at the present time the board will look at keeping the structure in the same location, and the board will see if they can approve it that way and just do a repair.

**Roger A. stated a site inspection will be done at approximately 6:45 p.m. prior to the next meeting on August 23<sup>rd</sup>. A notice to abutter will be mailed as well.**



The applicants noted that the driveway is located 1 mile from Route 11, on the left. 282 Mann Road, and they will have orange tape to note the location as well.

Nothing further was discussed.

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**Growth Permits**

There are growth permits available.

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

***The next meeting will be held Tuesday, August 23rd, 2016 at 7:30 p.m. The Planning Board meets the 2<sup>nd</sup> and 4<sup>th</sup> 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. Also, should there be a cancellation due to a storm event, holiday or Election, the meeting will typically be held the following Wednesday, also at 7:30 p.m. Please contact the Land Use Secretary if there is a question in scheduling, 207-636-2844, x404.***

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

# **SHAPLEIGH PLANNING BOARD**

## **MINUTES**

**Tuesday,  
August 23, 2016**

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

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**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, August 9, 2016 were accepted as read.**

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**Best Possible Location – Repair Existing Foundation – Map 12, Lot 1 (282 Mann Road) – Joan Hill, Applicant**

Ms. Joan Hill was present, along with her brother, Mr. Trafton, her sister Martha and her husband, Bill.

*A site inspection was done by board members prior to this evenings meeting.*

During the first review on Tuesday, August 9, 2016, Ms. Hill stated that family members inherited her father's property on the river and they discovered the foundation under the original part of the building, built around 1953, was starting to bow in, therefore, they wanted to repair this part of the foundation, along with two other walls that were also made of block. Board members received a site plan which depicted the existing structure, when each section of the structure was built and showing what portion of the foundation they wanted to repair. They also received a copy of the estimated cost to repair the foundation from Tom's Masonry Service, along with a description of how the wall will be repaired; site photo's showing the existing structure from various angles and noting the walls to be repaired; site photo's and Shapleigh Tax Map 12, noting the location of the property and where it sits on the lot in relation to the Mann Road and Little Ossipee River.

Board members were told that the only section being repaired is the original section. The project proposal was to take the block out from inside of the basement, support the post-n-beam structure during the project and remove the block from the inside. Then the contractor will excavate dirt from the inside, and reconstruct with cement block, also adding a footing in that location. The board was told that just enough dirt would be removed to be able to do the work and add the footing; equipment cannot be used due to the stone wall along the driveway, so the work will be done by hand.

Roger A. began by reviewing Zoning Ordinance §105-4.D(3) 'Foundations', which read: '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.' **Roger A. stated that the board was not looking at moving the full camp but only doing a repair to part of the foundation of the existing structure. Roger stated that if the board agreed, he would not be reviewing 'relocation'. No members had issue with this.**

Roger A. stated that the applicants would be removing much of the material from inside the camp and most of the work would be done from the inside. Roger said that he had asked where the blocks or material would be going, because it cannot be taken to the transfer station. He said that because a permit to do the work would need to be gotten from CEO McDonough, the applicants can tell him where the material will be taken.

Roger A. stated that after the site visit review, he believed a French drain would be much more beneficial than a gutter system. Roger said since the contractor will have the area open during the project, he could place stone in such a way to lead stormwater away from the area. Roger thought that would prevent the foundation from failing in the future. The applicants did not have an issue with this idea.

Roger A. asked if there were any other comments or questions? Steve F. asked if the applicant decided to go with the French drain, would they have to modify the existing plan? Roger said the request would be in the minutes and it will also be noted as a condition in the approval letter, so he didn't believe it had to be placed on the plan.

Roger A. stated that the contractor will have to be DEP approved in soil erosion practices. If he is not, he will have to have someone on site that is licensed in this area. The applicants noted that silt fencing was mentioned by the contractor, but they would find out if he is DEP certified. Roger said again, if he was not licensed, he would need someone there who is. There is a list of certified contractors on the DEP website.

Steve F. asked if the contractor was going to do the tractor work? Steve noted it stated tractor work would be done. The applicants said the contractor did not feel he would have to use a tractor, but if it is an issue, they will be certain he is certified.

Roger A. stated that he did not believe there would be an erosion issue when the foundation wall is removed because there is another wall adjacent to this wall. He said the only issue would be the placement of material. Steve F. noted that all the work is going to be done from the inside of the basement.

Roger A. asked what the time frame for completion would be? The applicants stated they wanted it completed before winter. They are ready, it's up to the contractor. Roger asked if 10/1/2016 would work? The applicant's preferred the 30<sup>th</sup> of November. They also asked if it could not be completed this year, if they had to come back to the board to let them know? Roger said yes, and thought if they can't complete it this fall they probably would want to wait until spring. The applicants agreed.

Roger A. asked if there were any further questions or if they had anything to add. Ms. Hill gave the board a copy of a Subsurface Wastewater Disposal System Application they had done by Kenneth Gardner, SE #73, dated 8/18/16, for the board's record. The system is designed for a 2 bedroom dwelling.

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

- 1) Best Management Practices shall be kept in place until the project is completed. There must be a person certified by the DEP in erosion control practices on site during the project.**
- 2) There shall be a French drain placed alongside the foundation for stormwater removal.**
- 3) The Code Enforcement Officer shall be notified as to where the materials being removed will be taken. None shall be taken to the Shapleigh Transfer Station.**
- 4) The project is to be completed, including revegetation, by November 30, 2016. If this date cannot be met, the board shall be notified of a new date of completion.**

**Steve F. made the motion to approve the Best Possible Location to repair the existing foundation on Map 12, Lot 1 (282 Mann Road) per the plan with four conditions. Ann H. 2<sup>nd</sup> the motion. All members were in favor. The motion passed unanimously, by a vote of 4-0.**

Nothing further was discussed.

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The Findings of Facts

1. The owners of Shapleigh Tax Map 12, Lot 1 (282 Mann Road), are Trafton Living Trust, Joan T. Hill – Trustee, P.O. Box 1111, Grantham, NH 03753.
2. The property is located in the Resource Protection District and according to the assessing file, it contains 67 acres.
3. The applicant, Joan Hill, is before the board for a Best Possible Location to repair a portion of the existing foundation in the Resource Protection District.
4. Received was a site plan which depicted the existing structure, when each section of the structure was built and depicting what portion of the foundation would be repaired. Also received was a copy of the estimated cost to repair the foundation from Tom's Masonry Service, along with a description of how the wall will be repaired; site photo's showing the existing structure from various angles and noting the walls to be repaired; site photo's and Shapleigh Tax Map 12, noting the location of the property and where it sits on the lot in relation to the Mann Road and Little Ossipee River.
5. Board members were told that the only section being repaired is the original section. The project proposal was to take the block out from inside of the basement, support the post-n-beam structure during the project and remove the block from the inside. Then the contractor will excavate dirt from the inside, and reconstruct with cement block, also adding a footing in that location. Just enough dirt will be removed to be able to work from under the structure and add the footing. It was noted equipment could not be used, due to the stone wall along the driveway, so it will be done by hand.
6. The applicants provided a copy of the Subsurface Wastewater Disposal System Application, dated August 8, 2016, drafted by Kenneth Gardner, SE #73, for the existing system for a 2 bedroom structure.
7. The board reviewed Zoning Ordinance §105-4.D(3) 'Foundations', and concluded leaving the structure in the existing location was the best possible location, as there would be minimal disturbance to the area in doing so.
8. A site inspection was held on Tuesday, August 23, 2016 and a notice was mailed to all abutters within 500 feet of the property on August 10, 2016. Meetings were held on August 9, 2016, and August 23, 2016.
9. The Planning Board unanimously agreed to approve the Best Possible Location to repair the existing foundation on Shapleigh Tax Map 12, Lot 1, per the plans provided, with four conditions.
10. **The conditions of permit are:**
 - 1) **Best Management Practices shall be kept in place until the project is completed. There must be a person certified by the DEP in erosion control practices on site during the project.**

- 2) There shall be a French drain placed alongside the foundation for stormwater removal.
- 3) The Code Enforcement Officer shall be notified as to where the materials being removed will be taken. None shall be taken to the Shapleigh Transfer Station.
- 4) The project is to be completed, including revegetation, by November 30, 2016. If this date cannot be met, the board shall be notified of a new date of completion.

Motion:

After careful consideration and a review of all material presented to the Board, including the review of Zoning Ordinance §105-4.D(3) ‘Foundations’ of a non-conforming structure, a motion was made on Tuesday, August 23, 2016, to approve the Best Possible Location to repair the existing foundation on Map 12, Lot 1 (282 Mann Road) per the plan with four conditions.

Vote:

By a unanimous vote of 4 – 0, the motion to approve the repair of the existing foundation on Map 12, Lot 1 (282 Mann Road) per the plan with four conditions was accepted.

Decision:

The Best Possible Location to repair the existing foundation on Map 12, Lot 1 (282 Mann Road) per the plan with four conditions was approved.

Conditional Use Permit – Pave Driveway / Moving Material in Excess of 10 yards in Shoreland District – Map 27, Lot 2 (200 16th Street Loop) – Leonard Spallone

Mr. Spallone was present for the review of his application, along with Chris Baldwin, an engineer who works with York County Soils and Water Conservation District.

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

The applicant had presented board members previously, with a site plan which depicted the location of the existing house and garage, and the proposed improvement plan. The plan was drafted by Chris Baldwin on June 1, 2016. The plan gives details of all the ways the applicant would be mitigating the stormwater runoff, including porous pavers, asphalt, ditch turnout area and channel, and showing the location of the existing wooded buffer.

Roger A. asked if there would be any changes from what has been presented? Mr. Spallone stated they would be swapping out the pavers for egg crates, which are made of a high density polyethylene. Steve F. asked why they were switching from pavers? Mr. Baldwin stated, “Just to get the water down to the ground, because there is a lot of water coming off the paved surface.” He wanted the water that comes off the pavement, going down toward the reservoir area, so he wanted to use something more porous.

Roger A. began reviewing §105-39, ‘Earth removal and filling other than mineral exploration and extraction’, Section D, ‘Earthmoving in the Shoreland District. He then reviews Section G ‘Conditions of permit’ and made findings as follows:

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

- (1) The smallest amount of bare ground shall be exposed for the shortest time feasible. The Planning Board shall set a specific date after which bare ground shall not be exposed.
Roger A. stated this is a driveway and there is little disturbance to the surrounding area.
- (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.
Existing ground cover is not going to be disturbed.
- (3) Diversions, silting basins, terraces and other methods to trap sediment shall be used.
A plan was created to address the existing sediment issues on site.
- (4) Lagooning shall be conducted in such a manner as to avoid creation of fish trap conditions. The applicant shall submit written approval from the Department of Marine Resources or Department of Inland Fisheries and Wildlife, as applicable, prior to consideration by the Planning Board.
Roger A. stated there is no lagooning to be done.
- (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.
Roger A. stated a plan had been presented, which included the materials to be used.
- (6) Fill shall not restrict a floodway, channel or natural drainageway.
Roger A. stated the plan was devised to keep stormwater on site as much as possible.
- (7) The sides and bottom of cuts, fills, channels and artificial watercourses shall be constructed and stabilized to prevent erosion or failure. Such structures are to be designed and built according to the Maine Soil and Water Conservation Commission, Technical Guide, Standards and Specifications.
Roger A. stated the plan was devised to the existing standards.
- (8) Where activities carried out under this article require the removal of existing ground cover, revegetation should be carried out.
Roger A. stated there isn't any ground cover being removed.
- (9) (Reserved)
- (10) Specific plans are established to avoid hazards from excessive slopes or standing water. Where embankment must be left upon the completion of operations, it shall be at a slope not steeper than one foot vertical to four feet horizontal.
Roger A. stated the plan helps to mitigate the established slopes that are existing and collect stormwater into the drywell.
- (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.
Roger A. stated this does not pertain to this project.
- (12) Sufficient topsoil or loam shall be retained to cover all areas, so that they may be seeded and restored to natural conditions.
Roger A. stated there was only one area that will need to be re-established next to the existing structure and this will be done per the plan.
- (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.
Roger A. stated this was not applicable.

- 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.
Roger A. stated there would be no processing of gravel on site.
 - (2) Days and hours of operation.
Roger A. the project will be completed in the shortest amount of time possible. Roger asked Mr. Spallone if the project could be completed by November. Mr. Spallone stated he wanted it done as soon as possible.
 - (3) Type and location of temporary structures.
N/A
 - (4) Routes for transporting material.
N/A
 - (5) Area and depth of excavations.
Roger A. stated the only excavation might be for the dry well if necessary.
 - (6) Provision of temporary or permanent drainage.
Roger A. stated there is a drainage plan provided.
 - (7) Disposition of stumps, brush and boulders.
N/A
 - (8) Cleaning, repair and/or resurfacing of streets used in removal activity which has been adversely affected by said activity.
Roger A. stated this would not be necessary for the work being done.
 - (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.
Roger A. stated there is a plan designed by a licensed engineer.

Roger A. asked if there were any questions? Steve F. asked if the grade was going to have to come up at end of the driveway toward the lake? Mr. Baldwin stated it would come up a little bit but they were also going to have to cut the inside edge, so there would be a cut and fill to tip it. Steve asked how the slope on the lake side would be stabilized? Mr. Baldwin said there would be a mulch erosion control mix.

Roger A. asked CEO McDonough if he had issues with using the egg crate structures instead of pavers? CEO McDonough stated he had no issues with either; he wanted to be sure that no portion of this driveway would ever be used as a patio. CEO McDonough stated that a patio is considered a structure and no new structure can be within 100 feet of the water. He didn't want someone down the road saying any part of the driveway was considered a patio. He stated that the only reason a driveway is not considered a structure is because it can never meet the setback to the road, therefore, would not be allowed. He also noted people don't usually have a driveway all the way to the water. He reiterated that he didn't want the lower end of the driveway to be considered a patio at any time, now or in the future.

Roger A. stated the conditions of approval would be:

- 1) The execution of the existing driveway plan shall be modified to use egg crate structures in place of pavers, where pavers are indicated on the plan.**

- 2) No portion of the existing driveway shall be used or construed as a patio area, now or in the future.
- 3) Best Management Practices shall be kept in place until the project is completed. There must be a person certified by the DEP in erosion control practices on site during the project.
- 4) The project is to be completed by October 31, 2016. If this date cannot be met the board shall be notified of a new date of completion.
- 5) The drywell may be replaced if necessary to the size required. The plans must be shown to the Code Enforcement Officer for his approval prior to replacement.

Condition five is a result of Steve F. requesting it be placed as a condition, because if they discover the drywell needs to be replaced, he didn't want the applicant to have to stop the project and come back before the board for approval. All members agreed with this condition.

Roger A. asked if there were any additional items to be discussed? There were none.

Maggie M. made the motion to approve the Conditional Use Permit for moving material in excess of 10 cubic yards in the Shoreland District in order to repair the existing driveway to mitigate stormwater runoff on Map 27, Lot 2 (200 16th Street) per the plan with five conditions. Steve F. 2nd the motion. All members were in favor. The motion passed unanimously, by a vote of 4-0.

Nothing further was discussed.

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### **The Findings of Facts**

1. The owners of Shapleigh Tax Map 27, Lot 2 (200 16<sup>th</sup> Street Loop), are Leonard and Donna Spallone, of 3 Seal Harbor Road, Unit 736, Winthrop, MA 02152.
2. The property is located in the Shoreland District and according to the assessing file, it contains 1.24 acres.
3. The applicant, Leonard Spallone, is before the board for a Conditional Use Permit to repair the existing driveway in the Shoreland District.
4. Received was a site plan which depicted the location of the existing house and garage, and the proposed driveway improvement plan. The plan was drafted by Engineer Chris Baldwin on June 1, 2016. The plan gives details of all the ways they would be mitigating the stormwater runoff, including porous pavers, asphalt, ditch turnout area and channel, and showing the location of the existing wooded buffer. The plan was modified at the planning board's request from using pavers to egg crate structures.
5. The board reviewed Zoning Ordinance §105-39 'Earth removal and filling other than mineral exploration and extraction', Sections D and G, concluding the plan as presented with the conditions imposed, will meet the criteria of the ordinance.
7. A site inspection was held on Tuesday, August 23, 2016 and a notice was mailed to all abutters within 500 feet of the property on August 10, 2016. Meetings were held on August 9, 2016, and August 23, 2016.



8. The Planning Board unanimously agreed to approve the Conditional Use Permit to repair the existing driveway on Shapleigh Tax Map 27, Lot 2, per the plans provided, and with five conditions.

**9. The conditions of permit are:**

- 1) The execution of the existing driveway plan shall be modified to use egg crate structures in place of pavers, where pavers are indicated on the plan.**
- 2) No portion of the existing driveway shall be used or construed as a patio area, now or in the future.**
- 3) Best Management Practices shall be kept in place until the project is completed. There must be a person certified by the DEP in erosion control practices on site during the project.**
- 4) The project is to be completed by October 31, 2016. If this date cannot be met the board shall be notified of a new date of completion.**
- 5) The drywell may be replaced if necessary to the size required. The plans must be shown to the Code Enforcement Officer for his approval prior to replacement.**

**Motion:**

**After careful consideration and a review of all material presented to the Board, including the review of Zoning Ordinance §105-39, ‘Earth removal and filling other than mineral exploration and extraction’, a motion was made on Tuesday, August 23, 2016, to approve the Conditional Use Permit to repair the existing driveway on Map 27, Lot 2 (200 16<sup>th</sup> Street Loop) per the plan with five conditions.**

**Vote:**

By a unanimous vote of 4 – 0, the motion to approve the Conditional Use Permit to repair the existing driveway on Map 27, Lot 2 (200 16<sup>th</sup> Street Loop) per the plan with five conditions was accepted.

**Decision:**

**The Conditional Use Permit to repair the existing driveway on Map 27, Lot 2 (200 16<sup>th</sup> Street Loop) per the plan with five conditions was approved.**

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**Conditional Use Permit – Earth Moving in Excess of 150 Cubic Yards to Level the Lot – Map 7, Lot 3-2 (926 Shapleigh Corner Road) – James Correggio, Applicant**

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

Members received, along with the application, a plan depicting the existing structures, 50 foot right-of-way, parking area, gravel driveway and notations depicting the area in which the fill will be moved from and then placed. The plan also denotes the lot lines locations and the distance from the earth moving to the existing lot lines.

Roger A. asked Mr. Correggio what he intended to do? Mr. Correggio stated he wanted to level his lot. Currently there is a hill that the 4 wheelers use to jump over and he wants to remove it, so he will be able to see them, to stop what is taking place. Also, his hope is the Sheriff will be able to see them from the road and help to put a stop to them trespassing.

Roger A. asked if he was just relocating soil that is on site? Mr. Correggio said yes, he was just moving it approximately 35 to 50 feet. He said he did want to bring in loam when he was finished to be able to grow some grass. He said that was the only earth coming in.

**Roger A. stated a public hearing will be held because this is a business location, prior to the next meeting on Tuesday, September 13<sup>th</sup> at 7:00 p.m. A notice to abutters will be mailed as well and a site inspection will take place at 6:30 p.m.**

Nothing further was discussed.

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**Other:**

Roger A. stated he had a telephone conversation regarding a major subdivision that was before the Planning Board at least 20 years ago. He said it was approved at the time but the board never got a final plan, so a plan was never signed. There was also supposed to be a bond presented for the road and a method to do a fire pond, and this never took place.

Roger A. said a lawyer called wanting to know where the subdivision stood because the two people originally involved were in litigation over this. The lawyer wanted to know what the board needed if it were to come back before the board? Roger said he told him that because it had been so long, the applicants would have to start over. The attorney also wanted to know if they could use some of the original materials presented to the board. Roger told them they could present the material and the board would review it and it would either be accepted or not, based on what is in today's subdivision ordinance.

Roger A. said he told the attorney they would have to come back to proceed with the 7 lot division. He wanted the board to know about the conversation. CEO McDonough stated they had contacted him first and he referred them to Roger who was more aware of what took place and he wasn't sure if there was anything in the ordinance that stated the approval expired in a certain amount of time. Roger stated that under §89-20, Section B it notes that a plan must be recorded within 90 days at the York County Registry of Deeds or it will become null and void. Also, when the board makes findings and the applicant does not comply, the plan is considered null and void. In this case the plan was never signed, a bond for the road was never received or a plan for the fire pond. In addition, substantial construction must commence within five years of the date of approval, this never took place in this case either.

Steve F. said it didn't sound like they ever completely got thru the approval process so none of these apply. CEO McDonough agreed. Maggie M. asked if this was just tabled for a lifetime? Ann H. said they never followed thru with the conditions, so it was never approved.

Roger A. said the bottom line was they would have to come back before the planning board before going forward. This project was at least 20 years old, so he had no issue with telling them they had to come back.

Nothing further was discussed.

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**Growth Permits**

There are growth permits available.

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

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The next meeting will be held Tuesday, September 13th, 2016 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. Also, should there be a cancellation due to a storm event, holiday or Election, the meeting will typically be held the following Wednesday, also at 7:30 p.m. Please contact the Land Use Secretary if there is a question in scheduling, 207-636-2844, x404.

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

SHAPLEIGH PLANNING BOARD

MINUTES

**Tuesday,
September 13, 2016**

Members in attendance: Roger Allaire (Chairman), Maggie Moody (Vice Chair), Madge Baker, Roland Legere, Diane Srebnick, Alternate(s) Steve Foglio and Ann Harris, 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 7:15 p.m.

Conditional Use Permit – Earth Moving in Excess of 150 Cubic Yards to Level the Lot – Map 7, Lot 3-2 (926 Shapleigh Corner Road) – James Correggio, Applicant

Mr. Correggio was present for the public hearing.

Members previously had received, along with the application, a plan depicting the existing structures on site, 50 foot right-of-way, parking area, gravel driveway and notations showing the area in which the fill will be moved from and then placed. The plan also denotes the lot lines locations and the distance from the earth moving to the existing lot lines.

Roger A. opened up the public hearing and asked Mr. Correggio to explain for the record what he was intending to do on Map 7, Lot 3-2. Mr. Correggio began by stating what the board viewed at the site inspection was the area he wanted to level off. His intention was to level the area with that of the existing field using the gravel that was on site.

Roger A. asked if he would be reclaiming it at the end of the project? Mr. Correggio stated that yes, his intention was to bring in some loam and put grass seed down.

Roger A. asked what the time frame was for the project, when it would be completed by? Mr. Correggio stated that it was to be completed approximately a year from now.

Roger A. asked if there would be any time the bare ground would be exposed for an extended amount of time? Mr. Correggio stated, yes. Roger said the ordinance wants the bare ground covered as quickly as possible. Mr. Correggio stated he wanted to cover it with loam but he didn't know if he would have it down in time before it gets cold to seed it. He said because of work, he may not be able to finish the project until next fall. Roger asked if he could put something down that was temporary? Mr. Correggio stated he could put some loam down and possibly mulch it or put hay down. He added that he did not feel there would be any erosion. He said even the existing banking has no erosion. He noted that he would like it to erode into the hole that exists now, because what he is trying to do is fill the hole.

CEO McDonough stated there may be a wind issue on a windy day. Roger A. said again there is a place in the ordinance that states something has to be done to cover open ground. He just wanted Mr. Correggio aware.

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

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

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

The minutes from Tuesday, August 23, 2016 were accepted as read.

Conditional Use Permit – Earth Moving in Excess of 150 Cubic Yards to Level the Lot – Map 7, Lot 3-2 (926 Shapleigh Corner Road) – James Correggio, Applicant

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

Members did a site inspection prior to this evenings meeting.

Roger A. went directly to reviewing Zoning Ordinance §105-39, 'Earth removal and filling other than mineral exploration and extraction', Section D, 'Earthmoving in the Shoreland District. Roger noted the fill was not actually being extracted in the traditional sense but being moved from one location to another on site. He also noted this was in the General Purpose District and was before the board because greater than 150 cubic yards of material were being moved. He read from Section C, which included, 'In either case, all relevant performance standards below shall be observed, including binding agreements to guarantee proper reclamation of the site after operations cease.'

Roger A. stated requirements of Section F, 'Application of permit' were met.

Roger A. then read Section G 'Conditions of permit', H 'Optional conditions of permit' and I 'Surety and terms of permit' as follows:

- G. Conditions of permit. The Planning Board may issue a permit, provided that the following conditions shall be met:
- (1) The smallest amount of bare ground shall be exposed for the shortest time feasible. The Planning Board shall set a specific date after which bare ground shall not be exposed.
Roger A. spoke with Mr. Correggio about this during the public hearing stating that he could not leave ground exposed for a long period of time.
 - (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. ***Roger noted there was no stream near the project.***
 - (3) Diversions, silting basins, terraces and other methods to trap sediment shall be used. *N/A*
 - (4) Lagooning shall be conducted in such a manner as to avoid creation of fish trap conditions. The applicant shall submit written approval from the Department of Marine Resources or Department of Inland Fisheries and Wildlife, as applicable, prior to consideration by the Planning Board.
Roger A. stated this was N/A.
 - (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.
Roger A. stated the amount of fill was listed as being greater than 150 cubic yards. The material is what exists on site and loam will be brought in.
 - (6) Fill shall not restrict a floodway, channel or natural drainageway.
Roger A. stated it will not.

- (7) The sides and bottom of cuts, fills, channels and artificial watercourses shall be constructed and stabilized to prevent erosion or failure. Such structures are to be designed and built according to the Maine Soil and Water Conservation Commission, Technical Guide, Standards and Specifications.

Roger A. stated that the way the earth was being moved there would be no issue, and the area is being made level.

- (8) Where activities carried out under this article require the removal of existing ground cover, revegetation should be carried out.

Roger A. stated this was discussed and revegetation will be carried out when the project is completed. Temporary cover will be placed until the project is completed.

- (9) (Reserved)

- (10) Specific plans are established to avoid hazards from excessive slopes or standing water. Where embankment must be left upon the completion of operations, it shall be at a slope not steeper than one foot vertical to four feet horizontal.

Roger A. stated this was N/A.

- (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.

Roger A. stated this does not pertain to this project.

- (12) Sufficient topsoil or loam shall be retained to cover all areas, so that they may be seeded and restored to natural conditions.

Roger A. stated there wasn't any topsoil to cover the area, so some will be brought in order to seed the area.

- (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.

Roger A. stated this was not applicable.

- 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.

Roger A. stated there would be no processing of gravel on site.

- (2) Days and hours of operation.

Roger A. stated the project will be completed during daylight hours.

- (3) Type and location of temporary structures.

N/A

- (4) Routes for transporting material.

Roger A. stated the material is staying on site.

- (5) Area and depth of excavations.

Roger A. stated there is no excavation taking place.

- (6) Provision of temporary or permanent drainage.

Roger A. stated there is a slight embankment staying on site to keep everything on site.

- (7) Disposition of stumps, brush and boulders.

Roger A. stated there are only a few stumps and they will stay on site.

- (8) Cleaning, repair and/or resurfacing of streets used in removal activity which has been adversely affected by said activity.

N/A

- (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.

Roger A. stated because of the size and scope of the project, there being minimal disturbance, he did not feel it was required. Mr. Correggio stated anything being washed away would go into the hole that he was going to fill. It would not leave the property.

J. 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.

Roger A. stated Section I, 'Existing operations' was not applicable with this application.

Roger A. asked if there were any questions? Roland L. asked if a security bond was required as under Section J it stated in part that 'No permit shall be issued without a surety bond'. He did not think it was a negotiable option due to the word 'shall'. Roger agreed. Madge B. stated it did not have to be a surety bond, it did say 'or other equivalent security'. She said because this was not an ongoing operation she believed the board could require something very minimum. Roland asked if the Code Enforcement Officer made a recommendation?

Steve F. believed the ordinance was written to deal with a massive amount of gravel being extracted or moved. Madge B. agreed. He understood why the requirement was written but he believed the project lent itself to not holding a surety bond. Roland L. was afraid to make an exception for one, as it could cause an issue with someone else. CEO McDonough agreed.

CEO McDonough asked Mr. Correggio if he had money with him? Mr. Correggio stated he had a small amount of cash. Steve F. asked what it would cost to get a small bond for \$10,000? Ann H. stated, \$100.

Roger A. told Mr. Correggio the board was required to ask for something to be sure the project was completed. The board accepted the amount of cash Mr. Correggio had with him, a total of \$92. CEO McDonough wrote a receipt for him for the amount. The money will be released upon completion of the project.

Roger A. then reviewed §105-73.G and made findings of fact.

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

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. **Roger A. stated, it will not.**
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. **Roger A. stated, this is N/A.**
- 3) The use is consistent with the Comprehensive Plan. **Roger A. stated that it was, the business itself has already been addressed.**
- 4) Traffic access to the site is safe. **Roger A. stated, it is, it was addressed with the original business approval.**
- 5) The site design is in conformance with all municipal flood hazard protection regulations. **Roger A. stated, it was already addressed with the original business approval and this location is not in the flood zone.**
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. **N/A, none generated by this activity.**
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. **Roger A. stated the only question is where the existing propane tanks will be going? Mr. Correggio stated he had not called the company yet to see if they would take them. He also wasn't sure if he owned them or not? Mr. Correggio said if he didn't own them he would have them take them, if he owned them he wanted them moved. CEO McDonough stated they would have to be moved by a licensed propane installer. CEO McDonough asked if they were being used? Mr. Correggio stated, no. Mr. Correggio stated that he thought of moving one behind the snowmobile club building. CEO McDonough stated that a condition should be that the tanks would have to be moved by a licensed installer. The board agreed.**
- 8) A stormwater drainage system capable of handling fifty-year storm without adverse impact on adjacent properties has been designed. **Roger A. stated this was addressed with the original business approval. Madge B. did not feel they would be creating any stormwater.**
- 9) Adequate provisions to control soil erosion and sedimentation have been made. **Roger A. stated that if some of the berm remained in place there would be no erosion. Mr. Correggio also did plan on bringing in loam and reseeding the area.**
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. **Roger A. stated that for this project this was not applicable but noted there is a water storage tank on site at this time for the business that was already approved.**
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. **Roger A. stated everything is in existence, no changes are being made.**
- 12) All performance standards in this chapter applicable to the proposed use will be met. **Roger A. stated they shall with conditions.**

Roger A. stated the conditions of approval will be:

- 1) The project is to be completed by September 15, 2017, including the loam and reseeding of the property.
- 2) No additional earth will be brought onto the site except for the loam to reclaim the area.
- 3) The barrels may be buried on site, which are filled with cement, as they can be used as solid fill.
- 4) The existing propane tanks shall be moved by someone licensed to do so.
- 5) The money collected by Mr. Correggio as a security, in the sum of \$92, will be returned to him upon proof that the project has been completed.

Madge B. made the motion to approve the Conditional Use Permit for earth moving in excess of 150 yards to level the lot per the plan presented, on Map 7, Lot 3-2, with five conditions. Maggie M. 2nd the motion. All members were in favor. By a vote of 5 – 0, the motion passed unanimously.

Nothing further was discussed.

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**The Findings of Facts**

1. The owner of Shapleigh Tax Map 7, Lot 3-2 (926 Shapleigh Corner Road), is James Correggio of 6 Chestnut Road, Shapleigh, Maine.
2. The property is located in the General Purpose District and according to the plan presented, drafted by Dana Libby, PLS 1350, dated 1-20-15, contains 5.46 acres.
3. The applicant is before the board for a Conditional Use Permit to move greater than 150 cubic yards of earth to level the lot.
4. Received was a site plan which consisted of a survey done by Dana Libby, PLS 1350, of Corner Post Land Surveying, Inc., which depicted the existing structures, 50 foot right-of-way, parking area, gravel driveway and notations added by the applicant, depicting the area in which the fill will be moved from and then placed. The plan also denotes the lot lines locations and the distance from the earth moving to the existing lot lines.
5. The application description states, ‘Move sand on high point of property to low point of property to make level lot, approximately 400 yards.’
6. The board reviewed Zoning Ordinance §105-39, ‘Earth removal and filling other than mineral exploration and extraction’ and concurred the application and information as presented met the standards applicable in this chapter, with conditions.
7. The board reviewed Zoning Ordinance §105-73, Section G, ‘Standards applicable to conditional uses’ and concurred the application and information as presented met the performance standards in this chapter, with conditions.
8. A site inspection was held on Tuesday, September 13, 2016 and a notice was mailed to all abutters within 500 feet of the property on August 24, 2016. Meetings were held on August 23, 2016, and September 13, 2016.
9. The Planning Board unanimously agreed to approve the Conditional Use Permit for earth moving greater than 150 cubic yards to level the lot on Shapleigh Tax Map 7, Lot 3-2, per the plan provided, with five conditions.
10. **The conditions of permit are:**
  - 1) **The project is to be completed by September 15, 2017, including the loam and reseedling of the property.**
  - 2) **No additional earth will be brought onto the site except for the loam to reclaim the area.**
  - 3) **The barrels may be buried on site, which are filled with cement, as they can be used as solid fill.**

- 4) The existing propane tanks shall be moved by someone licensed to do so.
- 5) The money collected by Mr. Correggio as a security, in the sum of \$92, will be returned to him upon proof that the project has been completed.

**Motion:**

After careful consideration and a review of all material presented to the Board, including the review of Zoning Ordinance §105-39, 'Earth removal and filling other than mineral exploration and extraction', and §105-73, Section G, 'Standards applicable to conditional uses' a motion was made on Tuesday, September 13, 2016, to approve the Conditional Use Permit to move greater than 150 cubic yards of earth to level the lot on Map 7, Lot 3-2 (926 Shapleigh Corner Road) per the plan with five conditions.

**Vote:**

By a unanimous vote of 5 – 0, the motion to approve the movement of greater than 150 cubic yards of earth to level the lot on Map 7, Lot 3-2 (926 Shapleigh Corner Road) per the plan with five conditions was accepted.

**Decision:**

The Conditional Use Permit to move greater than 150 yards of gravel to level the lot on Map 7, Lot 3-2 (926 Shapleigh Corner Road) per the plan with five conditions was approved.

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**Other:**

Madge B. stated she met with the Selectmen regarding the Comprehensive Plan and the survey the board created for the townspeople to take. She stated the Selectmen were in favor of the survey. She suggested Barbara F. and Karla B. work out how it will get dispersed. Madge thought Barbara should speak with Karla to see if it would be ok to hand it out during the presidential election and what would work best. Roland L. suggested Barbara also discuss this with Joanne Rankin, as this election will not be done as usual due to the expected voter turnout.

Barbara F. stated she will bring the survey to the next meeting for board members to review one more time.

Madge B. stated that the Selectmen also had no issue with the Planning Board going forward with the Comprehensive Plan section they reviewed and present it to the townspeople. Madge said that even if the Selectmen do nothing, the board should take theirs to Town Meeting, so a Public Hearing will need to be scheduled before the end of the year.

Barbara F. will also bring that information to the next meeting.

Nothing further was discussed.

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**Growth Permits**

Map 7, Lot 34B (Jones Road) – New Home

**GP #13-16**

Roger A. stated the lot was large enough, meeting the criteria for the minimum lot standards in the ordinance.

Map 8, Lot 2A-1 (Ross Corner Road) – New Home

**GP #14-16**

Roger A. stated the lot met the minimum lot standards in the ordinance.

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

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The next meeting will be held Tuesday, September 27th, 2016 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. Also, should there be a cancellation due to a storm event, holiday or Election, the meeting will typically be held the following Wednesday, also at 7:30 p.m. Please contact the Land Use Secretary if there is a question in scheduling, 207-636-2844, x404.

Respectively submitted,

Barbara Felong,

Land Use Secretary planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD

MINUTES

**Tuesday,
September 27, 2016**

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

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

The minutes from Tuesday, September 13, 2016 were accepted as read.

Conditional Use Permit – Earth Moving in the Shoreland District to repair a Private Road and Driveway – Part of Map 30, Lot 43 (22 Hemlock Road) – Diane and Vincent Srebnick, Applicants

Diane Srebnick excused herself as a member, so she could present her application to the board.

Board members received along with the application, a copy of a Release Deed for part of their property that was recently acquired, which extends along the private way, along with a copy of the Real Estate Transfer Tax Declaration, further showing proof of ownership. Also received, was a copy of the Town Tax Map which depicts Hemlock Road and the applicants driveway location, the plan had notes showing the location of the stone catch basin, pullover/plow out, and corner to be rounded with a tree to be removed. In addition, received was a copy of the property location from Google Maps with the road and driveway location highlighted, and it noted Sean Woods of Woods Home and Land would be doing the work.

The application description stated: Repair private road with reclaimed asphalt (60 yards), install a 15 x 2 x 3 stone catch basin, make a pullover/plow-out space and round out corner into driveway. Regravel driveway with material from on site.

Roger A. asked Diane S. to explain what she wanted to do. Diane began by stating they wanted to redo the road and driveway, regrading the driveway area to divert stormwater away from the garage and driveway; remove a tree along a sharp corner of the driveway area; regrade the area for better vehicle access, especially for emergency and service vehicles; install erosion mulch along the created berm; crown the road properly; create a pull over by putting reclaimed asphalt in an existing flat area; excavate a 15 x 2 x 3 stone catch basin because at present there is a big puddle that goes down to the neighbors, they want it to flow to the other side of the road, to reduce the runoff onto their property; and it should take about 60 yards of reclaimed asphalt along the road and driveway at a depth of 4 inches thick.

Diane S. stated that Sean Woods of Woods Home & Land would be doing the work.

Roger A. asked if Sean had a DEP license? Diane S. stated that he did and he would be the person doing the work. She said he would be at the next meeting to answer any questions.

Roger A. asked if they obtained a DEP Permit by Rule? Diane S. said she wasn't aware she needed one. CEO McDonough stated it was only needed if the project was within 75 feet of the water. Diane said she would have to measure it, and if they needed to file one they would. Roger said it was an easy form and if the DEP had questions they would contact her.

Roger A. stated due to the light constraints site visits would have to be done on the weekend during daylight hours. Board members decided to do individual site visits, as a time could not be decided upon that would meet everyone's needs. A notice to abutters will be mailed as well.

Roland L. noticed on the plan presented there were three oak trees noted, he wanted to know if they were going to be removed? Diane stated that no, they would remain. The only tree being removed is on the corner being adjusted.

Roger A. asked about the gravel being used on the driveway? Diane S. stated that was a mistake on her part, because at first they thought they would use the material being taken out on the corner, but they later decided using the reclaimed asphalt would work best.

Nothing further was discussed.

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*Diane S. was a regular member for the rest of the meeting.*

**Conditional Use Permit – Replace Retaining Wall – Map 28, Lot 23 (36 17<sup>th</sup> Street) – Christin & Kevin Haley, Property Owners; David Levesque, Applicant**

**Conditional Use Permit – Replace Retaining Wall – Map 28, Lot 22 (42 17<sup>th</sup> Street) – Steve Nichols, Property Owner, David Levesque, Applicant**

Mr. Levesque was present to represent both projects and applicants. Both projects would be reviewed at the same time, as they are adjoining properties with an adjoining wall that will be replaced.

Received along with the applications were permission letters giving Mr. Levesque permission to represent both applicants with the board and on the overall project. A copy of the DEP Permit by Rule 'explanation' of what the project entailed was received. Also received was a plan depicting the proposed 100' x 6' retaining wall to be built (50 feet in length on each property), the location of the existing stairs on both properties that will remain along with the location of the stairs contained within the new wall, the location of the existing dwellings and two pines trees on each location to be removed. A revegetation plan was also provided which showed the applicants will replace the two pine trees to be removed with three spruce trees.

The project description, as cited on the document named 'Maine DEP Permit by Rule Explanation' is as follows:

The activity that we are proposing to perform is the replacement of an existing rock and railroad tie retaining wall that has collapsed into Mousam Lake. The new wall shall be constructed with precast concrete retaining wall blocks manufactured by Genest Concrete. The new wall is to be constructed in the same location as the old with 2 sets of stairs (replacing exiting stairs). The wall will extend across two abutting properties (the Nichols property Map 28, Lot 22 and the Haley property Map 28, Lot 23). There are 4 pine trees (2 on each property) that are situated directly behind the existing wall and attributed to the walls failure. These trees will need to be removed in order to ensure the structural integrity of the new wall.

Roger A. began by asking Mr. Levesque how tall the new wall would be? Mr. Levesque stated they were designed to be six feet in height. He said currently one section of the wall has fallen into the lake, part of it is buckling; and one owner, Mr. Nichols, has cables running from the trees uphill down to his section of the railroad tie wall. He said the wall is buckling and bowing and noted the board members will see it when they do the site visit.

Mr. Levesque stated there are four pine trees directly behind the existing wall, he feels they contributed to the demise of the wall and need to be removed before they construct the new wall. He noted that the engineer also noted on his plan that they needed to be removed. Roger ask how far back replacement trees would be? Mr. Levesque stated the applicant was open to suggestions. He said the only thing they couldn't do was put them too close to the new wall. He said if the board does the site visit and has a particular location in mind that would be fine.

Roger A. stated that the replacement trees had to be six feet in height. Mr. Levesque stated that he realized that the DEP wanted the trees to be native to the area and at least a certain height. Roger noted that Shapleigh's ordinance calls for a minimum of six feet in height. Mr. Levesque didn't think it would be an issue.

Madge B. asked when they would be working on this project? Mr. Levesque said they tentatively scheduled the work to be started on November 1<sup>st</sup> but it could go into December. He said he wanted it completed by Christmas. Madge said planting would be late. Mr. Levesque said he would probably try to plant before he left the site in December. Roger asked if there would be mulch? Mr. Levesque said they would be stump grinding everything. Roland L. asked if the stumps on site would be removed? Mr. Levesque stated the stumps would be removed because they would be in the way when building the new wall. He said everything disturbed on site would be covered in erosion control mulch.

Mr. Levesque further explained about the geotextile fabric that is going behind the new wall and the fact the existing stumps would be in the area that the fabric had to be placed.

Madge B. said other than the trees that will be replanted, is there any other vegetation going to be replanted or is there only going to be mulch? Mr. Levesque said at this time he did not plan on planting anything, he said the property owners may be open to it. He said the board could suggest something if they thought it would be best. He only planned on replanting the trees and then using the erosion control mulch.

Steve F. asked what was there now? Mr. Levesque stated pine needles was about all that was there.

Roland L. said he hoped the design of the wall was such that water coming down the hill would not leach over the wall. Mr. Levesque said he agreed and he could create something to slow the water down, such as a small flat area.

Roland L. asked if he was going to have to cut a road in to get to the site? Mr. Levesque said he did have to and then would restabilize the area once the project was complete.

Diane S. asked if the wall was six feet high? Mr. Levesque said the existing wall was at varying heights but the new wall would be all one height at the top. He thought that was best, he didn't think varying heights made sense, and yes, it would be six feet high.

Roland L. asked about the openings for the stairs, were they four feet in length? Mr. Levesque said, yes. Roland asked what they would be made of? Mr. Levesque said the same material as the blocks. He said the wall would be 2 ½ feet tall and then the stairs would start. The dock will go to the stairs.

CEO McDonough asked if there was water against the wall now? Mr. Levesque said, no, and he wasn't sure if there ever had been water to the wall. CEO McDonough said he was only concerned if there needed to be a dam system created. Mr. Levesque said that would not be an issue.

Diane S. asked because the wall was six feet in height, if an engineered plan was required? Madge B. said it was but Mr. Levesque had an engineered plan. Mr. Levesque asked what the height was that an engineered plan was required. The board said, four feet or greater. Mr. Levesque gave the board a copy of the engineered plans.

**Roger A. said board members would go on a site visit on their own. A notice to abutters will be mailed as well.**

Roger A. noted the DEP had been notified. Mr. Levesque agreed and said he would be having a conversation with Cameron Adams to answer his questions.

Nothing further was discussed.

**Conditional Use Permit – Replace Retaining Wall – Map 19, Lot 4 (40 Shapleigh Corner Road) – Patricia Pike, Property Owner; Peter Shanahan, Applicant**

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

Along with the application, the board was provided with a letter stating that Patricia Pike gave Peter Shanahan permission to act on her behalf. Also provided was a memorandum from Geoffrey Aleva, PE of Civil Consultants, to Mr. Shanahan, dated September 19, 2016, which described the existing wall, how the wall would be removed and replaced. It also described the drainage to be used behind the wall and concluded with a statement that if the wall replacement was done as Mr. Aleva described, it would be a suitable replacement. Pictures of the existing wall were also provided.

The project description states: 100' retaining wall at lake's edge is to be torn down and rebuilt to the same dimensions. A further description for the board read as follows:

The 100' retaining wall located at 40 Shapleigh Corner Road is in imminent danger of falling into the lake and compromising the foundation of the house and lot this coming spring. (See attached photos) We are seeking a permit to tear down the wall and rebuilt it to the same dimensions.

Working the wall in sections, the plan is to dig out the back of the wall by hand. Remove the old rocks and mortar and rebuild the wall using the old stones as well as new stones as needed.

Geoffrey R. Aleva, PE of Civil Consultants, South Berwick, Maine has been hired to do the design plans and to handle the permitting process for the State of Maine. His design and permitting information is enclosed with this application.

We would like to start work in late October or early November 2016, as soon as the lake is drawn down for the winter. If the water is still at the base of the wall, sand bags will be used to dam the water away from the wall.

Hanlon Stone of Portland, Maine has been hired to do the project.

Roger A. asked the applicant to explain the project. Mr. Shanahan stated they would like to replace the 100 foot stone wall that is cracking and falling. He said they hired Geoffrey Aleva from Civil Consultants to deal with it. He said Mr. Aleva is handling the Permit by Rule and it should be ready by October 11<sup>th</sup>. He stated that the project entails removing the existing wall and replacing it with a new wall in the same location with drainage behind it. The owners believe the wall was put in, in the early 1980's or 90's, and there was never

any drainage put in behind the wall. The section in front of the house, which is only 8 to 10 feet from the foundation of the house, is not helping the foundation. He said they would like to start the project in October.

Steve F. asked if they were going to do the project themselves? Mr. Shanahan stated, no, they were going to use Hanlon Stone out of Portland. He said the section in front of the house had to be hand dug and they didn't want to deal with that.

Mr. Shanahan added that a 3 x 3 foot block actually broke off this summer.

Madge B. asked if any trees would need to be removed? Mr. Shanahan said, no. Roland L. noted that this wall gets a lot of wave abuse during the summer months. Mr. Shanahan agreed.

Roger A. said the overall height of the wall is 48 inches, and according to the building code it would have to be less than that, otherwise an engineered plan is required. Mr. Shanahan said he would tell Mr. Alea. Roger said if it was 47 ½ inches high it would be ok.

**Roger A. said members will do a site inspection on their own and a notice to abutters will be mailed as well.**

Nothing further was discussed.

**Other:**

**Conditional Use Permit – Replace Retaining Wall – Map 27, Lot 3D (9 Narrows Lane) – Mark Hourigan, Applicant**

Barbara F. stated Mr. Hourigan contacted her via email and said although he had contacted an engineer to do the plans for the wall, he did not have the information at this time, and was asking for an extension for his permit. The 90 day requirement was up this week.

After discussion of the original facts about the wall to be replaced, the board made the following motion:

**Madge B. made the motion to continue to table the application to replace the retaining wall on Map 27, Lot 3D, pending the engineered plans for the wall, for 30 days. Diane S. 2<sup>nd</sup> the motion. All members were in favor. By a vote of 4 – 0, the motion passed unanimously.**

Nothing further was discussed.

**Comprehensive Plan**

Barbara F. gave members a copy of the Comprehensive Plan Survey, asking them to review it one more time before copies are made. After discussion there was a change to the first item as follows:

1. Please rate the ~~top 5~~ items you most like about Shapleigh, with 1 being the highest:

|  |                            |  |                                |
|--|----------------------------|--|--------------------------------|
|  | Town's Rural Character     |  | Open Space                     |
|  | Recreational Opportunities |  | Historical Structures / Places |
|  | Commercial Opportunities   |  |                                |



Members believed this was more appropriate and noted there was also a blank section that could be added to.

Madge B. asked if it can be noted on the survey that there will be public hearings held to discuss the survey. Barbara stated she would add something to the end of the survey regarding a public hearing.

Barbara F. also gave members the changes to the Comprehensive Plan that have been agreed upon to date, including the charts created. She asked members to review them for a future discussion prior to the public hearing, noting areas that are bolded still need to be addressed.

*Members agreed the first public hearing regarding the Comprehensive Plan changes made by the board would be held on December 13<sup>th</sup> (weather pending).*

Nothing further was changed. ***The survey will be handed out during the Presidential election.***

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### **Growth Permits**

**Map 40, Lot 30A (Granny Kent Pond Road) – New Home**

**GP #15-16**

Roger A. stated the lot met the minimum lot standards in the ordinance.

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

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The next meeting will be held Tuesday, October 11th 2016 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. Also, should there be a cancellation due to a storm event, holiday or Election, the meeting will typically be held the following Wednesday, also at 7:30 p.m. Please contact the Land Use Secretary if there is a question in scheduling, 207-636-2844, x404.

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

SHAPLEIGH PLANNING BOARD

MINUTES

**Tuesday,
October 11, 2016**

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

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

The minutes from Tuesday, September 27, 2016 were accepted as read.

Conditional Use Permit – Earth Moving in the Shoreland District to repair a Private Road and Driveway – Part of Map 30, Lot 43 (22 Hemlock Road) – Diane and Vincent Srebnick, Applicants

Diane and Vincent Srebnick were present for the review of the application. Diane Srebnick excused herself as a board member, so she could present her application to the board. Sean Woods of Woods Home & Land, the contractor doing the job was also present.

Steve Foglio sat in as a regular member for this application. Board members did a site inspection on an individual basis.

The application description states: Repair private road with reclaimed asphalt (60 yards), install a 15 x 2 x 3 stone catch basin, make a pullover/plow-out space and round out corner into driveway. Regravel driveway with material from on site.

Board members had received along with the application, a copy of a Release Deed for part of the Srebnick's property that was recently acquired, known as Portion of Lot 44, 45 and 46, which extends along the private way, along with a copy of the Real Estate Transfer Tax Declaration, further showing proof of ownership; a copy of the Town Tax Map which depicts Hemlock Road and the applicants driveway location, the plan had notes showing the location of the stone catch basin, pullover/plow out, and corner to be rounded with a tree to be removed; and received was a copy of the property location from Google Maps with the road and driveway location highlighted, and it noted Sean Woods of Woods Home and Land would be doing the work.

At this evenings meeting Mrs. Srebnick gave board members a copy of the Permit by Rule Notification Form, dated 10/7/2016, which included the description of the project, and site pictures.

Roger A. asked the applicants to speak on what they wanted to do. Diane S. asked Mr. Woods to speak on their behalf. Mr. Woods began by stating they would be working on a 400 foot stretch of Hemlock Road. He said he would regrade and reswale in order to manage the stormwater runoff properly. There will be crushed asphalt used as a top coat to help bind and help the hill areas to stem the erosion factor. A catch basin will be put in to create a slow release on one side of the road, so it doesn't cross the road and drain into the abutting property. A plow area is also being created. He stated that the project is to create proper drainage, so it doesn't put water into the abutter's property and into the lake.

Roger A. asked if there were any questions?

Roger A. asked how much yardage was being brought in? Mr. Woods stated, 65 yards. Steve F. asked if they were raising up the surface? Mr. Woods stated they were not really raising it, but recrowning it. He said there are a lot of concave areas and water is traveling down the center, where plows have been pushing the gravel to the left and right. He stated there would be an initial subgrade regrade and a topcoat of 2 to 3 inches of asphalt.

Madge B. showed the applicants an area of concern on their diagram, wanting to be sure where the water would be going. She asked how it would be pitched. Mr. Srebnick agreed that it was important to pitch this location correctly, as the person who previously did the road did it incorrectly causing ponding. Madge said that was fine and she just saw it as a potential problem, Mr. Srebnick agreed. Madge B. showed members the area she was concerned with.

Roger A. read a letter dated 10-11-2016 from Marc Lemelin of 21 Hemlock Road, a direct abutter to the Srebnick's property. The letter read as follows:

I have had an opportunity to review my abutters proposed permit application, for work to be performed on Hemlock Road.

General speaking, I have no opposition to said proposal other than my concerns of raising the road/driveway and diverting water onto my property.

Years ago we had repaired/resurfaced Hemlock Road with the guidance from Joe Anderson and the State of Maine. We were encouraged at the time to install a retention pond at the base of the road before water could enter the lake. But were refused permission by said applicant.

We instead delivered and spread many yards of wood chips/mulch to slow the runoff down from the hill on Hemlock Road. In the end it worked fine and received good reviews from Joe Anderson and the State of Maine.

Again my concern is water being routed onto my property. Please consider my opinion when reviewing this site!

Roland L. stated that when he did the site inspection Mr. Lemelin asked to speak to him and indicated he would be sending a letter to the board. He said Mr. Lemelin reiterated his concern with the work on the road resulting in water being diverted onto his property. Roland said he told him he would mention what he said and that he would read the letter.

Mr. Srebnick stated there will be less water going onto his property after this project is completed than there is now. He said Mr. Lemelin originally did the road project, it was done poorly and it resulted in the water draining onto his property. Mr. Srebnick stated that they were going to do their best to keep the water from going onto his property.

Madge B. asked Roger A. if he understood the letter. Roger said yes, and that he could see why the water was going onto Mr. Lemelin's property but believed when the road is regraded it will help keep the problem to a minimum. Madge B. asked if the turn would keep the water on the Srebnick's property? Mr. Srebnick stated there was at least 40 feet of undisturbed natural vegetation to also absorb the stormwater before it gets to the lake.

Roland L. asked Mr. Woods if he was confident that he would be able to accomplish mitigating the stormwater issue they were discussing. Mr. Woods stated that it should keep the stormwater on the Srebnick property it will spill into the vegetative buffer to keep it from sheeting to the shoreline. Madge B. asked what happens now? Mr. Srebnick stated at this time the majority of the water runs down the hill (road) and goes into Mr. Lemelin's yard, with some going into the Srebnick yard. He said further up the hill there is another neighbor who put in wood chips, therefore, the goal is to regrade so some of the flow goes into the wood chip area and at a certain point goes into a buffer area.

Roger A. read from 105-39 'Earth removal and filling other than mineral exploration and extraction', Section A 'General'; Roger noted Section B was not applicable as greater than 10 cubic yards were being moved in the shoreland district; and Roger read Section D 'Earthmoving in the Shoreland District'. Roger then reviewed Section F 'Application for permit', noting the required information was received on the application and plan provided, and information was also obtained at the site inspection.

Roger A. then read Section G 'Conditions of permit' as follows:

- G. Conditions of permit. The Planning Board may issue a permit, provided that the following conditions shall be met:
- (1) The smallest amount of bare ground shall be exposed for the shortest time feasible. The Planning Board shall set a specific date after which bare ground shall not be exposed.
This project is not exposing bare ground, as this project entails regrading.
 - (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. *N/A*
 - (3) Diversions, silting basins, terraces and other methods to trap sediment shall be used. ***This project is creating methods to trap stormwater that are not in existence at this time.***
 - (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. *N/A*
 - (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.
Roger A. stated the amount of fill is stated to be 65 yards and the type of fill is listed as reclaimed asphalt.
 - (6) Fill shall not restrict a floodway, channel or natural drainageway.
Roger A. stated it will not and the project will help to create proper drainage.
 - (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. *N/A*
 - (8) Where activities carried out under this article require the removal of existing ground cover, revegetation should be carried out.
Roger A. stated there is only regrading being done.
 - (9) (Reserved)

- (10) Specific plans are established to avoid hazards from excessive slopes or standing water. Where embankment must be left upon the completion of operations, it shall be at a slope not steeper than one foot vertical to four feet horizontal.

Roger A. stated they are not creating any excessive slopes. The project is trying to help mitigate the stormwater issue due to excessive slopes.

- (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.

Roger A. stated this does not pertain to this project.

- (12) Sufficient topsoil or loam shall be retained to cover all areas, so that they may be seeded and restored to natural conditions.

Roger A. stated the only area that will need to be restored is where the tree is being removed.

- (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.

Roger A. stated this was not applicable.

Roger A. did not believe the board needed any optional conditions of permit. He said the hours of operation would be during the daylight hours. Mr. Woods agreed, they would be between approximately 7:30 a.m. to 4:30 p.m.

Roger A. asked when the project would be done and completed? Mr. Woods stated they would begin on November 3rd and it would go through the end of November. Diane S. wanted a completion date of December 25th in case they run into any issues.

Madge B. asked if the tree being removed was 100 feet from the water? Roger A. did not think it was 100 feet from the water. Madge asked if they had to replace the tree? Mr. Srebnick stated that if the board looked at the aerial photographs there were many trees on site. Madge understood that but again asked if the tree needed to be replaced? Roger did not think a tree should be added on that corner. Diane S. asked if it was incidental to construction? Madge agreed it had to be removed but usually the board required people to replant trees. CEO McDonough stated a tree replacement would not be under §105-39. Madge asked if it were under §105-4 'Nonconformance'. Roger said tree replacement was under relocation of a structure. Madge agreed then it did not apply in this case.

Roger A. then reviewed §105-73.G and made findings of fact.

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

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. ***Roger A. stated, it will not, it will help prevent stormwater and phosphorus from going into the lake.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. ***Roger A. stated it would.***
- 3) The use is consistent with the Comprehensive Plan. ***Roger A. stated that it is.***
- 4) Traffic access to the site is safe. ***Roger A. stated, it is.***

- 5) The site design is in conformance with all municipal flood hazard protection regulations. **Roger A. stated it is.**
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. **N/A, none generated by this activity.**
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. **N/A, none generated by this activity.**
- 8) A stormwater drainage system capable of handling fifty-year storm without adverse impact on adjacent properties has been designed. **Roger A. stated this is what the project is trying to accomplish, keeping stormwater on site.**
- 9) Adequate provisions to control soil erosion and sedimentation have been made. **Roger A. stated there are and DEP approval of the project is required as well.**
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. **Roger A. stated that for this project this was not applicable but noted there is a water available.**
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. **Roger A. stated everything is in existence, no changes are being made.**
- 12) All performance standards in this chapter applicable to the proposed use will be met. **Roger A. stated they shall.**

Madge B. made the motion to approve the Conditional Use Permit for earth moving in excess of 50 yards to regrade Hemlock Road per the plan presented, on Map 30, Lot 43 and along property known as Tax Map 30, Portion of Lot 44, 45 and 46. Maggie M. 2nd the motion. All members were in favor. By a vote of 5 – 0, the motion passed unanimously.

Nothing further was discussed.

The Findings of Facts

1. The owners of Shapleigh Tax Map 30, Lot 43 (22 Hemlock Road), are Vincent and Diane Srebnick of 22 Hemlock Road, Shapleigh, Maine.
2. The property is located in the Shoreland District and according to the assessor contains .7 acres.
3. Additional property affected by this project, owned by Vincent and Diane Srebnick, is known as Map 30, portion of Lot 44, 45 and 46, consisting of .4 acres. Property was acquired on December 2, 2015 by Release Deed. (A copy of the deed and Real Estate Transfer Tax Declaration was received.)
4. The applicants are before the board for a Conditional Use Permit to move greater than 50 cubic yards of fill to regrade Hemlock Road.
5. Received was a copy of the Town Tax Map which depicts Hemlock Road and the applicants driveway location, the plan had notes showing the location of the stone catch basin, pullover/plow out, and corner to be rounded with a tree to be removed; and received was a copy of the property location from Google Maps with the road and driveway location highlighted, and it noted Sean Woods of Woods Home and Land would be doing the work.
6. Received was a copy of the Permit by Rule Notification Form, dated 10/7/2016, which included the description of the project, and site pictures.

7. The application description states, ‘Repair private road with reclaimed asphalt (60 yards), install a 15 x 2 x 3 stone catch basin, make a pullover/plow-out space and round out corner into driveway. Regravel driveway with material from on site.’ One of the applicants during the meeting on September 27, 2016 stated they would not be using material from on-site but reclaimed asphalt for the entire length of the project.
8. The board reviewed Zoning Ordinance §105-39, ‘Earth removal and filling other than mineral exploration and extraction’ and concurred the application and information as presented met the standards applicable in this chapter.
9. The board reviewed Zoning Ordinance §105-73, Section G, ‘Standards applicable to conditional uses’ and concurred the application and information as presented met the performance standards in this chapter.
10. A site inspection was done on an individual basis and a notice was mailed to all abutters within 500 feet of the property on September 28, 2016. Meetings were held on September 27, 2016, and October 11, 2016.
11. The Planning Board unanimously agreed to approve the Conditional Use Permit for the movement of fill greater than 50 cubic yards in the Shoreland District to regrade and resurface Hemlock Road on Shapleigh Tax Map 30, Lot 43, and along property known as Tax Map 30, Portion of Lot 44, 45 and 46 per the plan provided.

Motion:

After careful consideration and a review of all material presented to the Board, including the review of Zoning Ordinance §105-39, ‘Earth removal and filling other than mineral exploration and extraction’, and §105-73, Section G, ‘Standards applicable to conditional uses’ a motion was made on Tuesday, October 11, 2016, to approve the Conditional Use Permit for the movement of fill greater than 50 cubic yards in the Shoreland District to regrade and resurface Hemlock Road on Shapleigh Tax Map 30, Lot 43, and along property known as Tax Map 30, Portion of Lot 44, 45 and 46 per the plan provided.

Vote:

By a unanimous vote of 5 – 0, the motion to approve the movement of fill greater than 50 cubic yards in the Shoreland District to regrade and resurface Hemlock Road on Shapleigh Tax Map 30, Lot 43, and along property known as Tax Map 30, Portion of Lot 44, 45 and 46 per the plan provided was accepted.

Decision:

The Conditional Use Permit for the movement of fill greater than 50 cubic yards in the Shoreland District to regrade and resurface Hemlock Road on Shapleigh Tax Map 30, Lot 43, and along property known as Tax Map 30, Portion of Lot 44, 45 and 46 per the plan provided was approved.

Diane S. was a regular member for the rest of the meeting.

Conditional Use Permit – Replace Retaining Wall – Map 28, Lot 23 (36 17th Street) – Christin & Kevin Haley, Property Owners; David Levesque, Applicant

Conditional Use Permit – Replace Retaining Wall – Map 28, Lot 22 (42 17th Street) – Steve Nichols, Property Owner, David Levesque, Applicant

Mr. Levesque was present to represent both projects and applicants. Both projects would be reviewed at the same time, as they are adjoining properties with an adjoining wall that will be replaced. Mr. Nichols was also present.

Board members did a site inspection on an individual basis.

Members previously received along with the application, permission letters giving Mr. Levesque permission to represent both applicants with the board and on the overall project. A copy of the DEP Permit by Rule ‘explanation’ of what the project entailed was received. Also received was a plan depicting the proposed 100’ x 6’ retaining wall to be built (50 feet in length on each property), the location of the existing stairs on both properties that will remain along with the location of the stairs contained within the new wall, the location of the existing dwellings and two pine trees on each location to be removed. A revegetation plan was also provided which showed the applicants will replace the two pine trees to be removed with three spruce trees.

The project description, as cited on the document named ‘Maine DEP Permit by Rule Explanation’ is as follows:

The activity that we are proposing to perform is the replacement of an existing rock and railroad tie retaining wall that has collapsed into Mousam Lake. The new wall shall be constructed with precast concrete retaining wall blocks manufactured by Genest Concrete. The new wall is to be constructed in the same location as the old with 2 sets of stairs (replacing exiting stairs). The wall will extend across two abutting properties (the Nichols property Map 28, Lot 22 and the Haley property Map 28, Lot 23). There are 4 pine trees (2 on each property) that are situated directly behind the existing wall and attributed to the walls failure. These trees will need to be removed in order to ensure the structural integrity of the new wall.

Roger A. asked Mr. Levesque to begin and also asked him if they had DEP approval for the project yet? Mr. Levesque stated they were still working on approval. He said the DEP won’t approve the project until the applicants get approved by the Planning Board because part of the wall has collapsed, the DEP needs proof showing them that it has not been longer than two years since the wall has collapsed. Mr. Levesque said it had been less than 2 years, but he said he did not have pictures of it. Mr. Levesque said Steve Foglio was the Realtor who sold the property to the Haley’s, so he knew more about the status of the wall.

Steve F. stated that the wall fell on June 6th of this year. He said he had some pictures of the wall top down but not from the face, even so he said there was no question the wall fell within the last two years. He stated they were working on getting the information required.

Roger A. asked if this was on the Haley side or the Nichol side? Mr. Levesque said it was on the Haley side. Roger said the Nichols side is timber. He asked how far over the wall was going? Mr. Levesque said the Nichols property is approximately 55 feet of shore front and the Haley property 50 feet, they are proposing to go 100 feet. Mr. Levesque said one wall was going to be contained within the property line several feet (Nichols) and the other side would go right to the property line.

Roger A. asked if the surveyor was going to depict the property line (Nichols). Mr. Levesque noted the existing location of two pins at this time. Roger asked again if a surveyor was going to dictate the location of the property line? Mr. Levesque said they were not planning on having the property surveyed. Roger said it needed to be verified where the Nichols property line was, especially because the abutting wall is 8 feet in height. Mr. Levesque said they were going to sawcut the wall on Mr. Nichols property and then tie the wall in; bolting metal bracing to the face of the abutter's wall, on Mr. Nichols property, also using concrete to hold it in place. He stated all the work would be performed on Mr. Nichols property. Roger still stated someone would have to certify they would be on Mr. Nichols property. Mr. Levesque believed there was a Class D survey done. Roger said the board needed to know the property line because when they cut the wall attached to the neighbor's property it will shorten the life of the wall due to its condition at this time. Mr. Levesque agreed.

Mr. Levesque said they could not shore up the entire shoreline, telling everyone along the shore front they have to replace their wall. Roger A. said he agreed, and this is why the board needs to be sure they are on Mr. Nichols property and depict where the pin is. Mr. Levesque asked if the board was ok with a Class D survey? Roger said all the lots on this street have had issues with respect to surveys. CEO McDonough asked if there was a letter of complaint? Roger said there was a letter of concern which he read to the board members:

Please be advised that I am in receipt of the Notice of Application for two conditional use permits to replace the existing 100 foot stone and railroad tie retaining wall that extends across two abutting properties on 17th Street in Shapleigh Maine. The two properties are: Lot #22 owned by Stephen Nichols and Lot #23 owned by Christin and Kevin Haley.

As an abutter to Mr. Stephen Nichols, Lot #21 of The Shapleigh Tax Map, I feel compelled to express my sincere concern as to just what effect this project to replace his existing retaining wall will have on my retaining wall. I am concerned that Mr. Nichol's new abutment to my existing retaining wall might compromise its integrity. That is to weaken or undermine the aforesaid so as to cause it to erode prematurely due to the elements. I would respectfully ask that provisions be included to prevent such from happening! I would also respectfully request that Mr. Nichols be prevented from depositing any debris from the removal of the 4 pine trees or any other construction material from his lot on my lot as he has done in the past!

This little cottage has been in our family for close to 50 years. Up until Mr. Nichols arrival, everything has been copacetic! In the 1970's Mr. and Mrs. William Lavallee were the abutters to my family's lot. That is when my father and mother had the existing retaining wall constructed of some 50 feet which terminated in line with the original lot line. Not the one as evidence today! After the death of Mrs. Lavallee's husband she found it necessary to sell the aforesaid property to the Grants who ultimately sold it to Mr. Nichols!

I do sincerely hope that these provisions can be realized so as to prevent any potential problems in the future as it relates to these two properties.

Very truly yours, Raylene M. Joyal

CEO McDonough asked if there was a concern that replacing the Nichols wall would affect the wall of the abutting property? Mr. Levesque stated there is a timber wall that transitions into a block wall that goes onto the neighboring property. In order to replace the wall on Mr. Nichols property you have to take down part of the existing block wall, so the concern is in doing that, it will compromise the block wall that extends onto the neighbors property. CEO McDonough said that is a problem. Steve F. asked what Mr. Nichols obligations are to the neighboring property, legally? CEO McDonough said he felt there was a certain amount of obligation, because when you do something you are obligated for the ripple it creates, especially if he knows it's an issue. Roger A. said that was the reason he was bringing up the property line issue. He

wanted to be sure they restabilize the area. Mr. Nichols said the neighbor's wall, as it stands, will fall down eventually. Mr. Levesque asked how far from the neighbor's property line they have to be and who makes that call? Roger said as long as it is on Mr. Nichols property that is ok, but it can't be on the neighbor's property. CEO McDonough said more importantly the Planning Board would be at fault.

Roger A. said if they were six or seven feet from the neighbor's wall then it isn't their fault if something happens but if they are right up against the wall and something happens then it is the applicants fault. Mr. Levesque showed where the property pin was, and said if he had that pin verified by a surveyor, if they move over three feet from the line, cut the wall on Mr. Nichols property and then if the neighbors wall falls in, he did not think they would be liable for that. CEO McDonough didn't agree with that. CEO McDonough said the board reviewing whether the wall should be cut 3 feet or 10 feet from the line isn't relevant. He said what is relevant is if the board permits this project, how is it going to affect the neighboring wall. Roger agreed. CEO McDonough said if he was on the board he would want a professional determine how to remediate the issue. He said he would want to know how the project was going to affect the wall, not what the wall would be doing on its own, agreeing it was in poor shape. Mr. Nichols thought doing the project would make the neighboring wall stronger. CEO McDonough thought that would be great, get a consultant to say that and then there is no liability. Mr. Nichols said they were going to put in angle iron and concrete and put in a dead man on the end of that wall to support it. CEO McDonough said they just need someone to say this will work.

Roger A. said typically the board will not approve a wall unless the DEP gives their blessing. CEO McDonough said that can be a condition of approval. Mr. Levesque stated the DEP was telling him the opposite, that the board had to approve it first. Roger said that was not usually the case. Madge B. said the DEP will not solve the board's problem. Roger agreed but said the DEP could put some conditions on the wall, as to how it should be done that perhaps the board hadn't considered. Mr. Levesque said the only issue the DEP had, because they had a copy of all the drawings, was proof the wall hadn't been down longer than 2 years. He said they resolved every other issue.

Steve F. asked if this was a fence, if it would be an issue? CEO McDonough said probably not because a fence didn't affect the water quality. He said legally he believed it was the same issue.

CEO McDonough said if you do any activity that you know will affect the neighboring property you are subject to some liability. Steve F. said the applicants stated they would shore up the neighbors wall. CEO McDonough said that was great but it was not on the plan and the board didn't have a professional stating it would help the wall. He said the board can do what they want, this was his opinion. Mr. Levesque asked what CEO McDonough thought they should do? CEO McDonough stated, "Get a professional opinion, that by replacing this wall it won't affect the neighbor's wall or it will make the neighbor's wall better or at least as strong as it is now."

Roger A. asked where the tie back will go in? He said something needed to run back from the neighbor's wall into the bank. Mr. Levesque said they could tie back five feet of wall (on Mr. Nichols side) using steel and concrete, five feet from the property line, so there is five feet of wall being tied back. He didn't see then how their project would hurt the neighbor's wall.

Diane S. asked if he is supposed to stay three to five feet away from the neighbor, and right now all these walls are tied together, if he has to stay so far from the neighbors wall to not cause problems, is that going to leave a gap between the walls? And if so, isn't that going to create a bad situation for runoff, possibly undermining both walls? Diane also wondered if it would look weird with gaps between the walls. CEO McDonough still believed you are responsible for the walls on your property and the ramifications of what

you are doing to the walls. CEO McDonough noted, for example, if you own half of a duplex and you want to demo your half, is that ok? He said, no. Diane said the best scenario would be to tie the new wall in with the old wall but they are not up for that. Steve F. asked what if an engineer put on the plan that the idea for replacing this wall was a good idea. Mr. Levesque didn't think an engineer would state that. Steve understood but he also didn't believe rotting timbers falling into the lake was a good idea. He was talking about stabilizing the area as good as it is now.

Roland L. agreed with Diane S. that if you create a gap that will be the weak space in the future. Roland asked if they were very sure of the marker point (lot line) because he noted he sat through the construction of both properties and every time an application came up and they had it surveyed, there was an issue and ripple effect in that area. Steve F. asked Mr. Nichols if it was surveyed? Mr. Nichols said they had the same surveyor (the abutting property and himself) so they could not disagree. Roland just wanted to be sure the board wasn't arguing over something that wasn't even his. Mr. Nichols said they went to arbitration with the abutters and it was concluded (signed off) that the wall was in fact his.

Roger A. asked if a member in the audience had any questions? Ms. Joyal was present and stated that her father built the wall that is there and the original owners of Mr. Nichols property, the Lavallee's, told him where the boundary was, so that is why the wall is where it is. Steve F. stated, "As it turns out, it is not." Ms. Joyal said, "I have no idea, all I know is that is where they said the mark was." Roland said he remembered when the surveyor came in, there was quite a discrepancy. Ms. Joyal said there have been lots of changes including the road, everything has moved, but that is why the wall is there because her father abutted his wall to the one put up by Lavallee's. Roger said wherever the surveyor said the line is, is where it is. He said with everything Mr. Nichols is putting in, including stone to alleviate the drainage issue, he wanted to be sure the wall attached to the Joyal property is tied back well. He said then he will not have an issue with the new wall. He wanted to be sure the Joyal wall will not be any worse than it is today and he reiterated he was concerned with the two walls being different heights. He also noted the water coming from the Joyal property would affect the Nichols property, moreso.

Mr. Nichols stated he was putting in an engineered wall with drainage and stump grindings, he didn't see that the new wall would be a negative for anyone. Madge B. said the tie back is going to require excavation, so she didn't think it could be on the property line because the abutters will complain if anything is disturbed. She said the tieback, therefore, has to be away from the other property. Roger A. agreed, it would have to be for a small distance, unless the neighbors could agree they don't have an issue with them going onto the property to get it stabilized. Madge asked if the applicant should try to get the abutter more agreeable? She asked if they tried to talk to the abutter? Mr. Nichols said he hadn't but in the past when he had, he did not get anywhere. He also didn't think they could afford to fix their wall.

Roger A. asked where the road would be created to do the project? Mr. Nichols said it was going across his property. Roger asked where, looking from the water? Mr. Nichols said from the water it would be on the left side. Roger asked if any trees would be removed for the road? Mr. Levesque said, no.

Mr. Nichols suggested that they anchor the wall on the end for the Joyal's. He spoke about the wall being made of block and the weak point is the seams for the block and noted it was pushing out at this time. He said they could add some steel and concrete, creating a dead man to keep the end of the wall from going over. He said he can't guarantee that 20 feet over seams won't give way but he can offer an additional brace on their property, as well, at his costs if the Joyals want it. It would be on his side of the line but it would add more support and it would ensure his wall would not affect their wall.

CEO McDonough asked if there was an issue with the property line and the abutters? Ms. Joyal, who was in the audience, said, "I'm the abutter." CEO McDonough asked if she was agreeable to any of what was being

proposed? Ms. Joyal said, "I don't know." She wanted to know how much of the wall was being cut down, she thought it was six feet. Mr. Nichols said everything removed was over the property line. Roland L. said he was removing block wall and adding an engineered wall, he was not taking wall away and not replacing it with anything. CEO McDonough asked Ms. Joyal if she disagreed with the location of the property line? She stated she always disagreed with the location of the property line. CEO McDonough asked if she did not believe the surveyor? She stated the original owners to his place, ended the wall where it is because that was their property. Mr. Nichols stated, "This has all been settled in mediation already. I have all the documents." Ms. Joyal said she understood that but why would someone put their wall on someone else's property. Mr. Nichols said again that she signed off on where the property boundary was located. Ms. Joyal stated that she understood that.

Roger A. said if the surveyor states this is where the property line is and also someone says that the new wall will support the Joyal wall and not make the wall any worse than it already is, it should be fine. Mr. Levesque had no issue with the property line but he didn't feel it was fair to ask an engineer to take the liability for this. CEO McDonough asked who's liability it would be? Mr. Levesque didn't have an answer. Roger said he could approve it if the applicant could make sure the corner of the Joyal wall was locked, so it wouldn't be disturbed negatively. Roland L. agreed he didn't believe an engineer would agree to do this and it was unreasonable to ask him to. Diane S. thought it was a useless piece of paper because the wall still could fall down two days or two years later.

Diane S. asked if the idyllic situation was to connect Mr. Nichols wall to Ms. Joyal's wall? Mr. Nichols said, "Not to connect it but to brace up the end of their wall, which would be cut on the inside of my property." Mr. Levesque, using the existing diagram, showed the board what he intended to do. They would cut the wall on Mr. Nichols property, bolt steel to the front of the wall (that is attached to the Nichols property) about 5 feet from the property line, so all the work is being done on Mr. Nichols property. He said then steel would be welded to the brace on the wall and tied back into the bank, then pour concrete around the steel to hold it into the bank. Diane S. asked if there would be a gap between the existing wall and the new wall? Mr. Levesque said there would probably be a gap. Roger A. said it would be an expansion joint between the two walls. Mr. Nichols said it was called a dead man, as it is a free standing block wall. He said the end on his side would be capped and would be stronger than what is there now. Roger said the board needs a plan showing this.

Mr. Levesque began drawing what they were suggesting on the plan he provided once the board agreed to it. Roger A. said he realized further down the wall could be affected but the board couldn't address that. Board members agreed it was a matter of time now before the Joyal wall collapsed due to its current condition. Roland L. believed what they were proposing was the most reasonable option unless there is another idea? CEO McDonough had no further comment. Roger noted the DEP will have to be notified of the new plan.

Steve F. asked when they intended to start the project? Mr. Levesque said it would be completed before January 1st.

Diane S. asked the abutters if they had any additional comments about what was being proposed? Ms. Joyal didn't think her comments would make a difference. Madge B. said it would make a difference to the board. Ms. Joyal thinks the project would ruin her property. Roland L. said this project as proposed, would help to stabilize her property, that is the intent of what is being proposed. He told her he hoped she heard the boards concern that they don't want to create a situation that will negatively impact her property. Ms. Joyal asked, "What if he does that and the wall falls?" Madge said that one reason they were asking her if she would like to tie her wall into the new wall was because the board thinks that would help to stabilize it. Mr. Nichols said her wall is concrete block and his is locking blocks with no concrete. Mr. Nichols said he didn't want to tie it in with her wall because they are constructed differently; they are two different types of wall. Roger A.

agreed. Mr. Levesque also agreed that they are entirely different wall systems, they cannot be attached. Roland believed if it was required to tie both walls in together it would be compromising Mr. Nichols wall; it wasn't a reasonable expectation. Roger A. said the steel added to the Joyal block wall after its cut, it will give the Joyals wall more support on the end. Roger said the height of the Joyal wall, how it is constructed and where the stairs are hooked over the block wall, and that there is an area collecting water that is putting more weight on the wall, all this will lead to the eventual collapse of the wall. Roger noted that presently in the area closest to Mr. Nichols property, there is a section already pushing towards the lake. Mr. Nichols said he cannot prevent the wall from collapsing, as it is already on its way but he can strengthen the corner to help prevent it. Roger agreed.

Mr. Levesque showed the board what he intended to do. He stated he had 8 x 8 angle iron bolted to the base of the existing block wall. He had 5/8's rebar, two pieces, then four pieces of angle iron bolted to the wall, and 5/8's rebar welded to the angle iron tied back six feet. So it is six feet back into the bank and then concrete is poured over that. The detail were created on the plan.

Roger A. asked if there was anything else to add? Ms. Joyal asked if the road being created was going to stay? Mr. Nichols said no, erosion control mulch will go down after the job is completed.

Madge B. asked if there was a planting plan? Steve F. said they had discussed at the previous meeting putting a flat area at the top of the wall and regrade to slow the water coming down the hill. Madge agreed that they should. Steve also asked if there was a preference to where the trees would be planted? Mr. Levesque said they had left it up to the board to decide. There was discussion that if the trees were not planted by November 1st they would have to be done in the spring. The board had no preference and agreed to the plan presented, staggering three trees on each property. It was noted two trees were being removed on each property.

Steve F. reminded Mr. Levesque again of creating a flat area before the wall to slow the water down and regrading the area slightly. Mr. Levesque agreed it was a good idea. Roger A. reminded the applicant the trees have to be a minimum of 6 feet in height per the Ordinance.

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

- 1. A licensed surveyor shall confirm in writing that the retaining wall being replaced sets wholly on Lot 22.**
- 2. The project shall not begin until the DEP Permit by Rule has been approved and the board shall be notified any changes made by the DEP.**
- 3. The area next to the top of the retaining wall shall have a plateau in order to keep stormwater from breaching the wall and going into the lake.**
- 4. The area shall be stabilized with mulch as soon as possible to keep bare ground to a minimum. Best Management Practices shall be used until the project is completed.**
- 5. The replanting plan, consisting of three evergreen trees on Lot 22 and three on Lot 23, shall be completed by June 1, 2017.**
- 6. The wall shall be constructed per the engineered plans drafted by Steven Grant, and as modified on page 2 by David Levesque, which added a stabilization plan for the end of the wall abutting Lot 21, owned by Raylene Joyal.**

Roland L. made the motion to approve the Conditional Use Permit to replace the existing retaining walls for a length of approximately 100 feet, and a height of 6 feet, on Map 28, Lot 22, and Map 28, Lot 23 per the plans provided and amended with the above stated six conditions. Maggie M. 2nd the motion. All members were in favor. By a vote of 5 – 0, the motion passed unanimously.

Nothing further was discussed.

Findings of Fact

1. The owners of Shapleigh Tax Map 28, Lot 22, 42 17th Street, are Stephen Nichols and Robin Wells of 43 Blackhall Road, Unit B2, Epsom NH 03234.
2. The property is located in the Shoreland District and according to the assessing file, it contains .25 acres.
3. The applicants are before the board for a Conditional Use Permit to replace the existing retaining wall. The adjacent retaining wall on Map 28, Lot 23 will also be replaced using the same material, and the work is to be done by the same contractor, David Levesque.
4. Received was a sketch plan depicting the proposed 100' x 6' retaining wall to be built (50 feet in length on each property), the location of the existing stairs on both properties that will remain along with the location of the stairs contained within the new wall, the location of the existing dwellings, and two pine trees on each location to be removed, and the revegetation plan which indicated the applicants will replace the two pine trees to be removed with three spruce trees.
5. Received was a plan entitled 'Proposed Segmental Retaining Walls – 36 17th Street' drafted by Steven Grant, PE #6925 of SRG Engineering, Inc., located in Gray Maine, dated 9/19/2016. The plan included 7 pages of details for the proposed retaining wall spanning both Lot 22 and Lot 23. The plan was amended by David Levesque on page 2, changes being made to the wall located on Lot 22, and approved by the Planning Board during the meeting held on Tuesday, October 11, 2016.
6. Received was a memo giving David Levesque permission to act on the applicants behalf at the planning board meetings. Also received was a copy of the Maine DEP Permit by Rule Explanation for the project which read as follows: The activity that we are proposing to perform is the replacement of an existing rock and railroad tie retaining wall that has collapsed into Mousam Lake. The new wall shall be constructed with precast concrete retaining wall blocks manufactured by Genest Concrete. The new wall is to be constructed in the same location as the old with 2 sets of stairs (replacing exiting stairs). The wall will extend across two abutting properties (the Nichols property Map 28, Lot 22 and the Haley property Map 28, Lot 23). There are 4 pine trees (2 on each property) that are situated directly behind the existing wall and attributed to the walls failure. These trees will need to be removed in order to ensure the structural integrity of the new wall.
7. A site inspection was done on an individual basis and a notice was mailed to all abutters within 500 feet of the property on September 28, 2016. Meetings were held on September 27, 2016 and October 11, 2016.
8. The Planning Board unanimously agreed to approve the Conditional Use Permit to replace the existing retaining wall for a distance of approximately 50 (fifty) feet in length, and six (6) feet in height, on Shapleigh Tax Map 28, Lot 22, per the plans provided with six conditions.
9. **The conditions of the permit are:**
 1. **A licensed surveyor shall confirm in writing that the retaining wall being replaced sets wholly on Lot 22.**
 2. **The project shall not begin until the DEP Permit by Rule has been approved and the board shall be notified any changes made by the DEP.**
 3. **The area next to the top of the retaining wall shall have a plateau in order to keep stormwater from breaching the wall and going into the lake.**
 4. **The area shall be stabilized with mulch as soon as possible to keep bare ground to a minimum. Best Management Practices shall be used until the project is completed.**
 5. **The replanting plan, consisting of three evergreen trees on Lot 22, shall be completed by June 1, 2017.**

- 6. The wall shall be constructed per the engineered plans drafted by Steven Grant, and as modified on page 2 by David Levesque, which added a stabilization plan for the end of the wall abutting Lot 21, owned by Raylene Joyal.**
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Findings of Fact

1. The owners of Shapleigh Tax Map 28, Lot 23, 36 17th Street, are Christin & Kevin Haley, of 8 Kylemore Drive, Westford, MA 01886.
2. The property is located in the Shoreland District and according to the assessing file, it contains .2 acres.
3. The applicants are before the board for a Conditional Use Permit to replace the existing retaining wall. The adjacent retaining wall on Map 28, Lot 22 will also be replaced using the same material, and the work is to be done by the same contractor, David Levesque.
4. Received was a sketch plan depicting the proposed 100' x 6' retaining wall to be built (50 feet in length on each property), the location of the existing stairs on both properties that will remain along with the location of the stairs contained within the new wall, the location of the existing dwellings, and two pine trees on each location to be removed, and the revegetation plan which indicated the applicants will replace the two pine trees to be removed with three spruce trees. A permission letter giving Mr. Levesque permission to act on the applicant's behalf and to coordinate all details with the Planning Board as related to the replacement of the retaining wall was also obtained.
5. Received was a plan entitled 'Proposed Segmental Retaining Walls – 36 17th Street' drafted by Steven Grant, PE #6925 of SRG Engineering, Inc., located in Gray Maine, dated 9/19/2016. The plan included 7 pages of details for the proposed retaining wall spanning both Lot 22 and Lot 23. The plan was amended by David Levesque on page 2, changes being made to the wall located on Lot 22, and approved by the Planning Board during the meeting held on Tuesday, October 11, 2016.
6. Received was a copy of the Maine DEP Permit by Rule Explanation for the project which read as follows: The activity that we are proposing to perform is the replacement of an existing rock and railroad tie retaining wall that has collapsed into Mousam Lake. The new wall shall be constructed with precast concrete retaining wall blocks manufactured by Genest Concrete. The new wall is to be constructed in the same location as the old with 2 sets of stairs (replacing existing stairs). The wall will extend across two abutting properties (the Nichols property Map 28, Lot 22 and the Haley property Map 28, Lot 23). There are 4 pine trees (2 on each property) that are situated directly behind the existing wall and attributed to the wall's failure. These trees will need to be removed in order to ensure the structural integrity of the new wall.
7. A site inspection was done on an individual basis and a notice was mailed to all abutters within 500 feet of the property on September 28, 2016. Meetings were held on September 27, 2016 and October 11, 2016.
8. The Planning Board unanimously agreed to approve the Conditional Use Permit to replace the existing retaining wall for a distance of approximately 50 (fifty) feet in length, and six (6) feet in height, on Shapleigh Tax Map 28, Lot 23, per the plans provided with six conditions.
9. **The conditions of the permit are:**
 1. **A licensed surveyor shall confirm in writing that the retaining wall being replaced on Lot 22, sets wholly on Lot 22.**
 2. **The project shall not begin until the DEP Permit by Rule has been approved and the board shall be notified any changes made by the DEP.**
 3. **The area next to the top of the retaining wall shall have a plateau in order to keep stormwater from breaching the wall and going into the lake.**

4. The area shall be stabilized with mulch as soon as possible to keep bare ground to a minimum. Best Management Practices shall be used until the project is completed.
 5. The replanting plan, consisting of three evergreen trees on Lot 23, shall be completed by June 1, 2017.
 6. The wall shall be constructed per the engineered plans drafted by Steven Grant, and as modified on page 2 by David Levesque, which added a stabilization plan for the end of the wall abutting Lot 21, owned by Raylene Joyal.
-

Conditional Use Permit – Replace Retaining Wall – Map 19, Lot 4 (40 Shapleigh Corner Road) – Patricia Pike, Property Owner; Peter Shanahan, Applicant

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

Board members received prior to the initial review, a letter stating that Patricia Pike gave Peter Shanahan permission to act on her behalf. Also provided was a memorandum from Geoffrey Alewa, PE of Civil Consultants, to Mr. Shanahan, dated September 19, 2016, which described the existing wall, how the wall would be removed and replaced. It also described the drainage to be used behind the wall and concluded with a statement that if the wall replacement was done as Mr. Alewa described, it would be a suitable replacement. Pictures of the existing wall were also provided.

The project description states: 100' retaining wall at lake's edge is to be torn down and rebuilt to the same dimensions. A further description for the board read as follows:

The 100' retaining wall located at 40 Shapleigh Corner Road is in imminent danger of falling into the lake and compromising the foundation of the house and lot this coming spring. (See attached photos) We are seeking a permit to tear down the wall and rebuilt it to the same dimensions.

Working the wall in sections, the plan is to dig out the back of the wall by hand. Remove the old rocks and mortar and rebuild the wall using the old stones as well as new stones as needed.

Geoffrey R. Alewa, PE of Civil Consultants, South Berwick, Maine has been hired to do the design plans and to handle the permitting process for the State of Maine. His design and permitting information is enclosed with this application.

We would like to start work in late October or early November 2016, as soon as the lake is drawn down for the winter. If the water is still at the base of the wall, sand bags will be used to dam the water away from the wall. Hanlon Stone of Portland, Maine has been hired to do the project.

At this evenings meeting, Mr. Shanahan provided a retaining wall replacement plan dated 10/10/2016, drafted by Geoffrey Alewa, PE #9679 of Civil Consultants. The plan described the existing retaining wall and provided a sketch plan for the replacement stone retaining wall. The sketch depicted a cross section showing a 12 inch compacted gravel base, a 36 inch x 36 inch solid stone and mortar wall and a drainage plan behind the wall consisting of stone wrapped in filter fabric and a 4 inch perforated drain pipe near the base of the wall. The area behind the new wall will be loam and seeded up to the wall.

Roger A. asked if they were going around the corner? Mr. Shanahan said, no. Roger asked if it was just the front and the Mr. Shanahan said, yes. Roger asked if they were just addressing the first four feet of wall? Mr. Shanahan said that is what it looked like. Roger said the wall was over eight feet tall from the base to the top. Mr. Shanahan said he wasn't sure why it only showed what it did, he thought perhaps the contractor was going to use some of the existing stones?

Diane S. asked what the new wall would be made out of, interlocking blocks? Mr. Shanahan said it was going to be the same thing that exists now, stone. CEO McDonough asked if the new wall was only going to be four feet high? Mr. Shanahan said that is what the plan says. Madge B. didn't think this was possible.

CEO McDonough asked if there was a full basement behind the wall? Mr. Shanahan said it was a crawl space. CEO McDonough asked if the wall was going to be four feet lower than it is now? Madge didn't think that was correct. CEO McDonough asked how tall the wall was now? Mr. Shanahan thought it was approximately five feet. Roger believed it was eight or nine feet based on what he saw at the site inspection, he noted it was a lot taller than he was and he couldn't reach the top of the wall from the bottom. He said there was no way it was five feet high. Madge agreed it was not four feet high.

Mr. Shanahan asked what he had to do now?

Roger A. said the board will need to know if they were only going four feet or what is being done. Roger asked if they received the DEP Permit by Rule. Mr. Shanahan said it was supposed to be in later this week. Roland L. said the drawing depicts only four feet. Roger said it depicts the footing as only a compacted base which is not true, if you look down at the bottom of the wall today, the water is 18" up off the bottom of the wall. Madge B. agreed you can't see the bottom of the wall.

Roger A. said the board needs to know exactly what is being done. Is it stopping at four feet? Mr. Shanahan asked what his options were if it didn't stop at four feet? Roger said the board needs to know that. CEO McDonough said the plan needs to depict what is being done. Steve F. read from what the engineer described and the board agreed there isn't an accurate description of what is going to be done. Diane S. asked if the board needs a more detailed plan if the wall is going to be greater than four feet? Steve said they were replacing what they have their now, stone and cement. Mr. Shanahan said they were trying to fix the wall before it falls into the lake. The board agreed it needed to be replaced.

Roger A. asked if an excavator will be used? Mr. Shanahan said it is going to be hand dug because no one wanted to go down near the wall because of its proximity to the house. Roland L. asked if the arborvitaes will be removed? Mr. Shanahan said no, and the contractor said it wasn't an issue. Mr. Shanahan said that perhaps he will use the foundation that exists now and building on top of it. The board understood that. Roland L. asked if the mortar joints had failed at the bottom? Mr. Shanahan said they had not, it was dry set at the bottom.

The board agreed more information was needed as to exactly what was going to take place on site.

Diane S. made the motion to table the application until further detailed information can be provided for the new retaining wall. Madge B. 2nd the motion. All members were in favor. By a vote of 5 – 0, the motion passed unanimously.

Nothing further was discussed.

Growth Permits – There are growth permits available.

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

The next meeting will be held Tuesday, October 25th 2016 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. Also, should there be a cancellation due to a storm event, holiday or Election, the meeting will typically be held the following Wednesday, also at 7:30 p.m. Please contact the Land Use Secretary if there is a question in scheduling, 207-636-2844, x404.

NOTE: Beginning on the 1st meeting in November, the Planning Board shall meet beginning at 6:30 p.m. This schedule remains in effect until the first week in April.

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

SHAPLEIGH PLANNING BOARD

MINUTES

**Tuesday,
October 25, 2016**

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

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

The minutes from Tuesday, October 11, 2016 were accepted as read.

Conditional Use Permit – Replace Retaining Wall – Map 19, Lot 4 (40 Shapleigh Corner Road) – Patricia Pike, Property Owner; Peter Shanahan, Applicant

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

Board members received prior to the initial review, a letter stating that Patricia Pike gave Peter Shanahan permission to act on her behalf. Also provided was a memorandum from Geoffrey Aleva, PE of Civil Consultants, to Mr. Shanahan, dated September 19, 2016, which described the existing wall, how the wall would be removed and replaced. It also described the drainage to be used behind the wall and concluded with a statement that if the wall replacement was done as Mr. Aleva described, it would be a suitable replacement. Pictures of the existing wall were also provided.

Mr. Shanahan also provided a retaining wall replacement plan dated 10/10/2016, drafted by Geoffrey Aleva, PE #9679 of Civil Consultants. The plan described the existing retaining wall and provided a sketch plan for the replacement stone retaining wall. The sketch depicted a cross section showing a 12 inch compacted gravel base, a 36 inch x 36 inch solid stone and mortar wall and a drainage plan behind the wall consisting of stone wrapped in filter fabric and a 4 inch perforated drain pipe near the base of the wall. The area behind the new wall will be loam and seeded up to the wall.

The project description states: 100' retaining wall at lake's edge is to be torn down and rebuilt to the same dimensions. A further description for the board read as follows:

The 100' retaining wall located at 40 Shapleigh Corner Road is in imminent danger of falling into the lake and compromising the foundation of the house and lot this coming spring. (See attached photos) We are seeking a permit to tear down the wall and rebuilt it to the same dimensions.

Working the wall in sections, the plan is to dig out the back of the wall by hand. Remove the old rocks and mortar and rebuild the wall using the old stones as well as new stones as needed.

Geoffrey R. Aleva, PE of Civil Consultants, South Berwick, Maine has been hired to do the design plans and to handle the permitting process for the State of Maine. His design and permitting information is enclosed with this application.

We would like to start work in late October or early November 2016, as soon as the lake is drawn down for the winter. If the water is still at the base of the wall, sand bags will be used to dam the water away from the wall. Hanlon Stone of Portland, Maine has been hired to do the project.

At this evenings meeting, Mr. Shanahan provided a new sketch plan for the wall, which depicted the height and depth of the wall to be 48 inches instead of 36 inches as depicted on the original sketch plan. The drainage plan behind the wall remained the same.

Maggie M. opened the meeting. The minutes for October 11, 2016 were approved. Maggie M. asked Mr. Shanahan what had changed with respect to the new wall from the last meeting? Mr. Shanahan stated that the old plan had the wall at four feet in height, whereas now the wall is going to be six feet in height. He stated also that they would be using the existing foundation to place the new wall on.

Mr. Shanahan stated that he had met with the DEP on Monday and they had no issues with the plan for the new walls construction. Maggie M. asked if there was an issue with having a six foot wall? No one had a reply.

Roger A. came into the meeting at 7:45 p.m. and conducted the rest of the meeting.

Roger A. asked if the new wall was in fact six feet in height? He stated that he went to the site once again with a tape measure and when he put the tape to the bottom of the wall, which is in the water, he measured seven and one-half feet. Mr. Shanahan said from the step down to the bottom of the wall it was six feet. Roger still believed the existing wall was seven and one-half feet in height. Ann H. asked if they were going to use the existing base and build on that? Mr. Shanahan said they were.

Roger A. asked if they were going to dig the earth out by hand? He didn't believe equipment could do it because of the location. Mr. Shanahan said that yes, they would be digging it out by hand. Roger asked where they would be placing the gravel? Mr. Shanahan said it would be placed out front (on the other side of the camp) during the project.

Roger A. asked who would be doing the project? Mr. Shanahan stated that Hanlon Stone from South Portland would be doing the work. CEO McDonough told Mr. Shanahan he needed to be sure they were certified in erosion control by the DEP. Roger agreed stating that someone needed to be on site during the project that was DEP certified in Best Management Practices. He said there is a data base on the DEP website where you can see who is certified. Mr. Shanahan asked if they are not, was there someone local who was certified that he could use? CEO McDonough said there were locals that are certified. Roger said as long as they have someone on site who is certified during the project, they will be all set.

Roger A. asked if Mr. Shanahan had done the DEP Permit by Rule? Mr. Shanahan said he had and that they would be sending a copy to the town by Thursday or Friday of this week he was told.

Ann H. asked where the water would go, she was speaking of stormwater? She asked if it was going into the lake? Roger A. stated that it would. Ann was concerned about the earth going into the lake. Roger, using the diagram provided by the applicant, showed Ann how the filter system would work and noted that the filter fabric would keep the fines out of the lake which is what it is designed to do.

Mr. Shanahan asked if he could extend the date of completion through next year. He was concerned with the fact the water has risen in the lake, and that he may not be able to get anyone to do the project, or complete all the project until next year. CEO McDonough said the building permit was good for two years, the project would have to start within a year but the permit was good for two years.

Roger A. stated the issue would be erosion control once the project begins. Mr. Shanahan thought they might do one-half of the wall this year, up to the stairs and then from the stairs over complete it next year.

Roger didn't have a problem with that as long as mulch was put down as an erosion control measure until the revegetation occurs for the area behind the wall. It was important no soil went into the lake.

Steve F. asked if what he was looking for was to do one-half of the wall this year, then replant, then do the second half of the wall next year. Mr. Shanahan said, yes, the part closest to the house this year.

Roger A. asked about a completion date of October of 2017. Mr. Shanahan preferred a date of December 2017, as he would be doing the work in October or November. Roger A. gave a completed replanting date of June of 2018. Mr. Shanahan concurred with that date.

Roger A. said that it would be important to keep exposed ground to a minimum. Maggie M. asked about plantings, would there be any? Mr. Shanahan stated that he would be putting grass behind the new wall. Roger agreed this was best as there was only five or six feet between the new wall and the house. CEO McDonough asked if they were talking about putting in grass? Mr. Shanahan said, yes, that is what is there now.

Roger A. asked if the existing shrubs were staying? Mr. Shanahan said that as long as they do not disturb the roots during the project they will remain. He said his mother-in-law did not want them removed. He said if they die he will replant.

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

Roger A. then reviewed §105-73.G and made findings of fact.

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

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. **Roger A. stated, it will not, the new wall and drainage plan will help the lake.**
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. **Roger A. stated it would.**
- 3) The use is consistent with the Comprehensive Plan. **Roger A. stated that it is, the filter system will help to preserve the lake.**
- 4) Traffic access to the site is safe. **Roger A. stated, it is, and said this isn't really applicable.**
- 5) The site design is in conformance with all municipal flood hazard protection regulations. **Roger A. stated it is.**
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. **N/A, none generated by this activity.**
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. **N/A, none generated by this activity.**
- 8) A stormwater drainage system capable of handling fifty-year storm without adverse impact on adjacent properties has been designed. **Roger A. stated the drainage behind the wall was designed by Geoffrey Aleva of Civil Consultants, South Berwick Maine.**
- 9) Adequate provisions to control soil erosion and sedimentation have been made. **Roger A. stated there will be a person certified in Best Management Practice on site and DEP approval of the project is required as well.**
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. **Roger A. stated that for this project this was not applicable but noted there is water available.**

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

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

1. **The project shall not begin until the DEP Permit by Rule has been approved.**
2. **A person licensed as certified in Best Management Practices by the DEP must be on site during construction of the wall.**
3. **The area shall be stabilized with mulch or vegetation as soon as possible to keep bare ground to a minimum. Best Management Practices shall be used until the project is completed.**
4. **The wall shall be completed by December 30, 2017.**
5. **The final revegetation shall be completed by June 15, 2018. No fertilizer is to be used within 100 feet of the shoreline at any time.**

Maggie M. made the motion to approve the Conditional Use Permit to replace the existing retaining wall for a length of 100 feet, on Map 19, Lot 4, per the plans provided and amended by Geoffrey Aleva PE #9679 of Civil Consultants with the above stated five conditions. Roland L. 2nd the motion. All members were in favor. By a vote of 4 – 0, the motion passed unanimously.

Nothing further was discussed.

Findings of Fact

1. The owner of Shapleigh Tax Map 19 (Lot 4, 40 Shapleigh Corner Road), is Patricia A. Pike, c/o Pike Realty Trust of 12 Nineteenth Ave, Haverhill MA 01830.
2. The property is located in the Shoreland District and according to the assessing file, it contains .43 acres.
3. The applicant is before the board for a Conditional Use Permit to replace the existing retaining wall. The application description states: 100' retaining wall at lakes edge is to be torn down and rebuilt to the same dimensions.
4. Received with the application was a memorandum from Geoffrey Aleva, PE #9679 of Civil Consultants, to Mr. Shanahan, dated September 19, 2016, which described the existing wall, and how the wall would be removed and replaced. It also described the drainage to be used behind the wall and concluded with a statement that if the wall replacement was done as Mr. Aleva described, it would be a suitable replacement. Pictures of the existing wall were also provided.
5. Received at the board meeting on Tuesday, October 11, 2016 was a sketch plan from Geoffrey Aleva for the replacement stone retaining wall. The sketch depicted a cross section showing a 12 inch compacted gravel base, a 36 inch x 36 inch solid stone and mortar wall and a drainage plan behind the wall consisting of stone wrapped in filter fabric and a 4 inch perforated drain pipe near the base of the wall. The area behind the new wall will be loam and seeded up to the wall.
6. Received at the board meeting on Tuesday, October 25, 2016 was a revised sketch plan for the replacement stone retaining wall. The sketch revised the wall height and base width from 36" to 48".

The drainage plan behind the retaining wall stayed the same. The applicant advised the board at the meeting on October 25, that they would be placing the new wall on the existing foundation.

7. Received was additional information from the applicant which read as follows: The 100' retaining wall located at 40 Shapleigh Corner Road is in imminent danger of falling into the lake and compromising the foundation of the house and lot this coming spring. (See attached photos) We are seeking a permit to tear down the wall and rebuilt it to the same dimensions. Working the wall in sections, the plan is to dig out the back of the wall by hand. Remove the old rocks and mortar and rebuild the wall using the old stones as well as new stones as needed. Geoffrey R. Aleva, PE of Civil Consultants, South Berwick, Maine has been hired to do the design plans and to handle the permitting process for the State of Maine. His design and permitting information is enclosed with this application. We would like to start work in late October or early November 2016, as soon as the lake is drawn down for the winter. If the water is still at the base of the wall, sand bags will be used to dam the water away from the wall. Hanlon Stone of Portland, Maine, has been hired to do the project.
8. Board members reviewed Zoning Ordinance §105-73, Section G, 'Standards applicable to conditional uses' and concurred the application and information as presented met the performance standards in this chapter, with conditions.
9. A site inspection was done on an individual basis and a notice was mailed to all abutters within 500 feet of the property on September 28, 2016. Meetings were held on September 27, 2016, October 11, 2016 and October 25, 2016.
10. The Planning Board unanimously agreed to approve the Conditional Use Permit to replace the existing retaining wall for a distance of approximately 100 feet in length, on Shapleigh Tax Map 19, Lot 4, per the plans provided with five conditions.
11. **The conditions of the permit are:**
 1. **The project shall not begin until the DEP Permit by Rule has been approved.**
 2. **A person licensed as certified in Best Management Practices by the DEP must be on site during construction of the wall.**
 3. **The area shall be stabilized with mulch or vegetation as soon as possible to keep bare ground to a minimum. Best Management Practices shall be used until the project is completed.**
 4. **The wall shall be completed by December 30, 2017.**
 5. **The final revegetation shall be completed by June 15, 2018. No fertilizer is to be used within 100 feet of the shoreline at any time.**

Motion:

After careful consideration and a review of all material presented to the Board, including the review of Zoning Ordinance §105-73, Section G, 'Standards applicable to conditional uses', a motion was made on Tuesday, October 25, 2016, to approve the Conditional Use Permit to replace the existing retaining wall for a length of 100 feet, on Map 19, Lot 4, per the engineered plans provided and amended with the above stated five conditions.

Vote:

By a unanimous vote of 4 – 0, the motion to approve the Conditional Use Permit to replace the retaining wall was accepted.

Decision:

The Conditional Use Permit to replace the existing retaining wall per the plans provided was **approved**.

Nothing further was discussed.

Conditional Use Permit – Replace Retaining Wall – Map 27, Lot 3D (9 Narrows Lane) – Mark Hourigan, Applicant

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

For the first meeting, held on Tuesday, June 7, 2016, Mr. Hourigan provided an addendum which described what his intention was in detail and a sketch plan which depicted the existing camp, location of the septic tank & leach field, shed, patio area, existing trees on site and the location of the retaining wall to be replaced. The detailed description on the application itself read as follows: Replace failed stone retaining wall with new stone block wall. Add steps down to lake using same materials. Add plantings at top of wall to stabilize slope.

At the meeting held on June 28, 2016, Mr. Hourigan provided a replanting schedule which included hydrangea, phlox, junipers, lilies, and blueberry plants. He also provided a plan which depicted a visual of what the new wall, stairs and plantings would look like when completed.

This evening Mr. Hourigan presented the board with written wall calculations to confirm design approach, limitations, loads used, and adequacy of all subsurface soils to support the intended design loads. Also provided were engineered drawings of the proposed segmental retaining wall. Both document packages were drafted by Steven Grant, Maine PE License #6825, of SRG Engineering, Inc., Structural Engineers, from Gray, Maine.

Roger A. asked how high the new wall would be? Mr. Hourigan stated it would be 4 1/2 feet in height. Roland L. had concerns with how Mr. Hourigan's wall would impact the neighbors wall, reminding the board this project was similar to one they reviewed at the previous meeting, where connecting walls were being separated, thus weakening one of the walls. Roland wanted to know how Mr. Hourigan's new wall project would affect the wall of his neighbor, after he cut the walls apart. Would there be anything done to keep the neighbors wall from failing? Mr. Hourigan stated he would do the project carefully so the neighbor's wall would remain standing after his wall was disconnected from it. He also noted that Joe Letourneau of Earthworks Landscaping would be doing the work and he would mention this to him.

Steve F. asked if they were speaking of the wall on the left of his property? Mr. Hourigan stated, yes, that wall would be sawcut and filled with cement, so he could remove his existing wall. Steve wanted to know how Mr. Hourigan would keep the neighbors wall in place? Mr. Hourigan was not sure, the engineer he hired did not tell him it would be an issue. CEO McDonough asked if they were saying Mr. Hourigan and his neighbor's wall were currently married? Mr. Hourigan stated, yes, and noted the fact that his wall was crumbling. Steve told Mr. Hourigan that the Ordinance has the board pay attention to what takes place and negatively impacts the neighbors as a result of the board's decision. Steve said it was important that the neighbor's wall is adequately secured, and remains as least as good as it is now.

Roland L. told Mr. Hourigan to speak with Mr. Letourneau and tell him that this project cannot negatively impact the neighbor's wall, perhaps he would have an idea what should be done. Mr. Hourigan said he would do that.

Roger A. asked about the reclamation on the top of the new wall, what would it be? Mr. Hourigan stated it would be mulch and shrubs. CEO McDonough asked if there was a plan on file? Mr. Hourigan said there was, he had already provided it at a previous meeting. Barbara F., looking thru the file, concurred that there was in fact a revegetation plan. There is also a plan showing the existing vegetation on site at this time.

Mr. Hourigan was asked when he wanted to begin the project? Mr. Hourigan stated that he wanted to begin within the next few weeks. He wasn't sure if Mr. Letourneau was DEP certified and if he isn't he may have to wait until spring to do the project, unless he can get another contractor to do the project that is certified. Roger A. stated that Mr. Letourneau could do the project as long as someone who is certified is on site at all times while the project is being done. CEO McDonough asked if he already got a Permit by Rule? Mr. Hourigan said, yes. CEO McDonough said he may have it on file, it just has been a few months and he didn't remember. Roger asked if a completion date of October 31, 2017 would be ok? Mr. Hourigan believed it would be. Roger asked if the plantings would be done at the same time? Mr. Hourigan said, yes.

Roger asked if there were any additional questions? CEO McDonough wanted there to be a condition of approval that upon obtaining a building permit for the project that he receives some proof in writing that the project will not be detrimental to the neighbor's property. The board agreed.

Roger A. stated the conditions of approval are:

- 1. A person licensed as certified in Best Management Practices by the DEP must be on site during construction of the wall.**
- 2. The area shall be stabilized with mulch or vegetation as soon as possible to keep bare ground to a minimum. Best Management Practices shall be used until the project is completed.**
- 3. The project shall be completed by October 31, 2017, including the approved revegetation plan.**
- 4. The applicant shall provide upon obtaining a building permit, proof that the construction of the new wall shall not be detrimental to the retaining wall on the neighboring properties.**

Roger A. then reviewed §105-73.G and made findings of fact.

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

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. ***Roger A. stated, it will not, the new wall and drainage plan will help the lake. A person certified by the DEP in erosion control practices shall be on site during the project.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. ***Roger A. stated it would.***
- 3) The use is consistent with the Comprehensive Plan. ***Roger A. stated that it is, the new wall will help to preserve the lake.***
- 4) Traffic access to the site is safe. ***Roger A. stated, it is and noted this isn't applicable.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***Roger A. stated it is.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***N/A, none generated by this activity.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***N/A, none generated by this activity.***

- 8) A stormwater drainage system capable of handling fifty-year storm without adverse impact on adjacent properties has been designed. **Roger A. stated the wall was designed by Steven Grant, Maine PE License #6825, of SRG Engineering, Inc., Structural Engineers, from Gray, Maine.**
- 9) Adequate provisions to control soil erosion and sedimentation have been made. **Roger A. stated there will be a person certified in Best Management Practice on site and DEP approval of the project is required as well.**
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. **Roger A. stated that for this project this was not applicable but noted there is water available.**
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. **Roger A. stated everything is in existence, and a revegetation plan was provided for the area adjacent to the new wall.**
- 12) All performance standards in this chapter applicable to the proposed use will be met. **Roger A. stated they shall with conditions.**

Roger A. asked if there were any additional questions? Steve F. asked what the height of the wall was at the property line? Mr. Hourigan stated, 4 foot, 6 inches. Steve asked if the existing wall was in good shape at the property line? Mr. Hourigan stated that it was. Roger A. stated that Mr. Letourneau would need to somehow make certain that the neighbors wall will not fall over and put something in writing stating the new wall won't create a problem for the neighbor's wall. He can give this to CEO McDonough when he comes in for a permit.

Roland L. made a motion to approve the Conditional Use Permit for a new retaining wall on Map 27, Lot 3D, per the engineered plans provided, with the above stated four conditions. Maggie M. 2nd the motion. All members were in favor. By a vote of 4 – 0, the motion passed unanimously.

Nothing further was discussed.

Findings of Fact

1. The owners of Shapleigh Tax Map 27, Lot 3D (9 Narrows Lane), are Mark and Kelly Hourigan of 69 Laurel Street, Melrose MA 02176.
2. The property is located in the Shoreland District and according to the assessing file, it contains .23 acres.
3. The applicant is before the board for a Conditional Use Permit to replace the existing retaining wall. The application description states: Replace failed stone retaining wall with new stone block wall. Add steps down to lake using same materials. Add plantings at top of wall to stabilize slope.
4. Received with the application was an addendum which described what the project would entail in detail, it read in part as follows: We are seeking permission to re-construct an existing stone retaining wall adjacent to Mousam Lake. The current wall has failed and poses a safety hazard on the property and a risk to the water quality of the lake. Our intent is to build the wall to its existing dimensions of 60 feet long by 4 feet high, using a manufactured stone or concrete block product similar to the Genest Highland Stone product. Within the span of the wall, we wish to install a roughly 6-foot wide stairway to provide access from the upper level to the lake for recreational purposes. We intend to add plantings at the top of the wall to assist in the stabilization of the soil between the patio area and the wall.

5. Received was a sketch plan which depicted the existing camp, location of the septic tank & leach field, shed, patio area, existing trees on site and the location of the retaining wall to be replaced. Pictures of the existing wall were also provided.
6. Received was a replanting schedule which included hydrangea, phlox, junipers, lilies, and blueberry plants, as well as a plan which depicted a visual of what the new wall, stairs and plantings would look like when completed.
7. Received at the board meeting on Tuesday, October 25, 2016 were written wall calculations to confirm design approach, limitations, loads used, and adequacy of all subsurface soils to support the intended design loads. Also provided were engineered drawings of the proposed segmental retaining wall. Both document packages were drafted by Steven Grant, Maine PE License #6825, of SRG Engineering, Inc., Structural Engineers, from Gray, Maine.
8. Board members reviewed Zoning Ordinance §105-73, Section G, ‘Standards applicable to conditional uses’ and concurred the application and information as presented met the performance standards in this chapter, with conditions.
9. A site inspection was done on June 28, 2016 and a notice was mailed to all abutters within 500 feet of the property on June 8, 2016. Meetings were held on June 7, 2016, June 28, 2016 and October 25, 2016.
10. The Planning Board unanimously agreed to approve the Conditional Use Permit to replace the existing retaining wall for a distance of approximately 60 feet in length, per the engineered plans provided, dated 10/20/2016 for Shapleigh Tax Map 27, Lot 3D, with four conditions.
11. **The conditions of the permit are:**
 1. **A person licensed as certified in Best Management Practices by the DEP must be on site during construction of the wall.**
 2. **The area shall be stabilized with mulch or vegetation as soon as possible to keep bare ground to a minimum. Best Management Practices shall be used until the project is completed.**
 3. **The project shall be completed by October 31, 2017, including the approved revegetation plan.**
 4. **The applicant shall provide upon obtaining a building permit, proof that the construction of the new wall shall not be detrimental to the retaining wall on the neighboring properties.**

Motion:

After careful consideration and a review of all material presented to the Board, including the review of Zoning Ordinance §105-73, Section G, ‘Standards applicable to conditional uses’ a motion was made on Tuesday, October 25, 2016, to approve the Conditional Use Permit to replace the existing retaining wall for a length of 60 feet, on Map 27, Lot 3D, per the plans provided with the above stated four conditions.

Vote:

By a unanimous vote of 4 – 0, the motion to approve the Conditional Use Permit to replace the retaining wall was accepted.

Decision:

The Conditional Use Permit to replace the existing retaining wall per the plans provided was **approved.**

Conditional Use Permit – Move Right-of-Way – Map 23, Lot 10 (27 Starboard Lane) – Michael & Beth-Ann Roberts, Applicants

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

Roger A. asked the applicant to tell the board what he wanted to do. Mr. Roberts said they purchased the property in August of 2015, and their goal was to retire there. He said when he approached CEO McDonough about the possibility of putting a garage up he told him what he needed to do in order to be able to do that. The first thing was he had to have the right-of-way moved, so he could be setbacks to the structure. Mr. Roberts hired Attorney Durwood Parkinson to do the work and Corner Post Land Surveyors to do the site work, since they had done work on the property for the previous owners, the Lincourt's. He said he was before the Planning Board to move the right-of-way from the existing location to the new location proposed by Corner Post. He noted it moved it further from the lake and the existing right-of-way will be reclaimed and brought back to a vegetative state.

The board reviewed the plan before them. Roger A. asked Mr. Roberts if the new right-of-way was further from the lake? Mr. Roberts said, yes. He said it also met the requirement of being 50 feet from the proposed structure. He showed Roger what he was speaking about on the plan.

The board discussed what they remembered of the property from a previous site inspection. Maggie M. asked about the terrain. Steve F. thought this area was relatively flat. Mr. Roberts stated there would be some earth moved to build the new structure. He said Scott McLeod would be the general contractor and he would be bringing in equipment and moving some earth for both the right-of-way and new structure.

Roland L. asked if the right-of-way was staked off so the board would know where it was for a site visit? Mr. Roberts said it was not but the right-of-way is approximately eight (8) feet to the left of the utility pole and it goes for a width of 50 feet. There is a propane tank there now and it will be moved. He also noted forward of the utility pole is the well. The pole is a point of reference.

Steve F. asked if Mr. Roberts spoke with the neighbor (Map 23, Lot 9 – Bland Family Trust)? Mr. Roberts said he had and they were in favor of it but the property has just been recently sold. He at this point, did not have a name of the new owners. He said the previous owners told the new owners what was taking place, making it clear this was happening. He was told the new owners liked the idea as well. He did give the previous owners a copy of the proposed right-of-way plan and was told they passed it along, but said again at this time he didn't have a contact name or address for the new owners. He said the property was sold less than a month ago.

Steve F. asked if there were two cottages beyond him? Mr. Roberts said there was one to the left and one to the right. Steve asked if the right-of-way affected only one person? Mr. Roberts said, yes, Attorney Parkinson did the work for the easement and it states who has the right to it.

Mr. Roberts stated with respect to the former Bland property, their property slopes up and there is a shed in the right-of-way as well. Roland L. asked if the right-of-way was going to dead end at the property line? Mr. Roberts said, yes, it goes right into the neighbor's garage. He said there is a split rail fence there as well.

Roland L. asked what the right-of-way would be constructed of? Mr. Roberts said it will be crushed stone and gravel. Roland asked if they were going to pave it? Mr. Roberts said, no.

Diane S. said she was confused as to how the board would review this. Was it a private way or a driveway? Roger A. said it was a right-of-way. Mr. Roberts said Attorney Parkinson said it was his land and his driveway but that the neighbor was allowed to travel over it, all this occurred over 100 years ago.

Steve F. stated that it was an easement. Diane S. said there was a difference between a driveway and a private way. Mr. Roberts said Attorney Parkinson called it a right-of-way. Diane asked CEO McDonough what it should be reviewed under. CEO McDonough stated that this is not a new right-of-way, it is a relocated right-of-way. CEO McDonough thought §105-59 'Roads, driveways and water crossings.' might apply. Steve F. said it was a driveway to a neighbor, it is an easement. CEO McDonough asked why it is called a driveway? He noted the board doesn't have a definition of a driveway. Diane S. believed a driveway has to be on your own property and because it goes to a neighboring property she didn't think it was a driveway. CEO McDonough said it doesn't matter.

Diane S. asked if the right-of-way was in the Shoreland Zone, was it within 250 of the water? Mr. Roberts said it was. Diane asked if Section C of §105-59 applied? CEO McDonough noted again that this was not a new road, so Section C did not apply. Steve F. noted that the right-of-way was beyond the 100 foot mark. CEO McDonough again said this was not a new road, therefore, this section did not apply.

CEO McDonough stated it falls under earth moving and filling, §105-39 'Earth removal and filling other than mineral exploration and extraction'. He noted that the spirit of §105-59 applied to new roads and driveways which this is not. Diane S. asked if Section C applied under §105-59? CEO McDonough said it did not apply because this provides access to permitted structures. Roger A. said the only thing he could see the board could look at in this section is the grade to be sure it complied with that. He said the right-of-way is greater than 100 feet back so it meets that criteria. He said he didn't believe the slopes are greater than 20%, that is the only concern. Roger believed the board would be reviewing §105-39 for moving greater than 10 cubic yards in the Shoreland District.

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

Roger A. stated a site inspection would be done on an individual basis. A notice to abutters will be mailed as well.

Barbara F. reminded the board and Mr. Roberts that the next meeting will be held on Wednesday, November 9th, due to the presidential election. Also, the meeting will begin at 6:30 p.m., as the winter meeting time begins in November.

Nothing else was discussed.

OTHER:

Ann H. spoke to the board about the seminar she went to put on by Maine Municipal Association. She said they made some good points and asked if the board had a set of by-laws. Roger A. told her that they did in fact have them. Ann also noted that the attorney that spoke stated that the planning board members should do site inspections as a group, so anything said by the applicant would be witnessed by other members should there be an issue with respect to recollection of events. Ann also noted that the attorney stated when a member recused themselves from sitting in on an application, they should actually leave the room for the duration of the review of that application, so they have no influence on the results.

Ann spoke of several other items and said the seminar was very informative.

Nothing else was discussed.

Growth Permits – There are growth permits available.

The Planning Board meeting ended at 9:10 p.m.

The next meeting will be held WEDNESDAY, November 9th 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 typically be held the following Wednesday, also at 7:30 p.m. Please contact the Land Use Secretary if there is a question in scheduling, 207-636-2844, x404.

NOTE: Beginning on the 1st meeting in November, the Planning Board shall meet beginning at 6:30 p.m. This schedule remains in effect until the first week in April.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Wednesday

November 9, 2016

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

Roger Allaire had Ann Harris sit in as a regular member this evening.

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

The minutes from Tuesday, October 25, 2016 were accepted as read.

Conditional Use Permit – Move Right-of-Way – Map 23, Lot 10 (27 Starboard Lane) – Michael & Beth-Ann Roberts, Applicants

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

The applicants provided, along with the application, an 8 ½ x 11 inch plan drafted by Corner Post Land Surveying, Inc. of Springvale Maine, which depicted the existing structures on Map 23, Lot 10, those being a new home and shed, along with the existing and proposed location of the right-of-way, and the existing garage that sits on the neighboring property (Map 23, Lot 9) being affected by the change in location of the right-of-way. Also on the plan was the size of the property, 1.94 Acres, the lot line distances (although due to the size of the plan they were extremely hard to read), the proposed location of the new garage and the location of the utility poles on site. Also provided was a copy of the Subsurface Wastewater Disposal System Application, dated 8/22/14 done by Mark A. Truman, SE #121 and the proposed description of the new easement for the right-of-way.

The application description states: ‘Move ROW to accommodate a garage.’

At the meeting on Tuesday October 25, 2016, the applicant, Mr. Roberts, said they purchased the property in August of 2015, and their goal was to retire there. He said when he approached CEO McDonough about the possibility of putting up a garage, he told him what he needed to do in order to be able to do that. The first thing was he had to have the right-of-way moved, so he could meet setbacks to the structure. Mr. Roberts hired Attorney Durwood Parkinson to do the work and Corner Post Land Surveyors to do the site work, since they had done work on the property for the previous owners, the Lincourt’s. He said he was before the Planning Board to move the right-of-way from the existing location to the new location, proposed by Corner Post. He noted it moved the right-of-way further from the lake and the existing right-of-way will be reclaimed and brought back to a vegetative state.

The board at the first meeting asked if Mr. Roberts had spoken with the neighbor (Map 23, Lot 9 – Bland Family Trust), as that property would be affected by moving the right-of-way? Mr. Roberts said he had and they were in favor of it but the property has just been recently sold and he did not have a name of the new owners. He said the previous owners did tell the new owners what was taking place, and the Realtor was aware as well. He gave the previous owners a copy of the proposed right-of-way plan and was told they passed it along. He said the property was sold less than a month ago.

Roger A. opened the discussion by asking Mr. Roberts to once again state his intentions. Mr. Roberts stated that he wanted to move the right-of-way to a new location in order to be able to build a garage. He said that he was before the board two weeks ago and presented them with a plan. He said that he had been working on this project since March after speaking with Code Enforcement Officer McDonough who directed him to Attorney Durwood Parkinson to see what he needed to do and began the process in order to put a new structure on his property. He said that after Attorney Parkinson, he also worked with Corner Post Land Surveyors and had them come up with a plan that would work. He said that he was following the proper channels to be able to do this.

Roger A. asked Mr. Roberts, because the right-of-way was going to be eight feet from the telephone pole, how much of the banking was being removed? Roger was concerned with how it would affect the neighboring property. Mr. Roberts said there would be minimal excavation and he would do what was required to do, what Corner Post Land Surveyors presented.

Roland L. asked if the utility pole was going to stay? Mr. Roberts said the only thing being moved was the propane tank, it was going to be moved and placed underground. He said the old right-of-way would be removed and put back to its original state and any earth being moved would blend into the new right-of-way. He added that it was being done by Scott McLeod, he knew the details of what would be taking place. He noted Mr. McLeod was the contractor who rebuilt the Lincourt house (the house Mr. Roberts now owns).

Roger A. asked if Mr. Roberts knew the depth of the gravel for the new right-of-way. Mr. Roberts did not, he said it would be built to the specification of the existing code. He said there would be some stumps removed that are in the way and several dead trees that should have been removed after the fire. He said he had discussed this with Steve.

Roland L. said that Mr. Roberts mentioned at the previous meeting, the previous abutters, the Blands, were supportive of the idea but that he hadn't spoken with one of the new owners. Roland wanted to know if that had changed. Mr. Roberts said he had spoken with the new owners two weeks ago. Roland wanted to know what their reaction was. Two of the new owners, Mr. Marc Hubert of Dracut, MA and Mr. Cass Shumsky of Methuen, MA, were in the audience. They noted there were three owners of the property.

Mr. Shumsky said they had just required the property a little over a month ago and it was registered with the registry of deeds. He asked if the abutters had been served notice. Roger A. said the Planning Board served the abutters and they used the current tax list for the names and addresses of the property owners in Shapleigh. He said if they were not notified that this was before the board, it is because the Town does not have on record yet that there are new property owners. He said it takes several months for the Town to know property changed hands. Roger said the notice went to the prior owner and typically they will forward the mail. Barbara F. gave Mr. Shumsky a copy of the notice to abutters. Mr. Shumsky also asked to look at a full set of plans. Roger showed Mr. Shumsky all the board received which is an 8 ½ x 11 copy of the plan. Mr. Shumsky said he couldn't read it.

Mr. Shumsky asked what the intent was? Roger A. said the intent was to relocate the existing right-of-way. Mr. Shumsky asked why? Roger said in order to be able to put in a garage. Mr. Hubert noted the location of their garage on Lot 9 and said that the new right-of-way would be only 10 feet from his garage. He wanted to know why they would lose access to their property. Mr. Shumsky said if they had a bigger set of plans they might be able to see better where everything was going to be located. Ann H. pointed out the location of the telephone pole they were discussing earlier.

Mr. Hubert wanted to know where the 50 foot mark was to the corner and also asked why he couldn't move the garage over and leave the road alone? He was concerned because at present they only had 10 feet to

turn into their driveway. He said with the new right-of-way they would have to make a sharp turn into the driveway and he didn't think if they were pulling a boat trailer they would be able to make the turn. He said another concern was if they cut additional trees, what would be done for erosion control. Roger A. and Ann H. said that was some of the things the board would be looking at this evening. Mr. Hubert added that the plan was very poor, he really could not tell exactly what they would be doing and how it would affect them. Roland L. agreed that all of this had to be addressed.

Mr. Shumsky said that if they had a topographical map, they would see where there was an existing embankment. He said with this new plan it appears they would not be able to turn around, thus limiting the access to their property. Mr. Hubert said another concern was in winter, he did not see a snow plow being able to make the turn. Mr. Shumsky said the area is wide open now but when the right-of-way gets moved the Roberts could put up a fence again leaving no area to turn around, or put snow.

Mr. Shumsky said the new right-of-way now appears to be up against the side of their garage which seemed confusing. Mr. Hubert said you can't see the numbers on the plan presented, so it made it hard to know what exactly was going to happen. Mr. Shumsky tried to show the board what was presently on site on their property, noting an area they use to turn around and noting that they can access their garage. He was concerned that they wouldn't even be able to easily access their garage due to the limited area with the change. Mr. Shumsky said he understood they wanted to put in a garage but now their garage would be affected.

Ann H. was asking if Mr. Roberts would consider moving the right-of-way away from their garage, showing him using the plan. CEO McDonough also asked if he would be willing to make a change from what exist now? Mr. Roberts said he was willing to make a change if it was possible.

Mr. Shumsky asked if Mr. Roberts could apply for a variance for relief from the existing setback to the right-of-way for the garage? Both Roger A. and CEO McDonough said based on the criteria that to grant a variance you have to prove the land in question cannot yield a reasonable return without the variance, it was unlikely a variance would be granted. This property can meet a reasonable return without a garage. Roger also noted that the Planning Board doesn't grant variances, the Zoning Board of Appeal does but again the board members and CEO McDonough agreed it was highly unlikely one would be granted based on the State's criteria. There is no hardship, due to the ability to get a return on the property.

CEO McDonough asked if the board members had a chance to do a site visit? They had. CEO McDonough asked if the right-of-way was staked out? They said it was not.

Mr. Shumsky asked what the value was from the right-of-way to their garage? Mr. Roberts did not know, he said that Corner Post had done the plan and they were supposed to do it to the shoreland regulations.

Mr. Shumsky said they were going to get their own survey and had been in touch with several surveyors but they are unable to get out to do the job right away. He said he wanted their property surveyed and asked if he could get a full set of prints along with a topographic map. Mr. Roberts said he certainly could request a copy, he was not opposed to that. Mr. Shumsky thought Mr. Roberts should have to provide a plan because he was doing the project. Mr. Roberts said he requested the information from the lawyer and Corner Post that would be necessary for the Town of Shapleigh and this is what he received. Mr. Shumsky said they wanted to know the distance between their garage and the right-of-way, because the distance would be less than what is there now. Mr. Roberts disagreed that it would affect them more than now. Mr. Shumsky said there wouldn't be a setback between the right-of-way and their garage.

Mr. Shumsky said they couldn't allow this right-of-way to be right against their garage. He said there

is a turn-around next to their garage where they place a boat trailer in the summer time. Mr. Roberts noted that they were parking on his property. Mr. Shumsky disagreed and said there is 10 or 12 feet between the garage and the property line, based on a measurement they took.

Mr. Shumsky asked about moving the garage and Mr. Roberts noted that they were unable to do that based on the location of the septic system. Mr. Roberts said again that he was using the proper channels to date to try to accomplish this, working with the attorney, Corner Post and with information from the Codes office. Mr. Shumsky said he was aware of this from the previous owners but he wasn't concerned as he knew it would go before the Town and he would be notified. He said now he had concerns. Mr. Hubert also told Roger A. that at the closing this came up, but they figured they would deal with it when they were notified but they didn't receive the notice. (The Realtor, Jane Carmichael, came in to get a copy of the plan on the Friday prior to the Planning Board meeting for the new property owners. She stated to Barbara F. that she had discussed this right-of-way proposal with her clients.)

Mr. Shumsky wanted to postpone this application until they were able to get a survey. He also wanted a larger set of prints to review. Mr. Hubert noted a steep embankment that was concerning him and Roger A. agreed saying that was why he was asking earlier what was taking place on site. Mr. Hubert said it was very steep and he wanted to know who would be responsible for erosion measures. He said he understood it was Mr. Roberts's property but he was concerned.

Mr. Hubert said he also had issues with trees that were planted previously, apple trees. He asked why they didn't put in fir trees? Roger A. stated that they had to be native to Maine and apple trees were native to Maine. Roger said the board doesn't tell the applicants what species, only that a tree has to be planted and it has to be six feet in height from the ground up. And it has to be native to Maine. Roger also noted when the previous owners had to replant, it may not have been required that the trees had to be six feet in height, but that is the requirement today.

Mr. Shumsky didn't think there should be a hardship put on them. Mr. Hubert said there were two houses being affected. Mr. Shumsky asked the board if they went on the Bland property (now theirs). Roger A. said he had. Mr. Shumsky said they wouldn't be able to pull directly into the garage with the change without a two-point turn. They would also lose a parking space.

Roger A. said his major concern was with how they were going to support the embankment to ensure it won't cave in, short of building a wall; how much of the embankment is being removed. He said the radius coming into the former Bland property, how close to the garage you will be coming onto their property from the right-of-way. He said he would like to see it wider going onto the Roberts property and said he had sketched it on the plan, showing Mr. Roberts. Mr. Roberts said he was not opposed to the idea. He added that even though the design of the right-of-way will be defined on the plan, along with the gravel area, the fact was the land would still be open and he wasn't opposed to allowing them to drive over his property as needed. He said he allowed the previous owner to do so in the fall. Mr. Shumsky and Mr. Hubert said they appreciated that but the fact is property owner's change and what is on paper is what is there and a future owner could change his mind. Or in the future if Mr. Roberts changed his mind and put up a fence, then they would have the problem they were speaking about. You can't predict the future. Mr. Hubert said they had to make it right the first time. Mr. Roberts agreed and said that is why he started the process in March.

Ann H. asked if the board needed a new plan. CEO McDonough said there was an issue with the septic location, and the number of 50 feet on the plan was not correct. The structure had to be 75 feet from the center of the right-of-way and he was not sure if it met that requirement because the only number on the plan was 50 feet. This needed to be clarified. There needed to be clarification if the right-of-way could be moved and meet the setback requirements and give Lot 9 more room between the right-of-way and the garage. CEO

McDonough believed Corner Post needed to review the plan and see if changes could be made to satisfy both the setback requirements and the needs of the neighboring property.

Roger A. stated that the decision would be postponed so the board could get a full size site plan and have the applicant speak with Corner Post to see what the actual width of the road is. Roger said a right-of-way serving one lot has to be 12 feet wide, the width on the angle is 28 feet but the actual width of the road is not depicted. He said the diagonal is 28 but not the actual width. Roger said he understood that the location of the septic system is behind the house but to get the actual location would help. Roger showed Mr. Roberts on the plan what he was speaking about. CEO McDonough told Mr. Roberts to have Corner Post contact him and he would explain exactly what Roger was speaking about. Mr. Roberts said he would call them tomorrow and have someone speak with CEO McDonough.

Ann H. made the motion to postpone the review of the application until more information can be obtained. Maggie M. 2nd the motion. All members were in favor. By a vote of 4 – 0 the motion passed unanimously.

Some of the information requested is:

- 1) A full size plan, so all the information on the plan can be easily read.
- 2) The actual width of the new surface of the road, contained within the right-of-way. Also is there 75' from the centerline to the proposed new structure.
- 3) Can the right-of-way be moved away from Lot 9's garage and still meet setbacks to the proposed new garage?
- 4) Additional information may be required at the next meeting after another review.

Mr. Shumsky was speaking again of getting a survey and tying his survey with the existing one that Mr. Roberts had. Roger A. stated they were welcome to contact Corner Post. Mr. Shumsky wanted to be sure all the property lines matched up before they went any further. He noted there were buildings on property lines and he wanted to be sure his garage was on his property. Roger said it would not hold up the Planning Board with respect to this application. He said that would be their issue. Mr. Shumsky said he didn't want to find out the property line is off and then it's a civil matter. Roger said the board was not concerned with that, they were going to use the survey before them. This property has been surveyed and the board is going to use this surveyor's words that the line is where it sets on the face of the earth per the plan before the board. Roger said the board was going to go by what the surveyor said. Roger said the board will look at how the right-of-way affects them but that is all.

Roger A. noted it is a buyer's beware when you purchase a property. Mr. Shumsky said that he didn't usually purchase a survey before the land is bought. Roger said sometimes you make it a condition of the purchase of the property but that isn't the issue for the board. Mr. Hubert said they bought the property as is and someone is making a change that could decrease the value of the property, and increase their value, how is that justified. Roger said the board does not look at property values and doesn't have authority in that area. Roger said they look at the health and safety issues. Mr. Hubert was concerned with access and safety and he said his biggest concern was how to access the garage when the right-of-way is moved. Roger said he was concerned with the slope and how it will be stabilized and also how you will be able to get into your garage. Roger agreed the corner is tight. He said that is why they are asking CEO McDonough to speak with Corner Post Land Surveyors and see if that area can be changed at all to help the situation.

Barbara F. said she would mail the agenda to Mr. Hubert and Mr. Shumsky, so they will know when the next meeting takes place.

Nothing more was discussed.

**Major Subdivision – 9 Lots to be known as Conant Farm Subdivision – Map 8, Lot 48 (Gore Road) –
Melvin Leedberg, Applicant**

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

Mr. Leedberg presented along with his application a copy of the Planning Board minutes from October 12, 1993, which contained a public hearing for the 9 lot subdivision on Map 8, Lot 48, owned at that time by Melvin Leedberg and Gina Romano. The public hearing listed the conditions to be placed on the final plan and the conditions of approval to be met in order for the subdivision to be valid. Also received was an 8 ½ x 11 inch copy of the original subdivision plan dated November 1988, drafted by Philip Reed of Reed Surveying Inc. of Scarborough, Maine.

The application stated the acreage to be developed is 73.8 acres; the property was part of a prior approved subdivision; there have been no divisions within the past 5 years; the parcel does not contain any waterbodies; the property is not within the flood hazard zone; the proposed name of the development is, Conant Farm; the proposed number of lots is 9; and the anticipated date of completion is year 2018. There currently is a road into the property, and a fire pond. The water supply to the individual lots will be driven wells, there will be individual septic tanks for waste disposal and fire protection will be via the existing fire pond. There are no streets, recreation areas or common land being dedicated to the public.

The applicant is requesting a waiver for contour elevation interval determination because they are already placed on the original plan.

The applicant is requesting a waiver for erosion / sedimentation control plans because the road has been put in and topsoil has already been removed.

The applicant is requesting waivers on other submission requirements as they come up if there is no harm to the environment or the Town; based on the fact the subdivision was approved on October 12, 1993 and the road and fire pond were installed.

The applicant believes there are ‘special circumstances’ for his requested waivers because on October 12, 1993 the Planning Board held a public hearing on the subdivision and approved the plan with conditions. The plan was not recorded, therefore the plan became null and void. The 2016 application is the same as in 1993, the applicant wishes to have the original application re-approved with the same conditions.

The original conditions of approval are as follows:

- 1) No lots to be sold until the markers are installed and a letter is written by the Planning Board saying the subdivision is in compliance.
- 2) Road standards to be met as per Shapleigh Major Subdivision Ordinance Article XI.
- 3) All roads within the subdivision shall be considered private roads as per Subdivision Ordinance Article 12.10.
- 4) The road is to be hot topped with base coat after 5 lots are sold and the final coat done when 7th lot is sold or 3 years from the date of approval, whichever comes first.
- 5) The road to be checked by the Road Commissioner as construction progresses.
- 6) The fire pond is to be marked on the Mylar as to approximate placement and DEP approval obtained if needed. They then return to the Planning Board with the final plan of the pond which must be completed within 3 years of the final plan approval.
- 7) The deed restrictions will be:
 - 1) No mobile homes or house trailers allowed.
 - 2) Single family residences only.

The board began by reviewing the larger version of the plan.

Roger A. was on the board during the original approval in 1993. He stated the subdivision was null and void as it was never recorded at the time and all the conditions of approval were not met. He also noted that the review now has to meet the specifications in the current subdivision ordinance. Roger said that the applicant now has to start over.

Mr. Leedberg was asked if there was any water on the property and he said there was a stream on the back side of the property and showed the board where there was a spring, which was the location for the fire pond. He did not believe there was any water issue where the lots were located. Roger A. agreed.

Mr. Leedberg said the road was partially put in years ago. He said at the time he was not sure they had full approval. Roger A. said the road will have to be built to the current standards, §89-36 'Street design standards'.

Note: A private road servicing over two lots but not greater than 15 lots shall meet the standards of a Minor street.

Mr. Leedberg asked if he could do a private road as it was approved in 1993. Roger A. stated that the standards in the ordinance today have to be met. Mr. Leedberg asked if today's standards allowed a private road. Roger said it would have to be a private road as a town road has to be voted on and approved at Town Meeting. All subdivision roads are private roads unless approved as a town road by vote.

Mr. Leedberg asked about the standards for a private way? Roger A. stated that was not the subdivision standards.

Roger A. said the fire pond has to be in with an easement for access by the Town. CEO McDonough asked if a fire pond was exclusively required? Roger said no, he could have sprinkler systems in the homes, he could have an underground tank put it as well. The requirement is that the Fire Chief has to approve whatever he decides to have for fire protection. CEO McDonough noted that it has to be reflected in the deed that sprinkler systems are required if that is the choice. Mr. Leedberg was concerned with the cost of a sprinkler system. CEO McDonough pointed out that all systems had to be maintained and there was a different cost associated with each choice.

Ann H. asked if the lots would be sold or if there was an association. Mr. Leedberg thought if there was a private road you had to have an association. CEO McDonough agreed there needed to be a road maintenance agreement between the homeowners. CEO McDonough said that how the homeowners choose to form an association is up to them, the board isn't involved with that. But there has to be a road maintenance agreement approved by the board.

Mr. Leedberg asked about the topo map requirement. He said the existing plan has 20 foot intervals. Ann H. asked what that meant? Mr. Leedberg said the line was every 20 feet of elevation. Roger A. said the board can accept that or the USGS. Mr. Leedberg thought it was the USGS.

Roger A. said they would need to know the soils on site. There needs to be a test pit for each lot. Roger said the waivers needed to be listed. Barbara F. thought there was a list with the application. Mr. Leedberg said he asked for a waiver for the erosion / sediment control plan for the road because he didn't think the road would change much but it appears it needs to be up to today's standards. Roger said there needs to a certification that the gravel is to the standards in the ordinance. He said that if there is any ditching that

needs to be done, that needs to be listed. CEO McDonough asked if there was a road plan? Mr. Leedberg said, no. CEO McDonough said there needs to be a plan showing the cross cut of the road. Roger A. agreed. CEO McDonough said the design standards are in the Subdivision Ordinance.

Mr. Leedberg asked if the board preferred a cluster subdivision. Roger A. said it didn't matter to the Town, it was his choice. Roger said if he did consider a cluster subdivision you need to denote where the 'remaining land' will be located and who will own it. Will it be the association?

Mr. Leedberg asked if the standards for a private way applied? Roger A. said, no.

CEO McDonough asked how many acres there were? Mr. Leedberg said, 73.8. CEO McDonough asked how many lots? Mr. Leedberg said, 9. CEO McDonough asked what happens to the rest of it? Mr. Leedberg said at the time of the original review, keeping the acreage under 20 acres, they didn't need DEP review. He said this was going to be phase one, then in the future other lots would be developed. CEO McDonough noted that this lot can be split once every five years without Planning Board approval. Mr. Leedberg asked if DEP approval still applies over 20 acres? CEO McDonough did not know, he suggested he contact DEP.

Mr. Leedberg was hoping to get waivers on this because it was approved in 1993. He said it was easy to get the plan approved in 1993, therefore, he believed it would be the same at this time. He noted it had to be paved in stages but the approval was very liberal. Roger A. said that is not going to happen today, today there will have to be a bond put up to be certain the road is done within a specific period of time. Roger said utilities are also an issue to be sure they go in as well.

Roger A. said that because he is starting over he could consider have more lots or cluster in the front, but that is up to him. Mr. Leedberg said this could create a smaller road. Roger agreed. CEO McDonough said there are many possibilities for this property. Roger said the board cannot tell him which would work best for him. Mr. Leedberg understood.

CEO McDonough said that he did not feel getting the cross section of the existing road is a huge expense. He believed the biggest expense will be the paving. Ann H. noted there was an existing fire pond. CEO McDonough said he could keep the fire pond or he could have sprinkler systems, the board will listen to what he suggests. He said there will need to be a bond and it will have to be paved. Mr. Leedberg asked, does all the paving have to take place before the lots are sold, could it be paved in phases? Roger A. said he could propose whatever he wanted to, then the board will review it. Roger noted other subdivisions in Town, approved within 10 years, are all paved. He said they have only sold a minimal amount of lots, so there was a big up front expense. Roger said there is likely to be a time limit for the road, that it needs to be done within, for example, three years. If it isn't, then the bond will be used by the Town to pave it. He noted the developer would be contacted to have the option to pave it himself.

Mr. Leedberg asked if bonds were expensive? Ann H. said they were not, but she wanted him aware that if you default on a bond, you will not be able to obtain another one.

Mr. Leedberg said he needed to get the type of soils, test pits, and cross section of the road. Roger A. said yes, this is what is reviewed during the preliminary review. Street and storm drainage is reviewed. Roger told Mr. Leedberg he can either get the Subdivision Ordinance on the Town's website or purchase a copy of it, so he has all the review criteria.

Roger A. said the board will want to know what he is going to use for boundary markers. Mr. Leedberg thought granite was required. Roger said you could just use pins if you put in for a waiver.

Roger A. also noted underground power is looked at. Mr. Leedberg asked if this was required. Roger said it is in the ordinance but Mr. Leedberg could suggest something different.

Roger A. said there was a sidewalk requirement, but noted that often people ask for a waiver. CEO McDonough stated that most requirements in the Subdivision Ordinance can be waived unless they are also in the Zoning Ordinance. It is up to the Planning Board what gets waived and what needs to be done based on the size of the development, location, etc. Mr. Leedberg asked if he had to do one waiver at a time? Roger said he could ask for the waivers all at once if he wanted to but noted that there will need to be power brought in.

Mr. Leedberg asked how it would work with sidewalks, should the town take the road over, who would maintain the sidewalks? Roger A. said there were no sidewalks in Shapleigh at this time, but it is a requirement in the Ordinance. Ann H. asked if there were sidewalks and the Town took over the road maintenance then the Town would be responsible for it? Roger said, yes.

CEO McDonough said that whomever creates Mr. Leedberg's new plans should have an idea of what type of waivers should be requested. He thought the professionals should have an idea of what to do. Mr. Leedberg said his concern was the cost for everything he needed. He said he had to get quotes for what needed to be done, so he was trying to get an idea of what he would not need.

Roger A. said there would be a plan for the actual subdivision; a road plan, including the cross section; and possibly a plan listing any other criteria for the subdivision such as swales and water diversions. Roland L. asked if input from the Fire Chief was required as to what he prefers for fire suppression? Roger A. stated that the Fire Chief will be asked if what the development is going to use for fire protection is acceptable, once he tells the board what that might be, fire pond, sprinkler system, cistern, etc.

Barbara F. noted that the Road Commissioners have to approve the amount of the bond for the road, they must agree there is enough to cover construction costs should the Town have to put the road in. Roger A. agreed. Barbara said there also needs to be quote from who may be putting the road in, present that to the board, and then that figure along with the road plan will be reviewed by the Road Commissioners. Roger noted that there needed to be three foot wide shoulders on the side and this cost needs to be included in the cost to build the road.

Roland L. asked if there needed to be wetland delineations on the plan? Roger A. said, yes. Roger thought there was a stream on the back of the property. Mr. Leedberg said there was at least one stream on the property. Mr. Leedberg asked if there needed to be a wetland map? Roger told him if there was a wetland area on the lot it should be noted on the plan. CEO McDonough said that Mr. Leedberg should call DEP to see what their requirements were.

Roger A. said Mr. Leedberg needed to be sure there were no endangered species on the property. He didn't believe there were but it needed to be checked on. Ann H. asked who would do that? Barbara F. stated that Inland Fisheries and Wildlife would know if this was an area of concern. CEO McDonough looked at the map the board had and didn't think this area was of concern but it still should be checked. Roger agreed.

Ann H. asked if he needed septic designs? Roger A. said he needed test pits for each lot. Mr. Leedberg asked if he needed an actual design or just the test pits? Roger said just the test pits to make sure the soils were suitable.

Mr. Leedberg said he needed a price for the roads, and that would dictate the bond price. Roger A. said any other improvements would also need to be included in the bond. For example, the road, fire pond,

bringing power in, etc. Mr. Leedberg asked how far the power had to be brought in? Roger said there needed to be power to the edge of the lot so the homeowner has access to power. Mr. Leedberg stated that power was not up to the lot, but 3000 feet up the street, is that part of the cost to bring the power to the lot? Roger said, yes, whatever it cost to get the power to the lot, so the individual lots have access to it.

Mr. Leedberg asked if well costs were included. Roger A. said no, the homeowner puts in the well and septic system at their cost. They need to have the road access, power and fire protection of some kind.

Mr. Leedberg asked if he would be able to bring the road up himself to the current standards? Roger A. said he can but the board will need someone else to say it is up to standards. CEO McDonough said that the bond still needed to be what it would cost for someone else to do it. Roger agreed. Mr. Leedberg asked who inspects the road? Roger said an engineer can verify it. CEO McDonough asked what the road was like at this time. Mr. Leedberg said the trees and loam were removed, a culvert was put in and because the area is gravel, that is what they used to build the road. He didn't know if there is 4 inch minus or it is only what was there. He believed the depth is there but again not sure if there is 4 inch minus or if it met the other standards.

Mr. Leedberg was also confused to what the standards were. Was this a private right-of-way? Roger said that it was a minor street because a private right-of-way only serves two lots.

Mr. Leedberg said the engineer designs the road. Roger A. said, yes, they will know what the slope needs to be, if there needs to be a swale area, a water holding area, etc. Mr. Leedberg asked if that was waivable? Roger said, no. Mr. Leedberg said there was none of that required the first time the plan was approved. He asked if after the engineer designs it, will he know what it will cost to build? Roger said they will have an idea based on the length, width and what if anything else needs to be done for the road. This will give you a good idea what it is going to entail. Mr. Leedberg believed it was going to be more than what it would have been originally.

Mr. Leedberg asked if there was anything else he needed to be aware of? Roger A. said the board would go through the Subdivision Ordinance page by page. Mr. Leedberg noted that along with the application Barbara F. had given him a checklist to review. Mr. Leedberg asked if the current boundary survey was acceptable? Roger said it was.

Mr. Leedberg said again that he would need a bond for the road, power, fire suppression, etc. Ann H. said that he wouldn't need to buy the bond until the project is approved. Roger A. said, right. Mr. Leedberg asked if there was a time limit once the plan was approved. Roger said there was a time limit to record the plan at the registry of deeds, 90 days, or it will become null and void. Barbara F. asked if there was a limit to obtain the bond. Roger said yes, that is 90 days as well. He said once the board has the bond the project can begin.

Mr. Leedberg asked how long he would have to complete the project. Roger A. said it was up to the developer, but there will be a date for the pavement to be down or the power to be brought in. The required improvements will have a date of completion. Roger noted sometimes the board allows the base coat down for the pavement and lets the developer put the top coat down after the houses are in, so the road doesn't get ruined by the construction equipment. But noted that there is still a time limit, such as five years to put the final coat down. He said the board would consider this.

Mr. Leedberg asked CEO McDonough if he had any comments. CEO McDonough said, going back to the beginning of the meeting, is this the plan you want the board to consider or is there something else you would like to do? He told Mr. Leedberg he could consider other ideas that might be more cost effective.

Mr. Leedberg asked how the bond worked, is it a monthly payment? CEO McDonough said it was usually an annual renewal. Ann H. agreed but said there are some bonds that are good for two years. She said the longer you get up front the cheaper it is. CEO McDonough did not think bonds were a lot of money. Ann agreed, but noted that larger amounts might require a financial statement and you have to be credit worthy to obtain the bond. She said over \$50,000 they look at credit. Mr. Leedberg said that it depended on road costs, what the bond would cost. Ann said, 'And Electric'.

Ann H. asked if this should be postponed or what happens next? CEO McDonough asked if Mr. Leedberg wanted to move forward with this project? Mr. Leedberg was not sure at this time, he wanted to come before the board to see what the requirements were. CEO McDonough asked if there was an application fee? Barbara F. said there was but if he does not want to go forward he can get his money back. But he has to decide soon in order to get his money back. She said once notices go out, he will not get his money back. Mr. Leedberg asked if he could wait 90 days to make a decision? Barbara said it was up to the board. Ann told him he could stop it and start over in the spring, it was up to him.

The board and Mr. Leedberg agreed to wait three weeks to see if he wanted to move forward, if after three weeks he wanted to wait, the board will return his money. Otherwise he will need to come back before the board and move forward. Roger said within 30 days the board needed to send out notices, so the board will wait for Mr. Leedberg's decision. Mr. Leedberg will contact Barbara F. to tell her what his intentions are. Mr. Leedberg asked if he could still start over in the spring if he wanted to. Roger told him that he could.

The board will wait until November 29, 2016 to hear from Mr. Leedberg, before mailing out notices or returning Mr. Leedberg's application fee.

Nothing more was discussed.

Growth Permits

Map 25, Lot 13 (16th Street Loop) – New Home

GP #16-16

The lot met the minimum lot requirements for a new home.

The Planning Board meeting ended at 8:45 p.m.

The next meeting will be held Tuesday, November 22nd 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 typically be held the following Wednesday, also at 6:30 p.m. Please contact the Land Use Secretary if there is a question in scheduling, 207-636-2844, x404.

NOTE: Beginning on the 1st meeting in November, the Planning Board shall meet beginning at 6:30 p.m. This schedule remains in effect until the first week in April.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, November 22, 2016

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). Roland Legere and Alternate Steve Foglio were unable to attend. Code Enforcement Officer Steven McDonough was also in attendance.

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

The minutes from Wednesday, November 9, 2016 were accepted as read.

Comprehensive Plan

Board members reviewed the Action and Timeline charts in the Comprehensive Plan, making several changes so they will be ready for *public review on Tuesday, December 13, 2016*. After discussion and review the charts to be presented at the public hearing on December 13th are as attached.

No other items were discussed at this evenings meeting.

Growth Permits

There are growth permits available.

The Planning Board meeting ended at 7:20 p.m.

The next meeting will be held Tuesday, December 13, 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 typically be held the following Wednesday, also at 6:30 p.m. Please contact the Land Use Secretary if there is a question in scheduling, 207-636-2844, x404.

NOTE: Beginning on the 1st meeting in November, the Planning Board shall meet beginning at 6:30 p.m. This schedule remains in effect until the first week in April.

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

/attachments

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, December 13, 2016

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

Public Hearing began at 6:05 p.m.

Comprehensive Plan

Roger A. opened the Comprehensive Plan Public Hearing by stating he would be reading all the material that will be presented to the townspeople at Town Meeting in March 2017, as this is the first public hearing with all the material that has been amended. He noted there would be no changes made after tonight's meeting.

The only citizens in attendance were Marcia and Timothy Zinser of Knox Road in Shapleigh.

Roger A. began by reviewing the Action and Timeline Charts (copies can be obtained from the Land Use Secretary during regular town office hours).

1. Growth and Development

- Roger A. commented on line item #6, 'Maintain existing growth cap system.' He noted that there is currently a growth cap in what is called the Growth Ordinance, and it is reviewed every three years. He added that although the housing industry has slowed, Shapleigh has not changed the growth cap, even though they were told they could reduce it based on current new housing numbers. He said the board chose to keep the numbers at the current level which are 34 a year with an additional 2 for Habitat for Humanity. This year a total of 17 were given out.
- Roger A. commented on line item #13, 'Consider adopting an impact fee ordinance'. He noted that impact fees are allowed now but because the money has to be used within 5 years, and has to be designated to or for something 'specific', the board to date has not chosen to implement the fee. He stated that if the housing industry were to pick up, it would be considered, depending on the need.
- Madge B. commented on line item #14, 'Make other changes to zoning ordinance to make it consistent with land use plan and town's growth policies.' She said that if the Comprehensive Plan amendments pass then the board will be reviewing the Zoning Ordinance to be certain it conforms to the amendments adopted.
Roger A. agreed stating the Comprehensive Plan and the Zoning Ordinance must mirror each other.
- Roger A. commented on line item #15, 'Consider zoning districts such as residential, historical, commercial / industrial, and agricultural. Roger noted that we only have General Purpose, Shoreland Protection, Resource Protection, Stream Protection and Floodplain at present. These other districts will need to be considered if the amendment passes.

2. Housing

- Roger A. commented stating that although these timelines only go through 2026 (a ten year period), the Comprehensive Plan does not end in 2026, it is re-reviewed to see if any changes need to be made.

3. Natural and Historic Resources

- Roger A. commented on line item #4, 'Work with neighboring towns on planning for protection of shared waterbodies and watershed.' Roger noted that the towns of Acton and Sanford currently work with Shapleigh on adjoining waterbodies and the dam.
- Marcia Zinser commented on line item #5, 'Encourage voluntary private landowners protection of rare and endangered species.' She asked what there were for endangered species in Shapleigh? Madge B noted the Small Whirled Begonia which was found by the Patton Corporation, a development company, years ago. She said they donated land to the Nature Conservancy to protect the species. Madge said that endangered species went beyond plant life, it also entailed insects, and other wildlife. Board members noted the rare moth known as Edward's Hairstreak that is in the pine barons off of Route 11, the Blandings Turtle and Northern Black Racer. Mrs. Zinser asked if there is anything they should do if there is a rare species on their property? Madge stated that anything done by the homeowner is voluntary, the State does not require anything specific that must be done. Roger A. and CEO McDonough noted there is a map created by Inland Fisheries and Wildlife that shows the locations of the various species.
- Madge B. asked a question regarding line item #11, 'Consider adopting an ordinance protecting high-yield aquifers with potential to serve as a future water supply.' Madge wanted to know if the Town had a map showing where the aquifers were? Roger A. and CEO McDonough believed there was a map but were not sure of the location.
- Marcia Zinser commented on line item #15, 'Consider adopting standards protecting large forested wetlands and wetlands with fewer acres in size that are deemed particularly valuable. Ensure State Wetland, Zoning and Resource Protection Maps are current.' Mrs. Zinser wanted to know how they would know if they were in a wetland district, noting she was near Pump Box Brook. She also was concerned if there was anything they had to do if they were. Roger A. and CEO McDonough stated there were updated maps by Inland Fisheries and Wildlife that the board can use to limit how close development can go toward a water body. They both told Mrs. Zinser that their existing home was grandfathered, so they didn't have to worry about the setback limitations. They told her that there was a 75 foot limitation toward the brook.

4. Economic Development

- Roger A. noted that when a line item stated 'Review to consider in 2018', it was because any change to the Zoning Ordinance must be voted on at Town Meeting, therefore, any changes made in 2017 would not go into effect until 2018.

5. Roads and Transportation

6. Public Services

7. Historic Resources

8. Regional Coordination

That concluded the Action and Timeline Charts. Roger A. then read the written portion of the Comprehensive Plan entitled 'Chapter IV - Goals, Policies and Actions'. The subsections that the Planning Board addressed are entitled:

- A. Key Points
- B. Growth and Development
- C. Housing
- D. Natural Resources

There was nothing changed in these sections outside of typographical errors.

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

The Public Hearing on the Comprehensive Plan ended at 7:00 p.m.

The planning board meeting started at 7:00 p.m.

The minutes from Tuesday, November 22, 2016 were accepted as read.

After-the-Fact Conditional Use Permit – Retaining Wall – Map 27, Lot 11A – James Power, Applicant
Tara Gilbert represented her father, the property owner, at the meeting, along with her husband, Brad.

Presented to board members, along with the application, was written permission giving Tara Gilbert authority to act on Mr. Power's behalf; pictures of the existing wall, including the partial replacement; a diagram showing the lot which included the existing house, cottage, shed, leach field location, stairs to the water, and retaining wall length and height; and a copy of the Permit by Rule mailed to the DEP on 11/30/16, along with attachments. Also provided was a description page which read as follows:

The retaining wall at 104 16th St., Shapleigh, ME, hugs the waterline of Mousam Lake and was set to be repaired by volunteer family members during the fall of 2016.

The plan was to remove a dozen or so railroad ties that were considered unsafe, due to rot and increased shifting from when the wall was built 60 years ago. During the initial removal, it was quickly realized that numerous ties had significant rot and they were not going to support the new ties. After removing another row, to see if any could be salvaged, the wall collapsed.

This inevitably caused the earth to be exposed. The repair turned into a time sensitive project, with only completing 30 feet of the projected 55 feet. For 2017 the thought has been to continue and finalize the repairs of an additional 125 feet. It has never been considered to change the dimensions of the wall, nor will it change once the overall projected footage has been completed.

Roger A. began by asking if the entire wall had been replaced? Mrs. Gilbert stated that only a portion of it had been replaced. Mr. Gilbert stated that it began as a repair, it then turned into a collapse, so that section that came down was fixed. He said someone called the Code Enforcement Office. Mr. Gilbert stated that they were only trying to repair the wall. Mrs. Gilbert said that the wall was over 60 years old, and the

railroad ties were punchy and it was starting to collapse. She said they were concerned because the water level comes up to the wall, so they tried to repair the wall before the water table came up. She said since then the water level has returned. She said they didn't know the severity of what they did or that there were steps to take, they were only trying to repair the wall.

Mr. Gilbert asked if they were legal non-conforming, as the wall predates any codes that were in place? Roger A. said the original wall predates but the replacement of the wall requires a DEP Permit by Permit and a permit from the Planning Board to replace it. He thought part of this wall may have been permitted earlier in the year but further work still needed a permit. Barbara F. noted that she did not believe this wall had any previous approval, CEO McDonough agreed.

Mrs. Gilbert stated that she did have approval from Cameron Adams of the DEP. She said she had an email from him and she asked if the town had a copy. CEO McDonough said he had spoken with Mr. Adams and agreed this was going to be approved but he wasn't sure he received the email as of yet. CEO McDonough asked if they planned on doing more work to the wall than what has already taken place? Mrs. Gilbert said she asked Mr. Adams if they should include what they planned on doing in the future, they did want to replace the rest. She said that is why the sketch they provided included the continual repair of 125 feet. Also on the sketch where it shows a projected 55 feet repaired, only 30 feet had been done.

Mr. Gilbert stated that there was a problem with erosion at present. Mrs. Gilbert stated she was trying to understand the process, both a permit from the DEP and the Planning Board. Roger said, yes. Mrs. Gilbert said the DEP said he approved it, so does the DEP recommend added components? Roger A. said the DEP looks at it and if they have no issue, then it goes to the Planning Board to review and create findings. Mrs. Gilbert said then, the board goes to the field? Roger said, yes. Roger added that because the wall is five and one half (5 ½) feet in height it needs to be engineered per the ordinance. It has to be certified by an engineer that it will stand up. Mrs. Gilbert said the dimensions have not changed from the old wall to the new wall. Roger said it did not matter, anything greater than four feet needs an engineer to stamp that the wall is adequate.

Roger A. gave an example that there are various types of walls and depending on the type of wall various types of material or methods will be used to mitigate the flow of water, so the wall doesn't get push forward and collapse. Roger said an engineer will create a plan showing that the new wall will stand up and put his stamp on it.

Mrs. Gilbert said that with respect to the wall height, the board is going by what her father measured, will the board take measurements? Roger A. asked how high they wanted to make the wall? Roger said with the wall, anything over four feet needs an engineered plan. Mr. Gilbert said the wall height would be to the pre-existing. Roger said he understood and Madge B. agreed saying they couldn't do it differently. Mrs. Gilbert said the DEP told her that they could not expand it or make it taller. Mr. Gilbert said it would be the same exact as to what is there now. Madge said there was no issue with the board measuring it.

Mrs. Gilbert asked what would happen if the board denied the application, what would they do with what they haven't touched, it is in need of repair? Roger A. said there is no issue with replacing it, the applicant just needs to show the board how they will replace it and that it will stay in place for an extended period of time, which is why it needs to be engineered.

Roger A. stated that the board will need to know how they plan on stabilizing the area, would they be using grass or woodchips? Mrs. Gilbert said that Mr. Adams stated they would have to have provisions to prevent erosion control such as silt fence, erosion control mulch, etc. She asked who would approve what is put into place?

Diane S. stated that first they needed to get an engineer to go on site to look at the wall. He will come up with an engineered plan on how the wall is going to be made and how the stormwater is going to flow. She said the silt fence comes in when the construction is being done, the person you hire will put up the fence to catch any of the soil that comes down when you are replacing the wall. She said they need a licensed DEP contractor to do the work and he will make sure the silt fence is put up and everything is built to the engineers plan.

Mrs. Gilbert asked if he would have to be there while they are putting up the wall or before? Diane S. said the DEP contractor has to be on site while the work is being done, when any soil is being disturbed or moved. CEO McDonough stated that the homeowner can do the work without the licensed DEP contractor, provided they follow the engineered plan and provided they follow best management practices. He stated that when you apply for a DEP Permit by Rule, it is what it implies, it is a rule book as to what you need to do. He asked if they received the rule book? Mrs. Gilbert believed she did. CEO McDonough said it explained exactly what best management practices are for soil erosion. If you don't hire a contractor these guidelines must be followed.

Mr. Gilbert said his brother-in-law was going to do the work. Roger A. stated that if he is licensed with the DEP he is capable of being able to make sure best management practices are adhered to. Mrs. Gilbert asked if there was a conflict of interest? Roger said, no. CEO McDonough asked if he was a contractor in the State of Maine. Mrs. Gilbert said, Maine, New Hampshire, and Massachusetts. CEO McDonough asked if he was certified in the State of Maine for erosion control practices? Mrs. Gilbert did not know. Steve F. asked Mrs. Gilbert what type of contractor, excavation or building? Mrs. Gilbert said, building. Steve thought that he may not be certified then, it's a different type of contractor. Mrs. Gilbert said then they probably need an excavation contractor. Steve said the work could be done by the family. CEO McDonough said, "A homeowner can do their own work, provided they follow the book of regulations."

Mrs. Gilbert said, "We still need an engineer." CEO McDonough stated, "Yes, you still need an engineered plan for your wall."

Roland L. asked if the engineer is unwilling to sign off on the existing wall, what happens to the existing wall that they have constructed? Roland asked if they have to remove it or reduce it to the proper height? CEO McDonough stated they would make it adequate. Roger A. thought they may have alternatives but Roland said because of the location of the wall and its proximity to the existing building, he didn't think they had many choices. Mr. Gilbert agreed.

Roland L. asked again what happens to the work they have already done if the engineer doesn't agree it is adequate? Roger A. said, then it would be changed. Mr. Gilbert asked if it was four feet high, what happens then? CEO McDonough said that if they can build a wall that is four feet or less and stabilize the property for erosion, then you don't need an engineered plan. CEO McDonough wasn't sure that would work based on the location.

Roland L. wanted the applicants to know that the material to be removed cannot remain in Shapleigh or taken to the transfer station. He said they need to have a plan for what will happen to the rotting railroad ties. Mrs. Gilbert said she read in the Permit by Rule that there needs to be proper disposal of all materials. She understood they need to discuss that. Currently they moved them from the beach to up on top of the wall, so they wouldn't be in the water.

Mrs. Gilbert didn't believe they could have a four foot wall, so anything over four feet they needed an engineered plan. She said this engineer will create a plan that tells them what they need to do. CEO

McDonough said yes, that is what an engineered plan is, they design what needs to take place. Mrs. Gilbert said if they follow the PBR guidelines, the homeowner can do the work themselves? Roger A. said, true. CEO McDonough agreed but they still need the engineered plan. He added that if they hire a contractor, he needs to be a Maine DEP certified contractor. Mrs. Gilbert said, "Then we need a permit from you." Roger A. said, yes. Madge B. added that once we have the engineered drawing we can act on the application. Roger agreed, and said the board will need to know what the time line will be. He said the board likes the timeline to be as short as possible to prevent erosion, the board will want a start and end date for completion. Mrs. Gilbert wanted to know when the DEP permit says it is good for two years, how does that correlate with the planning board's timeline? Roger said the board looks at the PBR knowing it is good for two years but the board also looks at the actual project. The board may require the wall be completed by June 2017, so the DEP Permit is secondary to the planning board's decision. The board wants the wall done as soon as possible.

Mrs. Gilbert, referring to the sketch she provided which showed an additional 125 to be replaced, said the engineer needs to look at the entire wall, not just the section that was replaced. Roger A. agreed, Mrs. Gilbert said if everything is approved they would not be able to begin the project until next fall when they let the dam out.

Mr. Gilbert asked if they had just replaced the railroad ties that were bad, would they have needed a permit for that? Roger said, "Yes, anytime you touch it, you need a permit." He said it can affect soil erosion.

CEO McDonough told the Gilbert's to contact him if they have any questions at all. Barbara F. asked if they would be ready in two weeks to come back before the board? Mrs. Gilbert did not believe so. She asked what this would mean. Barbara told her the board can only table the application for 90 days, therefore they need to come back before the board with something within the next 90 days. Mrs. Gilbert said, "With an engineered plan." Madge told them if they do not have the plan they still needed to come back before the board within 90 days to tell the board where they were at, then it can be tabled again if need be. Barbara asked that they let her know where they were at.

Mrs. Gilbert asked if they were going to do a site visit? Madge B. said they would go down on their own to see what is there. Roger A. agreed.

Madge B. made the motion to table the application in order for the applicant to get an engineered plan for the replacement wall which is currently over four feet in height. Maggie M. 2nd the motion. All members were in favor. By a vote of 5 – 0 the motion passed unanimously.

Nothing further was discussed.

Other:

Ordinance Restricting Marijuana Establishments

CEO McDonough had given board members a copy of an article distributed by Maine Municipal Association entitled 'Legal Marijuana & Municipalities' Maine Townsman – December 2016. The article discussed the fact that Maine voters approved legalizing the personal use, possession and cultivation of marijuana by persons 21 years of age or older and the operation of retail marijuana stores, marijuana cultivation, manufacturing and testing facilities, and marijuana social clubs for on-premises sale and consumption. CEO McDonough wanted to know if the board was interested in regulating the retail sales of the product in Shapleigh.

Contained within the article was a sample ordinance prohibiting retail marijuana establishments and social clubs. He wanted the board to discuss whether or not they were interested in presenting the ordinance to the voters and if so, it would have to be presented soon in order for it to be voted on in March 2017.

CEO McDonough stated that it appeared you can prohibit the retail part of recreational marijuana. He said you cannot prohibit people from being able to grow or smoke their own because it is now legal in the State of Maine but you can regulate the retail side. Madge B. agreed and she agreed it had to be done now. CEO McDonough said his biggest concern with not prohibiting this is the fact there are no zones in Shapleigh, so it can be sold anywhere in town. Diane S. asked if it would fall under a home business? CEO McDonough said no, it is not considered a home occupation by definition. Diane said she was speaking about social clubs. CEO McDonough said that that was not a home occupation, he asked that she look at the definition of home occupation.

Steve F. said with the law passing, he understood the State was going to set rules to go by. CEO McDonough said that all he was aware of at present was what is in the letter he gave to the board. He agreed no one could do anything until the State makes a certain amount of regulation. Steve said, "The retail side of it." CEO McDonough said, "Correct." Diane S. thought the State said it would take about a year before they had their regulations in place. CEO McDonough agreed. She thought Massachusetts thought they would be selling it in about two months.

Roland L. asked if an existing business could add this as one of their product lines? CEO McDonough did not see why not but he hasn't seen Maine's guidelines in regards to this. Maggie M. asked if it would be better to do a moratorium? Madge B. said that would be good for six months. CEO McDonough said he would prohibit, using the sample ordinance, and if people then want social clubs in Shapleigh, the town can vote them in. Madge agreed.

Roger A. agreed he felt it would be best to ban it and at a later date the board can re-review it and have conditions to regulate it, like how far it should be from a school, etc. Board members agreed.

Barbara F. will schedule the public hearings and speak with Karla to see if there is additional information regarding the sample ordinance. Madge B. didn't think there was any reason to rethink the sample ordinance and agreed that Barbara should speak with Karla to be sure the Board of Selectmen are on board with it.

Madge B. made the motion that the Selectmen put on the town warrant an ordinance prohibiting the retail marijuana establishments and retail marijuana social clubs. Maggie M. 2nd the motion. All members were in favor. By a vote of 5 – 0 the motion passed unanimously.

Barbara F. will schedule the required public hearings.

Steve F. asked if this was telling existing establishments like Boonies, that they cannot sell recreational marijuana? Steve said he was for it but he wanted to be sure he was correct. Roger A. said not only can they not sell it but there cannot be a social club. Steve said that it would ban pot stores but does it ban existing businesses from selling it? CEO McDonough did not know.

Maggie M. read from the sample ordinance, 'No person or organization shall develop or operate a business that engages in the retail or wholesale sales of a retail marijuana product, as defined by 7 M.R.S.A. §2442.' She believed this covered existing businesses. CEO McDonough said he would do further research.

Nothing further was discussed.

Growth Permits

Map 4, Lot 7P-2 – New Home – GP #17-16

This is an existing legal lot, meeting the current requirements for a building lot in Shapleigh.

The Planning Board meeting ended at 7:20 p.m.

The next meeting will be held Tuesday, December 27, 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 typically be held the following Wednesday, also at 6:30 p.m. Please contact the Land Use Secretary if there is a question in scheduling, 207-636-2844, x404.

NOTE: Beginning on the 1st meeting in November, the Planning Board shall meet beginning at 6:30 p.m. This schedule remains in effect until the first week in April.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, December 27, 2016

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

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

The minutes from Tuesday, December 13, 2016 were accepted as read.

New Business:

Best Possible Location – Replace Foundation & Septic System – Map 17, Lot 26 (108 30th Street) – Roland & Carol Cote, Applicants

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

The applicants, Roland and Carol Cote, provided along with a copy of the application, a copy of a portion of Tax Map 17 highlighting the location of their lot; a portion of a survey plan depicting the location of the existing 1 ¼ story camp and attached stairs in relation to the lot lines, 30th Street and high water mark; the survey also noted the location of an existing retaining wall, trees, proposed leach bed, location of the 50 and 75 foot setbacks to the road, location of the 100 foot setback to the high water mark and elevation markers for the lot. A copy of the Subsurface Wastewater Disposal System Variance Request and Disposal System Application were received, dated 3-24-16, drafted by Kenneth Gardner, SE #73.

The application description for the project reads as follows: Excavate dilapidated foundation & pilings – replace with poured concrete footings & foundation – remove septic holding tank, create septic system per submitted application. Additional project description was provided from Roland Cote, dated December 13, 2016 which reads as follows:

We would like to raise the camp 14 feet + or – to remove deteriorating foundation and replace with a new poured foundation and position the camp back on its original position approximately 1 foot higher than it is now.

We are also asking for a permit to install a new septic system as there is no septic system present.

We may need to remove trees near to the foundation to eliminate weakening of root structure of marked trees. There may be a need to remove several trees to allow installation of the septic system. All trees in question are marked with yellow tape and marked on attached print. Trees would be removed only if necessary. We will replace all trees with ones that are required and will lay down the necessary gravel / mulch etc. to stop any erosion.

Raising of camp will be done by Chase Building Movers from Wells, Maine.

Foundation work to be done by Raymond Pelletier.

Excavation and Septic System to be installed by Peter Payeur.

Roger A. opened the meeting asking the applicants to let the board know for the record what it was they wanted to do. Mr. Cote began by stating the foundation under the existing camp is deteriorating, it has a lot of tree roots underneath it that have pushed some of the concrete away. He said he asked Chase Building Movers out of Wells if they could raise the building to excavate the old foundation and have a new one put in, putting the camp down in the original spot maybe one foot higher than the existing. This would create a walk-out daylight basement. He said they also need a new septic system. Currently there is a holding tank that isn't hooked up to anything. He said there is fluid in it and the tank has to be removed when they excavate around the camp. The new foundation would have the same dimensions as the existing, and the camp will remain the same size with a new foundation. He added that several trees may have to be cut. He noted they did not want to remove any trees but during the process but tree roots may be damaged, so the tree would not survive. He believed it was noted on the plan which trees may have to be cut. He said the only change from the information that the board members received is the excavation and septic were originally going to be done by Peter Payeur from Shapleigh but he didn't have the equipment to dig under the camp and was not confident, therefore, Billy Plante said he would do the excavation work and install the septic system.

Roger A. asked if there was the possibility of allowing the camp to be pushed back from the high water mark? Mr. Cote said if they had to, it can be moved back. The builders quoted a price of \$7000 to lift the structure and if was to be moved back it would be a few thousand more. It could be done if it has to be moved back.

CEO McDonough asked if there was a new septic design. Mr. Cote said there was. Board members have a copy of it. Mr. Cote noted that CEO McDonough had signed the variance in early 2016.

Roger A. asked if the applicants knew how far the camp was from the water? Roger said it wasn't noted on the plan. Mrs. Cote thought they had it on the plan but it could not be found. Mr. Cote thought it was approximately 50 feet. Mrs. Cote showed members a larger copy of the survey plan but it was not written on that copy either. Roger said they would pace it off when they did a site inspection. Board members did see the setback to the road listed on the plan.

Madge B. asked when the applicants wanted to have the work done? Mrs. Cote thought they would do it in the spring. Mr. Cote agreed but they needed to coordinate everybody. Mrs. Cote said the septic can't be put in until the foundation is put in.

Roger A. asked if they applied for a DEP Permit for the excavation work? Mr. Cote said he had not. He thought Billy Plante would do it? Roger said it takes 14 days to get approval for a project. Mrs. Cote said they believed the Planning Board was the first step to take. Roger said the planning board application and DEP application is usually done in conjunction. The board wants to know if the DEP has any issues with the project. Mrs. Cote asked if Mr. Plante could do this for them? Roger said the Plante's were DEP certified to do the work and they could do the application for them. Mrs. Cote asked when this had to be done, after the board decides if it will be set back from the existing location? Roger said after the site inspection the board will know if the camp will be moved back or not, then they can tell the DEP what will take place.

Roger A. said a planting plan will need to be established and a date of completion. The board will also need to know how the erosion is going to be taken care of. He said once they dig down everything disturbed needs to be stabilized. Mrs. Cote said the original person that was going to do the foundation said he wouldn't know until he began how many trees would have to be removed if any. Roger agreed that if you disturb a root system the tree most likely needs to be removed. Mrs. Cote said it was the same with the new septic system, they were not sure yet what trees would be removed. Roger said he understood. CEO

McDonough said that because the septic system has been designed, he was confident Billy Plante could go to the site and determine what trees would need to be removed, for both the septic system and the camp foundation.

CEO McDonough told the applicants that what the board was looking for was how the area around the camp would be stabilized during and after the project. Also any tree beings removed would need to be replanted, so where would those be placed. This needs to be on the plan. Mr. Cote pointed out that they did have the location of the existing trees on the plan. Mr. Cote said there is a yellow ribbon on the trees that they think will be removed. Mrs. Cote said she had drawn on one of the plans the three trees they think will be coming down for certain, one birch and two pine trees. Mrs. Cote said the surveyor put all the trees on the plan that are behind the cottage but she didn't know which ones may have to be removed for the septic. She said they haven't talked to Billy Plante yet. Mr. Cote said the six trees behind the camp, noted on the plan, may have to be removed for the line to the septic and the pump. He said the lines follow where the trees are. Ann H. noted that if the camp is moved back the trees would also have to be removed.

Ann H. asked if anything is being done to the retaining wall? Would it be damaged during the excavation for the foundation? Mr. Cote did not believe so, and he noted there were two retaining walls on site. Mrs. Cote agreed based on what they were told. Mrs. Cote said that any trees removed would be replaced with a tree six feet. Mrs. Cote asked if they had to be pine? Roger A. said no, but you need to tell the board what you will be using. Roger said they have to be native to the area. Mrs. Cote asked if they had to show that a professional nursery put them in? Roger said no, they could do it.

Ann H. said the board will need to know for sure what will be removed and what it will be replaced with and where it will be located. She said CEO McDonough will need to have a plan to follow when he goes out to do the final inspection.

Roger A. said that looking at the septic design, the edge of the leach field (point farthest from the road) is 24 feet from the road and it shows the pump 53.75 from the leach field and then the camp is 8 feet at the closest point beyond the pump box. Roger said there is quite a distance from the leach field to the existing location of the camp. Mr. Cote said, then the board could decide to move it closer. Roger said, yes.

Madge B. asked how old the camp was? Mr. Cote said it was very old. Mrs. Cote said it is just a camp with studs. She believed the previous owners owned it over 40 years.

Roger A. said the next meeting will be held on January 10th and prior to the meeting board members will go do a site inspection. At that next meeting the board will discuss whether or not they want to move the camp back. He said there probably won't be an approval on the 10th until there is a schedule as to when everything will be completed and what will be done. The board will need to set a replanting date for the trees, which is after the work is done. Roger said if they believe September of next year the project will be done then the board will set a date of completion, for example, September 15, 2017. Roger stated everything that is disturbed needs to be restabilized. Mr. Cote said Mr. Plante said he would do everything to code, including restabilization.

Roger A. told the applicants to come back to the meeting on January 10th and then they will go from there. Mrs. Cote asked if they should notify the DEP. Roger said to wait and do it after they know whether or not the camp will be moved back and if so, to what location. Roger also noted that if they wanted to do something with the existing wall they could do it with this permit, so they would not have to come back to the board at a later date with a new application. He said once Mr. Plante starts the project and if he thinks the wall needs to be redone, they would have to come back and start over to incorporate the wall. He wanted them to look at it and decide if they want to do anything now.

CEO McDonough asked if they had any pictures of the existing location? He wanted them aware that the DEP would want pictures of the area and they may want to do that now before it snows.

Roger A. stated that a notice to abutters will be mailed out and a site inspection will be done on an individual basis. The next meeting is Tuesday, January 10th at 6:30 p.m.

Nothing further was discussed.

Mel Leedburg has a question about a Growth Permit application for Map 8, Lot 48

Mr. Leedburg and Gino Romano co-own Map 8, Lot 48. A subdivision plan consisting of 9 lots was approved on October 12, 1993 but because conditions of approval were never met, the subdivision became null and void.

Roger A. asked Mr. Leedburg what he needed. Mr. Leedburg stated that his question was regarding a growth permit, so he needed to come to the Planning Board. He said rather than doing a deed transfer first, he wanted to ask the board, on lot #2 (from the original subdivision plan) if he had a deed to it, would the board give a growth permit on this lot on Blackberry Lane. Roger asked, "Today?" Mr. Leedburg said, "Today, yes." Roger said, "No, you don't have a road." Roger said if he had a road with 200 feet of road frontage, then they could. Roger said, "We haven't approved the road or a way of having the road."

Mr. Leedburg said he was staying out of Chapter 89 (Subdivision Ordinance), so he was trying to go another route. He said, "Chapter 85* - 2 'New Roads' says, 'Any newly constructed road shall have a fifty-foot right-of-way and 18 feet of hard surface between the shoulders'. Roger A. replied, "At the present time you do not have a right-of-way. You don't have a defined legal right-of-way. That's got to be recorded at the courthouse. 50 foot right-of-way." Mr. Leedburg said, "Alright." Mr. Leedburg said he was trying to see what the process was, to go about getting to the lot. **Chapter 85 'Streets and Sidewalks' is found in the Town of Shapleigh Codes book. It refers to existing roads that are accepted by the town for plowing and sanding.*

Roger A. said at the present time you are asking the board if you can put a house in the middle of some land with no driveway, and no road to get there. He said there needs to be a driveway or right-of-way to get there. Mr. Leedburg said he originally was looking for a long term investment. CEO McDonough said if you are owner or part owner in Lot 48, you can have a growth permit for Lot 48, just not for the lot Mr. Leedburg was asking about. CEO McDonough said he would be creating an illegal lot.

Mr. Leedburg said he wanted to gift some lots to his children and take some of the lots on the plan from the original subdivision. He said according to the towns statues that is legal to do. He said it doesn't say anything about a road. CEO McDonough said, "It has to be a conforming lot." Roger agreed. CEO McDonough said, "It has to have 200 feet of road frontage." Roger agreed and added that it needs 2 acres. Mr. Leedburg said, "Right." Mr. Leedburg said they will have 2 acres and road frontage from the road that is there now. CEO McDonough said, "But that road hasn't been accepted." Ann H. said it's not a real road. Mr. Leedburg wanted to know what the definition of a road was? CEO McDonough said, "You go to the Planning Board and have it approved as a road." Mr. Leedburg asked if they were talking about a private way? CEO McDonough said, "You have to apply to the Planning Board for the private way, and when you do, you have standards that have to be met and you have to have criteria for them (PB) to review." Mr. Leedburg said that that throws him back into the Private Way which is the 15 inches of gravel less than 4 inches and less than 2 inches of crushed gravel on top. CEO McDonough asked what the definition of a private way was? Mr. Leedburg thought it served no more than 15 lots.

Madge B. asked if they were discussing a subdivision? Ann H. said no, he is out of subdivision now. Roger A. said Private Way standards are under §105-60.1. Roger said the board would have to approve a 50 foot right-of-way. He read the standards for a private way in part as follows:

The Planning Board shall approve the use of a fifty (50) foot wide private right-of-way to provide frontage and access to individual lots of land in accordance with the following provisions:

- A. A plan showing the private way shall be prepared by a registered land surveyor or licensed engineer. The plan shall be labeled “Plan of Private Way” and shall provide an approval block for the signatures of the Planning Board members. The plan shall delineate the proposed way and each of the lots to be served by the private way.**
- B. A street plan, cross section, and drainage plan shall be submitted for each private way.**
- C. The plan shall bear notes that the Town of Shapleigh will not be responsible for the maintenance, repair, or plowing of the private way and that further lot divisions utilizing the private way are prohibited without prior approval of the Shapleigh Planning Board.**
- D. If the private way is to provide access to two (2) or more lots, a maintenance agreement shall be required by the Planning Board and recorded in the York County Registry of Deeds. The maintenance agreement shall specify the rights and responsibilities of each lot owner with respect to the maintenance, repair and plowing of the private way.**

Mr. Leedburg said, “So I need a maintenance agreement.” Roger said yes.

- E. The construction of private ways shall meet the following minimum standards:**

Served	Number of Lots	
	1	2 or more
Minimum Roadway Width	12’	16’
Minimum Subbase (Heavy Road Gravel – max. size 4’’)	12’’	15’’
Wearing Surface (Crushed Gravel)	2’’	2’’
Maximum Length of Dead End	1500’	1500’
Maximum Grade	10%	8%
Minimum Grade	0.5%	0.5%
Turn Around at Dead End	Hammer Head or T	Hammer Head or T

Mr. Leedburg asked, “So this road, the right-of-way that is there (subdivision plan), the current right-of-way is about 900 feet. Can a cul-de-sac be used at the end and replace the hammerhead or T or do you need that?” He said, “I guess you can get lots off a cul-de-sac with 75 foot frontage as long as it’s 200 feet where the house is.” He asked, “Is that correct?” He wanted to know if it applied here. Madge B. and CEO McDonough both said this was in subdivision not under a private way. Ann H. said that with a hammerhead or T it says you have to provide space for two vehicles to pass for every 500 feet of private way. Mr. Leedburg said, “Ya, every 500 feet there would have to be a wide space that they could get around each other.” He said that currently there is a cul-de-sac at the end of it, it is 65 feet all around. He said it would be bigger than the hammerhead or T, noting you could turn a firetruck around at the end. It was originally designed for that.

Roger A. said in order to get a lot (back lot) you would have to create a private way. It would have to be approved and recorded before a lot can be created. Mr. Leedburg asked if his first step would be to get the private way approved through the board. He said he had the survey already, he asked Roger if it would double as the street plan? Roger said, yes, and that he needed a cross section of the road specs. Mr. Leedburg asked if the private way could go in the same spot as it is on the plan because he knows right where it is. Roger believed it could.

Mr. Leedburg said he had two big lots on the end and they only have 75 feet, so to get two more lots he thought he would have to extend them further. Roger A. said it depended on how many lots he was dividing up, how you do it, and whether you are trying to get out from under a major subdivision or a minor subdivision. Mr. Leedburg said, "No, that's not my...what I'm trying to do is, I will probably just gift them to my kids and I will probably do like a what do you call it...because it was originally for their college education, um she's already gone to college. I still have another one going, so I could just give them the lots. And then the other thing was if I could get...because I'm still going to have some costs to the road, there will be some cost and engineering and cost. I might do a lot or two by the five year rule, so I might leave like two out here, gift these and leave a couple and then five years I do one, and then another five years, I do one." He said that was the big picture.

CEO McDonough said, "I'm not a lawyer and you are talking about subdivision law, not the Town of Shapleigh Zoning Ordinance, so my determination or opinion of that law which isn't necessarily correct, but I think when you start gifting lots to your kids, it may not count as subdivision rules but it may count as your *one lot every five years* plan. It is still a lot split, so you are still dealing with one lot split every five years." Madge B. said, "Right." CEO McDonough said that he will not be able to gift off five and then sell one for your five year plan. CEO McDonough said the other thing he wanted to state for the record tonight is, *"tonight is an advisory capacity only, anything we say cannot be held liable, whereas we do not have an application in front of us at the moment"*. Madge B. said, "That is correct."

Mr. Leedburg said that after looking at this he was planning on gifting out two or three lots. CEO McDonough suggested he speak with a land use attorney. Madge B. said, "It looks like you are intending to get around a subdivision law and if someone wants to challenge it, that is the basis for a challenge." Mr. Leedburg said he would at least do two. Madge said, "Roger I believe we have spent enough time on this tonight. I hear Steve (CEO McDonough) I think he came with a question and I think we tried to answer it. I think we should not pursue this issue, it is really his decision not ours." Roger said, fine.

Mr. Leedburg said there is another person on the deed and they are trying to decide how to divide the property. Madge B. said, "Again, I don't think we need to know that. You came to ask about the standards for the private road, we've gone over that, I think that is enough." Mr. Leedburg said, "Fair enough." Madge added, "Until we have an application." Mr. Leedburg thanked the board.

Nothing further was discussed.

Unfinished Business:

Marijuana Ordinance

Barbara F. gave the board members a copy of the proposed marijuana ordinance. She noted that she retyped it from the example they were given and just added the 'Town of Shapleigh' to it. She also gave members a copy of the legislation, Chapter 417, 'Marijuana Legalization Act' so they would have a copy of the definitions as referenced in the proposed ordinance.

Barbara F. said she asked Madge B. if the board should put it in the Land Use Table in the Zoning Ordinance if it passes, so it would be easy to find for anyone looking to see if it was a legal business use. Madge agreed it would be a good idea. Barbara noted again it would only be added if the ordinance passed.

Ann H. asked if this was for retail sales? Barbara F. said yes, personal use is allowed as voted on by the Maine voters in November. This only affects retail sales. Madge B. asked who would go to the Selectmen regarding this? Barbara said they were already made aware, and she went to Karla (Executive Secretary) to ask how this should be handled and she said the Selectmen were fine with the Planning Board dealing with the issue. Madge asked if it would be on the warrant? Barbara said it would and said the first public hearing would be held on January 10th at 6 p.m. She has already posted notices. She said the first planning board meeting in February we would also have a public hearing. This is in enough time to get the ordinance on the warrant. Barbara reiterated that the Selectmen were fine with the Planning Board handling it, and they agreed it was a good idea.

Roger A. noted that it would be at least 9 months before the legislature acted on it with respect to rules and regulations. Madge B. said that it didn't mean we couldn't act on it, because the board could always make changes in the future. Roger agreed.

Nothing further was discussed.

Growth Permits – There are growth permits available.

The Planning Board meeting ended at 7:20 p.m.

The next meeting will be held Tuesday, January 10, 2017 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 typically be held the following Wednesday, also at 6:30 p.m. Please contact the Land Use Secretary if there is a question in scheduling, 207-636-2844, x404.

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