

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, January 10, 2017

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

Public Hearing began at 6:00 p.m.

Proposed Ordinance Prohibiting Retail Marijuana Establishments and Retail Marijuana Social Clubs in Shapleigh

Roger A. opened the public hearing by stating the public hearing would be to review the proposed ordinance entitled: Ordinance Prohibiting Retail Marijuana Establishments and Retail Marijuana Social Clubs in the Municipality of Shapleigh, Maine

Roger A. began by stating that at the last Planning Board meeting (December 27, 2016) members discussed whether or not they should consider enacting an ordinance to ban retail marijuana sales, and the board decided to speak with the Selectmen to see what their opinion was; and if they wanted this ordinance, would it be something the Planning Board would handle or the Selectmen, with respect to presenting it to the townspeople. It was decided by the Selectmen that the Planning Board would bring it up and move forward with the ordinance.

Roger A. noted that this had nothing to do with the law allowing the use of, or possession of marijuana for personal use. He said that is legal and the board is not attempting to prevent it. He said this is solely regarding retail sales and social clubs.

Roger A. read the ordinance in its entirety. It read as follows:

Ordinance Prohibiting Retail Marijuana Establishments and Retail Marijuana Social Clubs in the Municipality of Shapleigh, Maine

Section 1. Authority.

This ordinance is enacted pursuant to the Marijuana Legalization Act, 7 M.R.S.A. c. 417; and Municipal Home Rule Authority, Me. Const., art. VIII, pt. 2; and 30-A M.R.S.A. §3001.

Section 2. Definitions.

For the purposes of this ordinance, retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, and retail marijuana social clubs are defined as set forth in 7 M.R.S.A. §2442.

Section 3. Prohibition on Retail Marijuana Establishments and Retail Marijuana Social Clubs.

Retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, and retail marijuana social clubs, are expressly prohibited in this municipality.

No person or organization shall develop or operate a business that engages in retail or wholesale sales of a retail marijuana product, as defined by 7 M.R.S.A. §2442.

Nothing in this ordinance is intended to prohibit the lawful use, possession or conduct pursuant to the Maine Medical Use of Marijuana Act, 22 M.R.S.A. c. 558-C.

Section 4. Effective date; duration.

This ordinance shall take effect immediately upon enactment by the municipal legislative body unless otherwise provided and shall remain in effect until it is amended or repealed.

Section 5. Penalties.

This ordinance shall be enforced by the municipal officers or their designee. Violation of this ordinance shall be subject to the enforcement and penalty provisions of 30-A M.R.S.A. §4452.

Roger A. then noted that if this ordinance passes, an amendment would be done to §105-17 of the Zoning Ordinance as follows by adding:

LAND USES	RP	SD	GP	FD	SP
COMMERCIAL					
Retail marijuana establishments and retail marijuana social clubs ⁴	NO	NO	NO	NO	NO

⁴See details in ‘Ordinance Prohibiting Retail Marijuana Establishments and Retail Marijuana Social Clubs in the Municipality of Shapleigh, Maine’ which was enacted at Town Meeting March 2017.

Roger stated that RP stands for Resource Protection, SD stands for Shoreland District, GP stands for General Purpose, FD stands for Floodplain District and SP stands for Stream Protection District. He said this only goes into the Zoning Ordinance if the Marijuana Ordinance passes. Barbara F. had also attached a copy of the definitions from State Law (7 M.R.S.A. §2442) in case anyone was interested.

Roger A. asked if there were any questions? Diane S. stated that she saw on the news two weeks ago where if a town bans the sale of marijuana that they might not get any of the tax dollar benefits from it. She wondered if maybe they should look at a moratorium instead of an all-out ban. Diane noted that Barbara mentioned that Selectmen Bill Mageary, who was in the audience, had noted he had been to a meeting regarding the marijuana ordinance and she asked Selectmen Mageary if tax dollars had been discussed? Selectmen Mageary said they did not discuss this issue and said that they didn’t know what the tax on it would be, currently they are talking 10% and they believe that figure is too low. He said there are 32 bills before the legislature at present. Diane said again, any towns that ban marijuana may not get any of the tax dollars and she was concerned with doing a ban.

Selectmen Mageary asked to speak for a moment. He believed, following up on what Diane was speaking about, that the Town had to look past taxes. He said personally he was in favor of the ordinance. It is very premature this coming into Maine, and we do not know the ramification of what will happen. For example a social club for marijuana, Shapleigh is a rural community and from what he has heard, that is the way Shapleigh residents want it. Selectmen Mageary said that Roger A. eluded earlier that nothing in this ban prohibits personal use, or growing it for personal use. He also noted that once they leave a social club they will get into a vehicle and likely drive, are they going to be impaired, probably. He said at this time there is no test to quantify how impaired, as there is for alcohol. He wasn’t going to speak for the Board of Selectmen but he could not support not promoting the ordinance just for the revenue.

Diane S. asked if it was worth it to lose revenue for Shapleigh? CEO McDonough asked what tax dollars she was speaking about. She said [State revenue] from taxing marijuana. She still believed a moratorium was a better alternative than an outright ban. Madge B. said, “But a moratorium is six months. That doesn’t get us anywhere because they won’t have it figured out.” Diane said her personal opinion was that there were worse businesses she would hate to see next door to her than a pot store. She would not want engine

repair or a gravel pit.

CEO McDonough asked her if she wanted a social club next to her? She said she would rather have that than a bar, which can be open until 2 in the morning. She didn't know how late social clubs are open but she didn't see a store being open until midnight. Selectmen Mike Perro stated that they all fall under the same category and if you end up with a social club, one of the laws that governs them, that they are putting into place, is that no alcohol is served at a place that marijuana is consumed. He said they can serve food, but in some places they cannot even do that. He said it would be treated like alcohol, except there is no test to see if someone is impaired. Diane said, "Regarding Selectmen Mageary's issue with people driving home, they serve alcohol now at Ted's and the Shapleigh Corner Store". Selectmen Perro stated that there is a test to see if you are driving impaired. Diane said that they are still driving, that was her point. Selectmen Mageary noted that both of the establishments she was speaking of had a two drink maximum. Diane said they could have a minimum at a social club, but she didn't see how the board could impose a two drink minimum at Ted's. Roger A. and Selectmen Perro said the board could not, Ted's can.

Darren Stevens, a citizen of Shapleigh, said his concern was the people coming in to get the marijuana, and then you could have crime, people coming in to rob the establishments. He said it has been documented in other states where they believed it was a good idea but then the crime rate went up. He was concerned with criminals coming in to Shapleigh. Darren agreed that they deal with people impaired every day now, as Shapleigh has several major routes going through town. Darren's biggest concern was people from out of Shapleigh coming in to town to purchase the marijuana.

Roger A. asked if there were any other questions? Selectmen Perro said with regards to the meeting he attended on this subject, with respect to revenue sharing, there is discussion to tax it at 10% but there is also a discussion to make that tax 40%, much more substantial for a State revenue base. There will be some form of revenue sharing but how the legislature deals with that is not known right now.

Roger A. said that as a town, to look for big money to come in because of marijuana, he didn't think it would happen. Selectmen Perro said it would not be directly from a business to the town, it would be in the form of revenue sharing, lumped together with other money. He said the Selectmen also learned at the meeting he attended regarding this subject, was the fact this was a cash business because banks cannot knowingly accept any funds because they are federally regulated and it is still against the law on the federal level. Because banks are FDIC backed, banks cannot utilize their funds, store or loan any money that comes from the sale of marijuana. Selectmen Perro was also concerned with there being a significant amount of cash being held at the businesses selling the product with respect to possible robberies, and for the safety of the people leaving the premises going to make a deposit or however they move the money. He said there is nothing the town can do about that. He reiterated the fact that funds they make on the sale of marijuana cannot knowingly be deposited into a bank account. Also, even funding for medicinal marijuana cannot be funded by a bank at this time, because it is opposed by federal law.

Madge B. asked what the vote was for recreational marijuana? Selectmen Perro said it passed by a slim margin. He didn't have the exact figure, it was eight hundred something to seven hundred something. He said it was within 100 votes. He added that this followed suit in York County. It was passed in most towns by a similar margin.

Selectmen Mageary said that if the ordinance passes at town meeting, and a period of time goes by and there is a change in attitude, there is no reason why this could not be revisited. Selectmen Perro added that once the town knows what the regulations will be it could be revisited. Roger A. agreed and said the planning board had spoken about the length of time until legislation is in place, at least nine more months. Therefore, the board felt a moratorium would not work because it can only be in place for six months and at that time

the town still would not know what the state rules would be. More likely it will be over a year before any pertinent information is known. Roger also noted that the town will have the ability to be stricter than the states rules but not less than. Roger said the board felt if they banned retail sales until more details were known, then they could decide if they wanted to allow it and what regulation they should or could put into zoning to address it.

Diane S. asked if a six month moratorium could be extended? Roger A. said yes, but you have to have a special town meeting to renew it. Diane said that a special town meeting would have to be held to ban it, so she didn't see what difference it made. Selectmen Perro said to ban it was a one time vote. Roger said it was not a special meeting. Selectmen Perro said that if at the town meeting in March, we voted to have a moratorium, and then the state in six months decides how they will legislate it, and it is not suitable for the towns thought process within the community, essential you then have to have a special town meeting to fight it. He said this way, you can ban it and you don't have to make any changes until it is brought forward at a town meeting. There were 32 bills at the state level dealing with this at this time, and there are going to be more. The process has just started and no one knows the outcome at this point. He said when the state decides, the town can review the state law and decide to accept what they decide or change it to meet the towns ideals, but we won't need a special town meeting to do it.

Selectmen Perro wanted it understood that this only applies to commercial operations. He believed the majority of the people voted for it from a residential perspective not the possibility for a smoking lounge on every corner. He said that personal residential use is not regulated by the proposed ordinance at all. It will still be legal for residential use. Roger A. said, true.

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

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

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

The minutes from Tuesday, December 27, 2016 were accepted as read.

New Business:

Amendment to a CUP – Add Ground Mounted Solar Panels to Property – Map 7, Lot 5 (1026 Shapleigh Corner Road) – Town of Shapleigh, Property Owner; Revision Energy, Applicant

Selectmen Perro and Selectmen Mageary were present for the review of the application.

Roger A. asked the Selectmen to speak about what they intended to do. Selectmen Perro began by stating the Selectmen were looking to put in a solar array. He said they looked at all the town owned property for the best possible location for the maximum production of electricity and the close proximity to power lines. They looked at the sand pit that has been reclaimed and thought it would work as it is a flat spot, however, there are no powerlines in that area. The best location they determined is the sand/salt facility because at the lower end of the sand/salt facility, there is a flat area.

Selectmen Perro said the system was engineered to produce up to 99% of the town's electricity needs. He said Revision Energy reviewed all the meters that are owned by the town and this system is designed to

offset up to 99% of that. He added that the reason for 99% was because anything over 100% you do not get a return on, so there is no point in going larger, but you need to be as efficient as possible.

Selectmen Perro said, referring to a diagram, that there would be 2 ½ rows of solar panels that will be approximately 150 feet from the pavement at the sand/salt facility, approximately 75 feet from the closest corner to Route 11, and 200 feet plus or minus from Hodgdon Road. He said they also chose this location because there is an ATV trail near Hodgdon road, and they wanted to be sure it wasn't too close to the trail for dust purposes. Selectmen Perro said some people are concerned with vandalism, but there are many of these fields in secluded locations and there hasn't been any issues. He also noted that it is close to Route 11 and there are people going in and out of the sand/salt facility, so he believed someone would notice if someone was near the panels.

Selectmen Perro said that although they have Revision Energy listed as the panel provider, there is no guarantee they will be the one to put in the system. He said according to town policy the town needs to go out to seek additional quotes from other companies. He said he was currently working with a company in New Hampshire and he is also seeking out other companies that do this type of work on this scale.

Roger A. asked who would own the solar array? Selectmen Perro said it would be owned by the company that puts it in for the first six years. Roger asked if the town needs a performance guarantee in case they walk away? Selectmen Perro said it was in the contract to address it. He said if anything happens to the panels there is an insurance in the contract. As long as the company that provides them owns it, they have to maintain it and if there is damage they have to replace it. He noted that the reason the town would have them own it for six years, is because there is significant federal subsidies for putting in a system of this caliber. With that, they come in the form of tax breaks but because we are a municipality the town does not pay taxes, so therefore, the town could not take advantage of the tax breaks on a federal level. He said this system would cost in the area of \$210,000 to put in if the town bought it out-right. In order to take advantage of the tax breaks with the government, the town is entering into a power purchase agreement (PPA) for a period of six years, where they would put the system in at no initial investment to the town, no upfront cost. The town would purchase the power from them at a slightly increased rate at what we currently pay the power company. The town would do that for six years. At the end of the six year period, the town would purchase the system. The town would build up the account over six years to purchase the system in full and then at the end of year six, the system is purchased for 50% of the original cost and that is how the town takes advantage of the tax breaks. The town purchases the system for a little less than \$110,000 and the money would be in reserve accounts, and from there on, the town would not pay for electricity except for the 1% the town might be over. He said it was a system that was treated like a credit and debit account of power. This power that is generated is going into the power company / grid and would give the town a deposit into the towns account to be used for any meters in the town. You use the credit to pay for the towns electric bills. This system would cover the town hall, transfer station, public safety building, library, etc., all the meters for the town.

Selectmen Perro spoke about the fact that there is a big movement with respect to clean energy, that although there is talk about changing the way the power companies buy and sell electricity, he did not see it becoming a problem. Madge said that with respect to how the energy company's deal with solar power generation should not affect how the planning board deals with this application. Roger A. agreed. Roger said the only issue he saw for the board to consider is whether or not a performance guarantee was needed. Madge agreed.

Selectmen Perro said the panels are ground mounts. He said there were pilings driven into the ground at approximately eight feet in depth. There were mounting systems on the pilings and the system is engineered to handle more than hurricane force winds. Madge B. asked how high they were. Selectmen Perro said most are typically four to six feet off the ground on the low side and about fifteen feet on the high side. Selectmen

Mageary said that each panel was 3' x 5' and they would be stacked two high. Diane S. asked how many panels there were altogether? Selectmen Perro believed there were 240 panels. Diane asked if they would affect the wildlife, she was concerned with birds. Selectmen Perro said there was no electricity loaded out of the panels. He said it was brought in through the sun, goes thru the panel and then to the inverters out to the power lines from there. Roger A. asked if there were any batteries on site? Selectmen Perro said there were no batteries.

Roger A. asked if there would be a support building? Selectmen Perro said they would tie it into the underground electrical panel system that goes into the sand/salt facility that is attached to the outer side of the sand/salt building. He said they would go underground from the panels over to the sand/salt building and then tie into the grid that way, so there would be no overhead wires.

Diane S. asked if there would be a fence so no one could get to it? Selectmen Perro said there would not be at this time. He said the Selectmen had spoken about a fence for the sand/salt facility in case of issues but there have been no issues to date, therefore, they didn't want to invest tax payer's money for something that wasn't necessary. He also noted that for the first six years the town didn't own it. But again, based on past performance he didn't feel there was a need for a fence.

Darren Stevens asked how long the solar grids were useful for? Selectmen Perro said that the company gave a figure of 40 years useful life. Selectmen Perro said the system would pay for itself in 12 years. Selectmen Mageary said the savings was estimated to be over \$300,000 over 45 years. Selectmen Perro agreed that the estimate for taxpayer savings was over \$300,000 plus. He said when the system is at the break-even point, then all the town will be paying for is the delivery charge. The design of the system was based on all the towns existing energy needs.

Selectmen Perro said the inverters typically last 20 years, so at that point they would need to be replaced. He believed that cost was \$5000 to \$8000 to replace each inverter. He said replacing the inverters was factored in when coming up with the cost savings of \$300,000. Darren Stevens asked how many inverters there were? Selectmen Perro said there was one on each row, so a total of three.

Selectmen Perro said another plus is, the carbon footprint would be offset by 80,000 pounds. He said it was clean energy.

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

Roger A. stated the board would hold a public hearing at the next meeting, Tuesday, January 24th at 6:00 p.m. A notice to abutters will be mailed as well.

Selectmen Perro noted there was more information downstairs regarding the system.

Darren Stevens asked about the size of the structure? Selectmen Perro said the three rows together are about 100' x 200', that is the space it requires. He showed Mr. Stevens what it would look like.

Selectmen Perro said the Selectmen believe it is a good opportunity for the town to save some significant money and do the right thing for the environment. He said again it would cost zero dollars up front, at the end of year six it would be purchased out of a reserve account that would be set up at \$20,000 a year for six years, so at the end of six years there would be enough to purchase the system outright. That way it would not affect the tax rate and the town would continue to benefit from it.

Darren Stevens wanted to know the amount of electricity the town uses now, kilowatt hours? Selectmen Perro said the system was designed to handle 99% of the electricity the town uses and this will produce 94,201 KH. He said the system size is a 71.3 KW system. Mr. Stevens asked what if the town expends close to 100,000 KH? Selectmen Mageary said that was a legitimate concern but the system was designed for that. Selectmen Perro said the town currently uses about 97,000 KH. He noted this was everything the town uses, every meter the town pays for to the power company.

Selectmen Perro wanted the board to know the reason they were bringing it before the board now was because if the voters agree to the project they want to get the panels installed to take advantage of the prime sun, which is May thru September. This is when you generate the most of your power, this way enough electricity is built up for this year.

Nothing further was discussed.

Best Possible Location – Replace Foundation and Septic – Map 17, Lot 27 (108 30th Street) – Roland and Carol Cote, Applicants

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

The applicants had provided board members, 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.*

This evening the applicants provided the board with several pictures of the existing camp. *Board members did a site inspection on an individual basis.*

Roger A. said the only thing he wasn't able to get at the site inspection was the measurement from the camp to the high water mark due to the snow that was on the ground.

Roger A. wasn't sure all the trees would get moved for the installation of the septic system. He thought there was room to dig a trench and still leave some of the trees in place. Mrs. Cote said Mr. Cote had spoken with Bill Plante, the excavator, and Mr. Plante was not sure how many trees would need to be removed.

The board reviewed the septic design and the plans presented. Roland L. thought they could leave the trees, like as Roger said, they were just digging a trench to the pumping station. The applicants were concerned the board may be looking at the neighboring lot and thinking it was their property. Board members discussed where the Cote property was located and the neighboring property.

Madge B. wanted the board to discuss how close the structure was to the existing stone wall. She thought the wall would be effected but she wanted to be certain the wall wasn't going to be impacted or address it now if it was. Roger A. agreed it would be questionable as to whether or not the wall would be affected.

Madge B. wondered if they moved the camp back, if it would make it less questionable? Roger A. said, yes. She thought you would leave what is there and fill in.

Madge B. said the board didn't have an exact measurement to the high water mark but the applicants think it is around 48 feet. Mrs. Cote agreed and Mr. Cote said it was between 48 and 50 feet. Madge said it would be a good idea to move it back, even a small amount would help. She said if they don't move it back, she thought the board would need to have an engineer look at the wall to see if it would be able to stay in place.

There were two audience members, who told the board their family owned the neighboring vacant property. They were there to be certain the board was aware where the boundary was between the two properties. Their names were Coleen and Robert 'Dean' Harris.

CEO McDonough wanted the board aware that the ditch for the septic line would be about 5 feet deep, so a large piece of equipment would be used, therefore, some of the trees the board thinks will remain, might not based on the size of the trench and being able to get the equipment in and keeping it on the property. He said the excavator itself is at least 9 feet wide. Roger A. agreed, but based on his site visit he believed there was room for the trench and the equipment. Mr. and Mrs. Harris thought Roger may have been on their property? After further discussion Roger still felt he was on the Cote' property.

Roland L. said he was concerned about affecting the stone wall while doing the project. Mr. Cote asked how far from the retaining wall did they have to be in order for the retaining wall not to be an issue? Roger A. thought if they moved the camp back five feet it would be ok. Madge B. asked CEO McDonough if there was a distance they should be looking at? CEO McDonough said there was no magic number that states the wall will not be affected. He said the building code does say your building has to be so far from a slope, and that you have to have so much flat area before you have a slope or retaining wall to a structure. He didn't know that figure without looking at the book.

Roger A. said again he believed if it was moved back five feet it would work. Mrs. Harris was concerned with her parent's property. Roger told her it wasn't being moved five feet closer to her property but five feet back toward the road. He thought this would give them enough room to work around the foundation without disturbing the wall.

Roland L. asked if they would change the orientation if it was moved back? Mrs. Cote said straightening it out would work better on the lot. Mr. Cote agreed. Madge B. said if it was turned it would be better, and it would be a little farther from the Harris property. Mrs. Harris asked if they could lift it and move it back toward the road, keeping all the equipment entirely on their property. Mr. and Mrs. Cote said, yes. Roger A. agreed. Mrs. Harris wanted to be sure they weren't coming in from the side.

CEO McDonough noted that the area where the camp is moved from had to be revegetated. Mr. Cote said, yes. Madge B. said that needs to be on the plan. Roland L. said that it didn't necessarily mean grass, it

could be shrubs or other plants. Mrs. Cote asked if the DEP will make suggestions? Roger A. told them, you tell the DEP what you are going to do and they will say whether or not they agree with it.

Barbara F. asked what the board is requiring now? Roger A. said the board needs what will be put in place with respect to landscaping. Will it be mulch where the camp is moved? Roger discussed that when a foundation is moved, the area beyond the camp gets disturbed, so they need to address how that area will be addressed. Mr. Cote said that Mr. Plante said all the disturbed areas will get crushed stone. Roger said that it would have to be on the plan. The plan needs to show exactly what is being done, so when CEO McDonough goes to the site he will know what to enforce. Madge B. liked the idea of crushed stone, to prevent roof runoff from creating an erosion issue. She said the board worries about water running off the property into the lake.

Mrs. Cote asked what the next step was? Should they now contact the DEP? Diane S. asked if the board needed a plan showing exactly where the house is going? Roger A. said, yes. Roger said the plan needs to show where the existing building is and where the new building will be located.

CEO McDonough thought they had discussed repairing the wall? CEO McDonough said if they are not going to repair the wall, the board will need to make a condition that if the wall gets disturbed they will have to come back before the board. If they are going to avoid the wall, then a condition will need to say they will avoid the wall and not disturb it.

The Cote's were asked if the lot was surveyed? Mrs. Cote said it was. CEO McDonough said the ordinance requires that the new location be placed on the lot by a surveyor. He wanted them to know that if the Planning Board states the new structure will be for example, 50 feet from the water and five feet from the retaining wall, then the surveyor has to show us that that was done. He said it didn't mean the whole lot had to be surveyed.

Roger A. said the two things the board needs are showing where the structure will be located on the plan and, how the area will be treated with respect to taking care of the area, revegetating, mulch, etc. He said once they have this information they can contact Barbara to get back on the agenda.

Mrs. Harris asked if she would be contacted when they come back before the board? Barbara F. took their name and address and said she would mail them an agenda.

Mr. Cote asked again what he needed to bring in. Roger A. said they had to show where the camp will physically sit after being moved on the plan. CEO McDonough said the surveyor of their property would probably know how to do a best practical location, he could place the camp on the plan. Roger agreed, noting he did another application the board had reviewed in the past. CEO McDonough said again the ordinance requires that a surveyor indicate the structure is placed exactly where it is indicated on the plan, so it is important to have the correct figure and that in fact you can move the structure where indicated. The number has to be correct.

Mr. and Mrs. Cote asked if the board wanted the camp moved back five feet for sure? **The board concurred that yes, the camp should be moved back five feet. The applicants also need to have the location put on the plan, a revegetation plan and then they can apply for the DEP Permit by Rule.**

Nothing further was discussed.

Growth Permits – There are growth permits available.

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

The next meeting will be held Tuesday, January 24, 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.

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

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MINUTES

Tuesday, January 10, 2017

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Ordinance Prohibiting Retail Marijuana Establishments and Retail Marijuana Social Clubs in the Municipality of Shapleigh, Maine

Section 1. Authority.

This ordinance is enacted pursuant to the Marijuana Legalization Act, 7 M.R.S.A. c. 417; and Municipal Home Rule Authority, Me. Const., art. VIII, pt. 2; and 30-A M.R.S.A. §3001.

Section 2. Definitions.

For the purposes of this ordinance, retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, and retail marijuana social clubs are defined as set forth in 7 M.R.S.A. §2442.

Section 3. Prohibition on Retail Marijuana Establishments and Retail Marijuana Social Clubs.

Retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, and retail marijuana social clubs, are expressly prohibited in this municipality.

No person or organization shall develop or operate a business that engages in retail or wholesale sales of a retail marijuana product, as defined by 7 M.R.S.A. §2442.

Nothing in this ordinance is intended to prohibit the lawful use, possession or conduct pursuant to the Maine Medical Use of Marijuana Act, 22 M.R.S.A. c. 558-C.

Section 4. Effective date; duration.

This ordinance shall take effect immediately upon enactment by the municipal legislative body unless otherwise provided and shall remain in effect until it is amended or repealed.

Section 5. Penalties.

This ordinance shall be enforced by the municipal officers or their designee. Violation of this ordinance shall be subject to the enforcement and penalty provisions of 30-A M.R.S.A. §4452.

Roger A. then noted that if this ordinance passes, an amendment would be done to §105-17 of the Zoning Ordinance as follows by adding:

LAND USES	RP	SD	GP	FD	SP
COMMERCIAL					
Retail marijuana establishments and retail marijuana social clubs ⁴	NO	NO	NO	NO	NO

⁴See details in ‘Ordinance Prohibiting Retail Marijuana Establishments and Retail Marijuana Social Clubs in the Municipality of Shapleigh, Maine’ which was enacted at Town Meeting March 2017.

Roger stated that RP stands for Resource Protection, SD stands for Shoreland District, GP stands for General Purpose, FD stands for Floodplain District and SP stands for Stream Protection District. He said this only goes into the Zoning Ordinance if the Marijuana Ordinance passes. Barbara F. had also attached a copy of the definitions from State Law (7 M.R.S.A. §2442) in case anyone was interested.

Roger A. asked if there were any questions? Diane S. stated that she saw on the news two weeks ago where if a town bans the sale of marijuana that they might not get any of the tax dollar benefits from it. She wondered if maybe they should look at a moratorium instead of an all-out ban. Diane noted that Barbara mentioned that Selectmen Bill Mageary, who was in the audience, had noted he had been to a meeting regarding the marijuana ordinance and she asked Selectmen Mageary if tax dollars had been discussed? Selectmen Mageary said they did not discuss this issue and said that they didn’t know what the tax on it would be, currently they are talking 10% and they believe that figure is too low. He said there are 32 bills before the legislature at present. Diane said again, any towns that ban marijuana may not get any of the tax dollars and she was concerned with doing a ban.

Selectmen Mageary asked to speak for a moment. He believed, following up on what Diane was speaking about, that the Town had to look past taxes. He said personally he was in favor of the ordinance. It is very premature this coming into Maine, and we do not know the ramification of what will happen. For example a social club for marijuana, Shapleigh is a rural community and from what he has heard, that is the way Shapleigh residents want it. Selectmen Mageary said that Roger A. eluded earlier that nothing in this ban prohibits personal use, or growing it for personal use. He also noted that once they leave a social club they will get into a vehicle and likely drive, are they going to be impaired, probably. He said at this time there is no test to quantify how impaired, as there is for alcohol. He wasn’t going to speak for the Board of Selectmen but he could not support not promoting the ordinance just for the revenue.

Diane S. asked if it was worth it to lose revenue for Shapleigh? CEO McDonough asked what tax dollars she was speaking about. She said [State revenue] from taxing marijuana. She still believed a moratorium was a better alternative than an outright ban. Madge B. said, “But a moratorium is six months. That doesn’t get us anywhere because they won’t have it figured out.” Diane said her personal opinion was that there were worse businesses she would hate to see next door to her than a pot store. She would not want engine

repair or a gravel pit.

CEO McDonough asked her if she wanted a social club next to her? She said she would rather have that than a bar, which can be open until 2 in the morning. She didn't know how late social clubs are open but she didn't see a store being open until midnight. Selectmen Mike Perro stated that they all fall under the same category and if you end up with a social club, one of the laws that governs them, that they are putting into place, is that no alcohol is served at a place that marijuana is consumed. He said they can serve food, but in some places they cannot even do that. He said it would be treated like alcohol, except there is no test to see if someone is impaired. Diane said, "Regarding Selectmen Mageary's issue with people driving home, they serve alcohol now at Ted's and the Shapleigh Corner Store". Selectmen Perro stated that there is a test to see if you are driving impaired. Diane said that they are still driving, that was her point. Selectmen Mageary noted that both of the establishments she was speaking of had a two drink maximum. Diane said they could have a minimum at a social club, but she didn't see how the board could impose a two drink minimum at Ted's. Roger A. and Selectmen Perro said the board could not, Ted's can.

Darren Stevens, a citizen of Shapleigh, said his concern was the people coming in to get the marijuana, and then you could have crime, people coming in to rob the establishments. He said it has been documented in other states where they believed it was a good idea but then the crime rate went up. He was concerned with criminals coming in to Shapleigh. Darren agreed that they deal with people impaired every day now, as Shapleigh has several major routes going through town. Darren's biggest concern was people from out of Shapleigh coming in to town to purchase the marijuana.

Roger A. asked if there were any other questions? Selectmen Perro said with regards to the meeting he attended on this subject, with respect to revenue sharing, there is discussion to tax it at 10% but there is also a discussion to make that tax 40%, much more substantial for a State revenue base. There will be some form of revenue sharing but how the legislature deals with that is not known right now.

Roger A. said that as a town, to look for big money to come in because of marijuana, he didn't think it would happen. Selectmen Perro said it would not be directly from a business to the town, it would be in the form of revenue sharing, lumped together with other money. He said the Selectmen also learned at the meeting he attended regarding this subject, was the fact this was a cash business because banks cannot knowingly accept any funds because they are federally regulated and it is still against the law on the federal level. Because banks are FDIC backed, banks cannot utilize their funds, store or loan any money that comes from the sale of marijuana. Selectmen Perro was also concerned with there being a significant amount of cash being held at the businesses selling the product with respect to possible robberies, and for the safety of the people leaving the premises going to make a deposit or however they move the money. He said there is nothing the town can do about that. He reiterated the fact that funds they make on the sale of marijuana cannot knowingly be deposited into a bank account. Also, even funding for medicinal marijuana cannot be funded by a bank at this time, because it is opposed by federal law.

Madge B. asked what the vote was for recreational marijuana? Selectmen Perro said it passed by a slim margin. He didn't have the exact figure, it was eight hundred something to seven hundred something. He said it was within 100 votes. He added that this followed suit in York County. It was passed in most towns by a similar margin.

Selectmen Mageary said that if the ordinance passes at town meeting, and a period of time goes by and there is a change in attitude, there is no reason why this could not be revisited. Selectmen Perro added that once the town knows what the regulations will be it could be revisited. Roger A. agreed and said the planning board had spoken about the length of time until legislation is in place, at least nine more months. Therefore, the board felt a moratorium would not work because it can only be in place for six months and at that time

the town still would not know what the state rules would be. More likely it will be over a year before any pertinent information is known. Roger also noted that the town will have the ability to be stricter than the states rules but not less than. Roger said the board felt if they banned retail sales until more details were known, then they could decide if they wanted to allow it and what regulation they should or could put into zoning to address it.

Diane S. asked if a six month moratorium could be extended? Roger A. said yes, but you have to have a special town meeting to renew it. Diane said that a special town meeting would have to be held to ban it, so she didn't see what difference it made. Selectmen Perro said to ban it was a one time vote. Roger said it was not a special meeting. Selectmen Perro said that if at the town meeting in March, we voted to have a moratorium, and then the state in six months decides how they will legislate it, and it is not suitable for the towns thought process within the community, essential you then have to have a special town meeting to fight it. He said this way, you can ban it and you don't have to make any changes until it is brought forward at a town meeting. There were 32 bills at the state level dealing with this at this time, and there are going to be more. The process has just started and no one knows the outcome at this point. He said when the state decides, the town can review the state law and decide to accept what they decide or change it to meet the towns ideals, but we won't need a special town meeting to do it.

Selectmen Perro wanted it understood that this only applies to commercial operations. He believed the majority of the people voted for it from a residential perspective not the possibility for a smoking lounge on every corner. He said that personal residential use is not regulated by the proposed ordinance at all. It will still be legal for residential use. Roger A. said, true.

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

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

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

The minutes from Tuesday, December 27, 2016 were accepted as read.

New Business:

Amendment to a CUP – Add Ground Mounted Solar Panels to Property – Map 7, Lot 5 (1026 Shapleigh Corner Road) – Town of Shapleigh, Property Owner; Revision Energy, Applicant

Selectmen Perro and Selectmen Mageary were present for the review of the application.

Roger A. asked the Selectmen to speak about what they intended to do. Selectmen Perro began by stating the Selectmen were looking to put in a solar array. He said they looked at all the town owned property for the best possible location for the maximum production of electricity and the close proximity to power lines. They looked at the sand pit that has been reclaimed and thought it would work as it is a flat spot, however, there are no powerlines in that area. The best location they determined is the sand/salt facility because at the lower end of the sand/salt facility, there is a flat area.

Selectmen Perro said the system was engineered to produce up to 99% of the town's electricity needs. He said Revision Energy reviewed all the meters that are owned by the town and this system is designed to

offset up to 99% of that. He added that the reason for 99% was because anything over 100% you do not get a return on, so there is no point in going larger, but you need to be as efficient as possible.

Selectmen Perro said, referring to a diagram, that there would be 2 ½ rows of solar panels that will be approximately 150 feet from the pavement at the sand/salt facility, approximately 75 feet from the closest corner to Route 11, and 200 feet plus or minus from Hodgdon Road. He said they also chose this location because there is an ATV trail near Hodgdon road, and they wanted to be sure it wasn't too close to the trail for dust purposes. Selectmen Perro said some people are concerned with vandalism, but there are many of these fields in secluded locations and there hasn't been any issues. He also noted that it is close to Route 11 and there are people going in and out of the sand/salt facility, so he believed someone would notice if someone was near the panels.

Selectmen Perro said that although they have Revision Energy listed as the panel provider, there is no guarantee they will be the one to put in the system. He said according to town policy the town needs to go out to seek additional quotes from other companies. He said he was currently working with a company in New Hampshire and he is also seeking out other companies that do this type of work on this scale.

Roger A. asked who would own the solar array? Selectmen Perro said it would be owned by the company that puts it in for the first six years. Roger asked if the town needs a performance guarantee in case they walk away? Selectmen Perro said it was in the contract to address it. He said if anything happens to the panels there is an insurance in the contract. As long as the company that provides them owns it, they have to maintain it and if there is damage they have to replace it. He noted that the reason the town would have them own it for six years, is because there is significant federal subsidies for putting in a system of this caliber. With that, they come in the form of tax breaks but because we are a municipality the town does not pay taxes, so therefore, the town could not take advantage of the tax breaks on a federal level. He said this system would cost in the area of \$210,000 to put in if the town bought it out-right. In order to take advantage of the tax breaks with the government, the town is entering into a power purchase agreement (PPA) for a period of six years, where they would put the system in at no initial investment to the town, no upfront cost. The town would purchase the power from them at a slightly increased rate at what we currently pay the power company. The town would do that for six years. At the end of the six year period, the town would purchase the system. The town would build up the account over six years to purchase the system in full and then at the end of year six, the system is purchased for 50% of the original cost and that is how the town takes advantage of the tax breaks. The town purchases the system for a little less than \$110,000 and the money would be in reserve accounts, and from there on, the town would not pay for electricity except for the 1% the town might be over. He said it was a system that was treated like a credit and debit account of power. This power that is generated is going into the power company / grid and would give the town a deposit into the towns account to be used for any meters in the town. You use the credit to pay for the towns electric bills. This system would cover the town hall, transfer station, public safety building, library, etc., all the meters for the town.

Selectmen Perro spoke about the fact that there is a big movement with respect to clean energy, that although there is talk about changing the way the power companies buy and sell electricity, he did not see it becoming a problem. Madge said that with respect to how the energy company's deal with solar power generation should not affect how the planning board deals with this application. Roger A. agreed. Roger said the only issue he saw for the board to consider is whether or not a performance guarantee was needed. Madge agreed.

Selectmen Perro said the panels are ground mounts. He said there were pilings driven into the ground at approximately eight feet in depth. There were mounting systems on the pilings and the system is engineered to handle more than hurricane force winds. Madge B. asked how high they were. Selectmen Perro said most are typically four to six feet off the ground on the low side and about fifteen feet on the high side. Selectmen

Mageary said that each panel was 3' x 5' and they would be stacked two high. Diane S. asked how many panels there were altogether? Selectmen Perro believed there were 240 panels. Diane asked if they would affect the wildlife, she was concerned with birds. Selectmen Perro said there was no electricity loaded out of the panels. He said it was brought in through the sun, goes thru the panel and then to the inverters out to the power lines from there. Roger A. asked if there were any batteries on site? Selectmen Perro said there were no batteries.

Roger A. asked if there would be a support building? Selectmen Perro said they would tie it into the underground electrical panel system that goes into the sand/salt facility that is attached to the outer side of the sand/salt building. He said they would go underground from the panels over to the sand/salt building and then tie into the grid that way, so there would be no overhead wires.

Diane S. asked if there would be a fence so no one could get to it? Selectmen Perro said there would not be at this time. He said the Selectmen had spoken about a fence for the sand/salt facility in case of issues but there have been no issues to date, therefore, they didn't want to invest tax payer's money for something that wasn't necessary. He also noted that for the first six years the town didn't own it. But again, based on past performance he didn't feel there was a need for a fence.

Darren Stevens asked how long the solar grids were useful for? Selectmen Perro said that the company gave a figure of 40 years useful life. Selectmen Perro said the system would pay for itself in 12 years. Selectmen Mageary said the savings was estimated to be over \$300,000 over 45 years. Selectmen Perro agreed that the estimate for taxpayer savings was over \$300,000 plus. He said when the system is at the break-even point, then all the town will be paying for is the delivery charge. The design of the system was based on all the towns existing energy needs.

Selectmen Perro said the inverters typically last 20 years, so at that point they would need to be replaced. He believed that cost was \$5000 to \$8000 to replace each inverter. He said replacing the inverters was factored in when coming up with the cost savings of \$300,000. Darren Stevens asked how many inverters there were? Selectmen Perro said there was one on each row, so a total of three.

Selectmen Perro said another plus is, the carbon footprint would be offset by 80,000 pounds. He said it was clean energy.

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

Roger A. stated the board would hold a public hearing at the next meeting, Tuesday, January 24th at 6:00 p.m. A notice to abutters will be mailed as well.

Selectmen Perro noted there was more information downstairs regarding the system.

Darren Stevens asked about the size of the structure? Selectmen Perro said the three rows together are about 100' x 200', that is the space it requires. He showed Mr. Stevens what it would look like.

Selectmen Perro said the Selectmen believe it is a good opportunity for the town to save some significant money and do the right thing for the environment. He said again it would cost zero dollars up front, at the end of year six it would be purchased out of a reserve account that would be set up at \$20,000 a year for six years, so at the end of six years there would be enough to purchase the system outright. That way it would not affect the tax rate and the town would continue to benefit from it.

Darren Stevens wanted to know the amount of electricity the town uses now, kilowatt hours? Selectmen Perro said the system was designed to handle 99% of the electricity the town uses and this will produce 94,201 KH. He said the system size is a 71.3 KW system. Mr. Stevens asked what if the town expends close to 100,000 KH? Selectmen Mageary said that was a legitimate concern but the system was designed for that. Selectmen Perro said the town currently uses about 97,000 KH. He noted this was everything the town uses, every meter the town pays for to the power company.

Selectmen Perro wanted the board to know the reason they were bringing it before the board now was because if the voters agree to the project they want to get the panels installed to take advantage of the prime sun, which is May thru September. This is when you generate the most of your power, this way enough electricity is built up for this year.

Nothing further was discussed.

Best Possible Location – Replace Foundation and Septic – Map 17, Lot 27 (108 30th Street) – Roland and Carol Cote, Applicants

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

The applicants had provided board members, 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.*

This evening the applicants provided the board with several pictures of the existing camp. *Board members did a site inspection on an individual basis.*

Roger A. said the only thing he wasn't able to get at the site inspection was the measurement from the camp to the high water mark due to the snow that was on the ground.

Roger A. wasn't sure all the trees would get moved for the installation of the septic system. He thought there was room to dig a trench and still leave some of the trees in place. Mrs. Cote said Mr. Cote had spoken with Bill Plante, the excavator, and Mr. Plante was not sure how many trees would need to be removed.

The board reviewed the septic design and the plans presented. Roland L. thought they could leave the trees, like as Roger said, they were just digging a trench to the pumping station. The applicants were concerned the board may be looking at the neighboring lot and thinking it was their property. Board members discussed where the Cote property was located and the neighboring property.

Madge B. wanted the board to discuss how close the structure was to the existing stone wall. She thought the wall would be effected but she wanted to be certain the wall wasn't going to be impacted or address it now if it was. Roger A. agreed it would be questionable as to whether or not the wall would be affected.

Madge B. wondered if they moved the camp back, if it would make it less questionable? Roger A. said, yes. She thought you would leave what is there and fill in.

Madge B. said the board didn't have an exact measurement to the high water mark but the applicants think it is around 48 feet. Mrs. Cote agreed and Mr. Cote said it was between 48 and 50 feet. Madge said it would be a good idea to move it back, even a small amount would help. She said if they don't move it back, she thought the board would need to have an engineer look at the wall to see if it would be able to stay in place.

There were two audience members, who told the board their family owned the neighboring vacant property. They were there to be certain the board was aware where the boundary was between the two properties. Their names were Coleen and Robert 'Dean' Harris.

CEO McDonough wanted the board aware that the ditch for the septic line would be about 5 feet deep, so a large piece of equipment would be used, therefore, some of the trees the board thinks will remain, might not based on the size of the trench and being able to get the equipment in and keeping it on the property. He said the excavator itself is at least 9 feet wide. Roger A. agreed, but based on his site visit he believed there was room for the trench and the equipment. Mr. and Mrs. Harris thought Roger may have been on their property? After further discussion Roger still felt he was on the Cote' property.

Roland L. said he was concerned about affecting the stone wall while doing the project. Mr. Cote asked how far from the retaining wall did they have to be in order for the retaining wall not to be an issue? Roger A. thought if they moved the camp back five feet it would be ok. Madge B. asked CEO McDonough if there was a distance they should be looking at? CEO McDonough said there was no magic number that states the wall will not be affected. He said the building code does say your building has to be so far from a slope, and that you have to have so much flat area before you have a slope or retaining wall to a structure. He didn't know that figure without looking at the book.

Roger A. said again he believed if it was moved back five feet it would work. Mrs. Harris was concerned with her parent's property. Roger told her it wasn't being moved five feet closer to her property but five feet back toward the road. He thought this would give them enough room to work around the foundation without disturbing the wall.

Roland L. asked if they would change the orientation if it was moved back? Mrs. Cote said straightening it out would work better on the lot. Mr. Cote agreed. Madge B. said if it was turned it would be better, and it would be a little farther from the Harris property. Mrs. Harris asked if they could lift it and move it back toward the road, keeping all the equipment entirely on their property. Mr. and Mrs. Cote said, yes. Roger A. agreed. Mrs. Harris wanted to be sure they weren't coming in from the side.

CEO McDonough noted that the area where the camp is moved from had to be revegetated. Mr. Cote said, yes. Madge B. said that needs to be on the plan. Roland L. said that it didn't necessarily mean grass, it

could be shrubs or other plants. Mrs. Cote asked if the DEP will make suggestions? Roger A. told them, you tell the DEP what you are going to do and they will say whether or not they agree with it.

Barbara F. asked what the board is requiring now? Roger A. said the board needs what will be put in place with respect to landscaping. Will it be mulch where the camp is moved? Roger discussed that when a foundation is moved, the area beyond the camp gets disturbed, so they need to address how that area will be addressed. Mr. Cote said that Mr. Plante said all the disturbed areas will get crushed stone. Roger said that it would have to be on the plan. The plan needs to show exactly what is being done, so when CEO McDonough goes to the site he will know what to enforce. Madge B. liked the idea of crushed stone, to prevent roof runoff from creating an erosion issue. She said the board worries about water running off the property into the lake.

Mrs. Cote asked what the next step was? Should they now contact the DEP? Diane S. asked if the board needed a plan showing exactly where the house is going? Roger A. said, yes. Roger said the plan needs to show where the existing building is and where the new building will be located.

CEO McDonough thought they had discussed repairing the wall? CEO McDonough said if they are not going to repair the wall, the board will need to make a condition that if the wall gets disturbed they will have to come back before the board. If they are going to avoid the wall, then a condition will need to say they will avoid the wall and not disturb it.

The Cote's were asked if the lot was surveyed? Mrs. Cote said it was. CEO McDonough said the ordinance requires that the new location be placed on the lot by a surveyor. He wanted them to know that if the Planning Board states the new structure will be for example, 50 feet from the water and five feet from the retaining wall, then the surveyor has to show us that that was done. He said it didn't mean the whole lot had to be surveyed.

Roger A. said the two things the board needs are showing where the structure will be located on the plan and, how the area will be treated with respect to taking care of the area, revegetating, mulch, etc. He said once they have this information they can contact Barbara to get back on the agenda.

Mrs. Harris asked if she would be contacted when they come back before the board? Barbara F. took their name and address and said she would mail them an agenda.

Mr. Cote asked again what he needed to bring in. Roger A. said they had to show where the camp will physically sit after being moved on the plan. CEO McDonough said the surveyor of their property would probably know how to do a best practical location, he could place the camp on the plan. Roger agreed, noting he did another application the board had reviewed in the past. CEO McDonough said again the ordinance requires that a surveyor indicate the structure is placed exactly where it is indicated on the plan, so it is important to have the correct figure and that in fact you can move the structure where indicated. The number has to be correct.

Mr. and Mrs. Cote asked if the board wanted the camp moved back five feet for sure? **The board concurred that yes, the camp should be moved back five feet. The applicants also need to have the location put on the plan, a revegetation plan and then they can apply for the DEP Permit by Rule.**

Nothing further was discussed.

Growth Permits – There are growth permits available.

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

The next meeting will be held Tuesday, January 24, 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.

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, January 24, 2017

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). Alternate Steve Foglio was unable to attend. Code Enforcement Officer Steven McDonough was also in attendance.

Public Hearing began at 6:00 p.m.

Amendment to a CUP – Add Ground Mounted Solar Panels to Property – Map 7, Lot 5 (1026 Shapleigh Corner Road) – Town of Shapleigh, Property Owner; Revision Energy, Applicant

Selectmen Perro and Selectmen Mageary were present for the review of the application.

Roger A. opened the public hearing and asked Mr. Mageary if he would like to speak, as Chairman Mike Perro had not arrived yet. Mr. Mageary began by stating the Selectmen were proposing a solar array system, the size to be 71.3 kW and it will be placed adjacent to the sand/salt building. He said this should generate 99% of the Town's usage of electricity for all the buildings, the only exception would be the street lights. He asked if there were any questions?

Ann H. asked since it didn't supply the streetlights, if the power company would buy back the electricity and put it toward the streetlights? Mr. Mageary said the reason they are creating less than 100% of the usage is because if you generate more than you use, you will lose the electricity. He told Ann that the electricity goes back into the grid and then we draw from it. There is an account and we draw from what gets banked. Roger A. told Ann that if the Town generates too much, then it's regulated by the PUC (Public Utilities Commission), so the Town becomes a separate entity creating power. Ann said that it must be different from farms because they can bank their electricity from solar and wind, and whatever is extra they bank it on their account and in the winter they use it. Mr. Mageary said that the Town can bank it for 12 months.

Selectmen Perro said that there was no drive to put in extra because the Town was not selling it back to the power company, they are only banking electricity for the town to use only. Ann didn't know why they couldn't add the lights, to be 100% utility free? Selectmen Perro said the issue is the metering system, you are only allowed to have so many meters. He stated that all the street lights have different accounts, so it would put you over the number of accounts / meters you can use. The town can only use up to 9 meters the way this is set up for the system. Ann asked if all nine meters are being used? Selectmen Perro said that 8 are being used and one is a transit line to use as a back and forth line between the grid and the Town.

Roland L. asked if this included the elementary school? Selectmen Perro said, no that is part of the RSU 57 school district, so that isn't town metered. He said that 'town use' would be the town hall, library, recreation fields, safety and rescue. He said every meter that the Town pays for with the exception of street lighting is covered under this. Ann H. was curious how much the electric bills were? Selectmen Perro said the biggest account was the town hall because it had electric heat, therefore, the winter time would be the biggest use. He said with the rec fields their use is the irrigation system. They are talking about putting in lights for the parking lot but right now it is only irrigation and its use is when other things aren't being used. He added that the public safety building has a higher use now because it is being staffed more. Selectmen Perro did not have the actual figures with him.

Ann H. was curious with respect to when the Town would get a return. Selectmen Perro stated that the buyout of the system would be after six years to take advantage of the incentives. With buying it back, at 16 years is when it will be completely paid back. At that point for the remaining life of the system, from then

on all you pay for is a delivery charge. He said a minimum time frame for the life of this system is 40 years, so from 16 years to 40 years, that is all profit basically at that time. He also stated that over a period of 40 years they expect the Town will have a gain of over \$300,000.

Roland L. said one of the conditions in the ordinance talks about noise, odor, glare, etc. He asked if those living south of the proposed panels would be seeing a glare from bright light from the sun reflecting? Selectmen Perro said the only person who would see it would be someone in an airplane, and these are low glare so they don't produce glare, otherwise they would be a hazard to air traffic.

Ann H. asked how tall they would be? Selectmen Perro stated that the bottom of the panels would be roughly five feet off the ground and they would be approximately 15 feet at the highest. Mr. Mageary stated that each panel was 3' x 5' and they will be stacked 2 panels high. Ann asked if there was a humming noise if you got near them? Mr. Mageary said that you would not hear a thing. Madge B. agreed that you do not usually hear them.

Ann H. asked if something happened to the panels, did the company that first owned them before the buy back, would they replace the panel? Selectmen Perro said, yes, that is part of the contract. Any vandalism, deterioration, defects, etc. they would take care of it while they owned it. He said after that, when the Town purchased it outright, there would be a maintenance agreement. He noted that the inverters had a life expectancy of 20 years within this price structure, the replacement of the inverters is factored in, so those figures are already planned on within this price structure.

Mr. Mageary wanted the board and public to know that if a panel went down for any reason, it didn't affect the rest of the panels and they still continue to produce electricity. Selectmen Perro stated that the Town would know that something was not working properly, there will be a monitor screen that tells the Town what is being generated every hour of every day. So if the sun is out and they should be producing at 94% and they are only producing at 85% then the system will have to be checked.

Ann H. asked if this company has put up other units in Maine? Selectmen Perro said yes, they have done several companies, colleges and municipalities. They have done some that are larger than what Shapleigh is proposing and some are smaller. He said they did check with the companies that had them and they gave raving reviews all the way across the board, from a great working relationship and about the product.

Roland L. asked if at the Town Meeting in March, if the taxpayers are going to be asked to vote on just the concept of the solar panels or specifically a contract with Revision Energy. Selectmen Perro said they would be voting on giving the Selectmen the ability to negotiate a contract with a solar company for this process. Madge B. thought they would also vote on money. Selectmen Perro said no, there is no money yet. Madge asked about putting the \$20,000 away that was discussed at the previous meeting? Selectmen Perro said it would go into a reserve, so they can buy the system in six years. Madge said, right. Selectmen Perro noted that historically voters have been supportive of setting up reserve accounts for large expenses, so they don't get hit with a large amount all at once.

Ann H. thought it might be helpful to put out a spreadsheet discussing the overall savings for the project. Madge B. and Selectmen Perro stated that there was one that was handed out during the voting in November and there is also a copy in the Town Hall. Selectmen Perro stated that they already did one information session with the company and anyone could speak or ask questions. It showed how the system worked and the benefits. One was done on November 17, 2016 at the Town Hall and there will be another one held on February 18th a few weeks before Town Meeting.

Madge B. noted the handout that was passed out on voting day was very good.

Roland L. asked if another municipal building was added, did the system have the potential to be expanded if needed. Selectmen Perro said, absolutely, the way it is set up, there are two and one-half rows. If you grow in the future you can finish the third row or add additional rows. He didn't see this growing much in the near future but it is easily added to.

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

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

Final Review of the Changes Proposed by the Planning Board to the Comprehensive Plan

Roger A. reviewed the changes made during the last public hearing for the Comprehensive Plan. There were no changes made this evening. The Comprehensive Plan will be presented to the voters as discussed at the public hear on December 13, 2016.

Copies of the Comprehensive Plan can be obtained at the Town Hall.

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

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

The minutes from Tuesday, January 10, 2017 were amended as follows: Page 2 of 10, last paragraph - Diane S. wanted 'State revenue' added to her reply for clarity. So the sentence will read 'She said [State revenue] from taxing marijuana'.

Amendment to a CUP – Add Ground Mounted Solar Panels to Property – Map 7, Lot 5 (1026 Shapleigh Corner Road) – Town of Shapleigh, Property Owner; Revision Energy, Applicant

Selectmen Perro and Selectmen Mageary were present for the review of the final application.

Along with the application, the Selectmen provided board members with a document entitled, 'Solar PPA Term Sheet for the Town of Shapleigh by Revision Energy'. This informational document had the following information contained within it:

Project Description

- System Size: 71.3 kW
- Annual Generation: 94,302 kWh
- Municipal Electricity Load Offset: 99%
- Annual Carbon Offset: 87,701 lbs.
- Total Project Cost (financed by ReVision Energy): \$215,095

Power Purchase Agreement (PPA)

- No upfront cost to the Town of Shapleigh
- Town purchases electricity generated by solar project for 6 to 20 years
- Annual buyout option after year 6 at \$107,548 (50% of upfront cost)
- Projected 40-year energy savings of more than \$300,000

ReVision's PPA Project Experience

- 15 projects for Schools in Maine and New Hampshire
- 13 projects for Non Profits in Maine and New Hampshire
- 13 Municipal projects including: Towns of Eliot, Windham, South Portland and Belfast

Public Information Forums

The Selectboard will be holding information forums for the proposed solar project on,

- Thursday, November 17th at 7 PM
- Saturday, February 18th at 10 AM

The Planning Board also received a proposed location picture which depicted the solar panels to take up an area to be approximately 100' X 150'; the panels will be located 75 feet from the edge of Route 11 and approximately 200 feet from Hodgdon Road. The parcel itself, Map 7, Lot 5, contains a total of 14.47 Acres and currently houses the sand/salt facility.

Roger A. asked if there were any additional questions, since the public hearing and there were none.

Roger A. began review of the Basic Performance Standards for the solar project.

- 105-21 – Traffic. *Roger A. stated access to the site was safe, site distances were approved for this location on September 9, 2014 for the sand/salt storage facility.*
- 105-22 – Noise. *There will be no noise generated from the activity, other than the construction which will be minimal.*
- 105-23 – Dust, fumes, vapors and gases. *There is no dust, fumes, vapors or gases, generated by this activity.*
- 105-24 – Odors. *N/A - There will be no obnoxious odors generated.*
- 105-25 – Glare. *There shall be no glare from the panels because of their composition. Also, this location is surrounded by a wooded area.*
- 105-26 – Stormwater runoff. *There are no changes being made to the property that would cause a stormwater problem. Stormwater runoff mitigation was addressed and approved for the sand/salt facility on September 9, 2014.*
- 105-27 – Erosion control. *There are no changes being made to the existing property that would cause an erosion problem. Erosion control was addressed and approved for the sand/salt facility on September 9, 2014.*
- 105-28 – Setbacks and screening. *Existing vegetation will remain and there is agreement it is good to be able to see the panels to prevent vandalism.*
- 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 generated by this activity to affect water quality.*
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *None being generated or required. Access for maintenance is required only, any parking will be at the existing sand/salt facility.*
- 105-32 – Relation of proposed building to the environment. *This will not have any detrimental effects as this is the location of the sand/salt facility.*
- 105-33 – Refuse disposal. *None generated.*
- 105-34 – Access Control to Route 11. *This was approved on September 9, 2014 for the sand/salt facility. The same access point will be used for the solar panels.*

Roger noted there was no signage required, no off-street parking or sanitary provisions for this application.

§105-54 – Solar Considerations. Section A(1) When solar energy systems are proposed, which are not attached to a house, they shall be set back 10 feet from the side and rear lot lines and 25 feet from the right-of-way line (or 50 feet from the center line) of a road, whichever distance is greater. ***Roger stated that the location of the panels meet the requirements.***
Note: The other provisions of this section do not apply to this application.

Roger A. then reviewed §105-73.G ‘Standards applicable to conditional uses’ and made findings of fact.

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

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. ***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 not applicable.***
- 3) The use is consistent with the Comprehensive Plan. ***Roger A. stated the Comprehensive Plan didn’t directly address solar energy. Madge B. stated that it was a use that did not have an adverse impact on the environment and will be a benefit to the town.***
- 4) Traffic access to the site is safe. ***Roger A. stated, it is. It was approved for this location on September 9, 2014 for the sand/salt facility.***
- 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 project will not be affecting the existing ground cover once the pilings are put into place. There is a stormwater design for this location for the sand/salt facility.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***Roger A. stated there are for the sand/salt facility and no changes are being made to create soil erosion.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***Roger A. stated that it isn’t required for this project.***
- 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. There are no detrimental features.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***Roger A. stated they shall.***

Roger A. stated with respect to a performance guarantee that will be done through the contract with the company chosen to install the panels. The Selectmen will deal with this issue.

With no additional questions or comments, **Madge B. moved for approval of the ground mounted solar panel project for the Town of Shapleigh to be placed on the town owned property at the sand/salt storage facility, Map 7 Lot 5. Maggie M. 2nd the motion. All members were in favor. By a vote of 5 – 0, the vote to approve was unanimous.**

Nothing further was discussed.

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**The Findings of Facts**

1. The owners of Shapleigh Tax Map 7, Lot 5 (1026 Shapleigh Corner Road), are the inhabitants of Town of Shapleigh, 22 Back Road, Shapleigh, Maine.
2. The property is located in the General Purpose District and according to the assessor contains 14.47 acres.
3. The applicants are before the board for an Amendment to a Conditional Use Permit to put in 3 rows of solar panels, known as a solar panel array, to produce electricity for all the existing municipal buildings.
4. Received was a copy of the Town Tax Map 7, highlighting Lot 5; an aerial view of the lot noting the acreage, distance from the panels to Route 11 (approx. 75 feet), distance from the panels to Hodgdon Road (approx. 200 feet), and the area to be taken up by the panels (approx. 100' x 150'). Also received was a project description from ReVision Energy which included the system size (71.3 kW), annual generation (94,201 kWh), municipal electricity load offset (99%), annual carbon offset (87,701 lbs.), and total project cost of \$215,095. Additional information included description of the Power Purchase Agreement (which noted a projected 40-year savings of more than \$300,000), ReVision's PPA Project Experience, and the dates of the Public Information Forums, those being November 17<sup>th</sup> at 7 PM (already held) and February 18, 2017 at 10 AM – both held at the Shapleigh Town Hall.
5. The board reviewed the Basic Performance Standards and the board concurred the application met all the standards imposed.
6. The board reviewed Zoning Ordinance §105-54, 'Solar considerations' and concurred the application and information as presented met the standards applicable in this chapter.
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.
8. A notice was mailed to all abutters within 500 feet of the property on January 11, 2017. Meetings were held on January 10, 2017 and January 24, 2017. A public hearing was held on January 24, 2017.
9. The Planning Board unanimously agreed to approve the Amendment to a Conditional Use Permit to place a solar panel array to produce electricity for the municipal buildings in Shapleigh, to be located on Map 7, Lot 5, per the plans provided.

**Motion:**

**After careful consideration and a review of all material presented to the Board, including the review of the Zoning Ordinance 'Basic Performance Standards', Zoning Ordinance, §105-54, 'Solar considerations' and §105-73, Section G, 'Standards applicable to conditional uses' a motion was made on Tuesday, January 24, 2017, to approve the Amendment to a Conditional Use Permit to place a solar panel array to produce electricity for the municipal buildings in Shapleigh, to be located on Map 7, Lot 5, per the plans provided.**

**Vote:**

By a unanimous vote of 5 – 0, the motion to approve the Amendment to a Conditional Use Permit to place a solar panel array to produce electricity for the municipal buildings in Shapleigh, to be located on Map 7, Lot 5, per the plans provided was accepted.

**Decision:**

**The Amendment to a Conditional Use Permit to place a solar panel array to produce electricity for the municipal buildings in Shapleigh, to be located on Map 7, Lot 5, per the plans provided was approved.**  
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**Best Possible Location – Replace Foundation and Septic – Map 17, Lot 27 (108 30<sup>th</sup> Street) – Roland and Carol Cote, Applicants**

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

The applicants had provided board members, 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, 30<sup>th</sup> 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. Note: The applicants informed the board the excavator will now be William Plante.*

This evening the applicants provided the board with a new site plan which showed the location of the existing structure, as well as the proposed location of the new structure. The plan also had the location of trees to be cut and where the applicants would be placing replacement trees. In addition, a description page was provided entitled ‘Revised Plan for Lifting & Moving Camp per Planning Board’s Request’. This page stated the following:

- Print shows camp in its existing location in light lines.
- New location is highlighted in dark lines showing new measurements from the water line & retaining walls.
- Due to requested movement of camp further away from water & retaining walls, several trees will have to be removed in order for the excavation work to be done. This will satisfy the septic design & installation & movement of camp to its new location. Trees to be removed are highlighted in pink.

- All 8 trees will be replaced by trees that are to code.
- All excavated areas that need to be filled will be done with stump grindings, crushed stone, shrubs & any other mulch needed to prevent erosion.
- Any retaining walls that are partially damaged will also be repaired.

Also provided this evening was a copy of the Permit by Rule mailed on 1/13/16, along with a copy of the check mailed. Cameron Adams, Environmental Specialist of the MDEP, emailed Mr. Cote on 1/25/17, stating that the PBR application for the foundation replacement/camp relocation was approved.

Roger A. opened the discussion by asking if there were any questions for Mr. & Mrs. Cote? Madge B. stated her question continues to be the existing wall, whether or not it will be damaged during reconstruction of the foundation. She said she realized there would now be more room between the wall and the new foundation since the camp has been moved back, but she wasn't sure the wall would still be unaffected. Roger A. didn't think it would be an issue because of the height of the wall in that location, due to the low height of the wall in that area. Mr. Cote agreed and said it was pretty flat in that area. Madge said, ok, she just wanted to be sure as she didn't feel qualified to know the answer, since she never had to excavate. Mr. Cote said he wouldn't call it a retaining wall in that location, it was more like rocks on the ground.

Madge B. said the only thing the board didn't have was plantings between the house and the wall. Madge stated it had been said that the area would be filled with stump grindings, crushed stone and then it spoke of shrubs and any other mulch required. She wanted to know if plantings were needed and asked which way this area sloped with respect to the water. The Cote's said it sloped toward the water. Madge said then it was important to be sure whatever is put into place will either hold water or absorb water, so it won't go into the lake. Roger A. agreed saying it will have to absorb water because any water coming off the new structure will put pressure on the existing wall. He felt it would have to be well stoned.

CEO McDonough said if it was the wall they were just speaking of, it was just determined it wasn't really a wall. Ann H. said that is what she was thinking and asked if it was layers of rocks? Mr. Cote said the wall closest to the water is relatively flat, it is more like landscaping. Mr. Cote said there were gutters on the roof that helped but he said they will do what they need to do to prevent erosion toward the water.

Mr. Cote said he sent the DEP more pictures and they didn't think the wall had to be rebuilt, just maintained or fixed. He noted the Permit by Rule was permitted for the relocation of the camp.

Madge B. told the Cote's that the planting plan is typically quite detailed and the board would need to know where the bushes, shrubs, trees, etc. would be located because the Code Enforcement Officer will have to go out and determine if what they have done was what the board approved. Mrs. Cote said they didn't know what to do, they were going by what William Plante said (excavator for the project) and he said he would do whatever he had to do to prevent erosion, such as crushed stone and mulch. Diane S. said, "But that's not vegetation, crushed stone isn't vegetation". Mrs. Cote said the trees would be on the border of the property because they can't be planted over the septic system.

Mr. Cote said that by moving the camp back and turning it, it will require additional trees to be removed. Madge B. said she understood that. Ann H. asked if William Plante used a landscape company? Mrs. Cote said he was only talking about crushed stone and mulch. Ann asked about the shrubs. Mrs. Cote said, "That would be our responsibility". Mr. Cote agreed.

CEO McDonough said it will be assumed the trees on the plan will be required to be taken down. Mr. Cote said, right. CEO McDonough asked why the new trees would be planted along the border line? Is it because of the location of the new septic system? Madge B. wasn't sure. CEO McDonough said the

leachfield appeared to be fairly far from where the trees will be placed, so he wanted to know why they couldn't put the replacement trees in close proximity to those being removed. Roger A. agreed, that it was up on top near the road. Mrs. Cote said, "Maybe we can." CEO McDonough stated that replanting the trees along the property line is circumnavigating the law. Mrs. Cote said she didn't know where they could plant trees. She didn't think they could plant them near where the septic system was. CEO McDonough agreed but said the septic system wasn't anywhere near the existing trees according to the plan.

CEO McDonough read **§105-4.D(7)[1][a]** 'Relocation of a non-conforming structure'; 'Trees, woody vegetation and ground cover.' '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.'

Mr. Cote said they just have to be clustered but no further from the water. Madge B. said, right. CEO McDonough, looking at the plan, didn't see a reason why some trees can't be placed between the house and the leach bed, he felt lining them up along the property line was circumnavigating the ordinance.

Diane S. asked what the distance was from the corner of the house to the high water line. Roger A. said, 36 feet. Diane noted that the plan said 36 + or - and the other corner to the water said 45 + or -, these measurements have to be exact, not plus or minus. She also stated that the board would need the measurements from the rear corner of the house to the side lot line on both sides of the house to get an exact location. She showed them on the plan. She told the applicants it has to be on the plan. Mrs. Cote asked if the board was ok with the distances to the water. Diane S. said, "Yup". Diane said, "You need it from the point of the house to the property line and from the point of the house to the property line, because you are actually turning the house. What happens if it is a little cockeyed? It has to be exactly where you say you are going to put it." Mrs. Cote said, "So we go back to him and have him measure." Diane said, "Yes".

Madge B. said a surveyor has to be mark the corners when they dig the hole. Mr. Cote asked if it has to be done before they dig the holes? CEO McDonough said it didn't have to be done prior to, but if the foundation goes in and it is not in the correct location there is a problem, therefore, it is best to locate the corner of the foundation prior to pouring it. Diane S. also noted that if they have a surveyor pin the locations then the neighbor cannot say they are too close to the property line.

Roger A. read **§105-4.D(3)** 'Foundations', '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 A. then reviewed **§105-4.D(7)**

(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 addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:
  - [1] Trees, woody vegetation and ground cover.
    - [a] Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.
    - [b] Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be established within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.
  - [2] Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.
- (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.

Roger A. said that is why the board is concerned with the vegetation and the trees. Madge B. said at this time it is hard to know what is there now. Roger thought it might be pine spills. Mrs. Cote agreed saying there weren't really any plants around the house. Madge B. thought because there isn't any plantings in the front then they needn't add any. Madge said they still need to figure out how to keep stormwater from creating an erosion issue.

Roger A. reviewed **§105-51-3**, it read as follows:

**§ 105-51.3. Revegetation Requirements.**

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.

- A. 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.
- B. 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.

- C. 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.
- D. Revegetation activities must meet the following requirements for trees and saplings:
  - (1) All trees and saplings removed must be replaced with native noninvasive species;
  - (2) Replacement vegetation must at a minimum consist of saplings;
  - (3) If more than six (6) trees or saplings are planted, then at least three (3) different species shall be used;
  - (4) No one species shall make up 50% or more of the number of trees and saplings planted;
  - (5) 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
  - (6) A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) year period.
- E. Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:
  - (1) 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;
  - (2) 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;
  - (3) If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;
  - (4) No one species shall make up 50% or more of the number of planted woody vegetation plants; and
  - (5) 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.
- F. Revegetation activities must meet the following requirements for ground vegetation and ground cover:
  - (1) 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;
  - (2) 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
  - (3) 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.

Roger A. asked what the time line was? Mrs. Cote thought they would begin in March. Roger asked if it would be completed by fall? Mr. Cote said, yes.

Ann H. asked if the application could get approved today with a condition that they bring in a planting plan by a certain date, like in April? Diane S. believed the board would want to look at the replanting plan to be sure it was done correctly. Mrs. Cote asked if they need a professional to do the plan? Roger A. said the ordinance states that a professional has to design the plan. Ann said if they go to a nursery, such as

Springvale Nursery and you tell them you live in the shoreland district and where, and what you are going to do, they will design something because they do it for various towns. They know the ordinance requirements and they will ask you what type of plants you like.

Mr. Cote said that quite a few trees were removed near their property and there hasn't been any replanting, why is that? Diane S. said, they probably did it illegally. CEO McDonough asked who the owner was? Mr. Cote told them where the property was located. CEO McDonough stated that he may have permitted it but he would have to look at his records.

Mrs. Cote said that what they needed was a regrowth plan. Roger A. said, yes, we need what will be done on your property to replace the existing trees, and what will be done for stabilization. Mrs. Cote said they also need the measurement from the edge of the house to the border. Diane S. said, yes. Mr. Cote said that this is required before any excavation begins. Diane said, yes, have them measure it and put it on the plan.

Mr. Cote asked if there needed to be location pins in now. Roger A. said, no, once the measurements are done they need to be put on the plan for the board. Mr. Cote asked if it was just the two measurements. The board said, yes.

Diane S. told applicants that York County Soils and Water could also help them with a replanting plan? Mrs. Cote asked where they were located? Roger A. thought they were in the basement of Nason in Springvale. Diane thought they could look it up on line.

Roger A. said with respect to the trees, the board will need to know what species they will be. Mr. Cote said that listening to Roger earlier, it sounded like there had to be three different varieties. Roger said, yes, two could be pine, two could be hemlock, two could be birch. He said these need to be indicated on the plan for Code Enforcement to be able to use the plan for his final inspection.

Roger A. said that any deviation to the final approved plan will have to come back to the Planning Board for approval, so everything that is going to take place needs to be on the plan and then done to what is on the plan. He noted that what is on the plan, that is the only thing that can take place, so it has to be done right. This could slow the project down if the information isn't correct. Ann H. said this also protects the applicants from others who may comment on what is taking place. Roger added that this also protects them with the DEP.

Mrs. Cote said that they will not be able to be at the next meeting on February 14<sup>th</sup>, they will be on vacation. She hoped they would have the information for the board on February 28<sup>th</sup>.

CEO McDonough asked them if they were going to use the existing well? They said they believed so. He asked if they had any intention of putting in a new well. Mrs. Cote said they might have to put in a different pump but they would not be moving the location. Mrs. Cote asked if it was ok to do so? CEO McDonough said it was fine to use the existing well. He just didn't want to get to the job site and see a new road built because a new well was being put in, without having a plan in place.

**Roger A. said for the 28<sup>th</sup> of February the board will need the distance from the corner of the house to the side lots lines and a revegetation plan.** Mr. Cote said, so those two items only and then they should be ok.

Nothing further was discussed.



**Other:**

Ann H. spoke about some studies done on the effects of marijuana on people. She said one article she read was that marijuana was legal in the United States until 1937, when the marijuana tax act was created and it remained legal until 1970 and then it turned into a controlled substance. She said there were different tiers of controlled substances. Alcohol is considered a certain level of controlled substance too. She found the article interesting, how they were going to figure out how they would determine if someone was impaired.

Roland L. asked what the short version was about the article. Ann H. said you could test people to see how much marijuana is in their system, by bloodwork and urine. The thing is from a medical standpoint your body type determines how long you keep it in your system. She said a thin person could have it in their system for 7 years, you could test positive, even if you haven't done anything with it. She said there are ways to test, such as with the alcohol sobriety test, there are ways to see if someone is stoned based on reflexes. She said the articles were interesting.

Ann H. said the reason there is no extensive research on marijuana is it isn't approved by the FDA, so there is no money for research.

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 7:40 p.m.**

**On Tuesday, February 14<sup>th</sup>, there will be a public hearing held for the proposed Ordinance Prohibiting Retail Marijuana Establishments and Retail Marijuana Social Clubs in the Municipality of Shapleigh, Maine. The hearing will begin at 6:00 p.m.**

***The next meeting will be held Tuesday, February 14, 2017 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 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 1<sup>st</sup> 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](mailto:planningboard@shapleigh.net)

# **SHAPLEIGH PLANNING BOARD**

## **MINUTES**

**Tuesday, February 14, 2017**

Members in attendance: Roger Allaire (Chairman), Maggie Moody (Vice Chair), Roland Legere, Diane Srebnick, Alternate Ann Harris, as well as Barbara Felong (Secretary). Code Enforcement Officer Steven McDonough was also in attendance. Member Madge Baker and Alternate Steve Foglio were unable to attend. Ann Harris was not present for the opening of the public hearing.

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### **Public Hearing began at 6:00 p.m.**

### **Proposed Ordinance Prohibiting Retail Marijuana Establishments and Retail Marijuana Social Clubs in Shapleigh**

Roger opened the Public Hearing by stating this was the second hearing on the proposed new ordinance. He then read the proposed ordinance in its entirety. It read as follows:

#### **Ordinance Prohibiting Retail Marijuana Establishments and Retail Marijuana Social Clubs in the Municipality of Shapleigh, Maine**

##### **Section 1. Authority.**

This ordinance is enacted pursuant to the Marijuana Legalization Act, 7 M.R.S.A. c. 417; and Municipal Home Rule Authority, Me. Const., art. VIII, pt. 2; and 30-A M.R.S.A. §3001.

##### **Section 2. Definitions.**

For the purposes of this ordinance, retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, and retail marijuana social clubs are defined as set forth in 7 M.R.S.A. §2442.

##### **Section 3. Prohibition on Retail Marijuana Establishments and Retail Marijuana Social Clubs.**

Retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, and retail marijuana social clubs, are expressly prohibited in this municipality.

No person or organization shall develop or operate a business that engages in retail or wholesale sales of a retail marijuana product, as defined by 7 M.R.S.A. §2442.

Nothing in this ordinance is intended to prohibit the lawful use, possession or conduct pursuant to the Maine Medical Use of Marijuana Act, 22 M.R.S.A. c. 558-C.

##### **Section 4. Effective date; duration.**

This ordinance shall take effect immediately upon enactment by the municipal legislative body unless otherwise provided and shall remain in effect until it is amended or repealed.

##### **Section 5. Penalties.**

This ordinance shall be enforced by the municipal officers or their designee. Violation of this ordinance shall be subject to the enforcement and penalty provisions of 30-A M.R.S.A. §4452.

Roger A. then read the proposed amendment to §105-17 of the Zoning Ordinance, which will be enacted only if the Ordinance Prohibiting Retail Marijuana is enacted. The amendment read as follows:

| <b>LAND USES</b>                                                               | <b>RP</b> | <b>SD</b> | <b>GP</b> | <b>FD</b> | <b>SP</b> |
|--------------------------------------------------------------------------------|-----------|-----------|-----------|-----------|-----------|
| COMMERCIAL                                                                     |           |           |           |           |           |
| Retail marijuana establishments and retail marijuana social clubs <sup>4</sup> | NO        | NO        | NO        | NO        | NO        |

<sup>4</sup>See details in ‘Ordinance Prohibiting Retail Marijuana Establishments and Retail Marijuana Social Clubs in the Municipality of Shapleigh, Maine’ which was enacted at Town Meeting March 2017.

Roger A. asked if there were any additional questions?

Mr. William ‘Bill’ Porreca of 160 Apple Road, asked what the origination and inspiration of the proposed ordinance was? Roger A. said that the inspiration to present this was because at this time the Legislature has over 50 bills regarding the issue of the sale of marijuana and nothing to date has been enacted, and they may not enact anything for quite some time. Roger said that the Town had the option of waiting to see what the Legislature was going to do or enact a prohibition, and then revisit the issue once the Town knows how the Legislature is going to regulate it. Once legislation is enacted, the Town can either regulate it the same as the State or put forth more strict revisions to the State policy. He said the only other way to handle this was to do a moratorium and that would only be good for six months; it does not appear that the Legislature will have acted on this within that time frame. Roger said based on this, the Town felt the best thing to do was prohibit retail sales until more information on the State level is presented.

Mr. Porreca asked if the Planning Board initiated this? Roger A. said the Planning Board initiated it and it is backed by the Selectmen. He said that the board brought it to the Selectmen first, to see if they were interested in putting it in the Ordinance or if there was another way they wanted to review it. Roger said because all businesses currently go through the Planning Board, it seemed before the Planning Board and in the Zoning Ordinance would be the best place for this to be. Roger said the board members agreed at this time, complete prohibition was the way to go. He added that people are still allowed to have it for personal use, nothing changes with respect to that. This is for retail and social clubs only.

Mr. Porreca thanked the board for their time. He also said when he first saw this he thought it was a knee-jerk reaction but this now makes sense. Roger A. said it was a knee-jerk reaction in part because this had to be done before Town Meeting on March 11<sup>th</sup>, and the town needed to hold two public hearings prior to that time. He said otherwise there would have had to be a special town meeting. Mr. Porreca said that that cost money. Roger didn’t disagree but added that as long as he has been on the Planning Board he has never been in favor of special town meetings because they are usually geared toward a select group and not the general consensus on a subject. He believed with a special town meeting you don’t get a true representation of all the people in town. Typically it is only those in favor of the special vote that come to a special meeting.

Ann H. noted that all towns received the information regarding regulating the sale of marijuana. Mr. Porreca asked if there was a recommendation to create this ordinance. Roger A. said Maine Municipal sent out their guidance if you wanted to put an ordinance in place. They also gave guidelines with what a town needed to do for a moratorium. It was up to the town to decide if they wanted to do either or nothing at all at this time.

Another audience member asked how this would become law? Did the Planning Board vote on it? Roger A. stated that the proposed ordinance would go to Town Meeting. He stated that the Planning Board holds the public hearings to inform the citizens what was in the proposed ordinance and because the board initiates zoning changes, it goes through the Planning Board first, prior to being voted on. He stated that there were two hearings, then it would be brought up at Town Meeting as a warrant article, and then it would be voted on. The citizen said, “This will be at the regular Town Meeting, there will not be one just for the ordinance.” Roger said, right, it will be voted on at Town Meeting on the second Saturday in March.

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

The public hearing close at 6:15 p.m.

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

**The minutes from Tuesday, January 24, 2017 were accepted as read.**

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**Other:**

**Comprehensive Plan Survey Results**

Barbara F. provided members with a copy of the Comprehensive Plan Survey Results. A total of 750 surveys were given out during the November election and a total of 170 surveys were received. Not all surveys had all the information asked for filled out, therefore, some questions did not have a total of 170 replies.

Barbara F. noted that with respect to the last question, which was a fill-in, she did not relist answers that were duplicate more than several times. The question, ‘What do you think are the most important problems facing Shapleigh?’ had the largest amount of answers in duplicate which was ‘protecting water quality’. This referred to both the ground water supply and the health of the lakes, ponds and streams in town.

The results of the survey can be obtained at the Town Hall during regular office hours.

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 6:55 p.m.**

***The next meeting will be held Tuesday, February 28, 2017 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 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 1<sup>st</sup> 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](mailto:planningboard@shapleigh.net)

# **SHAPLEIGH PLANNING BOARD**

## **MINUTES**

**Tuesday, February 28, 2017**

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

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

**The minutes from Tuesday February 14, 2017 were accepted as read.**

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*Note: The board began with New Business as they were waiting for an applicant to arrive.*

### **New Business:**

#### **Amendment to a Conditional Use Permit – Storage Building to Real Estate Office – Map 19, Lot 11 (55 Emery Mills Road) – Roger Berube, Owner**

Mr. Roger Berube was in attendance along with Scott Sheppard of RE/MAX Realty One.

Along with the application, received was a copy of Shapleigh Tax Map 19, with Lot 11 highlighted; an aerial view of the property which depicted the existing structure to be used, denoting that the building is 40' x 40' in size with a 12' x 8' bump-out, and the building is located 110 feet± from State Rte. 109, 55 feet± from Primrose Lane and 55 feet± from the westerly sideline. Also received were additional pictures of the structure; an interior office sketch for the proposed office, a copy of the assessor's information from the O'Donnell website and a letter from Mr. Berube giving further information about the application which read in part as follows:

The purpose of this letter is to provide you with further details and clarification to the application for an amendment to conditional use permit dated May 1, 2009 for Roger Berube on this lot M19/L11. The existing conditional use permit allows for the applicant to display a sign for his business "Roger Berube Builders". This sign is located along the roadside in front of the vacant storage building at 55 Emery Mills Road (see attached pictures and map sheets for further clarification). The existing vacant building along the roadside was constructed and permitted for storage and has not been used since construction.

We are proposing that the vacant building be utilized as professional office space for real estate services and that the existing sign for Roger Berube Builders be replaced with a sign for RE/MAX Realty One. We have spoken with the Codes Enforcement Officer regarding this proposal and his suggestion was to submit the application for amending the existing conditional use permit. With this change the existing vacant storage space will be outfitted per code for professional office use as a real estate office, no other business use will exist on site. No new structures are to be constructed, just internal renovation of an existing permitted building.

Roger A. asked the applicant to explain what it was that he wanted to do on site. Mr. Berube began by stating he was with Scott Sheppard and he wanted to use part of the existing structure. Mr. Berube stated that the structure was 40' x 40' in size and Mr. Sheppard wanted to rent 20' x 40' for a real estate office.

Madge B. stated she did not have any questions this evening, she received the information and felt it was straight forward.

CEO McDonough wanted the board to be sure they knew the structure they were speaking of was the structure that was currently vacant, not the structure that has a day care and other businesses in it at this time. (Both structures are adjacent to each other.)

Mr. Sheppard stated that after he spoke with CEO McDonough it was determined the easiest thing to do was to amend the existing Conditional Use Permit to change the use from storage to a real estate business. Mr. Berube asked why he couldn't keep both businesses? CEO McDonough had explained to Mr. Sheppard previously during their meeting, and he reiterated it to Mr. Berube this evening, that there was not enough property to hold additional businesses. Under Zoning Ordinance §105-19.A 'Notes to Table on Dimensional Requirements', there needs to be 80,000 square feet and 200 feet of road frontage per principal structure OR use.

Mr. Berube asked how long this has been in existence? The board stated it had been in effect for a long time. CEO McDonough stated that he had discussed this with Mr. Sheppard and had shown him the ordinance. Mr. Berube spoke of owning another lot and asked if he could do something else on that lot? The board thought it was possible but asked the size of the lot? It appeared the lot was small but a structure could probably be put on the lot, if it met setback requirements. CEO McDonough stated the road setback requirements, those being 75 feet from the center of the road, or 50 feet from the edge, whichever is greater. Side setback would be 25 to the side and 30 feet from the rear. It was noted that due to the size of the lot, it would not help to combine it with Lot 11 to increase allowed use, as there wasn't enough acreage or road frontage.

**Madge B. stated the board would need to do a site inspection. Roger A. agreed and said a Public Hearing would also be required. Members agreed that they would meet on site at 5:30 p.m. on Tuesday, March 14<sup>th</sup>, prior to the meeting. A notice to abutters will be mailed as well.**

Nothing further was discussed.

**After-the-Fact Conditional Use Permit – Retaining Wall – Map 27, Lot(s) 11A – James Power, Applicant; Tara Gilbert Representing**

Mrs. Gilbert was in attendance, along with her husband Brad.

Roger A. asked Mrs. Gilbert to let the board know where they were with respect to the application. Mrs. Gilbert began by providing the board members with a copy of a sketch plan for the wall which included showing the location of a silt fence, where erosion control mulch would be placed, and that gravel backfill would be added behind the wall. A copy of the information provided by the DEP on how to put in a silt fence and what type of mulch would work best, was also provided.

Mrs. Gilbert stated that she spoke with engineer Geoffrey Aleva from Civil Consultants in South Berwick Maine, and he said he was unable to certify the wall because he did not design it. She said he inferred nobody else would be able to either.

Mrs. Gilbert stated that the plan she presented this evening was drawn up by reviewing the Permit by Rule guidelines, for the wall that is almost completed, the wall that is in question. She also stated that Cameron Adams of the MDEP suggested the mulch mixture that should be used and he also said they could do a silt fence or hay bales for erosion control.

Mr. Gilbert said he went to the site to take measurements of the wall and it is not four feet in height but it is 46" high on the right side (facing the wall) and 40" high on the left side. He believed they could stay below the four feet which would require engineering. He stated that the wall they intended to do, a continuation of the wall, that is only three and one-half feet in height.

Mr. Gilbert stated there was rebar thru the middle of the existing timbers currently and there are also deadman into the earth. He wished that they had checked with the Town first, prior to construction but he knew the new wall was built to a much better standard than what had been there which was built 60 years prior. He said he wasn't trying to make an excuse, just stating what they had done. He also realized they would have to go by the Permit by Rule guidelines to continue.

Mrs. Gilbert stated that from the DEP standpoint she understood the DEP permit was good for three years and if they stayed below four feet in height, they would not need an engineered plan. She asked the board if this was correct? Roger A. said, "True, but if you start a new wall three years from now, you will need a new permit." Mrs. Gilbert said, "Yes." Roger stated that the Planning Board permit was only good for two years from the date of approval.

Mr. Gilbert said the wall is under four feet in height. Roger A. asked what the rod size was that they put thru the wall and Mr. Gilbert stated he believed it was 3/4 inch. He said he was not totally sure but his brother-in-law is a builder and he was the one that determined the size necessary. Mr. Gilbert stated that there was also a bracket tied to each one of the ties, attached to the wall on each end. He referred the board to the pictures they received.

Madge B. asked what it was made out of? Roger A. said it was 6" X 6" pressure treated wood. Roger asked if there were tie-backs coming back. Mr. Gilbert said there were, Steve F. agreed and stated they could be seen in the pictures provided. Mr. Gilbert came up to the board with the pictures pointing out what he was talking about.

Roger A. asked how high the water rose in the summer? Mr. Gilbert stated that typically to the second board. He added that it was a no wake zone but it didn't really slow people down.

Mrs. Gilbert asked going forward what needs to happen? CEO McDonough asked what the highest point was of the wall? Mr. Gilbert stated 46 inches. CEO McDonough asked if they were requesting to do more than what they have already done? Mrs. Gilbert was not sure, if they stay within the four foot height, so they can do it themselves, then perhaps. She said they had permission to extend the wall from the DEP but she wasn't sure if they could get approval to do more from the Planning Board. She also said she had to speak further with her father to see what his opinion was.

Mr. Gilbert said they could not do anything further until fall due to the water coming up. Mrs. Gilbert said if it is cost effective they may move forward. They would like to replace other parts of the wall. She said if they had approval to do more they might be able to do it this fall.

Steve F. and Roger A. noted that at present the application was to do the 55 feet, but the application did ask for an additional 125 feet. Mrs. Gilbert said there was still a question as to how much her father wanted to do and it was dependent in part on whether or not they could do it themselves. Roger asked if they wanted to do a total of 180 feet, then stop? Mrs. Gilbert said that she believed so.

Roger A. asked if they would have a time frame for completion? Mrs. Gilbert asked if they wanted to do 180 feet in two years, but then decided they didn't want to do it all, could they do that? Roger A. said yes, but



once you begin the project, the silt fence has to stay in place until the project is completed and the vegetation is established. The fence has to stay in place the entire time.

Mrs. Gilbert said it sounded like they can't do it piecemeal. Roger said that she was correct, it has to be monitored. Mrs. Gilbert thought it sounded like it was best to get approval for the 55 feet and then come back for additional wall. Roger A. said yes, because whatever you are approved for, the silt fence has to stay in place for that period of time. CEO McDonough noted that silt fence has to be between the wall and the water, therefore, it will not work when the water is up to the wall, so the silt fence will not be able to be maintained.

Roland L. asked if this activity had to be done by someone with the proper certification? CEO McDonough stated that the homeowner can do the work themselves.

Mrs. Gilbert asked about the diagram regarding the silt fence. It stated they had to go back 25 feet, was this 25 feet from the actual construction? Roger A. said, no, this was 25 feet in length along the project. She asked how far back did it have to go? Roger said that they have to ensure no erosion will go into the lake but they also needed enough room to have a working area. Roger said that if there is a significant storm event and you only have 25 feet of silt fence, erosion will come around the end of it, so you need to be sure there is enough put into place to keep all silt from going into the lake. Roger said this type of project is always a fall event and there is only a minimum amount of time to do it. Mrs. Gilbert said based on this, they probably shouldn't propose the entire 180 feet. Roger said if they would have it completed in November of 2017 they could propose it. Mrs. Gilbert was not sure. At present 30 feet of the 55 feet proposed is finished.

Mr. Gilbert asked if they should only get the permit for the 55 feet and then come back before the board for additional work. Madge B. agreed that this would make more sense.

Mrs. Gilbert said Civil Consultants spoke about gravel behind the wall and Cameron Adams also spoke about using gravel and said whatever Civil Consultants said, they would likely agree with. She noted there wasn't much space between the earth and the wall. Roger A. said crushed stone works well. CEO McDonough noted they would need filter fabric behind the wall as well. Mrs. Gilbert asked how this would be placed? CEO McDonough stated that when they came to his office for the building permit he would explain how it should be placed.

CEO McDonough asked if there were any trees being disturbed? Mrs. Gilbert said there were no trees disturbed. Mr. Gilbert agreed and noted that Mr. Powers does not want any trees disturbed and said he was very environmentally inclined. Mrs. Gilbert said they are only replacing what fell down with respect to the wall.

Madge B. asked if the board was going to look at the wall and then vote on it? Madge said the board hasn't talked about mulch or replanting. The board needs a date of completion for the mulch to be placed. She asked if the wall would be backfilled and the mulch placed by November 1<sup>st</sup>? Mr. Gilbert said they wanted to begin as soon possible to have the backfill done by Memorial Day for the 35 feet. Madge asked if they would do the rest in the fall? Both applicants said, yes. Mrs. Gilbert said the rest of the 55 feet.

Roger A. said at present there is no silt fence up. Roger asked if any of the wall was in the water yet? Mr. Gilbert said, not as of this evening. Mrs. Gilbert said there was no beach in front on the wall in the summer time.

Board members discussed doing a site inspection as soon as the snow melted, so they could see the site and it was easier to get to the site. Madge B. said based on this, the board might want to wait until April to reschedule the final meeting. Roger A. thought this might be a good idea.

CEO McDonough asked if the board knew when the water would come back up? Roland L. did not know when they would change the water level. He believed the dam was closed at this time. CEO McDonough was asking because he was concerned about whether or not a silt fence could be put up.

Roger A. said the first thing that should be done at this time was to get the wall backfilled as soon as possible, to support what has been done. Steve F. noted it would do no good to put up a silt fence, as it would be under water. Madge B. didn't believe there would be any additional construction this spring. CEO McDonough said it sounded like there could be no silt fence put up between the water and the wall, so no additional construction can take place. Mr. Gilbert said the only thing they would be doing was putting gravel behind the existing wall, whatever the board wants to have placed there. Madge said, "Right".

Mrs. Gilbert said that what the board was stating was they would be only fixing what is there now. CEO McDonough said that is correct, no further construction will take place until fall when a silt fence can be put up between the water and the wall.

Madge B. wasn't sure when the board needed to see it but they would have to before fall. Steve F. said his opinion was that what is done is done except the backfill, so what the board would be looking at is the continuation. He said the board also could look at what has been done before issuing the after-the-fact permit for the construction. Madge said if the board is giving a permit to continue then the board definitely has to see the site. Steve asked if the board can do both what has been done and what they want to do in the future? Madge was not sure. Steve wondered if it should be two applications? Roger A. said he would have no issue with looking at both, what is there now and the continuation now. Madge did not want to issue a permit without a site inspection. She added that they will not backfill until the snow is gone, so he felt the board had time to visit the site before making a final decision. Roger agreed since they were not looking at completion until Memorial Day weekend.

Madge said if the application is scheduled for the first meeting in April, then the permit can be issued after the board has visited the site. She said she didn't want to issue the permit for the remaining 25 feet without seeing the site. Madge said the board can schedule a site visit by the first meeting in April.

Mrs. Gilbert wanted to know if the board would rather they put the backfill in before they visit the site, because if the snow leaves they may be able to do that. Along with the erosion control mix. Steve F. asked if the board could see the tie-backs now? Mrs. Gilbert said, yes. Mr. Gilbert said there is a gap between the wall and the soil.

Steve F. said he would like to see the applications separated. At this time, deal with what has taken place and then a new one for additional wall replacement. Madge B. agreed. Barbara F. asked if they were looking at the 30 feet only at this time or the 55 feet? Steve said they were looking at the after-the-fact permit, therefore the rest of the wall should be on a separate permit in his opinion. Madge agreed. Roger A. said the board could vote on the after-the-fact and then an amendment to the permit for additional length of wall.

Madge B. moved for approval of the after-the-fact Conditional Use Permit for the 30 feet of wall that has been replaced. She noted that it probably isn't exactly 30 feet.

Roger A. stated a condition of approval would be that the wall would be backfilled by June 15, 2017. Madge added, “Along with the mulch”.

Roland L. said that before the vote is taken, he wanted members to know that he was opposed to a vote until the board has a chance to see what has been done. He was not saying they were misrepresenting themselves but they cannot take immediate action due to the weather conditions, so he felt a responsibility to see the site. He said the board can wait until it is easier to access the site. Madge B. suggested that Roland keep an eye on the location and when he feels the board can see what the board needs to see, let Barbara F. know. Roland said he will send an email to all the members letting them know when it can be accessed.

Mrs. Gilbert asked if they had to be present for the final vote? Madge B. stated they did not have to be, and Roger A. agreed. Steve F. asked CEO McDonough if he would inspect the backfill of this wall, just as he would a foundation? CEO McDonough stated, “Yes”. He said in reality they will have to dig some dirt that has washed in behind the wall, the width of a shovel, and then lay fabric on the earth and fill the area with stone. Madge B. said that would be done with the building permit which is why she was not going on about that.

**Madge B. withdrew her motion for approval, and asked that it be put onto the agenda after the board is able to see the site. Roger A. said it will be tabled until the board can see the site and it can be put back onto the agenda.**

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 7:30 p.m.**

***The next meeting will be held Tuesday, March 14, 2017 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 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 1<sup>st</sup> 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](mailto:planningboard@shapleigh.net)

# **SHAPLEIGH PLANNING BOARD**

## **MINUTES**

**Tuesday, March 14, 2017**

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

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### **Public Hearing began at 6:10 p.m.**

#### **Amendment to a Conditional Use Permit – Storage Building to Real Estate Office – Map 19, Lot 11 (55 Emery Mills Road) – Roger Berube, Owner**

Mr. Roger Berube was in attendance along with Scott Sheppard of RE/MAX Realty One.

*Board members did a site inspection this evening prior to the public hearing.*

Roger A. asked Mr. Berube and Mr. Sheppard to state what it was they intended to do. Mr. Sheppard noted that members had been to the site. He stated that the structure was 40' x 40' in size and the intention was to turn the front half of the building into office space. He said there would be 2 rooms, a bathroom and a conference area.

Roger A. asked what the hours of operation would be? Mr. Sheppard stated they would be standards hours, 9:00 a.m. to 5:00 p.m. during the week and 10:00 a.m. to 2:00 p.m. on the weekend. He said the office would be seasonal and winter hours may have less hours. Mr. Sheppard stated that these would be the advertised hours of operation, but noted that employees may stay later depending on client schedules.

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

The public hearing closed at 6:12 p.m.

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

**The minutes from Tuesday February 28, 2017 were accepted as read.**

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#### **Amendment to a Conditional Use Permit – Storage Building to Real Estate Office – Map 19, Lot 11 (55 Emery Mills Road) – Roger Berube, Owner**

Mr. Roger Berube was in attendance along with Scott Sheppard of RE/MAX Realty One.

Prior to the first meeting, board members received a copy of Shapleigh Tax Map 19, with Lot 11 highlighted; an aerial view of the property which depicted the existing structure to be used, denoting that the building is 40' x 40' in size with a 12' x 8' bump-out, and the building is located 110 feet± from State Rte. 109, 55 feet± from Primrose Lane and 55 feet± from the westerly sideline. Also received were additional pictures of the structure; an interior office sketch for the proposed office, a copy of the assessor's information from the O'Donnell website and a letter from Mr. Berube giving further information about the application which read

in part as follows:

The purpose of this letter is to provide you with further details and clarification to the application for an amendment to a conditional use permit dated May 1, 2009 for Roger Berube on this lot M19/L11. The existing conditional use permit allows for the applicant to display a sign for his business 'Roger Berube Builders'. This sign is located along the roadside in front of the vacant storage building at 55 Emery Mills Road (see attached pictures and map sheets for further clarification). The existing vacant building along the roadside was constructed and permitted for storage and has not been used since construction.

We are proposing that the vacant building be utilized as professional office space for real estate services and that the existing sign for Roger Berube Builders be replaced with a sign for RE/MAX Realty One. We have spoken with the Codes Enforcement Officer regarding this proposal and his suggestion was to submit the application for amending the existing conditional use permit. With this change the existing vacant storage space will be outfitted per code for professional office use as a real estate office, no other business use will exist on site. No new structures are to be constructed, just internal renovation of an existing permitted building.

Roger A. asked the applicant to explain what it was that he wanted to do on site. Mr. Berube began by stating he was with Scott Sheppard and Scott wanted to use part of the existing structure. Mr. Berube stated that the structure was 40' x 40' in size and Mr. Sheppard wanted to rent 20' x 40' for a real estate office.

During a meeting in February, Mr. Sheppard stated that he had spoken with CEO McDonough and determined the easiest thing to do was to amend the existing Conditional Use Permit to change the use from storage to a real estate business, because there was not enough property to hold additional businesses. Under Zoning Ordinance §105-19.A 'Notes to Table on Dimensional Requirements', there needs to be 80,000 square feet and 200 feet of road frontage per principal structure OR use.

Roger A. asked the applicant to once again state what the intention was for the application. Mr. Sheppard began by stating that the building in front of Mr. Berube's house, the 40' x 40' building, they would be separating the building and only using the front half of the building for a real estate office. He said there would be approximately 1000 square feet being used, 2 rooms and a bathroom. He said they would be operating under standard business hours, 9:00 a.m. to 5:00 p.m., Monday thru Friday and 10:00 a.m. to 2:00 p.m. on the weekend.

Roger A. noted that the under §105-17 'Land uses' this is an allowed use because the structure being used is located in the General Purpose District (Note: Part of the lot is in the Shoreland District). Under §105-18 'Dimensional Requirements' the minimum land area required per principal building is 80,000 square feet each and this lot has two principal structures on it or uses, so they exceed the minimum lot size requirement. However, because the two uses have been grandfathered, the structure can continue to be used for a business, as long as all other requirements can be met.

Roger A. also read the definition of a nonconforming structure under §105-4 'Nonconformance' and it read as follows: A structure that does not meet any one or more of the following dimensional requirements: setback, 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.

Roger A. asked if there were any additional questions, since the public hearing and there were none.

**Roger A. began review of the Basic Performance Standards for the application.**

**105-21 – Traffic. *Roger A. stated access to the site was safe, site distances exceeded the minimum required which is 245 feet, there is greater than 245 feet going both north & south.***

- 105-22 – Noise. *There will be no noise generated from the activity.*
- 105-23 – Dust, fumes, vapors and gases. *There is no dust, fumes, vapors or gases, generated by this activity.*
- 105-24 – Odors. N/A - *There will be no obnoxious odors generated.*
- 105-25 – Glare. *There shall be no additional lighting added to the structure.*
- 105-26 – Stormwater runoff. *There are no changes being made to the property that would cause a stormwater problem. Stormwater runoff mitigation is in existence at this time, and there are no changes being made to the site.*
- 105-27 – Erosion control. *There are no changes being made to the existing property that would cause an erosion problem.*
- 105-28 – Setbacks and screening. *Existing vegetation will remain, no changes are being made on site.*
- 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 generated by this activity to affect water quality.*
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *No changes are being made to the existing parking area, there is no outside storage associated with this activity.*
- 105-32 – Relation of proposed building to the environment. *The building is in existence and conforms well with others in the surrounding area.*
- 105-33 – Refuse disposal. *Minimal refuse generated by this activity. There is a dumpster on site that can be used by the real estate office.*
- 105-34 – Access Control to Route 109. *The existing common driveway was previously approved, there are no curb cut changes being made.*

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

**Roger A. then reviewed §105-73.G ‘Standards applicable to conditional uses’ and made findings of fact.**

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

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. ***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 not applicable.***
- 3) The use is consistent with the Comprehensive Plan. ***Roger A. stated the Comprehensive Plan wants business located along Route 109.***
- 4) Traffic access to the site is safe. ***Roger A. stated, it is, the minimum site distances are exceeded in this location.***
- 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. ***Roger A. stated that here is an existing State approved septic system on site and refuse will be put into the existing dumpster.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***Roger A. stated that there is 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 existing stormwater drainage system on site will not be changed and is working at this time.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***Roger A. stated there are no changes being made on site to create an erosion or sedimentation issue.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***Roger A. stated that there is.***
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. ***Roger A. stated everything is in existence, no changes are being made. There are no detrimental features.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***Roger A. stated they shall.***

**Roger A. stated that all signage would be through the Code Enforcement Office. The conditions of approval are as follows:**

- 1) The hours of operation shall be 9:00 a.m. thru 5:00 p.m. Monday thru Friday, 10:00 a.m. thru 2:00 p.m. Saturday and Sunday.**
- 2) The signage will be for the real estate office only.**
- 3) There shall be no other business conducted on site other than for real estate, per the office plans presented.**
- 4) Signage and a building permit for renovations shall be permitted through the Code Enforcement Office.**

Roger A. read a letter received by the Planning Board prior to this evenings meeting, it read in part as follows:

As an abutter to the property located at Tax Map 19, Lot 11 (55 Emery Mills Road), we support the application for an Amendment to a Conditional Use Permit to change the existing use from a storage building to a real estate office, and change the signage from Roger Berube Builders to RE/MAX Reality One.

Jonathan & Lesa Mapes

**Maggie M. made a motion to approve the Amendment to the Conditional Use Permit for a change of use from displaying a sign for Roger Berube Builders and business storage, to office space for real estate services and signage for the real estate office, to be located on Map 19, Lot 11, per the plans provided with the above stated four (4) conditions. Ann H. seconded the motion. All members were in favor. By a vote of 4 – 0, the motion passed unanimously.**

Nothing further was discussed.

### **The Findings of Facts**

1. The owner of Shapleigh Tax Map 19, Lot 11 (55 Emery Mills Road), is Roger Berube, P.O. Box 14, Shapleigh, Maine.

2. The property itself is located both in the General Purpose and Shoreland District; the structure to be used for the business is located in the General Purpose District and according to the assessor the property contains 2.00 acres.
3. The applicant is before the board for an Amendment to a Conditional Use Permit for a change of use from storage for Roger Berube Builders and signage for said business, to office space for real estate services and signage for the real estate office.
4. Received was a copy of the Town Tax Map 19, highlighting Lot 11; an aerial view of the lot noting the structure to be used, the fact that parking and curb cuts are existing on site, the building is 40' x 40' in size with a 12' x 8' bump-out on the front, and the building is 110 feet± from Rte. 109, 55 feet± from Primrose Lane and 55 feet± from the westerly sideline. Also received were pictures of the existing building, the proposed office layout, and a copy of the assessing information from the John E. O'Donnell website.
5. Received was a letter to the Planning Board from Roger Berube which clarified that the reason for the application was to vacate the existing building currently being used by Roger Berube Builders, as well as remove the Sign for Roger Berube Builders and utilize the structure for professional office space to be used for real estate services and a sign for RE/MAX Realty One.
6. The board reviewed Zoning Ordinance §105-19, 'Notes to Table on Dimensional Requirements' and concurred that due to the limited lot size, only one use can be allowed at this location. Presently, there are two grandfathered uses (home and business storage), therefore, this change of use is allowed.
7. The board reviewed the Basic Performance Standards and the board concurred the application met all the standards imposed.
8. 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.
9. A notice was mailed to all abutters within 500 feet of the property on March 1, 2017. Meetings were held on February 28, 2017 and March 14, 2017. A public hearing was held on March 14, 2017.
10. The Planning Board unanimously agreed to approve the Amendment to a Conditional Use Permit for a change of use from displaying a sign for Roger Berube Builders and business storage, to office space for real estate services and signage for the real estate office, to be located on Map 19, Lot 11, per the plans provided with conditions.
11. **The conditions of approval are:**
  - 1) **The hours of operation shall be 9:00 a.m. thru 5:00 p.m. Monday thru Friday, 10:00 a.m. thru 2:00 p.m. Saturday and Sunday.**
  - 2) **The signage will be for the real estate office only.**
  - 3) **There shall be no other business conducted on site other than for real estate, per the office plans presented.**
  - 4) **Signage and a building permit for renovations shall be permitted through the Code Enforcement Office.**



**Motion:**

After careful consideration and a review of all material presented to the Board, including the review of the Zoning Ordinance 'Basic Performance Standards', Zoning Ordinance, §105-19, 'Notes to Table on Dimensional Requirements' and §105-73, Section G, 'Standards applicable to conditional uses' a motion was made on Tuesday, March 14, 2017, to approve the Amendment to a Conditional Use Permit for a change of use from displaying a sign for Roger Berube Builders and business storage to professional office space for real estate services and signage for the real estate office, to be located on Map 19, Lot 11, per the plans provided and with four conditions.

**Vote:**

By a unanimous vote of 4 – 0, the motion to approve the Amendment to a Conditional Use Permit for a change of use from displaying a sign for Roger Berube Builders and business storage, to office space for real estate services and signage for the real estate office, to be located on Map 19, Lot 11, per the plans provided with four conditions, was accepted.

**Decision:**

**The Amendment to a Conditional Use Permit for a change of use from displaying a sign for Roger Berube Builders and business storage, to office space for real estate services and signage for the real estate office, to be located on Map 19, Lot 11, per the plans provided with four conditions was approved.**

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**Best Possible Location – Replace Foundation & Septic – Map 17, Lot 26 (108 30<sup>th</sup> Street) – Roland & Carol Cote, Applicants**

Mr. Cote was present for the review of the application, along with William Plante, contractor on the project.

At the initial review meeting for this application, provided was 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, 30<sup>th</sup> 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.*

This evening, Mr. Cote provided board members with a new replanting plan, showing the trees to be cut and where the new ones will go; a letter from Springvale Nurseries speaking about the revegetation plan, and the distances from the existing structure to the side lot lines, as requested at the previous meeting.

Roger read the letter from Springvale Nurseries in part as follows:

The existing camp is to be moved back from the lake and the house is to be re-orientated slightly with respect to the lake front. The distance moved will be approximately three and one-half feet on one corner and approximately eight and one-half feet on the other corner, to accommodate the foundation work and install a new septic and leach bed. Sixteen trees must be removed, 13 hemlocks and 3 birch are being removed, ranking in size from 10 inches in diameter to 14 inch diameter. Replacement trees will be planted at a similar distance from the shoreline as those being removed. Since more than six trees are being removed, three different species are required for replanting. The proposed plan shows these species as 2 red maple, 5 white pine and 9 hemlock. The trees will be approximately six feet tall. *Roger noted that the trees have to be greater than six feet tall.* Additionally 8 to 12 cubic yards of erosion control mulch will be spread over the disturbed area. Silt fencing shall be utilized along the shoreline while construction and planting are being done.

Mr. Cote noted that at the last meeting the board was concerned with the revegetation plan which he has given the board this evening, as well as the points from the foundation to the lot lines, which the board also has a copy of now. He said they measured all four corners, instead of just the two the board requested.

Mr. Cote stated that CEO McDonough was concerned about the rock wall, which he did not consider a retaining wall, there was concern that the corner would be jeopardized and ruined during construction. Mr. Plante stated there was a wall and also what he considered a pile of rocks laying on the ground. He said the rocks laying on the ground would definitely get disturbed. Roger thought it was on the left side looking at the lake. Mr. Plante agreed. Roger believed the other wall was in good shape. Mr. Plante thought the other wall would be ok. Mr. Cote noted that during the last wind storm the roots moved the rocks that are on the ground. Roger A. didn't think the rocks were really a wall.

Mr. Plante stated that the wall that is laying down will get disturbed and covered over. He said the standing wall should stay in place. CEO McDonough asked about the rocks that were laying down, what would be done with them? Mr. Plante said they would get buried and erosion control mulch would be placed over that. He was certain that part of the wall would be covered. Roger thought the rocks on the ground were probably laid down to prevent erosion. Ann H. said, 'Then the rocks aren't really stacked, they are laying on the ground'. Roger said right, if they are stacked they are just leaning on each other. Ann didn't think it was really a wall. CEO McDonough said that is fine, he just wanted the area addressed. It sounds like the area will be sloped. Mr. Plante said the area would have dirt over it to have a place for the tracks to sit, then when done, it will be pulled back and covered with stump grindings.

Roland L. asked about the trees to be cut toward the road, would those stumps be removed. Mr. Plante said, yes. He said from the finished grade of the camp to the leach bed, he felt it needed to be sloped and noted that the elevation of the leach bed would dictate everything. He said the lot was very small.

Mr. Harris, his family had an abutting lot, was shown the plan provided.

Roger A. reviewed §105-4.D(3) 'Foundations'. Mr. Plante asked about the height of the foundation, he thought it would be best if the back wall was nine feet instead of eight feet due to the lay of the land.

CEO McDonough stated that based on the new shoreland rules the height of the camp cannot be raised. The elevation cannot be any taller than it is now. He was not concerned with whether or not they poured an eight or nine foot wall. The height of the structure cannot change. He noted there are no longer volume calculations but there are height limitations, so he will be limited with respect to height and at his location it would be 20 feet or no higher than existing.

Mr. Plante asked if the leachfield could be lowered? CEO McDonough had no issue with that if it was designed. Mr. Plante didn't shoot grades yet, but he would like to cut the slope in the back if possible.

CEO McDonough and the board members were concerned with the proposed location of several of the new trees, they should be no further away from the water than they are today and four of the replacement trees were further from the water. Mr. Cote had no issue with moving them to the front of the camp, so he moved four tree locations on the plan.

Roger A. read §105-4.D(7) 'Relocation'. Roger noted that a new septic system would be going in. Mr. Plante asked about the sill height, if it had to stay the same? CEO McDonough stated that it could go lower, but no higher. CEO McDonough also said if they are going to create a walk-out basement, the board needs to know what is going to happen between the walkout and the water. How much of an area will be disturbed and what will be done with respect to erosion control and revegetation. He stated that it has to be on the plan. Mr. Plante said that he would use stump grindings.

Mr. Plante stated that he would go to the site and shoot elevations and then decide exactly how to proceed. The board gave the vegetation plan back to Mr. Cote, so when Mr. Plante and he decide what will take place between the camp and the water, he can put it on the plan. Mr. Cote asked if he had to have Springvale Nursery do it and the board said, no, he could do it once they come up with a plan.

**The board agreed to table the application until further information can be provided. A new vegetation plan is required, along with exactly what will take place between the house and the water. How much area will be disturbed and how it will be taken care of to prevent erosion.**

Mr. Plante stated he would contact CEO McDonough when they go out to the site, so he can go with them to be certain what they plan to do will meet the criteria in the zoning ordinance.

Nothing further was discussed.

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**Amendment to a Subdivision – Change Fire Protection Condition for Lot – Map 10, Lot 2-2-2 (11 White Pine Lane) – Colleen Manley & Ivana Indruh, Applicants**

Ms. Manley and Ms. Indruh were in attendance for review of the application.

Along with the application, board members received a copy of the Warranty Deed showing proof of ownership, dated 6/9/14, registered at York County Registry of Deeds in Book 16832, Pages 600-601; a copy of the Declaration of Protective Covenants Affecting Property of Northwoods Land Company of Maine, LLC Along Town Farm Road in the Town of Shapleigh Country of York and State of Maine, registered at YCRD on 12/22/2004 in Book 14328, Pages 874-876; and a copy of Subdivision Plan, GREAT HOLLOW ACRES, LOT #2, Town Farm Road, Shapleigh, Maine" prepared by Development Services, Inc. dated May 20, 2005 and recorded in the York County Registry of Deeds in Plan Book 307, Page 15.

Also received was a letter from Fire Chief Duane Romano, dated March 8, 2017 and read in part as follows:

*Re: Application for Amendment to Subdivision ("Application") respecting the property commonly known as 11 White Pine Lane, Shapleigh, being the property shown as Lot 2 on plan entitled "Subdivision Plan, GREAT HOLLOW ACRES, LOT #2, Town Farm Road, Shapleigh, Maine" prepared by Development Services, Inc. dated May 20, 2005 and recorded in the York County Registry of Deeds in Plan Book 307, Page 15 (the "Plan")*

*I am writing in support of the above-referenced Application requesting waiver of the sprinkler requirement for Lot 2 as described in Note 10 of the Plan: "Sprinkler systems compliant with the National Fire Protection Association standards shall be installed in all dwelling units constructed on Lots 1-4."*

*To the best of my belief, the existing cistern and other existing fire suppression systems located in the subdivision are sufficient to respond to a fire on Lot 2, and I am of the opinion that a sprinkler system need not be installed in the dwelling located on Lot 2. Shapleigh Fire Department would use the existing cistern in the subdivision as a mode of first attack should a fire break out on Lot 2.*

Roger A. started the review by stating the applicants wanted to make an amendment to the subdivision plan. Ms. Indruh stated there was a letter to the board attached to the application. Roger read the letter from the applicants to the board, which read in part as follows:

*The purpose of this Application is to request a minor amendment to Plan Note 10 on plan entitled "Subdivision Plan, GREAT HOLLOW ACRES, LOT #2, Town Farm Road, Shapleigh, Maine" prepared by Development Services, Inc., dated May 20, 2005 and recorded in the York County Registry of Deeds in Plan Book 307, Page 15 (the "Plan"), a copy of which is enclosed with this Application. Plan Note 10 currently provides that "Sprinkler systems compliant with the National Fire Protection Association standards shall be installed in all dwelling units constructed on Lots 1-4." We own Lot 2 as shown on the Plan (Tax Map 10, Lot 2-2-2).*

*No sprinkler system was installed in the dwelling unit located on Lot 2 when it was constructed. We understand that the Town must identify a method of fire suppression for each dwelling unit in the subdivision. The Town Fire Chief has indicated that the existing cistern and other fire suppression systems located in the subdivision are sufficient to respond to a fire on Lot 2 and that a sprinkler system need not be installed in the dwelling unit. We have included a letter from the Chief in support of our Application in our materials and respectfully request that the Plan be amended to exempt Lot 2 from the sprinkler requirement for the reasons stated in the Chief's letter. As the subdivision and Plan will remain the same in all other respects, we propose to record the written order from the Town in lieu of recording a revised plan.*

*We became aware of the sprinkler issue when we went under contract to sell our home on Lot 2. Understandably, the buyer is uncomfortable moving forward with the purchase until this issue has been resolved. We are hopeful that we can reach resolution prior to our closing on April 1.*

Roger A. noted that the cistern was put in by Mr. Neito. CEO McDonough stated, correct. He added that both the State Fire Marshall and Fire Chief Duane Romano believe the cistern is adequate fire suppression for all four houses.

Ann H. asked if the other three houses had a sprinkler system and this one didn't? CEO McDonough stated none of the houses currently have a sprinkler system in them. He said the first house that went into the

subdivision was built and given a Certificate of Occupancy without a sprinkler system. The happened four years after the approval for the subdivision and he didn't realize a sprinkler system was required, there was nothing to flag the requirement at that time, and he missed it. He said it was the previous owner that received the Certificate of Occupancy, not the current owners. He also noted there are two other houses under construction which do not have occupancy permits yet and then the fourth was Mr. Neito's house, which has the cistern.

Ann H. asked if the other two being built will have to have a sprinkler system? CEO McDonough stated he didn't know, it was up to the board. Roger A. thought at this time the answer is yes, because the cistern was approved for Mr. Neito's lot. CEO McDonough noted the cistern did not belong to anyone, the Town has an easement for it. Mr. Leck was present and he stated he was one of the other houses being built. Ann asked if someone can prevent or block someone from having access to the cistern? CEO McDonough stated no, the Town has access to it. Maggie M. stated that she believed at the time the cistern was approved it could cover more than one home. Roger A. agreed, but no one wanted to help pay for the cistern, so that is why it was designated for Mr. Neito's lot. CEO McDonough noted again that the Fire Chief felt the cistern would cover the entire subdivision so if you took that requirement off the subdivision, the Fire Department would not have an issue with it. Roland L. asked if letter from the Fire Chief only covered the applicant's lot? CEO McDonough did not know, he hadn't read the letter. Ms. Indruh stated, yes. Mr. Leck stated he spoke with Fire Chief Romano and he told him the letter would cover the whole subdivision. Barbara F. noted that she told the applicant to only deal with their lot, as that is what the application was for, their specific lot. They were not before the board to represent other lots. The board thought that made sense.

Ann H. asked if they could address the other systems? Barbara F. stated that it was up to the board. CEO McDonough noted Mr. Leck was present and probably would like the board to address all the lots. Mr. Leck agreed he would like the board to review the other two lots in the subdivision, as well as the applicants.

Roger A. stated that it is important for people buying a property to read the deed to see what they can and cannot do and what is required. CEO McDonough was not sure that it was specifically in the deed, it was a note on the subdivision plan. Barbara F. hoped that one day the Town maps would show the subdivision plans in addition to the lots, so requirements would be seen when people were reviewing the purchase of a property and it would be flagged more easily by the Town. She has seen this overlay in other towns.

Ms. Indruh stated that they missed it, the Title Insurance missed it, and it appears to be a miss all around. She added that she was not pointing out blame, they were just trying to find a resolution.

Roger A. wasn't happy about the fact that one lot bared the burden of the cost to put in the cistern and now other lots will have access to it. He also wasn't happy that whomever originally sold the land didn't tell those purchasing it that sprinklers were a requirement. Ms. Indruh stated that had she known about this, she would have bought into the cistern but they purchased the home after the cistern went in.

Roger A. stated that he had no issue with removing Note #10 requiring the sprinkler systems for this lot. He said that he would also have no issue allowing it for the entire subdivision because there were only four lots. Ann H. asked if it could come back against the Town if the board removed it from the subdivision requirements. Roger said, no. Barbara F. stated that when the Town reviews a subdivision, the board speaks with or has the developer speak with the Fire Chief for their opinion for fire suppression. The board lets the expertise of someone who fights the fires voice the opinion. So if the Fire Chief believes the cistern is adequate, that is advice the board would typically use. She added that if this was a new subdivision, the board would be relying on the Fire Chief for what type of fire suppression was adequate or what he would prefer. Roger A. agreed and read Fire Chief Romano's letters to the board (see above).

After review of Fire Chief Romano's letter, and agreeing the board defers to the Fire Chief with respect to fire suppression, members agreed that allowing the use of the cistern for the entire subdivision would be adequate protection for the four lots.

**Roland L. made the motion to approve the application to change fire suppression on Lot 2-2-2, as well as the entire four lot subdivision, known as Great Hollow Acres, Lot #2, from in-home sprinkler systems to the use of the cistern on Lot 2-2-3. Ann H. 2<sup>nd</sup> the motion. All members were in favor. By a vote of 4-0, the motion passed unanimously.**

***Roger A. told the applicants they would need to have a copy of the approval recorded at the York County Registry of Deeds and a copy showing it was recorded would need to be returned to the Planning Board within 90 days for the approval to be valid. Otherwise the approval would become null and void.***

Nothing further was discussed.

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The Findings of Facts

1. The owners of Shapleigh Tax Map 10, Lot 2-2-2 (11 White Pine Lane), are Colleen Manley & Ivana Indruh of 8 Tiffany Court, East Hampton, CT 06424. The applicants supplied a legal interest in the property by Warranty Deed, recorded at the York Country Registry of Deeds June 9, 2014, Plan Book 16832, Pages 600 – 601.
2. The subject property is part of Great Hollow Acres Lot #2 Subdivision and is known on the subdivision plan as Lot #2, is known on Shapleigh Tax Map 10 as Lot 2-2-2, is located in the General Purpose District and according to the Assessor contains 1.84 acres.
3. The subdivision known as Great Hollow Acres Lot #2 consists of four lots; Plan Lot #1 being 1.84 acres, Plan Lot #2 being 1.84 acres, Plan Lot #3 being 1.89 acres, Plan Lot #4 being 1.84 acres with .83 acres allocated for the road right-of-way. The plan was recorded on January 3, 2006, at York County Registry of Deed, Plan Book 307, Page 15.
4. The applicants are before the board for an Amendment to the Subdivision to change the requirement for using an in-home sprinkler system for fire suppression, to the ability to utilize the existing cistern that was approved for use on Plan Lot #3, Tax Map Lot 2-2-3, June 11, 2014 and recorded at York County Registry of Deeds on July 7, 2014, Plan Book 368, Page 24.
5. On June 11, 2014, the Planning Board voted to approve an amendment to the subdivision known as Lot #2 of Great Hollow Acres per the final plan, known as Plan Showing a Revision to Subdivision Plan Book 364 Page 44, Great Hollow Acres Lot #2, done by Dana Libby PLS 1350 of Corner Post Land Surveyors, Inc. This approval changed the fire suppression requirement from an in-home sprinkler system on Lot 2-2-3 to using the cistern to be located on Lot 2-2-3.
6. Received was a copy of the Declaration of Protective Covenants Affecting Property of Northwoods Land Company of Maine, LLC, Known as the Great Hollow Acres Subdivision along Town Farm Road in the Town of Shapleigh County of York and State of Maine. In this declaration, noted under (7) it reads as follows: 'Sprinkler Systems: Sprinkler systems compliant with the National Fire Protection Association standards shall be installed on all dwelling units constructed on Lots 1 – 4 and Remaining Land of Northwoods Land Company of Maine, LLC'.

7. Received was a copy of a letter from Town of Shapleigh Fire Chief Duane Romano which stated in part: 'To the best of my belief, the existing cistern and other existing fire suppression systems located in the subdivision are sufficient to respond to a fire on Lot 2, and I am of the opinion that a sprinkler system need not be installed in the dwelling located on Lot 2. Shapleigh Fire Department would use the existing cistern in the subdivision as a mode of first attack should a fire break out on Lot 2'.
8. On March 14, 2017, the Planning Board reviewed Chapter 89, Subdivision of Land and discussed the subdivision requirement for fire suppression and agreed that the board deferred to the Fire Chief's opinion with respect to fire suppression requirements when reviewing a subdivision and in deciding what type of suppression is required.
9. On March 14, 2017, the Planning Board concluded the remaining lots in the subdivision, the applicants Lot 2-2-2, as well as Lot 2-2-1 and Lot 2-2-4 shall no longer be required to have an in-home sprinkler system as a means of fire suppression, the existing approved cistern located on Lot 2-2-3 will be sufficient for fire protection on all four lots contained within the subdivision.

Conclusions

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

Planning Board Action

Based on the above facts and conclusions, on March 14, 2017, the Planning Board voted to approve your application for an amendment to the subdivision plan known as Great Hollow Acres Lot #2, and the Declaration of Protective Covenants Affecting Great Hollow Acres Subdivision as follows:

1. The applicant will record this Notice of Decision as documentation that the requirement for an in-home sprinkler system for fire suppression as written on Plan Specific Note #10 on the approved subdivision plan for Great Hollow Acres Lot #2, recorded at YCRD on January 3, 2006, Plan Book 307, Page 15, was approved for removal, along with Item #7 on the Declaration of Protective Covenants, recorded on December 22, 2004, Plan Book 14328, Pages 874 – 876, as the use of the existing cistern for fire suppression located on Lot 2-2-3 was deemed sufficient by Fire Chief Duane Romano, in a letter dated March 8, 2017.
2. All conditions from the original subdivision plan of Lot #2 of Great Hollow Acres, dated May 20, 2005, YCRD Book 307, Page 15, registered on January 3, 2006, referred to as Great Hollow Acres Lot #2 shall remain in effect.
3. The Findings of Facts for Lot #2 of Great Hollow Acres Subdivision, dated November 9, 2005, shall remain in effect as written and approved.
4. The allowance to fill up to 4,300 square feet of the existing wetland, approved July 9, 2013, used the exemption in its entirety per NRPA, section 480Q (17). No additional filling or impact shall take place on Lot 2-2-3 without notification to the Department of Environmental Protection.

5. This Notice of Decision shall be recorded at the York County Registry of Deeds *within ninety days* of the date that it is approved and signed by the Planning Board. Failure to record this Notice of Decision within said ninety day period shall cause this Notice of Decision to become null and void, unless an extension is granted by the Board in writing. A copy of the recorded Notice of Decision shall be given to the Planning Board Secretary for proof of recordation.
6. No changes, erasures, modification, or revisions shall be made in any final plan or Notice of Decision after approval has been given, unless the revised final plan or Notice of Decision is first submitted to the Planning Board and the Board approves any modifications.

Decision

On March 14, 2017, the Planning Board voted to approve your application for an amendment to the subdivision known as Great Hollow Acres Lot #2, registered at YCRD on January 3, 2006 in Plan Book 307, Page 15, done by Philip J. Reed PLS 1208 of Development Services Inc., Yarmouth Maine, specifically removing Item #10 of Plan Specific Notes, changing the fire suppression requirement from in-home sprinkler systems to using the existing cistern located on Map 10, Lot 2-2-3. The vote for approval was unanimous.

Other:

Roland L. wanted the board to know he had looked at Mr. Power's wall (Map 27, Lot 11A – ATF CUP for Retaining Wall). He stated that he was not certain that there were the required amount of Deadman's, nothing there was at least one lower level under water and he couldn't see beyond that. He also didn't feel the rebar was the size that was stated at the previous meeting. CEO McDonough asked if he was questioning the structural integrity of the wall because if the wall is under four feet in height, an engineered plan is not required. Roland asked if there was a requirement for how many Deadman there should be? CEO McDonough stated there was no building code requirement. Roger A. said he would be looking at the filter fabric, can it be put in along with stone. Roland said there were still rotted timbers that haven't been removed from the site, on the top side. He noted that they will need to dig behind the wall as it has filled in. CEO McDonough agreed they will need to dig out what is there to put proper drainage in, stone has to be put in all the way down to the water, along with the filter fabric.

Board members were still waiting for the snow and ice to melt before going to the site for an inspection. Roland stated he would keep an eye on the area and let them know when he feels it will be better to access the site.

Tentatively this application will be brought back up at the first Planning Board meeting in April.

Nothing further was discussed.

Growth Permits – There are growth permits available.

The Planning Board meeting ended at 7:35 p.m.

The next meeting will be held Tuesday, March 28, 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.

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, March 28, 2017

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

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

The minutes from Tuesday March 14, 2017 were accepted as read.

Best Possible Location – Replace Foundation & Septic – Map 17, Lot 26 (108 30th Street) – Roland & Carol Cote, Applicants

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

At the initial review meeting for this application, provided was 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.*

On March 14, 2017, Mr. Cote provided board members with a new replanting plan, showing the trees to be cut and where the new ones will go; a letter from Springvale Nurseries speaking about the revegetation plan, and the distances from the existing structure to the side lot lines, as requested at the previous meeting.

Roger read the letter from Springvale Nurseries in part as follows:

The existing camp is to be moved back from the lake and the house is to be re-orientated slightly with respect to the lake front. The distance moved will be approximately three and one-half feet on one

corner and approximately eight and one-half feet on the other corner, to accommodate the foundation work and install a new septic and leach bed. Sixteen trees must be removed, 13 hemlocks and 3 birch are being removed, ranking in size from 10 inches in diameter to 14 inch diameter. Replacement trees will be planted at a similar distance from the shoreline as those being removed. Since more than six trees are being removed, three different species are required for replanting. The proposed plan shows these species as 2 red maple, 5 white pine and 9 hemlock. The trees will be approximately six feet tall. *Roger noted that the trees have to be greater than six feet tall.* Additionally 8 to 12 cubic yards of erosion control mulch will be spread over the disturbed area. Silt fencing shall be utilized along the shoreline while construction and planting are being done.

On March 14, 2017 the board reviewed the information received, §105-4.D(7) 'Relocation' discussing the fact there would be a walk-out basement, which included the issue of sill height. CEO McDonough noted that if they were going to create a walk-out basement, the board needed to know what was going to happen between the walkout and the water, how much of an area would be disturbed and what would be done with respect to erosion control and revegetation. He stated that it has to be on the plan. The contractor, Mr. Plante, stated that he would go to the site and shoot elevations and then decide exactly how to proceed. The board decided to give the vegetation plan back to Mr. Cote, so when Mr. Plante and Mr. Cote decided what would take place between the camp and the water, they could put it on the plan.

Based on this, on March 14, 2017, the board agreed to table the application until further information could be provided. A new vegetation plan was required, along with exactly what would take place between the house and the water; how much area will be disturbed and how it will be taken care of to prevent erosion.

Roger A. opened tonight's meeting by asking Mr. Cote to tell the board what information he had this evening. Mr. Cote began by stating that CEO McDonough and Contractor William Plante met on site to look at the camp and the location. He said, "Billy (Mr. Plante) lasered the sill of the camp and referenced a nail into a tree for the height that he has to go down to dig for the foundation, and the retaining wall is not going to get jeopardized because we don't have to go any lower with the retaining wall. So it is not going to get dug up." He also noted that on the right hand corner, since nothing will get jeopardized there, he limited the tree cutting from the original 16 to 13 having to be cut. He provided the board with a new revegetation plan with respect to the trees. Five of the trees to be removed would be closer to the water than the existing trees are now. The existing and replacement trees were shown on the plan. The type of trees were also listed on the plan, which included 5 *Pinus Strobus* (white pine), 6 *Tsuga Canadensis* (hemlock) and 2 *Acer Rebrum* (red maple).

Mrs. Harris, whose parents owned the neighboring property, stated she had gone to the site and there were 15 trees marked for removal. She asked if that had changed? Mr. Cote said, "Yes, today. Two were unmarked."

Barbara F. noted that at the last meeting the board gave Mr. Cote back all his information, which included the plan showing the side setbacks for the camp. She noticed that Mr. Cote hadn't returned the plan this evening and the board needed a copy for the file and she needed the measurements for the Findings of Facts of the approval. Mr. Cote stated he would email her a copy as soon as he got home.

Mr. Cote stated that CEO McDonough, after the site visit, appeared to be ok with what was going to take place. CEO McDonough stated that based on the location of the existing four foot wall, the elevation is perfect for what they want to do. They will not have to keep excavating toward the lake to get the results they need for the walkout. Roger A. noted that that was one of the reasons the board asked them to move the camp back slightly to preserve the four foot wall.

Roland L. stated he had a chance to go to the site and he believed everything presented to the board appeared to be as depicted on the plan and as they had been told.

Mrs. Harris said she was disappointed she wasn't notified when they were going to the site. She said Mr. Harris had asked to be notified at the last meeting. Mr. Cote said he didn't know when they were going, the decision was made by Mr. Plante at the last minute. Mr. Cote asked if Mr. Harris asked Mr. Plante to call him. Mrs. Harris believed they did discuss that at the meeting but noted she was not present at the meeting. Ann H. didn't remember hearing it. CEO McDonough did not recall either. Mr. Cote thought perhaps they talked outside? Mrs. Harris said Mr. Harris said it was during the meeting. Barbara F. stated she didn't hear it but at times more than one conversation is going on at the same time.

Roger A. reviewed Zoning Ordinance §105-4, 'Nonconformance', specifically § 105-4.D(3) 'Foundations' and § 105-4.D(7) 'Relocation'. Roger noted that a State approved septic system shall be going in and the board did receive a replanting schedule for the trees to be removed. The tree plan meets the requirements in the ordinance. Roger also noted that the approved plan 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.

Mrs. Harris asked if the board had a copy of the plan where the trees would be replanted? Roger A. stated, "Yes, we have a copy of it." Roger noted that the amount of trees to be removed went from 16 to 13. Mrs. Harris said that would leave about nine trees on site. Ann H. noted that the trees will have to be replaced. Mrs. Harris understood this but there would not be the same canopy coverage. Roger said he understood but the plan meets the criteria in the ordinance. CEO McDonough agreed with Mrs. Harris's concern with canopy coverage but it was necessary to remove the trees in order to put the foundation in and the new septic system.

Mrs. Harris stated that her concern was that the trees not be planted on the property line. Mr. Cote showed her the plan and the trees near the water were not right on the property line. She wanted to be sure that they were five feet off the property line because they will get bigger and the branches will cross over the property line. Roger A. noted that the board had Mr. Cote change the location of several of the trees that were on the property line, those were moved down toward the water. The board didn't want them lined up along the property either and noted again the new location.

Mrs. Harris asked if the height of the structure was going to change? CEO McDonough said the elevation stays the same. Mrs. Harris asked if the 'peak' stayed the same? CEO McDonough said, "Correct." Roger A. agreed and in order to get the daylight basement they had to do the site inspection to see if additional area would be disturbed because they could not raise the height of the structure. But after the site inspection, shooting the elevations, everything will be fine where it stands now.

Roger A. said the ground would be covered with wood chips. Mr. Cote said they would use stump grindings and erosion control mulch for all the disturbed areas. He said it would be done as previously stated by Springvale Nurseries.

Roland L. asked if the applicant had a date that the project would be completed. Mr. Cote wasn't sure as he didn't know how long it would take to put the foundation in. Roland said he could set a date of September 2017, he was not pressuring him. Roger A. asked if September 15, 2017 would work? Mr. Cote believed it would. He asked if anything changed what should he do? Barbara F. said he could contact CEO McDonough.

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

The conditions of the approval are as follows:

- 1. The project, including the revegetation plan and placing erosion control mulch to stabilize the area shall be completed by September 15, 2017. If this date cannot be accomplished the applicant must contact the Code Enforcement Office.**
- 2. The camp shall be relocated per the plan submitted, moving it 6.5 feet back from the high water mark at its closest point to Mousam Lake, making it more centered on the property.**
- 3. The camp shall have established lot line measurements to the side lot lines as per the final plan presented, those being 13.7 feet and 11.4 feet to the lot line abutting Map 17, Lot 27 and 13 feet and 12.2 feet to the lot line abutting Map 17, Lot 25.**
- 4. No work shall begin without a building permit through the Code Enforcement Office.**
- 5. The approved plan shall be confirmed in writing by a licensed surveyor that the placement of the structure is correct per the specifications approved by the Planning Board.**

Roland L. made the motion to approve the Best Possible Location to replace the existing foundation and put in a new septic system on Tax Map 17, Lot 26, per the plans provided with conditions. Maggie M. 2nd the motion. All members were in favor. By a vote of 5 – 0, the vote to approve was unanimous.

Nothing further was discussed.

The Findings of Facts

1. The owners of Shapleigh Tax Map 17, Lot 26 (108 30th Street), are Roland and Carol Cote of 381 Oak Street, Sanford, Maine 04073
2. The property is located in the Shoreland District and according to the assessor contains 0.2 acres.
3. The applicants are before the board for a Best Possible Location to replace the existing foundation and put in a new State approved septic system.
4. Received was a copy of a portion of Tax Map 17 highlighting the location of the lot; pictures of the existing camp, 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.
5. Received was a copy of the Subsurface Wastewater Disposal System Variance Request granted by Shapleigh Code Enforcement on 3/5/2016 and Subsurface Waste Water Disposal System Application dated 3/24/16, drafted by Kenneth Gardner, SE #73.
6. Received was a copy of the NRPA Permit by Rule Notification Form, with proposed project details, dated as approved by MDEP on 1/25/17; an updated survey plan which showed that the camp shall have established lot line measurements to the side lot lines as follows: 13.7 feet and 11.4 feet to the lot line abutting Map 17, Lot 27 and 13 feet and 12.2 feet to the lot line abutting Map 17, Lot 25. A revegetation plan was also provided which showed the location of 13 trees to be removed, where the replacement trees shall be located and what type of trees shall be used. The point of the camp closest to the water at present will be moved back 6.5 feet from its original location making the camp more evenly centered between the lot lines.

7. The board reviewed Zoning Ordinance §105-4, 'Nonconformance', specifically § 105-4.D(3) 'Foundations' and § 105-4.D(7) 'Relocation' and concurred the application and information as presented met the standards applicable in this chapter.
8. A notice was mailed to all abutters within 500 feet of the property on December 28, 2016. Meetings were held on December 27, 2016, January 17, 2017, January 24, 2017, March 14, 2017, and March 28, 2017.
9. The Planning Board unanimously agreed to approve the Best Possible Location to replace the existing foundation and septic system, relocating the camp on Tax Map 17, Lot 26 with five conditions.
10. **The conditions of the approval are as follows:**
 1. **The project, including the revegetation plan and placing erosion control mulch to stabilize the area shall be completed by September 15, 2017. If this date cannot be accomplished the applicant must contact the Code Enforcement Office.**
 2. **The camp shall be relocated per the plan submitted, moving it 6.5 feet back from the high water mark at its closest point to Mousam Lake, making it more centered on the property.**
 3. **The camp shall have established lot line measurements to the side lot lines as per the final plan presented, those being 13.7 feet and 11.4 feet to the lot line abutting Map 17, Lot 27 and 13 feet and 12.2 feet to the lot line abutting Map 17, Lot 25.**
 4. **No work shall begin without a building permit through the Code Enforcement Office.**
 5. **The approved plan shall be confirmed in writing by a licensed surveyor that the placement of the structure is correct per the specifications approved by the Planning Board.**

Motion:

After careful consideration and a review of all material presented to the Board, including the review of Zoning Ordinance §105-4, 'Nonconformance', specifically § 105-4.D(3) 'Foundations' and § 105-4.D(7) 'Relocation' a motion was made to approve the relocation of the existing structure and the placement of a new State approved septic system on Map 17, Lot 26, per the plans provided with five conditions.

Vote:

By a unanimous vote of 5 – 0, the motion to approve the Best Possible Location application for the relocation of the existing structure and the placement of a new State approved septic system on Map 17, Lot 26 per the plans provided with five conditions, was accepted.

Decision:

The Best Possible Location application for the relocation of the existing structure and the placement of a new State approved septic system on Map 17, Lot 26, per the plans provided with five conditions, was approved.

Other:

Information Requested from Nathan Gallant, Rosanne and Robert Chessie Regarding an Eagle Scout Project on the Town Beach on Square Pond

Mr. Nathan Gallant, Rosanne Chessie and her son Robert were present to discuss an Eagle Scott project with the Planning Board to see what they would require. Mr. Gallant is a member of the Town Forest Committee in Shapleigh.

Roger A. asked how the board could help them. Robert Chessie began by stating that he wanted to speak with the board about his Eagle Scout project that he wanted to do at the Town Beach Parking Lot on Square Pond (corner of Cedar Drive and Indian Village Road). He wanted to fix it so water would drain off into a sump instead of sitting on the lower side of the parking lot where everyone has to walk thru it. He said that due to the fact they are moving greater than 10 yards of earth, he was told he needed Planning Board approval. Roger A. agreed.

Roger A. said the board would need the application which would state how much soil is being brought onto the site, where the drainage would be going to and how it will be constructed. Mrs. Chessie said, "He can't submit it, doesn't it have to come from the Town?" Roger agreed, saying because it was Town property.

Mr. Gallant, one of the Town Forest Trustee's spoke. He said they had their meeting and gave Robert their blessing to be able to do the work. He said they believe it is in the best interest of the Town, and the beach, to have the work done. He thought it was also a great opportunity for Robert to do his Eagle Scout project here in Shapleigh. He said the Town Forest Committee will submit the application, along with the necessary information. He said because the Planning Board only meets by-monthly, his goal was to answer any questions the board might have this evening. And then they will fill out the paperwork to get it on the next agenda. He said if a site visit is required, hopefully there won't be any snow. He added that they also have to get the blessing of the Boys Scouts of America to approve the project as well.

Mr. Gallant asked if there were any additional questions they could answer this evening? Roger A. said the board will need to know how the runoff will be handled, how the water will be directed to the settling basin, and how the settling basin will be created. The board would also need to know how many yards of earth will be moved. Roger said a DEP Permit may be required because of the proximity to the water. He said the project would either require a Permit by Rule or another permit, depending on how the DEP reviews the project. Roger said they will need pictures. Roger noted that typically the board asks for DEP approval first, because the DEP may put conditions on their approval that the board will need to look at. Roger said because it is Town property, there will be a public hearing for the project as well, this way members of the community can get answers and see exactly what will take place. Roger said the public hearing does not hold the project up.

Roger A. said the first meeting by the board is to get an overview of the project and review the information presented. Two weeks after that will be the public hearing and the site visit. Roger also stated that a notice to abutters will be mailed out after the first meeting, as this is a requirement for all applications. This must be done 10 days prior to the final review. He said at the second meeting the board will approve or deny or approve with conditions. Roger said the DEP Permit by Rule is a 14 day notification, if you do not hear from them within 14 days of submitting the paperwork, then the project has been approved as submitted.

Steve F. asked Mr. Gallant if he would go over the project details again? Mr. Gallant said over the years they have created a berm to stop any water from going into the lake. He said that has been done in a few spots and it has worked but the problem is it creates a puddle in the parking lot. He said even in the dry seasons, if you get a thunderstorm, the water stays there and creates a mess. He said the driveway itself hasn't had anything done to it for a number of years. He said they did have Caleb Chessie look at the situation and he put together a few ideas that should be easy to accomplish. He believed it was a good idea.

Roland L. asked if the plan was to keep the water on site, catch it and re-direct it? Mr. Gallant said at the entrance to the town beach they have created a sump hole and what they were proposing was installing something similar to that. It would be on Town land, to the right as you pull into the driveway. It is the lowest spot on the property.

Steve F. asked if they would be using backhoe's and excavators, not shovels and rakes? CEO McDonough said, there would be 70 or 80 yards moved, so yes.

Mr. Gallant said with respect to Eagle Scout projects, this was very in-depth. Steve F. said it seems like it requires more paperwork than digging. Steve asked how far they were from the water? Mr. Gallant said, from the high water line, they were 52 feet. Steve asked if they would be cutting any trees? Mr. Gallant said, no.

The board members agreed the puddle is an issue, and many had experienced it. They thought the project was a good idea.

Mr. Gallant said they did some work in this location last year, fixing up the outhouse, doing pressure washing and painting. He hoped to finish the painting, retaining wall and benches this year. The fence and gate will also be replaced, therefore, the driveway is the last thing that needs to be done.

Steve F. asked where the application would be coming from? Roger A. stated, the Town Forest Committee. Steve asked if a fee was required? Roger said, no, it's a Town project. Mr. Gallant said he would fill out the application with Robert and then the DEP needs to be notified. Roger said, yes, tell them what the scope of the project is. CEO McDonough gave Mrs. Chessie the contact number for the DEP.

Ann H. said it needed to be drawn out. Roger A. said, yes, the facts as to what will take place. Roger said if you need technical assistance you could contact York County Soils. CEO McDonough said they could provide technical assistance on what would work best. He noted they used to be free but now charge for their services, although they may not charge a town? He was not certain. Mr. Gallant said he might contact Betty Smith (Acton-Shapleigh Youth Conservation Corps). CEO McDonough thought that was an excellent idea. Ann also mentioned Springvale Nursery as a source.

Steve F. asked if there needed to be any plantings incorporated? Mr. Gallant stated that there have been a fair amount over the years. He said plantings and bark mulch have been added. They add it as required.

Steve F. noted the board meets the second and fourth Tuesday of every month. Mr. Gallant said they wanted to try to complete it before the beach was being used.

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, April 11, 2017 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 6:30 p.m. Please contact the Land Use Secretary if there is a question in scheduling, 207-636-2844, x404.

NOTE: We are back to our summer schedule with the meetings beginning at 7:30 p.m. thru November 1st.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, April 11, 2017

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

The Planning Board members want to take a moment to thank Diane Srebnick for her many years of service on the board. Due to family obligations, Diane has had to step down from the board. Diane has always been a great asset to the board, bringing her passion for keeping the lakes clean, along with her diligence to uphold the ordinances set forth by the citizens of Shapleigh, even at times when it was difficult. Diane will certainly be missed by board members and townspeople alike. Thank you Diane for all you have done.

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

The minutes from Tuesday March 28, 2017 were accepted as read.

Conditional Use Permit – Earth Moving in the Shoreland District to Re-Direct Stormwater at the Town Beach on Square Pond – Map 35, Lot 43 (Indian Village Road) – Town Forest Trustee Nathan Gallant, Applicant; Town of Shapleigh, Property Owner

Mr. Nathan Gallant, Rosanne Chessie and her son Robert were present to discuss an Eagle Scott project to put into place measures to re-direct stormwater on site. Mr. Gallant is a member of the Town Forest Committee in Shapleigh. Contractor Caleb Chessie, who would work on the project, was also present.

Along with the application, board members received a copy of part of Tax 35 which depicted Lot 43. Also depicted on this document was the location of the road in to the beach area, the existing outhouse, the area where earth moving will take place, the location of the 8' x 4' deep sump hole to be created for stormwater mitigation and the 75 foot setback to the high water mark. In addition, pictures of the proposed location were received, depicting the area the sump hole would be located.

Also presented was an email from Mr. Gallant dated 4/7/17, to Jennifer Harris at the Maine DEP, which noted that all excavation for this project would be beyond the 75 foot setback to the water and that a drawing of the proposed project would be mailed to the DEP as well. An email from Ms. Harris to Mr. Gallant, dated 4/10/17, stated that because the project was greater than 75 feet from the high water mark, the project was exempt from permitting requirements under the Natural Resources Protection Act, but she acknowledged further permitting from the town should be obtained.

At an informal discussion at the March 28th Planning Board meeting, Robert Chessie stated that he was an Eagle Scout (Boy Scouts of America) and wanted to do a project at the Town Beach Parking Lot on Square Pond (corner of Cedar Drive and Indian Village Road) to mitigate an existing stormwater issue. He proposed moving the stormwater that collected on site into a sump, instead of it sitting on the lower side of the parking lot where everyone has to walk thru it. Mr. Gallant also spoke about the project and that the Town Forest Committee was in favor of it.

Mr. Gallant began this evening's discussion by stating that he had mailed the planning board information which included a location map and the plan was drawn on the map. Board member reviewed the map that was received.

Steve F. asked what was taking place? Mr. Gallant said on the existing parking area, measuring 30' x 150', soil is being excavated from the area and new gravel is being brought in. In addition, a new sump hole is being created; the area will be pitched toward the sump hole for rainwater to go in that direction instead of toward the beach and the lake. He said they were not moving the position of the driveway, and they were not changing the size of the driveway or parking area. Roland L. asked how much material would be taken off-site? Caleb Chessie stated he was not sure but approximately 60 yards would be taken out and brought in. Mr. Gallant noted that this did not include the material, rip rap, for the sump hole.

Mr. Gallant showed board members how the area would be pitched and discussed how there wasn't going to be a great change in pitch, they just wanted to direct the water to the sump hole. Madge B. agreed, and added that they were only trying to keep the water from puddling on site. Mr. Gallant said, yes.

Mr. Gallant spoke of the plan and showed where the 75 foot mark to the water was on the plan. He said the closest corner of the driveway to the high water line was at 76 feet. He noted the correspondence from the DEP and the fact they were beyond 75 feet, so additional DEP permitting was not warranted.

Steve F. said that basically they were pitching the water along a swale toward a catch basin, toward a hole in the ground that would be filled with rip rap. Mr. Gallant said, yes. Steve asked if there would need to be maintenance, or would it be good for 20 years as is? Mr. Chessie didn't think there would be an issue with sediment the way they were creating it. Madge B. agreed, saying there was not a lot of sediment on site. Mr. Gallant said that there was a natural low spot next to the hole, so it was a perfect spot.

Roland L. asked, because of public use, would there be something that would prevent a child playing from falling into the hole? Mr. Chessie did not believe the area would be that dramatic. Steve F. asked if it was going to be 8 feet across? Mr. Chessie said yes and four feet deep but it would be a gradual taper down. Roland just wanted to be sure this would not be a hazard. Mr. Gallant said there were two sump holes in existence now, on either side of Indian Village Road, that were very similar to what they were creating and there has been no issue with them.

CEO McDonough asked if there was going to be a mulch berm? Mr. Chessie said, yes. CEO McDonough asked if it would be along the parking lot line? Mr. Gallant thought it would be along the 75 foot mark. CEO McDonough asked if it would be left in place? He thought it would be best to leave the mulch in place for erosion control. Mr. Gallant said there was a large berm there now. They would add to this for about one-third of the parking lot and then continue the berm line down toward the sump hole and on into the woods. He said they could disperse the mulch when done, as there is mulch there now.

Mr. Gallant asked if they needed to add a silt fence as well? Mr. Chessie said, no, the bark mulch will work. CEO McDonough agreed that the DEP thought the erosion control mulch worked well. Madge B. said the mulch has worked well at the beach. Children run around on it and the ground doesn't get dug up.

Roger A. asked where the soil would be going that they are removing? Mr. Chessie was not sure. Roger noted that he could take the soil to town property as it is coming from town property, but if it goes to a private location in town, they will need a Conditional Use Permit to accept it. Roger said the board will need to know where it was going for the next meeting.

Roger A. said the board would also need when the project is going to get started, approximately, and when they believed the project would be completed. For example, it will begin in May and be completed by July 1, 2017. An exact day to begin is not necessary.

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

Roger A. said a notice to abutters will be mailed and a Public Hearing will be held because it is town owned property. The Public Hearing will be held at 7:00 p.m. on April 25th, prior to the next meeting. Members agreed to do a site inspection on an individual basis.

Ms. Chessie stated they had to propose this to the Eagle review board, and get the Planning Board approval, DEP, and then line up everyone involved on the project. She said the goal was to have this finished by the time swimming season begins. Madge B. said that this is why she said a finish date such as July 1, as this gives them time to complete the project. She didn't want them to have to come back to the board to extend the date.

Nothing further was discussed.

Conditional Use Permit – Food Wagon – Map 3, Lot 14 (20 Emery Mills Road) – York County Shelter Programs, Inc., Applicant; Holdsworth Heirs, Property Owners

The applicants were not present this evening for the application. They had notified Barbara in the afternoon that they had to contact the property owners for written permission and had not been able to do so to date.

Roger A. reviewed the application and noted they were placing the wagon / business in the Shoreland District, within 250 feet of the high water mark, and that was not allowed in the ordinance. Members noted the lot was large enough that if they could move the wagon on the other side of the parking area, it might work. Barbara F. will email the applicant and tell them of this development and see if they still intend to proceed.

Nothing further was discussed.

After-the-Fact Conditional Use Permit – Replace Retaining Wall – Map 27, Lot 11A (104 16th Street) – James Power, Applicant

Mr. Power was not present, as the board had told his daughter, Tara Gilbert, at the last meeting it was not necessary. They would conclude the conditions of permit after they were able to do a site inspection.

Roland L. began the conversation stating that he had done a site inspection recently, as requested by board members, and there were 19" of water on the front of the wall. Madge B. stated she went as well and saw the same situation. Roland said there was 45 to 46 inches from the top of the wall to the bottom. He believed for half the length of the wall, about 16 feet of it the top course is unsecured railroad ties. He noted there were also railroad ties in the water. Barbara F. said that at a previous meeting Ms. Gilbert had stated they pulled some of the railroad ties out of the water and stuck them on top of the wall. She thought it was only a temporary situation. Madge didn't think it was in the area of the new wall. Roland said it continues the line they started. Madge said she saw it but didn't think it was on the new wall.

Roland L. stated that on the back side of the wall, the only place that there is significant amount of excavation, the water level is already at the lake level. He said, therefore, there is already water on the backside of the wall. He said the reference they made to rebar in the wall, he only saw what he thought was 5/16 or 3/8 inch...a hex head they drilled thru intermittently. He said that perhaps there was rebar through where he could not see but the top course is just secured with what appeared to be a thin wire. He said it was 3/8 tops.

Roland L. asked if the adjacent property was part of the wall, because at the top of the driveway were 12 new

railroad ties, full length, as well as a couple of partial pieces. He wasn't sure if it was two separate operations or not. He said it appeared it may have been built by the same person. Madge B. noted that they need to continue the wall. Roland agreed but not with railroad ties.

Roland L. said there were several trees cut as well. CEO McDonough said the trees were permitted.

Steve F. asked how much construction say does the board have for a wall under four feet in height? CEO McDonough stated, not much. He said there was nothing specifically in the building code that pertained to retaining walls. He thought the best he could do was the American Wood Council, they may have some recommended guidelines but he was not sure. He said he uses them for deck recommendations. Steve said, if it was haphazardly built there isn't much the board can do about it. CEO McDonough stated that when they get a permit for it, he reviews the plan and makes recommendations based on what he sees typically. He added that he does have the authority to ask for an engineer's stamp. CEO McDonough said that this wall may not be the best but if they put a fair amount of stone and fabric it will stay up. CEO McDonough spoke of several walls with DEP approval that were not built as well as this one in the vicinity. He stated that they did not come before the board because there was no earth moving involved.

Madge B. believed this wall was better than what existed. Roland L. agreed but had they spoken with CEO McDonough first, with his guidance it would have been better than what is there now. Madge agreed. Madge said there was more to do and hoped it would be done better. Roland noted that there was a lot of hand work to be done now.

As an aside, Roland L. wanted the board to know that they may be seeing a permit from the Dam Coalition because they intend to cut a road in to the dam on Mousam Lake for work that needs to be done. He noted he shared the information about the permitting process with them, as he is on the Dam Committee. He said it was the Town of Sanford who was in charge of the dam repair and they were confident of getting a grant for \$100,000 to be able to do the work. Roland said the new road would come in off the Lebanon Road. Madge B. agreed a road would need to be cut in. Roland again wanted to give the board a heads up that there should be an application coming forward.

Roger A., getting back to the Power application, stated that in §105-20 'Applicability of standards; prohibited uses', the board has the ability to make certain the wall is built in such a way that no harm will come to the environment or neighboring property. Roger read the ordinance to members.

CEO McDonough agreed the board has the authority to come up with substantial reasons why the wall is not built in a safe manner. He noted the board cannot just say 'they didn't think so in their opinion'. There had to be a concrete reason. CEO McDonough said this section can be applied to every Conditional Use. Roger A. agreed.

Madge B. asked if the board was just going to approve the section that was already built and she wanted to know if the board needed to know any more information before approving the application? How they will put the cloth and backfill in? Roger A. said the board will tell them what they need to do. Barbara F. stated that at the last meeting, the board deferred the backfill question to CEO McDonough and told the applicants they needn't bring more information that they had to do the backfilling according to what CEO McDonough tells them during the permitting process. They agreed to do this, which is why they are not at the meeting this evening.

Madge B. thought the Conditional Use Permit could be approved and then they go to the CEO McDonough for a building permit.

CEO McDonough said the Planning Board can approve this evening but there needs to be a condition that a minimum of one foot of crushed stone be placed behind the new wall, along with filter fabric. Board members agreed.

Roland L. also wanted to be certain the railroad ties get removed from the water and on top of wall as well. The railroad ties need to be removed from the 305 foot wall that has been replaced entirely. Board members agreed.

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

- 1. The applicant shall remove the railroad ties that are in the water and on top of the new pressure treated wall as soon as possible. Railroad ties shall not be brought to the Shapleigh Transfer Station (If you are unsure of where to bring them, you may ask the Code Enforcement Officer during the permitting process.) The replacement wall shall consist of new pressure treated wood only.**
- 2. A building permit must be obtained from the Code Enforcement Officer for the replaced retaining wall.**
- 3. The replaced wall shall have earth excavated from behind it, so that one foot of stone can be placed between the wall and earth. Filter fabric shall be placed between the earth and the stone.**
- 4. The project, including any revegetation and erosion control mulch shall be completed by July 31, 2017.**
- 5. There shall be no new construction without a building permit.**

Madge B. made the motion to approve the After-the-Fact Conditional Use Permit to replace approximately 30 feet of wall, less than four feet in height, on Map 27, Lot 11A, with five conditions. Steve F. 2nd the motion. All members were in favor. By a vote of 5 – 0, the vote to approve was unanimous.

Nothing further was discussed.

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**The Findings of Facts**

1. The owners of Shapleigh Tax Map 27, Lot 11A (104 16<sup>th</sup> Street), are Sandra S. & James P. Power, Trustees, of 18 Loring Ave, Salem, MA 01970.
2. The property is located in the Shoreland District and according to the assessor contains .7 acres.
3. The applicants are before the board for an after-the-fact Conditional Use Permit to replace part of the existing retaining wall for a length of approximately 30 feet.
4. Received on December 13, 2016 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.

5. Received on February 28, 2017 was a copy of a sketch plan for the wall which included showing the location of a silt fence, where erosion control mulch would be placed, and that gravel backfill would be added behind the wall. A copy of the information provided by the DEP on how to put in a silt fence and what type of mulch would work best, was also provided.
6. The board reviewed §105-39.D 'Earthmoving in the Shoreland District' and members concurred the application met all the standards imposed 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. Meetings were held on December 13, 2016, February 28, 2017 and April 11, 2017. Members did a site inspection on an individual basis for this site. A notice was mailed to all abutters within 500 feet of the property on March 29 2017.
9. **The conditions of permit are as follows:**
  1. **The applicant shall remove the railroad ties that are in the water and on top of the new pressure treated wall as soon as possible. Railroad ties shall not be brought to the Shapleigh Transfer Station (If you are unsure of where to bring them, you may ask the Code Enforcement Officer during the permitting process.) The replacement wall shall consist of new pressure treated wood only.**
  2. **A building permit must be obtained from the Code Enforcement Officer for the replaced retaining wall.**
  3. **The replaced wall shall have earth excavated from behind it, so that one foot of stone can be placed between the wall and earth. Filter fabric shall be placed between the earth and the stone.**
  4. **The project, including any revegetation and erosion control mulch shall be completed by July 31, 2017.**
  5. **There shall be no new construction / replacement without a building permit.**
10. The Planning Board unanimously agreed to approve the after-the-fact Conditional Use Permit to replace approximately 30 feet of retaining wall less than 4 feet in height, per the plans presented, with five conditions, to be located on Map 27, Lot 11A.

**Motion:**

After careful consideration and a review of all material presented to the Board, including the review of the Zoning Ordinance §105-39.D 'Earthmoving in the Shoreland District' and §105-73, Section G, 'Standards applicable to conditional uses' a motion was made on Tuesday, April 11, 2017, to approve the after-the-fact Conditional Use Permit to replace approximately 30 feet of retaining wall less than four feet in height, located on Map 27, Lot 11A, with five conditions, per the plans provided.

**Vote:**

By a unanimous vote of 5 – 0, the motion to approve the after-the-fact Conditional Use Permit to replace approximately 30 feet of retaining wall less than four feet in height, located on Map 27, Lot 11A, per the plans provided with five conditions was accepted.

**Decision:**

The after-the-fact Conditional Use Permit to replace approximately 30 feet of retaining wall less than four feet in height, on Map 27, Lot 11A per the plans provided with five conditions was approved.

**OTHER:**

**Proposed Ordinance Changes:**

The following proposed ordinance changes were discussed. They will be re-reviewed and a public hearing held in the fall.

**Proposed Addition to §105-17**

**LAND USES**

| <b>RURAL</b>                                    | <b>RP</b> | <b>SD</b> | <b>GP</b> | <b>FD</b> | <b>SP</b> |
|-------------------------------------------------|-----------|-----------|-----------|-----------|-----------|
| Agricultural, commercial gardening <sup>4</sup> | CU        | CU        | YES       | YES       | CU        |
| Seasonal sale of produce and plants raised:     |           |           |           |           |           |
| Off Premises <sup>4</sup>                       | NO        | CU        | CU        | CU        | CU        |
| On the Premises <sup>4</sup>                    | NO        | CU        | YES       | CU        | CU        |

<sup>4</sup>Marijuana is neither considered an agricultural crop nor commercial gardening. Marijuana is not considered a seasonal produce or plant. Any 'for profit' conduct pursuant to the Maine Medical Use of Marijuana Act, 22-M.R.S.A. c.558-C requires a Conditional Use Permit. All retail conduct is prohibited.

**Proposed Amendment to §105-4.D(7)(b)[1][a]**

Trees removed in order to relocate a structure must be replanted with at least one native tree, six feet in height, measured from the base of the trunk to the top of the tree, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed. **Trees shall be planted greater than five feet from side lot lines, and shall create a 'well distributed' stand of trees.**

**Growth Permits**

**Map 12, Lot 22-2 (Newfield Road) – *New Home***

The board reviewed Lot 22-2 and it meets the criteria for a legal building lot in Shapleigh. **GP #01-17 was assigned.**



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

*The next meeting will be held Tuesday, April 25, 2017 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 6:30 p.m. Please contact the Land Use Secretary if there is a question in scheduling, 207-636-2844, x404.*

**NOTE: We are back to our summer schedule with the meetings beginning at 7:30 p.m. thru November 1st.**

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

# ***SHAPLEIGH PLANNING BOARD***

## **MINUTES**

**Tuesday, April 25, 2017**

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

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

**Conditional Use Permit – Earth Moving in the Shoreland District to Re-Direct Stormwater at the Town Beach on Square Pond – Map 35, Lot 43 (Indian Village Road) – Town Forest Trustee Nathan Gallant, Applicant; Town of Shapleigh, Property Owner**

Mr. Nathan Gallant, Town Forest Trustee was present for the public hearing, along with Rosanne Chessie and her son Robert, a Boy Scout organizing this Eagle Scout project.

Roger asked Nathan Gallant to begin the public hearing, explaining what would be taking place. Mr. Gallant began by telling the audience he was a member of the Town Forest Committee and a Trustee and he was at the meeting along with Robert Chessie, a Shapleigh resident and a Boy Scout who was incorporating this as his Eagle Scout project. He said he, working with Robert, had come up with a plan to rehab and fix the driveway going into the town beach. He said they drew up a plan and they were not changing the position of the driveway, or the parking area and they were not increasing or decreasing the size of the area. He said they were taking the bad soil out that is in the driveway that is creating a ponding effect and replacing it with good quality draining soil. They were also putting in a sump hole to divert the water from the driveway into the sump hole, so the stormwater is dispersed correctly. He said at this time, the water is sitting in the driveway even at the driest part of the season.

Roger A. asked if there were any questions?

Madge B. was curious if the Town Forest Committee or the Town would pay for the materials? Mr. Gallant stated that part of Robert's project was to acquire the help, the assistance, the machinery, the material, things of that nature. He said if people wanted to donate materials they can reach out. Madge asked if he could ask the Town Forest Comm. for help? Mr. Gallant stated that he could and they could discuss it. Madge thought it would seem logical to ask them for help, noting it was just her opinion.

Mrs. Chessie, Robert's mother, stated that they were hoping they could get 95% of everything donated completely. She thought he could go to several different locations to get the gravel, asking for a donation.

Roland L. asked what the time line was for this project? Robert Chessie stated that he was hoping to have the project done by mid-June, before the boating season really started. Roland asked if it would be done during the week or on the weekend? Robert thought it would take place on the weekend. Caleb Chessie, the contractor on part of the project, thought it would take about one and one-half days to complete. Madge B. thought they had talked about having it done for July 1<sup>st</sup>.

Mrs. Chessie stated that once Robert gets approval from the Boy Scouts, then he will go to Caleb and tell him its time.

Roland L. asked if there would be a plaque put up indicating who did the project and/or for what purpose? Mr. Gallant stated that sometimes they do that.

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

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

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

**The minutes from Tuesday April 11, 2017 were accepted as read.**

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**Conditional Use Permit – Earth Moving in the Shoreland District to Re-Direct Stormwater at the Town Beach on Square Pond – Map 35, Lot 43 (Indian Village Road) – Town Forest Trustee Nathan Gallant, Applicant; Town of Shapleigh, Property Owner**

Mr. Nathan Gallant, Town Forest Trustee was present for the final review, along with Rosanne Chessie and her son Robert, a Boy Scout organizing this Eagle Scout project.

Along with the application, board members received a copy of part of Tax 35 which depicted Lot 43. Also depicted on this document was the location of the road in to the beach area, the existing outhouse, the area where earth moving will take place, the location of the 8' x 4' deep sump hole to be created for stormwater mitigation and the 75 foot setback to the high water mark. In addition, pictures of the proposed location were received, depicting the area where the sump hole would be located.

Also presented was an email from Mr. Gallant dated 4/7/17, to Jennifer Harris at the Maine DEP, which noted that all excavation for this project would be beyond the 75 foot setback to the water and that a drawing of the proposed project would be mailed to the DEP as well. An email from Ms. Harris to Mr. Gallant, dated 4/10/17, stated that because the project was greater than 75 feet from the high water mark, the project was exempt from permitting requirements under the Natural Resources Protection Act, but she acknowledged further permitting from the town should be obtained.

At an informal discussion at the March 28<sup>th</sup> Planning Board meeting, Robert Chessie stated that he was an Eagle Scout (Boy Scouts of America) and wanted to do a project at the Town Beach Parking Lot on Square Pond (corner of Cedar Drive and Indian Village Road) to mitigate an existing stormwater issue. He proposed moving the stormwater that collected on site into a sump, instead of it sitting on the lower side of the parking lot where everyone has to walk thru it. Mr. Gallant also spoke about the project and that the Town Forest Committee was in favor of it.

Roger A. stated that after the public hearing everyone present knew what was taking place. Since there were no further questions Roger began the review of the performance standards.

**Roger A. reviewed the Basic Performance Standards for the application, as follows:**

- 105-20** – Applicability of standards; prohibited uses. *Roger A. noted this was not a prohibited use and there wasn't anything that would be obnoxious or injurious caused by this activity, as listed in the ordinance.*
- 105-21** – Traffic. *Roger A. stated this was a parking area, so N/A.*
- 105-22** – Noise. *Roger A. stated that construction on this project could not be started before 7:00 a.m. due to noise level restrictions.*

- 105-23 – Dust, fumes, vapors and gases. *Roger A. stated there would be a minimal amount of dust due to excavation and the spreading of gravel.*
- 105-24 – Odors. *N/A - There will be no obnoxious odors generated.*
- 105-25 – Glare. *N/A – There is no lighting being added.*
- 105-26 – Stormwater runoff. *Roger A. stated the reason for the project was to mitigate the existing stormwater runoff issue. A catch basin is being created along with using an erosion control mulch berm to direct stormwater to the catch basin.*
- 105-27 – Erosion control. *Roger A. stated best management practices would be used during the project which included erosion control mulch.*
- 105-28 – Setbacks and screening. *N/A*
- 105-29 – Explosive materials. *N/A*
- 105-30 – Water quality. *Roger A. stated there would be no harmful materials used on site. The project would help to protect water quality by keeping the effluent produced in the driveway from going into the lake.*
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *Roger A. stated no changes were being made to the size of the parking area.*
- 105-32 – Relation of proposed building to the environment. *N/A*
- 105-33 – Refuse disposal. *N/A*

**Roger A. reviewed §105-39 ‘Earth removal and filling other than mineral exploration and extraction’, Section D ‘Earthmoving in the Shoreland District’.** Roger stated that because they were moving greater than 10 yards this project required a Conditional Use Permit. Roger stated that the person doing the erosion control practices must be certified in erosion control measures. He noted that Caleb Chessie was certified.

**Roger reviewed Section F ‘Application for permit’.** Roger stated the application met the requirements in this section.

**Roger A. reviewed Section G ‘Conditions of Permit’.** Roger stated that the application met the requirements in this section.

**Roger A. reviewed Section H ‘Optional conditions of permit’.** Roger stated there were no additional requirements necessary for this application.

**Roger A. reviewed Section I ‘Surety and terms of permit’.** Roger stated no surety would be required due to the minimal amount of time required to do the project and the overall scope of the project.

Madge B. noted that for the record she wanted to state that a lot of the conditions under Section G ‘Conditions of Permit’ really didn’t apply as they were conditions for a gravel pit. Steve F. agreed. Roger A. stated that this section didn’t apply only to gravel pits. Madge agreed but said again much of what is in this section does not apply due to the minimal amount of soil being moved and the minimal amount of disturbance taking place. There is no lagooning, there is no floodway, cuts or fills, ground cover isn’t being removed, no hazardous slopes, etc. Roger agreed.

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

**Roger A. then reviewed §105-73.G ‘Standards applicable to conditional uses’ and made findings of fact.**

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

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. **Roger A. stated, it will not, it will actually help the fish and aquatic life in the lake.**
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. **Roger A. stated this will help enhance visual and actual access to the water body.**
- 3) The use is consistent with the Comprehensive Plan. **Roger A. stated it is, the Comprehensive Plan wants to preserve the lake water quality.**
- 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. **Roger A. stated that this is not applicable.**
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. **Roger A. stated that there is 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 project is to keep the stormwater drainage on site and drain properly into the earth instead of into the lake.**
- 9) Adequate provisions to control soil erosion and sedimentation have been made. **Roger A. stated there is erosion control mulch being used to help channel sediment and water away from the parking area and the lake.**
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. **Roger A. stated this is not applicable.**
- 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. stated that she wanted to raise the issue, as Roland L. had at the last meeting, that they are certain the end result is safe for children. She believed this should be a condition of the permit, so the contractor keeps this in mind. The other board members agreed.

CEO McDonough stated he was concerned with the idea of donated fill from various sources. He wanted to be sure he was notified so he could inspect the type of fill being brought in to be sure it is adequate. Roland L. agreed it should be noted what type of gravel was being brought in. Roland wanted to know if CEO McDonough wanted to see the gravel if it came from one source? CEO McDonough said yes, he at least wanted a phone call to be notified. Roland L. asked if the soil to be removed was still going to the Town pit area? Madge B. believed they understood if it doesn't go there and it stays in town they need to get a permit or take it out of Shapleigh. Roger A. agreed that Caleb Chessie understood this to be the case at the last meeting. CEO McDonough noted that if less than 50 yards was moved to the general purpose district they would not need a permit.

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

- 1) **The project is to be completed by July 15, 2017.**
- 2) **The end result of the project, which includes a sump hole, must include making certain the area around the sump hole is safe for children.**
- 3) **Any fill to be used on site must first be approved by the Code Enforcement Officer, therefore, prior notification must be obtained before fill is brought to the site.**
- 4) **Contractor to be used on the project must be DEP Certified in Erosion Control Practices.**

**Madge B. made the motion to approve the Conditional Use Permit to move greater than 10 cubic yards of gravel in the shoreland district to mitigate the existing stormwater issue at the Town beach, on Map 35, Lot 43, per the plans presented and with four conditions. Maggie 2<sup>nd</sup> 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 35, Lot 43 (Indian Village Road), is the Town of Shapleigh, 22 Back Road, Shapleigh Maine.
2. The property itself is located both in the General Purpose and Shoreland District; the work is to be done in the Shoreland District and according to the assessor the property contains 2.98 acres.
3. The applicant, Nathan Gallant, Town Forest Trustee, is before the board to work with Robert Chessie to mitigate stormwater puddling on the existing parking area. Robert Chessie is doing this project as an Eagle Scout project with Boy Scouts of America.
4. Received was a copy of part of Tax 35 which depicted Lot 43. Also depicted on this document was the location of the road in to the beach area, the existing outhouse, the area where earth moving will take place, the location of the 8' x 4' deep sump hole to be created for stormwater mitigation and the 75 foot setback to the high water mark. In addition, pictures of the proposed location were received, depicting the area the sump hole would be located.
5. Received was an email from Mr. Gallant dated 4/7/17, to Jennifer Harris at the Maine DEP, which noted that all excavation for this project would be beyond the 75 foot setback to the water and that a drawing of the proposed project would be mailed to the DEP as well. An email from Ms. Harris to Mr. Gallant, dated 4/10/17, stated that because the project was greater than 75 feet from the high water mark, the project was exempt from permitting requirements under the Natural Resources Protection Act, but she acknowledged further permitting from the town should be obtained.
6. The board reviewed Zoning Ordinance §105-39, 'Earth removal and filling other than mineral exploration and extraction' and concurred that this project met all the criteria under Section D 'Earthmoving in the Shoreland District'; Section G. 'Conditions of Permit' and under Section I 'Surety and terms of permit', a surety was not warranted for this project due to the limited size and scope of the project, as well as it taking a minimal amount of time to complete.
7. The board reviewed the Basic Performance Standards and the board concurred the application met all the standards imposed.
8. 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.
9. A notice was mailed to all abutters within 500 feet of the property on April 12, 2017. An informal meeting was held on March 28, 2017. Formal meetings were held on April 11, 2017 and April 25, 2017. A public hearing was held on April 25, 2017.

10. The Planning Board unanimously agreed to approve the Conditional Use Permit for earth moving in the Shoreland District in order to mitigate existing stormwater issues and it is to be done as an Eagle Scout project, located on Town owned property known as Tax Map 35, Lot 43, per the plans provided with conditions.

11. **The conditions of approval are:**

- 1) **The project is to be completed by July 15, 2017.**
- 2) **The end result of the project, which includes a sump hole, must include making certain the area around the sump hole is safe for children.**
- 3) **Any fill to be used on site must first be approved by the Code Enforcement Officer, therefore, prior notification must be obtained before fill is brought to the site.**
- 4) **Contractor to be used on the project must be DEP Certified in Erosion Control Practices.**

Motion:

After careful consideration and a review of all material presented to the Board, including the review of the Zoning Ordinance ‘Basic Performance Standards’, 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, April 25, 2017, to approve the Conditional Use Permit for earth moving in the Shoreland District in order to mitigate existing stormwater issues and it is to be done as an Eagle Scout project, located on Town owned property known as Tax Map 35, Lot 43, per the plans provided with four conditions.

Vote:

By a unanimous vote of 5 – 0, the motion to approve the Conditional Use for earth moving in the Shoreland District in order to mitigate existing stormwater issues and it is to be done as an Eagle Scout project, located on Town owned property known as Tax Map 35, Lot 43, per the plans provided with four conditions, was accepted.

Decision:

The Conditional Use Permit for earth moving in the Shoreland District in order to mitigate existing stormwater issues and it is to be done as an Eagle Scout project, located on Town owned property known as Tax Map 35, Lot 43, per the plans provided with four conditions, was approved.

Best Possible Location – Add Bedroom and Closet to Existing Structure – Map 30, Lot 66 (35 Hickory Street) – Debbie Powers, Applicant

Ms. Powers was present for the review of the application.

Along with the application, Ms. Powers presented the board members with a conceptual plan drafted by Joseph Stanley, PE #2453 of LinePro Land Surveying, LLC which depicted the existing two sheds on the property, the parking area, steps, existing camp and proposed 20’ x 12’ expansion with overhang. Also provided, was the Subsurface Wastewater Disposal System Application, dated 5/9/2011, done by Mark Truman, SE #121.

The description of the project read as follows: Goal to add bedroom and closets – removing existing bedroom and chimney.

Roger A. asked Ms. Powers to explain to board members what it was that she wanted to do. Ms. Powers began by stating that she had an 8' x 9' bedroom and on the other side of it is an 8' x 10' porch. She wanted to remove the wall between them and then add a bedroom and a closet, because there isn't one closet in the place. She said the chimney she doesn't use and it is in the center of the building. Because she has to put in a new room, she thought the timing was good to remove the chimney.

CEO McDonough stated that because this addition requires a foundation, she is here because of §105-4.D(3) 'Foundations'. Ms. Powers stated that it would make more sense to put it on a slab but because she put in a new well and septic system and the lines go four feet under where this bedroom is going, it would be difficult to access it if there was a problem, so she is going to have a crawl space for access. She noted it would not be a basement.

Roger A. asked if this goes up to the 30% expansion. Ms. Powers said it wasn't quite up to the 30%. (The plan shows 30% expansion to be 273.49 square feet and this addition would be 263.95 square feet.)

Madge B. said this is best possible location and the board needs to go see it. Roger A. agreed. Madge asked if any trees needed to be removed? Ms. Powers said one tree has to be removed, it towers over the camp and part of it is dead. She said she would like to plant two trees to replace it, on the side of the property, on the west side of the building.

Ms. Powers stated that she notified DEP (Permit by Rule) and that should be ready for the next meeting.

Roger A. said members would meet at the town hall at 6:20 p.m. on Tuesday, May 9th and meet on site at approximately 6:30 p.m. A notice to abutter will be mailed as well.

Nothing further was discussed.

Best Possible Location – Replace Existing Structure – Map 43, Lot 27 (109 Pine Cone Drive) – Paul Litchfield, Applicant

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

Along with the application, board members received a proposed cottage plan drafted by John Perry, Jr., PLS #2127. The plan depicted the location of the proposed leachfield, proposed cottage, existing cottage and concrete patio, all in relation to the side lots line, distance to Pine Cone Drive and Silver Lake. Also received was a copy of the Subsurface Wastewater Disposal System Variance Request dated as accepted by the Shapleigh CEO on 6/14/2012; the Subsurface Wastewater Disposal System Application drafted by Thomas Milligan, dated 6/6/2012; and a copy of a Permit by Rule Notification Form to replace the existing structure, dated as accepted by the DEP on 9/24/2014.

The application description reads as follows: Existing structure torn down and replaced with new structure but different dimensional footprint.

Roger A. asked the applicant to explain to the board what he intended to do. Mr. Litchfield stated the existing structure needs to be torn down, it is bad and unsafe. He said he was told the previous owner was before the board in 2011 and the board approved a best possible location at that time. He said he understood that the approval was no longer valid, but he was sticking to the original owners plan. The plan was to make

the new structure longer but not as wide as what exists. He said he also wanted to move the structure back six feet from the water than what is there now.

Note: *September 27, 2011, the planning board approved the best possible location to replace the existing structure as follows:*

The proposed new structure would be 30.96 feet on one corner and 34.54 feet on the other corner from the high water mark of Silver Lake. The distance to Lot 26 will be 13.86 feet and Lot 28 will be 12.39 feet. The proposed new structure would be 24 feet wide by 30 feet long with an 8' x 24' covered porch on the lake side.

The conditions of the original permit are as follows:

- 1) The Best Management Practices shall be used until the project is completed.*
- 2) The cement patio next to the water is to be removed.*
- 3) The revegetation plan shall be given to the CEO prior to construction for his review and approval.*
- 4) The revegetation plan shall be completed by 6/30/2012.*
- 5) A licensed surveyor must place the structure per the approved plan and certify the foundation location.*

Roger A. stated that by increasing the size of the cottage, the footprint, it was increasing the amount of the percentage of land being covered and that may be an issue. Mr. Litchfield stated that the existing property with the overhangs, the porch and walkways, is 1,213 feet. He stated the proposed 46' x 26' included the overhangs for the footprint, but the actual house is only 24 feet wide with a foot overhang. Roger said the board looks at the actually size looking down upon the earth, so the board looks at the 26 feet wide. Mr. Litchfield said with the overhangs it is still only 1,196. He said he was trying to maximize the most house he could get and it would only be one floor based on how high he could go up.

Roger A. noted the ordinance limits lot coverage to 10% lot coverage, and going to 18% he felt was pushing it. CEO McDonough noted that he was already at a higher percentage. Mr. Litchfield agreed stating he was already at 18%. Roger asked if the concrete patio was being removed? Mr. Litchfield said, yes it was going. He added that it was old and some of it was buried.

Roger A. stated the board would do a site inspection on May 9th around 7:00 p.m., just before the planning board meeting. He said after the site inspection everyone would come back to the town hall for the regular meeting. A notice to abutters will be mailed as well.

Madge B. stated the board would want to know if any trees would be removed and how that would be taken care of. Mr. Litchfield said four trees would have to be removed. He said with some guidance from the Code Enforcement Officer, they would put more back in. He said his wife was upset about removing trees to begin with. Roger A. stated the board would need a plan showing where the replacement trees would be placed. The plan needs to show which trees would be cut and where the new ones would go, as they have to be in a similar proximity to where the ones being removed are located, with respect to distance from the lake. He added that trees going back in have to be six feet in height from the ground to the top of the tree at a minimum. CEO McDonough stated the trees have to be indigenous and they have to be no farther from the water than the existing you are taking and planting down the property line does not work, it circumvents the objective of creating a buffer strip to the water. He said the board will need to see this information in writing before they can approve the application. He said if they had this information for the next meeting it would expedite their approval, therefore, draw a plan, showing the trees to be cut and where the new trees will be planted and they have to be indigenous. Ornamental trees don't count, shrubs don't count. The

applicant asked if an apple tree counted as they wanted to save it, and CEO McDonough said it would count if they could actually save it.

Roland L. said the patio area, where it will be removed, as part of the revegetation plan the board will need to know how that area will be addressed. Will something be planted? Mr. Litchfield said there is grass there now, so that is probably what they will keep. Madge B. said the board would look at it but they do not prefer grass. Roland stated the problem with grass is people want to fertilize it to maintain it and this is not allowed. Fertilizer degrades the quality of the water over time. Roger A. agreed stating there is a provision that no fertilizer can be used within 100 feet of the water. Roland again said the revegetation plan needs to address tree removal, what the trees will be replaced with and any areas being disturbed how they will be addressed. Madge said the area where the old cottage will be removed will also need to be addressed.

Mr. Litchfield said he would create a plan and have it for the next meeting.

Nothing further was discussed.

Growth Permits

Map 4, Lot 7K-1 (Fern Drive) – New Home

The board reviewed Lot 7K-1 and it meets the criteria for a legal building lot in Shapleigh, as it is part of an approved subdivision. **GP #02-17 was assigned.**

Map 8, Part of Lot 54 (Garland Road) – New Home

The board reviewed Lot 54 and the new lot being created meets the criteria for a legal building lot in Shapleigh, having the required road frontage and minimum lot size. Also Lot 54 has not been divided within the last five years. **GP #03-17 was assigned.**

Map 11, Part of Lot 23H (Gray Road) – New Home

The board reviewed Lot 23H and the lot is large enough to host a new lot, having the required road frontage for more than one lot and it can meet the minimum lot size. Also, there has been no division of the lot within the last five years. **GP #04-17 was assigned.**

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

The next meeting will be held Tuesday, May 9, 2017 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 6:30 p.m. Please contact the Land Use Secretary if there is a question in scheduling, 207-636-2844, x404.

NOTE: We are back to our summer schedule with the meetings beginning at 7:30 p.m. thru November 1st.

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, May 9, 2017

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

Note: Ann Harris sat in as a regular meeting this evening.

Best Possible Location – Add Bedroom and Closet to Existing Structure, Remove Bedroom & Chimney – Map 30, Lot 66 (35 Hickory Street) – Debbie Powers, Applicant

Ms. Powers was present for the review of the application.

Along with the application, Ms. Powers presented the board members with a conceptual plan drafted by Joseph Stanley, PE #2453 of LinePro Land Surveying, LLC which depicted the existing two sheds on the property, the parking area, steps, existing camp and proposed 20' x 12' expansion with overhang. Also provided, was the Subsurface Wastewater Disposal System Application, dated 5/9/2011, done by Mark Truman, SE #121.

The description of the project read as follows: Goal to add bedroom and closets – removing existing bedroom and chimney. At the previous meeting Ms. Powers explained to board members what it was that she wanted to do, she stated that she had an 8' x 9' bedroom and on the other side of it is an 8' x 10' porch. She wanted to remove the wall between the bedroom and porch, then add a bedroom and a closet, because there isn't one closet in the place. She said the chimney she doesn't use and it is in the center of the building. Because she has to put in a new room, she thought the timing was good to remove the chimney. The plan showed 30% expansion to be 273.49 square feet and this addition would be 263.95 square feet, therefore, it did not exceed the 30% allowed.

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

Roger A. asked Ms. Powers to tell the board what she intended to. Ms. Powers stated that her plans were to put a 12' x 20' addition on the back but at the site inspection she believed everyone agreed that she could in fact put in a 13' x 20' addition. She added that she also believed board members agreed the existing location, as noted on the plan, was the best place to put it.

Madge B. asked if the buildings would not be over the 10% lot coverage allowed? Roger A. stated that with the addition it would be at 6%.

Roger A. stated that only a few trees would be removed, it was due to the proximity of the new addition. He said with the added area for the square footage for the expansion, the applicant could go to 13 feet instead of 12 feet. Ms. Powers agreed, it was due to the patio. She said she had discussed it with CEO McDonough.

Roger A. noted the holding tank would be relocated. Ms. Powers said that she noticed that it wasn't the holding tank but the grinder pump. She said that would have to be moved. Steve F. said the septic tank was on top of the hill according to the plan. Ms. Powers agreed.

Roger A. said the septic line will be found when doing the project along with the electrical line. Roger asked what the time frame would be on the project? Ms. Powers stated she was waiting for Ken Legere, she hoped within the next three months. Roger asked if she would be finished by fall? She stated she was hoping.

Ms. Powers said if he doesn't come out within a few months the project would be done in the fall. She did not believe the project would take long to do. She said the best case would be starting in June, worse case starting in September. Steve F. asked if the worst case was the project would be done by October 31st, as far as outside work. Ms. Powers said, absolutely.

Steve F. said what he didn't see on the plan was the trees that were being removed and the replanting plan. Ms. Power said the two small trees didn't have to go, because they are five feet from the building, she could possibly leave those. The one leaning into the building had to go. Ann H. told Ms. Powers that it needed to be on the plan. Steve stated that she needed to update the plan, because she was going to change the size of the addition from 12 feet to 13 feet. Ms. Powers agreed. Ms. Power said the patio space also needs to be on the plan. CEO McDonough agreed that the patio needs to be documented, along with the tree coming down and where the replacement tree will go. The board agreed.

Roger A. stated that the board will table it until the next meeting, Tuesday, May 23rd, at that time the board will look at the revised plan.

Nothing further was discussed.

Best Possible Location – Replace Existing Structure – Map 43, Lot 27 (109 Pine Cone Drive) – Paul Litchfield, Applicant

Mr. Litchfield was present for the review of the application, along with Lisa Conti.

At the first meeting board members received a proposed cottage plan drafted by John Perry, Jr., PLS #2127 of Biddeford, Maine. The plan depicted the location of the proposed leachfield, proposed cottage, existing cottage and concrete patio, all in relation to the side lots line, distance to Pine Cone Drive and Silver Lake. Also received was a copy of the Subsurface Wastewater Disposal System Variance Request dated as accepted by the Shapleigh CEO on 6/14/2012; the Subsurface Wastewater Disposal System Application drafted by Thomas Milligan, dated 6/6/2012; and a copy of a Permit by Rule Notification Form to replace the existing structure, dated as accepted by the DEP on 9/24/2014.

The application description reads as follows: Existing structure torn down and replaced with new structure but different dimensional footprint.

Board members requested a revegetation plan, showing where trees would be removed and where the replacement trees would be located, along with the type of tree being planted.

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

Mr. Litchfield stated that at the last meeting the members asked that they mark the trees that were coming down, which they did, and the replacement trees were added to the plan, along with the trees coming down. Ms. Conti stated that on the plan the trees that are circled on the plan are coming down and where there is an X is where the new trees will be planted.

Roger A. stated that the type of replacement trees was not on the plan. Madge B. stated that they could write it on the plan, which they did. The replacement trees consist of two pine trees and a birch cluster. They also added the word 'grass' where it will be placed, in the area where the old structure is located and where the patio that is being removed is located.

Roger A. asked if the structure was going to be on a slab? Mr. Litchfield stated it would be a slab on grade. Steve F. asked if there would be a frost wall? CEO McDonough said, yes, a frost wall.

Ann H. stated the structure would be moved six feet from the water. She asked if it could go back further? Steve F. stated there was a leachfield issue, they had to meet the setbacks to the road with the leachfield and setbacks to the house. CEO McDonough asked if they had a design on file? Mr. Litchfield said, yes.

Steve F. asked if the septic system was in? Mr. Litchfield stated that the project was approved back in September of 2011. He said a building was never issued, only the best possible location was approved. Steve asked if the septic design was still good? CEO McDonough stated that the design is in effect until a rule change affects it. He noted that there was no good way to monitor that, unless something is blatantly clear.

Roger A. reviewed §105-4.D(5) 'Removal, reconstruction or replacement' in its entirety. Roger stated that the proposed new structure would not increase the non-conformity of a structure on the lot. Roger also read §105-4.(7) 'Relocation' which included the description of the replanting plan. Roger noted that at present there is scarce grass present and, therefore, revegetating with grass will be allowed. Roger also noted that the trees being removed, along with the replacement trees, are placed on the plan.

Roger A. asked about a time frame? Mr. Litchfield stated that by the time he finished the permitting process he thought it would be fall when he got the foundation and slab in, along with the septic. He didn't think he would actually build and frame until next year. Roger thought the groundwork could be completed by winter.

Ann H. asked where the old building would be taken? Mr. Litchfield thought either a dumpster on site or ask the Town of Shapleigh if they wanted to do a controlled burn. He said it would not go to the town dump. Roger A. said he could contact Fire Chief Duane Romano with respect to a controlled burn.

Ann H. asked if the board had to do anything about the silt fence or have them contact the DEP? Roger A. said yes, they had to notify the DEP with the Permit by Rule and that whoever did the work had to be certified in Maine DEP erosion control methods. He said that person had to be on site when any work was being done. Steve F. asked who was doing the dirt work? Mr. Litchfield was not sure. He said he was a licensed contractor in Mass. Roger said that he needed a Maine certification. CEO McDonough agreed, that anyone doing dirt work in the shoreland zone had to be Maine DEP certified in erosion control. Mr. Litchfield said he would call the State to see who was certified or what it involved. He said he would be sure someone on site was certified. Ann H. said there was a list on the DEP website who was certified in the State.

Madge B. said a surveyor has to certify the location. Steve F. explained to Mr. Litchfield that John Perry, the surveyor who created the plan, or someone certified, needs to make sure the foundation is in the location that the Planning Board approves. This needs to be done before the foundation is poured. He said if the foundation isn't placed where approved, exactly, there will be issues with banks in the future or being able to sell the property. It has to be placed exactly as approved.

CEO McDonough gave Mr. Litchfield the DEP telephone number, so he could get the application for a Permit by Rule.

Steve F. said to be clear, the plan shows the outside of the eaves to be 26 feet. Mr. Litchfield said correct, the house itself is 24 feet in width.

Ann H. said the concrete patio will be moved. Roger A. said, yes. Steve F. said with respect to a replant, at present is minimal grass and pine needles, so he felt like the revegetation plan should be to match what is there. Madge B. stated that the area was very flat, so there should not be a runoff issue.

Roger A. stated the conditions of approval are:

1) Restabilize the area by October 15, 2017.

Mr. Litchfield said if he can't get everything lined up, including the financing, it may not get done until next year. Roger A. said the ground can't be left open for a long time. He also noted that anytime work is done, a certified person must be on site, he wanted Mr. Litchfield aware of that. Roger said between the time the building is taken down and trees removed, if that is this year, the area has to be stabilized. He said if it will take longer than that, then the date may have to be re-adjusted. Steve F. said the intent is that exposed earth isn't left open, so it won't wash into the lake. Mr. Litchfield said once the building comes down, they want to do the septic system and the foundation, and stabilize, so that will hold it over the winter. He said if the building isn't removed this year, he won't do anything until next year. Steve F. said that if he didn't get anything done by fall, he could come and have the date adjusted. Roger agreed, if he can't have it done by October 15th let the board or CEO McDonough know and the date can be adjusted. Steve said it is the date that CEO McDonough goes back to, to make sure what was said would happen takes place.

Roger A. went back to conditions of approval.

- 2) 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.**
- 3) The DEP shall be notified by way of Permit by Rule of the final plan.**
- 4) Per Zoning Ordinance §105-4, the approved plan shall be confirmed in writing by a licensed surveyor that the placement of the structure is correct per the specifications approved by the Planning board.**
- 5) Per Zoning Ordinance §105-4, the approved plan must be recorded with the registry of deeds, within 90 day of approval, or the application shall be null and void. 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.**
- 6) Per Zoning Ordinance §105-3, no work shall begin without a building permit through the Code Enforcement Office.**

Madge B. made the motion to approve the Best Possible Location to replace the existing structure per the plans provided, on Map 43, Lot 27, with six conditions. Steve F. 2nd the motion. All members were in favor. By a vote of 4 – 0, the motion passed unanimously.

Nothing further was discussed.

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**The Findings of Facts**

1. The owners of Shapleigh Tax Map 43, Lot 27 (109 Pine Cone Drive), are Paul Litchfield and Lisa Conti of 47 Rumford Street, Lowell, MA 01842.
2. The property is located in the Shoreland District and according to the assessor contains 0.15 acres.

3. The applicant is before the board for a Best Possible Location to replace the existing structure.
4. Received was a conceptual plan drafted by John E. Perry Jr., PLS #2127 of Biddeford, Maine; the plan depicted the existing structure and concrete block patio, and the proposed structure and leach field in relation to the lot lines, high water mark and Pine Cone Drive.
5. Received was a copy of the Subsurface Wastewater Disposal System Variance Request dated as accepted by the Shapleigh CEO on 6/14/2012; the Subsurface Wastewater Disposal System Application drafted by Thomas Milligan, dated 6/6/2012; and a copy of a Permit by Rule Notification Form to replace the existing structure, dated as accepted by the DEP on 9/24/2014.
6. The proposed structure shall be 46' x 26' including the overhangs for the footprint, but the actual house foundation is only 24 feet wide. The distance of the structure to the lot line abutting Map 43, Lot 26 is 13.86' to the overhang and 14.86' to the foundation and the distance to the structure to the lot line abutting Map 43, Lot 28 is 10.50' to the overhang and 11.50' to the foundation. The distance to the high water mark at the closest point of the structure is 28.78', which is six feet farther from the high water mark than the existing structure.
7. The existing structure, concrete slab and brick patio area shall be removed. Debris shall not be taken to the Shapleigh Transfer Station.
8. The board reviewed Zoning Ordinance §105-4, 'Nonconformance', the structure is placed in the best possible location based on the existing septic system design, as well as moving the structure six feet farther from the high water mark and farther from the lot line of the neighboring property known as Map 43, Lot 26. Additionally, the application and information as presented met the standards applicable in this chapter.
9. A notice was mailed to all abutters within 500 feet of the property on April 26, 2017. Meetings were held on April 25, 2017, and May 9, 2017.
10. The Planning Board unanimously agreed to approve the Best Possible Location to replace the existing structure on Map 43, Lot 27 per the plans provided with six conditions.
11. **The conditions of the approval are as follows:**
  1. **The project, including the removal of the existing structure and two patio areas, revegetation plan and placing erosion control mulch to stabilize the area shall be completed by October 15, 2017. If this date cannot be accomplished the applicant must contact the Code Enforcement Office.**
  2. **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.**
  3. **The DEP shall be notified by way of Permit by Rule of the final plan.**
  4. **Per Zoning Ordinance §105-4, the approved plan shall be confirmed in writing by a licensed surveyor that the placement of the structure is correct per the specifications approved by the Planning board.**
  5. **Per Zoning Ordinance §105-4, the approved plan must be recorded with the registry of deeds, within 90 day of approval, or the application shall be null and void. 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.**

**6. Per Zoning Ordinance §105-3, no work shall begin without a building permit through the Code Enforcement Office.**

**Motion:**

After careful consideration and a review of all material presented to the Board, including the review of Zoning Ordinance §105-4, ‘Nonconformance’, a motion was made to approve the replacement of the existing structure on Tax Map 43, Lot 27, per the plans provided with six conditions.

**Vote:**

By a unanimous vote of 4 – 0, the motion to approve the Best Possible Location application to replace the existing structure on Tax Map 43, Lot 27 per the plans provided with six conditions, was accepted.

**Decision:**

**The Best Possible Location application to replace the existing structure on Tax Map 43, Lot 27, per the plans provided with six conditions, was approved.**

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**Other:**

Because several board members were not present, the Election of Officers was postponed until Tuesday, May 23, 2017.

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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, May 23, 2017 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 6:30 p.m. Please contact the Land Use Secretary if there is a question in scheduling, 207-636-2844, x404.*

**NOTE: We are back to our summer schedule with the meetings beginning at 7:30 p.m. thru November 1st.**

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



# **SHAPLEIGH PLANNING BOARD**

## **MINUTES**

**Tuesday, May 23, 2017**

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

Note: Ann Harris sat in as a regular meeting this evening.

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

The minutes from Tuesday May 9, 2017 were accepted as read.

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**Best Possible Location – Add Bedroom and Closet to Existing Structure, Remove Bedroom & Chimney – Map 30, Lot 66 (35 Hickory Street) – Debbie Powers, Applicant**

Ms. Powers was not present for the review of the application, therefore, the application was tabled until the next meeting.

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**Minor Subdivision of Land (3 Lots) – Map 11, Lot 23H (Gray & Newfield Road) – Nick Richardson, Applicant; Joseph Stanley, Authorized Agent**

Mr. Richardson was present for the review of the application, along with John Hutchins. Mr. Hutchins works with Mr. Stanley (the authorized agent) who was unable to attend the meeting.

The subdivision application listed Nickolas Richardson of 41 Newfield Road as the applicant and property owner of Map 11, Lot 23H. The property contains 11.42 acres and the applicant proposes a 3 lot subdivision, along with selling 2.20 acres to an abutter. The proposed subdivision name is Gray Road Estates. The lot is in the general purpose district, with an existing use as a wood lot. There are no proposed restrictive covenants. Each lot will have its own individual well as a water supply; individual septic tank; and there is no proposed fire protection beyond the Shapleigh Fire Department. There are no streets, recreation areas or common lands being proposed. There were no waivers of the subdivision requirements listed on the application.

Along with the application, provided was a copy of the Quit Claim Deed granted to Nickolas Richardson, filed at York County Registry of Deeds on April 11, 2017, Book 17451, Page 542-543; Test Pit data taken in four locations, done by Kenneth Gardner, SE #23, done on May 3, 2017; and a subdivision plan entitled 'Gray Road Estates', done by Joseph Stanley, PLS #2453, of LinePro Land Surveying, LLC, dated May 15, 2017.

Roger A. asked the applicant to explain to the board what his intentions were. Mr. Hutchins began by stating they were proposing a three lot subdivision on Gray and Newfield Road in Shapleigh. Board members looked at the plan provided. Mr. Hutchins stated there was also going to be a lot conveyed to an abutter. Mr. Hutchins stated the plan was preliminary. He noted there were no wetlands on the property.

CEO McDonough asked about the property being conveyed. He asked if it was going to be joined to the

abutter's property? He stated that it had to be in order for it to be exempt from subdivision review. Mr. Hutchins said he was not sure. Mr. Richardson stated that he purposely left it so there wouldn't be enough road frontage to create an additional lot, he wasn't aware that it had to be joined. Mr. Hutchins thought the lot only had to be non-conforming in order to be exempt. He also believed that for subdivision purposes it would automatically get joined to the abutter's lot. CEO McDonough stated that this lot is conforming, so in order to exempt it from subdivision it had to be joined to the neighboring lot. (Note: There appears to be 123+ feet on Gray Road and 180 feet on Newfield Road.) Mr. Hutchins stated that he was not aware you could combine the road frontage on both roads to get the road frontage. CEO McDonough and Roger A. both stated that you could, so this was a conforming lot. Mr. Hutchins stated that in light of this, they would create a deed that joined both lots when it is conveyed.

CEO McDonough asked if the property is joined, would it say that it couldn't be divided again? Mr. Hutchins thought you would have to wait for five years. CEO McDonough asked if it said that in the ordinance? Mr. Hutchins believed it would be an amendment to the subdivision. CEO McDonough did not believe that was true if the board called the lot exempt. CEO McDonough was concerned that they would be circumnavigating the subdivision law. Roger A. thought that at this time this is a 4 lot subdivision because it has not been conveyed to the neighbor yet. He noted that it was still a minor subdivision, as it was less than five lots. Mr. Richardson stated that he had not conveyed it yet because he wanted to wait to see if he had to do something different after the board reviewed the plan, such as move a property line.

Roger A. asked why the lot was 23H, when was it divided? Mr. Richardson stated that it was more than five years ago by Pat Frasier. CEO McDonough agreed, as he remembered the division.

CEO McDonough believed to have it exempt from subdivision, the lot would have to be joined to the neighboring property. Ann H. asked if he could keep the lot and just do a 4-lot subdivision? Mr. Richardson stated he did not want to do that because of an existing house and shed, it is very close to the property line. He said the neighbor approached him and asked about doing this.

Roger A. said at this time there are no waivers listed. So he asked if there would be granite monuments and would they be using underground power? Mr. Richardson said he would have underground power for two lots and overhead for one. Mr. Hutchins said they would put in a waiver for granite monuments, as he believed that is what Mr. Stanley would ask for. Ann H. asked if it was surveyed out? Mr. Hutchins stated that the pins had not been set yet.

Roger A. asked if there would be a location for the underground power on the plan? Mr. Richardson asked if the line itself had to be located? Roger said, yes. Mr. Richardson asked if they just needed where the transformer pad would go? Mr. Hutchins said yes, and there had to be an easement on the plan for it. Mr. Richardson said one lot would have overhead power. CEO McDonough and Roger said Mr. Richardson would have to ask for a waiver for that one lot.

Mr. Hutchins asked if underground power was required for a minor subdivision? Roger said, yes, so the wire will be there when someone buys the property. Mr. Hutchins said they would show the easement for the underground and a waiver for the one lot. Roger said that they can show the easement but there had to be power on site on the lot. Mr. Richardson asked if it had to be on the lot before the plan is approved? Roger said that if it isn't on site, then there would have to be a bond or money in place to cover the cost of installation until it is available.

Roger A. asked about fire protection, what was their intention? Mr. Hutchins asked if the houses had to have sprinklers? The board noted you could have a cistern in lieu of sprinklers. Mr. Richardson stated that Ross Corner Fire Department was within a mile of the lots. CEO McDonough stated that that did not mean

they had a water supply to hook up to. He asked where the nearest water was? Mr. Richardson said there was a hydrant within 2 miles. Roger stated that they could ask the Fire Chief if he wanted some method of fire protection on site or if he would waive the requirement due to the location of a water supply. The board would need it in writing.

CEO McDonough went back to the discussion on the bond for the electric. He told Mr. Richardson he would need to get an estimate of what it would cost to put in electric access on site and the board would want a bond to cover that cost.

Roger A. stated that it had to be noted on the plan somewhere, that no dug wells were allowed. Mr. Richardson asked if it had to be in the deed? Roger said it had to be a deed restriction. Mr. Richardson asked what the purpose of that was? Roger said that in the ordinance it stated that 'dug wells shall be permitted only if it is demonstrated that it is not economically feasible to develop other groundwater sources and shall be constructed to prevent infiltration of surface water into the well. Unless otherwise permitted by the Board, the subdivider shall prohibit dug wells by deed restrictions and a note on the plan.' §89-30.B(2)(a)

Roger A. then read §89-30.B(2)(c) which read as follows: The subdivider shall construct ponds and dry hydrants to provide for adequate water storage for fire-fighting purposes. An easement shall be granted to the municipality granting access to the dry hydrants where necessary. Fire ponds and dry hydrants must meet the specifications of the Shapleigh Fire Department. Roger said that if Fire Chief Romano says that he has no issue with providing no extra fire protection the board can look at a waiver for this section.

Ann H. asked if each lot would have their own septic? Roger A. said, yes.

Roger A. asked about the USGS (United States Geological Survey) if it was at 15 minutes and Mr. Hutchins stated, 20. Roger said the area was fairly flat, so he saw no issue with this.

Roger A. asked if they would have sidewalks? Mr. Hutchins said they would be waiving that.

Roger A. asked about stormwater management design standards. Mr. Hutchins asked if they could waive that. Roger noted the area was very flat. CEO McDonough said if they waived it, there needed to be a statement as to why. Mr. Hutchins said he could also put the standard erosion control standards on the plan.

Madge B. asked if the driveways would need culverts? Mr. Richardson said he had already spoken with Road Commissioner Burnell and he said it was not required because it was flat in that location. CEO McDonough told Mr. Richardson to have RC Burnell put that in writing for the board. Madge said there must not be any ditches here. Mr. Richardson said there was no need for ditches in this location. Madge and CEO McDonough asked Mr. Richardson to get something from RC Burnell stating no culverts or ditching would be required, and that no stormwater modification was required.

**Roger A. said a site inspection could be done before the next meeting. Board members agreed to meet at the town hall on Wednesday, June 14<sup>th</sup> at 6:00 p.m.**

Mr. Richardson asked if he had to have power physically on site or just have it on the plan where it would be going? Roger A. said that if the transformers are energized, so they can be utilized by the property owner then no bond would be required, but otherwise a bond is needed. CEO McDonough stated that for the purpose of subdivision approval, what the board wants is what bringing it in will cost and a bond for that amount of money. Roger agreed. He said if it goes in ahead of time, a bond will not be needed. No one believed the power company would work that quickly.

Roger A. stated that in three weeks there wouldn't be approval. He said in three weeks, once all the new information is received, then a public hearing will be scheduled. He said also after the site inspection, something new could be brought up. He reminded Mr. Richardson the lot going to the abutter had to be merged with his property prior to approval.

Roger A. stated that for the site inspection the area did not have to be pinned but it should be flagged, so the board knows what they are looking at. Both in the front and in the back. Mr. Hutchins asked when they would do the site inspection. The board stated, Wednesday, June 14<sup>th</sup>, due to voting being on the 13<sup>th</sup> for school budget.

Nothing further was discussed.

**Best Possible Location – Replace Existing Structure – Map 26, Lot 40 (7 Buccaneer's Way) – Bradford Sweet, Applicant**

Bill Hutchins represented the applicant, as LinePro Land Surveying LLC was also working on this project.

Along with the application, provided was an email stating that Dustin Morrill, Joe Stanley and John Hutchins (all from LinePro Land Surveying LLC) would be representing him at the Shapleigh Planning Board meetings when necessary.

Also provided was a plan showing a proposed Best Practical Location for Bradford Sweet, done by Joseph Stanley, PLS #2453, of LinePro Land Surveying LLC, dated May 15, 2017. The plan depicted the existing structure location, deck, two areas called concrete, the gravel driveway, proposed septic location, a stone retaining wall, wood retaining wall, existing trees, elevation contours, the 100 foot setback to the high water mark, as well as the proposed best practical location of the new structure. The new structure and existing structure also had the side setbacks depicted on the plan, distance to the high water mark and distance to Buccaneer's Way.

The application detailed description reads: Best Possible Location for Camp Rebuild

Roger A. asked if Mr. Hutchins wanted to speak about what they wanted to do. Mr. Hutchins stated that this was Best Practical Location. Mr. Hutchins said the plan shows the existing footprint of the structure and deck and they pushed it back within 15 feet of the power line easement. This moved the structure from about 28 feet from the high water mark to 52 feet from the high water mark at the closest point. He said with respect to the side setback they split the difference to make it more centered on the property, at 9.6 feet from the side lines.

CEO McDonough asked where the 15 foot setback rule come from. Mr. Hutchins stated that was a CMP rule (Central Maine Power). CEO McDonough asked if it was a single residential line, he noted that he has seen CMP lift a residential line and the house was moved under it. He wanted them to get it in writing from CMP that this 15 foot easement is required.

Ann H. asked if the deck and concrete was being removed? Mr. Hutchins said the concrete behind the house was coming out, the walkway was staying. The deck is being removed as well. Roland L. asked if the walkway was concrete? Mr. Hutchins showed on the plan what was concrete and stairs.

Roger A. asked if they could get 10 feet on each side vs. 9.5 feet? Mr. Hutchins said this is the existing structure moved back. CEO McDonough agreed you move the existing structure back but he noted that on the plan it appeared you could straighten the structure out and possibly get 10 feet on each side. Mr.

Hutchins agreed it was possible, he didn't create the plan. Ann H., looking at the plan, thought they placed it as they did due to the CMP easement which was at an angle. Ann thought it possibly could be 10 and 10 if they moved it slightly.

Ann H. asked if they were going to put a foundation under it? Mr. Hutchins believed they wanted a full foundation and the 30% expansion as well.

Roger A. asked if any trees, more than the two that were directly in the same place as the proposed location, would be removed? Mr. Hutchins thought the one next to the property line would have to come down as well, as it probably would not survive.

CEO McDonough asked about the 30% expansion, where would they propose to do it? He wanted it known that if there is a restriction to the CMP easement there would never be able to be any construction going back toward the easement. Mr. Hutchins agreed. CEO McDonough told Mr. Hutchins they may want to look into the easement issue, so they have more options for expansion. Going up may not work due to the new shoreland zoning restrictions. Looking at the plan, they discussed his options from what he had on the plan.

Roger A. stated that when the board approves the footprint, you have to stay within those numbers. CEO McDonough agreed, no closer to the setbacks than the existing. Mr. Hutchins understood and there was a small area, because the structure is not perfectly square, that could be added to.

Roger A. said there needed to be a planting plan. Where new trees will be planted and what will be done to the area where the existing structure is being removed from. CEO McDonough wanted Mr. Hutchins aware that the approved plan will get recorded at the York County Registry of Deeds, this is a new DEP / Shoreland Zoning rule. Mr. Hutchins asked if it was the new footprint. CEO McDonough said that it wasn't the Planning Board approval but the 30% expansion has to get recorded. Mr. Hutchins asked if it had to be a Mylar? CEO McDonough said not a Mylar, just the final plan for the expansion. Barbara F. noted that it had to be a notarized plan. CEO McDonough stated that for other drawings he had created paperwork that could be notarized. CEO McDonough stated that whatever the final plan is, that will have to be notarized and recorded.

Mr. Hutchins stated there was no volume calculation anymore. CEO McDonough said, correct.

**Roger A. said the site inspection will be done on Wednesday, June 14, 2017, at approximately 7:00 p.m. after the first site inspection that evening. A notice to abutters will be mailed as well.**

Roger A. reiterated that the board will need to have on the plan what will be done to all the disturbed areas, and the time frame for starting and completion. The person doing the work needs to be certified by the DEP in erosion control. Madge noted again that the area where the building is being removed from needs to have something done in that area, a replanting plan to control erosion.

Nothing further was discussed.

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**Other:**

**ELECTION OF OFFICERS**

Madge Baker nominated Roger Allaire as Chairman of the Planning Board.  
Maggie Moody 2<sup>nd</sup> the motion.

Roger Allaire accepted the nomination.

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

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

Maggie thanked Madge but did not wish to be Vice Chairman any longer.

Madge Baker nominated Roland Legere as Vice Chairman of the Planning Board.

Roland stated that he did not have any intention of being Vice Chairman.

The Board decided to table the decision for Vice Chairman for the next meeting when perhaps all members will be present.

Nothing further was discussed.

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**Growth Permits**

**Map 40, Lot 30A (Granny Kent Pond Road) – New Home**

Board members reviewed the lot and it is a legally created existing lot of record. **GP #05-17** was assigned.

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

*The next meeting will be held **Wednesday, June 14, 2017** 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**

**Wednesday, June 14, 2017**

Members in attendance: Roger Allaire (Chairman), Steve Foglio, Roland Legere, Maggie Moody, 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.

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

**The minutes from Tuesday May 23, 2017 were accepted as read.**

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**Best Possible Location – Add Bedroom and Closet to Existing Structure, Remove Bedroom & Chimney – Map 30, Lot 66 (35 Hickory Street) – Debbie Powers, Applicant**

Ms. Powers was present for the review of her application.

For the first meeting, along with the application, Ms. Powers presented the board members with a conceptual plan drafted by Joseph Stanley, PE #2453 of LinePro Land Surveying, LLC which depicted the existing two sheds on the property, the parking area, steps, existing camp and proposed 20' x 12' expansion with overhang. Also provided, was the Subsurface Wastewater Disposal System Application, dated 5/9/2011, done by Mark Truman, SE #121.

Roger A. asked Ms. Powers what she had for the board. Mrs. Power gave board members a copy of the revised plan, drafted by Joseph Stanley, PLS #2453, of LinePro Land Surveying LLC, dated May 15, 2017. The new plan depicted a change to the proposed addition, making the proposed expansion 20' x 13.5' with a 1 foot overhang or 297 square feet. The plan also showed the existing concrete patio area. Ms. Powers drew on the plan the location of the tree that will have to be removed during construction and the location of a replacement tree. Ms. Powers showed board members the changes on the plan.

Roger A. reviewed part of §105-4.D(7) 'Relocation'. He stated at the site inspection the board determined it was best to keep the existing structure in the same location due to topography, this would create less damage to the environment, this included adding the expansion. The overall structure is in the best possible and practical location on site.

Roger A. continued to review the section on non-conforming structures / relocation and noted that with respect to revegetation there was one tree to be taken down and replaced. He stated that on the new plan it shows the replacement tree to be further from the water than the existing tree and the ordinance states, 'Replaced trees must be planted no further from the water or wetland than the trees that were removed.' Ms. Powers did not have an issue with placing the tree the same distance or closer to the water than the existing. Steve F. stated the board could make it a condition of approval that the new location has to be the same distance or no further from the water than the existing. Roger agreed.

Roger A. said the board knows where the septic design is, and that may have to be changed because of the addition. Ms. Powers understood. Roger stated that there will be no greater adverse impact by the new addition and location of the new addition. He said the board reviewed whether it would affect public health and safety, fish and wildlife habitat, vegetative cover, access to the water, etc. as stated in the ordinance. He stated this project met the criteria in the ordinance.

Roger A. asked what the time frame was for the project? Ms. Powers stated it looked like it would be done in the fall, due to other projects that the contractor was currently working on. She thought they would not break ground unless they can finish the project within a month.

Roger A. asked if there were any other issues from the board that needed to be addressed?

**The conditions of approval are as follows:**

- 1) The replacement tree shall be no further from the water than the tree being removed.**
- 2) No work shall begin without a building permit from the Code Enforcement Officer.**

**Maggie M. made the motion for approval of the 20 x 13.5' expansion of the structure located on Map 30, Lot 66, per the plans presented. Steve F. 2<sup>nd</sup> the motion. All members were in favor. By a vote of 3 – 0 the motion for approval passed unanimously.**

Roland L. abstained from voting due to the fact he was unable to attend the site inspection and one review meeting.

Nothing further was discussed.

**The Findings of Facts**

1. The owner of Shapleigh Tax Map 30, Lot 66 (35 Hickory Street), is Debbie Powers, mailing address of P.O. Box 2018, Ogunquit, Maine 03907.
2. The property is located in the Shoreland District and according to the assessor contains 0.44 acres.
3. The applicant is before the board for a Best Possible Location to add a bedroom and closet, and remove the existing bedroom and chimney.
4. Received was a conceptual plan drafted by Joseph Stanley, PE #2453 of LinePro Land Surveying, LLC, dated October 12, 2016 which depicted the existing two sheds on the property, the parking area, steps, existing camp and proposed 20' x 12' expansion with overhang.
5. Received on June 14, 2017, dated May 15, 2017, was a revised plan also drafted by Joseph Stanley. This plan depicted the proposed expansion to be 20' x 13.5 with a 1' overhang and it also depicted the existing concrete patio area.
6. Received was a copy was the Subsurface Wastewater Disposal System Application, dated 5/9/2011, done by Mark Truman, SE #121.
7. During the review on Tuesday, May 9, 2017, the board allowed the proposed addition to be expanded to 20' x 13' with overhang, as there was enough square footage under the 30% expansion rule for the additional foot, and it would still meet the 10 foot side setback requirement.
8. The board reviewed Zoning Ordinance §105-4, 'Nonconformance', and concurred the application and information as presented met the standards applicable in this chapter.



9. A notice was mailed to all abutters within 500 feet of the property on April 26, 2017. Meetings were held on April 25, 2017, May 9, 2017 and June 14, 2017.
10. The Planning Board unanimously agreed to approve the Best Possible Location to add a bedroom and closet, the area to be 20' x 13.5' with overhang, removing the existing bedroom and chimney on Tax Map 30, Lot 66 with two conditions.
11. **The conditions of the approval are as follows:**
  1. **The replacement tree shall be placed no further from the water than the tree being removed.**
  2. **No work shall begin without a building permit through the Code Enforcement Office.**

**Motion:**

After careful consideration and a review of all material presented to the Board, including the review of Zoning Ordinance §105-4, 'Nonconformance', a motion was made to approve the 20 x 13.5' addition for a bedroom and closet, removing the existing bedroom and chimney on Tax Map 30, Lot 66, per the plans provided with two conditions.

**Vote:**

By a unanimous vote of 3 – 0, the motion to approve the Best Possible Location application to add a 20 x 13.5' addition for a bedroom and closet, removing the existing bedroom and chimney on Tax Map 30, Lot 66 per the plans provided with two conditions, was accepted.

**Decision:**

**The Best Possible Location application to add a 20 x 13.5' addition for a bedroom and closet, removing the existing bedroom and chimney on Tax Map 30, Lot 66 per the plans provided with two conditions, was approved.**

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**Best Possible Location – Replace Existing Structure – Map 26, Lot 40 (7 Buccaneer's Way) – Bradford Sweet, Applicant**

Mr. Sweet was present for the review of the application, along with Joseph Stanley of LinePro Land Surveying LLC. *Note: Members did a site inspection prior to this evenings meeting.*

Prior to the last meeting, along with the application, provided was an email stating that Dustin Morrill, Joe Stanley and John Hutchins (all from LinePro Land Surveying LLC) would be representing Mr. Sweet at the Shapleigh Planning Board meetings when necessary. Also provided was a plan showing a proposed Best Practical Location for Bradford Sweet, done by Joseph Stanley, PLS #2453, of LinePro Land Surveying LLC, dated May 15, 2017. The plan depicted the existing structure location, deck, two areas called concrete, the gravel driveway, proposed septic location, a stone retaining wall, wood retaining wall, existing trees, elevation contours, the 100 foot setback to the high water mark, as well as the proposed best practical location of the new structure. The new structure and existing structure also had the side setbacks depicted on the plan, distance to the high water mark and distance to Buccaneer's Way. The application detailed description reads: Best Possible Location for Camp Rebuild

This evening board member received a revised plan, drafted by Joseph Stanley, PLS #2453, of LinePro Land Surveying LLC, dated June 14, 2017. This plan depicted the side setbacks to be 10 feet, the setback to the road to be 114.8 feet and the setback to the high water mark is 37.5 feet. Plan Note 6 read as follows: Re-vegetation: Disturbed areas will be re-vegetated with erosion mulch along with blueberry bushes within 60 days from the time of the disturbance. The plan also depicted two trees being removed due to the construction.

In addition, Mr. Sweet provided board members with a letter from Central Maine Power, which had been requested at the previous review with respect to setbacks to the CMP easement, and the letter read as follows:

*The current standard for Central Maine Power Company for improvements that are located near a distribution line is fifteen feet from all distribution poles, guywires, pushbraces, and distribution line conductors. We like to maintain this distance for a safe work area so we can access the poles, guywires, and conductors for emergency work as well as pole replacement and maintenance of the distribution line. If you have any further questions or concerns please don't hesitate to ask I am more than glad to assist you in your efforts.*

Mr. Stanley began by stating he reviewed the notes from the previous meeting and moved the structure location, so there is a 10 foot side setback as requested by the board. He also gave the board the CMP easement letter. Roland L. asked about, referring to the CMP letter, what a distribution line conductor was? He asked if that was what was carrying the power? Mr. Stanley stated that that was his understanding. Roland said, ok. Mr. Sweet said he called CMP and asked them if it meant the power lines and they said, yes. Roger A. agreed.

Roger A. said that at the site inspection, the board felt the best possible location is setting up against the stone wall and not going further into the embankment. He said that would create more environmental damage if it was moved farther back.

Roger A. stated that in addition, to assist with stormwater runoff, a French drain could be created in the front moving the water to a catch basin. Mr. Sweet asked if this was in front of the foundation? Roger said, 'In front of the camp, when you pull it back, dig a French drain so all the runoff from the roof goes into a catch basin'. Mr. Stanley stated he knew what Roger was speaking of and could point Mr. Sweet in the direction of getting it properly designed. Steve F. said the catch basin itself would not be very expensive if it was done while the construction was taking place. Roger said the water will eventually leach into the lake but it would keep the soil from going into the lake.

Roland L. asked about a tree he saw on site, that had a smiley face on it, he wondered if it would be spared? Mr. Sweet was not sure. He said he could try but the retaining wall that the tree was up against was being removed, and what if then the tree leans toward the house, it is does he would want the tree removed. He did not want to commit to keeping it because it was leaning up against the side of the house. If it could stay he would keep it but he didn't know at this time. Roger A. stated that if it comes out he would like a letter from the neighbor agreeing that it was ok to remove it. He felt the root structure would be damaged and it would have to come out. Roland said that the building was being moved and he thought the roots had found their way around the building but would leave it to the owner's discretion. Mr. Sweet said if the tree is not damaged, and he gets told it did not have to be removed, he would be happy to leave it. Steve F. stated that the question would also be what the grade in the area would be.

CEO McDonough wanted the board to be sure that the tree gets replaced if it gets removed. Steve F. said he wasn't sure the board could, because the tree was not on Mr. Sweet's lot. CEO McDonough did not see what not, because the Best Possible Location says that if you remove a tree you replant a tree, it did not say anything about the tree being on your lot. Steve asked which lot it would be relocated on? CEO McDonough stated it was to be no further from the water. Steve said his point was that it wasn't the applicant's tree. CEO McDonough was aware of that but if the board wanted to make a case for that, then the neighbor should be in the room to discuss it. Steve said it sounded like the neighbor was ok if it has to be removed. Mr. Sweet agreed. Mr. Stanley said, 'Regardless, Mr. Sweet is happy to do the replanting, no farther from the water'. Mr. Sweet said he had no issue seeing it as a condition to replace the tree if it is removed.

Roland L. asked about the concrete from the top of the stairs to the cottage, he asked if that was staying in place, on the water side? Mr. Sweet said, yes, from the top step is still good. Mr. Sweet said the concrete from the pine tree to the house, that concrete is going. That area is 10 to 12 feet in length, that is going.

Roger A. asked if there were additional concerns? There were none. Roger asked about the planting schedule, the area that has to be reclaimed. CEO McDonough said it was on the plan, it states 'See Note 6' and Note 6 states it will be erosion control mulch and blueberry bushes. He wanted to know how many blueberry bushes and he wanted the board to add a condition that it is a well distributed stand of blueberry bushes. He didn't want just a line down the abutter's property line. Mr. Stanley said they discussed this before the meeting and he understood he didn't have a complete replanting plan. CEO McDonough asked about a number, did they come up with one? Mr. Stanley said they did not but Mr. Sweet was agreeable to a number. CEO McDonough asked for a minimum of five bushes. Mr. Sweet asked if the board had a parameter for size? Roger said there was not a size recommendation in the ordinance for bushes. Roland noted that he believed you needed two varieties for pollination purposes, so Mr. Sweet may want to ask a nursery to be sure.

Roger A. reviewed §105-4.D(3) 'Foundations' and D(7) 'Relocation'. Roger stated that the placement was not more non-conforming as presented and the side setbacks are more conforming than the existing, being set at 10 feet on the final plan. Roger noted the area was all sandy with pine spills at this time. He stated that the area where the structure will be removed, will have erosion control mulch and five blueberries bushes added to stabilize the area.

Mr. Sweet stated that he needed a new well and he wanted to be sure he was able to do so, because at present the existing well will be located under the new house. He asked what he needed to do to put in a well, if further permitting would be required? CEO McDonough asked if he knew the location of the new well? Mr. Sweet said he had one person come in and show him where one could go, in the middle of the concrete down by the water. CEO McDonough asked if he had to remove vegetation to get to that location? Mr. Stanley thought it would be best to do it after the house is removed, he understood the board didn't want more trees removed. Mr. Sweet said the person he spoke with said he wouldn't be using a well truck, this was when the house was going to stay, the man said he could put in the well without the truck. CEO McDonough asked who the well guy was but Mr. Sweet could not recall. CEO McDonough stated the issue was that if there was any tree removal or vegetation disturbed, then this will have to be revisited. He said Mr. Sweet needed to come to him first before going forward if vegetation would be disturbed. Mr. Sweet said he understood. The board thought, based on what he was stating, that he was speaking of a point well. CEO McDonough suggested a drilled well, if he was going to be using a lot of water. The board members agreed, and when the house was removed would be a good time to possibly get some type of equipment on site to do a drilled well.

Roger A. asked what the time frame would be for the project? Mr. Sweet stated that he would like the foundation, well and septic done by the end of the growing season, so everything could be revegetated. He

said with respect to framing, he would like to have it closed up by winter but the earthwork would be done for certain. Steve F. asked if December 1, 2017 would work? Mr. Sweet believed it would.

Roger A. asked if there were any additional questions? Roger let him know that anyone doing the work would have to be certified in erosion control practices by the DEP. Roger said the actual landscaping plan would have to be approved by the Code Enforcement Office. CEO McDonough stated again that there would have to be a minimum of 5 blueberry bushes and it would need to be a well distributed stand.

Roland L. told Mr. Sweet that because this was a tear down, he would have to make arrangements for all the material to be moved off site and out of Shapleigh. Mr. Sweet said someone from Simpson's was coming to the site to give him a price for removal of the structure, including the concrete. He noted he was just waiting for approval from the Planning Board.

Roger A. stated that he would have to notify the DEP of what was taking place, a Permit by Rule Notification. Mr. Sweet asked Mr. Stanley if he had done that already? Mr. Stanley stated they had to modify the original plan they had sent in.

Mr. William Mageary, an abutter, had a question. He understood the camp was being moved back, he wanted to know if it was the same footprint as the existing structure? He also asked about the 30% expansion. Roger A. and Steve F. stated the board was only looking at the re-location of the existing structure, the 30% expansion was through the Code Enforcement Office. CEO McDonough stated it was the applicant's intention to expand. Mr. Mageary asked with expansion if it was the footprint or going up? Mr. Sweet believed he would go up, building the new structure very close to the configuration of the existing structure. CEO McDonough said after the structure is relocated, 10 feet to the side lot lines, going no closer than the approved setbacks. Mr. Stanley explained how it worked. Mr. Sweet said at this time he had not hired a designer for the new structure. Mr. Mageary asked if it would be the same footprint? CEO McDonough said it would likely go up but there is a height limitation that he must meet of 25 feet.

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

The conditions of approval are as follows:

- 1) With the possible removal of the pine tree at the side of the camp on the neighboring property, a note from the neighbor must be obtained stating it is acceptable to them that it be removed, prior to removal. This note shall be given to the Code Enforcement Office.**
- 2) The revegetation plan must include a minimum of five blueberry bushes placed in a well distributed manner; this plan must be shown to the Code Enforcement Officer for approval.**
- 3) A French drain shall be constructed across the front of the new structure, on the water side, to collect stormwater and drain it into a catch basin on site.**
- 4) The foundation, well, and septic system shall be completed by December 1, 2017.**
- 5) 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.**
- 6) A DEP Permit by Rule must be obtained prior to the start of the project.**
- 7) Per Shapleigh Zoning Ordinance §105-4, the approved plan shall be confirmed in writing by a licensed surveyor that the placement of the structure is correct per the specifications approved by the Planning board.**
- 8) Per Shapleigh Zoning Ordinance §105-3, no work shall begin without a building permit through the Code Enforcement Office.**

**Roland L. made a motion for approval of accepting the best possible location of the existing structure on Map 26, Lot 40, per the plan drafted by Joseph Stanley PLS #2453, dated June 14, 2017, showing the side setbacks to be 10 feet on each side, the setback to the road as 114.8 feet at the closest point and 37.5 feet to the high water mark, with 8 conditions. Steve F. 2<sup>nd</sup> the motion. All members were in favor. By a vote of 4 – 0 the motion for approval passed unanimously.**

Nothing further was discussed.

**The Findings of Facts**

1. The owner of Shapleigh Tax Map 26, Lot 40 (7 Buccaneer's Way), is Bradford Sweet, mailing address of 25 Holmgren Road, Stratham, New Hampshire 03885.
2. The property is located in the Shoreland District and according to the assessor contains 0.24 acres.
3. The applicant is before the board for a Best Possible Location to replace the existing structure.
4. Received was a plan for a proposed best practical location drafted by Joseph Stanley, PE #2453 of LinePro Land Surveying, LLC, dated May 15, 2016 which depicted the existing structure location, deck, two areas called concrete, the gravel driveway, proposed septic location, a stone retaining wall, wood retaining wall, existing trees, elevation contours, the 100 foot setback to the high water mark, as well as the proposed best practical location of the new structure. The new structure and existing structure also had the side setbacks depicted on the plan, distance to the high water mark and distance to Buccaneer's Way.
5. Received on June 14, 2017, dated June 14, 2017, was a revised plan drafted by Joseph Stanley PLS #2453, which depicted the side setbacks to be 10 feet, the setback to the road to be 114.8 feet, the setback to the high water mark to be 37.5 feet; and Plan Note 6 which read as follows: Re-vegetation: Disturbed areas will be re-vegetated with erosion mulch along with blueberry bushes within 60 days from the time of the disturbance. The plan also depicted two trees being removed due to the construction.
6. Received on June 14, 2017 was a letter from Central Maine Power, which had been requested at the previous review with respect to setbacks to the CMP easement, which stated that the current standard for Central Maine Power Company for improvements that are located near a distribution line is fifteen feet from all distribution poles, guywires, pushbraces, and distribution line conductors.
7. The board reviewed Zoning Ordinance §105-4, 'Nonconformance', and concurred the application and information as presented met the standards applicable in this chapter.
8. A notice was mailed to all abutters within 500 feet of the property on May 24, 2017. Meetings were held on May 23, 2017, and June 14, 2017.
9. The Planning Board unanimously agreed to approve the Best Possible Location to replace the existing structure on Map 26, Lot 40, per the plan drafted by Joseph Stanley PLS #2453, dated June 14, 2017, showing the side setbacks to be 10 feet on each side, the setback to the road as 114.8 feet at the closest point and 37.5 feet to the high water mark, with 8 conditions.
10. **The conditions of the approval are as follows:**

- 1) With the possible removal of the pine tree at the side of the camp on the neighboring property, a note from the neighbor must be obtained stating it is acceptable to them that it be removed, prior to removal. This note shall be given to the Code Enforcement Office.
- 2) The revegetation plan must include a minimum of five blueberry bushes placed in a well distributed manner; this plan must be shown to the Code Enforcement Officer for approval.
- 3) A French drain shall be constructed across the front of the new structure, on the water side, to collect stormwater and drain it into a catch basin on site.
- 4) The foundation, well, and septic system shall be completed by December 1, 2017.
- 5) 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.
- 6) A DEP Permit by Rule must be obtained prior to the start of the project.
- 7) Per Shapleigh Zoning Ordinance §105-4, the approved plan shall be confirmed in writing by a licensed surveyor that the placement of the structure is correct per the specifications approved by the Planning board.
- 8) Per Shapleigh Zoning Ordinance §105-3, no work shall begin without a building permit through the Code Enforcement Office.

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**Minor Subdivision of Land (3 Lots) – Map 11, Lot 23H (Gray & Newfield Road) – Nick Richardson, Applicant; Joseph Stanley, Authorized Agent**

Mr. Joseph Stanley of LinePro Land Surveying represented Mr. Richardson this evening. *Note: Members did a site inspection prior to this evenings meeting.*

The subdivision application listed Nickolas Richardson of 41 Newfield Road as the applicant and property owner of Map 11, Lot 23H. The property contains 11.42 acres and the applicant proposes a 3 lot subdivision, along with selling 2.20 acres to an abutter. The proposed subdivision name is Gray Road Estates. The lot is in the general purpose district, with an existing use as a wood lot. There are no proposed restrictive covenants. Each lot will have its own individual well as a water supply; individual septic tank; and there is no proposed fire protection beyond the Shapleigh Fire Department. There are no streets, recreation areas or common lands being proposed. There were no waivers of the subdivision requirements listed on the application.

Along with the application, provided was a copy of the Quit Claim Deed granted to Nickolas Richardson, filed at York County Registry of Deeds on April 11, 2017, Book 17451, Page 542-543; Test Pit data taken in four locations, done by Kenneth Gardner, SE #23, done on May 3, 2017; and a subdivision plan entitled ‘Gray Road Estates’, done by Joseph Stanley, PLS #2453, of LinePro Land Surveying, LLC, dated May 15, 2017.

Mr. Stanley began by providing a new draft plan for Gray Road Estates, dated June 14, 2017. In this plan he explained that the lot lines had been slightly adjusted, and the property being conveyed to an abutter went from being 2.20 acres in size to 1.98 acres, the road frontage for this lot had not changed, however.

Mr. Stanley stated that based on notes taken at the last meeting from his colleague Mr. Hutchins and the minutes from the meeting, he wanted to address some of the issues. He stated that the lot to the abutter was created with less than the required road frontage of 200’ feet on both Gray and Newfield Road because they were not aware that you could combine the road frontage to meet the minimum lot requirement. At this point, he added language to Note 10 which read as follows: Upon Planning Board approval of this subdivision, 1.98 Acres of land will be conveyed to abutting landowner Michael Iosua, as shown, to be merged into his existing house lot as a single lot. This new/larger lot may not be divided within the next five

years without additional Planning Board approval. If for any reason this 2.20 acres is not conveyed to Mr. Iosua immediately after subdivision approval, the project will need to return to the Planning Board for further review. (*Note: This should read '1.98 Acres'.*) Mr. Stanley was open to further suggestions if this does not go far enough. He understood the board wants it conveyed out but the applicant didn't want to do so, in case the board does not approve the subdivision as drafted.

CEO McDonough suggested that in the future, if the Subdivision law or paragraph were referenced which allows the conveyance, it would make it more clear as to why this was allowed to occur.

Roger A. stated that at present the board has the pre-application submitted. The board has the sketch plan, the on-site inspection was also scheduled and done. He said for other submissions, the board needs the USGS topographical map, but the contour interval on the plan is sufficient due to the grade on site being relatively flat.

Roger A. stated that a request for the waivers had to be submitted, because on the application there were no waivers asked for. Mr. Stanley apologized, he stated he went thru the minor subdivision submissions list and it didn't note the waivers, and he didn't go over the general requirements thoroughly. Steve F. asked what he was waiving? CEO McDonough stated that there were some requested waivers on a block on the plan. The waivers requested were for Underground Utilities on Lot #3, as overhead utilities would come from an existing pole on Newfield Road; Stone Monuments, capped survey irons would be set at all corners; Fire Pond / Dry Hydrants, sufficient fire protection water is already available, a letter was written by Fire Chief Duane Romano. Mr. Stanley stated that he discussed the overhead utility availability for Lot #3 at the site inspection, along with capped survey irons.

Roger A. asked about sidewalks? Mr. Stanley said he saw the discussion about sidewalks in the ordinance but he did not see the requirements in the ordinance for a minor subdivision. Roger pointed out that it was listed under Article XI 'Street and Storm Drainage Design and Construction Standards' §89-35 'General requirements' and §89-36 'Street design standards'. Roger said §89-36, specifically (M) addresses sidewalks. Mr. Stanley said because a road wasn't required he did not review this section carefully.

Barbara F. stated that Road Commissioner John Burnell had stopped into her office to tell her that a culvert was not required in this location for the driveways, after meeting on site with Mr. Richardson. He told her that he would write something to that effect for the board for the next meeting. Steve F. asked CEO McDonough if a driveway permit would still be required? CEO McDonough stated that yes, because it is a town maintained road. Steve said if RC Burnell changes his mind or fails to write the letter, the site will be inspected prior to the driveway being put in.

A letter was received from Shapleigh Fire Chief Duane Romano, dated 6/6/2017 which read as follows:

*I have reviewed your preliminary minor subdivision plan for Gray Road Estates dated June 5, 2017 and prepared by LinePro Land Surveying, LLC.*

*Based on the proximity of the project to the existing fire pond and hydrant located a half mile away at Pine Springs, as well as being only 1.6 miles from the Ross Corner Fire Station, I believe that there is 'adequate water storage for fire-fighting purposes' located near this project, no further ponds or hydrants are necessary to fire-protect this 3-Lot Minor Subdivision.*

CEO McDonough asked what an 'urban compact area' was, as noted in section §89-36(M)? Steve F. and Roger A. both thought it had to do with the D.O.T. (Dept. of Transportation) and that there was a sign in

Springvale that said ‘urban compact area’. Steve asked if §89-35 said that there had to be sidewalks? Roger said, no. Steve thought it just had to be identified on the plan if there was going to be. Roger said, right it’s under general requirements. Roger said that under §89-36, under street standards there is a requirement for sidewalks. Steve said that was if there was an interior road. Roger said, yes. Mr. Stanley had no issue requesting a waiver. Roger said the board has always granted a waiver for sidewalks.

Roger A. asked if there were any design standards for stormwater management? Mr. Stanley said he did not know how the lots will be built. He stated that generally stormwater management plans are for roads that are being proposed or larger impervious areas such as parking lots or large buildings. He said in this situation he does not know how the landowners were going to build the houses. He said typically stormwater requirements deal with those issues. He asked what type of information the board was looking for in this case. Roger said that for the board’s findings of facts, the slope of the land would not create any erosion issues, this needed to be written. CEO McDonough asked if they were looking for a statement of fact that the division as proposed would not create a stormwater issue? Roger stated that at the site inspection, he believed the flat lots should not create stormwater runoff. He noted the property across the street did have an issue but that was not related to this project. Roger said stormwater needs to be addressed, and it can be stated that erosion would not be an issue with the possible 6” of rain in a 24 hour period. Mr. Stanley asked if he should include it in a waiver or a note on the plan or both? CEO McDonough didn’t think it should be a waiver request, he thought a stormwater plan would be more pertinent if there was a road being created. He said terrain was not being altered at this point. Roger said that even removing the trees should not affect this lot, and putting in a foundation should not direct stormwater toward the road due to the lay of the land. CEO McDonough did think Roger made a good point with respect to clearing the trees, and that is something that should be thought about. Mr. Stanley stated that he could show drainage arrows. He said in the past he displayed flow patterns on site; so water toward the road, if it appeared to be an issue, could be dealt with by way of a culvert if needed. He said it showed some thought had been put into erosion.

Roger A. reviewed §89-38 ‘Stormwater management design standards’, (B) which read as follows: The stormwater management system shall be designed to accommodate upstream drainage, taking into account existing conditions and approved or planned developments not yet built and shall include a surplus design capacity factor of 25% for potential increases in upstream runoff. He then read (C): Downstream drainage requirements shall be studied to determine the effect of the proposed subdivision. The storm drainage shall not overload existing or future planned storm drainage systems downstream from the subdivision. The subdivider shall be responsible for financing any improvements to existing drainage systems required to handle the increased storm flows.

Steve F. asked what water the board was going to ask Mr. Stanley to manage? Roger A. said, “Stormwater”. Steve said he understood but there were no roads being built. Roger said, “6 inches in 24 hours, keeping it on site”. Steve said, ok. Roger said he did not believe there was an issue but there needed to be something that says the board and applicant addressed it. CEO McDonough said the only wording that addresses this is under §89-38.B ‘The stormwater management system shall be designed to accommodate upstream drainage, taking into account existing conditions and approved or planned developments not yet built...’, he said that was it. Steve said, ok, and he said he understood the intent of the ordinance, but he believed it was designed for paved roads with an impervious surface where it would create a stormwater issue. CEO McDonough said up to five minutes ago, he agreed, and in this particular spot there isn’t an issue, but what if there was. What if someone totally cleared the lots and there was poor drainage? Steve thought this was a good situation for a waiver. CEO McDonough agreed. Roland L. said they could say the situation was reviewed, and given the situation and conditions, a plan is not necessary. Roger agreed. Mr. Stanley said the next plan will show more details such as erosion and sedimentation control practices that need to be followed. CEO McDonough said if it was addressed as a waiver, there needs to be a statement why it was waived. Steve



agreed, and noted that if there was a road being built or a higher density of lots, then it would be an issue. Roger said the board just needs something that states it was addressed.

Roger A. asked if there was any land not suitable for development? He said he believed there was a small area in the back, that needs to be identified and put on the plan.

Roger A. asked if there was a provision that states no dug wells? Mr. Stanley said he had typed it but was not sure it was on the plan due to some computer issues he was having.

Mr. Stanley said he spoke with Mr. Richardson about the underground utilities and Mr. Richardson said CMP had been on site. Mr. Stanley said Mr. Richardson was hopeful that he would have the structures on site, and was trying to get as much work done with the power as possibly by the time of approval. Mr. Richardson did understand a bond would be required if the work was not done.

Roger A. stated that they needed a copy of the county soil survey. Mr. Stanley said he scanned the survey and traced it on the plan. The orange lines are on the plan and in the legend it explains what it means. The Soil Legend depicted Adams Loamy Sand 0 – 8% Slopes; Adams Loamy Sand 8 – 15% Slopes; Adams Loamy Sand 15 – 40% Slopes and Naumburg Sand. Also under Legend it noted a description for the orange lines as ‘York County Soils Survey Information’. Mr. Stanley asked if they also wanted a photocopy of the description as well? Roger stated that the board typically had a description of what the soils are. Mr. Stanley said, OK. Mr. Stanley asked if they should be on the plan or a separate sheet? Roger said, separate sheet, he didn’t want the plan too cluttered. Mr. Stanley agreed.

Roger A. stated that at this time, this was an incomplete application. Roger said a public hearing needed to be scheduled for when the plan was done. Roger said the board also needed the final application fee. Mr. Stanley believed all the changes that were requested this evening would be on the plan for the next meeting, so he wanted the public hearing scheduled for the next meeting. Roger A. stated that the members needed the information seven days prior to the meeting.

**Roger A. stated a public hearing will be held at 7:00 p.m. on June 27<sup>th</sup>.**

Steve F. asked if there was any additional information required?

Roger A. asked if there were any deed restrictions? He said that was for the applicant to consider, such as ‘no mobile homes’. CEO McDonough said the board cannot require it. Roger said, no, but he might want to think about it and if he wants any, the board needs to know.

Steve F. asked about the transfer of the property to the abutter? Will the board accept a proposed deed? Roger said the board will want to see a copy of the proposed deed.

Roland L. asked if they should have the Mylar for the next meeting? Roger A. said it was up to them, as to whether or not they are confident they will have what was required this evening. Roger said the board may or may not approve at the next meeting. Mr. Stanley felt he would have a complete submission at the next meeting.

Roger A. wanted the applicant to think about the bond, whether or not the structures will be in. Mr. Stanley asked if the structures are in and they were just waiting for CMP to flip the switch, will a bond still be required? Or if they had some kind of insurance that CMP will do it? Roger said the board needed a work order that it will happen and what the charge will be, the board needed some type of insurance that the work has been completed and the site is ready. Roger felt the board needed a guarantee that the electric is there.

Nothing further was discussed.  
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**Other:**

Roger A. stated that he received a call from Roland Cote (Approved BPL to replace a foundation and septic on Map 17, Lot 26, 108 30<sup>th</sup> Street – 1/24/17) saying that the Maine DEP told him it was ok to put in 3 foot trees vs the 6 foot that the board required. He asked Roger if that was ok? Roger said he told him no, the Town is more stringent than the DEP, they had to be 6 feet in height. Mr. Cote said the DEP said that trees that were hardwood had to be replaced with trees that were 6 feet high, softwood must be at least 3 feet. Mr. Cote removed 10 hemlocks (soft) and 3 birch (hard), so he thought he needed ten 3 footers and three 6 footers. CEO McDonough said, ‘They all need to be six.’ Roger agreed and said he told him that. He said he also told him this was 6 feet from the ground to the top and the board didn’t care what type of tree, again they all had to be 6 feet in height.

Nothing further was discussed.  
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**ELECTION OF OFFICERS**

At the previous meeting Roger Allaire was re-elected Chairman of the Planning Board. Due to various circumstances the board tabled the election of the Vice Chairman until this evening.

Maggie Moody nominated Steve Foglio as Vice Chairman of the Planning Board.

Roland Legere 2<sup>nd</sup> the motion.

Steve Foglio accepted the nomination.

All members were in favor. **Steve Foglio is now the Vice Chairman of the Planning Board.**

Barbara Felong will continue to be the Planning Board Secretary.

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 9:20 p.m.**

*The next meeting will be held **Tuesday, June 27, 2017** 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**

**Wednesday, June 27, 2017**

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

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

#### **Minor Subdivision of Land (3 Lots) – Map 11, Lot 23H (Gray & Newfield Road) – Nick Richardson, Applicant; Joseph Stanley, Authorized Agent**

Mr. Joseph Stanley of LinePro Land Surveying representing Mr. Richardson was in attendance, along with Mr. Richardson.

Roger A. opened the public hearing and began by stating this hearing was for a three lot subdivision for Mr. Richardson. He asked either Mr. Richardson or Mr. Stanley to address the application before the board.

Mr. Stanley said they were before the board to get a 3-lot subdivision approved on Gray and Newfield Road. He said it was three standard lots, fairly level and noted the stormwater did drain to the back of the property. He said two of the lots would be on the Gray Road and one on the Newfield Road. They ranged from 3.50 acres up to a little over 4 acres. Mr. Stanley stated this was the basic information about the project.

Roland L. stated, “The out-piece is going to the abutting property owner.” Mr. Richardson said, “Yes, we are waiting to get a lawyer scheduled.” Mr. Stanley agreed, stating just under two acres will be conveyed to the abutter. He said a note was added to the plan, Note 10, and it read as follows: ‘Upon Planning Board approval of this subdivision, 1.98 Acres of land will be conveyed to abutting landowner Michael Iosua, as shown, to be merged into his existing house lot as a single lot. This new/larger lot may not be divided within the next five years without additional Planning Board approval. If for any reason if this 1.98 Acres is not conveyed to Mr. Iosua immediately after subdivision approval, the project will need to return to the Planning Board for further review.’ Mr. Stanley hoped this would take care of the concerns the board had with transferring the property to the abutter.

Mr. Stanley said that based on a previous discussion, the wetland is depicted on the back of the property and he also placed arrows noting the direction stormwater flows on site, which is away from Gray Road. Best management practices is also noted on the plan, taken from the MDEP manual, to emphasize what those are and perhaps help with enforcement issues.

Mr. Stanley stated that he did add a Note 12, which had been omitted from the last plan. Note 12, now located at the top / middle of the plan due to area constraints, read as follows: Per §89-30.B.2.a, Dug wells shall not be permitted on the lots shown hereon without further review and authorization by the Planning Board.

Roland L. asked if there would be any further clearing of the property, other than what the board saw on the site inspection? Mr. Richardson thought there should be no further need for tree removal on site.

Roger A. asked if there were any further questions? There were none. The public hearing closed at 7:10 p.m.

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

**The minutes from Tuesday June 14, 2017 were accepted as read.**

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*Roger A. stated Ann Harris would sit in as a regular member for the final review of the Minor Subdivision (3 Lot) for Mr. Richardson. Steve F. may have a conflict of interest, so he asked to be excused and it was granted.*

**Minor Subdivision of Land (3 Lots) – Map 11, Lot 23H (Gray & Newfield Road) – Nick Richardson, Applicant; Joseph Stanley, Authorized Agent**

Mr. Joseph Stanley of LinePro Land Surveying represented Mr. Richardson this evening and Mr. Richardson was also present for the final review.

**BACKGROUND INFORMATION**

Nickolas Richardson has demonstrated a legal interest in the property by Deed Reference Book 17451, Page(s) 542-543, recorded at the York County Registry of Deeds, 4/11/2017. The applicant proposes to create (3) three subdivision lots from Map 11, Lot 23H, and sell a remaining lot to an abutter on Lot 23H-1. The area summary, as depicted on the Minor Subdivision Plan of Gray Road Estates, drafted by Joseph Stanley, MPLS #2453, dated June 17, 2017, is as follows: Total Subdivision Area = 11.42 Acres±; Proposed Lot 1 = 3.90 Acres; Proposed Lot 2 = 4.23 Acres; Proposed Lot 3 = 3.50 Acres; and Remaining Land to be Conveyed to the Abutter on Lot 23H-1 = 1.98 Acres. The minimum lot size, street frontage and setbacks are in compliance with Shapleigh Zoning Ordinance 105-18 “Dimensional Requirements”.

Water is to be supplied by individual private wells. Sewage is to be disposed of by individual subsurface wastewater disposal systems. Test pits were completed for Lot(s) 1 thru 3. Mr. Gardner, SE #73 of JFK Soils, Inc., provided the report, dated 5/3/2017 and it showed the soils were suitable for a subsurface wastewater disposal system on each lot, showing no limiting factors.

Driveway access for Lot(s) 1 and 2 will be from the Gray Road, and Lot 3 will be on the Newfield Road; all driveway locations shall be approved by the Road Commissioner. Fire suppression shall be via the use of the Shapleigh Fire Department, as approved by Fire Chief Duane Romano in a letter date 6/6/17. This letter read as follows:

*I have reviewed your preliminary minor subdivision plan for Gray Road Estates dated June 5, 2017 and prepared by LinePro Land Surveying, LLC.*

*Based on the proximity of the project to the existing fire pond and hydrant located a half mile away at Pine Springs, as well as being only 1.6 miles from the Ross Corner Fire Station, I believe that there is ‘adequate water storage for fire-fighting purposes’ located near this project, no further ponds or hydrants are necessary to fire-protect this 3-Lot Minor Subdivision.*

This evening, Mr. Stanley provided a new draft plan for Gray Road Estates, dated June 17, 2017. This plan had two additional notes, one referring to no dug wells being allowed on site and a Note 11, Stormwater Drainage. This note stated that there should be no issue with erosion due to the minimal slope which runs away from Gray Road, as well as minimal changes being made to topography. The note also pointed out that stormwater drainage patterns were added to the plan and no further stormwater management systems were required, water is naturally collected within a low spot on the property.

Roger A. asked members if they wanted to take up the application this evening because members did not receive 7 days' notice? Madge B. had no issue hearing the application, she stated she had plenty of notice, she received it prior to the meeting. Roger said he had no issue but the requirement is 7 days prior to. Madge noted she received the plan before she received the minutes, so again she has no issue. No other member had issue with hearing the application.

Roger A. asked if the board viewed it as 3 or 4 lots, because the transfer of property to the abutter has not been done yet? Madge B. believed the board was waiting for proof that the property was conveyed. Roger said based on this, it will be three (3) lots. Mr. Stanley stated that at the last meeting he discussed that they didn't want to convey it until they were sure the board would approve the lots as depicted on the plan. Madge said she understood that. Mr. Stanley said that is why he added Note 10, which speaks about the property being conveyed to the abutter. He said he was open to thoughts of the board members. Ann H. and Madge B. said it had to be a condition of approval that the lot gets conveyed.

Ann H. asked about the letter from the fire department regarding fire protection. Roger A. stated the board had already received it. He stated the board also received a letter from Road Commissioner John Burnell. The letter, dated 6/20/2017, read as follows:

*I have reviewed your preliminary minor subdivision plan for Gray Road Estates dated June 5, 2017 and prepared by LinePro Land Surveying, LLC.*

*Based on my review of the plan, my discussions with Mr. Richardson, and my familiarity with the project area, I do not believe that any additional ditching or culverts will be necessary for the driveways proposed within this 3-Lot Minor Subdivision.*

*Should the necessity for either ditching or culverts become apparent as the driveways are installed, I am confident Mr. Richardson will work with me to make necessary improvements.*

Roger A. began review of §89-15 'Submissions' (of Minor Subdivision), as follows:

B. The application for approval of a minor subdivision shall include the following information:

- 1) Proposed name of the subdivision. **Roger stated we do have this, the name is 'Gray Road Estates'.**
- 2) A field survey of the boundary lines of the tract. **Roger stated this is on the plan. Roger did ask if all the pins had been set. Mr. Stanley stated there were still 3 left to do.**
- 3) A copy of the deed from which the survey was based. **Roger stated the board received a copy of the deed (Book 17451, Pages 542-543).**
- 4) A copy of any deed restrictions. **Roger stated there are none.**
- 5) Indication of the type of sewage disposal to be used. **Roger stated it will be individual septic systems and Test Pit data was received from Kenneth Gardner, SE #73, dated 5/3/2017.**
- 6) Indicate the type of water supply system to be used. **Roger stated it will be individual private wells and that is indicated on the plan.**
- 7) The date the plan was prepared, North point, graphic map scale, names and addresses of the record owner, subdivider, who prepared the plan, and the names of adjoining property owners. **Roger stated it is all on the plan.**
- 8) A copy of the portion of the county soil survey covering the subdivision. **Roger stated a copy was received and it is also on the plan.**
- 9) Contour lines at the interval specified by the Planning Board. **Roger stated it was on the plan.**
- 10) If any portion of the subdivision is in a flood-prone areas it shall be delineated. **Roger stated none of the lot is in the Flood District.**

Roger A. then reviewed Article X, General Standards as follows:

§89-26. Land not suitable for development. *Roger A. stated there was only a small portion of land at the rear of the property not suitable and it is indicated on the plan. He noted it would not affect the subdivision.*

§89-28. Lots.

- a) *Roger stated that the lots meet the minimum required in Chapter 105, Zoning.*
- b) *Roger stated the lot configuration was design to meet the ordinance.*
- c) *Roger stated there were no lots with multiple frontages, other than the land to be sold to the abutting property.*
- d) *Roger stated the lot lines were perpendicular to the street.*
- e) *Roger stated the lots are not created to make it easy for future subdivision.*
- f) *Roger stated the lots are not located near a stream or tidal water and they do meet the minimum lot size.*
- g) *Roger stated there are not flag or odd shaped lots.*
- h) *The lot numbering is done in the assessing office and thru the 911 numbering system in place in Shapleigh.*

§89-29. Utilities. *Roger stated two lots shall have underground utilities, there is an easement on the plan for their installation, as well as other utilities. Roger said a waiver was requested for Lot #3 for overhead, instead of underground.*

• Madge B. moved for approval of the waiver for the requirement for underground utilities on Lot #3. Maggie M. 2<sup>nd</sup> the motion. All members were in favor. By a vote of 5 – 0 the motion to approve passed unanimously.

§89-30. Required improvements.

- A. Monuments. *Roger stated that the applicant was requesting a waiver for stone monuments, instead using metal pins as markers instead.*
  - Madge B. moved for approval of the waiver for the requirement for stone monuments. Roland L. 2<sup>nd</sup> the motion. All members were in favor. By a vote of 5 – 0 the motion to approve passed unanimously.
- B. Water supply. *Roger stated there is no public water supply. Water is to be supplied by individual drilled wells.*
- C. Sewage disposal. *Roger stated there will be individual State approved Subsurface Wastewater Disposal Systems for each lot. He stated Test Pit data was supplied by Kenneth Garner showing each lot had suitable soils for disposal.*
- D. Surface drainage. *Roger stated there was no stream or river on the property and based on the site inspection, topography noted on the plan, as well as stormwater drainage patterns, additional engineering did not appear to be required for stormwater drainage. A letter was provided by the Road Commissioner stating that ditching or culverts were not required in this location.*

§89-31. Land features. *Roger stated there was very little topsoil in this area, so there would be no reason to remove it from site. Roger did not see any issue with erosion at this location based on topography and the existing soil structure. These lots are not in the Shoreland District.*

§89-38. Stormwater management design standards. Adequate provisions shall be made for disposal of all stormwater generated within the subdivision and any drained groundwater through a management system of swales, culvers, underdrain and storm drains. *Roger stated that the applicant was looking*

*for a waiver of the stormwater management design due to the fact there is very little slope to the land and the type of soil on site.*

- Madge B. moved for approval of the waiver for the requirement of stormwater management design standards. Maggie M. 2<sup>nd</sup> the motion. All members were in favor. By a vote of 5 – 0 the motion to approve passed unanimously.

Roger A. stated the only required improvement for the subdivision is underground utilities. The question is whether or not they are in at this time and if not, what the board wants to do with respect to a guarantee. Mr. Richardson stated he had already purchased and paid for all the equipment required to put in the underground electric system. He said the electrician had been paid, the transformer pads have been paid and the conduit. He gave the board a copy of all three receipts. Mr. Richardson was requesting the board not hold the approval up, as he was just waiting for CMP now. Roger said the board needed to know the power would be available when the lots are sold. Roger said having the equipment paid for did not mean the power was there.

Ann H. asked if he was just waiting for CMP? Mr. Richardson said, “Yes.”

Madge B. stated that the board can condition that they cannot sell any lots until the board has proof that the power is available for each lot. She said there was also going to be a condition that no lot can be sold until the board receives proof that the land had been sold to the abutter and joined with his property. She said they can approve the subdivision but not allow the lots to be sold. She reminded the board that several survey markers still had to be placed as well. Mr. Stanley agreed and noted he typically doesn't set them until after approval. He understood it being a condition of sale.

Roger A. reviewed the Checklist for a Minor Subdivision. Roger stated all submissions were now complete, the site inspection had been done and the Public Hearing was held this evening. Roger noted there was no water district and a Flood Zone was not applicable in this location.

## **BOARD'S FINDINGS OF FACT**

### **Preliminary Findings**

As a preliminary finding of fact, the Board finds that the proposed Subdivision falls under the provision of the Shapleigh Subdivision Code, which relates to Minor Subdivision, this being “Subdivision of Land, Chapter 89, Town of Shapleigh”.

### **Specific Findings**

Based on the preliminary findings set forth above, the Board makes the following specific findings in accordance with Shapleigh's Subdivision Ordinance Appendix A, 30-A M.R.S.A. §4404 “Review Criteria”.

The Board finds that the 3-Lot Minor Subdivision to be known as Gray Road Estates:

1. Does not result in undue water or air pollution.
  - ***The soils on site adequately support waste disposal per the Subsurface Wastewater Disposal System Application Test Pit data for Lot(s) 1 thru 3, done by Kenneth Gardner, SE #73, dated 5/3/2017.***
  - ***Due to the flat topography of this location, as depicted on the plan using the USGS contour lines, there will be no stormwater runoff issue and the lots are not located next to a stream, river or other water body.***
  - ***There is no air pollution being generated.***

2. Does have sufficient water available for the foreseeable needs of the subdivision.
  - ***The proposed Lot(s) 1, 2 and 3 shall be supplied by drilled wells, no dug wells shall be allowed.***
  - ***The house lots / new homes will not adversely affect the underground water supply in this location.***
3. Does not cause an unreasonable burden on the existing municipal water supply.
  - ***There is no existing municipal water supply at this time.***
4. Does not cause unreasonable soil erosion or reduction in the capacity of land to hold water so that a dangerous or unhealthy condition results.
  - ***There shall not be excessive soil or trees removed from the site to create a soil erosion problem.***
5. Does not cause unreasonable traffic congestion or result in unsafe conditions on existing or proposed road.
  - ***The driveway locations for Lot(s) 1 thru 3 shall be approved by the Road Commissioner. The remaining land to the abutter shall be merged with the existing property known as Lot 23H-1 and there is currently an approved driveway in existence.***
6. Does provide adequate sewage waste disposal.
  - ***The soils on site adequately support waste disposal per the Subsurface Wastewater Disposal System Application Test Pit data for Lot(s) 1 thru 3, done by Kenneth Gardner, SE #73, dated 5/3/2017.***
7. Does not cause an unreasonable burden on municipal solid waste disposal.
  - ***Each property owner will be responsible for handling his or her individual waste.***
  - ***This subdivision is subject to the Growth Ordinance and, therefore, shall not unreasonably burden the municipal solid waste facility.***
8. Does not have an adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat as identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas.
  - ***This is not a scenic or historic site nor is it in the vicinity of one recognized by the Town of Shapleigh.***
  - ***The building of three additional single family homes in this location will not adversely affect the aesthetics of the area.***
  - ***This site is not located in a significant wildlife habitat as identified by the MDEP.***
9. Does conform to local regulations, ordinances, development plan and comprehensive plan.
  - ***The final approved plan shall meet all zoning and subdivision regulations.***
  - ***Any changes to the final approved plan shall have to come back before the Planning Board and/or Code Enforcement Officer regarding all zoning or subdivision issues.***
  - ***All new homes are subject to the current building code requirements.***
10. Does not adversely affect the quality of surface water or shoreline of ponds, rivers, streams or tidal areas.
  - ***This subdivision is not in the Shoreland District.***
  - ***The property is not located near a pond, river, stream or tidal area.***
11. Does not alone or in conjunction with existing activities, adversely affect groundwater quality or quantity.
  - ***Three additional homes at this location will not adversely affect groundwater quantity in this area.***
  - ***A State approved septic system must be installed and approved by the Code Enforcement Officer prior to the granting of an occupancy permit for any new home built on Lot(s) 1 thru 3 or the lot sold to the abutting property known as Lot 23H-1.***
12. Has demonstrated adequate technical and financial capacity to meet the above.
  - ***The applicant has provided sales receipts and statements showing material to bring in underground electrical utilities has been purchased for Lot(s) 1 and 2. This is the only required improvement to be provided by the applicant. No lots shall be sold until the electricity is available to all (3) three subdivision lots.***
  - ***There is access to overhead electric power via an existing pole for Lot 3.***
  - ***No additional infrastructure is required, therefore, no bond is required by the Town of Shapleigh.***



13. Does have all buildings one foot above the base flood elevation.
  - **No portion of the property is within the 100-year flood plain per the Flood Insurance Rate Map for the Town of Shapleigh.**
14. Does have freshwater wetlands identified on maps.
  - **The existing wetland area is depicted on the final plan drafted by Joseph Stanley, MPLS #2453 of LinePro Land Surveying, LLC, dated June 17, 2017.**
15. Does have rivers, streams and brooks identified on maps.
  - **There are no rivers, streams and brooks located on this lot.**
16. The applicant has provided an adequate stormwater management plan.
  - **Per the plan presented, stormwater drainage shall not affect Gray or Newfield Road, based on topography and existing stormwater flow patterns.**
  - **The Road Commissioner, based on a site inspection with the applicant, did not believe additional ditching or culverts were required in this location for the proposed driveways, as stated in a letter received from RC Burnell, dated 6/20/17.**
17. Gray Road Estates shall have no spaghetti lots.
18. Does not unreasonably increase a great pond's phosphorous concentration.
  - **This subdivision is not located in the Shoreland District.**
  - **Any home built on site shall be subject to a State approved subsurface waste disposal system.**

### FINDING ON THE REQUESTED WAIVER(S)

The Planning Board finds that the request to waive the requirement, Article 89-29.A, "Utilities shall be installed underground except as otherwise approved by the Board." **shall be granted** for Lot 3, entrance is on the Newfield Road which has easy access to existing utility poles. The parcels known as Lot(s) 1 and 2, located on the Gray Road, shall have underground utilities on site.

The Planning Board finds that the request to waive the requirement, Article 89-30.A, "stone monuments shall be set at all street intersections and at all corner and angle points"; **shall be granted** provided that all markers used to delineate property lines are placed deep enough into the earth that they are not easily removed by vandals.

The Planning Board finds that the request to waive the requirement(s), Article 89-30.D, "Surface drainage, where the Board feels that surface water runoff to be created by the subdivision should be controlled and a stormwater management system shall be designed" and Article 89-38 "Stormwater management design standards."; **shall be granted** due to the fact the new lot locations have a relatively flat topography, and the plan provided depicts all stormwater flows toward the back of the property, not toward Gray or Newfield Road. The Road Commissioner does not believe ditching or culverts are required in this location, however, if required the applicant has stated to the Road Commissioner he will make any necessary improvements.

The Planning Board finds that the request to waive the requirement, Article 89-30.B, "The subdivider shall construct ponds and dry hydrants to provide for adequate water storage for fire-fighting purposes."; **Shall be granted** as a letter dated 6/6/17, was provided from Shapleigh Fire Chief Duane Romano stating no further ponds or hydrants are necessary to fire-protect this 3-Lot subdivision based on proximity to existing fire protection.

The Planning Board finds that the request to waive the requirement, Article 89-36.M, "sidewalks shall be installed within all subdivisions within the urban compact area"; **shall be granted** due to the fact this subdivision will not have an internal road.

Madge B. moved for approval of the 3 Lot Minor Subdivision to be known as Gray Road Estates located on Tax Map 11, Lot 23H, per the Subdivision Plan dated June 17, 2017, drafted by Joseph Stanley, MPLS #2453 of LinePro Land Survey, LLC of Springvale, Maine, along with the requested waivers; with the following five conditions:

1. Pursuant to Subdivision of Land, Chapter 89, §89-30 ‘Required improvements’, proof shall be provided to the Planning Board by the surveyor that all the pins have been place for the new lots, prior to the sale of any lots.
2. Pursuant to M.R.S.A. Title 30-A, §4401 ‘Definitions’, (4.) “Subdivision”, proof shall be provided to the Planning Board that the lot to be conveyed to the abutter on Lot 23H-1 has been done, prior to the sale of any lots.
3. Proof shall be provided to the Planning Board that the underground utilities have been completed and that electricity is available on site to all (3) three subdivision lots, prior to the sale of any lots.
4. Any subdivision not recorded at the York County Registry of Deeds *within ninety days* of the date upon which the plan is approved and signed by the Planning Board shall become null and void, unless an extension is granted by the Board in writing.
5. No changes, erasures, modification, or revisions shall be made in any final plan after approval has been given, unless the revised final plan is first submitted to the Planning Board and the Board approves any modifications.

Maggie M. 2<sup>nd</sup> the motion for approval. All members were in favor. By a vote of 5 – 0 the motion to approve the 3 Lot Minor Subdivision per the plans provided, with requested waivers and five conditions, passed unanimously.

Mr. Stanley stated he will bring the final Mylar to the next meeting for the board to sign. He noted he will change two typographical errors, one being to remove the word Date that is written near a lot line and changing the date on plan Note 11, from 7/14/17 to 6/14/17, as was pointed out by Madge Baker.

Nothing further was discussed.

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#### **Growth Permits – Map 12, Lot 22-3 (Newfield Road)**

The board reviewed the lot and found it to be in compliance with the zoning requirements and it is a legal lot of record.  
**GP#06-17 was assigned.**

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

*The next meeting will be held **Tuesday, July 11, 2017** 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 11, 2017**

Members in attendance: Roger Allaire (Chairman), Madge Baker, Roland Legere, Maggie Moody, Alternate Ann Harris, as well as Barbara Felong (Secretary). Steve Foglio 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 June 27, 2017 were accepted as read.**

\*\*\*\*\*

### **Minor Subdivision of Land (3 Lots) – Map 11, Lot 23H (Gray & Newfield Road) – Nick Richardson, Applicant; Joseph Stanley, Authorized Agent**

Mr. Richardson was present for the signing of the approved plans and Findings of Fact.

Board members reminded Mr. Richardson the Mylar had to be registered at York County Registry of Deeds within 90 days and the Planning Board needed two paper copies with signatures for the file, or the plan approval would be null and void.

Nothing further was discussed  
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### **Best Possible Location – Replace Existing 2 Sheds with 1 Shed – Map 21, Lot 36 (77 24<sup>th</sup> Street) – Lynn Roberge-Ligay, Applicant**

Ms. Roberge-Ligay was present for the review of the application.

Ms. Roberge-Ligay provided, along with the application, a picture of the existing sheds to be removed; a site plan depicting the location of the existing sheds in relation to the lot lines, and the location / size of the new shed; the site plan also showed the location of the existing cottage, leachfield and well in relation to the lot lines; and a price list from 'Country Style Sheds', which depicted the price of the 10' x 20' shed to be purchased was provided.

The project description written on the application is as follows: Removing 2 existing sheds – replacing with 1 shed that is smaller than existing sheds, photo attached.

Roger A. asked Ms. Roberge-Ligay what she intended to do? Ms. Roberge-Ligay began by stating she wanted to tear down two old sheds and put one new one in their place.

Roger A. asked if the one shed would be in the same location as the two existing? Ms. Roberge-Ligay said, "Yes, and it would actually be less square footage. I have a small piece of property."

Madge B. asked if she was adding two feet to the back of the shed? Ms. Roberge-Ligay said it would be two feet less. Madge said, "The 7 by 6 is being removed and the 10 by 18 is being replaced." Madge said, after looking at the pictures, this will be an improvement. Madge noted it looked like the new shed was going to be 10 by 20, and it therefore, brings the new shed a little bit closer to the side lot line. Ms. Roberge-Ligay said, "No, it will be right where the old one was."

Madge B. said it is confusing because it looks like the back of the new shed is closer to the lot line, and she noted it to Ms. Roberge-Ligay using the plan presented. The property line is at an angle to the shed, so by adding to the shed it moves the new shed closer to the property line. Ms. Roberge-Ligay said she had no issue lining the new shed up with the property line. CEO McDonough reminded everyone that the Planning Board does the best practical location. Madge thought it might be better to locate the new shed straighter, so it lines up with the property line and is no closer to it.

Madge B. asked if there would be power to the new shed? Ms. Roberge-Ligay said, “Possibly.” Madge asked if there would be sewerage? Ms. Roberge-Ligay said, “No.”

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

**Roger A. said there would be a site inspection prior to the meeting on Tuesday, July 25<sup>th</sup> at 7:00 p.m. A notice to abutters will be mailed as well.**

Nothing further was discussed.

\*\*\*\*\*

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

\*\*\*\*\*

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

*The next meeting will be held **Tuesday, July 25, 2017** 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,  
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# **SHAPLEIGH PLANNING BOARD**

## **MINUTES**

**Tuesday, July 25, 2017**

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

Ann Harris sat in as a regular member this evening.

\*\*\*\*\*

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

**The minutes from Tuesday July 11, 2017 were accepted as read.**

\*\*\*\*\*

### **Best Possible Location – Replace Existing 2 Sheds with 1 Shed – Map 21, Lot 36 (77 24<sup>th</sup> Street) – Lynn Roberge-Ligay, Applicant**

Ms. Roberge-Ligay was present for the review of the application.

*Members did a site inspection prior to this evenings meeting.*

Ms. Roberge-Ligay provided, along with the application, a picture of the existing sheds to be removed; a site plan depicting the location of the existing sheds in relation to the lot lines, and the location / size of the new shed; the site plan also showed the location of the existing cottage, leachfield and well in relation to the lot lines; and a price list from 'Country Style Sheds', which depicted the price of the 10' x 20' shed to be purchased.

The project description written on the application is as follows: Removing 2 existing sheds – replacing with 1 shed that is smaller than existing sheds, photo attached.

Roger A. opened the meeting and asked Ms. Roberge-Ligay for the record to tell members what she wanted to do? Ms. Roberge-Ligay stated that she wanted to replace the two sheds with one shed, 10' x 20', placing it on cinder blocks.

Roger A. stated board members did a site inspection and then began the review under §105-4.D(1) 'Nonconforming structures'. Roger noted that this was not actually an expansion because the overall footprint would be decreased with the removal of one of the sheds, so it would not create anymore non-conformity. He then reviewed Section D(5) 'Removal, reconstruction or replacement'. Roger said that after the site inspection, the board did not see where there would be any disturbance with respect to soil. Everything at this time is setting on blocks and the new structure will also set on the blocks. He did not expect there to be any earthwork on site.

Roger A. stated that there would be one birch tree removed because it was dead. He said the placement of the new structure would start at the location of the shed closest to the water and come back from the water the 20 feet. It would stay several feet from the poplar near the existing location. Roger said based on the plan, it will be approximately 47.9 feet from the water. Ms. Roberge-Ligay said, "Right."

CEO McDonough asked what would be done with the existing ground that will be disturbed? Ann H. stated

that the new shed would go right on top of where the existing shed is located. Roger A. agreed, and said the only earthwork is to level for the new shed. Maggie M. stated there would be several feet exposed where the existing 7 x 6' shed is located that will be removed entirely, perhaps they could fill it in with grass. Roger said, "Right." Maggie thought any dirt exposed should be covered.

Barbara F. asked about Madge Bakers' concern at the last meeting with the shed being lined up parallel to the property line, so it would go no closer to the property line. Roger A. said due to the brush on site you can't see the property line. Roland L. said you would have to remove trees to change the angle, so it is best to keep it in the same location. Roger agreed. Barbara just wanted Madge's concern noted. Roger added that due to the trees and the slope of the land, the existing location is the best on site.

Roger A. said the demolition materials will have to be removed from site and out of Shapleigh. He noted several possible choices for removal, A1 Enviro Service out of Wells, Troiano Waste Services, J.A. Simpson's in Sanford, and Fred Smith will take it down and haul it off. Fred Smith recycles metal, Simpson's crushes it and hauls it off. Roger noted Simpson is on Jagger Mill Road in Sanford. Roland L. noted Punskey Scrap Iron is also in Sanford, as another choice. Roger said there was also Waste Management but he believed their prices were higher than the others.

Roger A. asked if there was a time frame for the project? Ms. Roberge-Ligay said she was ready to start. So as soon as possible.

Roger A. stated that he did not see any issues with this project. He said he would want best management practices used with respect to the exposed soil under the existing shed. He wanted the soil to not be exposed for very long, if it would be a silt fence would be required. Ms. Roberge-Ligay said it would be done and up right away.

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

**Ann M. made the motion to approve the Best Possible Location to replace the existing two sheds with one 10 x 20' shed on Map 21, Lot 36, placing it where the existing 10 x 18' shed is currently located. Maggie M. 2<sup>nd</sup> the motion. All members were in favor. By a vote of 4 – 0, the motion passed unanimously.**

CEO McDonough told Ms. Roberge-Ligay that she would need a building permit from him prior to beginning the project.

Nothing further was discussed.

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The Findings of Facts

1. The owner of Shapleigh Tax Map 21, Lot 36 (77 24th Street), is Lynn Roberge-Ligay of 77 24th Street, Shapleigh, Maine 04076.
2. The property is located in the Shoreland District and according to the assessor contains 0.26 acres.
3. The applicant is before the board for a Best Possible Location to remove two sheds and replace with one shed.

4. Received was a conceptual plan which depicted the existing structures on site, this included the cottage, two sheds, septic tank and leachfield location. The distance from the existing two sheds to the high water mark was also on the plan, along with the proposed size and location of the new shed.
5. Received was a picture of the two sheds that will be removed, one being 10 x 18 feet by 8 feet high, and the other 7 x 6 feet and 11 feet high.
6. Received was a price quote from Country Style Sheds, phone number 207.432.9582. It was written on the quote that a 10' x 20' x 9'4" high shed with a salt box roof, a double door, with on-site construction would be \$4,700.
7. The existing two sheds shall be removed. Debris shall not be taken to the Shapleigh Transfer Station.
8. The board reviewed Zoning Ordinance §105-4, 'Nonconformance', and concurred the structure is placed in the best possible location based on the location of the existing trees and shrubs, that there would be very little disturbance keeping it in the same location as one of the existing sheds, and due to the topography on site. Additionally, the application and information as presented met the standards applicable in this chapter.
9. A notice was mailed to all abutters within 500 feet of the property on July 12, 2017. Meetings were held on July 11, 2017, and July 25, 2017.
10. **The Planning Board unanimously agreed to approve the Best Possible Location to replace the existing two sheds with one 10' x 20' shed, leaving it in the same location that the existing 10' x 18' shed is at this time, on Map 21, Lot 36, per the plan provided. All debris shall be taken out of Shapleigh.**

Growth Permits – There are growth permits available.

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

*The next meeting will be held **Tuesday, August 8, 2017** 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, August 8, 2017

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

Steve F. chaired the meeting in Roger Allaire's absence.

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

The minutes from Tuesday July 25, 2017 were accepted as read.

Conditional Use Permit – Create a Parking Area – Map 23, Lot 2-9 (22 Dancehall Drive) – Roland 'Russ' Batson, Applicant & Owner

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

Mr. Batson presented, along with his application, a copy of the soils report for this location, which noted the soils were Colton and drained well; a letter from Site Evaluator John Large, SE #7, dated 4/25/88 which was for a test pit dug on site that found the soils on site to be similar to a deep Colton, and therefore, the criteria for a system would have the highest possible rating. It was also noted in the letter that this was for information gathering but was not an application for a new system. Also submitted was a sketch plan depicting the location of the proposed parking area, and entrance to the site with clockwise turn around area, which in part follows the CMP utility easement.

The project description on the application states: A parking area using "CMP Road", and "Loop" like drive thru, with back sloping drainage system.

Steve F. asked Mr. Batson to tell the board what he wanted to do. Mr. Batson stated that he wanted to put in a driveway to put him closer to the back yard of what used to be called the Meader's store. He said there would be a small parking area, a clockwise driveway and he noted it was all staked out. He stated that Jeff Goodwin and himself met on site and they agreed on a fairly smooth entrance on the left, head clockwise, straight, then up and out. He noted it was on the drawing he presented.

Mr. Batson asked if there were any questions about the submissions, such as the septic design or the soils description, that being Colton. He noted the soil was well drained, good gravel. Steve F. stated that it looked straight forward. He asked board members if they had any questions?

Roland L. asked if the area was grassed at this time? Mr. Batson said the area was heavily wooded with pine, so there were layers of pine needles and it is acidic soil. Roland asked if there was any vegetation? Mr. Batson said, 'No'. He said, "The CMP utility service line, the right-of-way for that is much of what I am using, and I don't believe even that area has grass. It is basically a thick pine knoll."

Madge B. felt like she would need to see the site before she had questions.

Because there were no other questions, Steve F. scheduled the site inspection for Tuesday, August 22, at approximately 6:20 p.m., prior to the next meeting. The board members will meet at the town hall at 6:15 and go from there. A notice to abutters will be mailed as well.

Mr. Batson said he did contact the DEP to see if a permit was required by them and they said it was not. Mr. Batson asked if he should be at the site inspection? The board told him that it would be a good idea in case there were questions.

Nothing further was discussed.

Conditional Use Permit – Replace Existing Retaining Wall – Map 26, Lot 37 (114 21st Street) – Tyler Matthews, Applicant; Steve Singlar, Property Owner

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

Along with the application, provided was a sketch plan depicting the ‘location’ of the existing wall on site and noting it was 36” high and 50 feet long; a sketch plan of the ‘construction’ of the new wall showing it to be 33 inches in height, made of concrete block and having crushed stone, filter fabric and a drainage pipe behind; and a copy of the MDEP Permit by Rule approved by Cameron Adams on 6/20/17.

The project description on the application states: Removing existing concrete wall & replacing it with a new concrete block retaining wall. Same size and same location.

Steve F. asked Mr. Matthews to let the board know what the property owner would like to do.

Mr. Matthews began by stating there was a concrete retaining wall in existence at this time that was crumbling, therefore, the owner wants to have it removed and replace it with a concrete block retaining wall, same size and same location. He stated that he already applied for the MDEP Permit by Rule.

Steve F. asked if this wall ties into a neighbor’s wall on either side? Mr. Matthews stated that it butts up to it, it is not tied in, they are separate walls. Roland L. asked if the removal or replacement of the deteriorating wall in any way affects the abutters? Will it compromise the abutter’s wall? Roland said, “The wall to be replaced is free standing.” Mr. Matthews said, “Yes.”

Steve F. asked how high the wall was? Roland L. said, 33 inches. Roland asked again if anything from this wall will impact the neighbors. He said there was another situation where an abutter raised a question about his wall when the neighbor’s wall was being replaced. Mr. Matthews said it made sense if the walls were tied in together. He said again this wall is freestanding.

Steve F. asked if there were any additional questions? There were none.

Steve F. scheduled a site inspection for 6:45 p.m. prior to the next meeting. The board will go to this location after Mr. Batson’s site inspection. A notice to abutters will be mailed as well.

Nothing further was discussed.

Conditional Use Permit – Replace Existing Retaining Wall – Map 27, Lot 23 (22 Point Road) – Tyler Matthews, Applicant; Nicole Sampson, Property Owner

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

Along with the application, provided was a sketch plan depicting the location of the deck to be replaced with patio, wall to be replaced and where erosion control measures will be placed; a sketch plan depicting the

replacement wall being made of concrete block with crushed stone behind, filter fabric, and drain pipe, with an attached patio made of pavers. The wall will be 39 inches in height.

The project description on the application states: Removing an existing rotted retaining wall & patio & replacing it with a stone wall & patio. Same location.

Steve F. asked Mr. Matthews to state what the property owner intended to do. Mr. Matthews stated Ms. Sampson recently purchased the property, last fall. He said on the lake side there is a pressure treated patio which is mostly sitting on the ground, but there are posts. There is an old retaining wall made of railroad ties that is deteriorated and is not safe, so the owner wants to replace the retaining wall with Genest locking blocks and instead of a wood deck, use patio pavers the same size and same shape as the existing patio. He stated he had Cameron Adams from the MDEP on site for a Permit by Rule. He added that this project will not affect the neighbors. The board members agreed.

Steve F. asked if there were any questions? Madge B. stated the board will ask where the old timbers will be disposed of. Mr. Matthews stated, "Probably at Simpsons."

Steve F. said the board will do a site inspection after Mr. Singlar's inspection. Mr. Matthews asked if he should be there? Madge stated that it was a good idea. A notice to abutters will be mailed as well.

Nothing further was discussed.

Growth Permits

Map 5, Part of Lot 25A – New Home

Board members concluded this lot meets all the requirements of a legal lot as described in the zoning ordinance; meeting the minimum lot size, minimum street frontage, and the single division from the parent lot is allowed as no other division has taken place within the past five years.

GP #07-17 was assigned.

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

*The next meeting will be held **Tuesday, August 22, 2017** 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, August 22, 2017

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

Steve F. chaired the meeting in Roger Allaire's absence.

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

The minutes from Tuesday August 8, 2017 were accepted as read.

Minutes are not verbatim, unless in quotes “”

Conditional Use Permit – Create a Parking Area – Map 23, Lot 2-9 (22 Dancehall Drive) – Roland ‘Russ’ Batson, Applicant & Owner

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

At the first meeting, along with the application, received was a copy of the soils report for this location, which noted the soils were Colton and drained well; a letter from Site Evaluator John Large, SE #7, dated 4/25/88 which was for a test pit dug on site that found the soils on site to be similar to a deep Colton, and therefore, the criteria for a system would have the highest possible rating. It was also noted in the letter that this was for information gathering but was not an application for a new system. Also submitted was a sketch plan depicting the location of the proposed parking area, and entrance to the site with clockwise turn around area, which in part follows the CMP utility easement.

The project description on the application states: A parking area using “CMP Road”, and “Loop” like drive thru, with back sloping drainage system.

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

Steve F. stated there were a few questions from the site inspection. Steve asked Mr. Batson to give a quick overview of what he wanted to do. Mr. Batson stated, “They don’t have a drawing but basically I am putting a driveway in. I would like to put a driveway in from the top of the plateau, to within 125 of the cottage. Clockwise coming out, all drainage will be into the core of this half-moon driveway. And after the site review it was suggested that I count and mark the potential trees for removal. There is one oak, 2 birch, 7 white pine, two are 16 dbh, white pine is less than 12. A bunch of hemlock between 4 and 8 inches, 3 to 5 saplings, a total of 20 trees. Most are not marketable.”

Mr. Batson asked if the board wanted him to answer the question about the engineered Lego blocks? Mr. Batson said he was asked if the big 2 x 2 x 4 foot blocks would be engineered and so he found on the internet, that depending on the height, Genest mandates a big one on the bottom and then smaller ones. He noted that the block he was showing the board may not be the one he was using but that there are blocks available that can be done this way. Roland L. asked how high the wall drawing he was showing was? Mr. Batson said he didn’t know, he said it varies.

CEO McDonough asked if there was a retaining wall on the plan? Mr. Batson said, “No.”

Steve F. asked Mr. Batson how high the wall would be? Mr. Batson said he would like to go chest height with the wall. Steve asked, “5 feet?” Mr. Batson said, “More than 4 and there was some talk that anything over 4 feet needs to have an engineered drawing, and I would like to ask if I was using an engineered truss would you like me to get it re-engineered?” CEO McDonough replied, “No, but I would require the engineered drawings.” Mr. Batson said, “OK, if I get a pre-certified engineered drawing that goes with the product is that acceptable?” CEO McDonough said, “It is for me.” Mr. Batson said, “OK.” CEO McDonough said, “But there is no retaining wall on the plan.” Mr. Batson said that was correct, he only gave the board a sketch. Mr. Batson said there is a retaining wall because he had to hold back the earth on the downhill side, because with the law of diminishing returns, he would be throwing sand way down in order to get the slope. He added that he didn’t know putting the wall on the plan would be required.

Steve F. said, “We see a variety of drawings come across the table and in this particular case it will be very helpful for you and the board to show from a horizontal view what we are dealing with, and I don’t think it is much of an option for us, that if it is over four feet, it has to be certified by somebody.” Mr. Batson believed it would be just as easy to get it engineered. Steve said at this point the board can table it. CEO McDonough stated that if the board is going to table it, if there are any other issues that need to be addressed, you may want to tell the applicant. Madge B. stated there were.

Steve F. believed the majority of the issues would be covered by the engineered plan. Madge B. said there is a large amount of earth moving, and the board would want to know how much for the record. Steve said the slope of the driveway needed to be addressed. Madge said the driveway may be constrained by the slope. Mr. Batson stated that Jeff Goodwin, the person doing the work, was certified by the DEP. CEO McDonough stated that he was erosion control certified. Mr. Batson thought this was important. CEO McDonough stated that this did not give him professional credentials for the project overall, other than how to install silt fencing; he does not have certified designing skills.

Madge B. stated it was important to go over 105-59, which refers to the banks, slopes, and drainage ditches, so that needs to be on the plan. Madge said the setback has been met, it is farther than 100 feet from the water.

Mr. Batson said his concern was a good mechanic, excavator, in the field with 35 years’ experience might do a better job than a team of engineers and surveyors putting benchmarks on the ground and in the tree, just because that is how some people work. I will get an engineered drawing with the setbacks and slopes. Madge B said the slopes is an issue, making certain it conforms to the ordinance.

Mr. Batson asked Roland L. if he had a question? Roland L. stated, “I have a response to the comment about someone in the field being able to do something as well or better than someone who just works theoretically; the problem with that from the Planning Board perspective is, when the applicant comes to us, something is approved and then if someone decides to change it because something better meets the situation, this creates quite a problem for the board when questioned why was ‘that’ approved. When in fact it wasn’t approved, because ‘this’ was and it got changed. You have to understand where the board is coming from, we have to enforce the ordinance.”

Roland L. said, when the board was shown where the distribution box (septic) was and where all the lines went out, Mr. Batson mentioned he might inquire how much of a load it might support. Mr. Batson said he could but he said he didn’t mention it. Roland thought he heard it mentioned that Mr. Batson would ask John Gallant for example, how much this type of pipe would support. He said then they started talking about utilities and the existing roadway, he just wanted to understand. Mr. Batson said, “The pipe is very deep.”

Roland L. moved that the board table the application until there is an engineered drawing addressing the slope and the construction of the retaining wall, and all that that entails. Roland noted there is specific language in the ordinance that has to be addressed.

Mr. Batson said that the slope wouldn't be near the concerns in the ordinance. Madge B. stated the board needed the documentation for the record that it meets the ordinance requirements.

Steve F. stated the trees being removed should be on the plan. Mr. Batson thought that would be too much information on the plan. Madge B. stated there had to be a plan where the replacement trees would be located. Steve said, "The replant plan."

CEO McDonough stated the section that he felt applied was 105-51, Section C. Madge said it may be ok. CEO McDonough agreed but the applicant has to prove it to the board. CEO McDonough asked Mr. Batson to call him if he had questions.

Madge B. 2nd the motion to table. All members were in favor. The motion to table passed unanimously by a vote of 4 – 0.

Nothing further was discussed.

Conditional Use Permit – Replace Existing Retaining Wall – Map 26, Lot 37 (114 21st Street) – Tyler Matthews, Applicant; Steve Singlar, Property Owner

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

Board members received along with the application, a sketch plan depicting the 'location' of the existing wall on site and noting it was 36" high and 50 feet long; a sketch plan of the 'construction' of the new wall showing it to be 33 inches in height, made of concrete block and having crushed stone, filter fabric and a drainage pipe behind; and a copy of the MDEP Permit by Rule approved by Cameron Adams on 6/20/17.

The project description on the application states: Removing existing concrete wall & replacing it with a new concrete block retaining wall. Same size and same location.

Steve F. asked Mr. Matthews to let the board know what the property owner would like to do. Mr. Matthews stated he was replacing the concrete wall, same size, and same location with a new concrete wall.

Roland L. said, "You are going to change the steps though, the steps are protruding out." Mr. Mathews said, "Yes, the steps are just sitting in there, the stairs will go back toward the house, away from the water."

Roland L. said, "The existing block material will be taken out of town?" Mr. Matthews stated, "Yes, I am guessing Sanford Public Works. It will be crushed up for gravel."

Roland L. said the planned removal won't take place until the large pine tree is removed. Mr. Matthews said the plan was to take the trees down first. Roland believed there will be three taken. Steve F. said Mr. Matthews stated he was permitted to take all three down now. Mr. Matthews agreed.

Steve F. said the boards concern was for anywhere it abuts the neighbor's wall, for the record can you state what is going to happen there. Mr. Matthews stated the neighbor that the concrete wall is painted, that will be cut and ended right there. The other side is the in-laws, we will be careful on that side to leave the corner piece to hold their wall in and butt the wall into that.

Roland L. stated there will have to be some revegetating behind the wall, due to crushed stone going in. Mr. Matthews agreed, as there would be the crushed stone and drainage going behind the wall. He said it would be topped with loam and seeded. Roland asked if the applicant would consider something other than grass; preferably something that doesn't need to be fertilized which leaches into the soil. Mr. Matthews asked about flowers? He said he hadn't discussed it yet with the owners. Roland said he would prefer a mulch berm to control runoff or groundcover such as Juniper or Hostas. He said grass is high maintenance. Mr. Matthews thought he could discuss doing a planting in that area.

Roland L. asked about the tree closest to the wall, will it be removed or ground down? Mr. Matthews stated, "Ground down." Roland said this would be another area that needs to be mulched or have ground cover. Steve F. asked if the tree was being removed prior to the project? Mr. Matthews stated, "Yes." Steve asked what the time line was? Mr. Matthews stated, "Middle of September." Steve said, "So the tree will be gone, stump ground, then you will move on." Mr. Matthews stated, "That is the plan."

Steve F. stated the board was required to ask what was going to be put into place for replanting. There should be a replant plan for the section above the road. Mr. Matthews said he would do a replant of Hostas, native plants and mulch. He believed he could talk the client into that. Maggie M. stated it had to be placed on the plan. Roland asked if he could draw it on the plan? The board had no issue with him drawing it on the plan. Steve also asked that the stairs be placed on the plan as well, so when CEO McDonough goes to the site, he will know what was approved, since this was a change to what was existing. Mr. Matthews drew the changes on the plan.

Madge B. asked if there would be soil that had to be moved, because stone goes behind the wall? Mr. Matthews said a small amount of soil will have to come out. Madge said they would have to have on record that the blocks will be removed from the site. Mr. Matthews said, "Yes."

Madge B. said the board needed a time line, how long will it take. Steve F. asked for a completion date. Madge said the board can't have the project start, then left open for erosion reasons. Mr. Matthews believed he would be finished mid-October. He said the job itself would take less than a week once started. Madge said the planting needs to be done before it is too late.

Steve F. asked what was going in for the planting plan? Mr. Matthews stated he would have Hostas, and they have used blueberries. Steve asked if he needed to talk to the homeowners? Mr. Matthews said he was fine with his decision. He then gave the board a copy of the sketch with the stairs and replanting plan. The plan stated mulched flowers, native shrubs & Hostas behind wall. Steve asked CEO McDonough to look at the plan. CEO McDonough would have liked the number of shrubs to be planted on the plan. He asked if there would be a shrub every five feet? Mr. Matthews stated, "There will be more than that." He stated that his applicants wanted it to look good.

CEO McDonough asked about the tree being removed, was there a replanting plan for it already? Mr. Matthews stated, "Yes." CEO McDonough stated he wanted it added that the tree removal is in conjunction with the permit for the wall, that the area where the tree is located will be revegetated.

Steve F. asked if there were any questions. There were none.

Steve F. then reviewed §105-73.G 'Standards applicable to conditional uses' and made findings of fact.

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

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. ***Steve F. stated, it will not, the wall repair will protect aquatic life.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. ***Steve F. stated the wall repair will conserve shore cover, along with the replanting plan.***
- 3) The use is consistent with the Comprehensive Plan. ***Steve F. stated the Comprehensive Plan wants the lakes and water quality protected.***
- 4) Traffic access to the site is safe. ***Steve F. stated, this is not applicable.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***Steve F. stated this is not in a flood zone.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***Steve F. stated that the blocks and waste material will be hauled off site, to an appropriate location for disposal or recycling. Mr. Matthews stated the blocks would go to Sanford Town Yard; the aggregate, which should be minimal, will also go to this location.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***Steve F. stated that there is 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. ***Steve F. stated the wall built as designed will help mitigate stormwater drainage.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***Steve F. stated best management practices will be used until the job is completed, including replanting of vegetation.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***Steve F. stated, this is 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. ***Steve F. stated the wall will not harm the neighboring properties as proposed.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***Steve F. stated they shall with conditions.***

The conditions of approval are:

- 1) **The project, including replanting of vegetation behind the wall and where the trees are to be removed, shall be completed by October 15, 2017.**
- 2) **Best Management Practices shall be used until the project is completed.**
- 3) **The existing wall is to be removed and taken out of Shapleigh, and disposed of properly.**
- 4) **A building permit must be obtained from the Code Enforcement Officer, prior to the construction of the new wall.**

Madge B. moved for approval of the Condition Use Permit to replace the existing retaining wall with the above stated conditions. Maggie M. 2nd the motion. All members were in favor. By a vote of 4 – 0, the motion to approve was unanimous.

Nothing else was discussed.

The Findings of Facts

1. The owner of Shapleigh Tax Map 26, Lot 37 (114 21st Street), is Steve Singlar of 30 Blackford Place, Exeter, NH 03833.

2. The property itself is located in the Shoreland District and according to the assessor the property contains .22 acres.
3. The application description reads as follows: Removing existing concrete wall & replacing it with a new concrete block retaining wall. Same size & same location.
4. Received was a sketch plan depicting the ‘location’ of the existing wall on site and noting it was 36” high and 50 feet long; and a sketch plan of the ‘construction’ of the new wall showing it to be 33 inches in height, made of concrete block and having crushed stone, filter fabric and a drainage pipe behind.
5. Received was a copy of the MDEP Permit by Rule approved by Cameron Adams on 6/20/17.
6. Received was an amended sketch plan, dated 8/22/17, which depicts the location of the replacement retaining wall, stairs going back into the hill from the wall, and a replanting plan consisting of native shrubs and Hostas, along with bark mulch.
7. The board reviewed Zoning Ordinance §105-39, ‘Earth removal and filling other than mineral exploration and extraction’ and concurred that this project met all the criteria under Section D ‘Earthmoving in the Shoreland District’; noting the material being used behind the new wall was appropriate for the project, and the area will be properly mulch and revegetated, exposing the soil for the shortest about of time possible. In addition, materials from the existing wall shall be removed off-site and taken to the proper facility.
8. 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.
9. A notice was mailed to all abutters within 500 feet of the property on August 9, 2017. Meetings were held on August 8, 2017 and August 22, 2017. A site inspection was done on August 22, 2017 by members.
10. The Planning Board unanimously agreed to approve the Conditional Use Permit to replace the existing retaining wall, 50 feet long and 33 inches in height per the plans provided, on property known as Tax Map 26, Lot 37, with conditions.
11. **The conditions of approval are:**
 - 1) **The project, including replanting of vegetation behind the wall and where the trees are to be removed, shall be completed by October 15, 2017.**
 - 2) **Best Management Practices shall be used until the project is completed.**
 - 3) **The existing wall is to be removed and taken out of Shapleigh, and disposed of properly.**
 - 4) **A building permit must be obtained from the Code Enforcement Officer, prior to the construction of the new wall.**

Conditional Use Permit – Replace Existing Retaining Wall – Map 27, Lot 23 (22 Point Road) – Tyler Matthews, Applicant; Nicole Sampson, Property Owner

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

Board members received, along with the application, a sketch plan depicting the location of the deck to be replaced with patio, wall to be replaced and where erosion control measures will be placed; a sketch plan depicting the replacement wall being made of concrete block with crushed stone behind, filter fabric, and drain pipe, with an attached patio made of pavers. The wall will be 39 inches in height.

The project description on the application states: Removing an existing rotted retaining wall & patio & replacing it with a stone wall & patio. Same location.

Steve F. noted the board received a letter from abutters, William and Eileen Mageary which stated they were immediate abutters and had no issue with the replacement of the retaining wall.

Steve F. asked Mr. Matthews to state what the property owner intended to do. Mr. Matthews stated Ms. Sampson wanted to remove an old railroad tie retaining wall, holding up a floating pressure treated patio; both to be replaced with a stone wall and paver patio.

Madge M. asked if when they replace the wall if they will also dig out and put crushed stone in behind? Mr. Matthews said yes, along with drainage pipe and filter fabric. Steve F. asked if the manufacturer had a data sheet with specifics? Mr. Matthews asked if he was speaking about the blocks? He said there was probably some literature on it, he wasn't sure. CEO McDonough asked how tall the wall was going to be? Steve stated, "39 inches." CEO McDonough was sure the company had some kind of literature for range of force and height.

Roland L. asked about the pavers on the top, 'are they impervious with stone dust, can moisture go thru or will it run over the top of the wall'. Mr. Matthews said, "More goes over the top of the wall to be honest with you. It's a hard dust and it does run in that direction." Roland asked if it was mortared in? Mr. Matthews stated, "No." Roland asked CEO McDonough if they ever put a low spot to capture the rainwater, so it would go down into the earth? CEO McDonough did not see why not. Roland said there is quite a bit of square footage. Mr. Matthews said he would rather put gutters up and disperse it sideways. Steve F. stated it was a concern because instead of going down below the pressure treated deck, we are creating more runoff and potentially causing problems with both roof water and runoff from the patio. Mr. Matthews noted there was some established vegetation that would absorb some of it. The board agreed. Roland noted the grade was steep, and said if something could be done, it would be helpful. Mr. Matthews agreed and said again he felt gutters would help.

Madge B. asked if fill or soil would be brought in? Mr. Matthews stated there would be minimal fill added. He said, crushed stone for behind the wall. Maggie M. wondered if they could add bushes around the sides of the patio to prevent runoff. Madge noted there was no soil to put it in. Mr. Matthews agreed, it was straight down. Madge didn't know how this could be accomplished and noted there was vegetation below the wall. Steve F. was concerned about creating a water problem due to the slope.

Roland L. asked if the pavers would cover the same square footage as the existing pressure treated deck? Mr. Matthews stated, "Yes." Roland said it was close to 500 square feet, which is quite a bit of area. Roland asked if the equipment would travel, while facing the home on the left hand side, and after the area will be reclaimed to original condition after the project is completed. Mr. Matthews stated, "Yes."

Roland L. said they spoke of the silt fence and the possible need for hay bales, as well, due to the steepness of the slope. Mr. Matthews stated, "Correct."

Steve F. asked if there were additional questions?

Madge B. asked if best management practices would be used, even if it is set back from the water? Mr. Matthews stated, probably silt fence and bales of hay. CEO McDonough said in the last 10 minutes he heard a lot of concerns from the board but had not heard how they would be addressed. Steve F. asked what his concern was? CEO McDonough said he had no issue but has heard about a large area of impervious surface and there has been no solution. Steve said the boards concern was creating a water issue with this solid surface and the roof range. CEO McDonough agreed. Mr. Matthews stated there was a problem now due to the failing wall and all the roof water is just going down the hill. He believed putting gutters up would work. Madge asked if gutters were put up, if they could also put down spouts to a catch basin? Mr. Matthews believed going out with the gutters to both sides, the woods would slow the water down. Madge asked how far back the wall was from the water? Mr. Matthews said roughly, perhaps 30 feet. Roland said it was a 45 degree angle down. Steve had no issue with gutters, but now there is a lot of water going to one spot. He didn't feel there needed to be an engineered catch basin but something should be created to slow the water down.

Roland L. said his concern was that as well constructed as it can be, there are low spots and stairs, with this 500 square foot area, some of the water will go down the stairwell, so if something can be done to minimize the amount of water on the patio, it is better. He believed the situation now is somewhat better because it is dispersed over a large area, but this project will create a puddle and then it will breach at the lowest spot. Mr. Matthews said if all the water is going toward the stairwell, they did a bad job. The patio will be pitched toward the outside and forward, not toward the house. Madge B. wasn't sure the board knew enough to come up with a plan. CEO McDonough disagreed, he thought he heard several good ideas, it just needs to be added to a plan. Maggie M. asked about reducing the size of the patio. CEO McDonough believed the owner had the right to replace the patio with one of same size in the same location. Mr. Matthews asked if gutters and two stone dry wells would solve the issue? Madge believed it would work. Steve F. said he didn't know the answer. He believed it was an issue.

Roland L. said the proposal was better than what exists at this time. It is a safety issue at this time. He just wanted to be sure it was done correctly. Steve F. stated that Mr. Matthews said the pavers would tip on both sides. Mr. Matthews agreed. Roland L. asked if there would be a lip where the pavers come into contact with the retaining wall, is it a continuous plane? Mr. Matthews said it was continuous.

CEO McDonough noted that the board has the authority to ask for anything they want. Roland L. said the board was not to come up with a design plan, it is the applicant's responsibility. Madge B. said the board's job is to stop erosion from going into the lake. She noted there was a lot of plants already there. Steve F. said the applicant would have to create a plan to deal with the water from the two downspouts of the gutters. Mr. Matthews stated he would draw it on the plan now.

Steve F. asked if there were any additional questions? There were none.

Steve F. then reviewed §105-73.G 'Standards applicable to conditional uses' and made findings of fact.

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

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. ***Steve F. stated, it will not, the wall repair will protect aquatic life, along with the gutter system & catch basins to divert stormwater.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. ***Steve F. stated the wall repair and patio will not harm any of the existing vegetation.***

- 3) The use is consistent with the Comprehensive Plan. *Steve F. stated the Comprehensive Plan wants the lakes and water quality protected.*
- 4) Traffic access to the site is safe. *Steve F. stated, this is not applicable.*
- 5) The site design is in conformance with all municipal flood hazard protection regulations. *Steve F. stated this is not in a flood zone.*
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. *Steve F. stated that the waste material will be hauled off site and taken to Simpsons for disposal or recycling.*
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. *Steve F. stated that there is 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. *Steve F. stated the wall built as designed will help mitigate stormwater drainage. A gutter system will be placed on the home to mitigate stormwater runoff from the roof and minimize it on the patio area.*
- 9) Adequate provisions to control soil erosion and sedimentation have been made. *Steve F. stated best management practices will be used until the job is completed, including replanting of vegetation.*
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. *Steve F. this is 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. *Steve F. stated the wall will not harm the neighboring properties as proposed.*
- 12) All performance standards in this chapter applicable to the proposed use will be met. *Steve F. stated they shall with conditions.*

The conditions of approval are:

- 1) Gutters shall be added to the side of the house facing the water, along with downspouts on each side of the house, going into a dry well.
- 2) The project, including the addition of gutters and dry wells for stormwater mitigation shall be completed by October 15, 2017.
- 3) Best Management Practices shall be used until the project is completed.
- 4) The existing wall and patio is to be removed and taken out of Shapleigh, and disposed of properly.
- 5) Return walkway on the left hand side of the house to the original condition when the project is finished.
- 6) A building permit must be obtained from the Code Enforcement Officer, prior to the construction of the new wall.

Steve F., looking at the sketch provided, stated that the catch basin would be a 3 foot hole, line it with fabric and fill it with stone. Mr. Matthews stated, “Yes.”

Madge M. moved for approval of the Condition Use Permit to replace the existing retaining wall with the above stated conditions. Maggie M. 2nd the motion. All members were in favor. By a vote of 4 – 0, the motion to approve was unanimous.

Nothing further was discussed.

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**The Findings of Facts**

1. The owner of Shapleigh Tax Map 27, Lot 23 (22 Point Road), is Nicole Sampson of 9 Shaker Hollow Road, Setauket, NY 11733.
2. The property itself is located in the Shoreland District and according to the assessor the property contains .22 acres.
3. The application description reads as follows: Removing an existing rotted retaining wall & patio & replacing it with a stone wall & patio. Same location.
4. Received was a sketch plan depicting the location of the deck to be replaced with cement patio, wall to be replaced and where erosion control measures will be placed; a sketch plan depicting the replacement wall being made of concrete block with crushed stone behind, filter fabric, and drain pipe, with an attached patio made of pavers. The wall will be 39 inches in height.
5. Received was an amended sketch plan, dated 8/22/17, which depicts the location of the replacement retaining wall and patio, along with gutters and a downspout going into a crushed stone dry well on both sides of the house (to mitigate stormwater). A sketch of the dry well basin is also on this revised plan, showing the basin to be 3 feet x 3 feet in size filled with crushed stone with fabric cover.
6. The board reviewed Zoning Ordinance §105-39, 'Earth removal and filling other than mineral exploration and extraction' and concurred that this project met all the criteria under Section D 'Earthmoving in the Shoreland District'; noting the material being used behind the new wall was appropriate for the project, and gutters will be added to the house, with downspouts going into a dry well, for additional stormwater mitigation. In addition, materials from the existing wall and patio shall be removed off-site and taken to the proper facility.
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 notice was mailed to all abutters within 500 feet of the property on August 9, 2017. Meetings were held on August 8, 2017 and August 22, 2017. A site inspection was done on August 22, 2017 by members.
9. The Planning Board unanimously agreed to approve the Conditional Use Permit to replace the existing retaining wall and patio per the plans provided, on property known as Tax Map 27, Lot 23, with conditions.
10. **The conditions of approval are:**
  - 1) **Gutters shall be added to the side of the house facing the water, along with downspouts on each side of the house, going into a dry well.**
  - 2) **The project, including the addition of gutters and dry wells for stormwater mitigation shall be completed by October 15, 2017.**
  - 3) **Best Management Practices shall be used until the project is completed.**
  - 4) **The existing wall and patio is to be removed and taken out of Shapleigh, and disposed of properly.**

- 5) Return walkway on the left hand side of the house to the original condition when project is finished.
- 6) A building permit must be obtained from the Code Enforcement Officer, prior to the construction of the new wall.

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**Best Possible Location – Replace Shed – Map 23, Lot 18 (25 Director’s Lane) – David & Donna Landry, Applicants**

Mr. & Mrs. Landry were present for the review of their application.

Along with the application, provided was a picture of the existing shed, along with the dimensions of the existing shed (8’6” x 5’8”), and the proposed size of the new shed (9’ x 6’10”). In addition, a plot plan was provided, depicting the location of the existing house and deck, leachfield location, well, parking area, and shed location. The existing setback to the water from the shed is 70 feet.

The detailed description of the project is: Tear down an existing playhouse/shed built in 1960 & rebuild, enlarging footprint 30%. No plumbing/electricity in new structure. No trees will be cut. No soil disturbed. The existing site was excavated in a hillside in 1960 and the new shed will fit on the current site.

Steve F. asked the Landry’s to tell the board about what they were proposing. The applicants provided additional pictures for the board to look at, of the existing shed. Mr. Landry began by stating they were before the board to get permission to tear down an existing aging shed that used to be a playhouse years ago. Replacing it with a new structure and take advantage of the 30%.

Mr. Landry stated the shed is setback in the woods and on an excavated site on a fairly steep bank. He said it was a playhouse about 60 years ago; currently, it is being used as a storage shed. He continued to explain the location of the shed at this time.

Mr. Landry stated the dimensions of the shed are in the packet, along with the requested expansion. He stated he drew a small sketch of what he wanted the shed to look like. He said he spoke with Mike Allen who prefabs them and it would measure 6’10” across the front by 9 feet to take advantage of the allowed footprint expansion. He said it would be a standard construction, 2 x 4 pressure treated floor with plywood, 2 x 6, 16 on center walls, with some type of dark pine siding because they want it to blend in, therefore, it would be a dark grey or dark green. The shed would have no plumbing or electricity. The erosion control concerns, it is 70 feet setback from the lake, no trees need to be cut, or brush, to get the old shed out or new shed in. He said they would take a sawzall to the old shed and cut it up and move it out by hand. The only soil disturbed is the area under the shed will be raked out and leveled for the new shed. The new shed will be set on cement blocks a single block high. There will be a rock infiltration trench 12 feet wide, 6 inches deep lined with fabric around the drip edge and on the lake side of shed. They will not need mechanized vehicles, it will be carried in and out.

Mr. Landry stated with respect to the location, the surveyors plot plan gives an idea of where the shed is currently located. The shed is located above and to the right of the existing house. It is 70 feet back from the lake. 15 feet to the side lot line and 21 feet from the rear of the property. The area was excavated in 1959 for the existing shed. The current site would hold the new proposed shed without any earth moving or disturbing any soils. The area in the back is four feet high, therefore, he believed the current location is best, since the only level ground in the area is where the current shed is. They have no desire to move it closer to the lake and they want to keep it out of site as well. It is currently shielded from view of the lake.

*Steve F. asked if there were any questions. There were none.*

**Steve F. set the site inspection for September 12<sup>th</sup> prior to the planning board meeting at approximately 6:30 p.m. A Notice to abutters will be mailed as well. The applicants will be at the house. (Roland L. will go on his own due to working earlier in the day.)**

Nothing further was discussed.

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**Amendment to a Conditional Use Permit – Open a School to be known as Trinity Christian Academy at Shapleigh 1<sup>st</sup> Baptist Church – Map 45, Lot 4 (600 Shapleigh Corner Road) – Connie Bosse, Representing; Trinity Christian Academy, Applicant**

Mrs. Bosse was present for the review of the application, along with Mark Boisse.

In addition to the application, provided was a copy of a Construction Permit #12060, dated November 14, 2001, whereby First Baptist Church was approved by the State of Maine to construct or alter the existing building, noting all local ordinances, zoning laws, or other pertinent legal restrictions must be adhered to. A plot plan depicting the original church structure, function room, education wing, two parking areas, old barn and parsonage, leach field location and distances to side lots line, Shapleigh Corner Road and Pump Box Brook. A copy of the Subsurface Wastewater Disposal System Application for a replacement system, done by John Large, SE #7, dated 7/2/1985 for a Church with 50 seat capacity.

The description of the project stated: No additional construction needed. All existing buildings to be used (mostly new addition). Also, in an attached letter dated August 14, 2017, written by Connie Lee Bosse, Asst. Principal and Mark Boisse, Trustee Chairman of Shapleigh Baptist Church, is, ‘There are presently less than 15 children attending Trinity Christian Academy, along with about 6 teachers. The school year runs similar to that of the public school.

Steve F. asked the applicants to let the board know why they are here. Mr. Boisse began by stating he was the Trustee of the Church and he was unaware they needed to come to the board for a Conditional Use Permit. He said he wasn’t sure what questions to answer. He stated it was an existing building, the education wing was built for this, it was built with the existing septic system in mind with the added classrooms. Note: The church is currently approved for Sunday school classes only.

Madge B. asked if the school was new? She noted there were classes for adults and children but not an official year round school. Mr. Boisse stated, yes. He introduced Mrs. Bosse, and she stated she was the Assistant Head Master of the school and she was representing the school, where he was representing the church. Madge said the board sees this as an additional use to the existing Conditional Use Permit.

Mr. Boisse stated that he sent what he believed was the pertinent information but realized it is up to the board to let them know what they need. Madge B. said the school will take place in the education wing that has been in place for several years. She said there will be a site visit where more questions may arise but there may be an issue with the septic system. She said looking at the septic design it states that it will accommodate 50 seats for the church. Mr. Boisse stated that the church clearly has more than 50 seats and has for more than 200 years. He believed it was meant for 50 people, and he said it was clear there are more than 50 people that go to the church. He stated that the school consists of half that many.

Steve F. stated that his concern was that someone who knew more than him should say it can handle the existing and proposed use. Mr. Boisse said it has been adequate for 30 years and there have been more than 50 people in the church every Sunday. Both Madge B. and Steve wanted to know how this is figured since no one lives there, and how they figure it for a school whether it is Shapleigh Memorial School or this

proposed school. Steve wanted to know how this number is derived and if the additional use will impact this. Mr. Boisse said he didn't follow up on this. He said, "There are rooms in the new educational wing and they will get 8 to 10 kids in each room roughly, and there is about six rooms. So at the lowest amount there is roughly 60 kids and the permit to build was given with that septic system design, already in place. I made the assumption that it obviously must be ok."

Maggie M. asked if this was adding additional children to the 60 kids? Mr. Boisse said no, he was giving the amount of kids that can be held in the education wing. He said clearly it isn't the case. The septic system at the time was ok with those rough numbers being understood. Mrs. Bosse noted there was no crossover between school and church, time wise.

Steve F. said he felt the question needed to be answered, will this system handle what your current use is plus what you are doing with the school now. Madge B. asked if they thought about getting an answer to the question? Mr. Boisse said that he did, but he didn't have time to get the answer. Madge said the board will want to know the answer because there appeared to be enough parking, and it won't overlap with the church.

CEO McDonough asked if they were asking for a maximum amount of students or a minimum? Mrs. Bosse stated that she was not at this point. She stated that this year they were looking at 15 full time students, 4 full time teachers and 2 part time teachers for a total of 158 days during the year. Steve F. stated, "So we would set, as a board, what you would be approved for, so you want to keep that in mind, what your potential max would be. How many students. How many teachers." Madge B. said, "How many days of the week, hours, etc."

Roland L. wanted to know if there would be a food prep area? Would there be a cafeteria? Would someone be preparing a lunch for the students? Mrs. Bosse said it was no different from what the church does now, the students bring their own lunches the majority of the time. We have made no changes. Roland said, "There will be no need to add bathrooms." Mrs. Bosse stated that they had changed nothing on the outside of the church, it is used strictly as it was designed years ago, for Christian education. Mr. Boisse stated that there were three bathrooms in the building already, male, female and family. Roland asked if they were handicap accessible? Mr. Boisse stated that they were.

CEO McDonough stated that the educational wing, he believed, was designed for and permitted for a Sunday school. He stated if the kitchen becomes a daily lunch facility, at a minimum, the septic system would need a grease trap. Mr. Boisse wanted to know if they needed a grease trap if kids bring their own lunch? CEO McDonough stated, "So you are not going to make any lunches in the kitchen?" Mrs. Bosse stated, "Not on a regular basis." Mr. Boisse stated, "Kids generally bring their own lunches." Steve F. said, "There are 15 kids and sometimes they get lunch made." Mr. Boisse said, "Fair enough." Steve stated that the board would be reviewing §105-73 Conditional Use Permit. Madge B. noted that a copy of the standards are given out with the application, so they should have a copy.

Madge B. stated the board wanted a professional to look at the septic design and tell the board they are meeting the code requirements. Steve F. agreed stating that the board needs to be certain it is adequate going forward or fix it. He said a soils engineer needs to address the boards concern.

Madge B. said the board will ask about waste disposal, if they bring their own lunch how will the trash be handled.

Mr. Boisse said they had a dilemma, and noted it was his fault, but they are one meeting late and the school season starts on September 11 and the next board meeting is September 12<sup>th</sup>. Steve F. noted there would also be a public hearing. Mr. Boisse asked how they handled it? He said if he gets an engineer and he says it is



ok, then it comes to the board and after that it is a formality. Would they be ok to start the school on Monday, and then walk through the permit process on Tuesday? Madge B. said, “We are not in the position to tell you.” Steve F. stated, “I don’t think as a board we can authorize you to start activity against the code of the Town of Shapleigh.” Mrs. Bosse asked how they would know if they were against the code? Steve stated, “At this point you don’t have a conditional use permit for the school.” Madge agreed.

*Steve F. asked if there were any questions. There were none.*

**Steve F. stated that there would be a public hearing at 7 p.m. and a site visit at 6:15 p.m. A notice to abutters will be mailed as well. Members will meet at the church.**

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 9:10 p.m.**

*The next meeting will be held **Tuesday, September 12, 2017** 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, September 12, 2017**

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

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**Minutes are not verbatim, unless in quotes “”**

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

**Amendment to a Conditional Use Permit – Open a School to be known as Trinity Christian Academy at Shapleigh 1<sup>st</sup> Baptist Church – Map 45, Lot 4 (600 Shapleigh Corner Road) – Connie Bosse, Representing; Trinity Christian Academy, Applicant**

Mrs. Bosse was present for the review of the application, along with Mark Boisse.

In addition to the application, provided was a copy of a Construction Permit #12060, dated November 14, 2001, whereby First Baptist Church was approved by the State of Maine to construct or alter the existing building, noting all local ordinances, zoning laws, or other pertinent legal restrictions must be adhered to. A plot plan depicting the original church structure, function room, education wing, two parking areas, old barn and parsonage, leach field location and distances to side lots line, Shapleigh Corner Road and Pump Box Brook. A copy of the Subsurface Wastewater Disposal System Application for a replacement system, done by John Large, SE #7, dated 7/2/1985 for a Church with 50 seat capacity.

The description of the project stated: No additional construction needed. All existing buildings to be used (mostly new addition). Also, in an attached letter dated August 14, 2017, written by Connie Lee Bosse, Asst. Principal and Mark Boisse, Trustee Chairman of Shapleigh Baptist Church, is, ‘There are presently less than 15 children attending Trinity Christian Academy, along with about 6 teachers. The school year runs similar to that of the public school.

Roger A. asked Mrs. Bosse and Mr. Boisse to tell the members of the board and anyone interested in the audience, what they intended to do. Mr. Boisse began by stating Connie Bosse was the Asst. Head Master of Trinity Christian Academy to be located at First Baptist Church, which is across the street. He stated they were notified that that needed to get a Condition Use Permit from the Town, so they began the process. He said currently there are 15 children enrolled in the school and six teachers.

Mr. Boisse stated at the last meeting they were asked to get something in writing regarding the existing septic system, from a septic company or service, indicating the existing septic system could handle what is going on. *Note: At the August 22<sup>nd</sup> meeting the board asked that a professional look at the septic design and tell the board it would meet the code requirements. This professional should be a soils engineer.* Mr. Boisse supplied the board members with a letter from Mr. Gallant of Stoney Road Septic pumping service. Mr. Gallant believed the existing septic system was more than adequate to meet the needs of the proposed use.

Roger A. asked if the school would be open during the school year only, the same amount of time as SAD #57? Mrs. Bosse stated that the private school requirements would be met at only 158 days, which is a little less. Mr. Boisse said the regular school was somewhere around 172 days.

Roger A. asked about the hours of operation? Mrs. Bosse stated, “Eight to three.” Madge B. stated, “Five days a week.” She asked if there were any after school programs? There were none noted. Madge asked how the students got to the school? Mrs. Bosse stated that their parents brought them, or they car pooled for consolidated transportation. Madge stated that she just wanted to know if they provided transportation and they did not.

Roland L. asked about the size? Mrs. Bosse stated that if they were talking student wise, she believed no more than 30 students would be appropriate for the size of the class. She said they hadn’t discussed it in great detail, because they are slow growing. She said they wanted to grow but realize the space is limited. She said other choices will have to be made if it takes off.

Roland L. asked about signage? Mrs. Bosse stated she hadn’t made a decision on that, it has to be run past the church trustees. Madge B. added that it would also have to go past the Code Enforcement Officer. Madge noted that she mentioned it as a reminder. Mrs. Bosse thanked her.

Roger A. mentioned lunches, that there would be no lunches served. Mrs. Bosse stated that that was correct.

Madge B. asked about the ages of the students? Mrs. Bosse stated she had Kindergarten thru 12 available. She said they do not have K thru 12, so it depends on the child that comes and the age but teachers are available. Roland L. asked if there would be multilevel within, so a teacher might have several different ages and grades to teach. Mrs. Bosse said that is correct. Roland asked if the instruction was self-paced? Mrs. Bosse stated that it was not. She said for the most part, if there are several levels, your math would be more self-paced and hands on from a teacher, as opposed to a teacher being able to stand up and teach a whole class. If it is an English class, a history class, a language, a science it will be as a traditional classroom.

Madge B. asked if they will play outside? Mrs. Bosse stated that they do, the church has a basketball hoop down by the parsonage, so that is used. She said they had a large lawn space available. Madge said there were roads also. Mrs. Bosse stated there was plenty of space available and when the weather is bad they use the basement of the church which houses the youth group on Sunday night.

A citizen began speaking and stated that one of his concerns was the road and the speeds people travel on Route 11. He believed the average car going toward the school was doing 60 mph. Mr. Boisse asked if there was a study to prove it as he drove the road all the time and he was never doing 60. The citizen said he watched them all day long, and he knew it wasn’t up to the church to do anything about it, but it was a concern. Mrs. Bosse stated that the children are never outside unsupervised. Mr. Boisse added that there was 25 or 30 feet of grass between the parking lot and the road, where they play. He said the driveway doesn’t dump out onto the main road but a right-of-way where there is no traffic. The citizen was concerned about cars going in and out to drop children off. Mrs. Bosse said the cars drop children off at the top of the driveway of the church and there is perhaps five cars in the morning. She said the parents drop off the children, some accompany them. In the afternoon there is a teacher at the door. She stated that the other area they use is next to the new parsonage, which borders the woods.

Roger A. asked if there were any other questions? There were none. The public hearing closed at 7:15 p.m.

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**The minutes from Tuesday, August 22, 2017 were accepted as read.**

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

*Due to the length of the meeting, Roger A. began with the 'New Business'.*

**Conditional Use Permit – Open a Farm Bakery & Craft Business – Map 8, Lot 8A (353 Owl's Nest Road) – Laurie Beth Fowler, Applicant**

Ms. Fowler was present for the review of the application.

Along with the application, provided was a letter from Maine Site Evaluations LLC, dated September 22, 2016, which stated that the existing septic system was functioning properly; a Retail Food Inspection Report and a Food Processing Inspection Report from the ME Dept. of Agriculture, Conservation & Forestry, dated 11/8/16, which granted License #2-32071 to Lil' Farm Bakery for a mobile vendor license with an expiration of 12/1/17; a plot plan depicting the location of the existing house, barn, leach field location and driveway, along with the proposed new building location which will be 75 feet from the centerline of the road.

The detailed description of the proposal is as follows: Our intentions for the 10' x 14' shed, to be located at 363 Owl's Nest Road in Shapleigh, will be to sell our baked goods, jams & jellies (under our licensing as Lil' Farm Bakery), craft items, and possibly eggs and vegetables from our farm. We have sufficient parking in our driveway (see plot map) with a turnaround location in our drive. We also have the appropriate licensing to sell our food items (see attachments) as well as a licensed kitchen to make them in. Our hours of operation will be Monday through Sunday from 6 a.m. thru 8 p.m.

Roger A. asked Ms. Fowler to tell the board what she wanted to do. Ms. Fowler began by stating she was going to put a pre-built shed on her property and she currently has a licensed business as a bakery, and would like to sell her goods from the shed. She said they would also like to sell crafts that her daughter makes, candles, jewelry, pictures and products like that. She stated that she has sufficient driveway, and a turnaround area, so you can pull out of the driveway. She added that the structure would be 75 from the centerline of the road.

Roger A. asked what the hours of operation would be? Ms. Fowler stated Sunday thru Monday, from 6 a.m. thru 8 p.m. (7 days a week). Steve F. asked if Ms. Fowler had a kitchen now? Ms. Fowler stated that she had a licensed kitchen, yes.

Roger A. asked what type of foods would be served and would there be a sit-down area? Ms. Fowler stated no sit down area, you would buy pre-packaged foods such as jellies, jams, cookies, fruit bars, breads, rolls, etc.

**Roger A. stated a Public Hearing will be scheduled for 7:00 p.m. on Tuesday, September 26<sup>th</sup>. A notice to abutters will be mailed as well. A site inspection was scheduled for 6:30 p.m. on the 26<sup>th</sup>.**

Nothing further was discussed.

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**Amendment to a Conditional Use Permit – Add 50' x 150' Storage Building – Map 1, Lot 24A (140 Deering Ridge Road) Adex Properties, Shawn McLeod, Applicant**

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

Along with the application, provided was a Stormwater Drainage Plan from Carl V. Beal, P.E. #5013 which stated that the construction of the new storage building will result in no negative impacts due to stormwater runoff to downstream properties, tributaries, or water bodies. Also provided, was a sketch plan depicting the

existing structure on site, the driveway(s) both for personal use and business, the location of the existing leach field, and the proposed location of the new 50' x 150' structure. The new structure will be approximately 143 feet to the rear lot line, 20 feet from one side lot line, 185 feet to the other side lot line and 450 feet from the road. The lot coverage calculation depicted lot coverage to be 8.5% after the construction of the new building.

The detailed description of the project is as follows: 50' x 150' cold storage building.

Roger A. asked Mr. McLeod to tell the board what he wanted to do. Mr. McLeod stated that he wanted to add a 50' x 150' metal building at the rear of his property for storage of personal water craft and boats. Roger asked if it would be a dry building? Mr. McLeod said, "Yes." Roger asked if there would be any gas or batteries held inside. Mr. McLeod said whatever is in the watercraft will remain in the watercraft but he would not be storing additional in containers. He noted he was not even going to put power in the building. Roger asked if there would be doors on each end? Mr. McLeod stated, "Yes." Roger asked if it would be lighted? Mr. McLeod said, "No, no power."

Roland L. asked if it was going to be ground level storage or would there be racks? Mr. McLeod stated, "Just on the ground." Madge B. asked if there would be a cement floor? Mr. McLeod stated that it would be a stone dust floor.

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

**Roger A. stated there would be a site inspection on Tuesday, September 26, 2017. Members will meet on site at 6:00 p.m. A public hearing will also be held at 7:00 p.m. that same evening, and a notice to abutters will be mailed as well.**

Nothing further was discussed.

**Conditional Use Permit – Create a Parking Area – Map 23, Lot 2-9 (22 Dancehall Drive) – Roland 'Russ' Batson, Applicant & Owner**

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

Provided to members at the first meeting was a copy of the soils report for this location, which noted the soils were Colton and drained well; a letter from Site Evaluator John Large, SE #7, dated 4/25/88 which was for a test pit dug on site that found the soils on site to be similar to a deep Colton, and therefore, the criteria for a system would have the highest possible rating. It was also noted in the letter that this was for information gathering but was not an application for a new system. Also submitted was a sketch plan depicting the location of the proposed parking area, and entrance to the site with clockwise turn around area, which in part follows the CMP utility easement.

The project description on the application states: A parking area using "CMP Road", and "Loop" like drive thru, with back sloping drainage system.

Mr. Batson began by stating that he had misinformed members at the site inspection about the height of the proposed wall. He stated four or five feet, this was prior to reading the ordinance. Finding out that if the project was over four feet, it would need an engineered drawing, he obtained the services of Dana Libby at Corner Post Land Surveyors, and asked for a price for his services. He added that it was estimated that it would take four weeks to do the job and then it would go to Pinkham and Greer to do the engineering if the

wall is over four feet in height. Mr. Batson, therefore, provided a more detailed sketch than what he previously presented. It showed elevations, the CMP right-of-way, utility poles, iron pipes and the setback to lake and Mr. Eastman's (the abutting property). On another page, there is a cross section drawn which shows the existing slope, a four foot wall and the new slopes. He stated, "The approach slope going down is steeper than the departure slope, the approach slope is 11 degrees and the departure is 7." He said he also provided a sketch of the cross section of a boulder wall with geotextile fabric, crushed rock which is also a catch basin, and a plateau. Top and cross section view.

Mr. Batson thought, because the wall was under four feet, that he would not need an engineered plan or survey. He asked the board what they thought, and he asked the board if they had questions?

Steve F. asked if he was moving away from concrete blocks? Mr. Batson stated that for esthetics only; it would be more expensive and a better wall doing it with boulders. He felt the property was over 100 years old and esthetically he would like to do it with boulders if the board would allow it. He said he spoke with Rudy Pepin and he had boulders he could use. He noted that on the plan he had it drawn with lock-blocks (concrete) if it ends up being a problem.

Steve F. stated, "It isn't my call but after looking at the site it is major surgery, what they are dealing with. It is a pretty good slope, who is going to build it?" Mr. Batson stated, "Jeff Goodwin." Steve asked if he was alright with using boulders? Mr. Batson said, "Yes." He said a gentlemen by the name of Tom Drummy may help, noting that the walls he has built were excellent.

Roland L. asked about the 1<sup>st</sup> page of the sketch, how much of the area towards the bottom will require a wall? Mr. Batson stated, "At the bottom will be four feet but from that point on, as you go up, it will disappear. Where it says 12 feet wide on the plan, the wall would no longer be necessary." He said the bottom 10 feet would look like a 4 foot wall and again would disappear as you go up the hill.

Madge B. asked what the frontage was? Mr. Batson stated it was 120 feet of frontage, 39,300 square feet. Madge asked if this was the frontage on the water? Mr. Batson said, "Yes." Madge asked about the frontage on the road? Mr. Batson said at least 200 feet for more.

Roger A. was concerned with what happened to all the runoff, once all the trees are removed and it is just a gravel driveway with the slopes involved. Mr. Batson didn't anticipate any runoff. Mr. Batson stated that everything would slope to the middle. He showed the drainage calculations he did and showed where there would be crushed rock on the plan. He said there would also be textile fabric and pine needles would once again fall on it. The plan notes the volume of water to be stored as 401 gallons based on his calculations but noted a reduction of water due to the soil type, therefore, making the number of gallons 280. Two plans written for storage of water are: 2" crushed rock or a 6 foot drywell ring.

Roger A. asked if these calculations were for a 6 inch storm in 24 hours. Mr. Batson said he was using the national recognized 2 ½ inches for 15 minutes. Roger believed this was inadequate. Steve F. noted that it was written that it was 2 ½ inches per 'hour'. Mr. Batson said it was supposed to be for 15 minutes. He said that he used the website that showed how to calculate it. He said it showed that 2" of crushed rock would be enough to mitigate the stormwater but he added the drywell in case the board did not like the crushed rock only.

Madge B. asked if Mr. Batson needed to have the slopes on the plan? She read from the ordinance, Section 105-59 'Roads, driveways and water crossings, (2) Road and driveway banks shall have a slope no steeper than a slope of two horizontal to one vertical'. She wanted to know if that had to be addressed, and if so,

then drainage and culvert requirements might also have to be addressed. She wasn't sure and was asking the boards opinion. Madge also wanted to know how much earth moving was taking place? There should be a number of yards and how it will be handled. She wanted an engineered drawing because it would tell the answers to these questions. She said if the other board members could read what he has given and they think it meets the requirements in the ordinance then she will be fine with it. Mr. Batson said two to one is extreme, one foot over two feet. He said he was talking about 10 feet over 100 feet. Madge said the requirements may be met but she did not know that looking at the plans provided. She did not have the expertise in this area, if the board members believed the standards are met, she had no issue with it.

Mr. Batson said, with respect to earth removal, "I believe we are going in and will push the pine needles to one side, then bring in high quality crushed gravel, all the way to the 12 foot wide driveway mark. At that point, the wall, crushed rock and textile fabric will be wrapped like a burrito, around the drainage rock behind the wall. Then the gravel will go back on top of that back to original grade." He noted they were not digging down, the road base of Colton soil was better than anything they would bring out of a pit. Most of the camp roads were original Colton soil. He said, therefore, he was not going to excavate what is there and already compacted. He said again he would remove the pine needles, bring in probably (3) - 14 yard trucks of gravel, or maybe 4. He said there will be very little excavating. He said the excavating will be to cut back into the hill so a rock won't roll down, he showed them on the sketch. He thought that was the only cut, other than the catch basin to put in crushed rock.

Roger A. asked how large the parking area was? Mr. Batson stated it was four cars wide and noted it was already there. He didn't think there would be a tree cut for the parking area, and noted CMP currently uses it and sometimes the neighbor, Mr. Eastman.

Steve F. asked if there was a reason, besides the leach bed location, why the parking area cannot go up on the flat? Mr. Batson said, it is flat. Steve said, sorry, I mean the turn-around. Mr. Batson said because of the location of the existing house, this would make it easier for them to access the house.

Madge B. asked if the CMP right-of-way was an easement? Mr. Batson stated that they had the right to pass over it, to maintain the utility lines above it. Madge asked is there an agreement not to block it, or was there a need for one? Mr. Batson said there was nothing in the deed that required it. He said if the CMP right-of-way was blocked, the driveway would also be blocked. Mr. Batson said he planned on putting a sign for approach and departure, he could also add 'no parking in road'.

Madge B. asked Roger A. if the application met all of §105-59? She felt he had more of an engineering background than some of the members. Roger said, "At this point you say the most gravel you will bring in is 56 yards?" Mr. Batson said he didn't think he would need more than that, then perhaps some crushed rock for the catch basin. He said again they would just move the pine needles and this would be built on existing grade. Roger said the area would be opened due to the amount of trees being removed, which is why he wanted to know exactly what would be done. Mr. Batson said they would be moving the pine needles and then bring them back in. Roger was concerned because he noted with a 50 year storm the pine needles would not hold up. Mr. Batson said there was 2000 square feet of driveway. Roger noted that the heavy erosion control mulch won't hold up to a 50 year storm. Mr. Batson thought pine needles would hold it better and noted it was all sloped to the center.

Roger A. stated that looking at the plan provided, there is a difference of 18 feet in height. Steve F. asked where the topographic figures came from? Mr. Batson said he used a pop level, his wife, and a 60" stick. They continued to look at the plans provided and this didn't mesh with what Mr. Batson was stating with respect to the number of feet marking elevation. Mr. Batson agreed the sketch was not correct that they were looking at.

Mr. Batson, addressing members who did the site inspection, asked if they remembered the bottom half was the steepest half and the top half was the most shallow. It was easy to walk from the plateau to the bottom where the wall was going to go but if they walked further it was steeper. He said the bottom section was 19 feet to the first five foot rise and then another 19 feet to the next rise, so 38 feet off the water he is 10 feet higher. Then it quickly goes to the 497 foot mark, then it was gradual.

Steve F. asked where the catch basin is on the drawings. Mr. Batson pointed out the page with the drainage calculations, specifically Step #3 which is storage of water, first choice is 2" crushed rock and if needed he will add the 6 foot drywell but he didn't draw it on the plan because he didn't feel it would be required due to the Colton soil. Steve asked what the square footage was of the area? Mr. Batson said the driveway was 2000 square feet and the inner tear drop is 540 sf. Mr. Batson then spoke of how he calculated the drainage table, that was provided on the sketch. Steve stated that he thought it worked in theory but wished someone who knew more than he did would put a stamp on it stating that it would work. Roland L. admitted he had not seen this type of calculation, therefore, he could not figure out what the calculations meant.

Roger A. said it looked like the area being disturbed was 50' x 100 feet. Mr. Batson said he was not disturbing the middle tear drop. Roger said there would be trees removed and then there would be a replanting required. Mr. Batson said if you add it all up, then it would be 2540. He asked if Roger was asking if more than 10% of the lot was being disturbed? Roger said, "Being affected in some way, yes." Mr. Batson said it was not 5000 square feet. Mr. Batson asked what Roger was concerned with? Roger stated that he wanted to be sure there was no runoff going toward the lake. Roger hoped the stone and crushed gravel would slow down runoff. Mr. Batson asked if Roger's concern was during construction or after? Roger said, "During construction." Mr. Batson said that Jeff Goodwin was a DEP certified excavator in erosion control methods, he will put in a silt fence correctly. He said it isn't on the plan but perhaps it should be.

Madge B. noted this was greater than 100 feet back, he is allowed to remove quite a few trees without replanting. Mr. Batson stated that he planned to plant trees. He did speak with CEO McDonough about what was required for trees. Madge noted at the last meeting, referring to the minutes, Roland had noted the following: Roland thought he heard it mentioned that Mr. Batson would ask John Gallant for example, how much this type of pipe would support. Madge said people would be driving over the pipe, but she didn't remember the board asking for more information. Mr. Batson said he did ask John Gallant (Stoney Road Septic) and Mr. Gallant said, "Have you had any problems in the last 50 years?" Mr. Batson said the answer was, no. Then Mr. Gallant asked about the Meader camps, noting their trenches were under the road and they hadn't had an issue. Mr. Batson said they were extremely deep, and the trenches were put in after the CMP easement went in, knowing the CMP vehicles would be driving over it. Mr. Batson said he didn't feel there was an issue. Madge said her only concern was that it met the ordinance. Roger A. stated that if it was schedule 20 it would be a concern but 40 or 80 it would not be. Mr. Batson said he believed it was 40, and noted John Large dug it up and he didn't say anything about putting additional weight on it. He said he marked where the trenches were placed and where they ended, and the d-box, where the pipes come out it was 28 to 30 inches in the earth. Unlike a normal 20 x 40 leach bed.

Roger A. said he would like the dry well ring in the center. Mr. Batson said if the board requests it, he would put it in. Roger said he was concerned with the 6" storm. Steve F. asked what would happen to the water? Roger said it would collect there. He noted it may overflow but the ordinance only requires the board to look at the 50 year storm and with it staying on site, it would be about 120 feet back from the water. He needs to contain as much as possible in the center of the site.



Roger A. asked what the time frame was for the project? Mr. Batson stated that Jeff Goodwin estimated it would take 5 days. Mr. Batson thought it would be at least 8 days, and he would like to start as soon as possible. He noted he would like it done by the 1<sup>st</sup> of November. Mr. Batson said this may not include the replanting of trees, which may not happen until spring. Steve F. asked what the replant plan was? Mr. Batson said he did not have one. He marked the dead trees to be removed but has not marked a place where they will be replanting. He said because the area was heavily wooded, he wasn't sure where he would put the replacement trees. Roger noted he was removing a lot of trees.

Roger A. stated he had a concern with water runoff, and noted the location of concern using the plan. Especially after the existing trees are removed. Mr. Batson stated that he moved the approach and departure from the original plan, so that fewer trees would be removed. He said it went from being a horse shoe shape to a teardrop. Mr. Batson asked Roger if he wanted to see trees along the 100 foot marker? Roger said, "Yes, because the outside edge, due to the loss of canopy, could create an issue affecting the outside of the driveway."

Roger A. asked CEO McDonough if he had any questions? CEO McDonough stated his only issue is the Town of Shapleigh did not have any tools or resources to confirm the topographic numbers. Steve F. said he wanted to look at that again, because looking at two sketches the numbers do not line up. One map uses a figure of 520, another 508. Mr. Batson said the 1<sup>st</sup> one was from the USGS topo map and the second one was his figure. Steve asked which was correct? Mr. Batson said, "They do it in 20 foot increments and I was told that you wanted these in one foot increments, but choosing not to make this thing so busy with all those lines, I went with like four foot, interpolating five feet."

Steve F. asked how Mr. Batson based his topo, what did he start with? Mr. Batson said, "460 above seas level, even though it is a lake. At the water I stood just about on the water, then went up 19 feet and drove a stake. Stood at the stake, went up another five feet." He showed the board the instrument he used. Steve said he still felt he could not follow the sketches provided. He believed the idea worked but was not sure if it met the criteria in the ordinance.

Madge B. stated the board had another option and that was for the board to hire an engineer to review the material provided. She would like an engineer to look at the plans, if Mr. Batson is not going to, the board should consider this option. Steve F. agreed this could be the next step.

Mr. Batson said they had not discussed the slope. He said when you do research, a 15% slope on a compacted driveway is an acceptable slope. He said 8 to 12 is preferred. He said locally, some of the camp roads are at a 30 degree pitch and they have been there for hundreds of years. He believed the 7 and 11 pitch are reasonable slopes. Madge B. said whether or not a slope is reasonable, the board had to follow the dictates of the ordinance and she believed taking the drawings to an engineer and asking the engineer if they meet the requirements of the ordinance should be done. She said she would feel better doing that. Roland L. said he did not understand what was presented well enough, to be able to vote on it. He said in theory it sounds workable but he didn't think he could vote with a clear conscious based on the information provided.

Mr. Batson said he could see he had three negatives out of five. Roland L. said it was not negatives. Madge B. said that she would like a professional to say it will work. Mr. Batson asked if he pushes for a vote and he gets denied, is he denied forever? Madge said again the board can hire an engineer. Steve F. agreed and said the board can table it. Roger A. said at this point, if an engineer said he/she was comfortable with it, then the board could take it up again. Roger said the board also needs to know where the plantings will be set, so CEO McDonough at the job site knows what is supposed to happen.

Mr. Batson said that it was not the cost of the surveyor or engineer, it was the time it would take. Mostly because he wanted it done before winter. Mr. Batson asked who the board would get for an engineer that would help the board quickly. Madge B. said it would be done the same way he would do it. The board does not have an engineer on retainer. They would have to look for one that could do the work.

Roland L. said he would like to see more definition and detail on the stairs. Mr. Batson said they were not on the plan, and he would like to come back at a later date for those. He said he wanted to get off the parking area with stairs and steps and explained the difference between the two. Roland noted he saw it on one of the drawings but hadn't heard anything further about it.

Mr. Batson said he would ask the board to table it, and he will get Dana Libby moving forward. He said if the board wants to send it to an engineer, he believed the board would get approval of his plans. He believed the math and drawings are correct. Madge B. said if he was willing to continue on with the work, she would prefer it, noting that the board would charge him for any services they contracted for this project. She agreed timing was a problem but it was more important to the board to feel it meets the requirements in the ordinance. Mr. Batson said if the board could get an engineer quicker than he could, he would be willing to pay for it. Madge said the board did not have anyone that worked specifically for the board, so the time line would likely be the same.

CEO McDonough told Mr. Batson again that the board would not get anyone to do the job quicker than he could. Mr. Batson agreed to get an engineer. He added that his misunderstanding was that he believed that if his wall was 4 feet or less he would not need an engineered plan. Madge B. said the board needed to know that the slopes were correct. Roger A. agreed that this isn't about the wall but how much area was being affected by stormwater and if would be contained on site. Madge said the board needed to know that the banks, slopes, drainage, etc. all meet the requirements. Roger said this is more than whether or not the wall will hold. Roger added that the wall is only one issue on site, stormwater is also an issue, keeping it on the property. Madge said a professional needs to tell the board what he is doing will meet the ordinance. CEO McDonough said he believed the board wanted to know that the topo and slopes were verified to be correct. Madge said the board also needed a replanting plan. Roger noted that the board could only table an application for 90 days. Mr. Batson asked if he could get someone to represent him to get approval and then begin the work next year? Madge said, "Correct."

The board agreed to table the application. Nothing further was discussed.

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**Best Possible Location – Replace Shed – Map 23, Lot 18 (25 Director's Lane) – David & Donna Landry, Applicants**

Mr. & Mrs. Landry were present for the review of their application.

Provided to members at the first meeting was a picture of the existing shed, along with the dimensions of the existing shed (8'6" x 5'8"), and the proposed size of the new shed (9' x 6'10"). In addition, a plot plan was provided, depicting the location of the existing house and deck, leachfield location, well, parking area, and shed location. The existing setback to the water from the shed is 70 feet.

The detailed description of the project is: Tear down an existing playhouse/shed built in 1960 & rebuild, enlarging footprint 30%. No plumbing/electricity in new structure. No trees will be cut. No soil disturbed. The existing site was excavated in a hillside in 1960 and the new shed will fit on the current site.

*Roger A. noted that board members did a site inspection this evening.*

Madge B. stated that the project was straight forward. Madge did not see any issues after the site inspection, nor did she have any questions. Madge stated that because it was not 100 feet back from the water, it was a non-conforming structure and it appeared to meet the requirements under §105-4.D(5) 'Removal, reconstruction or replacement'.

Roger A. stated the building is well hidden and there will be little to no soil disturbance. Because of the location of the structure, it is basically going in the exact same location as the existing, with no changes to the site, there will be no effect on stormwater. Based on the site inspection, the structure is located in the best possible location on site, requiring no disturbance of soil or existing landscaping.

Madge B. asked if there was any outside lighting being added? Mr. Landry stated there would be no electricity going to the structure and therefore, no lighting.

Roger A. asked about the demolition for the old structure, where will it be going? Roger noted it could not go to the Shapleigh Transfer Station. Mr. Landry stated that he spoke with Mike Allen and he said he could dispose of it. He would cut it up with a sawzall but he wasn't sure where he would be taking it. Roland L. said Mr. Allen should know from Mr. Landry that it cannot go to the transfer station. He said generally the applicant tells the board where it will go, such as Jeff Simpsons, or Rochester. Mr. Landry asked if Jeff Simpson took this type of debris? Roger A. said, "Yes." Mr. Landry stated that he knew Jeff and would ask Mike to take it there.

Roland L. said he was taking the old building out in pieces, and asked if the new building was going to be assembled on site? Mr. Landry said it would be. He said that is why he is using Mike, because he came to the site and said he could demo the existing and take it out by hand. Then he will bring in half panels to reassemble. Roland wanted to be sure the neighbor would not be disturbed. Mr. Landry said again, they may have to bring in half-walls, so there will be no disturbance.

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

**Madge B. moved for approval of the replacement of the existing shed with a 9' x 6'10 inch shed, placing it in the same location as the existing per the plans provided. Steve F. 2<sup>nd</sup> the motion.**

**The conditions of approval are:**

- 1. The project will be completed by July 15, 2018.**
- 2. Debris from the existing shed shall be taken to J.A. Simpson in Sanford Maine. If another location is chosen, this information shall be given to the Code Enforcement Officer during the permitting process.**

**Per Shapleigh Zoning Ordinance §105-3, no work shall begin without a building permit through the Code Enforcement Office.**

**All members were in favor. By a vote of 5 – 0, the motion passed unanimously.**

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The Findings of Facts

- 1. The owners of Shapleigh Tax Map 23, Lot 18 (25 Director's Lane), are David & Diane Landry, P.O. Box 664, Springvale, ME 04083.**

2. The property is located in the Shoreland District and according to the assessor contains 0.6 acres.
3. The applicant is before the board for a Best Possible Location to replace the existing shed.
4. Received was a picture of the existing shed, along with the dimensions of the existing shed (8'6" x 5'8"), and the proposed size of the new shed (9' x 6'10"). In addition, a plot plan was provided, depicting the location of the existing house and deck, leachfield location, well, parking area, and shed location. The existing setback to the water from the shed is 70 feet.
5. The detailed description of the project is: Tear down an existing playhouse/shed built in 1960 & rebuild, enlarging footprint 30%. No plumbing/electricity in new structure. No trees will be cut. No soil disturbed. The existing site was excavated into a hillside in 1960 and the new shed will fit on the current site.
6. The board reviewed Zoning Ordinance §105-4, 'Nonconformance', and concurred the application and information as presented met the standards applicable in this chapter.
7. A notice was mailed to all abutters within 500 feet of the property on August 23, 2017. Meetings were held on August 22, 2017, and September 12, 2017.
8. The Planning Board unanimously agreed to approve the Best Possible Location to replace the existing shed with a 9' x 6'10" shed on Map 23, Lot 18, per the plan provided; keeping the shed in the same location as the existing, which is 70 feet from the high water mark, and 15 feet from the nearest side lot line.
9. **The conditions of the approval are as follows:**
 - 1) **The project will be completed by July 15, 2018.**
 - 2) **Debris from the existing shed shall be taken to J.A. Simpson in Sanford Maine. If another location is chosen, this information shall be given to the Code Enforcement Officer during the permitting process.**
 - 3) **Per Shapleigh Zoning Ordinance §105-3, no work shall begin without a building permit through the Code Enforcement Office.**

Motion:

After careful consideration and a review of all material presented to the Board, including the review of Zoning Ordinance §105-4, 'Nonconformance', a motion was made to approve the Best Possible Location to replace the existing shed on Map 23, Lot 18, per the plan provided, showing the side setback to the nearest lot line to be 15 feet, and the setback to the high water mark to be 70 feet, with 3 conditions.

Vote:

By a unanimous vote of 5 – 0, the motion to approve the Best Possible Location application to replace the existing shed on Map 23, Lot 18, per the plan provided, showing the side setback to the nearest lot line to be 15 feet, and the setback to the high water mark to be 70 feet, with 3 conditions, was accepted.

Decision:

The Best Possible Location application to replace the existing shed on Map 23, Lot 18, per the plan provided, showing the side setback to the nearest lot line to be 15 feet, and the setback to the high water mark to be 70 feet, with 3 conditions was approved.

Amendment to a Conditional Use Permit – Open a School to be known as Trinity Christian Academy at Shapleigh 1st Baptist Church – Map 45, Lot 4 (600 Shapleigh Corner Road) – Connie Bosse, Representing; Trinity Christian Academy, Applicant

Mrs. Bosse was present for the review of the application, along with Mark Boisse.

Provided to the members at the first meeting was a copy of a Construction Permit #12060, dated November 14, 2001, whereby First Baptist Church was approved by the State of Maine to construct or alter the existing building, noting all local ordinances, zoning laws, or other pertinent legal restrictions must be adhered to. A plot plan depicting the original church structure, function room, education wing, two parking areas, old barn and parsonage, leach field location and distances to side lots line, Shapleigh Corner Road and Pump Box Brook. A copy of the Subsurface Wastewater Disposal System Application for a replacement system, done by John Large, SE #7, dated 7/2/1985 for a Church with 50 seat capacity.

The description of the project stated: No additional construction needed. All existing buildings to be used (mostly new addition). Also, in an attached letter dated August 14, 2017, written by Connie Lee Bosse, Asst. Principal and Mark Boisse, Trustee Chairman of Shapleigh Baptist Church, is, ‘There are presently less than 15 children attending Trinity Christian Academy, along with about 6 teachers. The school year runs similar to that of the public school.’

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

Roger A. began the review by stating the original permit approval for the number of children allowed in the existing classroom was 20 children. He said this was the current limiting factor put into place by the State Fire Marshall’s office, therefore, the Planning Board at that time limited the number of children based on the report received by the State. Roger read the condition from the approval letter from October 1, 2002, it read as follows: #2 – There shall be no more than 20 children at one time at the preschool.

Mr. Boisse stated that they do not have more than 20 children at this time, so it should not be an issue. Mr. Boisse asked why the provision was given? Roger A. did not know why the State made the decision they did. Mr. Boisse said he did not have a copy of that. Roger stated that to get this changed, they would need to contact the Department of Public Safety and Licensing in Augusta. Mr. Boisse stated he had a permit from CEO McDonough for a construction permit and it did not state what Roger was saying. Roger said that is a building permit and it had an expiration date. He said what he was looking at was a Planning Board approval. They made a copy for Mr. Boisse.

Roland L. stated that the applicant is requesting 15 students, which is allowable but if they exceed the 20 then they need additional approval. Roger said yes, they would go back to the State for their approval for additional students, then come back to the board to amend their Conditional Use Permit.

CEO McDonough asked about the John Gallant letter provided this evening which stated in his opinion the septic system was adequate for what they were proposing. Roger A. said they didn’t look at that yet.

Roger A. stated that with the existing number of children they are asking for, the board will have no issue, but if the number exceeds 20, then additional permitting is needed. He also noted that the Fire Marshall was looking at the fact the area where the children are has no sprinkler system, so that could be an issue. Madge B. said they could re-apply to them, it might be the smart thing to do sooner rather than later.

Roger A. said that with respect to the septic system, whether or not it could handle the additional number of people, he was not sure that John Gallant was the correct person to rely on to say the system is ok. He believed an engineer that designed systems, should say whether or not the existing system would meet the expanding needs on site. Roger said it may handle it, but an engineer needs to make the decision. Madge B. agreed. Roger said that because the board approved back in 2002, that it was adequate for 20 students, he felt the board could continue to approve for up to 20 students. CEO McDonough asked if that was for Sunday School? Steve F. read the approval and it stated that the hours of operation were from 8 a.m. to 5:00 p.m., Monday thru Friday. Two sessions a day being held during normal scheduled school days. Madge B. said it was a preschool, so it was normal school hours.

Roger A. said again, that until the 20 students is exceed he felt the board could act on the permit. Steve F. asked what the status was of the preschool? Roger A. believed the permit had expired because they hadn't done it for over a year. Mrs. Bosse agreed, stating she had been here for six years and the preschool was discontinued before she moved here.

Mr. Boisse asked if the board knew how long it would take for the Fire Marshall's office to reinspect? The board was not sure, they assumed probably 30 days from notification. Roger A. noted that day care facilities are required to have this inspection, so there must be someone for this area who does this type of inspection. Steve F. asked if the board was asking for a new inspection prior to approval? Madge B. said, no, the board will make it a condition of approval if they exceed 20 children. Roger agreed, as he felt the existing structure and classrooms were approved for 20 children, so he was comfortable approving for up to 20 children, as there have been no changes to the structure.

Roger A. stated there are no lunches to be served, but if this changes, the septic system would need a grease trap. Mrs. Bosse said, "OK."

Roger A. began review of the Basic Performance Standards for the application.

- 105-17 – Land Uses. *Roger A. stated the reason this application is before the board is because both schools and churches require a CUP, and this is a change to the existing approved permit, therefore, an amendment was required.***
- 105-21 – Traffic. *Roger A. stated access to the site was safe, there is a stop sign on Rte. 11, not far from the entrance. Roland L. noted that the applicants may want to petition the State DOT to ask that this area be made a school safety zone, since this is a State road.***
- 105-22 – Noise. *Roger A. stated there will be no noise generated from the activity, other than children playing outside at recess.***
- 105-23 – Dust, fumes, vapors and gases. *Roger A. stated there is no dust, fumes, vapors or gases, generated by this activity.***
- 105-24 – Odors. *Roger A. stated there will be no obnoxious odors generated.***
- 105-25 – Glare. *Roger A. stated there shall be no additional lighting added to the structure.***
- 105-26 – Stormwater runoff. *Roger A. stated there are no changes being made to the property that would cause a stormwater problem. Stormwater runoff mitigation is in existence at this time, and there are no changes being made to the site.***
- 105-27 – Erosion control. *Roger A. stated there are no changes being made to the existing property that would cause an erosion problem.***

- 105-28 – Setbacks and screening. **Roger A. stated existing vegetation will remain, no changes are being made on site.**
- 105-29 – Explosive materials. **Roger A. stated, there shall be none on site and none to be generated.**
- 105-30 – Water quality. **Roger A. stated, there is no waste or hazardous material generated by this activity to affect water quality.**
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. **Roger A. stated no changes are being made to the existing parking area, there is no outside storage associated with this activity.**
- 105-32 – Relation of proposed building to the environment. **Roger A. stated the building is in existence and conforms well with others in the surrounding area.**
- 105-33 – Refuse disposal. **Roger A. stated there was minimal refuse generated by this activity. Mrs. Bosse stated refuse will be deposited in the existing waste cans that the church uses and taken to the transfer station.**
- 105-34 – Access Control to Route 109. **Roger A. stated that the existing entrances were previously approved, there are no curb cut changes being made. The minimum site distances can be met.**
- 105-43 – Off-street parking and loading. **Roger A. stated there was plenty of off-street parking in existence at this time.**
- 105-46 – Sanitary provisions. **Roger A. stated that under ‘private sewage disposal’ it notes that no system may be allowed to malfunction and if it does so, must be immediately corrected. He also noted that all fertilizers are banned within 100 feet of the shoreline.** Roland L. asked how far they were from Pump Box Brook? The answer was 212 feet according to the map. Roland also wanted to be sure there wouldn't be any way a child could wander off to the brook? Mrs. Bosse said that at no time is a child left unsupervised.
- 105-47 – Signs and billboards. **Roger A. stated that all signage must be permitted and approved through the Code Enforcement Office.**

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

Roger A. then reviewed §105-73.G ‘Standards applicable to conditional uses’ and made findings of fact.

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

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. **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 not applicable.**
- 3) The use is consistent with the Comprehensive Plan. **Roger A. stated the Comprehensive Plan encourages activity such as schools and businesses along Route 11.**
- 4) Traffic access to the site is safe. **Roger A. stated, it is, the minimum site distances are met in this location.**
- 5) The site design is in conformance with all municipal flood hazard protection regulations. **Roger A. stated it is, the structure is not in the flood zone.**
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. **Roger A. stated that there is an existing State approved septic system on site and refuse will be taken to the transfer station.**

- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***Roger A. stated that there is 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 existing stormwater drainage system on site will not be changed and is working at this time.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***Roger A. stated there are no changes being made on site to create an erosion or sedimentation issue.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***Roger A. stated that there is a hydrant within 500 feet of this location.***
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. ***Roger A. stated everything is in existence, no changes are being made. There are no detrimental features.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***Roger A. stated they shall with conditions.***

The conditions of approval are as follows:

- 1) The hours of operation shall be 8:00 a.m. thru 4:00 p.m., Monday thru Friday.
- 2) There shall be no more than 20 children enrolled at one time. Should enrollment exceed this number, the applicant shall have to come back before the Planning Board for an amendment to the Conditional Use Permit.
- 3) No lunches shall be provided / served to students. Should there be a need for food preparation, a permit shall be obtained through the Code Enforcement Office for a grease trap.
- 4) Any signage shall be obtained thru the Code Enforcement Office.

Madge B. moved for approval of the private school known as Trinity Christian Academy to be held at Shapleigh 1st Baptist Church, for up to 20 students, with the above stated conditions. Maggie M. 2nd the motion. All members were in favor. By a vote of 5 – 0, the motion pass unanimously.

Madge B. noted that if the applicants come back for greater than 20 students, it is possible the board will ask for an engineer's opinion with respect to the existing septic system capacity.

Nothing else was discussed.

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### **The Findings of Facts**

1. The owner of Shapleigh Tax Map 45, Lot 4, is 1<sup>st</sup> Baptist Church of Shapleigh, mailing address of 600 Shapleigh Corner Road, Shapleigh, Maine 04076. The applicant is Trinity Christian School, Connie Z. Bosse representing, with mailing address of P. O. Box 515, Shapleigh, ME 04076.
2. The property itself is located both in the General Purpose and Stream Protection District; the structure to be used for the school is located in the General Purpose District; according to the assessor the property contains 7.54 acres.
3. The applicant is before the board for an Amendment to a Conditional Use Permit to add an additional use to the property, that being a year round private school to be known as Trinity Christian Academy. The school will be held in the existing structure and utilize the existing Sunday School classrooms.



4. Received was a copy of a Construction Permit #12060, dated November 14, 2001, whereby First Baptist Church was approved by the State of Maine to construct or alter the existing building, noting all local ordinances, zoning laws, or other pertinent legal restrictions must be adhered to. A plot plan depicting the original church structure, function room, education wing, two parking areas, old barn and parsonage, leach field location and distances to side lots line, Shapleigh Corner Road and Pump Box Brook. A copy of the Subsurface Wastewater Disposal System Application for a replacement system, done by John Large, SE #7, dated 7/2/1985 for a Church with 50 seat capacity.
5. Received was a letter from John Gallant of Stoney Road Septic, stating that he believed the existing septic system, after looking at the Subsurface Waste Water Disposal Plan, was adequate to meet the needs of the proposed use. It was noted that Mr. Gallant was not a licensed site evaluator or engineer.
6. The description of the project stated: No additional construction needed. All existing buildings to be used (mostly new addition). Also, in an attached letter dated August 14, 2017, written by Connie Lee Bosse, Asst. Principal and Mark Boisse, Trustee Chairman of Shapleigh Baptist Church, is the statement, 'There are presently less than 15 children attending Trinity Christian Academy, along with about 6 teachers. The school year runs similar to that of the public school.'
7. The board reviewed the Basic Performance Standards and the board concurred the application met all the standards imposed.
8. 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.
9. A notice was mailed to all abutters within 500 feet of the property on August 23, 2017. Meetings were held on August 22, 2017 and September 12, 2017. A public hearing was held on September 12, 2017.
10. The Planning Board unanimously agreed to approve the Amendment to a Conditional Use Permit for an additional use of the existing structure to operate a private school to be known as Trinity Christian Academy, to be located on Map 45, Lot 4, utilizing the existing classroom, with conditions.
11. **The conditions of approval are:**
  - 1) **The hours of operation shall be 8:00 a.m. thru 4:00 p.m., Monday thru Friday.**
  - 2) **There shall be no more than 20 children enrolled at one time. Should enrollment exceed this number, the applicant shall have to come back before the Planning Board for an amendment to the Conditional Use Permit.**
  - 3) **No lunches shall be provided / served to students. Should there be a need for food preparation, a permit shall be obtained through the Code Enforcement Office for a grease trap.**
  - 4) **Any signage shall be obtained thru the Code Enforcement Office.**

Motion:

After careful consideration and a review of all material presented to the Board, including the review of the 'Basic Performance Standards' in the Zoning Ordinance, and §105-73, Section G, 'Standards applicable to conditional uses' a motion was made on Tuesday, September 12, 2017, to approve the Amendment to a Conditional Use Permit for an additional use of the existing structure to operate a private school to be known as Trinity Christian Academy for up to 20 children, to be located on Map 45, Lot 4, utilizing the existing classroom, with four conditions.

Vote:

By a unanimous vote of 5 – 0, the motion to approve the Amendment to a Conditional Use Permit for an additional use of the existing structure to operate a private school to be known as Trinity Christian Academy for up to 20 children, to be located on Map 45, Lot 4, utilizing the existing classroom, with four conditions, was accepted.

Decision:

**The Amendment to a Conditional Use Permit for an additional use of the existing structure to operate a private school to be known as Trinity Christian Academy for up to 20 children, to be located on Map 45, Lot 4, utilizing the existing classroom, with four conditions, was approved.**

Nothing more was discussed.

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Growth Permits

- **Map 5, Part of Lot 54** – Garland Road – New Home **GP #08-17**  
Members noted this was a gift to a family member, therefore exempt from subdivision. The lot meets the minimum lot size requirements.
- **Map 40, Lot 58** – 123 Loon Lane – Seasonal Conversion **GP #09-17**
- **Map 17, Lot 22** – 62 Old Loop Road – Seasonal Conversion **GP #10-17**

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**The Planning Board meeting ended at 9:40 p.m.**

*The next meeting will be held **Tuesday, September 26, 2017** 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, September 26, 2017**

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

Alternate Ann Harris sat in as a regular member due to Madge Baker's absence.

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**Minutes are not verbatim, unless in quotes “”**

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

#### **Amendment to a Conditional Use Permit – Add 50' x 150' Storage Building – Map 1, Lot 24A (140 Deering Ridge Road) Adex Properties, Shawn McLeod, Applicant**

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

Roger A. began the public hearing by asking Mr. McLeod to explain what he wanted to do. Mr. McLeod stated that he wanted to put up a steel cold storage building that would be 50' x 150' in size.

Roger A. asked if it was going to be on gravel? Mr. McLeod stated, 'Yup'. Roger said there will be no racks, this based on the last review. Mr. McLeod stated, "That is correct, the watercraft will be on trailers." He added there will be no electricity in the building either.

Roger A. asked if the storage building would be for anything? Mr. McLeod stated, "More or less." He said he was sticking mostly with watercraft, sticking with the current business, as well as some motorcycles. Roger asked if there would be any campers? Mr. McLeod stated that if the need arises he would store campers but he would prefer watercraft.

Roland L. asked if there would separate signage at the road, letting people know the storage building exists? Mr. McLeod said he had no plans for a sign. He asked if a sign could be on the building itself? Roger A. stated all signage was handled through the Code Enforcement Office, so he would have to speak with CEO McDonough with what he could or could not do.

Roger A. asked if there were any additional questions, and there were none. The public hearing for Mr. McLeod was closed.

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#### **Conditional Use Permit – Open a Farm Bakery & Craft Business – Map 8, Lot 8A (353 Owl's Nest Road) – Laurie Beth Fowler, Applicant**

Mrs. Fowler was present for the review of the application, along with her husband Eric.

Roger A. asked Mrs. Fowler to let the board know what she wanted to do. Mrs. Fowler stated they wanted to put up a small shed on her property for a bakery, farm stand and craft store. She said they might also sell eggs as well. Roger A. asked what the size of the shed was? Mrs. Fowler stated, 10' x 14' or 10' x 16.

Roger A. asked about the type of crafts? Mrs. Fowler stated, “Candles, aprons, pillows, handmade stuff my daughter and I do.” Roland L. asked what type of heat source they would use? Mrs. Fowler stated they would be using an electric heater. Maggie M. asked if it would be open year round? Mrs. Fowler stated, “Yes.” Roger asked what the hours of operation would be? Mrs. Fowler stated, “I believe I put 6 a.m. to 8 p.m., Monday thru Sunday.”

Roland L. asked if it was going to be on the honor system or would somebody physically be there to take money? Mrs. Fowler said she would be there when it was open.

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

The public hearing closed at 7:11 p.m.

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**The minutes from Tuesday, September 12, 2017 were accepted as read.**

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

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**Conditional Use Permit – Open a Farm Bakery & Craft Business – Map 8, Lot 8A (353 Owl’s Nest Road) – Laurie Beth Fowler, Applicant**

Mrs. Fowler was present for the review of the application, along with her husband Eric.

Previously provided was a letter from Maine Site Evaluations LLC, dated September 22, 2016, which stated that the existing septic system was functioning properly; a Retail Food Inspection Report and a Food Processing Inspection Report from the ME Dept. of Agriculture, Conservation & Forestry, dated 11/8/16, which granted License #2-32071 to Lil’ Farm Bakery for a mobile vendor license with an expiration of 12/1/17; a plot plan depicting the location of the existing house, barn, leach field location and driveway, along with the proposed new building location which will be 75 feet from the centerline of the road.

The detailed description of the proposal is as follows: Our intentions for the 10’ x 14’ shed, to be located at 363 Owl’s Nest Road in Shapleigh, will be to sell our baked goods, jams & jellies (under our licensing as Lil’ Farm Bakery), craft items, and possibly eggs and vegetables from our farm. We have sufficient parking in our driveway (see plot map) with a turnaround location in our drive. We also have the appropriate licensing to sell our food items (see attachments) as well as a licensed kitchen to make them in. Our hours of operation will be Monday through Sunday from 6 a.m. thru 8 p.m.

Roger A. opened the meeting by asking Mrs. Fowler to once again state what her intentions were. Mrs. Fowler stated that she wanted to put a small building on her property to be able to open a bakery / farm stand / craft store.

Roger A. stated the board did a site inspection this evening. Roger said the criteria for the building would be 75 feet from the center of the road to any part of the building. He said the Code Enforcement Officer will look at that during the building process.

**Roger A. began review of the Basic Performance Standards for the application.**

- 105-17 – Land Uses. **Roger A. stated the reason this application is before the board is because a business requires a Condition Use Permit.**
- 105-21 – Traffic. **Roger A. stated access to the site was safe, the minimum required distance in this location is 280 feet and this can be met in both directions.**
- 105-22 – Noise. **Roger A. stated there will be no noise generated from the activity.**
- 105-23 – Dust, fumes, vapors and gases. **Roger A. stated there is no dust, fumes, vapors or gases, generated by this activity.**
- 105-24 – Odors. **Roger A. stated there will be no obnoxious odors generated.**
- 105-25 – Glare. **Roger A. stated no glare can be allowed beyond the lot lines.** Roger asked the applicant if there would be lighting on the building? Mrs. Fowler stated that there may be a light on the building but there would be no spot lights.
- 105-26 – Stormwater runoff. **Roger A. stated there are no changes being made to the property that would cause a stormwater problem. He noted there was no soil disturbance being created by adding the new structure.** Roger A. asked if there would be a concrete pad? Mrs. Fowler stated there would not be, they would be adding sand just to prevent vegetation from growing under the building.
- 105-27 – Erosion control. **Roger A. stated there are no changes being made to the existing property that would cause an erosion problem.**
- 105-28 – Setbacks and screening. **Roger A. stated existing vegetation will remain, no changes are being made on site.**
- 105-29 – Explosive materials. **Roger A. stated, there shall be none on site and none to be generated.**
- 105-30 – Water quality. **Roger A. stated, there is no waste or hazardous material generated by this activity to affect water quality.** Roger did ask if there would be any water going to the building and Mrs. Fowler stated there would not be.
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. **Roger A. stated there are no major changes being made to the existing parking area, just a slight enlargement to what exists. There is no outside storage associated with this activity.**
- 105-32 – Relation of proposed building to the environment. **Roger A. stated the building will conform well with others in the surrounding area.**
- 105-33 – Refuse disposal. **Roger A. stated there was minimal refuse generated by this activity. Refuse will be taken to the Transfer Station.**
- 105-43 – Off-street parking and loading. **Roger A. stated there was plenty of off-street parking in existence at this time.** Roger A. stated the minimum off-street requirement would be (1) space for each 150 square feet of floor area and he said 10 x 14 is 140, so one place is required. Roger believed there was room for three vehicles based on the site inspection. Mrs. Fowler agreed.
- 105-46 – Sanitary provisions. **Roger A. stated an existing State approved septic system is on site at this time for the residence.**
- 105-47 – Signs and billboards. **Roger A. stated that all signage must be permitted and approved through the Code Enforcement Office.**

Roger A. asked if there would be anyone else working with or for Mrs. Fowler. Mrs. Fowler stated it would basically be her, and sometimes her 19 years old daughter would help if needed.

Roger A. noted the hours of operation would be 6:00 a.m. thru 8:00 p.m., seven days a week.

Roland L. asked if he understood correctly at the site inspection that there would be some type of curbing or something delineating the parking area? Mrs. Fowler stated she may use a railroad tie or log, just to show where people should park.

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

**Roger A. then reviewed §105-73.G ‘Standards applicable to conditional uses’ and made findings of fact.**

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

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. **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 not applicable.**
- 3) The use is consistent with the Comprehensive Plan. **Roger A. stated the Comprehensive Plan encourages home based businesses.**
- 4) Traffic access to the site is safe. **Roger A. stated it is, the minimum site distances are met in this location.**
- 5) The site design is in conformance with all municipal flood hazard protection regulations. **Roger A. stated it is, the structure is not in the flood zone.**
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. **Roger A. stated that there is an existing State approved septic system on site and refuse will be taken to the transfer station.**
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. **Roger A. stated that there is 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 there are no changes being made that would affect stormwater drainage, there is adequate vegetation on site to absorb stormwater and placement of both the existing structure and this new structure shall not create an issue.**
- 9) Adequate provisions to control soil erosion and sedimentation have been made. **Roger A. stated there are no changes being made on site to create an erosion or sedimentation issue.**
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. **Roger A. stated that there is.**
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. **Roger A. stated everything is in existence, no changes are being made. There are no detrimental features.**
- 12) All performance standards in this chapter applicable to the proposed use will be met. **Roger A. stated they shall.**

**The conditions of approval are as follows:**

- 1) **The hours of operation shall be 6:00 a.m. thru 8:00 p.m., seven days a week.**
- 2) **Signage and a building permit for the new structure shall be permitted through the Code Enforcement Office.**

**Maggie M. made the motion to approve the Conditional Use Permit to open a farm bakery & craft business to be known as Lil’ Farm Bakery on Tax Map 8, Lot 8A with the above stated conditions. Steve F. 2<sup>nd</sup> the motion. All members were in favor. The motion passed unanimously by a vote of 5 – 0.**

Nothing else was discussed.

**The Findings of Facts**

1. The owners of Shapleigh Tax Map 8, Lot 8A (353 Owls Nest Road), are Eric & Laurie Beth Fowler, of 353 Owls Nest Road, Shapleigh, Maine 04076.
2. The property is located in the General Purpose District and according to the assessor, the property contains 4.51 acres.
3. The applicant is before the board for a Conditional Use Permit to open a farm bakery & craft business to be known as Lil' Farm Bakery.
4. Received was a letter from Maine Site Evaluations LLC, dated September 22, 2016, which stated that the existing septic system was functioning properly; a Retail Food Inspection Report and a Food Processing Inspection Report from the ME Dept. of Agriculture, Conservation & Forestry, dated 11/8/16, which granted License #2-32071 to Lil' Farm Bakery for a mobile vendor license with an expiration of 12/1/17; a plot plan depicting the location of the existing house, barn, leach field location and driveway, along with the proposed new building location which will be 75 feet from the centerline of the road.
5. The detailed description of the proposal is as follows: Our intentions for the 10' x 14' shed, to be located at 363 Owl's Nest Road in Shapleigh, will be to sell our baked goods, jams & jellies (under our licensing as Lil' Farm Bakery), craft items, and possibly eggs and vegetables from our farm. We have sufficient parking in our driveway (see plot map) with a turnaround location in our drive. We also have the appropriate licensing to sell our food items (see attachments) as well as a licensed kitchen to make them in. Our hours of operation will be Monday through Sunday from 6 a.m. thru 8 p.m.
6. The board reviewed the Basic Performance Standards and the board concurred the application met all the standards imposed.
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.
8. A notice was mailed to all abutters within 500 feet of the property on September 13, 2017. Meetings were held on September 12, 2017 and September 26, 2017. A site inspection and public hearing were held on September 26, 2017.
9. The Planning Board unanimously agreed to approve the Conditional Use Permit to open a farm bakery & craft business to be known as Lil' Farm Bakery, to be located on Map 8, Lot 8A, per the plans provided with conditions.
10. **The conditions of approval are:**
  - 1) **The hours of operation shall be 6:00 a.m. thru 8:00 p.m., seven days a week.**
  - 2) **Signage and a building permit for the new structure shall be permitted through the Code Enforcement Office.**

Motion:

After careful consideration and a review of all material presented to the Board, including the review of the Zoning Ordinance ‘Basic Performance Standards’, and §105-73, Section G, ‘Standards applicable to conditional uses’ a motion was made on Tuesday, September 26, 2017, to approve the Conditional Use Permit for a farm bakery & craft business to be known as Lil’ Farm Bakery, to be located on Map 8, Lot 8A, per the plans provided and with two conditions.

Vote:

By a unanimous vote of 5 – 0, the motion to approve the Conditional Use Permit for a farm bakery & craft business to be known as Lil’ Farm Bakery, to be located on Map 8, Lot 8A, per the plans provided and with two conditions, was accepted.

Decision:

**The Conditional Use Permit for a farm bakery & craft business to be known as Lil’ Farm Bakery, to be located on Map 8, Lot 8A, per the plans provided and with two conditions was approved.**

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**Amendment to a Conditional Use Permit – Add 50’ x 150’ Storage Building – Map 1, Lot 24A (140 Deering Ridge Road) Adex Properties, Shawn McLeod, Applicant**

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

Previously provided was a Stormwater Drainage Plan from Carl V. Beal, P.E. #5013 which stated that the construction of the new storage building will result in no negative impacts due to stormwater runoff to downstream properties, tributaries, or water bodies. Also provided, was a sketch plan depicting the existing structure on site, the driveway(s) both for personal use and business, the location of the existing leach field, and the proposed location of the new 50’ x 150’ structure. The new structure will be approximately 143 feet to the rear lot line, 20 feet from one side lot line, 185 feet to the other side lot line and 450 feet from the road. The lot coverage calculation depicted lot coverage to be 8.5% after the construction of the new building.

The detailed description of the project is as follows: 50’ x 150’ cold storage building.

Roger A. began by asking Mr. McLeod to let the board know why he was before the board. Mr. McLeod stated he wanted to have a 50’ x 150’ steel storage building at the back of his property to be used for storage of personal watercraft, boats, campers, etc.

Roger A. asked if there would be any additional outside slabs? Mr. McLeod said, “No.” Roger asked if this building was strictly for storage. Mr. McLeod said, “Strictly storage.” Steve F. asked if there would be power in the building? Mr. McLeod said, “No power in the building.”

Roger A. stated the hours of operation on the original CUP permit (September 2013 for a small engine repair shop with attached living quarters), are Monday thru Thursday, 8:00 a.m. to 6:00 p.m., Friday 8:00 a.m. to 5:00 p.m., and Saturday 9:00 a.m. to Noon. Roger asked if there would be any changes? Mr. McLeod stated there would be no changes to the hours.

Roger A. stated the second condition on the original CUP permit is: The applicant to continue to use Crystal Clean to remove waste from the property and if this changes a new letter showing where the waste is to be taken shall be given to the Planning Board. Roger said Mr. McLeod stated Crystal Clean is no longer the



service he uses and he will get a letter to the board from the new service. *Note: Mr. McLeod provided an invoice from Cyn Environmental Services, dated 6/13/17 for used oil recycling, to Barbara on September 30, 2017. This was placed in the applicants file.*

Roger A. stated that another provision on the original CUP permit was that a 15 foot vegetative buffer strip would be located on three sides of the property. Roger said that is no longer possible, based on the location of the new building – 25 feet from the property line. Roger felt the 15 foot buffer should be eliminated. He didn't feel it would be an issue, based on the surrounding area.

Roger A. stated that there was a maximum number of vehicles allowed on site on the original CUP approval, 100 vehicles or units. Roger stated Mr. McLeod wanted that changed to 350, and he didn't see any issue with this. Roland L. asked if a personal watercraft, snow machine, etc., are those considered a vehicle? Mr. McLeod and Roger said, yes.

Roger A. stated the original approval also mandated that 'no collection of unserviceable parts construed as junk to be stored on site'. Roger said this provision will still be in effect.

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

**Roger A. began review of the Basic Performance Standards for the application.**

- 105-17 – Land Uses.** *Roger A. stated the reason this application is before the board is because it is a change to the original approved Conditional Use Permit.*
- 105-21 – Traffic.** *Roger A. stated access to the site was safe, it was approved on the original CUP, and it met the minimum requirement of 280 feet at 40 mph.*
- 105-22 – Noise.** *Roger A. stated there will be no noise generated from the activity, other than using a forklift to move vehicles.*
- 105-23 – Dust, fumes, vapors and gases.** *Roger A. stated there is no dust, fumes, vapors or gases, generated by this activity.*
- 105-24 – Odors.** *Roger A. stated there shall be no obnoxious odors generated.*
- 105-25 – Glare.** *Roger A. stated there shall be no additional lighting added to the structure.*
- 105-26 – Stormwater runoff.** *Roger A. stated there are no changes being made to the property that would cause a stormwater problem. A letter was received from Carl V. Beal, P.E. 5013, stating the construction of the new storage building would not result in a negative impact due to stormwater runoff to downstream properties, tributaries, or water bodies.*
- 105-27 – Erosion control.** *Roger A. stated this was also addressed by Mr. Beal and there would be no issue.*
- 105-28 – Setbacks and screening.** *Roger A. stated this building is set back quite a distance from the road. There is a lot of existing vegetation surrounding this property.*
- 105-29 – Explosive materials.** *Roger A. stated the propane will not be stored in the structure. It will be removed by the vehicle's owner. Roger noted this would be a condition of the permit.*
- 105-30 – Water quality.** *Roger A. stated, there is no waste or hazardous material generated by this activity to affect water quality.*
- 105-31 – Preservation of landscape; landscaping of parking and storage areas.** *Roger A. stated no changes are being made to the existing parking area, all outside vehicle storage is behind the existing structure.*
- 105-32 – Relation of proposed building to the environment.** *Roger A. stated the building sets well off the road and there are similar structures in the area.*
- 105-33 – Refuse disposal.** *Roger A. stated there was minimal refuse generated by this activity. The existing dumpster for the current business shall be used as needed.*

- 105-43 – Off-street parking and loading. **Roger A. stated there was plenty of off-street parking in existence at this time.**
- 105-46 – Sanitary provisions. **Roger A. stated there is an existing State approved septic system on site being utilized for the business and living quarters. None required for the new structure.**
- 105-47 – Signs and billboards. **Roger A. stated that all signage must be permitted and approved through the Code Enforcement Office.**

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

- G. *Standards applicable to conditional uses. It shall be the responsibility of the applicant to demonstrate that the proposed use meets all of the following criteria. The Board shall approve the application unless it makes written findings that one or more of these criteria have not been met.*
- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. **Roger A. stated it will not, there is no outside storage of hazardous waste.**
  - 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. *N/A*
  - 3) The use is consistent with the Comprehensive Plan. **Roger A. stated it is, the Comprehensive Plan encourages small businesses.**
  - 4) Traffic access to the site is safe. **Roger A. stated it is, the site distance meets the minimum requirement for this location which is 280 feet at 40 mph. The applicant has a minimum of 280 feet.**
  - 5) The site design is in conformance with all municipal flood hazard protection regulations. **Roger A. stated it is, this location is not in a flood zone.**
  - 6) Adequate provision for the disposal of all wastewater and solid waste has been made. **Roger A. stated there is, a State approved septic system is on site. The new structure will have no water or sanitary provisions.**
  - 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. **Roger A. stated there is none being held in this new structure.**
  - 8) A stormwater drainage system capable of handling fifty-year storm without adverse impact on adjacent properties has been designed. **Roger A. stated a letter was received from Carl V. Beal, P.E. 5013, stating the construction of the new storage building would not result in a negative impact due to stormwater runoff to downstream properties, tributaries, or water bodies.**
  - 9) Adequate provisions to control soil erosion and sedimentation have been made. **Roger A. stated that was also addressed in Carl Beal’s letter regarding stormwater runoff.**
  - 10) There is adequate water supply to meet the demands of the proposed use for fire protection purposes. **Roger A. stated there is a hydrant within a mile of this location.**
  - 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. **Roger A. stated there is a buffer strip around the property. There shall be no exterior lighting on this structure.**
  - 12) All performance standards in this chapter applicable to the proposed use will be met. **Roger stated they shall, with conditions.**

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

**The conditions of approval are:**

- 1) The hours of operation shall continue to be Monday thru Thursday, 8:00 a.m. to 6:00 p.m., Friday 8:00 a.m. to 5:00 p.m., and Saturday 9:00 a.m. to noon.**
- 2) The applicant shall provide a letter for the file, from the new service provider for waste removal for the existing business.**
- 3) The 15 foot vegetative buffer to the side lot line from the original plan is no longer required, as it cannot be met with the location of the new building.**
- 4) The maximum allowed vehicles/units on site shall be increased to 350.**
- 5) All vehicles shall be stored on the slab, excluding trailers which shall be parked in the designated area on the original plan.**
- 6) No collection of unserviceable parts construed as junk to be stored on site, as per the original approval.**
- 7) No propane tanks shall be stored in the cold storage building.**
- 8) A building permit shall be obtained from the Code Enforcement Office prior to erecting the building. Any change to the existing signage shall also be done thru the Code Enforcement Office.**

**Roland L. made the motion to approve the amendment to a Conditional Use Permit to add a 50' x 150' cold storage building to Map 1, Lot 24A, with the above stated conditions. Maggie M. 2<sup>nd</sup> the motion. All members were in favor. By a vote of 5 – 0, the motion passed unanimously.**

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The Findings of Facts

1. The owner of Shapleigh Tax Map 1, Lot 24A (140 Deering Ridge Road), is Adex Properties LLC, of 184 Sunset Road, Springvale, Maine 04083.
2. The property is located in the General Purpose District and according to the assessor, the property contains 4.26 acres.
3. The applicant is before the board for an amendment to a Conditional Use Permit to add a 50' x 150' storage building to the property.
4. Received was a Stormwater Drainage Plan from Carl V. Beal, P.E. #5013 which stated that the construction of the new storage building will result in no negative impacts due to stormwater runoff to downstream properties, tributaries, or water bodies. Also provided, was a sketch plan depicting the existing structure on site, the driveway(s) both for personal use and business, the location of the existing leach field, and the proposed location of the new 50' x 150' structure. The new structure will be approximately 143 feet to the rear lot line, 20 feet from one side lot line, 185 feet to the other side lot line and 450 feet from the road. The lot coverage calculation depicted lot coverage to be 8.5% after the construction of the new building.
5. The detailed description of the proposal is as follows: 50' x 150' cold storage building.
6. The board reviewed the Basic Performance Standards and the board concurred the application met all the standards imposed.

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.
8. A notice was mailed to all abutters within 500 feet of the property on September 13, 2017. Meetings were held on September 12, 2017 and September 26, 2017. A site inspection and public hearing were held on September 26, 2017.
9. The Planning Board unanimously agreed to approve the amendment to the Conditional Use Permit to add a 50’ x 150’ cold storage building on the property with conditions.
10. **The conditions of approval are:**
 - 1) **The hours of operation shall continue to be Monday thru Thursday, 8:00 a.m. to 6:00 p.m., Friday 8:00 a.m. to 5:00 p.m., and Saturday 9:00 a.m. to noon.**
 - 2) **The applicant shall provide a letter for the file, from the new service provider for waste removal for the existing business.**
 - 3) **The 15 foot vegetative buffer to the side lot line from the original plan is no longer required, as it cannot be met with the location of the new building.**
 - 4) **The maximum allowed vehicles/units on site shall be increased to 350.**
 - 5) **All vehicles shall be stored on the slab, excluding trailers which shall be parked in the designated area on the original plan.**
 - 6) **No collection of unserviceable parts construed as junk to be stored on site, as per the original approval.**
 - 7) **No propane tanks shall be stored in the cold storage building.**
 - 8) **A building permit shall be obtained from the Code Enforcement Office prior to erecting the building. Any change to the existing signage shall also be done thru the Code Enforcement Office.**

Motion:

After careful consideration and a review of all material presented to the Board, including the review of the Zoning Ordinance ‘Basic Performance Standards’, and §105-73, Section G, ‘Standards applicable to conditional uses’ a motion was made on Tuesday, September 26, 2017, to approve the amendment to the Conditional Use Permit to add a cold storage building, to be located on Map 1, Lot 24A, per the plans provided and with eight conditions.

Vote:

By a unanimous vote of 5 – 0, the motion to approve the amendment to the Conditional Use Permit to add a cold storage building, to be located on Map 1, Lot 24A, per the plans provided and with eight conditions, was accepted.

Decision:

The Amendment to the Conditional Use Permit to add a 50’ x 150’ cold storage building, to be located on Map 1, Lot 24A, per the plans provided and with eight conditions was approved.

Conditional Use Permit – Replace Walls & Stairs – Map 32, Lot 30 (110 Dogwood Drive) – Mark Rautenberg, Terri Ball, Applicants

Terry Ball was present for the review of the application.

Along with the application, presented was a property sketch which depicted the existing house, stairs and walls, dock, as well as the approximate leachfield, septic tank, and well location. A second sketch provided a larger view of the existing wall and stairs to be replaced, along with an erosion control and replanting plan. This plan consists of erosion control mulch, grass, lilies and ‘plantings’.

Also provided was the following information:

We propose:

- To hire a reputable contractor with experience in landscape/hardscape design and construction to remove and replace failing, collapsing RR tie walls and stairs
- To carefully remove and dispose of failing collapsing RR ties walls and stairs
- To replace with cement block walls, drained with fabric and crushed stone according to industry standards
- To secure walls 3 feet tall into the slope to stabilize walls and soil with fabric tied back into the slope according to industry standards
- To replace existing RR tie stairs with cement steps and water permeable pavers to stabilize the soil and prevent any runoff into the lake

Revegetation plan:

- To carefully remove, preserve and replant all existing plantings
- To replace and reseed any grass that is disturbed during the wall removal and replacement process

The detailed description of the project stated: (see attached) Replacement of deteriorating RR tie walls & stairs with cement block walls in exact same location, no other site changes planned.

Roger A. asked Ms. Ball to tell the board what they would like to do. Ms. Ball stated that they had a waterfront property, and there were three tiers of railroad tie walls, with stairs down to the water front. She said they were collapsing and they need to be replaced. They planned to replace the wall with cement blocks, and permeable pavers will be used for the stairs.

Ms. Ball stated she had pictures of the existing wall if the board wanted to see them. Steve F. stated they would go look at the site.

Ms. Ball noted that they had received permission from the DEP thru the Permit by Rule to move forward.

Ann H. asked how tall the walls were that are in existence now? Ms. Ball stated that they varied in height between 30 and 38 inches. She said the length varies between 68 to 75 feet at the longest tier. She noted that they did not plan on changing the design or location.

Roland L. asked if everything on site that was old railroad ties, they were moving? Ms. Ball stated, “Correct”. Roger asked where the railroad ties would go? Ms. Ball stated she believed they were getting a container to put the debris in and it would go to Simpsons. Roger stated the reason they asked is that no debris can be taken to the Transfer Station.

Roger A. asked if any trees would be removed? Ms. Ball stated, “No.” Roger asked if it was going to be grassed when completed. Ms. Ball said yes, and her perennials would be removed and replaced once the wall was put back in.

Roger A. stated a notice to abutters will be mailed. Members will do a site inspection prior to the meeting on their own due to light constraints. He noted the next meeting will be Tuesday, October 10th at 7:30 p.m.

Roger A. stated the board would want to have an idea when the project might begin and when it would be completed. Ms. Ball stated that at the moment one contractor told them this fall and another in the spring. The board noted she could say it would be completed by next June, for example. It does not have to be finished this year.

Nothing further was discussed.

Growth Permits - There are growth permits available.

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

*The next meeting will be held **Tuesday, October 10, 2017** 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 10, 2017

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

Minutes are not verbatim, unless in quotes “”

The minutes from Tuesday, September 26, 2017 were accepted as read.

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

Conditional Use Permit – Replace Walls & Stairs – Map 32, Lot 30 (110 Dogwood Drive) – Mark Rautenberg, Terri Ball, Applicants

Mark Rautenberg and Terry Ball were present for the review of the application.

Already received and reviewed by members, was a property sketch which depicted the existing house, stairs and walls, dock, as well as the approximate leachfield, septic tank, and well location. A second sketch provided a larger view of the existing wall and stairs to be replaced, along with an erosion control and replanting plan. This plan consists of erosion control mulch, grass, lilies and ‘plantings’.

Also provided was the following information:

We propose:

- To hire a reputable contractor with experience in landscape/hardscape design and construction to remove and replace failing, collapsing RR tie walls and stairs
- To carefully remove and dispose of failing collapsing RR ties walls and stairs
- To replace with cement block walls, drained with fabric and crushed stone according to industry standards
- To secure walls 3 feet tall into the slope to stabilize walls and soil with fabric tied back into the slope according to industry standards
- To replace existing RR tie stairs with cement steps and water permeable pavers to stabilize the soil and prevent any runoff into the lake

Revegetation plan:

- To carefully remove, preserve and replant all existing plantings
- To replace and reseed any grass that is disturbed during the wall removal and replacement process

The detailed description of the project stated: (see attached) Replacement of deteriorating RR tie walls & stairs with cement block walls in exact same location, no other site changes planned.

Board members did a site inspection of the property on an individual basis.

Roger A. asked the applicants to let the board know what they planned to do for the record. Mr. Rautenberg began by stating that they feel they need to replace some existing failing walls that are three tiers, that are currently railroad ties. He said they are crumbling, leaning and they are afraid they are going to give way. He said they intend to replace the existing walls and existing stairs with no expansion. He wanted to replace the failing walls with cement blocks in the exact same location.

Roger A. asked if there were any questions?

Roland L. asked, “From the water looking at the first wall I noticed way off to the right a real large boulder, is that going to be removed or will you just pick up from there?” Mr. Rautenberg stated, “We are replacing exactly what is there now, we have no intentions of disrupting the soil or moving the boulder. The vegetation in front of the wall we are intending to take out, replant, and then put back in again, as soon as we are able to replace it.”

Roland L. said, “Secondly, I was wondering if you would consider a narrower set of stairs at the bottom. I estimated it was a little over six feet wide which again lends itself to water. I know you are going to put pavers but the opportunity for water to go down, would you consider something a little narrower than that?” Mr. Rautenberg said they would, and noted when they bought their property they were cleaning their stairs constantly. He said he watched the water pattern after a rainstorm, starting at the top he had two rubber raisers intercepting the water on the access road. He said they also have a passive drain that goes off into the woods before it hits the house, and then a water bar that goes into the neighbors then down the stairs. He feels they have completely controlled the water and said they no longer have to clean the stairs of bark mulch. Only what falls from the trees needs to be cleared. He noted he was also on the board of the ASYCC.

Roland L. said he should have started by complementing them on their runoff control measures which he noticed in place. He was looking at the width of stairs and asked again if they needed to be that wide? He said it was not a request and he didn’t know if there was a width requirement with respect to stairs. Mr. Rautenberg said that they didn’t need to be that wide but they assumed it was easier to replace what was there because the excavation has already been done. Ms. Ball stated that if they were made narrower they would have to do something for erosion control. Mr. Rautenberg stated they would have to fill in the area with erosion control mulch. Ms. Ball stated that they used the stairs to transport kayaks, so it is easier to haul them up the wider stairs. Mr. Rautenberg said, “We really haven’t had any water running down the stairs since we intercepted at every step along the way. We never considered making them less wide, just replacing what was there.”

Roland L. said he noticed the grass was lush and thick and he assumed it was because of the irrigation system, and not because fertilizer was being used. Mr. Rautenberg stated that they irrigate from the lake.

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

Roger A. stated the wall was going to be made of pavers, or a block wall from Genest or something similar. Mr. Rautenberg agreed, similar to. He said the wall needs to also act as a retaining system, anything above two and one-half feet needs to be tied back into the soil with geogrid fabric and stone for drainage.

Roger A. said no trees are being removed. The applicants agreed. Mr. Rautenberg said again that they were replacing just the wall, exactly as is, where it is.

Roger A. reviewed §105-4.D(c)(5) ‘Removal, reconstruction or replacement’. Roger noted the applicants were keeping the structure in the same location, therefore, it is not making it more non-conforming. Roger stated everything was going to be kept the same as it is now. Grass will be replaced, along with the existing plantings behind the walls. These plants will be removed then re-established.

Roger A. asked about a time frame? Mr. Rautenberg stated they considered having one of the tiers done this fall but he wasn’t sure it will happen. He said they hoped to have it done by late spring, early summer.

Roger A. asked again if there were any question or concerns? There were none.

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

- G. *Standards applicable to conditional uses. It shall be the responsibility of the applicant to demonstrate that the proposed use meets all of the following criteria. The Board shall approve the application unless it makes written findings that one or more of these criteria have not been met.*
- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. ***Roger A. stated it will not, it will help protect the lake from runoff and by removing the railroad ties.***
 - 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. ***Roger A. stated that it will stabilize the area.***
 - 3) The use is consistent with the Comprehensive Plan. ***Roger A. stated it is, the Comprehensive Plan encourages the preservation of lake water quality and keeping the shorefront from eroding.***
 - 4) Traffic access to the site is safe. ***Roger A. stated this is N/A for this application.***
 - 5) The site design is in conformance with all municipal flood hazard protection regulations. ***Roger A. stated it is, this location is not in a flood zone. He also noted the new retaining walls will prevent erosion.***
 - 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***Roger A. stated that the railroad ties shall be taken to J.A. Simpson in Sanford for disposal.***
 - 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***Roger A. stated again the railroad ties shall be taken to J.A. Simpson in Sanford.***
 - 8) A stormwater drainage system capable of handling fifty-year storm without adverse impact on adjacent properties has been designed. ***Roger A. stated the existing walls have been in place for many years and the existing stormwater mitigation is keeping stormwater from washing down the stairs and into the water. The existing measures will remain and the new walls will be placed in the same location as the existing.***
 - 9) Adequate provisions to control soil erosion and sedimentation have been made. . ***Roger A. stated a person licensed by the MDEP in erosion control measures shall be present during the removal and construction of the walls. BMP shall be used until the project is completed, including revegetation of the area.***
 - 10) There is adequate water supply to meet the demands of the proposed use for fire protection purposes. ***Roger A. stated this is N/A for this project and the lake is adjacent to the project.***
 - 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 there is a buffer strip around the property, no changes are being made to it.***
 - 12) All performance standards in this chapter applicable to the proposed use will be met. ***Roger stated they shall, with conditions.***

The conditions of approval are:

1. **The project, including the removal of the existing walls, and revegetation plan shall be completed by September 1, 2018. If this date cannot be accomplished the applicant must contact the Code Enforcement Office.**
2. **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.**

3. A building permit must be obtained prior to construction through the Code Enforcement Office.

Maggie M. made the motion to approve the Conditional Use Permit to replace the existing retaining walls per the plans provided, on Map 32, Lot 30, with the above stated conditions. Steve F. 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 owners of Shapleigh Tax Map 32, Lot 30 (110 Dogwood Drive), are Mark Rautenberg & Terri Ball, of 110 Dogwood Drive, Shapleigh, Maine 04076.
2. The property is located in the Shoreland District and according to the assessor, the property contains .33 acres.
3. The applicant is before the board for a Conditional Use Permit to replace the existing railroad tie walls and stairs with cement blocks and pavers, same size, same location.
4. Received was a property sketch which depicted the existing house, stairs and walls, dock, as well as the approximate leachfield, septic tank, and well location. A second sketch provided a larger view of the existing wall and stairs to be replaced, along with an erosion control and replanting plan. This plan consists of erosion control mulch, grass, lilies and ‘plantings’.
5. The detailed description of the project stated: (see attached) Replacement of deteriorating RR tie walls & stairs with cement block walls in exact same location, no other site changes planned.
6. The board reviewed §105-4.D(c)(5) ‘Removal, reconstruction or replacement’ and the board concurred the application met all the standards imposed.
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.
8. A notice was mailed to all abutters within 500 feet of the property on September 27, 2017. Meetings were held on September 26, 2017 and October 10, 2017. A site inspection was done by members on an individual basis.
9. The Planning Board unanimously agreed to approve the Conditional Use Permit to replace the existing railroad tie walls and stairs with cement blocks and pavers, same size, same location with conditions.
10. **The conditions of approval are:**
  1. **The project, including the removal of the existing walls, and revegetation plan shall be completed by September 1, 2018. If this date cannot be accomplished the applicant must contact the Code Enforcement Office.**

2. **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.**
3. **A building permit must be obtained prior to construction through the Code Enforcement Office.**

Motion:

After careful consideration and a review of all material presented to the Board, including the review of the Zoning Ordinance §105-4.D(c)(5) 'Removal, reconstruction or replacement', and §105-73, Section G, 'Standards applicable to conditional uses' a motion was made on Tuesday, October 10, 2017, to approve the Conditional Use Permit to replace the existing railroad tie walls and stairs with cement blocks and pavers, same size, same location, to be located on Map 32, Lot 30, per the plans provided and with three conditions.

Vote:

By a unanimous vote of 5 – 0, the motion to approve the Conditional Use Permit to replace the existing railroad tie walls and stairs with cement blocks and pavers, same size, same location, to be located on Map 32, Lot 30, per the plans provided and with three conditions, was accepted.

Decision:

**The Conditional Use Permit to replace the existing railroad tie walls and stairs with cement blocks and pavers, same size, same location, to be located on Map 32, Lot 30, per the plans provided and with three conditions was approved.**

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**Conditional Use Permit – Marina – Map 19, Lot 8 (17 Emery Mills Road) – Marc Boisse, Applicant; Wayne Berry, Property Owner**

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

Along with the application, presented to board members was a sketch plan of the existing lot depicting an existing structure to be used in part as an office and show room, a proposed dock display area, a proposed 40' x 140' gravel parking area, a lighted path covered in bark mulch which led to a proposed boat docking area having multiple slips. The sketch also provided site distance calculations of 660 feet in one direction and 560 feet in the other while exiting the property. Pictures of the property were provided depicting the existing structures, those being a house and attached barn, and an aerial view of the property. A document was provided from Wayne Berry (property owner) dated 10/4/17, which gave Mr. Boisse full permission to make an application for a marina on his property.

The detailed description of the project is as follows: Marina (see attached) The attachment read in part: The subject property is a 2.43 acre lot on Lower Mousam Lake with approximately 720 feet of waterfront and 278 feet of road frontage on Route 109. Our application is for 20 seasonal boat slips, dock sales and a small parking lot to serve our customers. We hope to offer a few boat rentals along with the option of renting kayaks and canoes on daily or weekly basis.

Roger A. asked Mr. Boisse to tell the board what his intentions were.

Mr. Boisse stated the property is located at 17 Emery Mills Road, it is an old farmhouse at the foot of the lake. He stated that he wanted to purchase it but first would like to know if they could put in boat slips

and move the dock business from the property he currently owns to this location. He said he wanted to use this property for his business.

Roger A. asked if the house on site will still be used as a house, along with having the business on the property? Mr. Boisse stated he didn't know what they would be doing with the house. He said they would have an office in the annex of the house and perhaps put in a bathroom for the guys that work there, and add a showroom in the garage. He stated they would be adding boat slips and create a parking lot. He noted they would not be able to do it all at once.

Roger A. stated the reason he asked was because a residential unit requires two acres and a business requires two acres. Mr. Boisse asked if the whole property is business, did it still follow under that rule? Roger said, yes, 2 acres. Mr. Boisse said again 'if the whole property is a business'. Roger stated that if it is the business, the residential use will go away if you use it as a business. He stated that he could not have both uses. Roger said you can only have one 'use' per 2 acre lot. Mr. Boisse asked if he were talking about them using it or other people. Roger stated that it did not matter, if the property is used as a residence for anyone, then it cannot be used as a business or visa versa. He noted he could not rent the house and have a businesses, it would be one or the other.

Mr. Boisse didn't understand why the rule existed, he wanted an explanation. Roger A. explained that years ago people were concerned with having a business in a residential area, so the Planning Board increased the lot size requirement and the citizens voted it in at Town Meeting. Mr. Boisse noted that Weaver Marine had a large boathouse but the house on the property was not being rented and he thought it was not a good idea. Roger stated that Mr. Weaver had over two acres, so if he wanted to he could rent the house, it was up to him.

He said it was not up to the board to tell him he had to use it, it was his prerogative; he had enough land to be able to use it. Mr. Boisse asked if the board ever made exceptions? Roger stated the board could not, the ordinance had to be followed, there is no gray area with the ordinance requirements.

Mr. Boisse asked if there were other businesses running two businesses from their property? Roger A. stated there were businesses that had multiple businesses before the ordinance was enacted. Madge B. added that the board was speaking about proposing an amendment to the Zoning Ordinance changing the lot size requirement. She wasn't sure exactly what it would be but it will reduce the 4 acre requirement. Roger agreed, but said again, at this moment in time this lot would only be able to have a business or a residence, not both.

Roger A. stated that if he wants to proceed, he will have to decide if he wants a business on this location or a residence, the lot cannot hold both at this time. Mr. Boisse stated that his primary goal was selling the docks, having the boat slips and a showroom. He said if the ordinance changes he would take a look at having a residence and wanted to know if he would have to come back before the board. Both Roger and Madge B. stated he would have to come back before the board for a change in use. It would be an amendment to the Conditional Use Permit.

Mr. Boisse stated with that being said, they wanted to right now look at boat slips, parking lot, docks for sale, a showroom, office and adding a bathroom to the structure for the employees.

Maggie M., looking at one of the pictures, believed there would have to be a lot of trees removed in order to build the parking area. Mr. Boisse wasn't sure what the size of the parking area would need to be. He didn't know if it was based on the boat slips, was there a square foot amount for vehicles, etc. Roger A. stated 200 square feet per vehicle was required but he felt with trailers this figure would double. Mr. Boisse stated he

was not having a boat launch, he thought people would come to get into their boats and go, for the summer. He didn't plan on having them launch from this location, so he wasn't sure if there would be boat trailers on site. He didn't anticipate trailers being left. Roger said for 20 slips there needed to be a spot for 20 vehicles, which would be 4000 sq. ft.

Mr. Boisse stated that he may have to increase the size of the parking that he provided on the sketch. He stated that the parking area would be in the same area, but perhaps larger in size. He said it was 140 from the water, he was trying to keep it as far from the water as possible.

Maggie, M., looking at the sketch, wanted to know if the path was in existence at this time? Mr. Boisse stated that it was but it wasn't as clear as the picture depicted. Madge B. said it was easy to follow, noting she walked it prior to the meeting this evening.

Roger A. stated that the size of the parking area would also have to include the office space, as well as the slips. Mr. Boisse stated there was an area in front of the barn. Roger said the office space is going to be X number of square feet and then additional parking needs to be added for that, as well as for the number of employees. Mr. Boisse asked what was considered office space? Roger said what area will be used, is it 20' x 40' which is 800 sq. ft.? He said if it is 800 sq. ft., you divide this number by 150, which says how many spots are needed for the office area. He said this would be an additional six spots, plus the 20 for the boat slips and then additional for the personnel. Roger said they could be looking at needing 30 spots, each being 200 sq. ft. in size. Mr. Boisse said this is determined this way, even if it is unlikely everyone will be there at one time. Roger stated that the board had to, this is the ordinance requirement. The board cannot determine how many people will be there at one time, so it has to be looked at, at full capacity. Mr. Boisse asked again if the board needed to know how big the office would be? Roger stated, "The office and the showroom."

Mr. Boisse said he was before the board to see if what they wanted to do was feasible, if it could be done. He said if the board tells him it will not be allowed, then he will have to rethink what he wants to do. Roger A. stated that if this is going to be a business 'or' a residential unit, it will be allowed with conditions. If Mr. Boisse wants both at this time, it will not be allowed. Mr. Boisse stated at this time he was looking at the boat slips and the business. Roger noted that if the ordinance gets changed, then Mr. Boisse can come back before the board to amend the CUP to add the residence.

Roger A. believed the boat slips were overseen by the Maine Dept. of Inland Fisheries and Wildlife, they determine if they will be a navigational hazard. Mr. Boisse stated that if the board looks at the picture it is designed so it is not far out into the lake. Roger said as long as the dock is removed, there likely will not be an issue. Mr. Boisse stated that he wasn't sure he had it in writing but was told as long as they remove them at the end of the season, there would not be an issue. He spoke with the MDEP. Madge asked if he also had to contact Inland Fisheries, because he spoke with MDEP? Roger thought he should also contact Inland Fisheries and Wildlife to make certain they had no issue, as they oversaw the waterways for the State of Maine. Mr. Boisse asked if Roger had a telephone number and he did not but told Mr. Boisse to go to the States website and you will find the contact information there.

Madge B. stated trees were being removed, but noted they were more than 100 feet from the water. She said the parking area is more than 100 feet back. Roger A. felt the removal of trees were incidental to construction. CEO McDonough stated that there was another set of regulations for distances between 100 feet from the water and the 250 foot mark. Madge believed it was up to 40% could be removed. CEO McDonough stated 40% applied to the entire lot or a 10,000 square foot opening. He didn't feel it was an issue with the plan that was submitted.

CEO McDonough wanted to address several things. CEO McDonough wanted everyone aware that any changes in the shoreland zone has to be approved by the MDEP prior to the change going into effect. He said even if the board amends the rules governing two uses on a two acre lot, it may or may not apply to this application because anything changed must be approved by the State DEP office.

CEO McDonough stated that it was mentioned this evening by Mr. Boisse that he wanted to move his business. He said everything allowed in the Shoreland Zone has to be a water dependent use. Mr. Boisse stated it was going to be docks and boat slips. CEO McDonough agreed this applied but Mr. Boisse stated he wanted to move his business and at this time that is 'The Whole Nine Yards' which is also a landscaping business. Mr. Boisse stated that the part he was speaking about was the docks. CEO McDonough stated that that this would be fine but there could not be landscaping equipment and advertising for The Whole Nine Yards landscaping business at this location, it can only be the boat docks and slips. Mr. Boisse stated, "OK."

Roger A. stated at this time it was up to Mr. Boisse as to what he wanted to have. Mr. Boisse stated that he wanted boat slips, and docks. Roger said the board would need specifics, such as the number of docks that will be on site. The area they will be stored in. Mr. Boisse stated this would fluctuate based on when a shipment came in and what was sold. Roger stated, "Put on the plan the estimated maximum number and where it will be stored. The size of the office, the size of the parking area / number of spaces. The number of boat slips in total." CEO McDonough noted that they would be limited to the number of boat slips requested. Roger agreed and to be mindful because the number asked for will be all there is allowed, without an amendment. Roger said the board will ask for the hours of operation, and noted to keep this number as broad as possible, so they do not have to come back to change the hours. Also, will the entrance be gated? Roger said if there was any other outside storage it needs to be noted and what it is.

Madge B. said the section of the ordinance that may be helpful is §105-43 which speaks about off-street parking. Barbara F. noted that the entire ordinance can be found on line. Maggie M. thought boat rental was mentioned, kayaks, when Mr. Boisse applied he shouldn't say they might do that, instead say they 'will' do it, even if it is in the future. An area where they will be stored should be on the plan as well.

Roger A. stated there will be a walkway from the slips to the parking area, he wanted to know if there would be lighting. Madge B. stated that it says there would be on the plan. Roland L. wanted to know if the parking lot would be lit after hours. CEO McDonough stated that part of the Planning Boards job is to ensure that lighting does not glare onto the neighboring property, onto the lake or onto Route 109. There should not be spotlights glaring. Mr. Boisse thought he had written low voltage light but he just wrote path lighting. Maggie said as long as it is aimed down at the path it should not bother anybody. CEO McDonough said Mr. Boisse should make note of all the lighting he will be using and put it on the plan.

Roland L. asked if there would be electricity down to the boat slips? Roland said that was another thing that should be placed on the plan.

Roger A. stated that the board needed to show pretty close to exactly what was going to be done on site, otherwise if any change is made, it will require an amendment to the CUP. Roger said he needed to be as specific as possible.

Roger A. asked if there would be gas on site for sale? Mr. Boisse stated that he had no intention of selling gas, it was available across the river. Roland L. asked if there would be a portable toilet on site? Mr. Boisse stated that he considered it as it made sense, he has seen it in other locations and thought it would be well received. He wanted to know if the board needed to know that too? Roland said that one of the requirements in the ordinance is asking about whether there is any accommodations for handling any waste,

so he should address it. Roger agreed and this question will have to be answered. And he again noted the hours of operation will need to be addressed. Roger said to put down the longest perceived hours.

Roger A. asked if there were any additional questions? There were none. Roger said the board will table the application until he is ready to come back before the board. Mr. Boisse asked if everyone within 500 feet would be notified, even in Acton? Roger said yes, and the board would take care of this. Barbara F. asked if a notice to abutters would be masked now and a public hearing held at the next meeting? Roger said they would wait until they had more information.

Nothing further was discussed.

### Other:

Barbara F. gave members a copy of the ordinance changes they had discussed in April of this year. They were as follows:

**4/11/17**

### **Proposed Amendment to §105-4.D(7)(b)[1][a]**

Trees removed in order to relocate a structure must be replanted with at least one native tree, six feet in height, measured from the base of the trunk to the top of the tree, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed. **Trees shall be planted greater than five feet from side lot lines, and shall create a ‘well distributed’ stand of trees.**

**4/25/17**

### **Proposed Addition to §105-17**

#### **LAND USES**

| <b>RURAL</b>                                    | <b>RP</b> | <b>SD</b> | <b>GP</b> | <b>FD</b> | <b>SP</b> |
|-------------------------------------------------|-----------|-----------|-----------|-----------|-----------|
| Agricultural, commercial gardening <sup>4</sup> | CU        | CU        | YES       | YES       | CU        |
| Seasonal sale of produce and plants raised:     |           |           |           |           |           |
| Off Premises <sup>4</sup>                       | NO        | CU        | CU        | CU        | CU        |
| On the Premises <sup>4</sup>                    | NO        | CU        | YES       | CU        | CU        |

**<sup>4</sup>Marijuana is neither considered an agricultural crop nor commercial gardening. Marijuana is not considered a seasonal produce or plant. Any ‘for profit’ conduct pursuant to the Maine Medical Use of Marijuana Act, 22-M.R.S.A. c.558-C requires a Conditional Use Permit. All retail conduct is prohibited.**

Barbara F. just wanted the board to look them over to decide if they wanted to move forward with the changes. She didn’t think there would be an issue with §105-4.

Madge B. reviewed the change to §105-17 and thought it seemed somewhat confusing. CEO McDonough stated the purpose was to answer the question as to what marijuana falls under in the ordinance.

Roland L. said that he had listened to a discussion at a Selectmen's meeting, about who had jurisdiction in the State over Marijuana, at what stage. He said from seed to plant it would fall under The Dept. of Agriculture and beyond that it would fall under the Dept. of Finance. He didn't know if it contradicted the statement which states it is not considered an agricultural crop. He believed the Dept. of Agriculture was going to oversee it. CEO McDonough did not believe that was relevant for the Ordinance.

Maggie M. thought the change to the Ordinance is to prevent something before the State rules on it. Madge B. said the State rules can throw everything off, if they pre-empt everything. Roger A. said he heard the Towns would have the final say. Madge said, "So what we have here is we added a footnote to make clear that they don't apply to gardening."

Madge B. said what we need to address is the growing of marijuana for retail. Maggie M. said once we get into commercial we can be stricter than the State. Roger A. agreed and said you could get a cultivation license from the State but we are trying to get it that in Shapleigh you need a Conditional Use Permit. This way it can be regulated, areas such as water, security, odor, etc. Madge said that it would be allowed in most places because the town doesn't have commercial zoning. She felt there would have to be performance standards for the specific use if you wanted to regulate where. Roger said the odors have to be addressed and the State is asking for 750 feet from churches and schools and some towns have enacted 1000 feet. Roger said under general standards odors are addressed. Madge didn't see how we could measure odor, a setback may be the way to address it. CEO McDonough stated that if they come to the Planning Board you can ask how they are going to control the order, and if there is no plan, there is a problem. Barbara F. noted there are facilities now that accomplish this, indoor facilities can do this. Outdoor growing may be an issue, and perhaps that needs to be addressed, no outdoor growing. Madge thought it would be easier to enforce as well, if grown indoors.

CEO McDonough noted that currently the town has banned retail marijuana establishments and retail marijuana social clubs. Retail marijuana establishments means: 'retail marijuana' stores, cultivation facilities, products manufacturing facilities, testing facilities, and social clubs. He thinks any grower falls under a retail marijuana establishment. Madge B. said, "Then we don't have to do anything, so let's not."

Madge B. stated that she also wanted to discuss changing the lot coverage rule. CEO McDonough stated that was fine but reminded her that any change in the shoreland zone had to go through the DEP. He said most towns have an impervious surface rule, which we do not, and the reason we do not is because our lot coverage rule is so low that the DEP says we don't have to have it because we have minimal lot coverage. CEO McDonough said the board could do other things to make it work, or just say in the General Purpose District.

Madge B. stated that she was also interested in seeing a business and a home on less than four acres. Steve F. agreed, he didn't think it made any sense. CEO McDonough asked if she wanted to address two uses on one lot? He asked what she wanted to do about it. Madge said she was interested in proposing a change to the ordinance. She wanted to reduce if you have a business and home that it be less than four acres, perhaps three? Steve F. agreed, stating 'My thought is whoever it is coming before us, whether there is 175 of road frontage and 2 acres or whether there is 300 feet of road frontage and six acres, it doesn't change what we look at for a Conditional Use permit. We are looking at it, it's a Conditional Use, it's in the name.' Madge said, "Correct." Steve stated, "We look at that to protect the neighbors, traffic, glare, smells, sounds, and if we find as a board that that doesn't fit in that spot, whatever the lot size is, shouldn't restrict that applicant. If



we have a knitting shop on a 50 x 100 lot and they want an application for six people to come knit on Saturday morning, it works. If you want to have a disco club down on the water, that doesn't fit. To look at the entire town and say our ordinances say you have to have double the road frontage and double the lot size to do something on your lot, makes no sense to me."

Maggie M. agreed, stating, "You could have three lots and the one in the middle wants a business. The houses on the outer two lots could be placed away from the one in the middle, so the middle lot would not disturb the other two. Or you could have just the opposite where one person has 8 acres but the business is right on the lot line, so it will disturb the neighbor." Steve F. thought it was the board's job to look at it. Roger A. stated each had to be looked at individually.

CEO McDonough noted that if something is not restricted in the ordinance than it is allowed. It doesn't matter if neighbors complain, if it is an allowed use, it is allowed. Steve F. believed there are gray areas in the book. CEO McDonough agreed but noted he has been at board meetings for 18 years and has never seen board members using that authority. Steve believed it was part of the process to say this is small town Shapleigh, and ask will it fit in a particular location. Maggie M. added, regardless of the size of the land. Roger A. stated that today it is in the Ordinance and that is what we have to go by.

Board members agreed to review §105-19.A to address two uses on a single lot.

Board members also agreed that increasing the size of lot coverage in the General Purpose District to 20%, under 105-18 was something that should be considered for Town Meeting in March 2018. Both will be discussed in November. Barbara F. asked members to look at the 105-19 and see how they would like to address it.

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 8:55 p.m.**

*The next meeting will be held **Tuesday, October 24, 2017** 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, October 24, 2017**

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

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**Minutes are not verbatim, unless in quotes “”**

**The minutes from Tuesday, October 10, 2017 were accepted as read.**

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

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### **Conditional Use Permit – Marina – Map 19, Lot 8 (17 Emery Mills Road) – Marc Boisse, Applicant; Wayne Berry, Property Owner**

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

Along with the application, presented to board members was a sketch plan of the existing lot, depicting an existing structure to be used in part as an office and show room; a proposed dock display area; a proposed 40' x 140' gravel parking area; and a lighted path covered in bark mulch which led to a proposed boat docking area having multiple slips. The sketch also provided site distance calculations of 660 feet in one direction and 560 feet in the other while exiting the property. Pictures of the property were provided depicting the existing structures, those being a house and attached barn, and an aerial view of the property. A document was provided from Wayne Berry (property owner) dated 10/4/17, which gave Mr. Boisse full permission to make an application for a marina on his property.

The detailed description of the project is as follows: Marina (see attached) The attachment read in part: The subject property is a 2.43 acre lot on Lower Mousam Lake with approximately 720 feet of waterfront and 278 feet of road frontage on Route 109. Our application is for 20 seasonal boat slips, dock sales and a small parking lot to serve our customers. We hope to offer a few boat rentals along with the option of renting kayaks and canoes on a daily or weekly basis.

At this evening's meeting, Mr. Boisse brought in an amended plan which depicted the location of lighting along the walkway to the boat docking area, outlets to provide power at the boat docking area, lighting on the docking area, and where a portable toilet will be placed; outside storage location for the docks to be sold, the size and location of the parking area (55' x 170') and lighting for that area, show room location in the existing structure, office (10' x 12') location in the existing structure, and a sign and display area running along Emery Mills Road. Also, the hours of operation were changed to 24 hours – 7 days a week.

In addition, provided was an email from the Bureau of Parks and Lands Boating Facilities Division which stated in part: We have no interest in that unless the slips extend out into the water more than 200'. Other than that it would be a Town issue.

Roger A. asked Mr. Boisse to share with the board the new information he brought to the meeting. Mr. Boisse reviewed the revised plan. He noted the new plan showed the path lighting, dock storage area, and lighting where the boat slips will be. The plan also depicted the 10' x 12' office space, portable toilet by the parking lot, as well as lights in the parking lot. He also noted the Inland Fisheries reply to his request as to whether or not he needed further permitting by the State (see above).

Roger A. asked about the parking, how would it be set up? He asked if it was going up the middle, then branching off to the side? Mr. Boisse stated, “Yes.” Roger wasn’t sure there was enough parking. Mr. Boisse thought there was more than enough parking, based on what was discussed at the last meeting. Roger reviewed the plan with Mr. Boisse and there appeared to be enough parking.

Roger A. stated that there would be sales of docks, and an office for that. Mr. Boisse added, ‘and boat slips’. Roger asked how far from the road the display area was? Mr. Boisse said it was in front of the house.

Roger A. asked about the hours of operation? Mr. Boisse stated that the office hours would be 8 a.m. to 6 p.m. but the boat slips would be open 24 / 7. Roger said that the whole business would be 24 / 7 because the parking area would not be closed or the boat slips. He said the hours include everything on site, regardless of whether or not the office is open.

Roland L. asked if there was any planned rental space in the farm house? He said, “There will be no one renting the house space?” Mr. Boisse stated, “No, not until you change the rules.”

Roger A. asked what the number of boat slips would be, is it still 20? Mr. Boisse stated, “No, we put it up, just because I don’t want to do this again. We may never have 30 or 35 but I wanted to make sure we didn’t have to come back before the board.” Roger noted the number of slips affects the parking. Mr. Boisse stated that he was aware of that. Mr. Boisse believed he was ok with the additional slips. Mr. Boisse stated that there is 7,700 square feet for parking at this time, and he believed he only needed 6,000 square feet.

Roger A. stated that they needed to add office space and the number of employees in the parking calculation. Mr. Boisse stated that the office was 10’ x 12’, and there was a secondary parking area in front of the house. He said he could enlarge the parking lot. He asked how many additional spaces were required? Roger asked how big the show room would be? Mr. Boisse believed it would be 20’ x 20’. Roger said you need one space for every 150 sf of floor space and one for each employee. Mr. Boisse thought four would cover it. Roger asked him to place it on the plan.

**Roger A. stated that he believed the board was ready to hold a public hearing based on the information provided. He stated the public hearing will be held on Tuesday, November 14<sup>th</sup> at 6:00 p.m. A notice to abutters will be mailed as well.**

*Mr. Boisse is going to adjust the parking lot on the plan and provide a copy for the board.*

Nothing further was discussed.

**Amendment to a Subdivision (Hemlock Hills) – Change Road Access Location for Lot 36-3 – Map 3, Lot 36-3 (Hooper Road) – Ted Theriault, Applicant & Owner**

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

The amendment to a subdivision application stated the following:

- Subdivision Name: Hemlock Hills – Deed Recorded at YCRD as Plan Book 167, Pages 34 & 35
- Location of Tax Map 3, Lot 36-3 – Plan Book 17449, Page 275
- Zoning of Property: Residential (General Purpose according to Town designation)
- None of the property is within 250 of the high-water mark of a pond, or river
- Acreage to be developed: 2+ acres
- Current Deed Restrictions: Driveway access limited to ROW only Lots 3 & 2
- The parcel includes no water bodies

- The parcel is not within a special flood hazard area
- Current number of Lots in the Subdivision: 5
- Water Supply: Individual Wells
- Method of Sewerage Disposal: Individual Septic Tanks
- Fire Protection: 911

Also provided by the applicant, was a copy of the Town tax map depicting all the lots of the subdivision and the location of the existing ROW and proposed driveway location; a copy of the purchase and sale agreement showing that as of 10/23/17, Water's Edge Land Development was the owner of the property (Mr. Theriault); a copy of the Subdivision Plan known as Subdivision Plan Hemlock Hills, drafted by Daniel J. Dalfonso of Pinkham and Greer Consulting Engineers, Falmouth, Maine, approved by the Shapleigh Planning Board on 4/12/1988; and a letter from the Southern Road Commissioner, Caleb Chessie which stated the following:

*On 10/13/17, I inspected the property across from 350 Hooper Road, Map 3, Lot 36-3 for a concern about the existing shared access as written in the subdivision plan for Hemlock Hills, Plan Book 167, Pages 34 & 35 for lots 2 and 3.*

*I strongly recommend allowing driveway access above the telephone pole and/or closer to the northern end of the property along Hooper Road. There is serious potential for a line of sight hazard with the speed limit at 35 mph, a dip in the road and a corner. Winter conditions will only increase the hazard. There will be no impact to Hooper Road with this change, just a safer ingress/egress to the property.*

*Thank you for your time and consideration in making our streets and roads safer to travel.*

Roger A. asked Mr. Theriault to let the board know what he wanted to do. Mr. Theriault wanted to note that he took possession of the property on the 23<sup>rd</sup>, therefore the owner is no longer as stated on the application (Roger Rose).

Roger A. asked about the plan with Planning Board signatures. Barbara F. showed him that a copy of the signed subdivision plan was provided by Mr. Theriault. Roger stated his only concern was that the Town tax map showed 178 feet on the road and 200 feet is required. But because there is a signed plan, there is no issue, otherwise there would have been an issue with not using the right-of-way.

Roger A. read the letter from RC Chessie (see above).

**Roger A. stated there would need to be a public hearing because any change to a subdivision requires a public hearing. It will be held on November 14<sup>th</sup> right after the Marina. The public hearing begins at 6:00 p.m.**

CEO McDonough asked if there was anything else needed from Mr. Theriault? Roger A. stated a new subdivision plan needs to be provided with a place for the Planning Board signatures. Note 9 needs to be changed to remove Lot 3 from the ROW requirement. Mr. Theriault asked who would generate the plan? Steve F. stated it would be easiest to go back to Pinkham and Greer and have them make the change.

Roger A. stated Note 9 should say 'Access to Lot 2 shall be via the 50' right of way'. That will remove Lot 3 from the requirement.

Roger A. stated the board would need a Mylar that will get recorded at the YCRD and 2 paper copies, one for the board and one for his records. The board will sign all three at the meeting.

Mr. Theriault asked the board if they were ok with them doing work on the property prior to the Planning Board meeting. He noted they will not change the driveway location until they have the signed plan. Roger A. had no issue, as the rest of the permitting would be through the Code Enforcement Office.

Nothing else was discussed.

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### **Growth Permits**

**Map 12, Lot 16 – (636 Newfield Road) – New Home**  
Existing lot of record.

**GP #11-17**

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**The Planning Board meeting ended at 8:08 p.m.**

**NOTE: The winter hours are in effect thru April 1<sup>st</sup>, the meeting begins at 6:30 p.m. and any scheduled public hearing begins at 6:00 p.m.**

*The next meeting will be held **Tuesday, November 14, 2017** 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 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.*

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

# **SHAPLEIGH PLANNING BOARD**

## **MINUTES**

**Tuesday, November 14, 2017**

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

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**Minutes are not verbatim, unless in quotes “”**

*Due to the length of this meeting, some repetitive statements were not written but are recorded for the record.*

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**Public Hearing began at 6:00 p.m.**

**Conditional Use Permit – Marina – Map 19, Lot 8 (17 Emery Mills Road) – Marc Boisse, Applicant; Wayne Berry, Property Owner**

Mr. Boisse was present for the public hearing.

Roger A. opened the meeting by asking Mr. Boisse to tell the audience what his proposal was, along with details. Mr. Boisse began by stating that he believed everyone knew where the location was and he stated that he would like to sell docks, have boat slips and renovate the house making it the office.

Roger A. asked if there were any questions?

Citizen – Could you give details regarding boat slips, how many, positioning and where they will be?

Mr. Boisse – “Yup, the Planning Board has all that information. Up to 30 I think but it doesn’t mean we will have 30 but up to 30. And they will be positioned a little differently from what most slips are, it will be a longer row of docks following the shoreline. And then there will be fingers off that long row, which minimizes the depth of the boat slips that go into the water.”

Mr. Boisse – It is less than 60 feet from the shore for the most part and it is a moving shoreline so some places it will be actually closer to the shoreline.

Citizen – Is the depth of water adequate for boat slips?

Mr. Boisse – “If we are fortunate it is.”

Citizen – What happens if the fortunate is not adequate?

Mr. Boisse – How does that concern?

Citizen – Would you have to dredge the lake if it isn’t adequate?

Mr. Boisse – “I would never think of doing something like that.”

Roger A. wanted to mention that the water is owned by the State of Maine. He stated that the Planning Board did not have any jurisdiction over the course of the water.

Citizen – Then what is required then?

Roger A. – The water is owned by Inland Fisheries and Wildlife, the State of Maine owns the water. He said that Mr. Boisse asked them if he needed a permit by them for the docks and they said the only time you do from the Dept. of Submerged Lands is if the docks stay in year round. At the present time they will be removed in the fall and put out in the spring.

Citizen – “So there are no other requirements from the Maine Inland Fisheries?”

Roger A. – No, but you cannot create a non-navigable water way.

Citizen – This is a very tight area?

Citizen – Are there rules that Inland Fisheries get involved with the placement of the dock?

Citizen – Who polices it?

Roger A. – “Inland Fisheries and Wildlife.”

Citizen – Who puts the buoys out, there are hazards there as well as no wakes zones?

Citizen – If this were to cause more boat traffic in front of the bridge, whose responsibility is it? Who polices it?

Roger A. – “Inland Fisheries and Wildlife.”

Citizen – Even if it is after-the-fact?

Roger A. – Yes, we have no permitting thru the board on the water, it is Inland Fisheries and Wildlife, or Submerged Lands. Submerged lands if the docks are left there year round.

Citizen – Are these slips going to be rented for the season, or weekly / daily?

Mr. Boisse – They will be seasonal but we are a business and we are not opposed to doing something weekly if that is what our clients want.

Citizen – Seasonal has a lower impact on water quality.

Mr. Boisse – Our intent is seasonal obviously.

Citizen – You will likely be able to fill them all seasonally, then you wouldn’t have boats being taken in and out.

Mr. Boisse – We would be happy with that.

Citizen – If they stay their seasonally you don’t have to worry about Milfoil, which is such an invasive species.

CEO McDonough – If the docks are in the Town is not going to monitor whether or not a boat is seasonal or going in and out.

Citizen – With respect to rentals, kayaks and canoes, does the board have any say over how many rentals they can have? This could create a real problem in the tunnel.

Roger A. – The reason Mr. Boisse is here for the Marina and the board is looking at the number of boat slips because the parking lot is going too sized based in part on the number of boat slips. Also, the property is only large enough for a residence or business, Mr. Boisse cannot have both. So by having the business on site, he loses the ability to have a residence.

Citizen – So one boat slip, that sounds good but often husbands and children all have their own vehicle so now you have multiple vehicles for one slip spot.

Citizen – Do you have any say over parking spaces for kayaks rentals? Because that is the same as the boat rental.

Roger A. – “It is the same because what is going to happen, if you are going to use a kayak and I am going to use a kayak we will both have our vehicles there, so you have two parking spots.”

Citizen – So he has to spell out how many kayaks he will have.

Roger A. – “That’s true.”

Citizen – Do you have a number on that?

Mr. Boisse – It is not something the board discussed with me, we discussed boat slips but not the number of rentals.

Citizen – Will you do pontoon rentals?

Mr. Boisse – We have discussed it, we do not know if we are going to do it or not. We want to satisfy people who want to enjoy the lake, so we will have a couple of kayaks, canoes and paddle boards. Have them available for them to rent.

Citizen – Is the parking space, cars to slips, one to one?

Roger A. – The ordinance states that it goes according to the square footage being used in the building and

also the area to park to satisfy the requirements of the project. So what happens is if a slip equals one vehicle we need a minimum of 30 places to park, then depending on the number of kayaks we have to add that, and the number of square feet for the building to come up with the number of spaces needed.

Citizen – Boat capacity, a pontoon boat can have nine people, which exceeds the capacity of any vehicle. It doesn't matter in that case? You still use a one to one ratio.

Roger A. – "It is not a one to one ratio, it is adequate for the use."

Citizen – So for a pontoon boat, would you try to allot two or three cars per use?

Madge B. – I don't think we can.

Roger A. – We are not going to do that.

Citizen – How many spaces are allowed on the plan for parking spaces?

Mr. Boisse – 34, we have four for the office.

Citizen – Is there an updated plot plan for this project?

Mr. Boisse – I have no idea?

Citizen – I have one called Final Draft and it is missing information that is in the previous meeting minutes. There are lots of discrepancies between the plan and the minutes but this is called Final Draft. The dock design is not correct.

The citizen showed the dock on the plan over-laid onto Google Maps, and if the dock is per the Final Draft one end of the dock will have no boats and the other end will directly block the bridge.

Citizen – Does this go to the State to be passed after? Will anyone look at this after tonight's meeting? Or will it have to be an appeal through the court system to get the State involved in this.

Roger A. – The only way the State will be involved is if they are interested in the project. The applicant has gone to the State.

Citizen – I saw that in the minutes and as long as he doesn't go out 200 feet they are not concerned. He noted that 200 feet was across the channel, so this does not work. It is obvious the guy did not look at the actual area of the marina.

Citizen – Sometimes the State will force you into a submerged land lease and charge you a tax on the bottom of the lake that you have a business over.

Citizen – Is there an updated plot plan or is this the final draft? It is missing the kayak rental stuff, the parking lot is too small the dock design isn't proper.

Mr. Boisse – The parking lot design is exactly what Town asked for at the last meeting.

Citizen – If you do the math it doesn't work.

Mr. Boisse – I did the math and I have enough.

Citizen – So again, my question, is this the updated version?

Madge B. – This is the most recent one we have. (Referring to the copy the gentlemen had of the plan.)

Citizen – It is missing information.

Mr. Boisse – The parking lot is exactly what the Town asked me to do. The lighting is there, the only thing missing are the fingers on the dock.

Roger A. – With respect to the 'Town asked me to do', the board asked how many spaces you would have and to create enough space for what you proposed. We did not tell you what size you had to have, the spaces are determined by what you want to have for a business. We are not the ones that told you what you needed for a physical size; you stated you wanted 30 slips, so you had to design a large enough area to support that.

Mr. Boisse – Yes, and we talked about that.

Roger A. – It is true but the board did not tell you, you had to have this size. The size is determined by what you want to have for the business. That is why at a previous meeting you were asked about the number of kayaks you would have because that will come into play with respect to the parking area.

Mr. Boisse – It didn't come up at the last meeting, and I didn't remember you saying specifically you needed a parking lot space for a kayak. You did want to know how many kayaks but you did not state you needed a parking space for a kayak.

Roger A. – It does play into how many parking spots are required.



Vice President of Mousam Lake Region Association ‘VP MLRA’ – I have never had as many emails and phone calls about something, including the problem with the hot dog stand. The Town did a traffic study down there (foot of the lake across from the entrance to this proposed business), and we found this was a very serious area for the hot dog sales. Even though it was not on State property, even though it was six or eight feet off the white line. He stated he could not make the last meetings because they were not notified and they are abutters.

*Note: All abutters within 500 were notified of the Public Hearing greater than 10 days in advance, based on the information provided by the Town of Shapleigh data base, and Acton data base, as updated in 2017.*

VP MLRA – Personally, myself I have no issue with the Boisse’s, they do work for me and do super work. We represent as of today, 412 properties on Mousam Lake in the Town of Shapleigh and Acton. Never have I had so many calls. I will provide a small package of information for the board to view. He stated people were very angry, not about Mr. Boisse personally, but the impact this will have.

VP MLRA - We had a traffic study done before at this intersection. Have we done a traffic study for this application because his driveway is coming out in the same place. Or are we going to do a traffic study, we should. He said that Senator Collins was contacted to make the intersection more safe, and although work was done, it still isn’t safe.

VP MLRA – The biggest polluters of Mousam Lake was the Mousam Lake Region Association, we allowed all the water to come down the hill, into the lake, which is why we got Senator Collins involved, now there are catch basins and a filter. He said he realized this had nothing to do with this application.

VP MLRA – There will be access to the slips 24 hours a day, each boat could have several cars used to access these boats. He noted there will be lighting for safety.

VP MLRA – One of the biggest issues on the lake is trash and water quality. The lake was holding its own currently with water quality. Erosion is a big issue on this lake. There is a 33 gallon trash can filled with trash every Tuesday and Thursday. Last spring a dive team came in and worked on the westerly side of the lake, we got two pickup trucks loaded with bottles and trash. This year we will go to the other side.

VP MLRA – So our big thing on the beach is someone renting kayaks, come to the free beach and water craft is not allowed on the beach. It is very difficult to police. I know it’s nothing to do with the Planning Board but I want you to know how our members are feeling. I will try to get info from the State since the Planning Board is not in charge of the lake.

VP MLRA – Many comments were that it was strange that the timing is now, when most people have gone back home. They cannot go to the meeting.

VP MLRA – Transients including those with very nice boats, they do not know the lake. If you bring the markers in they have no idea what to do. I bought a map of the lake but the new people want lights and markers. We are the only lake left with authorized Coast Guard markers that is controlled by the State, even though the MLRA maintains them, repairs them and installs them but it is State controlled.

Madge B. – Do you know what State agency deals with the markers?

VP MLRA – The agency I am not sure, used to be the guy who owns Delorme Maps.

Citizen – If you wait a few minutes I can get it for you.

Madge B. – I am just trying to learn who has regulatory authority.

VP MLRA – The people who will rent the kayaks, paddle boards, outboards, hopefully they will know what they are doing. Even the people who own the camps doesn’t know what they are doing.

VP MLRA – The parking lot and runoff is the Planning Board's problem but the lake is the State's problem. I also count the Loons, and there are several nests. We are putting in a dock and there goes the Loon nesting area.

VP MLRA – How many boats do you think, within 100, how many boats the Acton/Shapleigh YCC that the taxpayers fund, to pay to check the boats at the boat ramp?

Citizen – 6000

VP MLRA – A little under, 5, 526. This is not counting Square Pond. This isn't a personal boat that uses their own ramp.

VP MLRA – Erosion projects last year, there were only six last year but they were busy on Square. We are working on erosion projects and I have a picture of what erosion does. I will give you a packet to review, which includes emails. What will kill the Town of Shapleigh, will be an evasive plant. A watercraft is anything that floats that can transport a person over a body of water, from one location to another.

VP MLRA – Please take the time to review the packets, which talks about the trash. I also had a call from someone who said she contacted the Land Use Secretary and was going to send a letter, did you get it.

Barbara F. – We did receive a letter from a Barbara Jones which I also spoke with on the telephone.

VP MLRA – How many did you actually get?

Barbara F. – I had two telephone calls and two letters.

VP MLRA – There will be many unhappy residents if this goes through.

Citizen – One thing I did not see was if the rental business is exclusive to Mousam or Lower Mousam Lake. There are several lakes 15 miles of Mousam including Arrowhead, Balch, Silver Lake, and known lakes with hazardous species. This property could be the starting point for the canoes, kayaks, etc. and if they end up being rented and go to these surrounding lakes, it will ultimately return to this property with no mechanism to inspect them. More boats that could contain an invasive plant and threaten the lake.

Roger A. asked Pat Baldwin if she would like to speak.

Pat B. – I find this proposal to be one that is above and beyond the safety and health of Mousam. In my opinion, a revision of plans or major cut-back in demands is absolutely necessary.

My first concern involves safety issues, especially on the lake. The location of this proposal is in a very congested area, it is shallow, narrow, has a very viable business and the bridge presents another issue unto its own. With the State of Maine boat ramp available, we have seen a dramatic increase in boat activity. In one boating season the ramp has approximately 6000 boats a year inspected for invasive vegetation. All these boats travel into that area to access the Upper Lake. There is no doubt that this is the most congested area of Mousam. Although the boat activity may not be increased that much with this proposal, it certainly adds to the boating issues or could be the straw that broke the camel's back. We see on Mousam that the boats coming in are not as apt to be aware or obey the boating laws, so if rentals are a condition, that will again be the case. Boat use in today's society also make use of skis and tubes which adds to the possibility of an accident and makes driving a boat that much more hazardous. Mousam is already over-loaded. Putting 20 boats in a narrow, congested area is ludicrous. Do the math and see the number of feet necessary for docks to accommodate the number of boats proposed. A kayak also presents a safety issue as they could get swamped very easily with the wakes of other boats. Another concern is road safety on Route 109 Route 11 area. The foot of the Pond area is most congested in the summer months with a great deal of foot traffic along with vehicle traffic adding to the congestion.

Water quality is also one of my major concerns. In the late 90's Mousam experience a downward trend in water quality prompting a major on-site evaluation and many remedial actions of major proportions. Mousam was turned around in water quality, but we on the lake were advised to be ever vigilant as eutrophication could re-appear. We have yet to maintain a level of 5ppm of O2 in the hypolimnion layer throughout the summer season which is needed to sustain the viability of our fishing population. More boats means more erosion and Churning up of the phosphorus and re-depositing into the lake. Also of great concern is the size of wake coming from the large boats in existence today. They are now 1 – 2' which cause shoreline erosion leading to more eutrophication. This project may not be a major contributor to the eutrophication, but it will certainly add to it, again, the straw that broke the camel's back.

One of the reasons for our Zoning Ordinance is to ensure a healthy lake and maintain a safe environment for its residents. Through 105.73 of the Zoning Ordinance, you have the tools to come to a reasonable solution. I strongly advise you to adhere to those criteria with careful consideration.

I would strongly urge that this Board request an Impact Study by the DEP and DOT before coming to any decision. Thank you for your time.

**The minutes from Tuesday, October 24, 2017 were accepted as read.**

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

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**Conditional Use Permit – Marina – Map 19, Lot 8 (17 Emery Mills Road) – Marc Boisse, Applicant; Wayne Berry, Property Owner**

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

Along with the application, presented to board members was a sketch plan of the existing lot, depicting an existing structure to be used in part as an office and show room; a proposed dock display area; a proposed 40' x 140' gravel parking area; and a lighted path covered in bark mulch which led to a proposed boat docking area having multiple slips. The sketch also provided site distance calculations of 660 feet in one direction and 560 feet in the other while exiting the property. Pictures of the property were provided depicting the existing structures, those being a house and attached barn, and an aerial view of the property. A document was provided from Wayne Berry (property owner) dated 10/4/17, which gave Mr. Boisse full permission to make an application for a marina on his property.

The detailed description of the project is as follows: Marina (see attached) The attachment read in part: The subject property is a 2.43 acre lot on Lower Mousam Lake with approximately 720 feet of waterfront and 278 feet of road frontage on Route 109. Our application is for 20 seasonal boat slips, dock sales and a small parking lot to serve our customers. We hope to offer a few boat rentals along with the option of renting kayaks and canoes on a daily or weekly basis.

At this evening's meeting, Mr. Boisse brought in an amended plan which depicted the location of lighting along the walkway to the boat docking area, outlets to provide power at the boat docking area, lighting on the docking area, and where a portable toilet will be placed; outside storage location for the docks to be sold, the size and location of the parking area (55' x 170') and lighting for that area, show room location in the existing structure, office (10' x 12') location in the existing structure, and a sign and display area running along Emery Mills Road. Also, the hours of operation were changed to 24 hours – 7 days a week.

In addition, provided was an email from the Bureau of Parks and Lands Boating Facilities Division which stated in part: We have no interest in that unless the slips extend out into the water more than 200'. Other than that it would be a Town issue.

Roger A. asked Mr. Boisse to share with the board the new information he brought to the meeting. Mr. Boisse reviewed the revised plan. He noted the new plan showed the path lighting, dock storage area, and lighting where the boat slips will be. The plan also depicted the 10' x 12' office space, portable toilet by the parking lot, as well as lights in the parking lot. He also noted the Inland Fisheries reply to his request as to whether or not he needed further permitting by the State (see above).

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Roger A. asked about the parking, how would it be set up? He asked if it was going up the middle, then branching off to the side? Mr. Boisse stated, "Yes." Roger wasn't sure there was enough parking. Mr. Boisse thought there was more than enough parking, based on what was discussed at the last meeting. Roger reviewed the plan with Mr. Boisse and there appeared to be enough parking.

Roger A. stated that there would be sales of docks, and an office for that. Mr. Boisse added, 'and boat slips'. Roger asked how far from the road the display area was? Mr. Boisse said it was in front of the house.

Roger A. asked about the hours of operation? Mr. Boisse stated that the office hours would be 8 a.m. to 6 p.m. but the boat slips would be open 24 / 7. Roger said that the whole business would be 24 / 7 because the parking area would not be closed or the boat slips. He said the hours include everything on site, regardless of whether or not the office is open.

Roland L. asked if there was any planned rental space in the farm house? He said, "There will be no one renting the house space?" Mr. Boisse stated, "No, not until you change the rules."

Roger A. asked what the number of boat slips would be, is it still 20? Mr. Boisse stated, "No, we put it up, just because I don't want to do this again. We may never have 30 or 35 but I wanted to make sure we didn't have to come back before the board." Roger noted the number of slips affects the parking. Mr. Boisse stated that he was aware of that. Mr. Boisse believed he was ok with the additional slips. Mr. Boisse stated that there is 7,700 square feet for parking at this time, and he believed he only needed 6,000 square feet.

Roger A. stated that they needed to add office space and the number of employees in the parking calculation. Mr. Boisse stated that the office was 10' x 12', and there was a secondary parking area in front of the house. He said he could enlarge the parking lot. He asked how many additional spaces were required? Roger asked how big the show room would be? Mr. Boisse believed it would be 20' x 20'. Roger said you need one space for every 150 sf of floor space and one for each employee. Mr. Boisse thought four would cover it. Roger asked him to place it on the plan.

**Roger A. stated that he believed the board was ready to hold a public hearing based on the information provided. He stated the public hearing will be held on Tuesday, November 14<sup>th</sup> at 6:00 p.m. A notice to abutters will be mailed as well.**

Mr. Boisse is going to adjust the parking lot on the plan and provide a copy for the board.

Nothing further was discussed.

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**Amendment to a Subdivision (Hemlock Hills) – Change Road Access Location for Lot 36-3 – Map 3, Lot 36-3 (Hooper Road) – Ted Theriault, Applicant & Owner**

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

The amendment to a subdivision application stated the following:

- Subdivision Name: Hemlock Hills – Deed Recorded at YCRD as Plan Book 167, Pages 34 & 35
- Location of Tax Map 3, Lot 36-3 – Plan Book 17449, Page 275
- Zoning of Property: Residential (General Purpose according to Town designation)
- None of the property is within 250 of the high-water mark of a pond, or river
- Acreage to be developed: 2+ acres
- Current Deed Restrictions: Driveway access limited to ROW only Lots 3 & 2
- The parcel includes no water bodies

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- The parcel is not within a special flood hazard area
- Current number of Lots in the Subdivision: 5
- Water Supply: Individual Wells
- Method of Sewerage Disposal: Individual Septic Tanks
- Fire Protection: 911

Also provided by the applicant, was a copy of the Town tax map depicting all the lots of the subdivision and the location of the existing ROW and proposed driveway location; a copy of the purchase and sale agreement showing that as of 10/23/17, Water's Edge Land Development was the owner of the property (Mr. Theriault); a copy of the Subdivision Plan known as Subdivision Plan Hemlock Hills, drafted by Daniel J. Dalfonso of Pinkham and Greer Consulting Engineers, Falmouth, Maine, approved by the Shapleigh Planning Board on 4/12/1988; and a letter from the Southern Road Commissioner, Caleb Chessie which stated the following:

*On 10/13/17, I inspected the property across from 350 Hooper Road, Map 3, Lot 36-3 for a concern about the existing shared access as written in the subdivision plan for Hemlock Hills, Plan Book 167, Pages 34 & 35 for lots 2 and 3.*

*I strongly recommend allowing driveway access above the telephone pole and/or closer to the northern end of the property along Hooper Road. There is serious potential for a line of sight hazard with the speed limit at 35 mph, a dip in the road and a corner. Winter conditions will only increase the hazard. There will be no impact to Hooper Road with this change, just a safer ingress/egress to the property.*

*Thank you for your time and consideration in making our streets and roads safer to travel.*

Roger A. asked Mr. Theriault to let the board know what he wanted to do. Mr. Theriault wanted to note that he took possession of the property on the 23<sup>rd</sup>, therefore the owner is no longer as stated on the application (Roger Rose).

Roger A. asked about the plan with Planning Board signatures. Barbara F. showed him that a copy of the signed subdivision plan was provided by Mr. Theriault. Roger stated his only concern was that the Town tax

map showed 178 feet on the road and 200 feet is required. But because there is a signed plan, there is no issue, otherwise there would have been an issue with not using the right-of-way.

Roger A. read the letter from RC Chessie (see above).

**Roger A. stated there would need to be a public hearing because any change to a subdivision requires a public hearing. It will be held on November 14<sup>th</sup> right after the Marina. The public hearing begins at 6:00 p.m.**

CEO McDonough asked if there was anything else needed from Mr. Theriault? Roger A. stated a new subdivision plan needs to be provided with a place for the Planning Board signatures. Note 9 needs to be changed to remove Lot 3 from the ROW requirement. Mr. Theriault asked who would generate the plan? Steve F. stated it would be easiest to go back to Pinkham and Greer and have them make the change.

Roger A. stated Note 9 should say 'Access to Lot 2 shall be via the 50' right of way'. That will remove Lot 3 from the requirement.

#### ***Shapleigh Planning Board Minutes – 10/24/17***

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Roger A. stated the board would need a Mylar that will get recorded at the YCRD and 2 paper copies, one for the board and one for his records. The board will sign all three at the meeting.

Mr. Theriault asked the board if they were ok with them doing work on the property prior to the Planning Board meeting. He noted they will not change the driveway location until they have the signed plan. Roger A. had no issue, as the rest of the permitting would be through the Code Enforcement Office.

Nothing else was discussed.

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#### **Growth Permits**

**Map 12, Lot 16 – (636 Newfield Road) – New Home**  
Existing lot of record.

**GP #11-17**

\*\*\*\*\*

**The Planning Board meeting ended at 8:08 p.m.**

**NOTE: The winter hours are in effect thru April 1<sup>st</sup>, the meeting begins at 6:30 p.m. and any scheduled public hearing begins at 6:00 p.m.**

*The next meeting will be held **Tuesday, November 14, 2017** 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 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.*

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

# ***SHAPLEIGH PLANNING BOARD***

## **MINUTES**

**Tuesday, November 28, 2017**

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

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**Minutes are not verbatim, unless in quotes “”**

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**Public Hearing began at 6:00 p.m.**

**Conditional Use Permit – Yoga Studio – Map 14, Lot 7 (242 Emery Mills Road) – Lindsey Kipp, Applicant; Rita George, Property Owner (P & S Agreement)**

Ms. Kipp was present for the Public Hearing.

Roger A. opened the public hearing by asking Ms. Kipp what she wanted to do.

Ms. Kipp began by stating she was a yoga instructor and now is the new owner of what was formerly George's Antiques. She said that she wanted to close the walls in and make a nice space for people to come in, lay down and relax. She would be adding a parking area to one side, on the left side of the building and it will be gravel, blend in and look natural. She planned on using crushed blue stone as it would not track into the studio.

Ms. Kipp stated she was advised by the Code Officer that she needed to have a one hour fire rated barrier between the house on top and the studio. She said there is an existing half bath that needed to be spruced up and it was basically turning the basement into a place where people will come in and relax, and a place for people to enter easily. She hoped people would notice the location as they drove by and think it would be a good place to relax in.

Roger A. asked what the hours of operation would be? Ms. Kipp stated she was proposing Monday thru Sunday, 6 a.m. to 10 p.m., and the reason it is odd is it includes different types of programming. There could be a 6 a.m. wake-up yoga, there could be a program running on Sunday night that might be a 6 to 9 p.m. seminar or workshop. She said there would also be ongoing classes and scheduled classes, which might run from 6 to 8 weeks. She would teach some herself, probably between 4 and 8 classes and she would also recruit other yoga teachers to teach classes as subcontractors. Areas that are not her specialty such as power yoga and children's yoga. She stated she specialized in therapeutic yoga, having worked with people with replacement hips and knees and aches and pains.

Ms. Kipp stated that if anyone had questions about the yoga studio she would be happy to speak about it. She said it was not like a store that was open all the time, people come for a particular class. She thought initially she would have between 6 and 8 offerings over six days. She said she had a Saturday morning yoga class that was popular with people in the Newfound Lake area; she thought this area was similar.

Ms. Kipp asked if there were any questions? Maggie M. asked about the size of the classes. Ms. Kipp stated

she believed it would be between 5 and 8 people. She said this was based on a studio she ran in the Newfound Lake area in NH which also had a large summer population, and many people who traveled thru Central Square. She said she would love 10 or 12 but that might take some time. If the classes get popular then she would add more classes to accommodate instead of increasing the class size.

Roland L. said he was doing a site visit and a gentlemen was working at the site, Bob, and he showed him around. Roland asked Bob if the horse-shoe entrance would be a one way? Ms. Kipp said she wasn't sure, she was playing with the parking design to see what would work best. She said the current design is because the State trucks used to park there and the former owner had the opportunity to use some extra asphalt, so it was paved for free where the State trucks parked. She said she wanted to add blue stone in the weedy area, she had been trying to park cars nose in, and the side parking may go in another direction. She wasn't sure yet what worked best. She was also trying to figure out what to use to delineate the actual parking area.

Madge B. said she had the same issue when she looked at the site, as to how the cars would be parked. She wanted to be sure the cars would not back out onto Route 109.

Roland L. said from the main studio to the back, there is a step. Would this be made handicap accessible? Ms. Kipp said, yes, there will be a ramp. Ms. Kipp said it has to be brought up to date. Her plans were a ramp and a landing, heading down to a sitting area, where people can come in and take off their shoes, etc. She said she made one change to the interior area. Initially she planned on a hallway to the half bath area but she may turn that area into a small room, 10' x 12'. The yoga mats and gear could be stored there and it would take the room for gear out of the yoga space.

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

The public hearing closed at 6:15 p.m.

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**The minutes from Tuesday, November 14, 2017 were accepted as read.**

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

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**Amendment to a Best Practical Location – Replace Retaining Wall, Same Size – Same Location – Map 26, Lot 40 (7 Buccaneer's Way) – Brad Sweet, Applicant**

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

At the meeting on November 14, 2017, Mr. Sweet provided members with a plan depicting the property showing the retaining wall to be replaced, the trees to be removed and where new trees will be placed on the property; pictures of the existing railroad tie retaining wall and trees to be removed; a plan for the new wall to be built which depicted the concrete block units, filter fabric and stone to be used behind the new wall, geogrid reinforcement, the base material and the upper and lower finished grade.

Also provided, was a project description which read as follows:

Tax Map 26, Lot 40

Replace existing retaining wall and replace in same location and dimensions with updated building materials.



Existing wall is 24' across the front with an average height of less than 4' across front and less than 2' on the sides.

Wall is entirely set on property; no area of wall or disturbance will impact abutters.

Construction design and materials attached on separate paperwork.

4 trees to be removed marked in yellow highlight on plot plan.

2 – 6' Maple trees or similar to be planted as near to new retaining wall as feasible (green highlight)

2 – 6' Maple trees or similar to be planted along inside of West boundary line.

The detailed description on the application is as follows: Replace existing retaining wall, remove 3 trees. Wall will be same size and location.

*Note: Members did a site inspection on an individual basis.*

Roger A. opened the meeting by asking Mr. Sweet to let the board know what his intentions were.

Mr. Sweet stated that he wanted to replace the existing retaining wall leaving it the same size and in the same location, with updated building materials.

Madge B. stated that there would be dirt removed and gravel brought in behind the new wall. Mr. Sweet stated that was correct. Madge asked much gravel would be moved, how would it be moved and where would it be moved to? Madge also asked about the septic system location. Mr. Sweet said there was a new system designed by Ken Gardner to be placed on site but it was not in yet. He said the system there now is no longer being used. The new system would be going up at the top of the property. Madge was glad to hear that as the existing system would be disturbed by the replacement of the wall. Mr. Sweet agreed. Madge asked again about the fill, how much would be moved. Roger A. agreed they needed to know.

Roger A. asked about the height of the wall, he believed it ran from three and one-half feet to five feet. Mr. Sweet asked where the five foot measurement was? Roger stated, "At the lake looking at the wall on the right-hand side." Mr. Sweet asked if he was speaking of all the way to the right in the corner, and noted the slope that had been eroded away. Roland L. said there was sod placed up against it. Mr. Sweet said they were correct in that there was approximately 18 inches that was five feet high. Roland believed the statement 'an average of 48 inches' was misleading. He said he went to the site and using two different measurement tools, 37 and one-half inches on the far left, 57 inches on the far right and not including the top tie bend inward. Roland stated at the halfway point it was 49 inches. Mr. Sweet stated, "Which was above grade." Roland said it was the height of the wall. Mr. Sweet said, "Yes." Roland said that he believed this triggered the Ordinance requirement that says it has to be an engineered wall. Mr. Sweet asked if the Ordinance read 'if any portion of the wall is four feet'. Roger said the section that is four feet needs to be engineered. He thought from the center to the right needed to be engineered. Mr. Sweet asked, "What if it isn't going to be four feet?" Roger said that Mr. Sweet stated it was going to be replaced as is. He said, "Now you are saying it will be no greater than four feet." Mr. Sweet said, "If I have to have it engineered." Roger said, "Then tell us what you want, and if so, tell us what you will do about grading the land behind it, because you are dropping down a foot." Mr. Sweet said he would raise what was in front of it.

Mr. Sweet said there was a grade to the top of the wall, then you drop down to where the sod was put down. He said he would bring that area up, there is a slope there now, and he will raise the slope 8 inches. Roger A. was concerned with how he would prevent the water from running over the second wall. Mr. Sweet believed they were adding 8 inches of elevation over 15 feet towards the front of the wall, not to the wall. Roger said he knew how it was going to be done, and was concerned about how Mr. Sweet was going to keep water from going over the wall into the lake.

Mr. Stanley asked if he could speak on Mr. Sweet's behalf, as he was the person who drafted the plan for the Best Possible Location and he was aware of what was on site. Mr. Sweet had no issue, nor did the board. Mr. Stanley asked if there needed to be certification from an engineer that the wall will not fall over and that it will be structurally sound or is this a drainage study? Roger A. said that the board needed an engineer to say that the wall will support the water coming down behind it, the pressure of it.

Mr. Stanley said he performed detailed topography for the Best Practical Location, he wanted to know if they bring the sections of the wall that are over four feet to Genest and have them run the numbers for the types of blocks Mr. Sweet wants to use, if Genest certifies the block will it suffice, will that satisfy the board? Mr. Stanley thought if the professionals at Genest can certify the blocks will hold five feet of soil, versus four feet, then perhaps an approval can take place. Mr. Sweet said it made sense to him, if it was alright with the board.

Mr. Sweet said it wasn't his intent to mislead the board about the numbers he provided. CEO McDonough asked Mr. Sweet if he was going to use Genest blocks? Mr. Sweet said, "Yes." CEO McDonough believed if Mr. Sweet followed what Mr. Stanley suggested, and get Genest to certify the block can withstand the height of the wall, he would be all set. CEO McDonough asked Roger A. if that was correct? Roger said, "Yes, that would be great."

Steve F. said the board could use a cross section of the geofabric, block and stone. Mr. Stanley said that Genest had a computer system, where you tell them what you are trying to do and they will state whether or not it will work. He said when you order the blocks it is part of the service. Steve asked what Mr. Sweet wanted to use for a block? Mr. Sweet said he was going to try to match what is going along the front wall, trying to make it as seamless as possible. He wants to find something similar.

Mr. Sweet wanted to state that he was the Chairman of the Stratham Planning Board for many years and he would never mislead anybody. He said the reason he asked what part of the walls counts is because when he did the average he low-balled, he started at 3 inches on the left and six on the right, and his average came out less than 4 feet. Roger A. said the board didn't look at the average height but any one area that is going to be over 4 feet. Mr. Sweet agreed that if it said any portion of the wall over four feet, absolutely there is. He added that his intent is to make the new wall as level as possible.

Mr. Sweet said he would commit to a block with Genest and then they will tell him if it will hold. Roger A. said that if the board gets a letter stating that it will work, then the board will be satisfied.

Mr. Sweet stated that he hadn't started any construction or earth movement for the Best Possible Location approved in June 2017, and he did not believe he would be able to make the deadline of that approval. He said he was going to hold off until the spring to begin. Roger A. said he could give the board a new date. Mr. Sweet said he spoke with Caleb Chessie (Contractor) and they will try to line up the foundation work, etc. in the spring. Roger asked about September of 2018, if that would work. Mr. Sweet believed it would. Madge B. said the board liked September, so the plantings will get put in and take before winter. Madge asked again about earth moving, how much earth is being moved behind the new wall? Mr. Sweet asked Mr. Stanley if he could provide this information. Mr. Stanley did not think this would be hard to do, he could provide an estimate. CEO McDonough stated that typically you can assume three feet of soil will be removed the length and height of the wall, then crushed stone and filter fabric will be put back in behind the new wall. He said take the wall height average, by the length, by 3 feet and that is the answer. Mr. Stanley agreed and said the information is in a CAD file, so he could have it done in five minutes.

CEO McDonough said the only other issue he needs to know is how many trees are being removed, replaced, and how the area will be stabilized when the job is finished. Mr. Sweet said, “OK.”

Roland L. asked about the replanting plan, in the upper left hand area is a tree to be removed. He wanted to know if it was being removed due to the new septic system or was it because it was dead. Mr. Sweet said it was both. He said when Mr. Chessie came to the site, he told him that the tree should be removed due to the septic location. Roland asked why it was being removed, due to the septic or due to it being dead? He felt it was a mature white pine, doing what a white pine does, the lower limbs die and it flourishes at the top. Mr. Sweet said it would impact the septic system, and the line from the home to the leachfield. Roland asked if CEO McDonough had the septic plan? CEO McDonough said he hadn’t received it yet. Mr. Sweet stated that he had the plan if Roland wanted to look at it. Roland said, “No.” Mr. Sweet stated that with respect to whether or not the tree was dying, he was not an arborist, he was going by what Mr. Chessie had told him.

Mr. Sweet asked if he could remove the trees prior to approval because he had someone lined up for next Monday but if he could not remove the trees he would cancel. CEO McDonough stated he had no issue with the tree removal, but he wanted to have the replanting plan and a date for the replanting. Roger A. agreed he had no issue with the trees coming down with a permit from CEO McDonough.

Roger A. asked for a motion to extend the completion date for the Best Possible Location, approved by the Planning Board in June to September 1, 2018.

**Madge B. made the motion to have the completion date for the BPL approved in June 2017, including the replanting of vegetation moved to September 1, 2018. All other conditions of approval to remain as written. Steven F. 2<sup>nd</sup> the motion. All members were in favor. By a vote of 5 – 0, the motion to approve was unanimous.**

**Roger A. stated the board would postpone the application to replace the existing wall until the next meeting, to be held on December 12<sup>th</sup> at 6:30 p.m. He noted there would be a snow date of December 13<sup>th</sup>.**

**The board needed the information from Genest concrete that in fact the materials chosen for the wall would support the five foot height. Also the amount of fill to be removed from behind the wall, and replaced needed to be addressed, along with where the fill to be removed shall be taken.**

Nothing further was discussed.  
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**Conditional Use Permit – Yoga Studio – Map 14, Lot 7 (242 Emery Mills Road) – Lindsey Kipp, Applicant; Rita George, Property Owner (P & S Agreement)**

Ms. Kipp was present for the review of the application.

At the previous meeting, along with the application, Ms. Kipp provided a letter from Rita George, dated 10/25/17, stating that Lindsey Kipp had an accepted Purchase and Sale Agreement on her property, and she had permission to pursue her Conditional Use Permit; a letter from Rita George dated 10/18/17, stating that the antique business on the property remained open until the end of July 2017; several plans of the property, one showing the ‘Birdseye View’ which depicted the location of the existing well, wooded area, where the studio will be and that the residence is on the 2<sup>nd</sup> floor, a proposed gravel parking area, as well as the existing parking area; a dimensional plan depicting the square footage of the proposed gravel parking area, existing parking area and length and width of the existing structure; a plan depicting the interior renovations of the

proposed yoga studio and a letter from Stoney Road Septic, which stated ‘We have been serving George’s Antiques for several years now, 1998, 2001, 2004, 2008, 2013, 2015, 1000 gallon septic tank.’

In addition, provide was a detailed description of the project, giving details noted as Exterior, which included painting the building, signage, traffic flow, parking information, and parking lot construction; details noted as Interior, which included all modifications to the downstairs commercial space. It was written that water use on sight would be nominal, hand washing and toilet usage. A sample Yoga Studio Class Schedule was provided and it stated that the beginning schedule would be 6 to 8 classes a week, with an estimated average attendance of 5 to 8 people. In the summer of 2018 it was hoped that 8 to 10 class events would be offered, with an average attendance of 8 to 10 students. Classes will be taught by Ms. Kipp, along with sub-contracted teachers.

*Note: Member did a site inspection on an individual basis.*

Roger A. asked Ms. Kipp what the actual size of the business was? Ms. Kipp stated 46’ x 24’ and noted there was a 14 foot storage area. Roger was asking for this information to address the number of parking spots required. The square footage would require 6 parking spots, this did not include the number of employee’s and the number of students expected would be taken into consideration as well, for this type of business. Ms. Kipp did state that class sizes would be limited to 12 and then additional classes would be added so there would be plenty of room within the class area for people to relax and stretch out.

**Roger A. began review of the Basic Performance Standards for the application.**

- 105-17 – Land Uses.** *Roger A. stated the reason this application is before the board is because a business requires a Condition Use Permit or a change in the business or use. This location is going from an Antique’s Store to a Yoga Studio, therefore, a new permit is required.*
- 105-21 – Traffic.** *Roger A. stated access to the site was safe, the minimum and maximum distance required distance can be met in both directions. The minimum required is 315’ at 45 mph.*
- 105-22 – Noise.** *Roger A. stated there will be no noise generated from the activity.*
- 105-23 – Dust, fumes, vapors and gases.** *Roger A. stated there is no dust, fumes, vapors or gases, generated by this activity.*
- 105-24 – Odors.** *Roger A. stated there will be no obnoxious odors generated.*
- 105-25 – Glare.** *Roger A. stated no glare can be allowed beyond the lot lines. Roger asked the applicant if there would be additional lighting on the building? Ms. Kipp stated that she wanted to have a sign on the building that will be lighted, instead of alongside the road. She felt this would be better for visibility while pulling out, as well as aesthetically it would look best. CEO McDonough stated that the issue was that no light points out toward the neighboring property or toward Route 109. Roger asked if the parking area would be lighted? Ms. Kipp stated that the lower door & ramp would be lighted. She planned on replacing the light at the end of the ramp, and have a light that shines on the parking area on the side and the ramp. Again, Roger told Ms. Kipp to be certain it did not shine beyond the lots lines.*
- 105-26 – Stormwater runoff.** *Roger A. stated there are no changes being made to the property that would cause a stormwater problem. He noted there would be a minor change to the parking area but the gravel and grade should prevent a stormwater issue. Ms. Kipp told the board that the area will be slightly leveled and it currently has very good drainage. She stated she was on site during a very hard rain recently and all water remained on site and drained into ground, there was no ponding.*

- 105-27 – Erosion control. **Roger A. stated there are no changes being made to the existing property that would cause an erosion problem.**
- 105-28 – Setbacks and screening. **Roger A. stated much of the existing vegetation will remain other than some ground cover for the parking area.** Roger A. asked Ms. Kipp if the existing hemlock would be removed? Ms. Kipp stated it would remain as long as it was healthy, noting another hemlock that had blown over recently that was not a healthy tree.
- 105-29 – Explosive materials. **Roger A. stated, there shall be none on site and none to be generated.**
- 105-30 – Water quality. **Roger A. stated, there is no waste or hazardous material generated by this activity to affect water quality.** Roger A. stated it would be up to Ms. Kipp to be certain the water from the well would be safe to use as drinking water. Ms. Kipp stated that water use would be minimal, typically students bring their own water in bottles.
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. **Roger A. stated there are no major changes being made to the existing area, just a slight enlargement to the parking area. There is no outside storage associated with this activity.** Ms. Kipp stated she would be relocating some raised beds as she wanted the area to have a nice appearance and flow to it. She also stated she would be removing some existing debris.
- 105-32 – Relation of proposed building to the environment. **Roger A. stated the building will conform well with others in the surrounding area.**
- 105-33 – Refuse disposal. **Roger A. stated there was minimal refuse generated by this activity. Refuse will be removed by the applicant.** Ms. Kipp stated that there is minimal trash associated with this activity, perhaps one trash bag a week.
- 105-43 – Off-street parking and loading. **Roger A. stated there was plenty of off-street parking if employees were allowed to use the parking area behind the existing structure.** Board members reviewed the size of the yoga studio, the proposed number of students, as well as having one instructor per class. Ms. Kipp stated there would only be one class held at a time and she did not expect class size to exceed 12 participants. The board was adamant about patrons not backing out onto Route 109 and Ms. Kipp agreed she would arrange parking and delineate the parking area so this would not occur. With parking being used behind the existing structure as needed, with the additional area being proposed on the side, and limiting the number of students in the class and adding classes as needed, the board concurred the proposed parking would be adequate.
- 105-46 – Sanitary provisions. **Roger A. stated an existing State approved septic system is on site at this time for the residence.**
- 105-47 – Signs and billboards. **Roger A. stated that all signage must be permitted and approved through the Code Enforcement Office.**

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

**Roger A. then reviewed §105-73.G ‘Standards applicable to conditional uses’ and made findings of fact.**

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

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. **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 not applicable.***
- 3) The use is consistent with the Comprehensive Plan. ***Roger A. stated the Comprehensive Plan encourages businesses along Route 109.***
- 4) Traffic access to the site is safe. ***Roger A. stated it is, the minimum and maximum site distances are met in this location.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***Roger A. stated it is, the structure is not in the flood zone.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***Roger A. stated that there is an existing State approved septic system on site and refuse will be minimal and removed by the applicant.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***Roger A. stated that there is 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 there are no changes being made that would affect stormwater drainage, there is adequate vegetation on site to absorb stormwater and the gravel base also lends itself to good drainage. There is only a minor adjustment being made to the existing parking area.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***Roger A. stated there are no changes being made on site to create an erosion or sedimentation issue. There is only a small modification being made to the existing parking area.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***Roger A. stated that there is, a hydrant is located near the Emery Mills Dam.***
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. ***Roger A. stated everything is in existence, no changes are being made. There are no detrimental features associated with this proposed business. There shall be no lighting shining onto Rte. 109 or onto neighboring properties.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***Roger A. stated they shall with conditions.***

The conditions of approval are as follows:

- 1) The hours of operation shall be 6:00 a.m. thru 10:00 p.m., seven days a week.
- 2) There shall be no parking on Route 109, or vehicles backing out onto Route 109 allowed.
- 3) Signage and a building permit for the new structure shall be permitted through the Code Enforcement Office.

**Madge B. made the motion to approve the Conditional Use Permit to open a Yoga Studio on Tax Map 14, Lot 7 with the above stated conditions. Maggie M. 2<sup>nd</sup> the motion. All members were in favor. The motion passed unanimously by a vote of 5 – 0.**

Nothing else was discussed.

### **The Findings of Facts**

1. The owner of Shapleigh Tax Map 14, Lot 7 (242 Emery Mills Road), as of the approval of this application is Lindsey Kipp, P.O. Box 284, Union, NH 03887. Former owner Rita George of 242 Emery Mills Road, Shapleigh, ME 04076.

2. The property is located in the General Purpose District and according to the assessor, the property contains 1.5 acres.
3. The applicant is before the board for a Conditional Use Permit to open a yoga studio.
4. George's Antiques operated out of this location until July 2017. There is also living quarters in the existing structure.
5. Received from Ms. Kipp was a letter from Rita George, dated 10/25/17, stating that Lindsey Kipp had an accepted Purchase and Sale Agreement on her property, and she had permission to pursue her Conditional Use Permit; a letter from Rita George dated 10/18/17, stating that the antique business on the property remained open until the end of July 2017; several plans of the property, one showing the 'Birdseye View' which depicted the location of the existing well, wooded area, where the studio will be and that the residence is on the 2<sup>nd</sup> floor, a proposed gravel parking area, as well as the existing parking area; a dimensional plan depicting the square footage of the proposed gravel parking area, existing parking area and length and width of the existing structure; a plan depicting the interior renovations of the proposed yoga studio and a letter from Stoney Road Septic, which stated 'We have been serving George's Antiques for several years now, 1998, 2001, 2004, 2008, 2013, 2015, 1000 gallon septic tank.'
6. The detailed description of the proposal provided the following: description of the project, giving details noted as Exterior, which included painting the building, signage, traffic flow, parking information, and parking lot construction; details noted as Interior, which included all modifications to the downstairs commercial space. It was written that water use on site would be nominal, hand washing and toilet usage. A sample Yoga Studio Class Schedule was provided and it stated that the beginning schedule would be 6 to 8 classes a week, with an estimated average attendance of 5 to 8 people. In the summer of 2018 it was hoped that 8 to 10 class events would be offered, with an average attendance of 8 to 10 students. Classes will be taught by Ms. Kipp, along with sub-contracted teachers.
7. The board reviewed the Basic Performance Standards and the board concurred the application met all the standards imposed.
8. 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.
9. A notice was mailed to all abutters within 500 feet of the property on November 15, 2017. Meetings were held on November 14, 2017 and November 28, 2017. A site inspection was held on an individual basis and the public hearing was held on November 28, 2017.
10. The Planning Board unanimously agreed to approve the Conditional Use Permit to open a yoga studio, to be located on Map 14, Lot 7, per the plans provided with conditions.
11. **The conditions of approval are:**
  - 1) **The hours of operation shall be 6:00 a.m. thru 10:00 p.m., seven days a week.**
  - 2) **There shall be no backing out onto Route 109 allowed or parking on Route 109, at any time.**
  - 3) **Signage and a building permit for the new structure shall be permitted through the Code Enforcement Office.**

**Motion:**

After careful consideration and a review of all material presented to the Board, including the review of the Zoning Ordinance ‘Basic Performance Standards’, and §105-73, Section G, ‘Standards applicable to conditional uses’ a motion was made on Tuesday, November 28, 2017, to approve the Conditional Use Permit to open a yoga studio, to be located on Map 14, Lot 7, per the plans provided and with three conditions.

**Vote:**

By a unanimous vote of 5 – 0, the motion to approve the Conditional Use Permit to open a yoga studio, to be located on Map 14, Lot 7, per the plans provided and with three conditions, was accepted.

**Decision:**

**The Conditional Use Permit for a yoga studio, to be located on Map 14, Lot 7, per the plans provided and with three conditions was approved.**

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**Minor Subdivision – 3 Lots – Map 9, Part of Lot 1A (Apple Road & West Shore Drive) – LinePro Land Surveying, Representing; James Chadbourne, Property Owner**

Mr. Joseph Stanley of LinePro Land Surveying was present for the review of the application.

**The application for the 3 lot subdivision contained the following information:**

Name of Property Owner: James Chadbourne of 173 Butternut Trail, Wells, Maine 04090

Name of Authorized Agent: Joseph Stanley of LinePro Land Surveying LLC, 455 Main Street, Springvale, Maine 04083

**Land Information:**

Location of Property: YCRD Book 16904, Page 325

Shapleigh Tax Map 9, Part of Lot 1A

Current Zoning: General Purpose

Part of the Property lies within 250 of the high-water mark of a pond or river.

Acreage to be

Developed: 9 Acres

Property is not part of a prior subdivision.

There have been no divisions within 5 years.

Existing Use: Wood Lot

The parcel does include a waterbody.

The parcel is not within a special flood hazard area.

Proposed Name of

Development: Hidden Cove

Number of Lots: (3) Three

Date of Construction: Fall of 2018

Date of Completion: Fall of 2019

Infrastructure

Required: No

The property currently has road access.

Estimated Cost of

Improvements: \$25,000 – Private Way



Method of Water Supply: Individual Wells  
Method of Sewer Disposal: Individual Septic Systems  
Method of Fire Protection: Possibly Sprinklers, not certain at this time.

There are no Proposed: Streets  
Recreation Areas  
Common Land  
Requested Waiver(s): To be submitted with sketch plan.

Also provided with the application was a Preliminary plan of the proposed three lot division. The plan depicted Lot 1 as being 2.00 Acres in size, Lot #2 as being 4.05 Acres in size (2.39 Acres Net); and Lot #3 being 2.62 Acres in size. The plan also had proposed building envelopes and contour lines for Lot #1 and #2, the location of a wetland on Lot #2, as well as a brook that ran through both Lot #2 and Lot #3. The location of Apple Road and West Shore Drive were depicted and the Acton / Shapleigh town line which abuts Lot #1.

Roger A. asked Mr. Stanley to let the board know what Mr. Chadbourne wanted to do.

Mr. Stanley began by stating this was a preliminary conceptual plan, even though there was a lot of time and effort into it to date. He said they were trying to get the best use of the land and follow the ordinance. The project is on the north shore of Square Pond and the proposal is for a 3-Lot minor subdivision. The property is at the end of two different town roads, one in Shapleigh and one in Acton. He said the westerly boundary of the property is the town line between Acton and Shapleigh. The proposal is to create frontage on Apple Road, and on the Acton side they will use West Shore Drive which is a town road up to the property. He said there was about 40 feet between where the pavement ends and the property begins and he noted that he was currently in discussion with the Acton Road Commissioner about how he would like them to deal with this section of town road to get to Shapleigh. There are additional meetings planned to discuss snow plowing, where the snow will go, etc.

Mr. Stanley stated this is a 9 acre piece with the lake at the bottom and a natural feature to consider which is a seasonal brook but meets the definition of brooks, therefore, they will honor the 75 foot setback required. The brook drains out of a small wetland to the north. He stated they did not want to cross it or be near it, consequently one lot will have 200 feet of lake frontage and the remaining 500 feet of frontage will be divided between the two lots which will come off a private way off of West Shore Drive.

Mr. Stanley stated that they had an engineer from Sebago Technics who will create a detailed plan once the board is comfortable with the layout. He said that the engineer they were working with has looked at the project / topography and helped with the current layout and discussed different options. Mr. Stanley believed this was the best design to deal with the road, brook and water runoff. To meet the town's requirement of not grading within 10 feet of the property line, they are proposing a 60 foot wide right-of-way, instead of the typical 50 foot right-of-way.

Mr. Stanley said they were welcoming the site walk and have held off on further design until they are sure they have accommodated all views and opinions about the design of the lots. Roland L. said that Lot 1 was accessed from West Shore Drive. He asked if Lot 2 was also accessed from West Shore Drive? Mr. Stanley and Madge B. said, "Yes." Mr. Stanley said he, the client, and engineer envision one driveway coming off

the end of West Shore Drive, to a building or garage and the other would ride across the ridge to get to the house. Roland asked, “But not plan on crossing the brook?” Mr. Stanley said, “No.”

Madge B. asked if the purple outlines were the buildable areas? Mr. Stanley said it would be the building envelope if the lots were this configuration, and what they were dealing with on site. He said again they toyed with several designs for road frontage and to utilize lake frontage and to date this is the best concept they could come up with.

Roger A. asked if there was 200 feet of road frontage for Lot 2? Mr. Stanley said yes, each side of the hammerheads is 50 feet. There were four hammerheads, 50 plus 50 plus 50 plus 60, so actually 210 feet. Roger said they would need the road standards noted, depth of gravel, etc. Mr. Stanley said that he understood, tonight was to get the site inspection scheduled and see if the design would work, then the engineering information will be presented.

Roger A. asked that on Apple Road, the parking area depicted on the plan, is this an easement? Mr. Stanley said, no, some of the neighbors park their boats and some is overflow parking. It is not part of the subdivision, but he just wanted it noted as it does exist. When you are there you know you are close to the lot.

Roger A. asked about power? Mr. Stanley said there is an existing power line going through the property. He said there may be a pole moved or some may be put underground to make it more aesthetically pleasing.

Roger A. asked if any waivers were requested? Mr. Stanley said the typical ones will be asked for. Board members noted stone monuments, sidewalks. Mr. Stanley agreed. He said by the next meeting they can submit this information.

Roger A. asked if the test pits were dug yet? Mr. Stanley said, no, this was a conceptual plan but added that the slopes were correct. He said if they get positive feedback from the site visit then they will move forward with this information as well.

CEO McDonough asked if the wetland was of any significance or mapped on the zoning map? Board members looked at the map and it was not.

**Roger A. stated a site visit would be scheduled. Board members agreed to schedule it for Sunday, December 3<sup>rd</sup> at 9 a.m. Members will meet at the town hall and go over together. (Roland was not able to go on Sunday, he would go at another time.)**

Nothing further was discussed.

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**Best Possible Location – Replace Existing Structure – Map 39, Lot 31 (139 Granny Kent Pond Road) – Christopher Colwell, Applicant & Owner**

Mr. Colwell and his wife Vicki were present for the review of the application.

Along with the application, Mr. Colwell provided a plan which depicted the location of the existing structure, as well as the proposed location of the new structure. Measurements from the existing and proposed structure to the lake, side lot lines and to Granny Kent Pond Road were provided. Existing distance from the camp to Granny Kent Pond at the closest point is 74.45 feet; existing distance to Granny Kent Pond Road is 5.99 feet at the closest point; existing distance to Lot 32 is 3.35 feet to the closest point; and existing distance to Lot 30 is 15.80 at the closest point.

The proposed structure distance measurements are as follows: 74.60 at the closest point to Granny Kent Pond; 7.03 feet to Granny Kent Pond Road; 14.24 feet to Lot 32; and 13.91 feet to Lot 30. It was also noted on the plan that the proposed building would be 600 S.F.

The detailed description on the application states: Replace structure with one floor and full basement.

Roger A. asked Mr. Colwell to tell the board what he was proposing to do.

Mr. Colwell stated he owned 139 Granny Kent Pond Road and noted he had owned it for over 15 years. He said the camp was originally owned and built by his grandfather and he would like to take it down (it is not in good condition) and move it more toward the center of the lot, noting it did not put him closer to the water. This would get the new building farther from his neighbor. He noted the neighbor had his patio on his land but it didn't bother him.

Ann H. asked if the property was the one with the caution tape around it and Mr. Colwell stated that it was and explained the why. He said the structure was so old, that when he accidentally backed into it with a U-Haul truck it caused a lot of damage.

Mr. Colwell stated that his septic was existing but it was across the street, which is why it wasn't on the plan.

Roger A. said additional information the board would need would be how the disturbed area would be landscaped after the project is completed. Mr. Colwell said he went to the site today and looked at the trees that are in existence and he did not believe any would have to be removed. He added that the existing ground cover is pine needles, small spots of grass, and gravel. He said CEO McDonough said the board did not like grass, so he asked the board what they would like to see? More ground cover? Roger said, "Yes." Roger stated that all areas that are disturbed, including all areas that will be dug up, will need to be landscaped.

Roger A. asked if the DEP was notified? Mr. Colwell asked what that was? Roger said that it is called a DEP Permit by Rule, you notify them that you are removing the camp and wait to see if they have any comments or concerns about the project. It takes 14 days and if they do not get back to you, then they have no issue with the project or they may add conditions.

Roger A. stated that the board needed to be sure the person doing the work, including the landscaping, was DEP certified in erosion control measures. He said most people in this area were certified or Mr. Colwell could look on the DEP website to be sure the person he is going to use is certified.

Mr. Colwell asked if he had to have the DEP permit before approval. Roger A. said that the board could not approve until they knew the DEP was ok with the project. CEO McDonough gave Mr. Colwell the number to call to get the required information.

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

**Roger A. stated the board would do a site inspection on Sunday, December 3<sup>rd</sup> and a notice to abutters will be mailed as well.**

Nothing further was discussed.

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**OTHER:**

**Proposed Ordinance Changes**

Members decided to hold a workshop on Tuesday, December 5<sup>th</sup> at 5:00 p.m. in order to prepare for the upcoming Public Hearing on the Ordinance changes to be held on Tuesday, December 12<sup>th</sup> at 6:00 p.m.

The Ordinances beings affected are:

§105-4.D(7)(b)(1)(a); §105-17; §105-18; §105-19 & §105-42

**Growth Permits**

There are growth permits available.

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**The Planning Board meeting ended at 8:48 p.m.**

**NOTE: The winter hours are in effect thru April 1<sup>st</sup>, the meeting begins at 6:30 p.m. and any scheduled public hearing begins at 6:00 p.m.**

*The next meeting will be held **Tuesday, December 12, 2017** 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 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.*

Respectively submitted,

Barbara Felong,

Land Use Secretary     [planningboard@shapleigh.net](mailto:planningboard@shapleigh.net)

# SHAPLEIGH PLANNING BOARD

## MINUTES

Wednesday December 13, 2017

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

\*\*\*\*\*

Minutes are not verbatim, unless in quotes “”

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### **Public Hearing began at 6:20 p.m.**

- Proposed Amendments to §105-4.D(7)(b)(1)(a); §105-17; §105-18 & §105-19; §105-42 §105-40.2; 105-61.6 & New Definitions for Two-family Dwelling Unit & Dwelling Unit

Roger A. opened the meeting by stating the public hearing was for the proposed changes to the Zoning Ordinance. Madge B. stated that she sent the proposed changes to Southern Maine Regional Planning because they were the original authors of the Zoning Ordinance and this was their area of expertise.

The following are the proposed changes:

### **Proposed Amendment to §105-4.D(7)(b)[1][a]**

Trees removed in order to relocate a structure must be replanted with at least one native tree, six feet in height, measured from the base of the trunk to the top of the tree, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed. **Trees shall be planted greater than five feet from side lot lines, and shall create a ‘well distributed’ stand of trees.**

*Roger A. stated this change is proposed to not only give the trees room to grow but to keep the trees from intruding on the neighbor’s property.*

### **Proposed Addition to §105-17**

#### **LAND USES**

| <b>RURAL</b>                                    | <b>RP</b> | <b>SD</b> | <b>GP</b> | <b>FD</b> | <b>SP</b> |
|-------------------------------------------------|-----------|-----------|-----------|-----------|-----------|
| Agricultural, commercial gardening <sup>4</sup> | CU        | CU        | YES       | YES       | CU        |
| Seasonal sale of produce and plants raised:     |           |           |           |           |           |
| Off Premises <sup>4</sup>                       | NO        | CU        | CU        | CU        | CU        |
| On the Premises <sup>4</sup>                    | NO        | CU        | YES       | CU        | CU        |

**<sup>4</sup>Marijuana is neither considered an agricultural crop nor commercial gardening. Marijuana is not considered a seasonal produce or plant. Conduct pursuant to the Maine Medical Use of Marijuana Act, 22-M.R.S.A. c.558-C requires a Conditional Use Permit.**

Roger A. stated this change was for additional clarification with respect to the existing Marijuana Ordinance enacted in March 2017 (Chapter 48 Marijuana) and the Maine Medical Use Marijuana Act.

# **§105-18. Dimensional Requirements**

| Commercial and Industrial Dimensional Requirements (A) |                              |                    |                          |                     |                            |
|--------------------------------------------------------|------------------------------|--------------------|--------------------------|---------------------|----------------------------|
| Land Uses                                              | Resource Protection District | Shoreland District | General Purpose District | Floodplain District | Stream Protection District |
| Maximum lot coverage by structure                      | N/A                          | 10%                | <b>20%</b>               | <sup>2</sup>        | 10%                        |

| Residential Dimensional Requirements (A) |                              |                    |                          |                     |                            |
|------------------------------------------|------------------------------|--------------------|--------------------------|---------------------|----------------------------|
| Land Uses                                | Resource Protection District | Shoreland District | General Purpose District | Floodplain District | Stream Protection District |
| Maximum lot coverage by structure        | N/A                          | 10%                | <b>20%</b>               | <sup>2</sup>        | 10%                        |

Roger A. and Madge B. stated this change was due to comments made from citizens during the questionnaire mailed out for the Comprehensive Plan, as well as local business owners. The change in lot coverage will only be in the General Purpose District.

## 19: Notes

- A. Each lot on which is located a principal structure or use, unless in compliance with Sections 105-40.2 or 105.42 of this Ordinance, shall meet all the dimensional standards set forth in section 105-18. Dimensional requirements for two and multifamily dwellings are set forth in 105-42 of this chapter. Required yard space shall serve only one lot. No part of the yard or other open space required on any lot for any building shall be included as part of the yard or open space similarly required for another building or lot. If more than one When two principal governmental, institutional, commercial or industrial structures or uses, or combination thereof, is are constructed or established on a single parcel, all dimensional requirements for shall be met for each additional one principal structure or use shall apply. Dimensional requirements for a residence and a non-residential use on one conforming lot are set forth in 105-40.2

## 105-42:

- A. Two family dwelling units. Lots for two family units shall meet all the dimensional requirements for a single family dwelling unit except that the lot area and the shoreland frontage shall be equal to that required for an equivalent number of single family dwelling units and the road frontage shall exceed by 50% the requirement of a single family unit.

- A. Two-family dwelling unit: A lot with one two-family unit shall meet all the dimensional requirements of a lot with a single-family dwelling unit, providing the lot and structure dimensions conform to ordinance standards in effect at the time the two-family dwelling unit is proposed.

New definitions:

Two-family dwelling: Any building that contains two dwelling units used, intended, or designed to be built or occupied for living purposes.

Dwelling Unit. A single unit providing complete independent living facilities for two or more persons, including two permanent provisions for living, sleeping, eating, cooking, and sanitation. The term shall include manufactured housing units but shall not include trailers or recreational vehicles.

~~Dwelling Units—A room or group of rooms designed and equipped exclusively for the use as living quarters for only one family, including provisions for living, sleeping, cooking and eating. The term shall include manufactured housing units but shall not include trailers or recreational vehicles.~~

105-40.2 One non-residential use on a single-family residential lot

A. One use, other than a Home Occupation or a Child day care, may be located on a single-family residential lot that conforms to all ordinance dimensional standards in effect at the time the owner applies for the use, providing a CU or CEO permit if required by 105-17 is secured for the use, and providing there is only one single-family residence on the lot.

*Members discussed whether or not the ordinance change reducing the required lot size for a two-family dwelling unit or a residence and non-residential use should be for the General Purpose District only or could include the Shoreland District. Members agreed that if a change was made in the Shoreland District it would require MDEP approval prior to proposing it at Town Meeting. In addition, it was agreed there were very few lots in the Shoreland District that would meet the dimensional requirements of a lot, therefore, the changes presented in 19 Notes and in §105-42 will pertain only to lots in the General Purpose District at this time.*

*Roger A. also noted that he was not personally in favor of reducing the lot size requirement for a two-family dwelling unit or allowing a dwelling unit and a business on a smaller lot, citing Shapleigh could begin to lose its rural character, allowing developers from out of town the ability to bring in multiple family housing units.*

Zoning amendment to Article 105-61.6

105.61.6 Retaining walls: Any portion of a retaining wall in excess of 48 inches in height shall be designed by a licensed engineer or the owner shall secure a written confirmation by a licensed engineer that the proposed wall will be structurally sound if built as designed.

Roger A. stated this was being added to the Zoning Ordinance to mirror the requirement in the building code.

Later in the meeting, CEO McDonough thought the board might look at what is written in the building code regarding walls prior to their next public hearing. They may want to incorporate it into the ordinance as written in the BC. 2015 IRC R404.4 reads as follows:

Retaining walls, freestanding walls not supported at the top, with more than 48ins of unbalanced backfill must be designed by an engineer. Retaining walls resisting additional lateral loads and with more than 24ins of unbalanced backfill must also be designed in accordance with accepted engineering practice.

*CEO McDonough noted that if this is put into the ordinance it would have to be followed as written.*

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

The public hearing closed at 6:42 p.m.

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**The minutes from Tuesday, November 28, 2017 were accepted as read.**

***The planning board meeting started at 6:45 p.m.***

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**Amendment to a Best Practical Location – Replace Retaining Wall, Same Size – Same Location – Map 26, Lot 40 (7 Buccaneer’s Way) – Brad Sweet, Applicant**

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

At the meeting on November 14, 2017, Mr. Sweet provided members with a plan depicting the property showing the retaining wall to be replaced, the trees to be removed and where new trees will be placed on the property; pictures of the existing railroad tie retaining wall and trees to be removed; a plan for the new wall to be built which depicted the concrete block units, filter fabric and stone to be used behind the new wall, geogrid reinforcement, the base material and the upper and lower finished grade.

Also provided, was a project description which read as follows:

Tax Map 26, Lot 40

Replace existing retaining wall and replace in same location and dimensions with updated building materials.

Existing wall is 24’ across the front with an average height of less than 4’ across front and less than 2’ on the sides.

Wall is entirely set on property; no area of wall or disturbance will impact abutters.

Construction design and materials attached on separate paperwork.

4 trees to be removed marked in yellow highlight on plot plan.

2 – 6’ Maple trees or similar to be planted as near to new retaining wall as feasible (green highlight)

2 – 6’ Maple trees or similar to be planted along inside of West boundary line.

The detailed description on the application is as follows: Replace existing retaining wall, remove 3 trees. Wall will be same size and location.

Roger A. opened the meeting by asking Mr. Sweet to let the board know what new information he had for the board.

Mr. Sweet stated that the board had asked him to get information from Genest Concrete, so he spoke with them and they gave him information about when geo-synthetic reinforcement needed to be used. The information addressed 1 foot to 18 foot walls, his being in the 5 foot range. Mr. Sweet stated he would be using either Diamond Pro or Highland, both being rear overlapping blocks.

The board reviewed the information and Roger A. stated that according to the information it appeared no tie-backs would be required. Mr. Sweet agreed, as long as there are no large slopes behind it and the type of soil also is a factor he believed. Roger agreed and said it was very sandy in this area so it would drain well.



Mr. Sweet stated that the board had also asked for the amount of soil to be moved during the project. He said based on the requirement listed on the information sheet from Genest for soil to be removed and replaced behind the wall, that being 4 feet, and the length of the wall being 24 feet and the height being 5 feet, this comes to 48.5 cubic feet. He stated this translated into 17.8 yards of fill being removed and then added back behind the wall.

Roger A. asked if there would be plantings on top of the wall? What would stabilize the area once the wall was put up? Mr. Sweet stated not associated with the wall (Best Possible Location approval June 2017 for a new structure) there would be blueberry bushes, and several new trees would be added. He said that he would not be putting in a lawn as he did not want to mow. Roger asked what would help stabilize behind the new wall. Mr. Sweet said there will be erosion control mulch and plantings, again he said, no grass.

Steve F. asked if the board did not need a plan for the new wall, just information from Genest? Roger A. stated that the board asked if what he proposed to do would support the earth and if the wall would support the area and the information from Genest stated that it would. Roger said the plan stated that two layers of course fill and fabric were required but he wasn't sure if CEO McDonough would be able to see this if it isn't done all the way to the top of the wall. Steve said that the board has seen these walls before and given the area is sandy, he had no problem with using the data sheet, as long as it is going to be a precedent moving forward and the board isn't going to require an engineered plan. Roger said that at this time any wall requiring engineering comes from the building code not the ordinance. Steve asked CEO McDonough if he was ok with the information provided? CEO McDonough stated in this case, because he knew the location, this was fine but he was concerned about future applications. He wanted to be sure if someone came before the board, for example with a 10 foot wall, that more than this basic information would be required. He believed the board had the authority now to ask for an engineered plan if they felt the project was big enough to need one. Steve said in this case, he wanted to be sure this is what the board would be looking for going forward and not a full engineered plan. Madge B. also said the board needed to look at what the proposed change should say. CEO McDonough asked if she was talking about giving the Planning Board the authority? Madge said, "Yes." CEO McDonough said if this was a 10 foot wall he would not say the information provided was ok. Mr. Sweet agreed stating if it was a 10 foot wall he would want it engineered. CEO McDonough said that they were just talking about future applications.

Steve F. asked if the board could put a policy in place that was less restrictive than the building code? CEO McDonough said, "No." Madge B. said, "Then we have to stick with what we've got." CEO McDonough stated that the board could say 'designed in accordance with accepted engineering practice', this is taken from the building code. CEO McDonough said this building code (2015) is going into use next month, today it just says a four foot wall has to be engineered. Madge said then the board should be putting this into the ordinance but she wasn't sure exactly what it meant, if Mr. Sweet would or would not need an engineered plan. CEO McDonough said it did but it was not in the ordinance, so the board did not have to enforce it. If it were in the ordinance they would. Steve said at this time the board has some flexibility. Roger said, "Right." Madge wasn't sure the board had any flexibility. Barbara F. said they did because the applicant goes to the CEO for a permit and he decides what is required for the wall. CEO McDonough said for this wall he would accept the information provided by Mr. Sweet. Madge said the ordinance needed to be changed for the wall.

Madge B. asked if the board had an adequate planting plan? Barbara F. reminded her they had a planting plan for the whole site at this time because this was an approved Best Possible Location and all the area, except the wall was addressed. He is now stating he will use mulch and shrubs in the wall location. Also the replacement of trees.

**Madge B. moved for approval of the replacement of the retaining wall, same location and same size not to exceed five feet in height on Map 26, Lot 40 per the information that was submitted by the applicant. Steve F. 2<sup>nd</sup> the motion. All members were in favor. The motion passed unanimously by a vote of 5 – 0.**

Nothing further was discussed.

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The Findings of Facts

1. The owner of Shapleigh Tax Map 26, Lot 40 (7 Buccaneer's Way), is Bradford Sweet, mailing address of 25 Holmgrem Road, Stratham, New Hampshire 03885.
2. The property is located in the Shoreland District and according to the assessor contains 0.24 acres.
3. The applicant is before the board for an amendment to a Best Possible Location to replace the existing retaining wall.
4. Received was a plan depicting the property showing the retaining wall to be replaced, the trees to be removed and where new trees will be placed on the property; pictures of the existing railroad tie retaining wall and trees to be removed; a plan for the new wall to be built which depicted the concrete block units, filter fabric and stone to be used behind the new wall, geogrid reinforcement, the base material and the upper and lower finished grade.
5. The project description read as follows:
 - Tax Map 26, Lot 40
 - Replace existing retaining wall and replace in same location and dimensions with updated building materials.
 - Existing wall is 24' across the front with an average height of less than 4' across front and less than 2' on the sides.
 - Wall is entirely set on property; no area of wall or disturbance will impact abutters.
 - Construction design and materials attached on separate paperwork.
 - 4 trees to be removed marked in yellow highlight on plot plan.
 - 2 – 6' Maple trees or similar to be planted as near to new retaining wall as feasible (green highlight)
 - 2 – 6' Maple trees or similar to be planted along inside of West boundary line.
6. The detailed description of the project stated: Replace existing retaining wall, remove 3 trees. Wall will be same size and location.
7. The board reviewed §105-4.D(c)(5) 'Removal, reconstruction or replacement' and the board concurred the application met all the standards imposed.
8. A notice was mailed to all abutters within 500 feet of the property on November 15, 2017. Meetings were held on November 14, 2017, November 28, 2017 and December 12, 2017. A site inspection was done by members on an individual basis.

9. The Planning Board unanimously agreed to approve the amendment to a Best Possible Location to replace the existing railroad tie wall with cement blocks from Genest Concrete, same length and location, not to exceed five feet in height with conditions.

10. **The conditions of approval are:**

1. **The project, including the removal of the existing walls, and revegetation plan shall be completed by September 1, 2018. If this date cannot be accomplished the applicant must contact the Code Enforcement Office to establish a new date.**
2. **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.**
3. **A building permit must be obtained prior to construction through the Code Enforcement Office.**

Motion:

After careful consideration and a review of all material presented to the Board, including the review of the Zoning Ordinance §105-4.D(c)(5) ‘Removal, reconstruction or replacement’, a motion was made on Wednesday, December 13, 2017, to approve the amendment to a Best Possible Location to replace the existing railroad tie wall with cement blocks from Genest Concrete, same location, same length not to exceed five feet in height to be located on Map 26, Lot 40, per the plans provided with three conditions.

Vote:

By a unanimous vote of 5 – 0, the motion to approve the amendment to a Best Possible Location to replace the existing railroad tie wall with cement blocks from Genest Concrete, same location, same length not to exceed five feet in height to be located on Map 26, Lot 40, per the plans provided with three conditions was accepted.

Decision:

The amendment to a Best Possible Location to replace the existing railroad tie wall with cement blocks from Genest Concrete in the same location, same length not to exceed five feet in height, to be located on Map 26, Lot 40, per the plans provided with three conditions was approved.

Minor Subdivision – 3 Lots – Map 9, Part of Lot 1A (Apple Road & West Shore Drive) – LinePro Land Surveying, Representing; James Chadbourne, Property Owner

Mr. Joseph Stanley of LinePro Land Surveying was present for the review of the application.

The application for the 3 lot subdivision contained the following information:

Name of Property Owner: James Chadbourne of 173 Butternut Trail, Wells, Maine 04090

Name of Authorized Agent: Joseph Stanley of LinePro Land Surveying LLC, 455 Main Street, Springvale, Maine 04083

Land Information:

Location of Property: YCRD Book 16904, Page 325

Shapleigh Tax Map 9, Part of Lot 1A

Current Zoning: General Purpose
Part of the Property lies within 250 of the high-water mark of a pond or river.

Acreage to be Developed: 9 Acres
Property is not part of a prior subdivision.
There have been no divisions within 5 years.

Existing Use: Wood Lot
The parcel does include a waterbody.
The parcel is not within a special flood hazard area.

Proposed Name of Development: Hidden Cove
Number of Lots: (3) Three
Date of Construction: Fall of 2018
Date of Completion: Fall of 2019

Infrastructure Required: No
The property currently has road access.

Estimated Cost of Improvements: \$25,000 – Private Way
Method of Water Supply: Individual Wells
Method of Sewer Disposal: Individual Septic Systems
Method of Fire Protection: Possibly Sprinklers, not certain at this time.

There are no Proposed: Streets
Recreation Areas
Common Land

Requested Waiver(s): To be submitted with sketch plan.

Also provided with the application was a Preliminary plan of the proposed three lot division. The plan depicted Lot 1 as being 2.00 Acres in size, Lot #2 as being 4.05 Acres in size (2.39 Acres Net); and Lot #3 being 2.62 Acres in size. The plan also had proposed building envelopes and contour lines for Lot #1 and #2, the location of a wetland on Lot #2, as well as a brook that ran through both Lot #2 and Lot #3. The location of Apple Road and West Shore Drive were depicted and the Acton / Shapleigh town line which abuts Lot #1.

Roger A. asked Mr. Stanley to let the board know what new information he had. *Note: Board members did a site inspection on Sunday December 3rd, as well as on an individual basis.*

Mr. Stanley provided the board members with the test pit information done by Kenneth Gardner, SE #23 on 12/7/17. He also provided members with another draft plan dated 12/13/17 that depicted the locations of the test pit on each of the lots, with each lot having two test pit locations at this time.

Mr. Stanley recapped for the board that he and his client were proposing a 3 lot minor subdivision bordering Square Pond with one lot utilizing Apple Road as its access and two lots utilizing West Shore Drive in Acton. He said that three members did the site walk with him, along with one of the neighbors who will inform other neighbors, who were only there seasonally, about what is taking place. He noted that a list of abutters from the Acton side was furnished along with the application, so they will be notified as well.

He stated the new plan showed 2 passing soils test on each lot and chances are Lot #3 will be modified when the septic system is designed. He said there is additional wetland, so the building envelope shifted to accommodate this. He asked the board if they had any additional concerns and comments before he began additional engineering for the project.

Roger A. stated his concern was the road, perhaps a wall will be needed off of West Shore Drive due to the topography and plowing. He spoke about the width of the road, the bump out, etc. Mr. Stanley said the engineers will have a grading plan for the road probably by the next meeting. Mr. Stanley also noted that the Acton Road Commissioner wanted several trees removed and an easement to stack snow. The RC wanted more than verbal permission which he understood. He stated there was 40 feet of West Shore Drive that will be connected to the private way and it shouldn't be a big issue.

Roger A. asked about paving the private way and where the turn-around will be. Mr. Stanley showed Roger where the Acton RC wanted to use for a turn-around area for the snow plows. Saying again, this is why an easement would be needed. Roger spoke about the area that needed to be paved. Mr. Stanley asked if the private way had to be paved. Roger said yes, a private right-of-way had to be paved 12 feet in width in a subdivision.

Roger A. discussed the mother lot and the 3 lots being reviewed, he said because they come from the mother lot, it creates a 4 lot subdivision, not a 3 lot subdivision. He said that it would still be a minor subdivision. Mr. Stanley said if they feel they have a concept this parcel will be separated from the original parcel. Roger said the first division creates 2 lots. Mr. Stanley did not disagree but said that in State law the first division is exempt from subdivision review. Roger said the remaining lot or land would still need to have 200 feet of road frontage so you are not creating a non-conforming lot. Mr. Stanley agreed and he said there is more than adequate road frontage on Apple Road. He stated he had an overall boundary survey on all the parcels. Roger said the mother parcel would not have to meet all the requirements of the subdivision review but it has to be a conforming lot and he felt it still created 4 lots. Mr. Stanley said again there was a survey on all the pieces Mr. Chadbourne owns and the mother lot has over 2000 feet of frontage on Apple Road which he can provide.

Roger A. said the waivers will have to be provided and he pointed out the powerline runs through the parcel. Mr. Stanley said from a surveyor's standpoint he was happy how it was laid out, especially when dealing with the topography on site.

Roger A. stated that under §89-36 'Street design standards' he had a question about Apple Road. Apple Road is very narrow and if ever it got widened, road re-alignment needs to be on the plan. Mr. Stanley agreed as the road is only 33 feet wide at this point in time. He said he would go out to 50 feet on the plan. An additional 17 feet will be added for an expansion.

Steve F. said this might also affect the test pits on Lot #3 or the septic design. He wasn't sure what the setback for those to the right-of-way might be. Mr. Stanley believed it was 10 feet but he believed any building will need to be moved back on the lot, therefore, the septic design will need to be done farther back from the lot line.

Mr. Stanley asked if there were any additional concerns? He said at the next meeting he hoped to provide the formal detailed plan. Roger A. didn't have any other issues, nor did members. Nothing further was discussed.

Roger wanted Mr. Stanley to know that the plan had to be received by board members seven days prior to the meeting.

Best Possible Location – Replace Existing Structure – Map 39, Lot 31 (139 Granny Kent Pond Road) – Christopher Colwell, Applicant & Owner

Mr. & Mrs. Colwell were present for the review of the application. *Note: Most members did a site inspection on December 3rd. Others did it on their own.*

Along with the application, Mr. Colwell provided a plan which depicted the location of the existing structure, as well as the proposed location of the new structure. Measurements from the existing and proposed structure to the lake, side lot lines and to Granny Kent Pond Road were provided. Existing distance from the camp to Granny Kent Pond at the closest point is 74.45 feet; existing distance to Granny Kent Pond Road is 5.99 feet at the closest point; existing distance to Lot 32 is 3.35 feet to the closest point; and existing distance to Lot 30 is 15.80 at the closest point.

The proposed structure distance measurements are as follows: 74.60 at the closest point to Granny Kent Pond; 7.03 feet to Granny Kent Pond Road; 14.24 feet to Lot 32; and 13.91 feet to Lot 30. It was also noted on the plan that the proposed building would be 600 S.F.

The detailed description on the application states: Replace structure with one floor and full basement.

This evening Mr. Colwell provided members with a plan that showed a 6 foot replanting plan for the perimeter around the new structure and where the old structure will be removed, as well as a copy of the MDEP Certificate of Training in Erosion Control for James Fiske of Mousam Valley Builders, Inc. of Acton Maine.

Roger A. asked Mr. Colwell to let the board know what further information he had. Mr. Colwell stated he had a replanting schedule which would be mulch and blueberry bushes, coming six feet out from the foundation of the new structure and where the old structure will be removed. He stated there was a tree on site but he didn't think he would have to remove it. He sent in his application of the DEP Permit by rule but he wasn't sure if it was back or not. CEO McDonough stated that he had received his copy today.

Mr. Colwell stated that he spoke with Mousam Valley Builders and they said they were certified and he thought they would be the ones doing the replanting plan.

CEO McDonough asked again if there would be any tree removal? Mr. Colwell did not believe there would be, stating there was one by the old structure but did not feel it had to be removed to remove the structure. Mr. Colwell stated that he had his septic design which was across the street.

Roger A. asked about a time frame? Mr. Colwell stated that if he started in April and had the shell up and closed in, then he would finish the inside insulation and sheetrock himself. Roger asked if September 15, 2018 would work to have the shell up and the replanting done? Mr. Colwell believed it would and he asked if it could get extended if needed? Roger said yes, he could tell CEO McDonough that you would not be done and get a new date.

CEO McDonough, looking at the replanting plan, asked Mr. Colwell how the area would be addressed? Is the whole area erosion control mulch? Mr. Colwell said he would like to put some loam in and maybe some plantings. CEO McDonough wanted a plan that was more specific and he wanted Mr. Colwell to know an area greater than 6 feet would be disturbed with the new foundation. He said once all the dirt is disturbed, how will the area be restabilized, he needed to have more specifics on the plan. CEO McDonough did not care if it was going to be all erosion control mulch but he needed it on the plan. Mr. Colwell stated that he would like some shrubbery. CEO McDonough said he needed something specific, so in a year from now he had an idea of what was agreed upon, so there would be no argument. Mr. Colwell stated, "Ok."

Barbara F. gave Mr. Colwell a copy of a sample plan. CEO McDonough tried to show him some of the detail that should be on the plan. Mr. Colwell asked if he needed something written? CEO McDonough stated that a text description would work. He needed to know what would be going down in the disturbed area.

Roger A. asked if CEO McDonough wanted to approve the revegetation plan? CEO McDonough stated that it was fine, the board could have him approve the plan in the conditions of approval.

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

- 1) The foundation, groundwork and replanting shall be completed by September 15, 2018. The vegetation and mulch location shall be provided on the plan presented.**
- 2) The replanting plan shall be approved by the Code Enforcement Officer prior to obtaining a building permit.**
- 3) Best management practices shall be kept in place until the groundwork and replanting plan is completed and the work shall be done by a person licensed by the MDEP in erosion control.**

Barbara F. let the board know 2 emails were received by abutters, both had no issue with the project. One from Lisa & Russell Gray and the other Barbara Britten. Ms. Britten asked that the board be certain the project did not impact her property or Granny Kent Pond.

Madge B. moved for approval of the Best Possible Location to replace the existing structure on Tax Map 39, Lot 31 per the plan provided and with the above stated conditions. Maggie M. 2nd the motion. All members were in favor.

Nothing further was discussed.

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**The Findings of Facts**

1. The owner of Shapleigh Tax Map 39, Lot 31 (139 Granny Kent Pond Road), is Christopher C. Colwell, mailing address of 5 Old Wakefield Road, Rochester, New Hampshire 03868.
2. The property is located in the Shoreland District and according to the assessor contains 0.14 acres.
3. The applicant is before the board for a Best Possible Location to replace the existing structure.
4. Received was a plan which depicted the location of the existing structure, as well as the proposed location of the new structure. Measurements from the existing and proposed structure to the lake, side lot lines and to Granny Kent Pond Road were provided. Existing distance from the camp to Granny Kent Pond at the closest point is 74.45 feet; existing distance to Granny Kent Pond Road is 5.99 feet at the closest point; existing distance to Lot 32 is 3.35 feet to the closest point; and existing distance to Lot 30 is 15.80 at the closest point. The proposed structure distance measurements are as follows: 74.60 at the closest point to Granny Kent Pond; 7.03 feet to Granny Kent Pond Road; 14.24 feet to Lot 32; and 13.91 feet to Lot 30. It was also noted on the plan that the proposed building would be 600 S.F.

5. Received was a plan that showed a 6 foot replanting plan for the perimeter around the new structure and where the old structure will be removed, as well as a copy of the MDEP Certificate of Training in Erosion Control for James Fiske of Mousam Valley Builders, Inc. of Acton Maine, the contractor to be used for the project.
6. The detailed description of the project stated: Replace structure with one floor and full basement.
7. The board reviewed §105-4.D(c)(5) ‘Removal, reconstruction or replacement’ and the board concurred the application met all the standards imposed.
8. A notice was mailed to all abutters within 500 feet of the property on November 29, 2017. Meetings were held on November 28, 2017, December 13, 2017. A site inspection was done by members on an individual basis.
9. The Planning Board unanimously agreed to approve the Best Possible Location to replace the existing structure with three conditions as follows: The proposed structure distance measurements are 74.60 at the closest point to Granny Kent Pond; 7.03 feet to Granny Kent Pond Road; 14.24 feet to Lot 32; and 13.91 feet to Lot 30. It was also noted on the plan that the proposed building would be 600 S.F.
10. **The conditions of approval are:**
  - 1) **The foundation, groundwork and replanting shall be completed by September 15, 2018. The vegetation and mulch location shall be provided on the plan presented.**
  - 2) **The replanting plan shall be approved by the Code Enforcement Officer prior to obtaining a building permit.**
  - 3) **Best management practices shall be kept in place until the groundwork and replanting is completed and the work shall be done by a person licensed by the MDEP in erosion control.**

Motion:

After careful consideration and a review of all material presented to the Board, including the review of the Zoning Ordinance §105-4.D(c)(5) ‘Removal, reconstruction or replacement’, a motion was made on Wednesday, December 13, 2017, to approve the Best Possible Location to replace the existing structure located on Map 39, Lot 31, per the plans provided with three conditions.

Vote:

By a unanimous vote of 5 – 0, the motion to approve the Best Possible Location to replace the existing structure located on Map 39, Lot 31, per the plans provided with three conditions, was accepted.

Decision:

**The Best Possible Location to replace the existing structure located on Map 39, Lot 31, per the plans provided with three conditions was approved.**



**Best Possible Location – Replace Existing Structure – Map 18, Lot 18 (5 1<sup>st</sup> Street) – Steve Foglio, Applicant**

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

In addition to the application, provided was a plan which depicted the existing structures, parking area and driveway, well, existing septic tank and field, along with the approximate boundary line with Map 18, Lot 19 (noting that this boundary was still under investigation). The distance from the existing structure to Mousam Lake at the closest point is depicted as 51.2 feet and to the lot line of Lot 19, 24.2 feet. The 100 foot line to the lake is also noted on the plan and at this time the existing structure lies within the 100 foot mark. The existing grade is on the plan, and it shows the lot as being 1.26 acres in size.

The detailed description of the project states: Tear down existing home & rebuild new.

Roger A. asked Steve F. to tell the board what he wanted to do.

Steve F. stated they would be removing the existing structure due to mold. He said the replant plan will be on the final plan. The plan is to replace the existing structure and rebuild with the same setback to the water. He stated the existing structure is on a partial foundation, and partially on a full foundation. Madge B. asked about the plan, what exactly was it showing? Steve said it was everything that is on site at this time.

Madge B. asked if the new house would be the same size and shape? Steve F. stated the new house would be modified further back from the water. Madge asked what the blue dotted line was? Steve said, “The shoreland zone. I’m sorry, the 100 foot setback.”

Roger A. asked if he wanted to move the house back? Steve F. said they wanted to keep the house where it is because of the topography of the lot and where the well and septic are. He said all modification to the house will be back further from the water. Madge asked what he meant by modifications? Steve said the house plan would be this structural size plus a garage. Steve noted the board is only allowed to look at the existing structure.

CEO McDonough asked what the size of the lot was? Steve F. stated it was 1.26 acres in size. He said the number is subject to change depending on where the boundary line ends up. Currently there is an issue between Lot 18 & Lot 19. The grey line on the plan is the current survey line for 1<sup>st</sup> street and the dotted green line is the proposed line. Steve introduced the owners of Lot 19, Linda and Jan Rajchel. Steve noted that where the green and grey lines intersect is the closest point to the structure.

Roger A. asked if the pavement would be removed if a garage was put up. Steve F. agreed it would. Steve said they would try to build the house as high as they can to work with the hill and try to keep the grade as natural as possible. Steve said he was looking for the front corners of the new structure to be where the existing is.

Roger A. said wherever the board approves the new structure, that is where it needs to go. If the structure gets moved back from the water 10 more feet after approval, then it would have to come back before the board for the new location. Anything beyond the 100 foot mark is through the Code Enforcement Department.

Roger A. stated the board will need to know when the project will start and an end date for the replanting plan. Steve F. stated they planned on starting on April 1, 2018 and complete it by September 30, 2018. Steve F. said he would have a larger plan for the next meeting.

**Roger A. stated a notice to abutters will be mailed and members will go on a site inspection on an individual basis.**

Nothing further was discussed.

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**Amendment to a Conditional Use Permit – Business Selling Furniture & Home Décor – Map 7, Lot 3-2 (926 Shapleigh Corner Road) – Sharon Tombarelli, Applicant; James Correggio, Property Owner.**

Ms. Tombarelli was unable to make the meeting. She spoke with Barbara F. and stated she was available by telephone if needed.

Roger A. stated that Ms. Tombarelli is looking to open her business in what was the building that housed the snowmobile club. Madge B. asked if there would be any new building? Roger said no new buildings and it will use the existing parking area.

Roland L. asked if they were closing the flea market? Barbara F. said the flea market was staying open. He said a shed was added to the site on the side of the snowmobile club on the left. Roger A. said the area behind the building was leveled and the area is opened up (approved earth moving permit 9/16).

It was asked how many businesses have been approved in this location? Based on past approvals, 2 uses have been approved in the large building and then a use in the snowmobile club building. So three uses on this lot have been approved at the same time. CEO McDonough stated there was the flea market, redemption center and snowmobile club. Then it was the flea market, snowmobile club and package store which did not happen.

Roland L. asked about the current storage in the large building, which is advertised, is that an approved use? CEO McDonough and other board members did not believe so. Madge B. asked how many acres are with this lot? She thought the board needed to know. Roger A. looked at the town map and it appeared the lot was 3.91 acres, 510 feet of road frontage.

It was concluded that three uses have been approved on this property at one time. The snowmobile club was used for the snowmobile club and then the four wheeler club. Roger A. noted they also came before the board for a meeting hall in the snowmobile club but it never materialized.

**Roger A. stated a public hearing would be held on this because it was a business. A notice to abutters will be mailed as well. Board members didn't need to do a site inspection as everyone was familiar with the existing location and business site.**

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

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 8:25 p.m.**

**NOTE: The winter hours are in effect thru April 1<sup>st</sup>, the meeting begins at 6:30 p.m. and any scheduled public hearing begins at 6:00 p.m.**

*The next meeting will be held **Tuesday, December 26, 2017** 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 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.*

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

# **SHAPLEIGH PLANNING BOARD**

## **MINUTES**

**Tuesday, December 26, 2017**

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

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**Minutes are not verbatim, unless in quotes “”**

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### **Public Hearing began at 6:00 p.m.**

#### **Amendment to a Conditional Use Permit – Business Selling Furniture & Home Décor – Map 7, Lot 3-2 (926 Shapleigh Corner Road) – Sharon Tombarelli, Applicant; James Correggio, Property Owner.**

Sharon and Steve Tombarelli attended the public hearing.

Roger A. opened the public hearing by asking Mrs. Tombarelli what she intended to do. Mrs. Tombarelli stated she wanted to open a store to sell rustic furniture, home décor and gifts. Roger asked if they would be using the entire clubhouse? Mrs. Tombarelli stated, “Yes”. Madge B. didn’t think it was a large structure. Mrs. Tombarelli agreed and said they would probably fill every inch of it.

Madge B. asked if there would be any hazardous or dangerous material on site? Mrs. Tombarelli stated there would not, not that she was aware of. Madge asked if it had a bathroom? Mrs. Tombarelli stated that it did but she did not plan on having it available to the public unless she had to. Madge asked if she was serving any food? Mrs. Tombarelli stated she was not. In light of this the board did not feel she would have to open the bathroom facilities to the public.

Roger A. asked what the hours of operation would be? Mrs. Tombarelli decided to have the hours of operation from 9:00 a.m. thru 7:00 p.m., in case of a late delivery, seven days a week. Roger and Madge B. noted that it was best to ask for the longest hours that they may need so they didn’t have to come back before the board to amend their permit.

Ann H. asked if any of the products would be made by the applicants, or would it all be purchased? Mrs. Tombarelli stated that it would all be purchased and delivered.

Madge B. asked if there would be any outside lighting? Mrs. Tombarelli stated there would be some lighting in the windows and also on a sign in front. She didn’t foresee any additional lighting. Madge thought the parking area was close to the building. Mrs. Tombarelli agreed. She stated from the parking area to the building was a walkway.

Roger A. asked if anything would be placed outside? Mrs. Tombarelli thought they may have some outdoor furniture displayed during business hours, it would be stored inside at night. Roger wanted to know how much of an area would be used? Mr. Tombarelli thought it would be several Adirondack chairs and a table, so it would not take up a large area. He noted it was a thick poly furniture, it was not flimsy. Steve F. suggested the board allow 200 S.F. to be used for the outdoor furniture. The other members and the applicants agreed to this figure.

Madge B. asked about what would be done with trash? Mrs. Tombarelli thought she would get a permit to use the Shapleigh Transfer Station. The waste would be minimal, most of it materials to be recycled, such as the cardboard that the furniture is shipped in. They did not plan on having a dumpster.

Ann H. asked if there was enough room for large delivery trucks? Roger A. believed there was plenty of room, it was a very large parking area.

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

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

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**The minutes from Wednesday, December 13, 2017 were accepted as read.**

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

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**Conditional Use Permit – Create a Parking Area – Map 23, Lot 2-9 (22 Dancehall Drive) – Roland ‘Russ’ Batson, Applicant & Owner**

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

Provided to members at the first meeting on August 8, 2017, was a copy of the soils report for this location, which noted the soils were Colton and drained well; a letter from Site Evaluator John Large, SE #7, dated 4/25/88 which was for a test pit dug on site that found the soils on site to be similar to a deep Colton, and therefore, the criteria for a system would have the highest possible rating. It was also noted in the letter that this was for information gathering but was not an application for a new system. Also submitted was a sketch plan depicting the location of the proposed parking area, and entrance to the site with clockwise turn around area, which in part follows the CMP utility easement.

The project description on the application states: A parking area using “CMP Road”, and “Loop” like drive thru, with back sloping drainage system.

Received this evening was a revised survey plan drafted by Dana A. Libby, PLS 1350 of Corner Post Land Surveyors, dated December 20, 2017 which depicted the proposed driveway. The plan showed the 100 foot setback to the high water mark, and that the entire loop driveway is beyond this mark; 38 trees to be removed both dead and live trees, along with proposed replacement tree locations; the location of the proposed block retaining wall; and elevations on site in the vicinity of the proposed loop driveway. The plan also noted the location of an existing structure, septic tank, outhouse, and sewer lines, along with proposed stairs between the looping driveway and the existing structure. The plan noted the total disturbed area would be 4,921 S.F.

Received this evening was a drainage analysis plan for the looping driveway, written by Thomas S. Greer, P.E. #4206 of Pinkham & Greer Civil Engineers, dated December 12, 2017. The plan included a description of the tear drop driveway to be created, stormwater design for a 50 year storm, which at present is 7.3” in 24 hours; the type of soil on site was noted as Colton which has a high infiltration rate; a HydroCad Analysis of an infiltration system to minimize runoff into Mousam Lake giving a description of the system to be used; what type of erosion control measures would work best in this location, and what would best stabilize the cut slopes above the driveway.

Received this evening was a copy of the Site Map, Soils Map, Google Earth Aerial Map, Rainfall Chart, HydroCad Calculations, Drainage Ring, EC Berm & Silt Sack Detail, Catch Basic Protection and Site Plan. The Site Plan showed the approximate location of the Drainage Ring, stating that the driveway is to slope to the ring a minimum of 1' – 0" below top of wall. The Site Plan also depicted the location of the silt fence or erosion control berm.

Roger A. asked Mr. Batson to let the board know what he had for the board. Mr. Batson passed out new information that was requested by the board. The board reviewed the new plan. Mr. Batson stated that the trees shown were the 38 trees that would have to be removed according to Dana Libby of Corner Post Land Surveying. He said there were White Pine and hardwood, each was noted separately, along with four dead trees.

Mr. Batson stated the entire driveway would slope into the center teardrop area. There were drainage calculations and a drawing that shows the detention cylinder and he noted the new drainage figure is 7.3" vs the 6" that it used to be, based on new rainfall totals. He stated he and Mr. Greer agreed to do the stormwater calculations based on the area being paved, so if down the road someone wanted to pave it the calculations would be based on that.

Ann H. asked the height of the block wall. Mr. Batson stated it would be four feet, 3 blocks by 18" in height with 6" in the ground.

Roger A. asked if he was planning on replanting any trees? Mr. Batson stated he was, and showed Roger where this information was located. Roger said the information did not show exactly where the trees would be located. Mr. Batson agreed but it said the area that they should be planted. He showed Roger on the plan where he believed they would be going. He wanted to use Norway Pine because they grew fast and had a deeper root system than a White Pine. Roger noted that trees going in had to be 6 feet in height from the root ball up. Mr. Batson said the root ball would disturb more soil, he was planning to use a bar to poke a hole and put the tree in. He didn't think there would be enough room for 38 trees using a root ball. Roger was concerned because the ordinance was specific with respect to the size of the tree. Ann H. noted that they cannot be all the same type either. Ann asked if Mr. Batson got a statement from an arborist that said 38 trees would not survive because they would be too close together, if that would work?

Steve F. asked about §105-51.C, if this applied, he believed it did. Madge B. reviewed the ordinance and because the project was beyond the 100 foot mark to the high water mark, she did not believe the board had the ability to ask Mr. Batson to replant any trees. It was up to him if he wanted to replant. Madge stated that up to 40% could be taken, she referred the board to §105-51 'Clearing or removal of vegetation for activities other than timber harvesting' Section C where it states in part that at a distance greater than 100 feet from a great pond on any lot, in any ten-year period, selective cutting of not more than 40% volume of trees four inches or more in diameter can be removed. Madge did not believe the board could require Mr. Batson to replant but she thought it would be best for the site location that he did some replanting. CEO McDonough stated the 40% applied to the entire lot. Madge agreed.

CEO McDonough asked if the project was greater than 100 feet from the high water mark? Madge B. stated it was entirely beyond the 100 foot mark. Mr. Batson agreed. Mr. Batson said that at best he is removing 20% of the trees over 100 feet from the shore. Roger A. thought 7 were within the 100 feet. The board looked at the drawing and the trees he was referring to that were not being cut. Mr. Batson said it was his fault, he stated they were all getting cut. Ann noted that only the trees with the X were being removed.

CEO McDonough asked again, wanting to be sure, that no trees were being removed within 100 feet of the water. Mr. Batson stated that he was correct. CEO McDonough asked if any soil was being disturbed within 100 feet of the water? Mr. Batson stated, "No".

Roland L. asked about a proposed stairwell, was it for this project? Mr. Batson said there would be stairs like Acadia National Park logs for steps down from the parking area to the cottage. He felt this was more appealing.

Roger A. asked how many yards of fill would be excavated out? Mr. Batson stated that Dana Libby of Corner Post stated they would probably haul out none or move in none, other than the gravel at the top. He said the cuts on the side are enough to fill in behind the wall and then there needed to be 6 to 8 inches of crushed gravel brought in for the top. The blocks, and crushed rock for the drain at the top. It was noted the total disturbed area would be 4,921 S.F. as noted on the plan presented, of that 2,998 S.F. is the driveway.

Roger A. stated there was no earth moving being done within 100 feet of the high water mark. Madge B. and Steve F. said, "Except for the stairs". Roger asked Mr. Batson if there would be earth moving for the stairs and he stated there would not. He said they would be pressure treated 2 x 12's with concrete anchors sitting on the surface.

Roger A. asked if the sewer line under the driveway would be affected? Mr. Batson said it would not, it is deep enough not to be affected.

Roger A. asked when the project would be completed? Mr. Batson said he wanted to have the trees removed before the sap begins to move. He thought that would take some time. He noted if he could keep some of the 38 trees he would. He wanted the project done before the roads were posted in the spring. Roger said the board needed to have a date for completion to be sure all erosion control measure are in place until the area is stabilized. Mr. Batson said when he walked the property with the contractor doing the project, he believed the project, once started would only take a week. Mr. Batson thought they would be finished by May 1<sup>st</sup>. He asked if July 1<sup>st</sup> would work? Roger said it was up to him. Mr. Batson was comfortable to say he would be done by July 1, 2018.

CEO McDonough asked what blocks he was using? Mr. Batson said he was using Genest Concrete blocks, called London Boulders. They were 18" x 18" x 42". It would be three tiers high. He noted where it was described in the information he provided to board members and CEO McDonough. He agreed the print was small and members may not have seen it.

Mr. Batson said Mr. Greer preferred they used stump grindings instead of silt fencing and bales of hay in this location. He also wanted this used in any of the cuts. Mr. Batson said he already bought the fence but preferred the stump grindings. Roger A. thought due to the slope they could or should use both. Roger noted that the person doing the project had to be DEP certified in erosion control. Mr. Batson stated his contractor is certified. Mr. Batson stated that the issue with Mr. Greer is digging the fence into the soil, he preferred not to have the soil disturbed. Mr. Batson understood the concern, especially if there is a heavy storm.

Roger A. stated that the wall is listed in the four or five foot range but the board is going to say four feet. Mr. Batson agreed and said at first they were discussing a seven foot wall but Corner Post did not understand this was for single family vehicles only.

Roger A. stated the catch basin is 7'4" diameter and 4' deep. Roger was surprised a heavy duty cover was being used. Mr. Batson said in case someone accidentally drove over it, it would hold up. He noted it would be used by tourists.

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

- 1) Completion date of September 1, 2018.**
- 2) Contractor to be certified in erosion control measures.**
- 3) The total trees replaced will be 24, the species to be something that will survive in this area. Placement and type of tree is up to the applicant.**
- 4) The wall to be built per the specifications provided, using London Boulders from Genest Concrete.**

Roger reviewed §105-39 'Earth removal and filling other than mineral exploration and extraction' 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 a completion date of 9/1/18 was set for this project.***
- (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 best management practices shall be put in place by someone certified by the State in erosion control methods. The date for permanent ground cover shall be 9/1/18.***
- (3) Diversions, silting basins, terraces and other methods to trap sediment shall be used.  
***Roger A. stated a catch basin has been designed for stormwater.***
- (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, it is existing fill.***
- (6) Fill shall not restrict a floodway, channel or natural drainageway.  
***Roger A. stated that 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 there is an engineered plan for this project, noting that Mr. Greer most likely used all of the above 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 was no existing ground vegetation at this time, mostly pine needles. Bark mulch and stump groundings shall be placed per the plan.**
- (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 there is an engineered plan for this project.**
- (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 the project is not going any deeper than the existing ground 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 the existing soil will remain on site.**
- (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. asked if there were any additional questions? There were none.

**Roger A. then reviewed §105-73.G 'Standards applicable to conditional uses' and made findings of fact.**

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

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. **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 not applicable.**
- 3) The use is consistent with the Comprehensive Plan. **Roger A. stated 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, the project is not in the flood zone.**
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. **Roger A. stated the only solid waste is the trees being removed, stumpage will be kept on site.**
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. **Roger A. stated that there is 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 there is a stormwater management plan designed by Thomas S. Greer, P.E. #4206 of Pinkham & Greer Civil Engineers.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***Roger A. stated an erosion control plan was designed by Thomas S. Greer, P.E. #4206 of Pinkham & Greer Civil Engineers.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***Roger A. stated this is not applicable.***
- 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 there should be minimal disturbance, none beyond the property lines.***
- 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:**

- 1) **The project is to be completed by September 1, 2018.**
- 2) **The retaining wall to be used for the construction of the looping driveway shall be per the specifications provided, the product used is known as London Boulder from Genest Concrete.**
- 3) **The total trees replaced will be 24, the species to be something that will survive in this area. Placement and type of tree is up to the applicant.**
- 4) **Contractor to be used on the project must be DEP Certified in Erosion Control Practices.**

**Roland L. made the motion to approve the Conditional Use Permit to create a parking area and driveway on Map 23, Lot 2-9, per the plans provided with four conditions. Madge B. 2<sup>nd</sup> 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 owner of Shapleigh Tax Map 23, Lot 2-9 (22 Dancehall Drive), is Roland Russ Batson of 11 Dancehall Drive, Shapleigh, Maine 04076.
2. The property itself is located both in the General Purpose and Shoreland District; the work is to be done in the Shoreland District and according to the assessor the property contains 2.40 acres.
3. The detailed project description states: Create a parking area using “CMP Road” and a “loop” like drive thru, with back sloping drainage system.
4. Received was a copy of the soils report for this location done by the US Dept. of Agriculture for York County, ME, which noted the soils were Colton and drained well; a letter from Site Evaluator John Large, SE #7, dated 4/25/88 which was for a test pit dug on site that found the soils on site to be similar to a deep Colton, and he stated therefore, the criteria for a system would have the highest possible rating. It was also noted in the letter that this was for information gathering but was not an application for a new system. Also submitted was a sketch plan depicting the location of the proposed parking area, and entrance to the site with clockwise turn around area, which in part follows the CMP utility easement.

5. Received was a revised survey plan drafted by Dana A. Libby, PLS 1350 of Corner Post Land Surveyors, dated December 20, 2017 which depicted the proposed driveway. The plan showed the 100 foot setback to the high water mark, and that the entire loop driveway is beyond this mark; 38 trees to be removed both dead and live trees, along with proposed replacement tree locations; the location of the proposed block retaining wall; and elevations on site in the vicinity of the proposed loop driveway. The plan also noted the location of an existing structure, septic tank, outhouse, and sewer lines, along with proposed stairs between the looping driveway and the existing structure. The plan noted the total disturbed area would be 4,921 S.F.
6. Received was a drainage analysis plan for the looping driveway, written by Thomas S. Greer, P.E. #4206 of Pinkham & Greer Civil Engineers, dated December 12, 2017. The plan included a description of the tear drop driveway to be created, stormwater design for a 50 year storm, which at present is 7.3" in 24 hours; the type of soil on site was noted as Colton which has a high infiltration rate; a HydroCad Analysis of an infiltration system to minimize runoff into Mousam Lake giving a description of the system to be used; what type of erosion control measures would work best in this location, and what would best stabilize the cut slopes above the driveway.
7. Received was a copy of the Site Map, Soils Map, Google Earth Aerial Map, Rainfall Chart, HydroCad Calculations, Drainage Ring, EC Berm & Silt Sack Detail, Catch Basic Protection and Site Plan. The Site Plan showed the approximate location of the Drainage Ring, stating that the driveway is to slope to the ring a minimum of 1' – 0" below top of wall. The Site Plan also depicted the location of the silt fence or erosion control berm.
8. The board reviewed Zoning Ordinance §105-39, 'Earth removal and filling other than mineral exploration and extraction' and concurred that this project met all the criteria under Section D 'Earthmoving in the Shoreland District'; Section G. 'Conditions of Permit' and under Section I 'Surety and terms of permit', a surety was not warranted for this project due to the limited size and scope of the project, as well as it taking a minimal amount of time to complete.
9. The board reviewed the pertinent Basic Performance Standards and the board concurred the application met all the standards imposed.
10. 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.
11. A notice was mailed to all abutters within 500 feet of the property on August 9, 2017. A meeting was held on August 8, 2017, August 22, 2017, September 12, 2017 and December 26, 2017. A site inspection was held on August 22, 2017. Site Inspection was August 22, 2017
12. The Planning Board unanimously agreed on December 26, 2017 to approve the Conditional Use Permit for earth moving in the Shoreland District in order to create a parking area and looping driveway on Map 23, Lot 2-9, per the plans provided with conditions.
13. **The conditions of approval are:**
  - 1) **The project is to be completed by September 1, 2018.**
  - 2) **The retaining wall to be used for the construction of the looping driveway shall be per the specifications provided, the product used is known as London Boulder from Genest Concrete.**

- 3) The total trees replaced will be 24, the species to be something that will survive in this area. Placement and type of tree is up to the applicant.
- 4) Contractor to be used on the project must be DEP Certified in Erosion Control Practices.

**Amendment to a Conditional Use Permit – Business Selling Furniture & Home Décor – Map 7, Lot 3-2 (926 Shapleigh Corner Road) – Sharon Tombarelli, Applicant; James Correggio, Property Owner.**

Sharon and Steve Tombarelli were present for the final review of the application.

Received by board members, along with the application, was a site plan depicting the location of the existing structures on site which included the building known as ATV Club, which is where this business will be located. The site plan also noted that there are a total of 285 parking spaces on site with 115 of these in the vicinity of the clubhouse. Route 11 is also depicted on the plan, along with where to enter and exit onto the highway.

The detailed description of the proposal is as follows: Store selling rustic furniture, home décor, and gifts. Also, outside furniture. The two employees will be Sharon and Steve Tombarelli.

Roger A. asked if the board had any additional questions for the applicants? They did not.

**Roger A. began review of the Basic Performance Standards for the application.**

- 105-17 – Land Uses. *Roger A. stated the reason this application is before the board is because there is a change in use of the existing location, from an ATV Club to furniture business.*
- 105-21 – Traffic. *Roger A. stated access to the site was safe, this location was previously approved on the original CUP. Site distances can be met in both directions.*
- 105-22 – Noise. *Roger A. stated there will be no noise generated from the activity.*
- 105-23 – Dust, fumes, vapors and gases. *Roger A. stated there is no dust, fumes, vapors or gases, generated by this activity.*
- 105-24 – Odors. *Roger A. stated there will be no obnoxious odors generated.*
- 105-25 – Glare. *Roger A. stated there shall be no additional lighting added to the structure other than on the sign. This will be permitted thru the Code Enforcement Office. Madge B. asked if there would be additional lighting where you walk toward the building? Mrs. Tombarelli stated there is existing lighting on the front porch.*
- 105-26 – Stormwater runoff. *Roger A. stated there are no changes being made to the property that would cause a stormwater problem. There is an existing stormwater plan for this property.*
- 105-27 – Erosion control. *Roger A. stated there are no changes being made to the existing property that would cause an erosion issue.*
- 105-28 – Setbacks and screening. *Roger A. stated existing vegetation will remain, no changes are being made on site.*
- 105-29 – Explosive materials. *Roger A. stated, there shall be none on site and none to be generated.*
- 105-30 – Water quality. *Roger A. stated, there is no waste or hazardous material generated by this activity to affect water quality.*
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *Roger A. stated no changes are being made to the existing parking area, there is no outside storage associated with this activity.*
- 105-32 – Relation of proposed building to the environment. *Roger A. stated the building is in existence and conforms well with others in the surrounding area.*

- 105-33 – Refuse disposal. *Roger A. stated there was minimal refuse generated by this activity. The applicants will take refuse to the transfer station.*
- 105-34 – Access Control to Route 11. *Roger A. stated that the existing entrances were previously approved, there are no curb cut changes being made. The minimum site distances can be met.*
- 105-43 – Off-street parking and loading. *Roger A. stated there was plenty of off-street parking in existence at this time.*
- 105-46 – Sanitary provisions. *Roger A. stated there is an existing State approved septic design on site.*
- 105-47 – Signs and billboards. *Roger A. stated that all signage must be permitted and approved through the Code Enforcement Office.*

Roger stated the conditions of approval are:

- 1) The hours of operation shall be 9:00 a.m. thru 7:00 p.m., seven days a week.
- 2) There shall be no more than 200 square feet covered by outdoor furniture displays at any one time.
- 3) Signage for the new structure shall be permitted through the Code Enforcement Office.

Madge B. made the motion to approve the amendment to a Conditional Use Permit to open a furniture and home décor business in the existing structure on Map 7, Lot 3-2. Maggie M. 2<sup>nd</sup> 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 applicant is Sharon Tombarelli of 720 East Shore Drive, Acton, Maine 04001.
- 2. The owner of Shapleigh Tax Map 7, Lot 3-2 (926 Shapleigh Corner Road), is James Correggio, of 6 Chestnut Road, Shapleigh, Maine 04076.
- 3. The property is located in the General Purpose District and according to the assessor, the property contains 3.91 acres.
- 4. The applicant is before the board for an Amendment to a Conditional Use Permit to open a furniture and home décor business.
- 5. Received was a site plan depicting the location of the existing structures on site which included the building known as ATV Club, which is where this business will be located. The site plan also noted that there are a total of 285 parking spaces on site with 115 of these in the vicinity of the clubhouse. Route 11 is also depicted on the plan, along with where to enter and exit onto the highway.
- 6. The detailed description of the proposal is as follows: Store selling rustic furniture, home décor, and gifts. Also, outside furniture. The two employees will be Sharon and Steve Tombarelli.
- 7. The board reviewed the Basic Performance Standards and the board concurred the application met all the standards imposed.

8. 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.
9. A notice was mailed to all abutters within 500 feet of the property on December 14, 2017. Meetings were held on December 13, 2017 and December 26, 2017. A scheduled inspection was not necessary as the board members were familiar with this location.
10. The Planning Board unanimously agreed to approve the amendment to a Conditional Use Permit to open a furniture and home décor business, to be located on Map 7, Lot 3-2, per the plans provided with conditions.
11. **The conditions of approval are:**
  - 1) **The hours of operation shall be 9:00 a.m. thru 7:00 p.m., seven days a week.**
  - 2) **There shall be no more than 200 square feet covered by outdoor furniture displays at any one time.**
  - 3) **Signage for the new structure shall be permitted through the Code Enforcement Office.**

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**Best Possible Location – Replace Existing Structure – Map 18, Lot 18 (5 1<sup>st</sup> Street) – Steve Foglio, Applicant**

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

In addition to the application, provided was a plan which depicted the existing structures, parking area and driveway, well, existing septic tank and field, along with the approximate boundary line with Map 18, Lot 19 (noting that this boundary was still under investigation). The distance from the existing structure to Mousam Lake at the closest point is depicted as 51.2 feet and to the lot line of Lot 19, 24.2 feet. The 100 foot line to the lake is also noted on the plan and at this time the existing structure lies within the 100 foot mark. The existing grade is on the plan, and it shows the lot as being 1.26 acres in size.

The detailed description of the project states: Tear down existing home & rebuild new.

Roger A. asked stated the board received one letter from an abutter, Pat Baldwin of 21 1<sup>st</sup> Street, it read as follows:

*As an abutter of this property and resident for 70+ years, I am most familiar with it. I have 2 suggestions:*

- 1) A 20' buffer strip of low vegetation and mulch at the water's edge.*
- 2) If the driveway remains a hard surfaced one, a turn-out be installed since runoff and water run from 109 in back of the present location towards the lake.*

*Since the watershed study of 2007, Mousam is now under consideration to again be placed on the DEP "Lake at Risk" list. Therefore, these measures should be implemented.*

Roger A. asked Steve F. for the record to tell the board what he wanted to do. He stated he would love to rehab what is there but it is in a condition that it has to be torn down. They would like to rebuild with a similar house and add a garage beyond the 100 foot mark. He stated that if you look on the plan, where the garage will be placed the majority of the driveway would be removed. He said the topography slopes down into a basin and slopes back up before it goes to the water.

Madge B. asked if he was talking about taking out the pavement in the turn-around? Steve F. showed Madge on the plan where he intended to put the driveway. The well was a factor and it may have to be capped over and be part of the driveway. He said he was not a fan of the hot-top and having to remove it for the driveway did not bother him. He agreed it would help slow down the runoff. Steve showed Madge on the map the natural swale on the property.

Steve F. stated he would probably move the septic tank but the leachfield would remain where it is at this time.

Roland L. said based on this, there would be no garage under? Steve F. stated this was correct, it would be a daylight basement because it would work in this location with the slope. The garage location would be based on shooting additional elevations.

Roland L. asked about the Rhododendrons and large shrubs. Steve F. said the Rhododendrons are over-taking the house so they will at a minimum have to be cut back substantially. He thought it would be best to start new. Steve showed members a 4 foot wall that exists that sends water under the breezeway. It is why they wanted to start over due to the water issue and what it has done.

Madge B. asked about the concrete wall along the apron. Steve F. said it could stay, it is in fine shape. It is not engineered and he had no issue with it staying if the board wanted it to stay. He isn't partial one way or the other. He did not have a house plan yet and if it works with the house plan it could stay. He said if it has to come down he did not plan on engineering a new wall to replace it. He would rather slope the land than put up a new wall.

Steve F. noted the only expansion to date is the deck area. Roger A. asked what would be put in place when the driveway was removed? Steve said it was lawn there now, so he would probably have that and some shrubs.

CEO McDonough asked if Steve F. had a copy of his septic design? Steve F. stated it was in the CEO file. CEO McDonough said he should show the board the plan, as that was a requirement.

Ann H. asked if the new structure would be higher than the existing. Steve F. said no, noted that it couldn't be. Roger A. asked if the Permit by Rule had been submitted? Steve said it had.

Roger A. asked for a time frame. Steve F. said November 1, 2018. Roger said the date was mostly for stabilization of the area.

Madge B. wanted to know why the board was not moving the house back? Ann H. thought the board was just looking at the existing location. Madge said the board needed to address the possibility of moving the structure back. Ann said the well was there now and it was an issue. Madge said a new house could be placed on one side of the well. There appeared to be enough room. She said the leachfield would not have to be moved. She wanted to know why the board was not considering it. Steve F. said he just didn't want to get back into the existing hill. He asked CEO McDonough about the three foot rule? CEO McDonough said the rules have changed. Ann didn't think the whole house could be moved back beyond the 100 foot mark. Madge wanted to know why not.

Madge B. showed the board where on the plan the house could be placed to make it entirely beyond the 100 foot mark. On paper it worked but if there was a reason it could not be moved the board needed to state the why. Ann H. asked if the concrete basement wasn't being moved was that a reason or can the board ask them to move it. Madge said the board could ask them to move it. Steve F. said he was taking it out.

Madge B. did not see the hill as being that serious a hill. Ann H. said there was no reason the board could not push it back. Steve F. said currently he is at 472 feet, it is 8 feet higher behind the well and about 10 feet higher at the tree line. Ann asked if there were any trees that would have to be removed? Steve said in the back are large pine trees and there are some saplings. He showed her where the tree line was located.

Roland L. asked where Madge B. was proposing it to be moved? She showed the members on the plan, it appeared it could be moved. She showed two choices. She still didn't know why the house wasn't being moved because the entire area will be disturbed during the project. Ann H. added that the goal is to move it away from the water. Madge said yes, the board is supposed to pick the best possible location as conforming as possible. She said if Steve has a problem when he tries to move it and he can't, then he can come back to the board and tell the board why.

Roland L. asked about the distance requirement between the septic system and the structure. Steve F. said it is 20 feet to the leach field. Madge B. noted he was going to move the septic system anyway. Not the leachfield but the tank. Steve agreed. She said again he had room.

Ann H. asked Steve F. if he could see any reason for it not being moved. He stated that the only thing he didn't know was what was on site for ledge. He said there was ledge between him and a neighbor but he did not know. Ann said it could be moved unless there was a reason why it can't be. Madge B. said the only reason why presented at present is the elevation and she did not feel that was a good enough reason. She was not a builder but she said the board has made people move back unless the area would be seriously be disturbed. Madge said the area will be redone. Ann asked what Steve would have to do to determine if there was ledge or not? Steve said he would just need to do a few test pits.

Ann H. stated that if there is ledge it may not be able to go back as far as Madge is suggesting. Madge said that any amount would be better than not moving it at all. Steve F. asked if the board would be ok with them moving back and to the right in a spot that works for both the house and the board. He said he realized Madge did not think the house was a big deal but the problem is when they deal with the slope it changes stormwater issues. He felt it would create more runoff. Madge said if this can be stated as being an issue, then moving the house may not work. Ann asked if the DEP could make a statement about this? Roger A., Madge and CEO McDonough all stated this was not a DEP issue. Roger said it would be a Permit by Rule only. Roland felt it would be a challenge to fill in the hole and not aggravate the runoff issue. Ann said, "But we do not know for sure". CEO McDonough stated, "A professional can give advice on this issue".

Madge B. stated that the board needs sound reasons for not moving it. Roland L. thought by not bringing fill in to fill the existing hole. Ann H. did not feel the board was qualified to determine this. Steve F. said that he was not opposed to moving the house back and to the right. He said his reason for not moving it was he did not want to get into the slope, as soon as you leave the driveway it goes up into the hill. He said he could move over and back into this location (pointing to the plan) that works but getting back up into here (pointing at the plan) this is steeper than it appears.

Roger A. thought that keeping the area level, and once new loam and grass is brought in, the area will be stabilized. The swale currently catches a lot of the stormwater, so he thought taking out the pavement and putting in grass would work. Steve F. said again he did not mind moving over and back but not toward the hill. Roger showed members where water is collecting at this time and it caused the problem in the house now.

Steve F. stated he understood Mrs. Baldwin's issue with the driveway.



Madge B. asked about the existing foundation. Steve F. showed her where it was and explained how it is at present. He said his intent is to work with the lot. He understood questioning the possibility of moving it back but he didn't want to get it into the hill. Ann H. asked if he could check to see how far he could move it back. Steve said if he goes back to the engineer he will look at the future plan first and then come back to the board.

Roger A. said he would prefer to have it stay in place based on the location of the daylight basement, where the existing slope is, and the existing runoff issue. Madge B. said she was not trying to be difficult but she needed the record to show why it isn't being moved back because there is space on the lot. Roger agreed there was space but cutting into the hill that would have to be taken care of. He felt the building is in the wrong location to be pulled back. He stated he would not even want to pull it back eight feet.

Madge B. felt satisfied that the record was ok, there needed to be a reason. Steve F. asked if the board wanted it on the plan that the driveway will be removed. Members said he could write on the plan that it was being removed. He put a cross-hatch on the part of the driveway to be removed. Roger A. said the area can be put back to grass.

Ann H. said the board is saying the best possible location is where it is, with removing the pavement. Roger A. said, "Right." Ann asked if the reason was topography? Madge said it was due to the topography and the concern with the runoff created if it was moved.

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

- 1) The plan was amended on December 26, 2017 by the applicant and accepted by the Planning Board. This amendment depicted the area where the pavement shall be removed from the property.**
- 2) The area where the pavement is to be removed shall be revegetated with grass and plantings, as well as any other area disturbed by this project; this revegetation plan must be shown to the Code Enforcement Officer for approval.**
- 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 including the replacement of the structure and revegetation shall be completed by November 1, 2018.**
- 5) Per Shapleigh Zoning Ordinance §105-4, the approved plan shall be confirmed in writing by a licensed surveyor that the placement of the structure is correct per the specifications approved by the Planning board.**

**Madge B. moved for approval of the best possible location for the structure on Map 18, Lot 18, that being keeping it in the existing location based on the topography and concern with the runoff created if the foundation location was moved. Roland L. 2<sup>nd</sup> 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 owner of Shapleigh Tax Map 18, Lot 18 (5 1<sup>st</sup> Street), is Stephen Foglio, 182 Ross Corner Road, Shapleigh, ME 04076.**

2. The property is located in the Shoreland District and according to the assessor contains 1.05 acres. The plan denotes it as being 1.26 acres in size.
3. The applicant is before the board for a Best Possible Location to replace the existing structure.
4. Received was a plan for a proposed best practical location drafted by Joseph Stanley, PE #2453 of LinePro Land Surveying, LLC, dated November 14, 2017 which depicted the location of the existing structure to be replaced, a deck, two concrete walls, the paved driveway, existing septic location and well, as well as a utility easement. The existing structure has a side setback to the property line of Lot 19 of 24.2 feet, and a setback to the high water mark is marked as 51.2 feet. The 100 foot mark to the water was also on the plan. The existing structure is entirely within 100 feet of the high water mark.
5. The detailed description of the proposal is as follows: Tear down existing home and rebuild new.
6. The board reviewed Zoning Ordinance §105-4, 'Nonconformance', and concurred the application and information as presented met the standards applicable in this chapter. The board concurred the best possible location was to leave the structure in the existing location due to the topography and concern with the runoff to be created if the existing foundation location was changed.
7. A notice was mailed to all abutters within 500 feet of the property on December 14, 2017. Meetings were held on December 13, 2017, and December 26, 2017. Site inspection was done on an individual basis.
8. The Planning Board unanimously agreed to approve the Best Possible Location to replace the existing structure on Map 18, Lot 18, per the plan drafted by Joseph Stanley PLS #2453, dated November 14, 2017, entitled 'Plan Showing a Site Plan Made for Stephen Foglio, Jr., 182 Ross Corner Road, Shapleigh, ME 04076 of Property Located on First Street in Shapleigh, Maine' leaving it in the same location with six conditions. The plan depicted the side setback to Lot 19 as 24.2 feet at the closest point and 51.2 feet to the high water mark at the closest point.
9. **The conditions of the approval are as follows:**
  - 1) **The plan was amended on December 26, 2017 by the applicant and accepted by the Planning Board. This amendment depicted the area where the pavement shall be removed from the property.**
  - 2) **The area where the pavement is to be removed shall be revegetated with grass and plantings, as well as any other area disturbed by this project; this revegetation plan must be shown to the Code Enforcement Officer for approval.**
  - 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 including the replacement of the structure and revegetation shall be completed by November 1, 2018.**
  - 5) **Per Shapleigh Zoning Ordinance §105-4, the approved plan shall be confirmed in writing by a licensed surveyor that the placement of the structure is correct per the specifications approved by the Planning board.**

**Motion:**

After careful consideration and a review of all material presented to the Board, including the review of Zoning Ordinance §105-4, 'Nonconformance', a motion was made to approve the Best Possible Location to replace the existing structure on Map 18, Lot 18, per the plan drafted by Joseph Stanley PLS #2453, dated November 14, 2017, showing the side setback to Lot 19 as 24.2 feet at the closest point and with a setback of 51.2 feet to the high water mark at the closest point, with five conditions.

**Vote:**

By a unanimous vote of 5 – 0, the motion to approve the Best Possible Location application to replace the existing structure on Map 18, Lot 18, per the plan drafted by Joseph Stanley PLS #2453, dated November 14, 2017, showing the side setback to Lot 19 as 24.2 feet at the closest point and with a setback of 51.2 feet to the high water mark at the closest point, with five conditions, was accepted.

**Decision:**

**The Best Possible Location application to replace the existing structure on Map 18, Lot 18, per the plan drafted by Joseph Stanley PLS #2453, dated November 14, 2017, showing the side setback to Lot 19 as 24.2 feet at the closest point and with a setback of 51.2 feet to the high water mark at the closest point, with five conditions was approved.**

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**OTHER:**

Board member discussed several changes to the following two ordinances, based on the public hearing on December 13, 2017. They are as follows:

105-19: Notes

- A. Each lot on which is located a principal structure or use, unless in compliance with Sections 105-40.2 or 105.42 of this Ordinance, shall meet all the dimensional standards set forth in section 105-18. Dimensional requirements for two and multifamily dwellings are set forth in 105-42 of this chapter. ~~Required yard space shall serve only one lot. No part of the yard or other open space required on any lot for any building shall be included as part of the yard or open space similarly required for another building or lot. If more than one~~ When two principal governmental, institutional, commercial or industrial structures or uses, or combination thereof, is are constructed or established on a single parcel, all dimensional requirements ~~for~~ shall be met for each additional one principal structure or use shall apply. Dimensional requirements for a residence and a **non-residential** use on one conforming lot are set forth in 105-40.2

New definitions:

Two-family dwelling: Any building that contains two dwelling units used, intended, or designed to be built or occupied for living purposes.

Dwelling Unit. A single unit providing complete independent living facilities for **one** or more persons, including ~~two~~ permanent provisions for living, sleeping, eating, cooking, and sanitation. The term shall include manufactured housing units but shall not include trailers or recreational vehicles.

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105.61.6 Retaining walls: Any portion of a retaining wall in excess of 48 inches in height shall be designed by a licensed engineer or the owner shall secure a written confirmation by a licensed engineer that the **proposed** wall **will** be structurally sound **if built as designed**.

Board members will continue to discuss the proposed changes and another public hearing will be held on Tuesday, February 13, 2018.

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### **Growth Permits**

There are growth permits available.

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**The Planning Board meeting ended at 9:00 p.m.**

**NOTE: The winter hours are in effect thru April 1<sup>st</sup>, the meeting begins at 6:30 p.m. and any scheduled public hearing begins at 6:00 p.m.**

*The next meeting will be held **Tuesday, January 9, 2018** 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 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.*

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