

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, January 9, 2018

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.

Minutes are not verbatim, unless in quotes “”

The minutes from Tuesday, December 26, 2017 were accepted as read.

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

Conditional Use Permit – Earth Moving in the Shoreland District & Dam Repair – Map 14, Lot 16 (177 Emery Mills Road) – City of Sanford Maine, Steven Buck, Applicant; John Gallant, Property owner
No one was in attendance for the review of this application.

Barbara F. sent out a copy of the agenda to Mr. Buck, as well as sending him an email that the meeting was this evening. Barbara will try to contact Mr. Buck again.

Nothing further was discussed.

Other:

Roger A. stated that with respect to the ordinance changes he did not see any additional issues at this point in time. Madge B. agreed.

Roger A. noted that at present there were illegal duplexes in town. He wanted to know if the Town should register them to put them on the tax rolls. Roger said the legal duplexes have a permit at this time and the necessary Growth Permit. CEO McDonough stated that it was bigger than that, currently you have to have fire suppression between the living quarters. Roger asked if the board did enact the change to the ordinance allowing for a duplex on two acres, was the board going to grandfather the ones in existence today that have one illegally. Both Madge B. and CEO McDonough stated that you don't grandfather an illegal structure. Also, you don't go back in time with an ordinance change, the change is made from the date it is approved forward. This applies to all changes in the ordinance. CEO McDonough said that he came across this many times with Realtor's wanting to know if an existing apartment was legal that hadn't been permitted and he tells them is it not. Roger said he just wanted clarification.

Roland L. was curious about bringing the illegal duplexes, thru a permitting process, into the Shapleigh tax base. He noted in the past the State of Maine has allowed a grace period to claim items purchased in New Hampshire and they would reduce the amount of tax money owed on these items, if the people came forward within a certain amount of time. Roland asked, "Should the Town go after illegal duplexes for tax purposes?"

Steve F. said the problem was bigger than that, they would have to deal with the Code, bringing the structure up to the building code, which could lead to major changes, in some instances it could lead to removal of part of a structure, therefore, he didn't see anyone coming forward for tax reasons. Madge B. agreed, stating they probably would have to tear the thing down and rebuilt it. CEO McDonough agreed. Roland L. said, "So there is no incentive for the Town to go after these people?" Roger A. stated, "It would be a matter of whether or not they wanted to spend the money to do it." Roland said, "Meaning the Town?" Roger said, "Correct, it has nothing to do with the board. It is the Selectmen and CEO." Roland wanted to know if the Selectmen knew it was an issue. CEO McDonough stated he knew of legal duplexes but he did not believe there were a lot of illegal ones. He said there may be two or three but of course he noted that no one was going to tell the Code Officer that they had an illegal structure. Roger said that you sometimes see an in-law apartment advertised for sale in the Smart Shopper in Shapleigh. CEO McDonough said that may be the case, but without the necessary permits it is not legally a duplex and it is unlikely to be financed by the bank. It is probably listed incorrectly. He also said there were some that are legally permitted. Steve F. said it was up to the Realtor to do their homework and not all do.

Nothing further was discussed.

There will be a public hearing on the proposed ordinance changes on February 13, 2018 at 6:00 p.m.

Barbara F. asked board members if they would be interested in listening to information regarding the water quality in Shapleigh. Mr. Scott Williams of the Maine Volunteer Lake Monitoring Program would be willing to speak on water quality, not with respect to a project before the board, but what is happening to water quality locally in general. Members stated that this would be of interest. Barbara will contact him to try to set up a date and time that works. It is likely it will be at 5:00 p.m. as Mr. Williams has a long distance to travel.

Nothing further was discussed.

Growth Permits

There are growth permits available.

The Planning Board meeting ended at 6:55 p.m.

NOTE: The winter hours are in effect thru April 1st, 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 23, 2018** 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.*

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, February 13, 2018

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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Public Hearing began at 6:00 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 public hearing by stating the Planning Board was presenting several changes to the Zoning Ordinance and they will be presented at the March Town Meeting.

Roger A. read the first change as follows:

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

- [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 that the only change to this section was the addition of the last sentence. Roger asked if there were any questions? There were none.

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Proposed Amendment to §105-15 ‘Definitions.’

New definition:

Two-family dwelling - Any building that contains two dwelling units used, intended, or designed to be built or occupied for living purposes.

Amendment to a Definition:

Dwelling Unit. A single unit providing complete independent living facilities for one or more persons, including 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.~~

Roger A. asked if there were any questions?

Citizen – Why is the definition of two-family dwelling being added?

Madge B. & Roger A. – I think we should explain later in the review, when we talk about the change to two-family dwellings on one lot.

Proposed Addition to §105-17 ‘Land Uses’

LAND USES

RURAL	RP	SD	GP	FD	SP
Agricultural, commercial gardening ⁴	CU	CU	YES	YES	CU
Seasonal sale of produce and plants raised:					
Off Premises ⁴	NO	CU	CU	CU	CU
On the Premises ⁴	NO	CU	YES	CU	CU

⁴Marijuana 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. asked if there were any questions?

Citizen – What about hemp?

Roger A. – We are talking about marijuana, hemp is not being addressed.

Citizen – Then I feel you need to say something about that because you are singling out the term marijuana when most people can grow hemp which is literally the same.

Roger A. – The State of Maine gives us definitions with respect to marijuana and Shapleigh has voted on banning the retail sale of marijuana throughout the town.

Citizen – I know we voted on that but not on crops.

Roger A. – Crops would actually be a conditional use permit at this time but marijuana would not.

Proposed Amendment to §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%	20%	²	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%	20%	²	10%

Roger A. stated the change here was an increase of lot coverage in the General Purpose District for Residential and Commercial from 10% to 20%.

Roger A. asked if there were any questions?

Citizen – Why are you doing this?

Roger A. – Businesses in town cannot expand if they are on a small lot, so they asked the Planning Board to consider the change. Roger noted that 10% lot coverage was a minimal coverage and increasing to 20% would not burden the town in any way. He mentioned an existing business in town that cannot expand at this time with respect to putting up storage due to the current limitations.

Citizen – Is it the same for a house lot?

CEO McDonough – It is all relative, the percentage of a lot is the percentage of a lot.

Roger A. – At this time only 10% can be a structure and the board wants to allow this coverage to be up to 20%. He noted that this is only in the General Purpose District, not in the Shoreland Zone.

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Proposed Amendment to §105-19 'Notes to Table on Dimensional Requirements.'

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 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

Roger A. stated the board felt as written, this section was confusing, as there was no good definition for 'required yard space' so the board opted to eliminate it and rewrite the section.

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

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Proposed Amendment to Ordinance – Add Section 105-40.2

§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 permit 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.

Roger A. stated this allowed a business to be able to be added to a residential lot that already has a home. Roger asked if there were any questions?

Citizen – So you are saying they can put a business on any residential lot anywhere?

Roger A. – In the General Purpose District.

Citizen – Where is the General Purpose District?

CEO McDonough – Most of the town. Anything that isn't in the Shoreland District. And currently you can do this anyway but you have to make sure the lot is twice the size. Now we are saying if you have a

conforming lot of 80,000 sf with 200 feet of road frontage you can have a home and business, you don't have to have double the size.

Madge B. – With a permit.

CEO McDonough – Yes, with a permit.

Citizen – There are businesses now on a regular size lot. What can we do about that?

Madge B. – Not much, so with these changes we are trying to regulate what people are doing without permits.

Roger A. – Some of these businesses are grandfathered, so they are allowed to have the business on that lot and a residential unit.

Madge B. – Some people are running businesses without a permit and our hope is by changing the ordinance they will come for a permit because it will be allowed, and then the board can regulate it. We currently exempt Day Care from the existing lot size requirement.

Roger A. – Any home business where you are running the business inside the home, you can do that now.

Madge B. – Except for Real Estate offices.

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Proposed Amendment to §105-42.A 'Multifamily dwelling units.'

~~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.

Roger A. said this is why the definition (listed above) of two-family dwelling was added.

Madge B. stated there is a real need for families to have more of the family within a building at some point in their lives. People are putting two families in a single family and it is extremely hard to enforce because you have to actually go in and see the kitchen. The board's hope is by making it legal, the board will be able to find out what is going on.

Citizen – What difference does it make? I took care of my Aunt and Uncle and it wasn't a two-building house. If someone needs to be taken care of, they don't need a whole house.

Madge B. – I agree with you but not everybody does, and so this way the code can be enforced.

Citizen – Does any of this include the shoreland property?

Roger A. – No.

Madge B. – Duplexes are allowed in the shoreland zone.

Roger A. – Provided they meet the size requirement.

Madge B. – They are allowed now on four acres, with 400 feet of road frontage.

Citizen – Is there a bigger acreage required on the shore?

CEO McDonough – That is going to remain four acres. The proposed change is only in the General Purpose District.

Citizen – What are we going to do to enforce those places where there are multiple families living in a single family unit.

Madge B. – We are not going to go back.

CEO McDonough – How are we going to prove it? I can tell you if a Real Estate agent comes in, or a bank comes in and they want to call it a two-family dwelling, that is not going to happen, because my file shows

the septic system is for a single family dwelling. Therefore, that is the way it has to be marketed and sold. Someone would have to lie to sell it. But there is no good way Code Enforcement can prove you are using it as a two-family dwelling.

Citizen – What if the police have been there and they say there are multiple families?

CEO McDonough – It would be difficult to prove and there would have to be an extreme reason to go after this person, and it would be costly to prove it.

Citizen – What difference does this make to the town?

Roger A. – A duplex would pay more in taxes than a single family residence. Also, the more duplexes you have the more it costs the town because of multiple children. There are not enough taxes to pay for the kids.

Madge B. – You never pay enough taxes to pay for the children in a single family home or a duplex.

Roger A. agreed.

CEO McDonough – By regulating it, they have to have fire separation and egress. If they are doing it illegally, I cannot monitor that.

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Proposed Amendment to Ordinance – Add §105-61.6

105.61.6 Retaining walls.

A. 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 that it currently isn't in the ordinance, only in the building code. It puts language into the ordinance so applicants realize what is expected.

Citizen – I didn't think you could put up a retaining wall?

CEO McDonough – Replacement walls.

Roger A – Yes, replacing an existing wall with a wall the same size. This way the applicant knows that they will need to show the board the replacement wall will be structurally sound.

Citizen – Do they need a permit to do that?

Roger A. – Yes, a DEP permit, as well as a Conditional Use Permit.

Roger A. stated those are the changes to be proposed at Town Meeting.

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

The public hearing closed at 6:23 p.m.

The minutes from Tuesday, January 9, 2018 were accepted as read. (There was no meeting January 23rd.)

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

Best Possible Location – Replace Structure – Map 34, Lot 24 (10 Cherry Road) – LinePro Land Surveying, Applicant; Arthur McEvoy III, Property Owner

Mr. Stanley was present for the review of the application, along with Mr. McEvoy.

Provided to members along with the application, was a survey plan drafted by Joseph L. Stanley, PLS#2453, of LinePro Land Surveying, LLC. The plan depicted Map 34, Lot 24, the existing location of the structure, brick & concrete patio, wood steps, beach area, crushed stone area, 4 Spruce and 1 Maple tree, and approximate septic tank location. The plan also depicted the best practical location of the proposed structure. The existing structure at the closest point to the high water mark is 23.6'; the proposed structure is 40.3'. The existing structure at the closest point to centerline of Cherry Road is 77.1'; the proposed structure is 64.2'. The existing structure is 9 feet from the lot line of Map 34, Lot 23. The plan also notes that the disturbed area is to be stabilized and revegetated with Erosion Mulch and 4 Blueberry Bushes. The plan notes that currently the existing lot coverage by camp and patio is 8.1%. There is no change to this figure being proposed.

A Subsurface Wastewater Disposal System Application was provided, drafted by Wesley Bullard SE#122, dated 9/1/1988. The surveyed plan notes the possible location of a new septic system but no application was provided.

The detailed description of the project read as follows: Best Possible Location for a camp rebuild.

Roger A. asked Mr. Stanley to let the board know what he wanted to do. Mr. Stanley began by stating the lot they would be looking at was relatively flat. The existing structure is 23.6' to the lake and after going to the site, he and Mr. McEvoy felt the best possible location was as depicted on the plan but Mr. Stanley said the applicant is open to suggestions. The proposed new location moves the structure back from the lake 17' and it will be 64.2' from the centerline of the road.

Mr. Stanley stated that the two closest trees were on the plan but there should be no impact to them by this project. He noted that the plan states that revegetation of the disturbed area would be done with erosion control mulch and blueberry bushes.

Roger A. asked what the yellow area on the plan depicted? Mr. Stanley stated that it was a sandy beach area that is in existence. He stated this area goes from beach to undergrowth.

Roger A. asked if the crushed stone would be moved back, along with the structure? Mr. McEvoy stated the crushed stone was put into place to slow down the rainwater runoff toward the lake. He said that he could move some of it and revegetate if the board wanted but noted the crushed stone was working well.

CEO McDonough asked if there would be any tree removal? Mr. Stanley said, "No." Roger A. asked if the DEP Permit by Rule had been submitted? Mr. Stanley stated that it had not, because they wanted to see if the board was comfortable with the plans before they submitted it. He thought that after the site visit, then they would submit to DEP, when they knew what the board thought of the location.

Madge B. asked about the location of the septic system? Mr. Stanley stated that the existing is on the plan but it may be moved, depending on what the board decides. He said they would then have a new design drafted. Mr. McEvoy stated he was willing to put in a new system and move the structure back. He said the existing was put in in 1988 and it probably should be updated, although there have been no issues to date.

CEO McDonough wanted to know why they were not moving the structure back further? Mr. Stanley stated that it was due to the road setback but said again that the applicant would be willing to move the structure to any location the board felt appropriate. Mr. McEvoy stated that the 75' road setback was one concern when they were deciding upon a best location. Mr. Stanley stated that they just took the existing footprint and moved it to what appeared to be a location that would work best.

The board asked how old the camp was? Mr. McEvoy thought it was originally built in the 1930's and was a caretakers' quarters at one time.

Roger A stated a site inspection would be scheduled and a notice to abutters mailed. The site inspection was scheduled for Sunday, February 24th at 9:00 a.m.

Nothing further was discussed.

Conditional Use Permit – Earth Moving in the Shoreland District & Dam Repair – Map 14, Lot 16 (177 Emery Mills Road) – City of Sanford Maine, Steven Buck, Applicant; John Gallant, Property Owner

Mr. Buck was present for the review of the application. *Note: The tape recorder was not working properly so there will be no direct quotes for this review.*

Along with the application, members received the following information: Activity Description / Site Description and Proposed Dam Repairs, drafted by GZA GeoEnvironmental, Inc. Also received was an Erosion Control Plan, also drafted by GZA GeoEnvironmental. The board received photographs of the existing site, Locus Plan, a pictorial of the Erosion and Sediment Control Plan and what is called a 'Side View Plan' of the work to be done showing the construction entrance, and cross section at the lake.

Roger A. began by asking Mr. Buck if they were obtaining a right-of-way easement from Mr. Gallant? Mr. Buck stated that they were and a land swap also had taken place, deeding Mr. Gallant a strip of land at the water's edge. Mr. Buck stated on the last page of the plan you could see the deeded peninsula that was in exchange for the permanent right-of-way.

CEO McDonough asked what the amount of land was that was deeded to Mr. Gallant? Mr. Buck did not have a copy of the deed with him but stated he could provide this information for the board, along with a copy of the easement. Mr. Buck stated that Corner Post Land Surveyor's gave a copy of the information to the City of Sanford's Attorney to be certain the land swap and easement were handled properly. CEO McDonough stated that the board would need a copy of both the deed and easement for the record, to know exactly what is being conveyed. Roger A. agreed.

Mrs. Small asked where the brook was in relation to this project? Mr. Buck stated the wetlands were all mapped out and a copy was provided to the board. Roger A. asked why they did not come in from Deering Ridge Road? Mr. Buck stated that they considered doing that but due to stream protection on one side it was not feasible and they also could not get an excavator in from that location for what needed to be done.

Roger A. asked exactly what the right-of-way would be used for? Mr. Buck stated it would be for the construction and maintenance of the dam only. He expected this right-of-way to be used a very limited amount of time. He noted that Acton / Shapleigh / Sanford oversees the dam and that a coalition was formed and meets to be certain the dam is maintained and monitored. It is imperative this dam does not fail, as there are six homes that would be affected should the dam fail. He spoke of emergency plans that were enacted every year in case of a catastrophe, such as a complete failure. That is why they are doing the needed repairs to prevent such a catastrophe.

Mr. Buck described the existing site to the board using much of the site description written by GZA GeoEnvironmental, Inc. Their Site Description, in part, is as follows:

Emery Mills Dam is located off the west side of Deering Ridge Road near its intersection with Emery Mills Road. The dam is owned by the City of Sanford and impounds Mousam Lake at its southwest end. The Emery Mills Dam was constructed in 1889 and consists of an earth embankment with a stone masonry wall along the downstream side. The total length of the dam (including the spillway) is approximately 230 feet with a top width ranging from approximately five feet at the abutments to approximately 15 feet at the gatehouse. The overall height of the dam is 29 feet, with a hydraulic height of 25 feet. An approximately 60 foot long, multi-level, broad-crested spillway weir is located near the right abutment. The lower spillway invert is constructed from stone masonry, while the upper invert is capped with reinforced concrete. The spillway section of the dam appears to be founded on bedrock.

The outlet works consist of twin 30 inch diameter low-level outlets controlled by twin 48-inch square slide gates. Flow from the gates is conveyed through a presumed 30 foot long stone masonry culvert to a stone-lined channel downstream. Flows from the spillway travel over exposed bedrock and large boulders, and intersect the discharge channel approximately 40 feet downstream of the dam. Outflow from the gates is periodically adjusted to provide a minimum required flow to the wastewater treatment plant operated by the City of Sanford approximately 10 miles downstream of the dam. Based on the Title 37-B MRSA, Chapter 24 “Dam safety” the Maine Emergency Management Agency (MEMA) has classified Emery Mills dam as a “high” hazard dam.

Mr. Buck spoke about the project, that they would be removing brush and roots, and adding new rip rap to adjust the slope. He noted they looked at whether or not there has been any actual movement of the dam, and to date there has not been.

The proposed Dam Repairs, written by GZA, are as follows:

- Improve the existing footpath between 177 Emery Mills Road and the Dam to serve as a construction and emergency vehicle access road with a vehicle turn-around area. The existing footpath is approximately 5 feet wide and 300 feet long. The proposed access road has a maximum base width of 12 feet and will be approximately 520 feet long. The closest point of disturbance for the access road is estimated to be approximately 18 feet from the ordinary high water mark at Mousam Lake as mapped by GZA in June 2017.
- Reinforce the top of the existing sluiceway roof (approximately 20 feet wide by 10 feet long) as necessary to facilitate construction and stabilize the structure. Stabilization will be completed from the side and roof of the sluiceway (no in-water work is proposed) and will match existing conditions to the extent practicable. Materials will include concrete, fieldstone, and/or rebar as needed.
- Install a berm on the eastern side and reinforce the existing concrete spillway on the western side of the Dam to support the Dam from the downstream side. The proposed disturbance will be within the 250-foot shoreland zone buffer for Mousam Lake and within the 100-foot stream protection buffer for the Mousam River and is approximately 19 feet wide by 146 feet long. The downstream temporary work area abuts the fieldstone wall that contains the Mousam River at the Dam outlet and is approximately 19 feet wide by 75 feet long. Limited permeation grouting may be undertaken within the earth embankment as part of this task. No in-water work is proposed on the downstream side of the Dam.
- Install a toe drain within the berm and the concrete spillway (southwest side). The toe drain pipe will discharge into the existing stone-lined sluiceway channel via a weirbox.
- Remove overgrown vegetation and penetrating roots from the upstream (northwestern) abutment, and replace the abutment riprap to restore the previously constructed 2 ½:1 slope. The approximate volume of riprap that will be replaced or regraded is approximately 33 cubic yards over an approximately 12 foot wide by 75 foot long footprint on the upstream side of the dam. This work is proposed to be completed during the winter drawdown period to facilitate access to the riprap abutment.

Mr. Buck stated that both the MDEP and the Army Corps of Engineers are reviewing the project with respect to the access road construction; berm and toe drain placement; and riprap placement. And he noted that Best Management Practices will be put into place the entire duration of the project. At present it did not appear any more than five trees would be cut, these were scattered along the existing footpath. Mr. Buck stated there was an issue with a brown long eared bat that existed, so they would not be allowed to cut the trees during the mating season. This was the only issue with respect to wildlife on site. Board members wanted Mr. Buck to realize that if the trees are cut within 100 feet of the high water mark they would have to be replaced. The new trees can be no further back from the high water mark than the existing and must be a minimum of six feet in height.

Mr. Buck stated that the existing footpath would be improved to prevent runoff from going into Mousam Lake. The erosion and sedimentation control plan states that they would be using appropriate seed mix as required. Members noted the existing footpath had been in existence for many years and was used by boaters to access the store known as Emery Mills Market, currently known as One Earth Natural Food Store. Boats would tie up at a dock that was only recently removed, and walk up to the store. CEO McDonough wanted to know if anyone had access or a right to the footpath currently? Mr. Buck was not aware of any one having a deeded right to it.

Mr. Buck stated that the footpath would be used for emergency and re-construction of the dam only. The board asked if there would be a gate at the entrance? Mr. Buck did not believe there would be unless Mr. Gallant wanted one. The erosion and sedimentation control plan drafted by GZA states that the permanent access road is proposed to follow the general alignment of the current footpath, however, it will be graded to direct surface flow away from Mousam Lake and toward a vegetated area adjacent to the dam. A cross section was provided to members known as Figure 3.

Mr. Buck stated that they had obtained a 5 year loan for \$100,000 at 0% interest to be used for the project. The board asked when they planned on starting the project? Mr. Buck stated they were just waiting for the DEP review to be concluded. He believed the bat mating season will be over by the time they want to begin the project.

The board members reviewed the stormwater plan presented. Mr. Buck noted that currently the water runs from the footpath into the lake, whereas when the project is completed the water will be diverted from the lake.

Madge B. asked if the easement restricts the use of the right-of-way? CEO McDonough stated that the board can require a restriction as a condition of the permit. Mr. Buck did not have a copy of the easement but stated he would get a copy for the board, along with a copy of the deed transferring land to Mr. Gallant. Mr. Buck stated the easement was to the City of Sanford, into, on and over part of Mr. Gallant's land for the maintenance and access for repair of the dam. The City of Sanford will be the ones who maintain the right-of-way.

Roger A. asked if they got a DOT permit for access? Mr. Buck stated that they did not because the entrance already exists and he did not believe there would be an issue as the entrance can meet the minimum site distances in both directions and the access road will have minimum use. CEO McDonough agreed that he did not believe DOT would have an issue, because they did not have an issue with the nearby public boat ramp and that had much more use than this right-of-way will.

Roger A. asked if the ROW would be plowed in the winter? Mr. Buck stated that it would not. Roger asked if it would be constructed based on the weight of the vehicles that would be using it? Mr. Buck stated that it would and that it would be a working driveway. Ann H. asked how much gravel and fill would be required?

Mr. Buck stated that it would be 12 feet in width x 520 feet long, having 6” of gravel. Roger A. was concerned with the size of the turnaround depicted at the dam. He did not believe a 20’ x 20’ turnaround would be sufficient for a dump truck. CEO McDonough stated that this would not be subject to a road standard because it is an easement. Roger stated that he understood but large vehicles would have to get down there and be able to turn around. Roger also noted an ambulance could not turn around. Madge B. stated that an ambulance could not turn around in her driveway either, she did not feel that the board could use that as a measure here. Roger did not agree, as the board needs to be mindful of the community. Nancy Small noted there was a drowning at this dam and an ambulance was not there. Madge thought it would be easy to get into the dam from the south side.

Roger A. asked Mr. Buck if he stated that he would have the review back from the MDEP by April 24th? Mr. Buck stated that was correct. Roger A. stated the board would table the meeting until the first meeting in May based on this, May 8th.

Mr. Buck stated that the board wanted a copy of the Deed to Mr. Gallant, a copy of the Easement from Mr. Gallant and the turnaround needed to be widened. Roger A. stated that was correct.

Steve F. thought the board might want DOT approval in case a dump truck pulls out onto Rte. 109 and something happens, he did not want the Town to be liable. Mr. Buck stated that he would get the DOT to sign off on this ROW entrance.

Madge B. stated that the board would like to know the quantity of materials to be used to construct the driveway. Mr. Buck stated that he would get the information.

Madge B. noted again that trees to be removed had to be replaced 1 to 1, 6 feet in height and no further from the water if they are within 100 feet of the water. Also that the replacement trees need to be native to the area.

Roger A. moved to table the meeting to May 8, 2018, pending further information. Madge B. 2nd the motion. All members were in favor. By a unanimous vote of 5 – 0 the board approved the motion to table the next review until May 8, 2018.

Nothing more was discussed.

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 preliminary 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.

This evening Mr. Stanley presented the board members with a formal application package which included a copy of the Warranty Deed showing James R. Chadbourne granting Warranty Covenants to Hidden Cove, LLC, Book 17652 Page 641; a copy of a sample deed for a lot in Hidden Cove; Requested Waivers (will be listed below); a copy of the soils map for the 3 lots, along with explanation of the soils; the lots located on a copy of the USGS map; a Stormwater Narrative which evaluated a 24 hour duration for a 2-year, 10-year and 25-year storm event; and a copy of the site plan for boundary retracements of property owned by James R. Chadbourne, located on Red Gate Road, Town Farm Road & Apple Road.

Also provided was a survey plan showing Hidden Cove, A Proposed Minor Subdivision by Hidden Cove, LLC, 173 Butternut Trail, Wells, Maine 04090 of Property Location on Apple Road & West Shore Drive, Shown on Tax Map 9, Lot 1A, Shapleigh Maine, dated February 2, 2018, drafted by Joseph L. Stanley PLS#2453, of LinePro Land Surveyors, LLC. The plan depicts 3 lots; Lot #1 being 2.00 Acres, Lot #2 being 3.94 Acres (2.39 Acres Net), Lot #3 being 2.62 Acres in size. Shown on the plan were a total of 4 Test Pits; Abutter Lines; Overhead Utility Lines; On the Ground Topo Contour Lines 2' Intervals; LIDAR Contours per Maine Office of G.I.S. – 2' Intervals; Shoreland Zone lines: Building Setback Lines.

Detailed plans were provided for the construction of the West Shore Drive Private Way, revised through 2-1-18, engineered by Craig A. Burgess PE#12638 of SEBAGO Technics. The plan depicted the actual construction of the Private Way, as well as erosion control measures.

Waivers requested for the project include:

Section 89-30A – Stone Monuments – Capped Survey Irons are proposed to be set at all property corners.

Section 89-30C – Fire Pond / Dry Hydrants – Due to project location near Square Pond, Individual Home Sprinkler Systems are proposed for fire suppression.

Section 89-36M – Sidewalks – No sidewalks are proposed because the project does not fall within an Urban Compact Zone.

Section 89-36I & 89-37A – Paving of Private Way – No pavement is currently proposed on the surface of the proposed Private Way. (Letter of explanation was provided by Joseph Stanley, dated February 2, 2018.)

Mr. Stanley stated the applicant was before the board to create a 3-lot subdivision on approximately 8+ acres. There would be one lot at the end of Apple Road and two lots accessed from West Shore Drive, coming in from Acton. Mr. Stanley showed the board the new drafted plan which had minor changes from the original preliminary sketch plan.

Mrs. Small wanted to know where the access would be for the property on Apple Road? Mr. Stanley stated that they did not know at this time but showed her where the building envelope was situated for Lot #3 which abutted Apple Road. Mrs. Small wanted to know if this lot was near her home. Mr. Stanley who surveyed not only this property but several others on the street was sure her property was not directly next to these lots. It appeared Mrs. Small's lot was several hundred feet beyond the lots lines of Lot #1. Mr. Stanley stated that there were some flags on the property that she may be able to see to help her better understand the location. He also added that there would be a public hearing that she was welcome to attend.

Mrs. Small was concerned with the lots being accessed from West Shore Drive in Acton, with respect to Rescue or Fire. It was a long way around to access these lots. Mr. Stanley stated that was one of the reasons the houses would have in-home sprinkler systems installed.

Mrs. Small asked where the brook was located on the property? Mr. Stanley delineated it on the plan he provided. He also showed the building envelope setbacks that were created in part because of the stream protection area.

Roland L. asked if there would be access from Apple Road to West Road through the lots? Mr. Stanley stated there would not, they did not want to cross the brook on site. He stated only 2 lots would use West Shore Drive.

Roger A. asked about the CMP (electric) utility easement on the property. Where was it located? Mr. Stanley stated that there were some old descriptions but they would be meeting with the utility company because they were trying to see if any of the overhead power could be moved to underground.

Roger A. noted that on the Private Way Plan, Item #17, it mentions the towns of Kennebunk and Kennebunkport, this needed to be changed. Mr. Stanley said he would have this addressed.

Mrs. Small wanted to know how close this was to the cove? Mr. Stanley stated that the property abuts the cove but there could be no building within 100 feet of the property line due to shoreland zoning guidelines. He showed Mrs. Small the building setbacks on the plan.

CEO McDonough wanted to know how the water / lot frontage was calculated on the middle lot? Mr. Stanley stated it ran along the shore. CEO McDonough pointed out it had to be in a straight line according to the ordinance; §105-19.C Shore frontage. A lot abutting a lake, pond, river, stream or wetland shall have a minimum shore frontage as specified in the table in §105-18, measured in a straight line between the points of intersection of the side lot lines with the shoreline at the normal high-water line or upland edge. Mr. Stanley stated that he would modify the plan.

Mrs. Small asked how deep the water in the cove was? Mr. Stanley and Madge B. both noted it was a very shallow cove. Neither believed a motorized boat of any size would be able to be placed in this location.

Mrs. Small asked about the other right-of-ways Mr. Chadbourne had from his property. Would these lots be able to use them? Mr. Stanley stated that they would not. Their only access was directly from the lots themselves.

Mr. Stanley wanted to address Roger's concern with the turnaround on the private way. Roger A. had believed the turnaround should be bigger than what had been presented on the plan due to how the terrain drops off, or that a support wall would have to be created. Mr. Stanley asked Roger to look at the actual pin locations. He stated that the proposed 16' wide travel way, and 24' wide x 24' turnaround should be more than adequate for the area proposed. He added that there would be a 3 to 1 slope tapered to the existing grade.

Mr. Stanley asked Roger to review the road design, believing the design stops before the steep part Roger was concerned about. Mr. Stanley said after review of the design, if the board was still concerned, they could put something up to help support the embankment. Mr. Stanley noted that if the road and turnaround were extended further, then he would agree with Roger's assessment that more would be needed to support the area.

Madge B. stated she was looking at the checklist and it states that all buildings have to be one foot above base flood elevation. She wanted to know if that had to be depicted on the plan? Mr. Stanley stated that he did not believe so because they were not in the flood zone and he also noted that there was no flood zones associated with Square Pond.

Mrs. Small wanted to know if there was access to the lake from Lot #3? Mr. Stanley stated that there was access to the cove but not to any other ROW on Square Pond.

Madge B. asked if the board had to make sure they had financial capacity to do the required improvements? Roger A. stated that yes, the board would require a bond or money to be held by the Town. Mr. Stanley stated that they still had to figure out what was going to be done with respect to electricity. Steve F. stated that the bond would be for the power and the road. Roger said, right.

Roger A. asked if the driveway was going to be paved or not? Mr. Stanley stated that in one chart in the subdivision ordinance it shows a minimum of 12" of pavement is required, §89-36.I, but in the next chart §89-37.A, it does not, it only requires a compacted gravel travel way of a certain thickness. Then when you look at a private way requirement in the zoning ordinance, pavement is not required. Mr. Stanley believed the intention was not to require pavement. Madge B. thought it would not be a good idea to require an impervious surface in this location. Roger stated his concern was to be sure the road quality was maintained for emergency vehicles, and he also had a concern with the slope and turnaround. He felt if it was paved the area would be more stable. He didn't want the road to be all pot holes and washed out. Roger stated that under §89-36 the board could require pavement. Mr. Stanley agreed but then on the next page, no pavement is required (89-37.A).

Steve F. asked if Acton was going to make them pave the end of West Shore Drive? Mr. Stanley stated that Acton was still considering what they wanted to do, whether or not they would require them to meet a road standard then it would need to be paved, or a private way standard, where it would not.

Roger A. stated that he believed that because the private way was being used for road frontage the board could require it to be paved.

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

Roger A. stated that at this time the board needed to know what would be done with respect to CMP (utility); several members did not receive a copy of the Test Pits so those needed to be provided; and the board would need to know what Acton was going to require with respect to West Shore Drive in order to decide what should be done with the private way. Roger also noted the shore frontage on Lot #2 had to be change to meet the requirements in the ordinance.

Roger A. stated the board could hold a public hearing at the next meeting on this project if Mr. Stanley believed he would be ready. Mr. Stanley thought he would have additional information and would be prepared. **The public hearing will be scheduled for 6 p.m. on Tuesday, February 27th. A notice to abutter will be mailed as well.**

Nothing further was discussed.

OTHER:

Madge B. asked if a notice could be put in the Smart Shopper regarding the proposed ordinance changes, as well as on the town's website. Madge provided the wording for the notice that provided some clarity for townspeople about the changes. Barbara F. stated that she would have it done by the end of the week.

Growth Permits

Map 1, Lot 4 (299 Deering Ridge Road) – Multifamily

GP# 01-18

Board members reviewed the lot and it contained 141 acres and over 1000 feet of road frontage, therefore, the requirements in the ordinance for land requirements for multifamily structures could be met.

The Planning Board meeting ended at 8:48 p.m.

NOTE: The winter hours are in effect thru April 1st, the meeting begins at 6:30 p.m. and any scheduled public hearing begins at 8:30 p.m.

*The next meeting will be held **Tuesday, February 27, 2018** 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.*

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, February 27, 2018

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 also in attendance.

Minutes are not verbatim, unless in quotes “”

Public Hearing began at 6:00 p.m.

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.

Roger A. began the public hearing by asking Mr. Stanley to tell the audience what his client was proposing.

Mr. Stanley began by introducing himself and stated that Mr. Chadbourne was proposing a 3-lot subdivision on the end of Square Pond utilizing the existing lake frontage that Mr. Chadbourne owns. The proposal is for one of the three lots to be accessed via Apple Road and two of the lots to be accessed via the end of West Shore Drive. West Shore Drive is a town road up to the town line, and they are proposing a 2-lot private way, basically a shared driveway for the two lots. At the end of West Shore Drive, take a hard left away from the lake, there would be the shared driveway. He noted the location on the plan he provided.

Mr. Stanley stated that the structures had to be 100 feet away from the lake and 75 feet from the existing stream. He said the three lots are being accessed in this manner to create the least amount of impact and to keep away from the associated wetlands.

Mr. Stanley stated that they had a set of engineered plans for the private way. The plan addressed erosion, and stormwater management. They are proposing a couple of drainage ditches down the side of the drive that collect into an area of riprap which will handle all the runoff. Mr. Stanley provided a stormwater report that showed the details of the private way.

Mr. Stanley stated that the lots will have underground power, coming off a pole on the West Shore Drive side and a pole on Apple Road.

Mr. Stanley stated that many members of the public were concerned with whether or not there was a plan to connect Apple Road to West Shore Drive. He stated that it was not their plan and he noted this type of subdivision should prevent that in the future, three different lots with three different owners. He said it was more apt to happen with one land owner. He also said the existing wetland would make it difficult, along with the stream on the property. It would make the road a very expensive proposition.

Roger A. asked if there were any questions?

Citizen Bob Kirton – Is Apple Road a town road or not?

Road Commissioner Burnell – It is a private way with a maintenance easement.

Bob Kirton – Looking at the diagram. Jim's property is green, everyone's else's is white and so the question is, can you back a boat down and launch a boat at the end of Apple Road?

Mr. Stanley – Great question, having used the property many times, I feel there is vegetation and site conditions preventing that.

Bob Kirton – There is and we are not going to go over the property lines now but my wife is convinced that the property line goes over to the other side of the road. We won't worry about that right now, but we have seen people launch boats and get stuck there. If in fact, our property line is on this side of the road, and Jim is on the other side of the road, and the road is open, then anyone could launch a boat.

Mr. Stanley – As you know over the two years before this point, I did survey the exterior of the lot for Mr. Chadbourne and I also did some survey work for Jane (Kirton) as well up the road and when I looked at it, the way the division deed looked between the two of them, Jim owns the stretch of Apple Road from here (pointing to the plan) and to where the brook crosses and Jane owns Apple Road for the rest of the way, subject to everyone else having the rights to use it.

Bob Kirton – So is the right-of-way already cemented whether he owns it or not? I wasn't aware he owned the road from the brook down. So he owns from the brook down, including the hill.

Mr. Stanley – Yes, and then the way the division deed between the two of them is written, it actually crosses the road at the brook and follows the opposite side and then Jane owns the road subject to people's rights to use Apple Road.

Bob Kirton – Jane's father used to oil the hill to keep the asphalt from deteriorating, so Jane shouldn't be doing it because she does not own it.

Mr. Stanley – She has the right to do it, she has a right-of-way and if it helps her access her camp, you perform maintenance to keep the right-of-way in good working condition. But that stretch of the land is contained in Jim's deed.

Bob Kirton – The property in the back cove, can they come in and bulldoze the beach.

Mr. Stanley – No, it is very limited what they can do within 100 feet of the water. I have seen the Code Enforcement Officer enforce this quite a bit as well. You are allowed to do a six foot winding path to get to the water but that would be the limit of what they could do with removing vegetation or grading.

Bob Kirton – The town is comfortable with the fact they cannot reach those two houses without coming thru the Town of Acton?

Roger A. – It is Shapleigh property.

Bob Kirton – But to get to it for fire or rescue you have to go through Acton.

Roger A. – We have mutual aid, so if something happened to those houses they would be toned out for both towns and whoever responds first, would get there first. If Acton is there first, they will start and when Shapleigh comes on board, Shapleigh will take over.

Mr. Stanley – Part of this proposal in great part is because of Shapleigh's ordinance, they plan on having in-home sprinkler systems as a requirement for all three homes. This will help occupants have more time should tragedy strike.

Roger A. asked if there were any other questions?

Citizen of Acton, Susan Cronin – I live on West Shore Drive in Acton, my question is about the right-of-way to the water, and my understanding is it is going to go between the two houses that will be accessed off of West Shore Drive. The only way either one of those home owners could access it, because this area is not deep enough, is thru the public launching ramp, correct?

Mr. Stanley – Correct, there would be no way out of these lots.

Susan Cronin – Because they are not supposed to be using Apple Road.

Roger A. – They could use Apple Road but there is no launch there.

Susan Cronin – The paved part is pretty close to the water.

Roger A. – Somebody is going to have to remove vegetation and trees. Because the road stops there, it is not going to be a launch area.

Susan Cronin – The access road or driveway off of West Shore Drive, there was a question as to whether or not it was going to be gravel or paved road. I have been there for 28 years, we have a gravel driveway, it's maintained and aesthetically it just looks nicer. We are going to have to look at a house being built. And I think with an asphalt roadway, there is more potential for runoff of oil. I know you say there will be a reservoir to catch it in but there is still the potential for the oil off the road making its way into the ground and groundwater.

Roger A. – We understand that, but the board at this time hasn't given him a waiver as to whether or not he can keep it gravel. So because it is a road, not just a personal driveway to get access to two lots, the board has to decide whether or not they allow it to stay gravel or have it paved.

Susan Cronin – I was under the impression it is a private driveway, not a town road.

Roger A. – It won't be a town road unless the town accepts it. But it has to be built to town specs, it is not just a driveway.

Mr. Stanley – Which the plan at this point isn't to upgrade it to that type of town standard, it would be a private road that two people shared to access their house. Only these two people have rights to use the private drive.

Susan Cronin – There has been a lot of construction in the cove, my concern is when this development goes through, is there a proposed time frame. Or is it going to be non-stop construction where we don't know how long?

Roger A. – We can't answer that. For example, if you bought one of those lots, how quick are you going to get your house up? And will that time limit for your house be two weeks, two months or a year? We can't answer that.

Susan Cronin – There are work periods too.

Roger A. – There is a noise ordinance and it is from 7 in the morning until 10 at night.

There was concern in the audience about construction taking place until 10 p.m.

Roger A. – This is what is allowed in the ordinance.

Mr. Stanley – It is a restriction that nobody is supposed to do anything that is loud after this time frame.

Citizen – There is a difference between someone sitting around a campfire laughing and singing and having pneumatic drills going. I find it very disturbing.

Roger A. – Using hammers and drills is going to be for a limited amount of time. It will depend on whoever owns the property, how long it will take them to get the project completed. It is hard to regulate, we cannot say 'you can't do it in the summer time because people are enjoying the lake'. Everyone's house was built at some time and there was noise at that time.

Citizen – I am taken aback by that and the fact that a private driveway is not necessarily a private road, or a semi-private road. Because two years from now if somebody wants to not drive all the way down West Shore Drive all the way to Goose Pond to get to the Post Office or Boonies, and they start talking about connecting the roads, it's a problem. If you can say today in five years that won't happen, that is very good. The other thing is this is a small subdivision being built by one person, I guess I missed something, is this three lots being sold or is the current owner going to build houses and sell them?

Mr. Stanley – I think they are leaving both options open depending on what the potential interest the party has in the land. Some people might want to buy a lot and hang on to it for years without doing anything, and someone may want a camp now. We would be required to construct the private way per the engineered plans that have been developed and at that point there is no further time restriction on it.

Susan Cronin – I know there are a lot of DEP regulations but will there be a specific person that will be in charge of monitoring the removal of the trees, shrubs, the clearing of the areas. There is concern if no one is around they will clear an area and make a beach, and clear the end of the road to get to the water. It is thick in there now and we walked it with the kids for years, now all of a sudden someone will buy it. It is wonderful to limit it to a six foot winding pathway to the water but I am concerned the six foot winding path will not be six feet wide. Who will monitor it?

Roger A. – The only person would be a neighbor that sees it being greater than the six feet, you contact the Code Enforcement Officer and notify the DEP to make sure enforcement is going to happen.

Roger A. – continued – They will tell the person they have to replant. Nobody actually oversees the six foot path but if you are concerned, contact someone who can take enforcement action. It will be either the CEO or DEP or both.

Mr. Stanley – There is involvement with Code Enforcement during the building process, up to getting an occupancy permit. There will be inspections along the way to make sure construction is being done correctly and I assure you if he saw a vast amount of trees cut where they shouldn't be, he is very good at noticing that and it will be corrected. So there will be a set of eyes on the property up through occupancy. At that point the town has less involvement, it is more up to the neighbors. I live on Goose Pond and we keep our eyes out for things like that. The Town and DEP have processes in place if you ask them to go look at a property.

Citizen of Acton – Isaac Hutchinson – I live two doors down from the Cronin's, we have a year round place, and I apologize for being late. There are some really nice pedestrian paths around the back side of the lake toward the Shapleigh side. I have young children that I can anticipate using these paths, is there an ordinance or some type of agreement in place with the development of the Hidden Cove properties or is that something that would be on the potential owners at some point to retain for the public?

Roger A. – Actually if you are using the paths that go across the property, you are trespassing at the present time. You are trespassing on someone else's property. It has been nice to use, it is a nice trail to get around but it is someone else's property.

Isaac Hutchinson – OK, I thought they were labeled for sportsman.

Mr. Stanley – There are signs there right now because people were using it as a wheeler trail and the local landowner was trying to limit that. I am a local ATVer but not excited to see the tracks people make in the brook. At this point Isaac, there is no plan in place for any sort of pedestrian easement. As someone who has used these trails I would like it open but on the flip side you have 3 potential property owners who may not be excited to have people walk across their property.

Mrs. Cronin – So the 100 feet from the shoreline, is that still considered all private property.

Roger A. – Yes, right up to the high water mark.

Madge B. – Just as you own down to the pond or the shore. These folks will own to the shoreline.

Roger A. asked if there were any other questions?

Mrs. Cronin – For the two lots of West Shore Drive, is the only way for the construction vehicles to access the property up the private drive? They are not going to be allowed to come in along the power lines?

Roger A. – No, they will be using the constructed roadway.

Mrs. Cronin – From West Shore Drive over? Are they going along the shoreline or along the back?

Roger A. – They have to be 100 feet back because there can be no clearing within 100 feet of the water.

Mrs. Cronin – Ok, that is my question.

Mr. Stanley – They cannot remove a tree within 100 feet without additional permitting.

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

The public hearing closed at 6:29 p.m.

The minutes from Tuesday, February 13, 2018 were accepted as read.

The planning board meeting started at 6:35 p.m.

Amendment to a Conditional Use Permit – Business Selling Furniture & Home Décor – Map 19, Lot 13 (63 Emery Mills Road) – Sharon Tombarelli, Applicant; Roger Berube, Property Owner

Mrs. Tombarelli and Roger Berube were present for the review of the application.

The detailed description of the proposal is as follows: New tenant is looking to rent existing office space, as is, for retail sales of furniture and goods.

Mrs. Tombarelli had been approved on December 26, 2018 for this business at a different location. The only change to her original request is location. Mrs. Tombarelli's business is the sale of rustic furniture, home décor and gifts.

Roger A. asked Mrs. Tombarelli what she wanted to do? She stated that she wanted to move the business location from Shapleigh Corner Road to Emery Mills Road, Mr. Berube's property, where the day care used to be located. Mrs. Tombarelli stated she would be selling the same things. Roger A. asked the board members if they had any questions? There were none.

Roger A. stated board members could do a site inspection on an individual basis if they would like. All members noted they were already familiar with this location. **Roger stated a notice to abutters would be mailed and a Public Hearing held on Tuesday, March 13th at 6:00 p.m.**

Nothing further was discussed.

Best Possible Location – Replace Structure – Map 34, Lot 24 (10 Cherry Road) – LinePro Land Surveying, Applicant; Arthur McEvoy III, Property Owner

Mr. Stanley was present for the review of the application, along with Mr. and Mrs. McEvoy.

Provided to members along with the application, was a survey plan drafted by Joseph L. Stanley, PLS#2453, of LinePro Land Surveying, LLC. The plan depicted Map 34, Lot 24, the existing location of the structure, brick & concrete patio, wood steps, beach area, crushed stone area, 4 Spruce and 1 Maple tree, and approximate septic tank location. The plan also depicted the best practical location of the proposed structure. The existing structure at the closest point to the high water mark is 23.6'; the proposed structure is 40.3'. The existing structure at the closest point to centerline of Cherry Road is 77.1'; the proposed structure is 64.2'. The existing structure is 9 feet from the lot line of Map 34, Lot 23. The plan also notes that the disturbed area is to be stabilized and revegetated with Erosion Mulch and 4 Blueberry Bushes. The plan notes that currently the existing lot coverage by camp and patio is 8.1%. There is no change to this figure being proposed.

A Subsurface Wastewater Disposal System Application was provided, drafted by Wesley Bullard SE#122, dated 9/1/1988. The surveyed plan notes the possible location of a new septic system but no application was provided.

The detailed description of the project read as follows: Best Possible Location for a camp rebuild.

Roger A. asked the applicants to let the board and audience members know what they were planning on doing. Mr. McEvoy stated they wanted to rebuild their camp on Cherry Road, moving it back and making the shape a rectangle removing the add-ons that were put on from back in the late 1930's. The structure would be going back 18 feet (Note: The plan shows the actual number to be 16.7 feet back from the high water mark.) There will be a 32' x 40' house. He said they would be moving back within the 75 feet of the right-of-way, and wanted to ask the board if they could do that.

Mr. Stanley felt this location was a happy medium moving back from the water but not encroaching on the ROW of Cherry Road too much. He said they would be about 64 feet as a setback to Cherry Road. He noted the well sits about another 15 – 20' behind the building so they thought this was the best practical location but the applicants are agreeable for the board's suggestion. Mr. Stanley said several members attended the site visit. Madge B. said she went on her own. Mr. Stanley said the stakes were where the proposed location is on the property. Madge stated it was helpful. She asked what was under the camp at this time? Mr. McEvoy stated there was a partial foundation, as you look at it from the lake on the right side. It was a boat house when the water level was 18 feet higher at the turn of the century. It is a partial stone foundation and the rest is dirt and it's on pilings. Roger A. noted some of the wall is cracked. Mr. McEvoy stated one of the reasons they wanted to move it back was to get away from that area.

Mr. Stanley said there is a note on the plan that where the patio currently sits it will be replanted with erosion control mulch and 4 blueberry bushes. He said they were open to suggestions there as well.

Madge B. asked if they planned on creating a daylight basement on the side facing the water? Mr. Stanley said they didn't discuss building design. There isn't a lot of elevation, he wasn't sure it could be done. Mr. and Mrs. McEvoy said it depends on the elevation. Madge asked about the steps on the water side? Mr. McEvoy said they would be coming out. Madge added that if they needed steps they would be on the side of the house, not the water side. Mr. McEvoy agreed.

Madge B. said her only question was whether it should go back further. Steve F. said his initial thought, before the site inspection, was that it possibly could go back further. The reason he changed his mind was first the location of the well, plus it involves removing the trees and as far as any future expansion, now there would be a parking issue on a very tight road. There is a short driveway and the potential for cars blocking Cherry Road. He liked the way things were staked out. Madge said she knew nothing about how close it should be to the well. She said if the board moved it back six feet, we wouldn't be gaining much. She also wondered if the board could get it back beyond 100 feet and she did not think it was possible. Steve agreed, it would jam them against the road. Roger A. said there was also a septic system that had to go in. Madge said she thought about it on this piece because the elevation was not dramatic. She did not have an issue with the proposed location, she just wanted to find reasons not to move it back further. Madge asked how close can you go to a well? Steve thought you could go right up to it. Roger said access is the issue.

Roger A. asked about a time frame? Mr. McEvoy said they would start at the end of the summer. Time frame whatever it would take, maybe three months. Mrs. McEvoy said maybe three years. Steve F. asked if there was an updated plan with the replant plan on it. Mr. Stanley said he did not have another plan. All there was is a note on the existing plan which states 'it will be revegetated with mulch and blueberry bushes'. If the board wants more he can depict something. He said it would be where the patio is shown. CEO McDonough asked if any trees had to be removed. Madge B. said no, not if it is put where they proposed.

Roger A. didn't think they could do a daylight basement due to the water level and the inability to raise the building. CEO McDonough asked the applicant what they foresaw for final landscaping? Mr. McEvoy said the same slope as what exists. CEO McDonough said, "The proposal is mulch, are you prepared now and forever to live with 18 feet of mulch?" Mrs. McEvoy said, "No." She said she likes the idea of blueberry bushes. CEO McDonough said 4 blueberry bushes would not cover the entire area. CEO McDonough said all disturbed areas had to be addressed. Mrs. McEvoy said she would like lawn but she has heard the board doesn't like that. She also said she would like to consider a daylight basement but it would mean going back more. She said they had a lot of information to consider. She said, "We are proposing this but maybe we need to reconsider." CEO McDonough said, "What Roger was saying that height and the area might limit you on a daylight basement, it is not that the board did not want you to have it." He asked them if they wanted to put this on hold. Mr. Stanley said some of this can be decided during the building permit process.

Mr. Stanley said he would like to have the board decide where the building needs to go. CEO McDonough said they were thinking about a daylight basement. Mr. Stanley did not think moving back 5 or 10 feet would matter with respect to the daylight basement. Mr. Stanley noted on the plan where the 100 foot mark is and he didn't think they had much choice due to the shape of the lot. Roger A. said if the house was up against the road, they might be able to get a daylight basement but with respect to height, he didn't think they could put one in.

Mr. Stanley asked the applicants if they wanted to wait to see if another location would work better for them. Madge B said the board could table it. Mr. Stanley said if they want to consider the location more, but if they are confident with this location, he believed they could satisfy Code Enforcement with a revegetation plan. Madge asked about the roof runoff. How will you keep the stormwater on site and away from the water? She said at this time they don't know where the roof line is. Mr. McEvoy agreed, he said right now it is crushed stone, and all away around the outside of the house. He said this was done to slow down the runoff. She said they hoped they addressed it with the new structure as well. She also knew the soil was very pervious. But she added that it was better for the building also. Mr. McEvoy agreed and said again they would be doing something. Mr. Stanley said the lot itself naturally goes away from the lake where the house will be located.

CEO McDonough asked if they took an elevation on the roof? Mr. Stanley said he had, anticipating he would have to certify that.

Roger A. stated the time frame needs to be addressed. He asked if the beginning of September of this year would be a good start date. Mr. McEvoy stated that it would. Roger stated that Best Management Practices had to be in place for the duration of the project. Steve F. stated BMP had to be in place until the foundation is in and the exterior of the house is completed. He said it did not have to be in place to complete the inside of the house. If Code Enforcement has signed off on the revegetation plan, you are done with BMP. Roger agreed, when everything is stabilized on the exterior.

Mr. Stanley said they might want to go out more than 3 months due to all the building activity. He said they may have trouble lining up contractors. Mr. McEvoy asked about a year. The board thought that was better. Mr. McEvoy asked how long the building permit is good for? 2 years? Mrs. McEvoy stated that they wanted 2 years. Roger A. asked if the completion date was September 2020? Madge said, "Correct."

Madge B. asked if they were going to demo it this spring? Mr. McEvoy said, no. Madge said the start time would be the 1st of September. BMP has to be put into place once the demolition begins.

Roland L. told the applicants that any demolition has to be taken out of town. Roger A. agreed, it can't be taken to the Transfer Station. You can use Simpson's or Waste Management, someone can come in and take it out. Madge B. asked if the fire department burns things like this. Steve F. said no, the Fire Dept. has a stack of regulations, therefore, the fire department will not be doing training burns in Shapleigh. Roger said it is due to hazardous materials and verifying the insurance is off the structure.

Steve F. asked what was on site now with respect to vegetation? Mr. McEvoy said he mows it now, there is also raspberry bushes and stone. A small amount of grass. He stated there was a concrete septic tank / leach field up by the trees. Mr. Stanley stated the tank will be repositioned.

Roger A. stated the conditions of permit will be:

- 1) **Best Management Practices will be kept in place for the duration of the project until the outside area is stabilized and revegetated as approved by the Code Enforcement Officer. There must be a person certified by the DEP in erosion control practices on site during the project.**
- 2) **The project shall be completed and have an occupancy permit by September 1, 2020. If this date cannot be met, the Code Enforcement Officer must approve a new date of completion.**
- 3) **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.**

Maggie M. made the motion to approve the best possible location plan drafted by Joseph Stanley, PLS #2453, dated 2-1-18 for Arthur B. McEvoy, III & Jeanne R. McEvoy for Map 34, Lot 24, 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.

The Findings of Facts

1. The owner of Shapleigh Tax Map 34, Lot 24 (10 Cherry Road), is Arthur B. McEvoy of 2103 Wakefield Road (P.O. Box 225), Sanbornville, NH 03872.
2. The property itself is located in the Shoreland District and according to the assessor the property contains .45 acres.
3. The detailed project description states: Best Possible Location for a camp rebuild.
4. Received was a survey plan drafted by Joseph L. Stanley, PLS#2453, of LinePro Land Surveying, LLC. The plan depicted Map 34, Lot 24, the existing location of the structure, brick & concrete patio, wood steps, beach area, crushed stone area, 4 Spruce and 1 Maple tree, and approximate septic tank location. The plan also depicted the best practical location of the proposed structure. The existing structure at the closest point to the high water mark is 23.6'; the proposed structure is 40.3'. The existing structure at the closest point to the centerline of Cherry Road is 77.1'; the proposed structure is 64.2'. The existing structure is 9 feet from the lot line of Map 34, Lot 23. The plan also notes that the disturbed area is to be stabilized and revegetated with Erosion Mulch and 4 Blueberry Bushes. The plan notes that currently the existing lot coverage by camp and patio is 8.1%. There is no change to this figure being proposed.
5. Received was a Subsurface Wastewater Disposal System Application, drafted by Wesley Bullard SE #122, dated 9/1/1988. The surveyed plan notes the possible location of a new septic system but no application was provided.
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 place the structure per the plan provided, moving the structure back 16.7 feet farther from the high water mark from the existing location due to the topography, leaving enough room for parking vehicles on site, leaving room for a new septic tank, considering the existing well location and not having to remove any of the existing trees.

7. A notice was mailed to all abutters within 500 feet of the property on February 14, 2018. A meeting was held on February 13, 2018 and February 27, 2018. A site inspection was also held.
8. The Planning Board unanimously agreed to approve the Best Possible Location to replace the existing structure on Map 34, Lot 24, per the plan drafted by Joseph Stanley PLS #2453, dated February 1, 2018, entitled 'Plan Showing a Site Plan Made for Arthur B. McEvoy, III & Jeanne R. McEvoy, P.O. Box 226, Sanbornville, NH 03872 of Property Located on Cedar Drive in Shapleigh, Maine; moving the structure back 16.7 feet farther from the high water mark from the existing location with three conditions. The plan depicted the structure setback to the high water mark to be 40.3 feet at the closest point and 64.2 feet to the closest point of the centerline of Cherry Road.
9. **The conditions of approval are:**
 - 1) **Best Management Practices will be kept in place for the duration of the project until the outside area is stabilized and revegetated as approved by the Code Enforcement Officer. There must be a person certified by the DEP in erosion control practices on site during the project.**
 - 2) **The project shall be completed and have an occupancy permit by September 1, 2020. If this date cannot be met, the Code Enforcement Officer must approve a new date of completion.**
 - 3) **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 34, Lot 24, per the plan drafted by Joseph Stanley PLS #2453, dated February 1, 2018, showing the structure setback to the high water mark as 40.3 feet at the closest point, and 64.2 feet to the closest point of the centerline of Cherry Road, with three 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 34, Lot 24, per the plan drafted by Joseph Stanley PLS #2453, dated February 1, 2018, showing the structure setback to the high water mark as 40.3 feet at the closest point, and 64.2 feet to the closest point of the centerline of Cherry Road, with three conditions, was accepted.

Decision:

The Best Possible Location application to replace the existing structure on Map 34, Lot 24, per the plan drafted by Joseph Stanley PLS #2453, dated February 1, 2018, showing the structure setback to the high water mark as 40.3 feet at the closest point, and 64.2 feet to the closest point of the centerline of Cherry Road, 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 preliminary 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.

On February 13, 2018, Mr. Stanley presented the board members with a formal application package which included a copy of the Warranty Deed showing James R. Chadbourne granting Warranty Covenants to Hidden Cove, LLC, Book 17652 Page 641; a copy of a sample deed for a lot in Hidden Cove; Requested Waivers (will be listed below); a copy of the soils map for the 3 lots, along with explanation of the soils; the lots located on a copy of the USGS map; a Stormwater Narrative which evaluated a 24 hour duration for a 2-

year, 10-year and 25-year storm event; and a copy of the site plan for boundary retracements of property owned by James R. Chadbourne, located on Red Gate Road, Town Farm Road & Apple Road.

Also provided was a survey plan showing Hidden Cove, A Proposed Minor Subdivision by Hidden Cove, LLC, 173 Butternut Trail, Wells, Maine 04090 of Property Location on Apple Road & West Shore Drive, Shown on Tax Map 9, Lot 1A, Shapleigh Maine, dated February 2, 2018, drafted by Joseph L. Stanley PLS#2453, of LinePro Land Surveyors, LLC. The plan depicts 3 lots; Lot #1 being 2.00 Acres, Lot #2 being 3.94 Acres (2.39 Acres Net), Lot #3 being 2.62 Acres in size. Shown on the plan were a total of 4 Test Pits; Abutter Lines; Overhead Utility Lines; On the Ground Topo Contour Lines 2' Intervals; LIDAR Contours per Maine Office of G.I.S. – 2' Intervals; Shoreland Zone lines: Building Setback Lines.

Detailed plans were provided for the construction of the West Shore Drive Private Way, revised through 2-1-18, engineered by Craig A. Burgess PE#12638 of SEBAGO Technics. The plan depicted the actual construction of the Private Way, as well as erosion control measures.

Waivers requested for the project include:

Section 89-30A – Stone Monuments – Capped Survey Irons are proposed to be set at all property corners.

Section 89-30C – Fire Pond / Dry Hydrants – Due to project location near Square Pond, Individual Home Sprinkler Systems are proposed for fire suppression.

Section 89-36M – Sidewalks – No sidewalks are proposed because the project does not fall within an Urban Compact Zone.

Section 89-36I & 89-37A – Paving of Private Way – No pavement is currently proposed on the surface of the proposed Private Way. (Letter of explanation was provided by Joseph Stanley, dated February 2, 2018.)

Roger A. opened the discussion asking Mr. Stanley to briefly explain why his applicant was before the board. Mr. Stanley stated that they were proposing a 3-lot subdivision to be known as Hidden Cove, two lots would be accessed from West Shore Drive, the other Apple Road.

Roger A. stated that at the last meeting the board had asked what Acton was going to require with West Shore Drive.

Mr. Stanley stated that he made copies of the Test Pit Logs for members who did not receive a copy. He noted that they showed each lot had a suitable location for a septic system. He believed the locations currently tested might change since the exact location of the home was not determined at this time.

Mr. Stanley stated that he met with the Town of Acton about their concerns with the end of West Shore Drive. He said several trees will be removed, so they will be able to wing snow 40 to 50 feet further than they are able to at this time. He said they would be improving the end of West Shore Drive to a Class B road standard, he provided members with a copy of that standard. The Town of Acton will have permission to place the snow and it will be shown on the next plan provided for board members. The next plan will reflect where the snow storage is going to be located.

Mr. Stanley stated that he was waiting to hear whether or not the Shapleigh Planning Board was going to require pavement before he drafted the final road plan. He said the engineering would need to be changed if pavement was created, as the existing stormwater plan is engineered for a gravel based road. He said his client was hoping for gravel, as it is less expensive. He also noted that several citizens also requested in an email and at the public hearing that the road remained gravel, as it fits in better with the surrounding area.

Mr. Stanley stated that he met with Central Maine Power and they had no issue with underground utilities. He stated there would be one pole to feed the two lots coming off of West Shore Drive and one pole to feed the lot on Apple Road.

Road Commissioner John Burnell asked the board if he was going to have to look at the road? Roger A. stated that the board usually asks for the Road Commissioner's opinion with respect to subdivision private ways. Mr. Stanley stated that he would provide a set of plans for RC Burnell to review. RC Burnell asked if there was a plunge pool for the water runoff? Mr. Stanley stated yes, and a level spreader.

RC Burnell stated that on the Apple Road side he would like to have an agreement with the property owner that the Town of Shapleigh will still be able to use the existing turnaround area with respect to snow plowing, etc. He stated that currently they have permission and he wants to be sure this continues and that it be on paper to be certain it will be an allowed use. He showed the board members on the existing plan the approximate location the Town currently uses to turn around in. CEO McDonough agreed that it should be placed in the deed for the property, so the Town would have a deeded right to use it.

Roger A. asked Mr. Burnell why he didn't want the turnaround area at the bottom of Apple Road? Mr. Burnell stated that they use a small vehicle at the end of the road, so a larger turnaround area is not required. Roger still thought they needed an area at the end of Apple Road to turn around. Mr. Stanley stated that he would sit with RC Burnell to decide on what location or locations would best serve the Town.

Steve F. asked about topo lines, what was the distance from the beginning of the road to the top? Mr. Stanley stated there was a 12 to 14 foot difference. Steve asked if this was over 300 feet? Mr. Stanley stated that the final pitch is noted in the engineering plan, he wasn't sure of the exact figure without looking at the plan. He said it was designed to meet the Town's standard.

CEO McDonough asked if they (the applicant) considered the well location? Mr. Stanley stated that they had not yet done so. He stated there was a limited location for the septic design, so he was not particularly concerned. CEO McDonough wanted Mr. Stanley to know that he did not want a well truck putting the point down by the lake. Mr. Stanley stated that he understood and with the size of the lots finding a suitable well location should not be an issue. CEO McDonough did not want trees or brush removed unnecessarily.

Mr. Stanley asked the board what their thoughts were with respect to paving the private way? Madge B. stated that she read the language in the ordinance and did not think the board could waive the requirement. Madge pointed out under §89-36. 'Street design standards', Section A, it states 'These design standards shall be met by all streets within subdivisions and shall control the roadway, shoulders, curbs, sidewalks, drainage systems, culverts and other appurtenances'. Therefore, she didn't think the board could waive the requirement to pave, as the word 'shall' was used.

Mr. Stanley disagreed, he stated that if you go further and look at Section §89-37. 'Street construction standards' for a private way, only 12 inches of aggregate subbase is required, not pavement. Roger A. believed it would be best to pave because some day the homeowners could ask the Town to accept the road, and he thought it should be something that is easily maintained. He also thought because it will be used as road frontage it should be a paved way.

CEO McDonough, addressing Madge's concern with respect to waiving the requirement, he told her to read Sections 89-53 and 89-54, both addressed the ability to waive a requirement as long as written findings of fact were documented as to why the requirement is being waived. Mr. Stanley again noted with respect to the pavement requirement, the Subdivision Ordinance contradicts itself and he believed with respect to a private way in a minor subdivision, the intention of the ordinance was not to require pavement.

Steve F. stated with respect to gravel vs. pavement, the Town now plows miles of graveled roads. He also noted that with respect to wondering whether or not the Town would accept the road as a town road, he didn't think so, because the access is through Acton, so it would not be feasible. What his concern was was whether or not it would be better for managing stormwater runoff, gravel or pavement. He did not feel he had the expertise to make this decision, so he would feel more comfortable if Mr. Stanley got an engineer to state what would be best in this location, pavement or gravel for 300 feet of road. Which is better for water quality?

Roger A. noted that Acton was going to require paving up to the flat spot. He would prefer paving to the top of the road, to the minor road standards. Madge B. asked board members what they thought, did they agree with Steve that the board should ask for an engineer's opinion or did they agree with Roger? She stated she was leaning toward getting an engineer's opinion, since she was not an expert in this area. Maggie M. thought paving made more sense, so the road would not get washed out. Roland L. liked Madge's idea of getting an engineer to comment on this. Madge asked Mr. Stanley if he could request this information? Steve F. said he wanted to know that during a heavy rain event, if the road as designed would wash out, and in the event of heavy rain, what is the best option in this location.

Citizen Nancy Small asked what area they were talking about? Mr. Stanley showed her the location on the plan. Mrs. Small noted that there was quite a distance between the area in question and the lake. Madge B. agreed. Mr. Stanley believed the area in question was at least 200 feet from the pond at the closest point. Madge also reminded members that several neighbors would prefer a gravel road. Mr. Stanley stated that the current engineered plan contained the stormwater on site, preventing it from going toward the lake.

Madge B. asked if the board wanted to discuss anything else this evening. Mrs. Small wanted to know if they would be allowed to put in a beach? Mr. Stanley stated again that they would only be allowed a 6 foot winding path. He said that CEO McDonough and the DEP were very good at enforcing this rule.

Roland L. asked Roger A. to share the correspondence the board received from abutters regarding the application. Roger read the emails received in part as follows:

To Whom It May Concern regarding the Hidden Cove proposal:

As a direct abutter to the proposed development, these are our concerns:

- Why a winter meeting when most abutters are not available?

Roger stated that applications are reviewed when received.

- We want a guarantee that West Shore Drive will never be allowed to go through, and connect to Apple Road. We want to keep WSD a dead end street, which is something that attracted us to our property. According to conversations I had with your dad, your parents spent a great deal of time and money to prevent WSD from going through, he did not want through traffic.

Roger stated that he did not foresee this happening because whoever buys the property would not likely want a road going across their property and a right-of-way across a property would reduce the size of the building envelope. These lots are not that large. He said regardless, if a road was proposed it would have to come before the board for review due to the amount of gravel being moved. He added that it was impossible to predict the future.

- What are the plans to control runoff, both during construction and as a permanent solution?

Roger stated that this is being addressed with the engineering plans, as well as with Code Enforcement oversight during the building process and the DEP.

- What will the ROW to the lake consist of? Will the access road / driveway be gravel or asphalt?

Roger stated this has not been determined at this time.

- We want to see a gravel road, as water can percolate through and absorb water before making its way to the water/pond and it is more aesthetically pleasing. Asphalt would allow oil runoff from cars, and water will travel faster over it during heavy rainfall. Asphalt driveways can break down along edges just as gravel may.

Roger A. stated that in his opinion the private way is a road and should be paved. He noted he was only one member and the board would have to decide. Mr. Stanley stated that he felt this access was classified differently than a town road, it was the lowest demand that the Town considered for adequate frontage. He believed it only needed to be adequate access. He also added that on the plan it will state that the Town will not accept the road and only these two lots will have access. Roger stated that the road had to be such that emergency vehicles could easily access the homes.

- Please add a restriction that construction work will only take place Monday through Friday, and will not begin before 7:00 a.m., and will finish by 4:00 p.m.

Roger A. stated that the board did not tell someone building a house when they could begin and when it should end. With these lots the houses may not be built for five years or more, the board has no idea. He said everyone who had a home already built was not limited on when the construction could take place. Madge B. did not see why the Board couldn't restrict construction time, stopping it before 10:00 p.m. Steve F. agreed and stated it could be in the deed as a deed restriction. Madge added that sound travels very easily across the lake and understood the concern.

- Please add a restriction that all construction vehicles must approach the construction zone from the rear of the proposed development.

Roger A. stated the construction vehicles would be using the shared driveway.

- Why not use the land and harvest the mature hard woods, and then deed it as conservation land, we are losing the aquifer.

Roger A. stated the lots are too small to have both a house and an area for conservation. There would not be enough room for a building envelope.

- Finally, my 9-year-old granddaughter wants to know why this has to be near the cove.

Roger A. stated it was up to the applicant and people liked to be near the water.

Regards, Jerry and Susan Cronin

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Dear Mr. Allaire & Planning Board:

This is regarding the letter I received about an application for a 3 lot subdivision (to be known as “Hidden Cove”) with Lot 1A.

There are several things I would like the Planning Board to know:

- 1) I am definitely against connecting Apple Road with West Shore Drive. This would drastically impact our property at 148 Apple Road by increasing road usage. Apple Road has always been a very quiet dead end road and this has been an important aspect of our property. Connecting Apple Road with West Shore Drive would dramatically change this in a negative way.
- 2) The cove is very shallow & filled with aquatic plants during the spring & summer which serves as a vital nursery for fish. Disturbing the cove's delicate aquatic habitat is something I am against.
- 3) There is a stream that flows into the cove. Disturbing this stream would have a negative impact on the cove. I am against disturbing this stream.
- 4) There is a small wetland that the stream flows through and feeds. I am against disturbing this wetland area.

Thank you for notifying me about this proposed 3 lot subdivision and allowing me to make my concerns known.

Sincerely, Jay J. Johnson

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

*Steve F. stated he was looking for an engineer's opinion regarding gravel vs pavement, not a revised plan at this point.*

*Roger A. stated that the revised subdivision plan would need to have the area placed on it for the Shapleigh road crew to be able to turn around. Roger stated that they also needed the Acton road information, what Acton was requiring the applicant to do on West Shore Drive.*

*Steve F. asked who would be responsible for maintaining the turnaround? Roger A. stated, "The applicant." Mr. Stanley stated that they would make the turnaround to whatever specification RC Burnell wanted.*

*Roger A. stated that he was concerned, after looking at Acton's Class B road standards, with the fact the road is built to sustain a 60,000 GVW and the average cement truck weighs 100,000 GVW. Mr. Stanley stated that they can prepare the road and hold off on paving until after the heavy trucks are finished.*

*CEO McDonough asked if there was going to be a new turnaround at the water's edge on Apple Road? If so, he wanted details to be sure there would not be stormwater runoff going into the lake. Steve F. agreed, if it is improved the board would want a plan to know the gravel will stay there and that it will not wash into the lake. Roger A. believed the turnaround would be at least 50 feet away from the cove.*

**Madge B. made the motion to table the application pending further information. Steve F. 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.

**OTHER:**

Roger A. stated that with respect to doing a workshop with Mr. Scott Williams of the Maine Volunteer Lake Monitoring Program, he felt it would be better for Mr. Williams and board members if the workshop was done on an evening that was not a Planning Board meeting night. Members agreed and stated that if they knew ahead of time they could come in during the day. Barbara F. stated that she would contact Mr. Williams and see if this would be best for him and what date would work.

***Note: Mr. Williams liked the idea and the workshop is being set for Tuesday, April 17<sup>th</sup> at 1:00 p.m. Barbara will post a notice when the date gets closer.***

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**Growth Permits**

**Map 1, Lot 1 – Deering Ridge Road – New Home**

**GP #02-18**

The lot straddles both Shapleigh and Springvale, almost equally, having 200 feet of road frontage in Shapleigh containing 1.66 acres. Members agreed that the lot can be built upon as long as the applicant can meet setback requirements.

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**The Planning Board meeting ended at 8:20 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, March 13, 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)



# **SHAPLEIGH PLANNING BOARD**

## **MINUTES**

**Wednesday, March 14, 2018**

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

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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 19, Lot 13 (63 Emery Mills Road) – Sharon Tombarelli, Applicant; Roger Berube, Property Owner**

Mrs. Tombarelli and Roger Berube were present for the public hearing. Mr. Tombarelli was also in attendance.

Roger opened the public hearing by asking Mrs. Tombarelli what she wanted to do? Mrs. Tombarelli stated she wanted to do the same thing that was approved at another location, selling furniture, home décor and gifts. She was only moving to a new location. (Original approval was for Map 7, Lot 3-2.)

Roger A. asked what the hours of operation would be? Mrs. Tombarelli stated they would be the same as the prior location. Tuesday thru Sunday, 9:00 a.m. to 7:00 p.m. Barbara F. noted that she was approved for 9 to 7, 7 days a week. The board reminded her that she did not have to be open 7 days but this would give her the option if she chose to. She agreed 7 days would be a good idea.

Madge B. asked if any additional outdoor lighting would be added? Mr. Tombarelli stated that they were not making any changes. Mr. Berube agreed. Mrs. Tombarelli said there was one light on the outside of the building facing the road. Madge stated that it was important there was no glare directed toward the neighbors or the road. Mr. Berube said he understood.

Roger A. asked if there were any other questions? Roland L. asked about the fenced in play area for the day care, is the fence coming down? Mr. Berube stated that it was gone.

Roger A. asked if they were still going to have outdoor furniture? Mrs. Tombarelli said she would be having some. She did not plan on having a lot but wanted the ability to have a small display area, as they mentioned during the last application process. It would be the poly resin furniture, a few chairs, and a small display. Mr. Tombarelli stated that it would be brought in at night. Madge B. asked if the board limited the area? Roger stated that they limited them to 200 square feet of display area at any one time. Mr. Tombarelli asked if this would be a good size in this location? Mr. Berube stated there was plenty of room. Mrs. Tombarelli thought outdoor furniture would be of interest but she wasn't sure. Steve F. thought because of the location they could increase that area if they wanted to. Mr. Berube asked if they could have 400 sf? The board had no issue with increasing the size. CEO McDonough had no issue, as long as they didn't place it in the parking area. Mrs. Tombarelli stated there was a grass area they would be using.

Roland L. asked if there was a parking plan? Barbara F. stated they had a parking plan on file from previous approvals. Nothing has changed on site. She showed the plan to the board, noting the parking area was approved as adequate for the size of building and number of businesses.

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

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

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**The minutes from Tuesday, February 27, 2018 were accepted as read.**

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

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**Amendment to a Conditional Use Permit – Business Selling Furniture & Home Décor – Map 19, Lot 13 (63 Emery Mills Road) – Sharon Tombarelli, Applicant; Roger Berube, Property Owner**

Mrs. Tombarelli and Roger Berube were present for the review of the application. Mr. Tombarelli was also in attendance.

Mrs. Tombarelli provided a sketch of the area inside the building she would be using for the business. It depicted a bathroom, kitchen area, storage area, 3 rooms along the perimeter, as well as an open interior area, and 4 locations to exit or enter the building. The area depicted as Front Exit will be used for customers.

The detailed description of the proposal is as follows: New tenant is looking to rent existing office space, as is, for retail sales of furniture and goods.

Mrs. Tombarelli had been approved on December 26, 2018 for this business at a different location (Map 7, Lot 3-2, 926 Shapleigh Corner Road). The only change to her original request is location. Mrs. Tombarelli's business is the sale of rustic furniture, home décor and gifts.

**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 location for the approved 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. There is an existing light on the building at this time.***
- 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 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 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 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, the Comp Plan wants businesses along Route 109.*
- 4) Traffic access to the site is safe. *Roger A. stated it is, the site distances meet the minimum in both directions.*
- 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 a State approved Septic System is on site, and any solid waste will be removed by the applicants.*
- 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 a stormwater management plan was designed and approved for a previous application for this property, no changes are being made to the outside of the structure or parking area.*
- 9) Adequate provisions to control soil erosion and sedimentation have been made. *Roger A. stated no changes are being made on site to create an erosion issue.*
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. *Roger A. stated this location is not far from the Emery Mills fire hydrant. Mr. Berube added that areas in the building also have a sprinkler system, such as where the furnace is located.*

- 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 are no changes being made to the existing vegetation.**
- 12) All performance standards in this chapter applicable to the proposed use will be met. **Roger A. stated they shall with conditions.**

**Roger stated the conditions of approval are as follows:**

- 1) **The hours of operation shall be 9:00 a.m. thru 7:00 p.m., seven days a week.**
- 2) **A maximum of 400 square feet shall be used to display outdoor furniture. This furniture is to be taken inside at the close of business in the evening and at no time shall it be displayed/placed in the parking area.**
- 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 19, Lot 13, with three conditions. Roland L. 2<sup>nd</sup> the motion. All members were in favor. By a vote of 4 – 0, the motion passed unanimously.**

**Roger A. stated that the approved Day Care Facility for this location is no longer an allowed use.**

Nothing further was discussed.

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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 19, Lot 13 (63 Emery Mills Road), is Roger Berube, mailing address of P.O. Box 14, Springvale, Maine 04083.
3. The property is located in the General Purpose District and according to the assessor, the property contains 3 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 picture of the existing structure that the business will be going in to. Also received was a diagram of the area in the building to be used for the business. It depicted a bathroom, kitchen area, storage area, 3 rooms along the perimeter, as well as an open interior area and 4 locations to exit or enter the building. The area depicted as Front Exit will be used for customers.
6. The detailed description of the proposal is as follows: New tenant is looking to rent existing office space as is for retail sales of furniture and goods.
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 February 28, 2018. Meetings were held on February 27, 2018 and March 14, 2018. 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 19, Lot 13, 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) **A maximum of 400 square feet shall be used to display outdoor furniture. This furniture is to be taken inside at the close of business in the evening and at no time shall it be displayed/placed in the parking area.**
 - 3) **Signage 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 Ordinances ‘Basic Performance Standards’, and §105-73, Section G, ‘Standards applicable to conditional uses’ a motion was made on Wednesday, March 14, 2018, to approve the amendment to a Conditional Use Permit for a furniture and home décor business, to be located on Map 19, Lot 13, per the plans provided, with three conditions.

Vote:

By a unanimous vote of 4 – 0, the motion to approve the amendment to a Conditional Use Permit for a furniture and home décor business, to be located on Map 19, Lot 13, per the plans provided, with three conditions, was accepted.

Decision:

The Amendment to a Conditional Use Permit for a furniture and home décor business, to be located on Map 19, Lot 13, 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 preliminary 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 326

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.

On February 13, 2018, Mr. Stanley presented the board members with a formal application package which included a copy of the Warranty Deed showing James R. Chadbourne granting Warranty Covenants to Hidden Cove, LLC, Book 17652 Page 641; a copy of a sample deed for a lot in Hidden Cove; Requested Waivers (will be listed below); a copy of the soils map for the 3 lots, along with explanation of the soils; the lots located on a copy of the USGS map; a Stormwater Narrative which evaluated a 24 hour duration for a 2-year, 10-year and 25-year storm event; and a copy of the site plan for boundary retracements of property owned by James R. Chadbourne, located on Red Gate Road, Town Farm Road & Apple Road.

Also provided was a survey plan showing Hidden Cove, A Proposed Minor Subdivision by Hidden Cove, LLC, 173 Butternut Trail, Wells, Maine 04090 of Property Location on Apple Road & West Shore Drive, Shown on Tax Map 9, Lot 1A, Shapleigh Maine, dated February 2, 2018, drafted by Joseph L. Stanley PLS#2453, of LinePro Land Surveyors, LLC. The plan depicts 3 lots; Lot #1 being 2.00 Acres, Lot #2 being 3.94 Acres (2.39 Acres Net), Lot #3 being 2.62 Acres in size. Shown on the plan were a total of 4 Test Pits; Abutter Lines; Overhead Utility Lines; On the Ground Topo Contour Lines 2' Intervals; LIDAR Contours per Maine Office of G.I.S. – 2' Intervals; Shoreland Zone lines: Building Setback Lines.

Detailed plans were provided for the construction of the West Shore Drive Private Way, revised through 2-1-18, engineered by Craig A. Burgess PE#12638 of SEBAGO Technics. The plan depicted the actual construction of the Private Way, as well as erosion control measures.

Waivers requested for the project include:

Section 89-30A – Stone Monuments – Capped Survey Irons are proposed to be set at all property corners.

Section 89-30B – Fire Pond / Dry Hydrants – Due to project location near Square Pond, Individual Home Sprinkler Systems are proposed for fire suppression.

Section 89-36M – Sidewalks – No sidewalks are proposed because the project does not fall within an Urban Compact Zone.

Section 89-36I & 89-37A – Paving of Private Way – No pavement is currently proposed on the surface of the proposed Private Way. (Letter of explanation was provided by Joseph Stanley, dated February 2, 2018.)

Roger A. opened the discussion asking Mr. Stanley what new information he had for the board? Mr. Stanley stated that he was before the board this evening in order to get a decision regarding the surface of the private way, gravel vs pavement. He said he thought he was close to a final version of the plan once the road surface issue was decided upon.

Mr. Stanley stated that after the last meeting he spoke with Craig Burgess (Professional Engineer from Sebago Technics, who engineered the existing private way plan) about his experience of gravel vs pavement. Mr. Stanley said he hadn't looked at the plan as he should have, what Mr. Burgess had proposed was what his company felt was the happy medium, which is reclaimed asphalt compacted. He said it provides stability like pavement but also allows for slower water flow across the surface. He stated that this is what is currently proposed by the engineer as the best travel way in this situation.

Mr. Burgess provided a memo regarding the Private Way plan. This memo reads in part as follows:

The private way was designed and will be constructed and maintained in general conformance with the Gravel Road Maintenance Manual, A guide for Landowners on Camp and Other Gravel Roads, published jointly by the Maine Department of Environmental Protection and the Kennebec County Soil and Water Conservation District, April 2016. Construction of gravel camp roads immediately adjacent to lake watershed is common practice in Maine. The ability to reduce runoff velocity, limit sediment transport, control erosion, and ensure proper maintenance of the gravel private way will be imperative to its overall impact on the lake. Similar rules would also apply to a paved roadway.

A primary concern with gravel surfacing is sediment transport, which will be addressed in the proposed design by directing all runoff from the roadway to a level spreader. The level spreader will serve as a localized low spot to collect any potential gravel and wash-out from the roadway. Additionally, reclaimed asphalt is specified in lieu of standard gravel surface course to achieve better compaction and service life, and also reducing the potential of surface rutting and erosion. Gravel also allows for some attenuation and infiltration back into the ground and has reduced thermal impact in comparison to pavement.

Mr. Stanley stated the details for the roadway was from a design and similar soils used for a project in Kennebec County. He said he was open for discussion but if he could get an opinion about this, he would come up with a final plan prior to the next meeting. He feels that most matters have been addressed. He said he still had to speak with Road Commissioner John Burnell with respect to what he wanted for a turnaround area off of Apple Road.

Roland L. asked Mr. Stanley to show him on the plan where the reclaimed asphalt was going. He also asked what would be used from the private way up to the actual homes. Mr. Stanley said, "That would be up to the owner." He said, "At this point we are proposing 3 inches of reclaimed asphalt on top of the road surface." Roland wanted the board to know that they put reclaimed asphalt on his road and it was the best decision they could have made. It has been down about 7 years; before he was hauling fines that ran down the hill. He said that has been almost totally eliminated by the reclaimed asphalt. And he added that it looks more like a dirt road and the more you drive on it the harder it gets. Steve F. asked about the dust. Roland said it wasn't very dusty at all.

Roger A. stated that on the roadway it shows 16 feet in width. Mr. Stanley said, "Yes, that is what we need for the two lots and then it widens out to 24 up here for the turn-around for emergency vehicles." Roger said, "A private right-of-way is 12 feet plus 3 foot shoulders on each side, for a total of 18 feet in total". Mr. Stanley took a look at the details for the roadway. He stated, "The road shows a 16 foot wide travel way and 2 foot shoulders on each side before you get to the drainage". He pointed members to Sheet #4.

Roger A. stated that the ordinance specifies three foot shoulders. Steve F. asked about the road width? Roger said, "12, which is fine. Because he is looking at 20 feet vs the 18 feet." Roger and Steve both felt the proposal was better than what the ordinance asked for. Madge B. agreed. The town requires 18 and they are proposing 20.

Board members continued to review the road plan. Roland L. said the biggest issue with collection areas is people never remove the leaves and then they no longer function as originally created to do. Mr. Stanley said in this area it is mostly pine needles but he didn't know if this was better or worse.

Roger A. didn't believe there were any other issues with the road. Members agreed.

Madge B. moved to accept the private way plan drafted by Craig Burgess PE#12638, as proposed. Steve F. 2nd the motion. All members were in favor. By a vote of 4 – 0, the motion passed unanimously.

Roland L. stated that when he was reading some of the concerns of citizens at a prior meeting regarding low water depth in the cove, and the fact the board has to answer the question in the ordinance that there will be no negative impact on aquatic life, wildlife, etc., he wondered if there had been any thought on how to mitigate that. (§105-73.G(1) states: The use will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat.)

Madge B. asked how the development was adversely affecting? Roland said, "I am not thinking about that, let's assume they are boat owners and so they have docks down there." Madge said, "Gotcha." Roland said, "We are talking about...usually people on Square will have larger size boats coming in and out of that area, chopping up weeds and degrading the wildlife habitat. I am not saying they will, but. I am bringing it up in anticipation of that question being raised when the conditions are read."

Mr. Stanley stated that they had not thought about a restriction. He personally did not have a lot of experience with the depth in this location, or how they would get to their docks. He believed the lot closer to West Shore Drive would have an easier go than the lot that is further in. Roland L. said he was

bringing it up because if the board is asked, can the board say that definitively this will not have an impact on that area. He didn't feel the board could, because the board had no idea of the depth of the water, or the vegetation. Mr. Stanley didn't think it was any different than the area he and Roland lived on at Upper Goose Pond, some areas are shallow. He said there was also plenty of aquatic vegetation and the landowners are able to utilize their docks. He thought this was similar.

Roland L. stated that using Upper Goose as an example, motor craft are prohibited from Upper Goose. Kettle Pond Cabins can't have anything motorized, they can only have canoes or kayaks. Mr. Stanley asked about the rules? CEO McDonough stated with respect to Kettle Pond it was part of the approval of Kettle Pond. Mr. Stanley asked about the prohibition on Upper Goose? Madge B. said the Town voted on it. Mr. Stanley said he was unaware. Roland said it was a concern with respect to the milfoil, at one time they had it sent off to have it tested and it wasn't the invasion species but they still closed it off to motorized watercraft.

Steve F. said he would be interested in what the depth was in this location. He felt there would need to be a long dock. He said whether the board looks into it or asks the applicant, it would be good information to know. Mr. Stanley asked if it were 2 feet vs 5 feet, how would it impact things? He felt the homeowner still had the right to use the lake. Roland L. stated he didn't want to come to the final review and have someone ask the board, "Can you honestly say this development is not going to have a negative impact to the wildlife, fish spawning, however it is worded. I would rather you think about it before hand." He said to Mr. Stanley, I could give suggestions but you probably would not like to hear them. Things like 'no motorized watercraft', 'a navigational channel that the property owners would have to maintain buoys and people would have to drive thru those'. Roland felt based on the comments of the last meeting, he believed this question would be raised.

CEO McDonough thought water jurisdiction was discussed with an attorney at a workshop over another application. He believed the attorney stated the Town didn't have jurisdiction over the water. Madge B. was not sure and she said the board never got it in writing. CEO McDonough agreed they didn't get it in writing. Madge said she was concerned after the meeting that it was a grey area. She said if the board was going to rely on opinion one way or the other, either the Town can imposed conditions or they can't, she felt she would like a written opinion. Madge asked if CEO McDonough thought there was a definitive answer.

Roger A. thought the attorney had the intent that the board could act on any water related activity for the health and welfare of the community. Roger said it was his opinion that if the board imposed conditions, it would be up to the applicant to bring the Town to court if they thought the board was in error by enforcing anything on the water. Roger said it would be up to the judge to decide whether any criteria imposed by the board, that the applicant had to follow, was valid or not. Roger thought the attorney believed the Town would stand a good chance at winning because the reasons for conditions was for the protection of the water, even though the Town does not have jurisdiction over the water. Roger believed the attorney's opinion was the Town stood a good chance that the judge would side with the Town. CEO McDonough thought it sounded like both Madge and Roger had differing opinions on what the attorney said. Madge said she wasn't sure they had differing opinions, she just would feel much better if they had something in writing from the attorney that would have to act to defend the Town. CEO McDonough understood that opinion.

Steve F. said he was not a wildlife biologist, his issue with the board reaching out into the water, was that neighbors to the left and right have free use of the water. Roland L. felt they were grandfathered. Steve did not agree, because if the applicant was before the board to build a house, 100 feet back, the board would have no say over the water. CEO McDonough agreed. Steve believed the only question the board can ask is whether 3 docks with boats on them have an adverse impact vs one dock. The problem is, what our ordinance is asking the board to do, we can't make a decision on that.

Roger A. did not believe these 3 docks would be anymore detrimental to the lake than the ones that exist at this time. He said he was there mid fall, there was no ice, and there were no Lilly pads but it was shallow. He didn't know how far out it was shallow. Madge B. thought the board could ask the applicant to hire a biologist to give the board an opinion. Mr. Stanley asked what the opinion would be for? Madge said, "If three docks would disturb spawning grounds I guess." Mr. Stanley said that all docks have to come out for the winter. He noted that there should be no grandfathered dock because again they all are supposed to come out of the water in the fall. He noted there are hundreds of docks on the lake. He added that this area is not listed as a high value aquatic area, whereas there are other areas that are high value areas. He wasn't sure these two extra docks should get extra scrutiny over other docks. Roland L. stated his concern wasn't as much over the dock but the activity related to the dock, specifically the size of the motor. Madge said the board definitely did not have jurisdiction over boat traffic. Steve F. agreed, anyone could go into that cove. He said he understood Roland's concern, if the board restricted these lots from having a motorized boat, it will not stop other people from going into the cove up to the dock. Roland agreed. He just wanted to bring it up based on the wording on the standards and comments from citizens at earlier meetings.

Roger A. stated that the only other thing the board would need is a bond for the electrical and the road. Mr. Stanley said they did meet with Central Maine Power and talked about what would work best. Steve F. asked if Mr. Stanley would be coming to the next meeting with Mylar's. Mr. Stanley thought that might be premature but the plan would be very close to final.

Roger A. wasn't sure if Shapleigh could hold anything (a bond) for Acton. He wanted Mr. Stanley aware that could be an issue as well. Mr. Stanley said he was still working with Acton.

CEO McDonough asked if they knew the location of the wells? Mr. Stanley said they had some proposed locations on the plan. He said it was a little challenging due to the terrain but he understood CEO McDonough did not want them within 100 feet of the water. CEO McDonough thought there should be a condition that wells would not be within 100 feet of the water.

Steve F. asked if the turnaround on Apple Road had been decided. Mr. Stanley said he had talked to RC Burnell but did have to sit down with him to put it on the plan.

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

The next planning board meeting will be on Tuesday, March 27th at 6:30 p.m.

Nothing further was discussed.

OTHER:

Conditional Use Permit – Marina – Map 19, Lot 8 (17 Emery Mills Road) – Marc Boisse, Applicant; Wayne Berry, Property Owner

Barbara F. wanted the board to know that it had been over 90 days since the applicant had been before the board. It had actually been since November 14, 2017. She wanted to know what the board wanted to do? §105-73.F(3) reads: A conditional use permit tabled at the request of the applicant or planning board shall expire if after 90 days the applicant does not return before the planning board with new information in order to continue with the application process.

Roger A. and Madge B. agreed the application, based on the ordinance had now expired. Because there was not quorum to vote on this item, it will be brought back up at the next meeting to dispense with the application. *Note: Roland L. and Steve F. had recused themselves from the review of this application, therefore, they cannot act on it.*

Nothing further was discussed.

Growth Permits -There are growth permits available.

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

NOTE: The winter hours are in effect thru April 1st, 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, March 27, 2018** 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.*

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, March 27, 2018

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 also in attendance.

Minutes are not verbatim, unless in quotes “”

The minutes from Wednesday, March 14, 2018 were accepted as read.

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

Conditional Use Permit – Replace Wall & Stairs – Map 26, Lot 32 (121 21st Street) – David Levesque, Applicant; Steve Roux, Property Owner

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

Provided along with the application was a copy of the Permit by Rule Notification Form dated 3-5-18 by the applicant; a copy of what appears to be the town map showing the location of the property; a sketch depicting 2 sets of stairs to be replaced, the location of an existing dwelling and boat house, a 22' long rock retaining wall to be replaced, an existing retaining wall and stairs that will remain; and the location of Mousam Lake in relation to the project. Also received was an email authorizing Mr. Levesque to act on behalf of the applicant, Mr. Steve Roux; it is dated March 3, 2018.

The detailed description of the project is as follows: (Also entitled Maine DEP Permit by Rule Explanation)

The activity that we are proposing to perform at 121 21st Street in Shapleigh, ME is the replacement of 2 hazardous sets of stairs and 1 deteriorating rock retaining wall. The work is adjacent to Mousam Lake in Shapleigh, ME. One set of stairs is an access to the lake and the other is an access to an existing boat house. Neither set of stairs meet current code and present a hazard to the owners. We are proposing to replace these stairs with new granite stairs and paving stone landings. This will allow us to keep to grades as they are now and help to minimize soil disturbance on the site.

We are also proposing to replace the rock retaining wall, which is beginning to fall apart, with a new precast concrete retaining wall as manufactured by Genest Concrete in Sanford, ME. The block color will be 'granite' in color in order to keep the site looking as natural as possible.

Erosion control measures will be installed in order to prevent any soil migration.

Roger A. asked Mr. Levesque to let the board know what he intended to do. Mr. Levesque stated he currently had a customer who had stairs that were constructed of wood with a gravel landing, and they are hazardous the way they are designed. He said the other set of stairs was concrete with varying sizes of risers, so he felt they were hazardous as designed as well. The owner wanted to replace both with granite steps, with deeper landings to make the rise and run work. There is also a 2 foot tall rock wall that is falling down, they would like to replace it with one the same size in the same location.

Mr. Levesque stated there was a retaining wall down near the water that they were not proposing to change, as it is in good shape.

Mr. Levesque stated there was a pending Permit by Rule. He said he spoke with Cameron Adams (MDEP) and he had requested several more pieces of information which he has provided. He believed the permit would be accepted.

Roger A. asked about a time frame. Mr. Levesque stated he believed he would be starting the project in April or May. Roger asked how long the project would take to complete? Mr. Levesque thought a total of 2 weeks.

Roland L. asked where the material to be moved would be taken? Mr. Levesque thought the amount of material removed would be minimal. He said the rock wall would be moved and because the area was so tight, the material would have to be removed by hand. Mr. Levesque stated that any material removed from the site would get trucked to his pit in Lebanon.

Ann H. asked if the stairs would be the same width as the existing? Mr. Levesque said the concrete one would be wider, the existing varies from 18" to even smaller. Mr. Levesque asked CEO McDonough what was allowed? CEO McDonough stated, "Code states a minimum of three feet wide."

Steve F. asked, "Are you going down a few steps and land and down a few steps and land?" Mr. Levesque stated that that was probably how it would be built. He said, "Two risers, a landing, two risers, a landing." He said that until they get in, remove the old steps and take some shots, they won't know exactly. Steve asked if there was a maximum on the number of steps? CEO McDonough said, "There is a maximum vertical rise of steps before you have to have a landing, 12 feet." He said, after looking at the sketch, it would not apply here. Steve asked Mr. Levesque what he would be doing? Mr. Levesque stated, "Two six inch risers and then maybe a three foot landing."

Roland L. asked Mr. Levesque if they were going to have to do any landscaping? Mr. Levesque said they would be keeping it as tight as possible because they were doing hand shoveling. He didn't think they would be disturbing a large area, so he didn't see a need. Roland asked if the area was under snow at this time? Mr. Levesque said at this time it was. He noted that in terms of vegetation there was not much. He said they would entertain suggestions. CEO McDonough said that there would be a certain amount of disturbed soil. Mr. Levesque agreed and asked if he could use erosion control mulch. He said again it would be minimal. Perhaps in the area near the wall. He said there would be 18" of crushed stone behind the wall at the top. He said if it was his house he would leave it crushed stone for drainage. Steve thought that after the site inspection the board would have a better idea of what might be needed. Ann H. thought the applicant should decide if they want the gravel or mulch. Mr. Levesque said he understood.

CEO McDonough stated he would like to see on the plan, in the 18" area that will be disturbed, what will be placed after the project is completed, stone or mulch.

Roger A. stated a site inspection would be done prior to the next meeting on Tuesday, April 10th at 7:00 p.m. A notice to abutters will be mailed as well. Members will meet at the Town Hall.

He asked Mr. Levesque to speak with the owner to have a plan of what they wanted to do with the destabilized areas. Mr. Levesque stated, "OK". He asked board members if erosion control mulch was acceptable? Steve F. stated, "Yes".

Mr. Levesque asked if it always took two meetings for a project? Roger A. explained it was a two meeting process, as the first meeting the board reviews the application to see if any additional information is required, then a notice to abutters must be mailed out within 10 days of the final review, per the ordinance which is a State requirement. Then a final meeting is held. This also gives members time to review the site prior to making a decision, and for the 14 day DEP notification to take place. Mr. Levesque stated, “OK.”

Nothing further was discussed.

Conditional Use Permit – Marina – Map 19, Lot 8 (17 Emery Mills Road) – Marc Boisse, Applicant; Wayne Berry, Property Owner

Roger A. had Ann H. sit in as a regular member for this review, as both Roland L. and Steve F. had recused themselves from review of this application.

Roger A. stated that the marina application was well beyond the 90 days allowed to table an application. He asked if the board wanted to entertain a motion to dispense with the application? Barbara F. noted that Mr. Berry spoke with her on the telephone and stated he was not ready to bring additional information back to the board at this time. He felt he may not be ready before summer. Barbara explained to him that he would need to re-apply and could use the information provided to date, along with the additional information the board has requested. He stated that he understood.

Madge B. moved to dispense with the application, as the 90 days to table an application by the board or applicant had been exceeded. The last date of review for this application was November 14, 2017. Maggie 2nd the motion. All members were in favor. By a vote of 4 – 0, the motion passed unanimously.

Nothing further was discussed.

Other:

Steve F. stated that he thought it would be a good idea to add the CEO to the list of people receiving information from the applicant, so he could review it prior to the meeting. CEO McDonough thought it was a good idea as well. He noted that the applications state that the applicant is to meet with the CEO prior to going to the Planning Board and often this is ignored. Steve felt this is why he wanted the information provided before the meeting, so the CEO isn’t blindsided or at least has the material to look at while the board is discussing it. Barbara F. will add the CEO requirement to the application.

Madge B. wanted to speak about the issue with the current subdivision before the board, with respect to regulating docks. She did not feel the board had the ability to regulate docks but she wanted a legal opinion if members felt they would start regulating them. She didn’t know how the board could start regulating them when typically anyone with waterfront property was allowed to have a dock.

Roland L. noted that the area where Kettle Pond Cabins are, originally had a 4’ x 6’ long dock and then they went to having 1100 sf of docking space. Roland said his concern with the project before the board was he heard someone speaking about the subdivision and minimizing the impact in the area due to the shallow water. He felt it was best to bring it up prior to taking a vote on the subdivision.

Steve F. did not feel the board had jurisdiction over the water, from the high water mark out into the water. Roger A. did not believe the board had jurisdiction but if the board tried to regulate the dock, the board would need enough criteria, so it would hold up in court. Ann H. didn't think the board would get enough facts to say no dock should be allowed. Madge B. said the only question that was posed is whether or not three docks would have an adverse impact vs one, she thought CEO McDonough brought that up at the last meeting.

Roland L. thought it could be brought up, because it was the first of the standards in the Ordinance. Roger A. disagreed, it was not in the subdivision ordinance, it was in zoning. Roland asked if those would apply? Madge B. said the subdivision book is where the criteria is. Roland said he did not have that book with him. He asked if subdivision looked at the impact on spawning grounds and wildlife. Madge B. said, "Even if it did, we are going to have to have a biologist come in to decide that." CEO McDonough said, "If I decided to play devil's advocate, and if I was the applicant, I would say 'it is not zoned resource protection or anything special, there is no high value vegetation in this area, and there are a couple of thousand boats on this lake and I have a right to have one too.'" He said that would be his argument. Roland said, "As long as we can say something like that if, and it is a big if, if someone questions us on that particular point." Madge said when the board was discussing this, in the minutes it states, 'Mr. Stanley said that all docks have to come out for the winter'. Madge said that arguably the docks are not even permanent. Ann H. asked if they had to come out when it was a subdivision? Madge B. and CEO McDonough both stated that it was a State law. Ann asked about the old docks that stay in year round? CEO McDonough stated that there are probably a handful of wooden docks and piers that stay in but docks themselves are supposed to come out. Roger said that if a dock stays in year round, you need a permit from the Bureau of Submerged Lands. Ann said there are a lot of rotten docks. CEO McDonough told her to contact the State.

Madge B., referring back to the minutes of the last meeting, noted that Roland said it wasn't the docks he was concerned about 'but the activity related to the dock, specifically the size of the motor'. She asked why the board was getting so fussed about docks, it was the motors that destroy habitat. Maggie M. noted that if you have a dock with a canoe next to it, it would not be an issue. Roger A. said the biggest concern was with motor size because you would have to have a long dock. You wouldn't be able to start the motor.

Madge B. said she wanted to bring it up now, so the board didn't bring it up the next time. She noted that Steve F. said at the last meeting that if the board prevented motorized boats it would not stop anyone else from going into the cove. Steve believed if the subdivision did not go through, the landowner could still go out and put a dock in or multiple docks. He said he shared the concern with water quality but he didn't believe there is a way to fix it. Roger A. agreed that he didn't feel the board could come up with enough criteria to say the applicant could not put in a dock or have a motorized boat. Madge noted again that this area isn't mapped as having a rare habitat, therefore the board does not have a lot to work with. Steve believed if it was mapped as a wildlife habitat, it would be a different story. CEO McDonough agreed. Roger didn't see that the board could put restrictions on these three docks, whereas anyone else in the area could have a dock.

Madge B. thanked the board for discussing this. She felt this was not something the board should regulate in this subdivision. The other members agreed.

Nothing further was discussed.

Growth Permits –

Map 11, Lot 23H (Newfield Road)

GP #04-18

The board reviewed the lot and noted it met the minimum lot size requirements. It is also part of an approved subdivision.

Map 4, Lot 45C (Walnut Hill Road)

GP #03-18

This Growth Permit was being re-issued as it had expired in 2017, because the permit holder never was able to obtain a building permit within the 90 day time frame.

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

NOTE: The summer hours are in effect beginning the first meeting in April, the meetings will begin at 7:30 p.m. and public hearings will be held at 7:00 p.m.

*The next meeting will be held **Tuesday, April 10, 2018** at 7:30 p.m. The Planning Board meets the 2nd and 4th Tuesday of each month unless it falls on a holiday or Election Day. Any scheduled public hearing takes place at 7:00 p.m. prior to the scheduled meeting. Also, should there be a cancellation due to a storm event, holiday or Election, the meeting will typically be held the following Wednesday, also at 7:30 p.m. Please contact the Land Use Secretary if there is a question in scheduling, 207-636-2844, x404.*

Respectively submitted,

Barbara Felong,

Land Use Secretary planningboard@shapleigh.net

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, April 10, 2018

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

Minutes are not verbatim, unless in quotes “”

The minutes from Tuesday, March 27, 2018 were accepted as read.

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

Conditional Use Permit – Replace Wall & Stairs – Map 26, Lot 32 (121 21st Street) – David Levesque, Applicant; Steve Roux, Property Owner

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

Provided along with the application was a copy of the Permit by Rule Notification Form dated 3-5-18 by the applicant; a copy of what appears to be the town map showing the location of the property; a sketch depicting 2 sets of stairs to be replaced, the location of an existing dwelling and boat house, a 22’ long rock retaining wall to be replaced, an existing retaining wall and stairs that will remain; and the location of Mousam Lake in relation to the project. Also received was an email authorizing Mr. Levesque to act on behalf of the applicant, Mr. Steve Roux; it is dated March 3, 2018.

The detailed description of the project is as follows: (Also entitled Maine DEP Permit by Rule Explanation)

The activity that we are proposing to perform at 121 21st Street in Shapleigh, ME is the replacement of 2 hazardous sets of stairs and 1 deteriorating rock retaining wall. The work is adjacent to Mousam Lake in Shapleigh, ME. One set of stairs is an access to the lake and the other is an access to an existing boat house. Neither set of stairs meet current code and present a hazard to the owners. We are proposing to replace these stairs with new granite stairs and paving stone landings. This will allow us to keep to grades as they are now and help to minimize soil disturbance on the site.

We are also proposing to replace the rock retaining wall, which is beginning to fall apart, with a new precast concrete retaining wall as manufactured by Genest Concrete in Sanford, ME. The block color will be ‘granite’ in color in order to keep the site looking as natural as possible.

Erosion control measures will be installed in order to prevent any soil migration.

This evening Mr. Levesque provided the board with a copy of the sketch plan which included the following notations:

- All disturbed areas to be stabilized with erosion control mulch.
- 1’ of crushed stone to be used behind new retaining wall.

Roger A. began by asking Mr. Levesque if the DEP Permit by Rule was all set? Mr. Levesque said, “Yes”.

Roger A. asked about the wall, where the wide stairs were was a pillar, he asked if it was staying? Mr. Levesque said that where it connects to the wall it will be coming out and terminate it. No replacement of the pillar, the wall will be terminated at that point.

Roger A. asked about the time frame? Mr. Levesque stated it depended on the weather but he felt it would be done during the month of May.

Roger A. asked about plantings? Mr. Levesque gave the board a copy of the plan with a notation that all the disturbed areas will have erosion control mulch.

Roger A. asked about the boathouse side, just the rocks will be removed because it will get the three feet. Mr. Levesque agreed that would get the three feet for the stairs.

Roland L. stated that what he was about to say was outside the scope of the application but wanted to state that if there is any way while doing the project he could think about the roof line of the front porch. He said the roof line pitches towards the lake. If something could be done to catch some of that water and keep it from running down the stairs it would be appreciated. He said that the board could not require it be done but again he was requesting it be looked at. Mr. Levesque said he would mention it to the homeowner. Roland said it appears right now the rainwater is coming down the narrow set of stairs from what the board observed at the site visit. Mr. Levesque said he would take a closer look at mention it to the homeowner.

Madge B. asked if the stairs would be flatter? Mr. Levesque said they would, having several risers and a landing area. Madge said right now it is easy for the water to run down but once the stairs are reconfigured perhaps it will slow down the rain. Roger A. noted all the stairs are pitched toward the lake.

Madge B. asked if they needed to use best management practices? Roger A. stated that yes, until it is stabilized the BMP must be maintained. He noted that Mr. Levesque was licensed by the DEP in erosion control.

Madge B. asked about the time frame? Roger A. stated by the end of May.

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

- 1) The project, including stabilizing the area with erosion control mulch will be completed by May 31, 2018.**
- 2) Best Management Practices shall be kept in place until the project is completed.**

Madge B. moved for approval of the project per the plan provided which included the notation regarding erosion control mulch, on Map 26, Lot 32, with the two stated conditions. Maggie M. 2nd the motion. All members were in favor. 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 owners of Shapleigh Tax Map 26, Lot 32 (121 21<sup>st</sup> Street), are Stephen and Susan Roux of 56 Jellerson Street, Sanford, ME 04073.

2. The property itself is located in the Shoreland District and according to the assessor the property contains .23 acres.
3. The application description reads as follows: We are also proposing to replace the rock retaining wall, which is beginning to fall apart, with a new precast concrete retaining wall as manufactured by Genest Concrete in Sanford, ME. The block color will be ‘granite’ in color in order to keep the site looking as natural as possible.
4. Received was a sketch depicting 2 sets of stairs to be replaced, the location of an existing dwelling and boat house, a 22’ long rock retaining wall to be replaced, an existing retaining wall and stairs that will remain; and the location of Mousam Lake in relation to the project.
5. Received was a copy of the MDEP Permit by Rule Form dated 3-5-18 by the applicant.
6. Received was an amended sketch plan, dated 4/10/18, which States all disturbed areas to be stabilized with erosion control mulch; and 1’ of crushed stone to be used behind new retaining wall.
7. The board reviewed the pertinent sections of the Zoning Ordinance and concurred the application and information as presented met the performance standards, with conditions.
8. A notice was mailed to all abutters within 500 feet of the property on March 28, 2018. Meetings were held on March 27, 2018 and April 10, 2018. A site inspection was done on April 10, 2018 by members.
9. The Planning Board unanimously agreed to approve the Conditional Use Permit to replace the existing retaining wall, 22 feet long and less than 3 feet in height per the plans provided, on property known as Tax Map 26, Lot 32, with conditions.
10. **The conditions of approval are:**
  - 1) **The project, including stabilizing the area with erosion control mulch will be completed by May 31, 2018.**
  - 2) **Best Management Practices shall be kept in place until the project is completed.**
  - 3) **A building permit must be obtained from the Code Enforcement Officer, prior to the construction of the new wall.**

**Motion:**

After careful consideration and a review of all material presented to the Board, a motion was made on Tuesday, April 10, 2018, to approve the Conditional Use Permit to replace the existing retaining wall, 22 feet long, less than 3 feet in height, on the property known as Tax Map 26, Lot 32, per the plans provided with three conditions.

**Vote:**

By a unanimous vote of 4 – 0, the motion to approve the Conditional Use to replace the existing retaining wall, 22 feet long, less than 3 feet in height, on the property known as Tax Map 26, Lot 32, per the plans provided with three conditions, was accepted.

**Decision:**

**The Conditional Use Permit to replace the existing retaining wall, 22 feet long, less than 3 feet in height, on the property known as Tax Map 26, Lot 32, per the plans provided with three conditions, was approved.**

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**Conditional Use Permit – Replace Existing Wall – Map 25, Lot 20 (1 Water's Edge) – Frederick Lorensen & Mary Ann Mills, Property Owners; Caleb Chessie Representing**

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

Barbara F. had noted to Mr. Chessie that he needed an email or letter stating he could represent the applicants, for the file. Mr. Chessie stated that he would bring it to the next meeting.

Along with the application, provided was a sketch plan depicting the existing camp, 2 trees that needed to be removed, along with a possible third tree, the retaining wall that has fallen and needs to be replaced, along with the existing retaining wall that will remain. Also provided were pictures of the existing failing wall and an engineered plan drafted by Eric Merluzzi, P.E. #13003 for the replacement precast wall, plan entitled 'Larensen Residence Wall Replacement'. This plan depicted the construction of the new wall and had notes for Site Preparation, Leveling Pad & Bottom Block, Wall Drain, Backfilling & Compaction, and General Wall Layout & Construction. In addition a memo from Eric Merluzzi, P.E. stated in part that 'Wall #1 would have an area of 304SF and length of 38 LF.

The detailed application description of the project is as follows: Replace existing wall that fell over, see plan.

Roger A. asked Mr. Chessie to explain to the board what he wanted to do. Mr. Chessie stated that he wanted to build a retaining wall on the lake. Roger asked if a slab was going on top of the wall? Mr. Chessie stated they would be putting back what was existing. Roger asked what would be on top of the wall? Mr. Chessie stated a slab, to replace what was there.

Madge B. asked if he was taking out the wall and replacing it. Mr. Chessie stated yes, half has fallen down. Madge asked if he would be hauling off what has fallen. Mr. Chessie stated, "Yes". He said they would replace it with Pepin blocks.

Madge B. asked if the ramp would remain? Mr. Chessie stated that it would. He would build up to it. Madge asked how rain water would be kept from running into the lake? Roger A. asked if the boat ramp would be effected? Mr. Chessie stated that it would not. Madge asked if the wall had to be engineered. Barbara F. noted he provided an engineered plan.

Roger A. asked if he had filed for a DEP permit? Mr. Chessie stated that he was working on it. Madge B. asked if Mr. Chessie was DEP certified? He stated that he was. Roger asked if the DEP had been notified? Mr. Chessie said he had but did not hear back yet, and asked if he just had to have it back by the next meeting? Roger said it was a 14 day turnaround. Mr. Chessie said it had been mailed several days earlier.

Roland L. wondered if the slab could be pitched so the rain would go into the mulch instead of into the lake? He said he might think differently after the site inspection. Roland thought filtration thru the sand and mulch would be better. Mr. Chessie thought he could do that. CEO McDonough said, "A few bullet points that I see, one, rainwater itself isn't necessarily a problem. Two, I would think without a really good design, pitching it back behind the wall, it could be asking for problems". Roland asked if the wall was designed to hold the rainwater? CEO McDonough stated the wall was designed to hold a surcharge being the earth and I supposed any water behind it, but if it were mine I would be cautious to add any additional water without a

specialize grade system upstairs. Stopping water from the dirt before it gets there might be more critical, because that is what is going to carry pollutants. Roland thought they would get a better idea when they saw it.

**Roger A. stated the site inspection would be at 7:00 p.m. prior to the next meeting on Tuesday, April 24<sup>th</sup>. A notice to abutters will be mailed as well.**

Nothing further was discussed.

**Amend Best Possible Location – Add Overhang to Structure Placement – Map 39, Lot 31 (139 Granny Kent Pond Road) – Christopher Colwell, Applicant & Owner**

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

Along with the application, Mr. Colwell provided members with a copy of a revised plan which depicted the proposed new structure ‘with overhangs’ as being 653 SF in size, the distance to the high water mark at the closest point as being 75.7 feet, the distance to the side lot lines as being 13.50 feet at the point closest to the water, and 5.44 feet at the closest point to the edge of Granny Kent Pond Road.

The detailed description of the project stated: Adding overhang.

Roger A. asked Mr. Colwell to let the board why he was here. Mr. Colwell stated that the surveyor placed the new footprint on the plan without adding in the overhang. He stated that CEO McDonough pointed it out. He said on the new plan the overhangs were added. He said in addition the structure was moved back from 74.45 feet from the high water mark to 75.7 at the closest point to the high water mark. He did say he was closer to the road.

Roger A. asked about the 30% expansion. CEO McDonough stated there was no expansion. CEO McDonough stated that when they modified the proposed structure to add the overhang they forgot to change the notation on the existing to add the overhang. He stated the notation that states Existing Building 648 SF, should say 653 SF but it doesn’t. He said the existing building is still the same size but they did not note it correctly. He said it was up to the board but he would be comfortable with Mr. Colwell changing the figure to the correct figure, as long as he initials it. Roger A. agreed that would be fine.

Roger A. stated he had no concerns with the new plan. The other board members had no issue with this change as well.

**Maggie M. made the motion to approve the new revised plan, along with the initialed changes. Madge B. 2<sup>nd</sup> the motion. All members were in favor. By a vote of 4 – 0, the motion to approve was unanimous.**

Nothing further was discussed.

**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 an amendment to a Best Possible Location to replace the existing structure.
4. Received was a copy of a revised plan which depicted the proposed new structure ‘with overhangs’ as being 653 SF in size, the distance to the high water mark at the closest point as being 75.7 feet, the distance to the side lot lines as being 13.50 feet at the point closest to the water, and 5.44 feet at the closest point to the edge of Granny Kent Pond Road.
5. The detailed description of the project stated: Adding overhang.
5. The Planning Board reviewed the plan and accepted an additional change to the plan presented to reflect the actual size of the existing structure, which was omitted by the surveyor, changing the notation from 648 SF to the actual size of 653 SF. The board accepted Mr. Colwell changing the notation during the meeting, along with his initializing the change.
6. The Planning Board unanimously agreed to approve the amendment to a Best Possible Location to accept the corrected distances from the structure as follows: The distance to the high water mark at the closest point being 75.7 feet, the distance to the side lot lines being 13.50 feet at the point closest to the water, and 5.44 feet at the closest point to the edge of Granny Kent Pond Road. The size of the existing structure as amended on the plan is 653 SF.
7. **The original conditions of approval are still in effect and are 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 is completed and the work shall be done by a person licensed by the MDEP in erosion control.**

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 8:30 p.m.**

**NOTE: The summer hours are in effect beginning the first meeting in April, the meetings will begin at 7:30 p.m. and public hearings will be held at 7:00 p.m.**

*The next meeting will be held **Tuesday, April 24, 2018** 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, April 24, 2018**

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

The Planning Board gave CEO Steven McDonough a send-off on April 10<sup>th</sup> after their meeting, as he will be moving on to another town for employment after 20 years with Shapleigh. Steve told the Planning Board and wanted it conveyed to all townspeople what a pleasure it was working for the Town of Shapleigh. He is leaving his position on a positive note and wants to thank everyone for supporting him in his position. Thank you Steve!

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**Minutes are not verbatim, unless in quotes “”**

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**The minutes from Tuesday, April 10, 2018 were accepted as read.**

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

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**Conditional Use Permit – Replace Wall & Stairs – Map 25, Lot 20 (1 Water’s Edge) – Frederick Lorensen & Mary Ann Mills, Property Owners & Applicants; Caleb Chessie, Representing & Contractor**

Mr. Chessie was present for the review of the application. *Note: Board members did a site inspection prior to this evenings meeting. Ann H. sat in as a regular member this evening due to the absence of Madge B.*

Along with the application, provided to members was a sketch plan depicting the existing camp, 2 trees that needed to be removed, along with a possible third tree; the retaining wall that has fallen and needs to be replaced, along with the existing retaining wall that will remain. Also provided were pictures of the existing failing wall and an engineered plan drafted by Eric Merluzzi, P.E. #13003 for the replacement precast wall, plan entitled ‘Lorensen Residence Wall Replacement’. This plan depicted the construction of the new wall and had notes for Site Preparation, Leveling Pad & Bottom Block Wall Drain, Backfilling & Compaction, and General Wall Layout & Construction. In addition, a memo from Eric Merluzzi, P.E. stated in part that ‘Wall #1 would have an area of 305 SF and length of 38LF.

The detailed application description of the project is as follows: Replace existing wall that fell over, see plan.

For this evenings meeting, received by the Land Use Secretary, Barbara F., was an email from Mr. Frederick Lorensen, property owner, which stated the following:

As requested, I am pleased to give Caleb Chessie permission to represent us to acquire a Conditional Use permit to replace an existing wall that fell over at our property on Mousam Lake – Map 24, Lot 20 (1 Water’s Edge). Please do not hesitate to contact me if you have any questions, or need additional information.



Roger A. asked Mr. Chessie, for the record, to state what the applicants were going to be doing. Mr. Chessie stated, “They want to replace the retaining wall, 22 feet long by 5 feet high. Put a slab on top that was existing. Use erosion mulch to prevent erosion, and we will build a retention area like we talked about at the site inspection”. Ann H. called it a rain garden. Mr. Chessie stated that he would also like to remove three trees but he wasn’t sure what the board thought about the third tree. Mr. Chessie didn’t think what he was doing would affect it but he was not sure. Ann H. believed the tree should stay. Mr. Chessie thought since the equipment would be on site, it might be best to remove it at the same time as the other two, in case it didn’t survive.

Steve F. stated his concern was soil retention and water quality. He said if the long term outlook of the tree is dismal, then it makes sense to take it down. He said if it comes down the roots will remain for some time but it appeared the small retaining wall is letting go, so he was concerned with adding to the problem instead of fixing the stormwater problem. If fixing the small wall and incorporating the tree in this area goes into the plan, he didn’t see a problem but the existing plan would need a revision.

Maggie M. didn’t believe it would be much of a revision, since the plan stated this tree might be removed. Steve F. stated the small wall was more of his concern. He said if you remove more things from the site, you get more erosion. Roland L. noted that the canopy of the tree is helping to diffuse some of the rain that comes down. He said that is what the board wants. He said he would support the tree coming down if when they remove the top of the slab, Mr. Chessie sees that he is affecting the root structure and it will compromise the tree. But he felt taking it down just because it is there, noting none of the board members are arborists, that the tree could be fine. He said if an arborist does a core study and says within five years the tree will be gone, then ok. But he did not feel the board was qualified to make the decision. Steve said if they were going to do that, then he would want someone to come in to help the board deal with roof water. He felt something more than a rain garden might be needed to take care of the stormwater coming off the roof. He thought whether the tree is there or not it didn’t change the value of the camp, but the goal is to protect the lake. Steve believed if the third tree was coming down, the applicant would need something more rigorous or well thought of, to capture the water coming down the hill. He did understand it would be easiest to do it while the equipment was on site to do the project vs later on; but looking at the roof lines, with no gutters, the water goes right down the boat ramp into the lake. He said there was no water retention and it is a steep grade, so not much room to fix the problem but there are ways to do it, created by people who know how to mitigate stormwater. He didn’t feel qualified.

Steve F. asked Mr. Chessie if he wanted to speak with his clients? Mr. Chessie stated he just wanted to do the wall.

Roger A. asked when the wall project would begin? Mr. Chessie stated that he wanted to get started within a few weeks. Steve F. stated the Permit by Rule had to be obtained. Mr. Chessie stated that if he gave the DEP the information they requested tomorrow, they said he would have approval. Barbara F. noted that the CEO gets a copy of the PBR via email when it is completed. Roland asked Barbara if she had access to the CEO’s email. She stated no, but noted there is a CEO in Shapleigh three days a week.

Steve F. asked with respect to adding a rain garden to the plan, did the board have any thoughts? Ann H. pointed to an area on the plan where it might work best. Mr. Chessie said he would grub it out to the soil that will drain, and perhaps line the area with rock. Roger A. said the water has to percolate thru, so this would work. Mr. Chessie thought they would not want loam. Roger stated, correct. He said even with stone it can get contaminated with leaves and silt, and when there is a heavy rain it will no longer work. Roland L. agreed and he felt educating the homeowner that if it is maintained it will continue to work as constructed, would be wise. He noted that where he lives, there is 100 feet of ditching with rip rap along his private road,

and he uses a leaf blower from time to time, in doing this it has kept the water in the ditch going into the ground. He said if they occasionally rake it, it will continue to work.

Ann H. said from a liability standpoint the ditch needs to be gradual, so no one falls into it. Ann asked Mr. Chessie to place on the plan the location of the two rain gardens. Mr. Chessie also placed the location for erosion mulch. Steve F. told Mr. Chessie that if he wanted assistance with the rain gardens he could contact the Acton/Shapleigh YCC and they could give him some advice on what would work best. Roland L. stated that he believed whatever Mr. Chessie did would be an improvement over what is there now. He felt the work will benefit the lake in the long term.

Roger A. asked what the completion date would be? Mr. Chessie asked if he could say June. Roger asked if a completion date of June 15<sup>th</sup> would work? Mr. Chessie stated, “Yes”. Mr. Chessie asked if the board would come back out and look at it. Roger stated, “No the CEO does”.

Roger A. said the actual slab on the top of the wall would be 8' x 8' but no greater. Mr. Chessie didn't think it was that large. Roger thought it was at least 7 ½ x 7 ½ feet, based on the site inspection. Mr. Chessie stated that it would not be any bigger than 8' x 8'.

Mr. George Rankin, the neighbor to this project, asked if there was any way the board could put into the approval that the rain gardens be maintained? He understood it was hard to enforce, and often properties along the lake have multiple owners, and they come for a week and only want to enjoy themselves. They would not want to be raking. Steve F. said that was the problem with the board doing what they do, is having it monitored long term. Mr. Rankin thought they might do something for several years if it were in the approval. Roger A. stated the board could make it a condition but agreed often with respect to conditions they are not adhered to. Barbara F. agreed, but if it is in writing and someone has a complaint, Code Enforcement has something to refer to, otherwise, there is only say-so.

Roger A. agreed the board could put the condition that the rain garden be cleaned yearly. Mr. Rankin understood the board could not police it but maybe they will do it?

Steve F. asked if the project required a building permit? Roger A. said, “Yes”.

Roger A. stated that Best Management Practices will need to be maintained for the duration of the project and it needs to be done by someone licensed by the DEP. Roger knew Mr. Chessie was licensed but wanted it noted and it would be a condition of approval. This way whoever was taking out the permit, they would have to show their license to the CEO to get the permit. Roger added that BMP must be maintained until the bark mulch is down and the area is stabilized.

Roger A. stated with respect to tree replanting, any tree taken out must be no further from the water than what it was. The tree needs to be six feet in height, and if two are removed, two need to be replaced. He said if the 3<sup>rd</sup> comes down, that will have to be replaced as well. Roland L. asked if the board was going to leave it up to Mr. Chessie as to whether or not it should be removed? Roger said he can discuss it with the CEO if it needs to come out. Steve F. didn't want the area open, he felt the groundwork should be placed into the approval, so the CEO would be brought up to speed about what the board discussed. Steve F. didn't want an open site for two weeks waiting for the board to amend the plan. Roger said he had no issue with removing the tree. He said due to the type of tree, scrub pine, he didn't think the tree would last. Steve asked what Mr. Chessie thought? Steve asked if the tree came out, would the stump stay? Mr. Chessie said, yes, and he didn't want to touch the small wall. Steve said a tree would need to be replanted in the vicinity where the existing tree is.

Roger A. also noted that with the change in the ordinance at the past Town Meeting in March, trees are to be planted at least 5 feet from the property line, not on the property line. Mr. Chessie asked again about the distance from the water for the new trees. §105-4.D(7)(b)[1][(a)] states in part, ‘Replaced trees must be planted no further from the water or wetland than the trees that were removed’.

Roger A. stated the tree doesn’t have to be in the exact same location but in the same general area. Ann H. believed it could go on the other side of the property. Steve F. was concerned with the trees destabilizing the new wall. Maggie M. wondered about the area where the rain gardens would go. Roger said once the excavator is removed, there will be a spot to plant the trees. Mr. Chessie agreed. Steve thought placing a rain garden, tree, rain garden, tree, it might stabilize the area. He noted the area they were speaking about was very small. Ann H. agreed and didn’t want to create a problem that would knock the wall down five years from now.

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

- 1) Best Management Practices will be maintained until the project is completed which includes stabilization of the entire area affected. A person licensed in erosion control practices by the MDEP must be on site during the project until the area is stabilized and completed.**
- 2) Two trees shall replace the two trees being removed. These trees must be six feet in height from the ground to the top of the tree, and they shall be a tree native to the area.**
- 3) The project shall be completed by June 15, 2018. If this date cannot be met, a new date must be agreed upon by the Code Enforcement Officer.**
- 4) The two rain gardens shall be maintained to make certain they are able to mitigate stormwater as designed. This shall include a minimum of being raked out once a year to remove any debris that would prevent stormwater from easily filtering into the ground.**

**The applicant or representative for the project shall obtain a building permit prior to beginning the project.**

**Steve F. made the motion to approve the Conditional Use Permit to replace the existing 22 feet long by 5 feet high retaining wall per the plans provided with the above stated conditions. Ann H. 2<sup>nd</sup> the motion. All members were in favor. By a vote of 5 – 0, the motion passed unanimously.**

Roger A. asked Mr. Chessie if he had any questions? Roger said that as of today, the tree is staying. Mr. Chessie stated, “OK”. Roger said if when he is digging and discovers he will damage the tree roots to the point it will not survive, then he can go to the CEO and tell him the board was aware of the possibility because it is noted in the minutes.

Ann H. asked if there should be a condition that the applicant can take it out at his discretion? Roland L. did not think the tree would have to be removed. Mr. Chessie said the tree guy will be there and he would rather just have him take all three at once. Ann asked if the trees had to come out before he was digging for the wall? Mr. Chessie stated, “Those two have to come out, but it was just going to be cheaper for everyone to take the 3<sup>rd</sup> now. If I get digging and it has to come out, then I have to go to another job while the tree guys come back. That is my thought”. Ann said she understood.

Roger A. stated again he had no issue with the tree being removed. Mr. Chessie asked if he should ask the applicants about putting gutters on the camp? Steve F. said if they want to modify their plan, having the rainwater go from the roof, into the gutter, and then the rain garden, instead of shedding down and running straight into the lake, doing this in order to remove the third tree, then he would have no problem. He said again, this becomes a maintenance issue. Roland L. noted it is easier to keep a gutter clean now with the use of the gutter helmets. He said the up-front cost is a little more, and he was against it initially but he had them

installed and they work well. Pine needles and leaves don't collect. He said he was still not sold on the idea of removing the tree.

Ann H. asked what the other members thoughts? Maggie M. said if it is discovered that the roots will be affected and the tree will die anyway, why not remove it just in case? She said it is right next to the house, if it dies will it fall onto the house? Steve F. said if in six months the owners are concerned the tree will hit their house, they can go to the CEO and get a permit to have it removed. Steve said if people want to take a tree down they will find a way to do it. Roland said the board should review the section of the ordinance that talks about tree removal. He felt the board has been lax in requesting the use of an arborist to make the determination. Roland L. referred the board to §105-51.1 'Hazard trees, storm-damaged trees, and dead tree removal'. He read Section A(4) 'The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the Shoreland Zone.' He thought it was also noted in another area of the ordinance as well but he wasn't sure.

Mr. Chessie stated that at this point he felt the tree was staying. Roger A. stated the motion would stay as approved.

Nothing further was discussed.

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The Findings of Facts

1. The owners of Shapleigh Tax Map 25, Lot 20 (1 Water's Edge), are Mary Ann Mills of 266 Albright Ave., Stratford, CT 06497, and Frederick Lorensen of 547 Demmler Drive, Pittsburgh, PA 15237.
2. The property itself is located in the Shoreland District and according to the assessor the property contains .26 acres.
3. The application description reads as follows: Replace existing wall that fell over, see plan.
4. Received was a sketch plan depicting the existing camp, 2 trees that needed to be removed, along with a possible third tree; the retaining wall that had fallen and needs to be replaced, along with the existing retaining wall that will remain.
5. Received were pictures of the existing failing wall and an engineered plan drafted by Eric Merluzzi, P.E. #13003 for the replacement precast wall, plan entitled 'Lorensen Residence Wall Replacement'. This plan depicted the construction of the new wall and had notes for Site Preparation, Leveling Pad & Bottom Block Wall Drain, Backfilling & Compaction, and General Wall Layout & Construction. In addition, a memo from Eric Merluzzi, PE, stated in part that 'Wall #1 would have an area of 305 SF and length of 38LF.
6. Received was an amended sketch plan, dated 4/24/18, which added two rain gardens and erosion control mulch to the plan in the area where two trees shall be removed.
7. The board reviewed the pertinent sections of the Zoning Ordinance and concurred the application and information as presented met the performance standards, with conditions.
8. A notice was mailed to all abutters within 500 feet of the property on April 11, 2018. Meetings were held on April 10, 2018 and April 24, 2018. A site inspection was done on April 24, 2018 by members.

9. The Planning Board unanimously agreed to approve the Conditional Use Permit to replace the existing retaining wall, 22 feet long by 5 feet high per the engineered plans drafted by Eric Merluzzi, PE #13003, dated March 1, 2018, and sketch plan dated 4/24/18, on property known as Tax Map 25, Lot 20, with conditions.

10. The conditions of approval are:

- 1) **Best Management Practices will be maintained until the project is completed which includes stabilization of the entire area affected. A person licensed in erosion control practices by the MDEP must be on site during the project until the area is stabilized and project is completed.**
- 2) **Two trees shall replace the two trees being removed. These trees must be six feet in height from the ground to the top of the tree, and they shall be a tree native to the area.**
- 3) **The project shall be completed by June 15, 2018. If this date cannot be met, a new date must be agreed upon by the Code Enforcement Officer.**
- 4) **The two rain gardens shall be maintained to make certain they are able to mitigate stormwater as designed. This shall include a minimum of being raked out once a year to remove any debris that would prevent stormwater from easily filtering into the ground.**

11. Additional requirement:

- **A building permit must be obtained from the Code Enforcement Officer, prior to the construction of the new wall.**

Motion:

After careful consideration and a review of all material presented to the Board, a motion was made on Tuesday, April 24, 2018, to approve the Conditional Use Permit to replace the existing retaining wall, 22 feet long by 5 feet high per the engineered plans drafted by Eric Merluzzi, PE #13003, dated March 1, 2018, and sketch plan dated 4/24/18, on property known as Tax Map 25, Lot 20 with four conditions.

Vote:

By a unanimous vote of 5 – 0, the motion to approve the Conditional Use Permit to replace the existing retaining wall, 22 feet long by 5 feet high per the engineered plans drafted by Eric Merluzzi, PE #13003, dated March 1, 2018, and sketch plan dated 4/24/18, on property known as Tax Map 25, Lot 20 with four conditions, was accepted.

Decision:

The Conditional Use Permit to replace the existing retaining wall, 22 feet long by 5 feet high per the engineered plans drafted by Eric Merluzzi, PE #13003, dated March 1, 2018, and sketch plan dated 4/24/18, on property known as Tax Map 25, Lot 20 with four conditions, was approved.

Minor Subdivision – 3 Lot Subdivision to be known as Hidden Cove – Map 9, Part of lot 1A (Apple Road & West Shore Drive) – LinePro Land Surveying, Representing; James Chadbourne, Property Owner Mr. Stanley, nor Mr. Chadbourne attended the meeting, therefore, the application was tabled until the next meeting on May 8, 2018.

Growth Permits –

Map 6, Lot 39A (Gulf Road)

DENIED

The board reviewed the lot and deed, and were unable to approve it at this time due to the fact there was no evidence of 200 feet of road frontage for this lot, as specified in Zoning Ordinance Section 105-18 ‘Dimensional Requirements’. In addition, there is no proof that the 30 foot deeded right-of-way is up to the town standards for access, that being the Town’s standards for a Private Way to access a single lot, Zoning Ordinance Section 105-60.1 ‘Private ways’.

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

NOTE: The summer hours are in effect beginning the first meeting in April, the meetings will begin at 7:30 p.m. and public hearings will be held at 7:00 p.m.

*The next meeting will be held **Tuesday, May 8, 2018** at 7:30 p.m. The Planning Board meets the 2nd and 4th Tuesday of each month unless it falls on a holiday or Election Day. Any scheduled public hearing takes place at 7:00 p.m. prior to the scheduled meeting. Also, should there be a cancellation due to a storm event, holiday or Election, the meeting will typically be held the following Wednesday, also at 7:30 p.m. Please contact the Land Use Secretary if there is a question in scheduling, 207-636-2844, x404.*

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, May 8, 2018

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

Minutes are not verbatim, unless in quotes “”

The minutes from Tuesday, April 24, 2018 were accepted as read.

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

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 final review of the application, along with Robert Reinken, a friend of the applicant who is also a local developer.

The preliminary 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 326

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.

On February 13, 2018, Mr. Stanley presented the board members with a formal application package which included a copy of the Warranty Deed showing James R. Chadbourne granting Warranty Covenants to Hidden Cove, LLC, Book 17652 Page 641; a copy of a sample deed for a lot in Hidden Cove; Requested Waivers (will be listed below); a copy of the soils map for the 3 lots, along with explanation of the soils; the lots located on a copy of the USGS map; a Stormwater Narrative which evaluated a 24 hour duration for a 2-year, 10-year and 25-year storm event; and a copy of the site plan for boundary retracements of property owned by James R. Chadbourne, located on Red Gate Road, Town Farm Road & Apple Road.

Also provided was a survey plan showing Hidden Cove, A Proposed Minor Subdivision by Hidden Cove, LLC, 173 Butternut Trail, Wells, Maine 04090 of Property Location on Apple Road & West Shore Drive, Shown on Tax Map 9, Lot 1A, Shapleigh Maine, dated February 2, 2018, drafted by Joseph L. Stanley PLS #2453, of LinePro Land Surveyors, LLC. The plan depicts 3 lots; Lot #1 being 2.00 Acres, Lot #2 being 3.94 Acres (2.39 Acres Net), Lot #3 being 2.62 Acres in size. Shown on the plan were a total of 4 Test Pits; Abutter Lines; Overhead Utility Lines; On the Ground Topo Contour Lines 2' Intervals; LIDAR Contours per Maine Office of G.I.S. – 2' Intervals; Shoreland Zone lines: Building Setback Lines.

Detailed plans were provided for the construction of the West Shore Drive Private Way, revised through 2-1-18, engineered by Craig A. Burgess, PE #12638 of SEBAGO Technics. The plan depicted the actual construction of the Private Way, as well as erosion control measures.

Waivers requested for the project include:

Section 89-30A – Stone Monuments – Capped Survey Irons are proposed to be set at all property corners.

Section 89-30B – Fire Pond / Dry Hydrants – Due to project location near Square Pond, Individual Home Sprinkler Systems are proposed for fire suppression.

Section 89-36M – Sidewalks – No sidewalks are proposed because the project does not fall within an Urban Compact Zone.

Section 89-36I & 89-37A – Paving of Private Way – No pavement is currently proposed on the surface of the proposed Private Way. (Letter of explanation was provided by Joseph Stanley, dated February 2, 2018.)

This evening a Final plan was presented which depicted the proposed lots areas as follows: Total Area = 9.09 Acres±; Proposed Lot #1 = 80,410± Sq. Ft or 1.85 Acres; Proposed Lot #2 = 4.09 Acres Total (1.92 Acres Net Area); and Proposed Lot #3 = 2.66 Acres Total (2.17 Acres Net Area). Also provided were proposed descriptions for the two easements on Apple Road, for the Town of Shapleigh to utilize for road maintenance; along with a conveyance of the right to utilize an area known as ‘Strip Reserved For Road Realignment Purposes’ to allow Shapleigh to utilize this area for future grading and ditching. The easements will require approval by the Town Attorney.

Roger A. opened the discussion by asking Mr. Stanley to speak about what he had for the board. Mr. Stanley stated that he had discussed the bond with the Selectmen and at a Selectmen’s meeting they voted in approval of the bond amount, allowing for a Letter of Credit. He believed they discussed with Road Commissioner Burnell the bond amount and he told them the amount was adequate for the private way. He believed with respect to the bond amount, he had discussed it with everyone that needed to be involved.

Barbara F. provided members with a copy of the Selectmen meeting minutes dated May 2, 2018, and under Unfinished Business, Item Number 2 it is written at follows:

‘The Executive Secretary updated the Selectmen regarding the 3 lot subdivision, Shapleigh tax map 9, part of lot 1A. The improvements include a private way; bringing access to power onto the lots; and upgrading the end of West Shore Drive in Acton. The Town has received letters from the Shapleigh Road Commissioner, North stated that the proposed cost estimate in the amount of \$58,914.00 was acceptable to him along with a letter from the Acton Road Commissioner stating the property owner has been in contact with him and the owner has agreed to improve the remainder of West Shore Drive, at his expense to the Town of Acton’s standards. Based on the information received, motion made by Michael S. Perro, Seconded from Jennifer J. Roux to approve the irrevocable letter of credit in the amount of \$58,914.00 in the Town’s name. No further discussion. Motion carried unanimously.’

Mr. Stanley stated that the board was looking for some assurance he was working with the Town of Acton, and he said he spoke with Code Enforcement Officer Ken Paul, to be certain the planning from their perspective was still good. CEO Paul thought the letter from the Acton Road Commissioner, Mr. Scott Mooney, would take care of what the Acton side was looking for. The letter CEO Paul is referring to was written by Mr. Mooney, as follows:

‘A proposed private way accessing two lots in Shapleigh will be constructed at the end of the Town Road in Acton known as West Shore Drive. I have reviewed the subdivision plan prepared by LinePro Land Surveying, LLC, as well as the engineering plans prepared by Sebago Technics. The owner, James Chadbourne (aka Hidden Cove, LLC) has agreed to improve the remainder of West Shore Drive, at his own expense, and will coordinate this construction with me and complete it to my satisfaction. Any of my expenses related to this project will be paid for by Mr. Chadbourne, and will not be paid for by the Town of Acton.’

Mr. Stanley stated that he believed Acton’s interest were taken care of.

He said there were several grammatical items he changed on the final plan, but nothing else was changed, there are no dimensional changes or notes. He felt the final plan was ready to be submitted.

Roger A. asked if Mr. Stanley gave Acton the copy of the easements? Mr. Stanley stated he didn't give it to anyone as yet, and the copy he had with him this evening was for the turnarounds for the Town of Shapleigh. He said what he had was the 2 easement turnarounds and the ability for the town to use the strip for possible widening of Apple Road in the future. He gave members a copy.

Roger A. asked if these locations would get pinned? Mr. Stanley stated, "Yes". He felt at the last meeting they talked about a 30 to 60 day window to put in the pins. He stated he could issue a letter to the board stating that it is done for the record.

Roger A. asked if there was a time frame for the private way, when it will be installed? Mr. Stanley asked Mr. Robert Reinken, a friend of the applicant and local developer, if he had an idea of a time frame? Mr. Reinken stated that upon the first 'sale' is when he believes the private way will be constructed. Roger said that often the board doesn't allow the sale of a lot until the private way is completed. Mr. Reinken asked, "Even with a Letter of Credit?" Roger said the Town wants to ensure that it gets done. Roger said this was his opinion but he would rather not use the Letter of Credit, he would rather make the subdivision null and void. He said he was not speaking for the board. Mr. Stanley said there will be time for him to get the pins in, then they will have to figure out if they are going to market the lots as is or build on them. He said realistically from what he heard from Mr. Chadbourne and Mr. Reinken, ground will be broken by fall and he guessed they would try to have it completed before frost, unless they could not find a buyer. He expected this to be the time frame.

Steve F. asked what time frame was being set? Roger A. said, "When it gets done because what happens is if we don't have a perspective date when the road is going to be completed and power gets brought in, then it could be 10 years from now." He noted a subdivision on Newfield Road that nothing ever happened. Steve said, "But that doesn't prohibit them from recording the plan". Roger agreed but if the road doesn't get done at a certain time we can say it's null and void. Madge B. wanted to know on what basis could this be done? Roger said because it wasn't done in a certain amount of time. Madge asked if it was in the Ordinance? Roger said the board could set it. Madge agreed but wanted to know if it was in the Ordinance or was it up to the board, and therefore, we have flexibility. She said she knew Roger said it was his opinion and again wanted to know if it was up to the board to set the time frame for completion. Roger said, "Yes." Roger said the Letter of Credit is usually dated. Madge asked how long this one is good for? Roger stated, "We haven't seen it." Madge felt this was relevant. Mr. Reinken stated that a Letter of Credit is generally a year or two years and upon the expiration, the applicant has the option to renew it or the Town has the option to call it, and they could go ahead and build the road they want. He said the owner or developer has the incentive to get it done. He said from a timing point of view, it makes sense to build the road when the first lot is sold. Madge agreed. He said he hopes it happens quickly. Madge asked about having a time limit that the improvements need to be done within a year? Roger said, "That is what I am asking." Madge said then they could be subject to renewal. She felt it would be unfair to push the owner to do it until there is a sale. She understood the Town's position but they could get the money. Mr. Stanley stated, "How about if the improvements haven't been put in in two years then we have to come back and give you guys an update and then speak about the matter. Something reasonable." Madge wanted something to be reasonable, because if there are no lots sold, she didn't feel it was necessary to have a road built in this location. She felt in this case, she would rather have a time limit for when it needs to be done. Steve asked if 24 months would be ok with the applicant. Mr. Stanley believed it was reasonable, and felt they could come in if it wasn't done at that point and tell the board why.

Steve F. asked if there were any concerns title wise if the easements were recorded and the lots are not sold? Mr. Stanley did not believe so. He said currently the client is allowing the Town to use the turnarounds, so it is almost two separate issues. He said his client may want to modify the location if there is a reason but he didn't think there was any issue with having the easements prior to a sale.

Madge B. thought they could sell the Apple Road lot and still not need to do the improvements. Mr. Stanley said this could be possible. Madge thought they may then come back to the board. Mr. Stanley said he has looked at the plan many different ways prior to coming to the board, he saw no change in concept. The only issue he could see, is if road materials skyrocketed, he may want to come back before the board and say they want to get rid of a lot. He said there are not many options on this piece. Madge liked the 2 year deadline, because in 2 years she felt the board and the applicant would know what is best.

Roger A. asked if the power to lot number 3 was underground? Mr. Stanley said, “Yes”. He said Mr. Reinken met with Central Maine Power to discuss the poles. Mr. Reinken stated that the lot on Apple Road had an existing pole they would be using.

Roger A. asked if there were any other issues? Roger said he had no questions. There were no other comments.

Roger A. stated there were no issues with approving the waivers requested which are:

Section 89-30A – Stone Monuments – Roger said pins in place of monuments, there is no issue.

Section 89-30B(2)(c) – Fire Pond / Dry Hydrants – Roger said individual home sprinkler systems would work fine in this location for fire suppression.

Section 89-36M – Sidewalks – Roger said this area would not be conducive for having sidewalks.

Section 89-36I & 89-37A – Paving of Private Way – Roger said based on the information provided crushed asphalt instead of pavement would work for the private way.

Roger A. then read thru the Subdivision Checklist for a minor subdivision.

Final Plan Review

- X Final plan and documents (mailed 7 days prior to the meeting)
- X Two original recording plans and 3 paper copies of subdivision plan.
 - _____ Subdivision name; municipality; Tax Map and Lot numbers.
 - _____ Perimeter survey; monumentation; bearings and distances; surveyor’s or engineer’s seal.
 - _____ Scale: written and graphic; date, North point.
 - _____ Owner and applicants names and addresses; abutters.
 - _____ Lot lines, numbers and sizes; building setback lines.
 - _____ Contour elevation; soil test pit locations.
 - _____ Base flood elevation.
- X Supporting documentation:
 - _____ Copy of deed from which survey based; deed restrictions; easements or other encumbrances.
 - _____ Soils report from licensed site evaluator on test pits or statement from local sewer district.
 - _____ Statement of water supply suitability from local water district.
 - _____ Copy of County Soil Survey.
 - _____ Verification of ownership or legal interest.
 - _____ Application fee.
- X Planning Board review:
 - _____ Dated receipt issued to applicant.
 - _____ Determination whether submission complete.
 - _____ Notification to applicant of completeness of submission.
 - _____ Public hearing scheduled within 30 days of complete submission.

Written notice to applicant of Board's decision and findings that the development meets or fails to meet the following guidelines:

Roger stated it:

- Will not result in undue water or air pollution.
- Will have sufficient water available for the foreseeable needs of the subdivision.
- Will not cause an unreasonable burden on the existing water supply.
- Will not cause unreasonable soil erosion or reduction in the capacity of land to hold water so that a dangerous or unhealthy conditions result.
- Will not cause unreasonable traffic congestion or result in unsafe conditions on existing or proposed roads.
- Will provide adequate sewage waste disposal.
- Will not cause an unreasonable burden on municipal solid waste disposal.
- Will not have an adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas.
- Will conform to local regulations, ordinances, development plan and comprehensive plan.
- Will not adversely affect the quality of surface water or shoreline of ponds, rivers, or streams.
- Will not alone or in conjunction with existing activities, adversely affect groundwater quality or quantity.
- Will demonstrate adequate technical and financial capacity to meet the above.
- Will have all buildings one foot above the base flood elevations.
- Will have freshwater wetlands identified on maps.
- Will have rivers, streams and brooks identified on maps.
- Will provide for adequate stormwater management.
- Will not have spaghetti lots.
- Will not unreasonably increase a great pond's phosphorous concentration.

Roger A. stated the subdivision plan and supporting documentation met the criteria in the Subdivision Ordinance 4404 "Review Criteria".

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

1. No lots shall be built upon until all pins have been set for all lots approved for this subdivision.
2. All houses within Hidden Cove Subdivision shall have individual fire suppression sprinkler systems that meet State and local standards for single family homes. See Plan Note 13.
3. The two road easements, for the Town of Shapleigh to be able to utilize for vehicle turning, road construction, grading, and other standard roadway easement uses, and the easement for the realignment strip for future widening of Apple Road shall be returned to the Planning Board approved by the Town Attorney and recorded within two (2) months of the subdivision approval.
4. All subdivision improvements, including construction of the private way as engineered by engineered by Craig A. Burgess, PE,#12638 of SEBAGO Technics, and having power available to each lot, shall be completed within two years of the date of approval. Should the improvements fail to be completed, the owner/applicant shall have to come back before the Planning Board for reconsideration of the improvements and date of completion. The date of approval is May 8, 2018.

5. An Irrevocable Letter of Credit in the Amount of \$58,914.00 shall be held as a performance guarantee for the Town of Shapleigh in accordance with Shapleigh Subdivision Ordinance 89-42. Release of monies shall be made upon completion of the improvements which include a private way to access proposed plan Lots #1 and #2 and access to power on each lot. Money shall be released after the work is completed and must be approved by the Planning Board Chairman, Board of Selectmen and Road Commissioner, prior to release of funds. The estimated time of completion for all improvements is May 8, 2020.
6. Wells shall be set back 100 feet from the high water mark of Square Pond without additional Planning Board approval. See Plan Note 17.
7. Best Management Practices shall be kept in place during the construction of the private way, and building construction, until all work is finished in its entirety.

Roger A. asked Mr. Stanley if there would be any deed restrictions? Mr. Stanley did not believe there would be any placed by the applicant.

Madge B. made the motion to approve the Minor Subdivision Application for the 3 Lot subdivision to be known at Hidden Cove, per the Final Plan Showing Hidden Cove a Proposed Minor Subdivision on Map 9, Part of Lot 1A, drafted by Joseph L. Stanley, PLS #2453, dated April 10, 2018, as well as the Private Way Plan for Lots #1 & #2 off of West Shore Drive, drafted by Craig A. Burgess, PE #12638, dated 2/1/18, revised 3/16/18, with the above stated conditions. Maggie M. seconded the motion. All member were in favor. By a vote of 5 – 0, the vote was unanimous.

Maggie M. asked if anything additional had to be added to the plan and Roger A. said, “No.” Board members signed the Mylar’s presented and one paper copy.

Roger A. reminded Mr. Stanley that the plan has to be recorded within 90 days or the subdivision approval will be null and void, so it was important to get the Letter of Credit back to the board as soon as possible.

Nothing further was discussed.

Specific Findings

Based on the preliminary findings set forth above, the Board makes the following specific findings in accordance with Shapleigh’s Subdivision Ordinance 4404 “Review Criteria”.

The Board finds that the 3-Lot Minor Subdivision to be known as Hidden Cove:

1. Does not result in undue water or air pollution.
 - ***Test Pit Logs were provided by Kenneth Gardner SE #61, dated December 7, 2017, showing the soils on site will adequately support a subsurface waste disposal system.***
 - ***There is a 100 foot setback from the high water mark for any construction on all three proposed lots.***
 - ***There are setbacks delineated for both the brook and wetlands existing on Lots #2 and #3.***
 - ***There is no air pollution being generated by this activity.***
2. Does have sufficient water available for the foreseeable needs of the subdivision.
 - ***The water to be supplied by individual drilled wells, no dug wells allowed.***

3. Does not cause an unreasonable burden on the existing 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 building site to create a soil erosion problem.***
 - ***There shall be no vegetation removed within 100 feet of the high water mark without approval by the Planning Board or Code Enforcement Officer.***
 - ***The Private Way Plan engineered by Craig A. Burgess, PE #12638 of SEBAGO Technics includes erosion control measures for both during construction and remaining in place once the private way has been established, and while the buildings are under construction.***
5. Does not cause unreasonable traffic congestion or result in unsafe conditions on existing or proposed road.
 - ***The driveway location for Lot #3 will have access via Apple Road and shall be approved by the Road Commissioner.***
 - ***Lots #1 & #2 shall share access to West Shore Drive via a Planning Board approved Private Way engineered by Craig A. Burgess, PE #12638 of SEBAGO Technics. The Town of Acton Road Commissioner approved the access onto West Shore Drive, as well as the Private Way Plan in a memo dated May 1, 2018.***
6. Does provide adequate sewage waste disposal.
 - ***The soils observed are suitable for individual septic systems on each lot, as defined by the State of Maine Subsurface Wastewater Disposal Rules. This is per Test Pit Logs provided by Kenneth Gardner SE #61, dated December 7, 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.***
 - ***This location is not recognized as a high value plant or animal habitat by the Maine Department of Inland Fisheries and Wildlife.***
 - ***The building of three additional single family homes in this location will not adversely affect the aesthetics of the area.***
9. Does conform to local regulations, ordinances, development plan and comprehensive plan.
 - ***The final approved plan meets all zoning and subdivision regulations.***
 - ***Any changes to the final approved subdivision plan shall have to come back before the Planning Board and any building permits must be obtained by the Code Enforcement Officer.***
10. Does not adversely affect the quality of surface water or shoreline of ponds, rivers, streams or tidal areas.
 - ***The 100 foot setback to the high water mark is delineated on the plan, and no building, waste water disposal system or well shall be located within the 100 foot setback.***
 - ***There is a 75 foot setback to the existing brook located on the plan, and no building or waste water disposal system shall be placed within the 75 foot setback.***
 - ***There shall be no building placed within the wetland area that is depicted on the plan.***
 - ***Any clearing of vegetation requires a permit from the Code Enforcement Officer.***
11. Does not alone or in conjunction with existing activities, adversely affect groundwater quality or quantity.
 - ***Three homes at this location will not adversely affect groundwater quantity.***
 - ***Test Pit Logs indicated soils are adequate to hold a State approved septic system.***
 - ***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.***

12. Has demonstrated adequate technical and financial capacity to meet the above.
 - ***There shall be an Irrevocable Letter of Credit for all infrastructure to be provided by Mr. Chadbourne in the amount of \$58,914.00 as accepted by the Road Commissioner, Board of Selectmen and Planning Board. This is provided for the installation of the Private Way per the design provided, as well as electrical access to each lot.***
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.
 - ***All wetlands have been delineated on the Final Plan, drafted by Joseph Stanley of LinePro Land Surveying, LLC, PLS # 2453, plan dated May 8, 2018.***
15. Does have rivers, streams and brooks identified on maps.
 - ***An existing brook has been delineated on the Final Plan, drafted by Joseph Stanley of LinePro Land Surveying, LLC, PLS # 2453, plan dated May 8, 2018.***
16. The applicant has provided an adequate stormwater management plan.
 - ***Per the information received by Craig Burgess, PE of Sebago Technics, Inc., stormwater flows with respect to the proposed private way will be properly conveyed through the cross culvert and distributed as sheet flow from the level spreader.***
 - ***Per the information received by Craig Burgess, PE of Sebago Technics, Inc., an erosion and sedimentation control plan is incorporated into the design plans and includes the locations of the erosion control provisions (i.e. silt fence) along with notes and construction details for reference by the contractor during construction of the single-family residential lots. With incorporation of these measures, no significant impacts to off-site drainage related to erosion are anticipated due to the development.***
17. Hidden Cove shall have no spaghetti lots.
18. Does not unreasonably increase a great pond's phosphorous concentration.
 - ***There shall be no clearing of vegetation within the 100 foot setback to the high water mark without the approval of the Code Enforcement Officer and/or Planning Board.***

FINDING ON THE REQUESTED WAIVER(S)

The Planning Board finds that the request to waive the requirement, Article 89-30, "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, Article 89-30.B (2)(c), " Fire Pond / Dry Hydrants for firefighting purposes"; ***shall be granted*** due to the fact 'All houses within Hidden Cove Subdivision shall have individual fire suppression sprinkler systems that meet State and local standards for single family residential homes' (Plan Note 13).

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 is a minor subdivision, it is in a rural area, and does not fall within an Urban Compact Zone.

The Planning Board finds that the request to waive the requirement, Article 89-36.I & 89-37.A, 'street design standards – pavement requirement for a private way'; ***shall be granted*** due to the fact Craig Burgess, PE#12638 of Sebago Technics, stated in Memo dated 2/28/18, this would achieve the best stormwater results in this location. His memo read in part that 'reclaimed asphalt is specified in lieu of standard gravel surface course to achieve better compaction and service life, and it also allows for some attenuation and infiltration back into the ground and has a reduced thermal impact in comparison to pavement'.

PLANNING BOARD ACTION

The Planning Board hereby approves the application of James Chadbourne, including the requested waivers, for the Minor 3-Lot Subdivision known as Hidden Cove, located on Tax Map 9, Part of Lot 1A, with the following conditions:

1. No lots shall be built upon until all pins have been set for all lots approved for this subdivision.
2. All houses within Hidden Cove Subdivision shall have individual fire suppression sprinkler systems that meet State and local standards for single family homes. See Plan Note 13.
3. The two road easements, for the Town of Shapleigh to be able to utilize for vehicle turning, road construction, grading, and other standard roadway easement uses, and the easement for the realignment strip for future widening of Apple Road shall be returned to the Planning Board approved by the Town Attorney and recorded within two (2) months of the subdivision approval.
4. All subdivision improvements, including construction of the private way as engineered by Craig A. Burgess, PE #12638 of SEBAGO Technics, and having power available to each lot, shall be completed within two years of the date of approval. Should the improvements fail to be completed, the owner/applicant shall have to come back before the Planning Board for reconsideration of the improvements and date of completion. The date of approval is May 8, 2018.
5. An Irrevocable Letter of Credit in the Amount of \$58,914.00 shall be held as a performance guarantee for the Town of Shapleigh in accordance with Shapleigh Subdivision Ordinance 89-42. Release of monies shall be made upon completion of the improvements which include a private way to access proposed plan Lots #1 and #2 and access to power on each lot. Money shall be released after the work is completed and must be approved by the Planning Board Chairman, Board of Selectmen and Road Commissioner, prior to release of funds. The estimated time of completion for all improvements is May 8, 2020.
6. Wells shall be set back 100 feet from the high water mark of Square Pond without additional Planning Board approval. See Plan Note 17.
7. Best Management Practices shall be kept in place during the construction of the private way, and building construction, until all work is finished in its entirety.
8. 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.
9. 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.

Amendment to a Subdivision – Sandy Point – Adding 1 Lot, Creating a 5-Lot Subdivision – Dividing Map 12, Lot 22-4 (Knob Hill) Ted Theriault, Applicant & Owner

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

The preliminary application for the amendment to the 4 lot subdivision known at Sandy Point, to divide lot 22-4, contained the following information:

Name of Property Owner: Ted Theriault, P.O. Box 62, Shapleigh, ME 04076

Land Information:

Location of Property: YCRD Book 17708, Page 279
Shapleigh Tax Map 12, Lot 22-4

Current Zoning: General Purpose & Shoreland
Part of the Property lies within 250 of the high-water mark of a pond or river.

Acreage to be Developed: 3.83 Acres
Property is part of a prior subdivision.

Existing Use: Unused Lot
The parcel does not include a waterbody.
The parcel is not within a special flood hazard area.

Proposed Name of Development: Sandy Point

Number of Lots: (4) Four Existing – Proposed (5) Five

Date of Construction: June 1, 2018

Date of Completion: December 31, 2018

Infrastructure Required: No
The property currently has road access.

Estimated Cost of Improvements: Unknown – Private Way

Method of Water Supply: Individual Wells

Method of Sewer Disposal: Individual Septic Systems

Method of Fire Protection: Dry hydrant located on an existing pond or water body.

There Are No Proposed: Streets
Recreation Areas
Common Land

Requested Waiver(s): None.

Along with the application, provided was a copy of the original approved subdivision named Sandy Point, approval date of 6/1/1991; a copy of the Town Tax Map depicting the proposed division of Lot 4; and a copy of the Warranty Deed transferring ownership of Lot 4 from Angie Will Young of Old Orchard Beach ME & Michael Domoretsky of Alton NH to Theodore W. Theriault & Penny Theriault of Shapleigh ME, Book 17708, Page 279, dated 5/7/18.

Roger A. asked Mr. Theriault to explain to the board members what he was proposing. Board members reviewed the original approved plan that was on file from 1991. Members noted it was a 4 lot subdivision and it appeared the original lots had their access from Bridge Street (Newfield Road).

Mr. Theriault pointed out the approved road (Archer Street) for Lot 4, but noted it was never developed. He said his thought was to use Archer Street but he noted it was no longer called Archer Street. Madge B. asked if the proposed road he was speaking of had an easement to be able to use it. Mr. Theriault stated there was an easement from the Newfield Road. Madge asked if Mr. Theriault could use the road he was speaking of for a house. Roger A. stated that in 1991, (Roger was a member of the board when this subdivision was approved) Archer Street was supposed to be built up to a 50 foot right-of-way to access Lot 4. He said it was an approved 50 foot ROW in front of Lot 4, whereas the existing ROW to access Lot 4 from Bridge Street (Newfield Road) was 2 Rods. Mr. Theriault stated that he looked for the pins for the 50' ROW but could not locate them all.

Mr. Theriault stated again that he was looking to split Lot 4. He said that when he received the application from Barbara F. she noted that he was creating a 5 lot subdivision, and he would have to create a road to access the lots that was up to a certain Town standard. Mr. Theriault wanted to know what he was going to have to do to the road to access the lots, he didn't want to have to put a large amount of money into upgrading the road. Roger A. stated that Archer Street was going to have to be a street to get the required road frontage.

Mr. Theriault wanted to know if this was a standard. Roger A. stated that in 1991 it was required that the ROW was 50 feet in width. Mr. Theriault didn't have an issue with the ROW but did not want to have to pave it. Mr. Theriault thought the travel lane only had to be 22 feet. He asked if he brought it up to a Town specification, if it would become a Town road? Roger stated it would not become a Town road unless it got adopted at Town Meeting. Roger said if it is built to the standards then he could petition to have it adopted but added that as long as he has been on the board, he was only aware of one road being adopted. He said other than that, the townspeople have not adopted another subdivision road.

Mr. Theriault wanted to know what the parameters were that he needed to commit to. Roger A. said there needed to be 200 feet of road frontage for each lot. Mr. Theriault wanted to know where this 200 feet had to be? Roger said the board cannot tell an applicant what to do. Mr. Theriault wanted to know if he could subdivide the lot? Roger stated that the board could always modify a subdivision. Roger said this additional lot would create a major subdivision, therefore, other criteria would come into play, such as the requirement for a fire pond. He said there has to be fire suppression for both lots. Mr. Theriault asked if this was part of the first subdivision? Roger stated, "It is added on to this because you are creating 5 lots, making this a major subdivision."

Mr. Theriault wasn't sure how he would create a fire pond in this location. Roger A. stated that he could put in-home sprinkler systems. Mr. Theriault believed that would be too expensive for the homes going in at this location. Mr. Theriault was starting to believe this might be too expensive for what he was trying to do. Roland L. asked if a cistern would work. Roger said as long as it was big enough to supply the two lots. Roger said going from minor to major, all major subdivision requirements must be adhered to, and he didn't believe the addition of this one lot would bring in enough money to cover the cost of improvements. But he said it was only his opinion.

Mr. Theriault stated that he still needed to develop something on the lot. He asked if he could just put in a driveway to access the lot? Steve F. stated that it would have to be up to a private way standard. Mr. Theriault asked if it would be done through Code Enforcement or through the Road Commissioner? Roger A. said the street will have to be built to a standard that was approved for the subdivision in 1991. Mr. Theriault believed creating another division is out. Madge B. stated that he still needed to create 200 feet of road frontage. Roger said the subdivision was approved, so whatever was approved in 1991 has to be done for this lot.

Steve F., reviewing the approved subdivision, read Plan Note 18 which states: 'Vehicular access to Lot 4 is to be located on Archer Street and leading westerly to Bridge Street.' Mr. Theriault asked if this is the only access this lot has, how far did he have to build up the road to get the frontage? Steve stated, "200 feet on the lot."

Mr. Theriault asked if the 200 feet of road frontage could be developed along the top of the lot, or did it have to be Archer Street? Steve F. and Roger A. both stated that according to the plan it has to be Archer Street. Roger said that he could ask for an amendment to move the road. Mr. Theriault thought it would be easier to go along the top, where the house would be located. Roger said he would have to find a way to come off the easement along the top of the lot.

Mr. Theriault, pointing to the map, showed the board his intended area to create the 200 feet of road frontage. If he could put a road where he suggested, it could be cost effective. Madge B. said he would need to amend the existing subdivision plan. Mr. Theriault asked what he needed to do to be able to do what he was suggesting. Roger A. stated that he would need to create a 50 ROW and show the specifications for the private road. Madge asked if he had to use the subdivision or zoning private way specs?

Roger A. reviewed §89-36.I and it stated for a private right-of-way there needed to be a 50 foot ROW and 12 feet of pavement. It was also noted by members that with the last subdivision approval (Chadbourn / Hidden Cove), the applicant was allowed to use reclaimed asphalt in lieu of pavement, so the pavement requirement can be waived if the board feels the reclaimed asphalt is sufficient or better in a specific location. Madge thought this location was comparable because of the amount of traffic in this location. Steve F. agreed, because it was being used as a driveway, he did not feel pavement would need to be required. He also said the board may want to amend the ordinance in the future with respect to the private way requirements, especially when it serves one lot. Madge agreed.

Mr. Theriault asked if a hammerhead would be required, since a fire truck or ambulance could turnaround by the house. Steve F. stated that he wanted Mr. Theriault to know this would have to be surveyed, not hand drawn on the plan. A surveyor will have to amend the plan. He said the surveyor could use the existing plan and add to it. Mr. Theriault said he just needed to know the parameters the board wants to see, what materials to use, etc.

Roger A. asked Mr. Theriault what he wanted to do. Mr. Theriault stated he needed to create the road frontage needed, put the 200 feet across the top of the property, and do it as efficient as possible. He asked what he needed to create? Roger said he needed to construct a 50 foot ROW for 200 feet. Steve F. said it would not go to the road. Roger said the existing road is grandfathered. Mr. Theriault just wanted to know what the road had to be built to. Board members told Mr. Theriault to look at §89-37 ‘Street construction standards’, under Private ROW and §89-36.I ‘Street design standards’ for Private ROW. The travel width would be 12 feet in width with (2) three foot shoulders. Mr. Theriault thought he could make it work, as long as he didn’t have to pave it.

Madge B. asked if the board needed to do a site visit? Roger A. said he wanted to wait until the board received the plan. Mr. Theriault asked what he needed to do next? Roger said the road needed to be placed on the plan and an easement created for it, and it needed to comply with the ordinance. So submit a new plan, depicting the 50 foot easement, and road specifications for the 200 feet of road frontage.

Roger A. told Mr. Theriault to contact Barbara F. when he was ready to come back before the board. He will need an 8 x 11 copy of the new plan for all members, as well as road specifications, to mail to members 7 days prior to the meeting.

Nothing further was discussed.

Election of Officers

ELECTION OF OFFICERS

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

Maggie Moody 2nd the motion.

Roger Allaire accepted the nomination.

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

Madge Baker nominated Steve Foglio as Vice Chairman of the Planning Board.

Maggie Moody 2nd the motion.

Steve Foglio accepted the nomination.

All members were in favor. Steve Foglio ***will remain Vice Chairman of the Planning Board.***

OTHER:

Madge Baker spoke about the meeting Three Rivers Land Trust was having on Wednesday evening. At the meeting the Land Trusts Conservation Plan would be discussed and how it relates to what the Towns are doing with respect to conserving and preserving land for recreation and wildlife corridors. She stated the Land Trust now has maps that depict what they have done to date and they will show more details of what is protected in Shapleigh and what they hope to do in the future.

Madge believed that what Three Rivers Land Trust is trying to accomplish is relevant to what the Planning Board does with respect to land protection and preservation. She also noted that Walnut Hill and The Ridge were important areas and at the meeting the effects of climate change would be discussed.

Madge hoped Planning Board members would consider coming to the meeting, she felt it would be very beneficial to both the Land Trust and the Planning Board.

Steve Foglio noted again that he would like the board to look at the street design standards and street construction standards in the Subdivision Ordinance, as well as the Zoning Ordinance, in order to be sure they are reflecting what the board wants to convey. He believed there may be some amending required in the Subdivision Ordinance based on current subdivision review. The other board members agreed.

Madge B. asked why an amendment to this subdivision created a major subdivision. Roger A. stated that when he took a class on Subdivision standards in the past, the State was very concerned with developers circumnavigating the major subdivision rules by creating a minor subdivision, then later in time adding to it, not having to meet the stringent standards of a major subdivision just by doing it in phases. Madge stated that she understood that if you did this within five years but not 10 or more years later. Roger stated that he was told there was no time limit.

Roger A. also noted that the plan before the board speaks of having to pave Archer Street, so in this case the plan has to be amended in order to allow for a gravel private way.

Nothing further was discussed.

Growth Permits -There are growth permits available.

The Planning Board meeting ended at 9:15 p.m.

NOTE: The summer hours are in effect beginning the first meeting in April, the meetings will begin at 7:30 p.m. and public hearings will be held at 7:00 p.m.

*The next meeting will be held **Tuesday, May 22, 2018** at 7:30 p.m. The Planning Board meets the 2nd and 4th Tuesday of each month unless it falls on a holiday or Election Day. Any scheduled public hearing takes place at 7:00 p.m. prior to the scheduled meeting. Also, should there be a cancellation due to a storm event, holiday or Election, the meeting will typically be held the following Wednesday, also at 7:30 p.m. Please contact the Land Use Secretary if there is a question in scheduling, 207-636-2844, x404.*

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

SHAPLEIGH PLANNING BOARD

MINUTES

Tuesday, May 22, 2018

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).

The new Code Enforcement Officer, Mike Demers, introduced himself during the meeting. The Planning Board would like to welcome him and we look forward to working with him in the future.

Minutes are not verbatim, unless in quotes “”

The minutes from Tuesday, May 8, 2018 were accepted as read.

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

Minor Subdivision – 3 Lots – Map 9, Part of Lot 1A (Apple Road & West Shore Drive) – LinePro Land Surveying, Representing; James Chadbourne, Property Owner

Planning Board members signed the Findings of Fact that were approved in the Minutes of May 8, 2018.

They also received a copy of the Letter of Credit for the required improvements which include the private way and making sure there is electricity available on each lot. The letter was provided by the Sanford Institution for Savings in the amount of \$58,914.00. It became effective on May 21, 2018 and expires on May 21, 2020. The applicant for the letter is Hidden Cove, LLC of 173 Butternut Trail, Wells, Maine 04090 and the beneficiary is the Town of Shapleigh, Board of Selectmen, P.O. Box 26, Shapleigh, Maine 04076.

The board is now waiting for the easement to be accepted by the Town Attorney. The signed plan is located in the Land Use Secretary's office and will be recorded by the applicant once the easement has been accepted.

Nothing further was discussed.

Amendment to a Subdivision – Sandy Point – Adding 1 Lot, Creating a 5-Lot Subdivision – Dividing Map 12, Lot 22-4 (Knob Hill) Ted Theriault, Applicant & Owner

Mr. Theriault was present to further discuss the private way requirement.

At the previous meeting, provided was a copy of the original approved subdivision named Sandy Point, approval date of 6/1/1991; a copy of the Town Tax Map depicting the proposed division of Lot 4; and a copy of the Warranty Deed transferring ownership of Lot 4 from Angie Will Young of Old Orchard Beach ME & Michael Domoretsky of Alton NH to Theodore W. Theriault & Penny Theriault of Shapleigh ME, Book 17708, Page 279, dated 5/7/18.

Mr. Theriault was originally proposing to divide Lot 4, but after the discussion on May 8th, he felt the cost to do so was cost prohibitive, so he decided to only create access to Lot 4 using the private way standards.

Roger A. asked Mr. Theriault to explain to the board what he had to share this evening. Mr. Theriault stated he was trying to get clarification about what he could use for road frontage. At the last meeting he left with the impression that the board was going to require him to create a 50 foot ROW along the top of the lot and bring the road up to a private way standard. He asked the board why he had to create the 50 foot ROW, where there was a road in existence at this time which was depicted as a 20 foot ROW. It was currently being used to access two other lots.

Mr. Theriault showed the board the road he was speaking of on the map. Madge B. agreed that this was a ROW and could be used but the access would still need to be brought up to today's standard, as we are amending the subdivision. Members noted that currently access for Lot 4 was to be via Archer Street which was not developed and in order to make a change, the plan would need to be amended.

Mr. Theriault did not understand why he could not use the existing ROW at the top of the lot, as the other two lots were. He believed that by definition he currently had road frontage on the plan with the 20 foot ROW. Roger stated that the approved plan, which includes Lot 4, specifically states that Archer Street is to be used. He said the board could amend the plan but they would then require the ROW to be brought up to today's standards. Roger also understood Mr. Theriault's concern with cost to put in a road but noted it is always buyer beware when purchasing a property.

Mr. Theriault asked if he had to use Archer Street? Madge B. stated that whatever he used for road frontage, she agreed with Roger, it would have to be up to the private way standard using a 50 foot ROW and meet the travel way standard. She said at this time it does not meet the standard, so the 20 foot ROW Mr. Theriault is speaking of is really just a driveway, not road frontage.

Both Madge B. and Roger A. stated that the plan could be amended such that he would not have to use all of Archer Street for the road frontage, he could use 50 feet on Archer, which has the 50 foot easement that is required, and then turn onto Lot 4 creating the additional 150 foot easement and bring the road up to the private way standard with gravel. The board all agreed the plan had to be amended unless Mr. Theriault was going to create the entire 200 feet on Archer Street.

Mr. Theriault agreed that it would be most cost effective for him to use Archer, upgrading the road for a length of 50 feet and then turning onto Lot 4 as originally planned.

Madge B. asked if he would need an engineered drawing for the road? Roger A. stated that someone would have to design the road to the private way standard. Madge asked if a cross section should be put on the plan? Roger said that he believed it should be on the plan.

Roger A. asked Mr. Theriault if he had any additional questions? He did not. The board asked Mr. Theriault to let Barbara F. know when he had the plan drafted and was ready to come back before the board.

Nothing further was discussed.

Conditional Use Permit – Earth Moving in the Shoreland District & Dam Repair – Map 14, Lot 16 (177 Emery Mills Road) – City of Sanford Maine, Steven Buck, Applicant; John Gallant, Property Owner

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

Previously, along with the application, members received the following information: Activity Description / Site Description and Proposed Dam Repairs, drafted by GZA GeoEnvironmental, Inc. Also received was an Erosion Control Plan, drafted by GZA GeoEnvironmental. The board received photographs of the existing site, Locust Plan, a pictorial of the Erosion and Sediment Control Plan and what is called a 'Side View Plan' of the work to be done showing the construction entrance, and cross section at the lake.

Also provided were the proposed Dam Repairs, written by GZA, as follows:

- Improve the existing footpath between 177 Emery Mills Road and the Dam to serve as a construction and emergency vehicle access road with a vehicle turn-around area. The existing footpath is approximately 5 feet wide and 300 feet long. The proposed access road has a maximum base width of 12 feet and will be approximately 520 feet long. The closest point of disturbance for the access road is estimated to be approximately 18 feet from the ordinary high water mark at Mousam Lake as mapped by GZA in June 2017.
- Reinforce the top of the existing sluiceway roof (approximately 20 feet wide by 10 feet long) as necessary to facilitate construction and stabilize the structure. Stabilization will be completed from the side and roof of the sluiceway (no in-water work is proposed) and will match existing conditions to the extent practicable. Materials will include concrete, fieldstone, and/or rebar as needed.
- Install a berm on the eastern side and reinforce the existing concrete spillway on the western side of the Dam to support the Dam from the downstream side. The proposed disturbance will be within the 250-foot Shoreland zone buffer for Mousam Lake and within the 100-foot stream protection buffer for the Mousam River and is approximately 19 feet wide by 146 feet long. The downstream temporary work area abuts the fieldstone wall that contains the Mousam River at the Dam outlet and is approximately 19 feet wide by 75 feet long. Limited permeation grouting may be undertaken within the earth embankment as part of this task. No in-water work is proposed on the downstream side of the Dam.
- Install a toe drain within the berm and the concrete spillway (southwest side). The toe drain pipe will discharge into the existing stone-lined sluiceway channel via a weirbox.
- Remove overgrown vegetation and penetrating roots from the upstream (northwestern) abutment, and replace the abutment riprap to restore the previously constructed 2 ½:1 slope. The approximate volume of riprap that will be replaced or regraded is approximately 33 cubic yards over an approximately 12 foot wide by 75 foot long footprint on the upstream side of the dam. This work is proposed to be completed during the winter drawdown period to facilitate access to the riprap abutment.

Roger A. asked Mr. Buck to let the board know where the project was. Mr. Buck stated that he had new information that the board had requested at the meeting in February of this year. Roger began by asking Mr. Buck if the MDEP had made any changes to what they were proposing? Mr. Buck stated that there were no changes required. He stated that all necessary department reviews for this project were signed off. Mr. Buck provided the board with a copy of the Authorization Letter from the Dept. of the Army, NE District, Corps of Engineers. The documentation from the Army Corp of Engineers did have a list of conditions for approval which included the requirement to notify them two weeks prior to beginning work and filling out the proper notification form(s); having adequate erosion control measures on site; all soil exposure needed to be promptly seeded and mulched in order to stabilize the area; and all tree cutting shall occur between October 16 and April 19 of any year to the maximum extent practicable and no tree cutting shall occur between June 1 and July 31 of any year.

Roger A. asked about the turnaround, if there were any changes made to it? Mr. Buck stated the turnaround was still 20 feet in size but it could be larger if the board requested it.

Mr. Buck stated that he provided the board with a copy of the deed, as requested by the board, conveying Mr. and Mrs. Gallant a strip of land alongside the lake. Also provided was a diagram of the piece of land.

Mr. Buck stated he provided a copy of the Easement Agreement between the Town of Sanford and Mr. and Mrs. Gallant, as requested by the board. He stated that the easement was specific in what the easement granted which was written in part as follows:

- a) Constructing, altering, repairing, maintaining, improving, replacing a right-of-way for access, ingress and egress by foot or by vehicle (including heavy machinery and construction-related equipment) to and from the Dam in and along the area shown on the Plan; together with the right to enter upon the Easement Area with contractors, personnel, vehicles, materials and equipment from time to time (including heavy machinery and construction-related equipment) for the foregoing purposes, and to reasonably trim, cut down and remove grass, bushes and trees growing in, on and around the Easement Area, and to excavate or fill the Easement Area, all to such extent as the City or its agents deem reasonably necessary or appropriate in order to exercise the rights herein granted; and
- b) Constructing, reconstructing, repairing, maintaining, improving or replacing the Dam and related infrastructure and carrying out riverbank and lakefront stabilization and related efforts; together with the right to enter upon the Easement Area with contractors, personnel, vehicles, materials and equipment from time to time (including heavy machinery and construction-related equipment) for the foregoing purposes, and to reasonably trim, cut down and remove grass, bushes and trees growing in, on and around the Easement area and to excavate or fill the Easement Area, to all such extent as the City or its agents deem reasonably necessary or appropriate in order to exercise the rights herein granted.

Except in the case of emergency when no advance notice shall be required, upon reasonable advance notice to Gallant; the City shall have the reasonable right to enter the Easement Area for any and all of the foregoing purposes. In carrying out its agents shall use reasonable care not to damage or destroy the buildings, structures and other improvements now or hereafter existing in the Easement Area or on the Gallant Land. The City and its agents shall, after any entry, leave the Easement Area in a reasonably neat and clean condition and as close to original condition as possible. Gallant hereby reserves the full and free use and enjoyment of the Easement Area and the Gallant Land for all purposes not inconsistent with the rights herein granted.

Mr. Buck noted that he worked with Mr. Gallant on the wording for the easement, to have specific language that will serve all parties.

Mr. Buck stated that he provided documentation from the MDOT, specifically Anthony Fontaine, with respect to whether or not a MaineDOT Entrance Permit would be required for this location. Mr. Fontaine stated that it would not require submittal and approval, due to having existing access and that the city's proposed use would be intermittent, so it would not constitute a significant increase in daily vehicle trips, therefore, it does not trigger a 'change of use'; as long as the City does not propose to widen the access or change anything else in the right-of-way, it does not trigger a 'modification'. Therefore, per Access Management regulations, no further review by MDOT is required.

Roger A. asked about the time frame? Mr. Buck stated that they would not be doing any work this summer, due to the fact that they cannot cut any trees between June 1st and July 31st due to the bats. He added that the bid to do the road still had to go out. He was looking at late fall to begin work on the embankment.

Mr. Buck stated that they have two years from the date of approvals to get the work done, otherwise they will have to update all those involved in the permitting process. He did not want to have to reapply again for permitting, so his hope was that the project would be completed within two years.

Roger A. asked Mr. Buck if they were going to move the storage structure on Mr. Gallant's property. He believed if it was not removed they would have to build the road around it and he did not think that would work. Mr. Buck was not sure what Roger was speaking about. Roger noted that members would see it on the site inspection.

An abutter, Gary Brown, asked to see a copy of the map for the project. Mr. Buck showed him the map and they discussed for several minutes exactly what the project would entail. Mr. Brown wanted to know if there would be any gates added, and Mr. Buck stated he did not see the necessity for one due to the location. People would have to drive through Mr. Gallant's property and he did not feel that would happen.

Madge B. asked if after the improvements are completed if they would stay in place? Mr. Buck stated that they would for future repair purposes. He said that they were putting everything in place that would be required to keep the dam in good working order.

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

Roger A. stated they would hold a site inspection at 6:30 p.m., members will meet on site. A Public Hearing will also be held at 7:00 p.m.

Mr. Buck asked if the board required any additional information? The board stated they did not.

Nothing further was discussed.

Conditional Use Permit – Home Occupation / Medical Marijuana Caregiver – Map 34, Lot 3 (92 Cedar Drive) – Diane Bragdon, Applicant & Owner

Diane Bragdon was present for the review of her application.

Along with the application, provided was a sketch plan which depicted the structures on site, all located beyond the 100 foot setback to the high water mark; the location of the well and leachfield; proof of ownership by listing deed reference Book 9769, Page 303, and noted the acreage of the lot is .51 acres.

In addition, Ms. Bragdon listed why her home occupation would meet the Shapleigh performance standards, the fact the Comprehensive Plan encourages home based businesses, and the detailed description of the project is as follows:

As a Medical Marijuana Caregiver, registered with Maine DHHS, I will be abiding by all State laws. The product will be in a locked, enclosed, secure existing building on the property. This is a house call service only. Patients are not allowed on the premises. There will be no changes made to the property. Existing buildings and vegetation will not be disturbed.

The detailed description of the project on the application page reads: Home Occupation (See Attached)

Barbara F. provided members with a copy of the Medical Use of Marijuana Program Caregiver Application, regulated by the State of Maine, Dept. of Health and Human Services, Division of Licensing and Regulatory Services. She also provided the information from the Rules Governing the Maine Medical Use of Marijuana Program, 10-144 CMR Chapter 122, Effective Date: September 17, 2013, specifically Section 5: Primary Caregiver & Primary Caregiver's Authorized Conduct.

Roger A. asked Ms. Bragdon to let the board know what she wanted to do. Ms. Bragdon stated that she wanted to have an in-home business as a medical marijuana caregiver. She stated there will be no change to the property.

Madge B. asked her location? Ms. Bragdon stated she lived at 92 Cedar Drive. Madge asked if she was on the water? Ms. Bragdon stated, "Yes". Roland L. asked if individuals could access her service from the water? Ms. Bragdon stated, "No, patients are not allowed on the property." She added that this was part of the State requirements. Ann H. stated that means she was just growing it there and then taking it to a dispensary. Ms. Bragdon stated, "To a patient". Ann said, "Then people can't come to her house to pick it up". Roland said he was lacking information in this area, so he wasn't sure what questions to ask.

Madge B. said the board needs to do a site visit, and by the time the board does that, they will have had time to read the information on the application.

Ann H. asked if this business would be year round or seasonal? Ms. Bragdon stated that it would be year round. Roger A. asked if it was outside growing or inside? Ms. Bragdon stated, "All indoor".

Madge B. said Ms. Bragdon said she wasn't going to change the buildings but she wondered if she was going to have to change anything like lighting, fencing, etc. Ms. Bragdon stated that it would be done indoors in pots in her garage. Steve F. asked how many plants she would be allowed to have? Ms. Bragdon stated that she could have up to five patients with six plants each, plus six for yourself, so up to 36 plants.

Ann H. asked if there was going to be any fans or anything like that in the garage? Ms. Bragdon stated, "Yes, there will be a charcoal filter inside the garage and it is not exhausted outside at all".

CEO Mike Demers asked how far the structure was from the neighbors nearest structure, 100 feet? Ms. Bragdon believed it was about 100 feet. Ann asked if he was referring to abutters. CEO Demers stated that yes, the abutters structure.

Roger A. stated the ordinance states that no smell can go beyond the property lines. Ms. Bragdon stated that was why she was using a charcoal filter. Ann H. said that is why she was asking because it is not only when they are growing but when they are processing the plants that there is an odor.

Roger A. asked if they would prepare any edibles? Ms. Bragdon stated that at this time she will not. She said she would have to have a kitchen certified by the State in order to do it. She said she wasn't ready to do that yet. Roger said that if the board grants her a permit for growing, she would have to come back before the board to add edibles. She stated, "Correct".

Ann H. asked if she would have to increase her electrical service for the lighting and things in there. Ms. Bragdon stated that she spoke with CEO Norm Hutchins and he stated that she needed a 20 amp service which she already has.

Roger A. stated that a notice to abutters will go out and a Public Hearing will be held on Wednesday, June 13th right after the previous hearing which begins at 7:00 p.m. (Tuesday is an election day.) Members will do a site inspection at 6:00 p.m.

Steve F. asked if the garage was attached to the house? Ms. Bragdon stated, “Yes”. Steve didn’t think the board had to go in the house. Roger A. agreed.

Nothing further was discussed.

Growth Permits

• Map 8, Lot 62D (Gulf Road) – New Home

GP #06-18

This lot met the criteria in the zoning ordinance for dimensional requirements.

• Map 6, Lot 39A (Gulf Road) – New Home

GP #07-18

This application had been denied by the board for lack of road frontage on April 24, 2018. The applicant provided a letter from Attorney Jessie L. Krall, which explained why the lot in review is a legal lot of record and was created to the standards set forth when it was created in 1998, which allowed for a 30 foot right-of-way to access a back lot. A copy of the deed was provided, along with a sketch plan depicting the location of the deeded 30 foot ROW to the back lot. In addition, a copy of the Shapleigh Zoning Ordinance from 1999 (as 1998 could not be located) was provided, which noted under §105-19 the following:

- (3) Up to two new ‘back lots’ (without road frontage) may be created from any preexisting lot of record grandfathered under §105-4 of this chapter, provided that they:
 - (a) Conform to the minimum lot size required in the district;
 - (b) Are at least as wide as the road frontage dimension normally required in the district; and
 - (c) Are accessed by a minimum twelve-foot-wide driveway (containing at least 12 inches of sand and gravel, drainage ditches and culverts at appropriate points) within a deeded right-of-way which is not less than 30 feet wide, and provided that the creation of said right-of-way does not leave the original lot nonconforming in terms of area or frontage.

Attorney Krall was present and noted that the 30 foot right-of-way is in existence along with the 12 foot wide driveway. She added that CEO McDonough had permitted the gravel for the driveway in 2016, and he also agreed that the back lot was grandfathered based on the ordinance in existence at that time. The applicant noted that Road Commissioner Caleb Chessie actually built the driveway, and the town plow truck uses the 30 foot ROW to turn around.

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

NOTE: The summer hours are in effect beginning the first meeting in April, the meetings will begin at 7:30 p.m. and public hearings will be held at 7:00 p.m.

*The next meeting will be held **WEDNESDAY, June 13, 2018** 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

Wednesday, June 13, 2018

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

Alternate Ann Harris sat in as a regular member this evening due to the absence of Steve and Maggie.

Minutes are not verbatim, unless in quotes “”

Public Hearing Began at 7:02 p.m.

Conditional Use Permit – Earth Moving for Dam Repair – Map 14, Lot 16 (177 Emery Mills Road) – City of Sanford, Steven Buck Representing, Applicant; John Gallant, Property Owner

Mr. Buck was present for the public hearing.

Roger A. asked Mr. Buck to let the audience know what the Town of Sanford was proposing. Mr. Buck stated that the Mousam Watershed Coalition of Acton/Shapleigh and Sanford combine efforts for the overall management of the Emery Mills Dam which holds back Mousam Lake, and they also deal with Square Pond as well. He said over the years, Tony Fletcher, the State Inspector for MEMA (Maine Emergency Management Association) has done a series of inspections and continues to identify certain defects in the dam. There is no defect that is impediment to eminent failure, except in the back near the sluiceway. The city has access on the westerly side of the dam but not on the easterly side of the dam. So we are creating an access road. He said John Gallant is the dam operator and helps the city maintain the dam water level. The city has 20 cfs flowing downstream and working with the lake associations we try to maintain Mousam Lake at 31 inches below the dam line of the dam.

Mr. Buck stated the coalition engaged GZA Environmental two years ago to come up with a plan for the voluntary improvements and maintenance of the dam. He said the scope of this was provided to the board. He said they needed an easterly access, so they worked with John Gallant to gain a permanent right-of-way across his land that connects to a pre-existing pathway that was utilized by those who walked from the lake and dam to the store. He stated there was an engineered plan for the construction of the roadway, to be used for emergency access and maintenance of the dam.

Mr. Buck stated the City then went on to get a full environmental permit from the State, Army Corps of Engineers. He said the first permit was to improve the existing footpath between 177 Emery Mills Road and the dam to serve as an access road for dam repair, and noted they just came back from a site tour of that. Second, was to reinforce the top of the existing sluiceway to facilitate construction to stabilize the structure. The third item was to install a berm on the eastern side and reinforce the existing concrete spillway on the western side of the Dam to support the Dam from downstream. Fourth is to install the toe drain within the berm and the concrete spillway (southwest side). The toe drain pipe will discharge into the existing stone-lined sluiceway channel via a weirbox. He said there is a certain amount of leakage that occurs through the dam, that leakage is monitored, using the weirbox to look at the fines. He said the fifth and he felt the most important, remove overgrown vegetation and penetrating roots from the upstream abutment, and replace the abutment riprap to restore the previously constructed 2 ½:1 slope.

Mr. Buck stated the permit he applied for through the Army Corp of Engineers takes into account the entire scope of work he listed, which will take place in the next two or three years. He stated the last permit they needed was with the Town of Shapleigh, a Conditional Use Permit, because most of this work is going to be done inside the Shoreland Zone.

Roger A. asked the audience and board members if they had any questions? There were none. The public hearing for Mr. Buck ended at 7:07 p.m.

Conditional Use Permit – Home Occupation / Medical Marijuana Caregiver – Map 34, Lot 3 (92 Cedar Drive) – Diane Bragdon, Applicant & Owner

Diane Bragdon was present for the public hearing.

Note: Due to the fact the names of audience members were not always stated, each audience comment will be prefaced by 'Citizen', except Attorney Patrick Bedard, Esq. from Eliot, Maine, Attorney for Ken and Kathe Lobdell (abutters), as he supplied written information to be read by board members.

Roger A. asked Ms. Bragdon to tell board members and those in the audience what she intended to do. Ms. Bragdon stated she was before the board to obtain a Conditional Use Permit for a business as a medical marijuana caregiver. She stated she would grow the product in her garage and the product would be delivered to patients, no patients would come to the home. There will be no changes to the property. She asked if anyone had additional questions?

Citizen – Are you growing it and distributing it to people outside of your property?

Ms. Bragdon – I am growing in tents in the garage and then it will be delivered to patients. The patients have to have a medical card issued by the State of Maine, and they have to give me their card number for me to be their marijuana provider. The most patients I can have is five.

Roger A. asked a gentlemen if he was recording the meeting? The gentlemen stated he was. Roger said he needed to tell the board and audience it was being recorded, otherwise Roger would have to tell him to shut it off.

Citizen – I work in several of these facilities, I drive by one almost every day and the smell is horrible. I don't like the smell of it and I don't want my grandkids to be susceptible to that, it just is not right.

Citizen – They live behind us.

Citizen – We are not even in a commercial zone. Square Pond is not the right place to grow marijuana. I am sorry.

Citizen – How are you going to contain the odor?

Ms. Bragdon – I am going to use a charcoal filter and everything is contained in the garage. There are no windows in the garage and it is in tents as well. It is in a tent in the garage.

Citizen – You cannot tell me that odor is not going to leave the garage, you can't contain it.

Ms. Bragdon – We had visitors today and all of them said they could not smell it. (Board members did a site inspection prior to the meeting.)

Ms. Bragdon – It is a very small business. It is not a commercial business.

Citizen – Diane, that is irrelevant. Square Pond is not a place to be growing marijuana. Next thing you know people will show up at your dock trying to buy pot.

Ms. Bragdon – No they cannot. It is not legal in the State of Maine.

Citizen – It's gonna grow. If this passes it is going to grow.

Roger A. asked for the next comment.

Atty. Bedard – I represent Ken and Kathe Lobdell who live on 19 Gatehouse Road, and they are neighbors. I would like to speak to some of these issues and speak to the board. He provided members a copy of material that contained the following information:

- 1) Land Use Ordinance, Section 105-17, Uses
- 2) Chapter 48, Marijuana
- 3) Land Use Ordinance, Section 105-73, Conditional Use
- 4) Land Use Ordinance, Section 105-40, Home Occupation
- 5) Land Use Ordinance, Home Occupation Definition
- 6) Comprehensive Plan Sections on pages 14, 20, 21, 25, 26
- 7) Land Use Ordinance, Section 105-20, Prohibited Uses
- 8) Land Use Ordinance, Section 105-24, Odors
- 9) Articles regarding odor for marijuana growing.
- 10) Hazardous Material articles for marijuana growing
- 11) Maine Driver's License of Diane M. Bragdon, applied for 4/12/18
- 12) Statue on Registry Identification Cards, 22 M.R.S.A. 2425
- 13) Statue on Application for Driver's License, 29-A M.R.S.A. 1301
- 14) DHHS Rule Section 5 for Primary Caregiver Authorized Conduct, Medical Marijuana
- 15) Map showing Bragdon/Reeves Lot
- 16) Deed to Kenneth A. Lobdell and Kathe A. Lobdell
- 17) Deed to Diane M. Bragdon and John S. Reeves
- 18) Deed from Diane M. Bragdon and John S. Reeves to the Lobdells

Atty. Bedard – My clients live next door and I want to talk about what we have presented. What I did was, I put in the Land Use Ordinance section in the beginning. The Planning Board knows under footnote 5 (page 2) marijuana is allowed only in the Medical Use of Marijuana Act under State law. If you go to page 3, the Town of Shapleigh has prohibited marijuana retail operations in Shapleigh anywhere. Page 3 is pretty clear. It is clear that it is disallowed except for one limited exception.

Atty. Bedard – If you go to Conditional Use Permits, page 6 talks about some of the things you need to find in order to do a Conditional Use Permit, it could be allowed as a CUP if it's a Home Occupation which allows this as a permitted use. When I go to page 6, it has to be consistent with the Comprehensive Plan, has to have adequate provision for transportation, storage or disposal of hazardous materials, has to make sure there are no odors, and I want to walk through a few others provisions that I think are important.

Atty. Bedard – I think we talked about the Home Occupation on page 9. I guess one concern in looking at this, it said Home Occupations, actually on page 10, the key part is, is it an occupation that is customarily carried on in a dwelling unit or building or other structure accessory to a dwelling unit. I think a problem with this request is that growing marijuana, which isn't allowed in Shapleigh, it's not a use that is typically done like an electrician or plumber, it is not part of a dwelling use. I think it's more of a commercial use.

Atty. Bedard – If we go to page 12, there are some sections of the Comprehensive Plan, and a Conditional Use has to be consistent with the Comprehensive Plan. It indicates under Natural Resources that the most sensitive lakes in Shapleigh include Square Pond and this property is on Square Pond. You will note that Mousam Lake and Square Pond are lakes considered most at risk by the government. It also suggest that development should be kept in the rural character of the Town and on page 14 it discourages sprawl and encourages development near existing built-up areas and discourages new development on lake shores and in designated rural areas. This is some additional development on the lakeshore and this isn't appropriate for this kind of use.

Atty. Bedard – The last page of the Comprehensive Plan that is attached, talks about commercial facilities and there are sections of State law that talk about what you can do if you are a medical marijuana use provider. This is somewhat commercial and it suggest it should be in the downtown areas and commercial areas. It mentions on page 16, the economic environment of Shapleigh is based primarily on lakes, rivers, streams and forests. And it says lakes and ponds should continue to be a priority. Square Pond should clearly be a priority and we are concerned that's not being kept here. That this kind of use should stay away from those essential areas.

Atty. Bedard – On page 17 it prohibits uses that would be obnoxious or injurious because of odor. It uses the word obnoxious and not injurious and I am not suggesting anyone is going to get injured, but I think there is testimony and I think there are articles that it does produce an odor.

Atty. Bedard – On page 18, under 105-24, it states no land use or establishment shall be permitted to produce offensive or harmful odors perceptible beyond its lot lines, either at ground or habitable elevation. And I put in an article on pages 19 thru 21, it is from another place where marijuana growing has happened, this one even talks about medical use of marijuana and it talks about the odor. There is a skunk odor and it is something you can't get rid of. I understand the applicant said, 'well we are not going to have that odor' but there is a couple of problems and I'll get to it soon. But this parcel is 50 feet wide. A variance was granted so the applicant could build on this. It is very very small. It is difficult and if you put something in the garage you have to vent it. It has to get out someplace, to believe it won't infringe upon what I just went over, that there won't be offensive odor beyond the lot lines, it is hard to believe that that's going to be kept up.

Atty. Bedard – I have given a couple of articles, one on page 22 and a follow up article on page 25. There has to be an accounting for hazardous waste and not all marijuana production is hazardous waste. You can read these articles, it suggest some can be. It depends on the fertilizer and how it is grown. There is a concern that it could be and it is close to Square Pond.

Ms. Bragdon – I want to state that I am doing totally organic. There will be no hazardous waste. As the board saw today, I am using molasses for fertilizer. Also, there was no variance to build the house.

Atty. Bedard – If I am mistaken, I am mistaken.

Atty. Bedard – My other concern is on page 29, there is a copy of the applicant's driver's license. The applicant just got that on April 12, 2018. The reason I bring it up, there is citations under Maine Law 2425, which talks about what is required for an applicant. Page 36 it requires a registered primary caregiver to not only to be approved by the Dept. of Health and Human Services but to have been issued a valid registry identification card and possess a valid Maine Driver's License. My concern is this applicant appears to reside in Dover New Hampshire and not in the State of Maine. I realize the board may say 'well we are a Zoning Board' but my concern is this kind of activity is only allowed under the medical marijuana act, so if there is not full compliance with that act, we are concerned that this not be overlooked by the board. So we brought it up.

Atty. Bedard – I have also given you a section of the Maine Driver's License Act, which again, Section 11, on page 40 of the top, you have to be domiciled or a resident of the State of Maine to get a driver's licenses. We are not convinced that is what happened. If you go to page 48 and 49, you will see a deed signed by Diane Bragdon, it is after she got her license from the State of Maine, dated April 30, 2018, and it shows her address was 9 Reynors Brook Drive in Dover New Hampshire. It appears she does not live in the State and one of our concerns is that it stay within the Maine law.

Atty. Bedard – One of our other concerns is what can somebody do. DHHS regulations state what you can do if you have such a license as a medical marijuana caregiver and it's on pages 42 and 43. It is fairly broad in some ways. A primary caregiver may possess 2 ½ ounces of prepared marijuana for each qualifying patient. You can have up to 5 patients under the law. Cultivate up to six mature plants for each qualifying patients, so you can have up to 30 plants growing in an area. It also provides for an incidental amount of marijuana per patient and then it talks about 8 pounds of harvested dried unprepared marijuana and an unlimited amount of marijuana seedlings, seed stock and roots. It is pretty easy to read it can be a significant operation, significant for a small parcel. The other concern is enforcement. It isn't fair to ask the Town to figure out how intense is it. Are we beyond the requirements, are you possessing too much marijuana. One of the problems is whether or not the State has enough enforcement people. We are concerned there may be only a couple of people that can enforce this. Our concern is that it is not an easy thing to enforce.

Steven Buck – There are two.

Atty. Bedard – The last couple of pages are deeds. My clients deeds are on page 45 and I put the applicant's deed on page 46. You will notice page 44 shows you the lots and it notes the Bragdon lot is 50 feet wide. I think what is most dramatic is the pictures provided on page 50. These were all taken by abutters. You can see how large the house is (Bragdon house). You can see how close the structure is to the lot line. He pointed out the garage that will probably house the marijuana.

Ms. Bragdon – Excuse me, that is not where the marijuana is being grown.

Atty. Bedard – These pictures are intended to show this is a fairly narrow lot and close to the neighboring properties. I think the real concern is whether they are really Maine residents and they comply with the Act. And Shapleigh says 'no marijuana growing' except one instance we'll consider and it's this one 'medical marijuana only'. Our concern is they may not fit the statute and they don't, despite getting a Maine Driver's License. The real concern is on the lakes and ponds in Shapleigh, whether any marijuana growing should be allowed and if you allow some of it, can you control the intensity. Are you going to send enforcement people in to figure this out? It is really going to become an odor and it is going to become something that belongs in a more rural commercial area. My clients believe it does. They don't want their peace and quiet, and I suspect a lot of the abutters feel the same way, they don't want to be affected by this. It's really hard to have this kind of operations on a 50 foot wide lot in this area, that won't affect the area. My clients are asking that you deny this. If the applicant wants to do this, send them to another part of the Town, a commercial area to do it. Thank you.

Ms. Bragdon – I am a Maine resident and have to be in order to obtain the license. I started the process probably a year ago with respect to the deed you were referring to. I have a caregiver's license from DHHS and I also have a medical card myself. DHHS controls a lot of this, and as stated you can have so many plants per patient. The facility I am growing in is too small. I will not have that kind of capacity. The concern about Square Pond, everything is going to be organic, there is nothing that is going outside. Nothing that is going onto the land and nothing that will hurt the water. As I said, we had people there today and there was no odor. We have had people there and they do not even know that it is there. I have been growing for myself for some time.

Citizen – I have smelled it twice and it is nasty.

Citizen – You say you can have five patients. Are you included in the five patients?

Ms. Bragdon – I can have five patients plus myself.

Citizen – So you can have six.

Ms. Bragdon – Right. As I said nobody can be coming to the house. The State does not allow that. It has to be delivery.

Citizen – What will happen to real estate? I know what will happen. It will drop the value. The only thing that won't drop is the dam taxes.

Ms. Bragdon – I know this is new but it is coming to Maine. It is already in Shapleigh now, without a permit. There are caregivers in Shapleigh.

Citizen – The new laws that have been past about the rights to use and grow for personal use, are going into effect.

Steven Buck – They already are.

Citizen – As a private citizen how many plants am I allowed? Three?

Steven Buck – Twelve plants.

Citizen – So are you going around knocking on doors and pulling up everybody's plants when they are over for their own personal use?

Citizen – We are not discussing that.

Citizen – But what is the difference?

Citizen – If somebody started growing weed outside their house I would be throwing a bitch.

Citizen – Everyone knows a substantial part of revenue comes from the taxation of the waterfront. I don't know if this is commercial but to me it sounds like it is. I don't see any way that this won't affect real estate property and I have a concern, as mine is for sale and I am about three properties away. I am real concerned about the valuation of properties. Another thing is during the year we have a number of break-ins around the lakes and they will take anything from copper piping to other miscellaneous things out of the camps. How long is it going to be for word to get out there are 30 or so marijuana plants in a garage off of Cedar Drive? Is that going to create more of a problem? I think it is.

Ms. Bragdon – I have a security system.

Citizen – From a standpoint of property values, do I have any recourse if it affects my property's value between what the difference is between what the market says it's worth and what I can sell it for? The third thing is the Town does have the right, under the Legalization Act to prohibit any license request under the five categories that exist. So the Town does have that right, according to what we have read. So if the townspeople think this is a significant issue, why don't we go before the voters at Town Meeting? Why wouldn't they make a call if they want a marijuana growing operation around the lakes?

Roger A. – At the present time, under a Conditional Use Permit, the Town would not bring it up at Town Meeting for one specific incident, no matter what it is. As far as a law for marijuana growing, we did bring it up at Town Meeting and it is for retail marijuana which isn't allowed. But the medical marijuana is governed by the State. That is allowed.

Citizen – It is governed by the State with a proviso that the municipalities have the authority to regulate it stricter than the State. I'll tell you what you have, which is occurring as of today, it says, 'what kind of powers do municipalities have over marijuana'. The legalization act affords municipalities the power to regulate commercial marijuana activity. Most importantly, the municipalities may impose a complete prohibition on commercial marijuana activities and not allow any of the five classes of licenses to operate within the municipal boundaries. Municipalities may also allow all or a limited number of licenses to operate within the municipality. They may limit the number of licenses in each class. Municipalities across Maine are considering how to make decisions about the scope of commercial activities that they will permit.

Additionally, the legalization act allows Towns to engage in zoning related to marijuana businesses and also to impose additional regulation and licensing requirements over and above what the State imposes. The municipality may consider areas such as fire code, health and safety issues, as subject matter for regulation.

Citizen – It doesn't make sense at this stage to approve this application without getting more information.

Roger A. – Medical marijuana is not regulated by the municipality, it is regulated by the State. Retail marijuana is regulated by the municipality. There is a difference between the two.

Ms. Bragdon – I want to add that medical marijuana is not considered commercial, or a commercial business.

Citizen – You must make a profit or you wouldn't do it.

Ms. Bragdon – You must be compensated for the cost of running the business. Yes.

Citizen – If you haven't done it yet, then how can you tell us no one can smell it?

Ms. Bragdon – I am growing it for myself. I am not selling it yet.

Citizen – There is one thing mentioned about five patients. From what I have read State laws limit you to five patients at a time. Others have found a way to boost their patient base from five to hundreds. They say five but.

Ms. Bragdon – I can tell you how that works if you want. You can only have five at a time you can't have hundreds. There is a way to rotate patients.

Citizen – So you know how to do that then.

Ms. Bragdon – The State has talked to us about it. (There are required classes on the medical marijuana law.)

Roger A. – This is a grey area and the legislature has not changed it yet.

Citizen – Sounds like there is more than adequate grounds to deny this application for this Conditional Use Permit.

Roger A. – If we can take and create criteria that can be denied, then we can. But if we find it is an allowed use as medical marijuana, and fits the zoning criteria, then we will have to approve it.

Citizen – Can you explain what a Conditional Use is? As I understand she is applying to do something that isn't allowed in zoning. What is a Conditional Use?

Roger A. – A Conditional Use Permit is a permit issued by the Town for anything that the Zoning regulations oversee. A CUP could be an automobile repair shop, it could be a store, it could be the church, the school, these are all conditional uses. In Shoreland Zoning, any gravel or material brought in above a certain yardage we review. There is a wide range of things that fall under a CUP.

Citizen – There are a number of us on Square Pond that own businesses. Manufacturing, engineering, insurance, medical business, we take those businesses to commercial areas. Why can't this be done in one of those areas. We pay a premium to be on the lake. It is an entity that isn't going to get any bigger and there is a certain quality of life. We choose it for the beauty, serenity and activity it affords us. As the sign says on Square Pond, 'it's a place where we make memories'. My family has grown up there, my family has now purchased on the lake and I want them to have the same experience that I do. It's not just because what Ms. Bragdon is asking to do, I don't want to see businesses brought in to Square Pond. There are other areas in Town for that type of business. I would like to ask you to put it elsewhere. I am also concerned for my property values. I pay a tremendous amount for my home, actually land for which it is on, it is lake front property. It is significant and I am concerned. I am concerned there will be issues with property value. We all work hard to keep the water quality, so our values stay up. I would like to see the Town work with us and help us continue to have quality of life and continue to have our properties maintained on Square Pond.

Ms. Bragdon – Your property won't be affected in any way, I am not making any changes to the outside of the property. No one will see my business.

Citizen – I understand that, I read your application, but my concern is about businesses.

Ms. Bragdon – There are businesses on Square Pond.

Citizen – We don't have to continue to have more businesses. It's not about medical marijuana for me. It's about business in general on Square Pond. It can be run in a number of other places, in commercial zoned areas. It doesn't have to happen on a home on Square Pond.

Citizen – Maybe you can enlighten me why Square Pond was picked for this?

Ms. Bragdon – I own property there. I live there. It is convenient for me because it is in an attached garage to my home. It is a very small business. The board walked the property today, and they saw it is small. I think a lot of people think it is this huge thing. I don't even have the space to take on five patients.

Citizen – Small at this point but another person in the home could be a caregiver and now the number of the plants doubles.

Ms. Bragdon – I don't have the space.

Citizen – Right now there isn't but you could expand. You read literature where often people are a medical caregiver of marijuana, transition over to adult use of marijuana. And are we as a Town prepared to regulate that. This will snowball. Do we have the resources to oversee this type of industry? As they say there are only two people in the State of Maine for over 3000 caregivers at this point. It is clearly not enough.

Citizen – With respect to residency. They say she is a resident of New Hampshire and now she says she is a resident of Maine. I didn't know you could have residency in two states. So I would like to understand how you declare residency in New Hampshire but now you are saying you are a Mainer.

Ms. Bragdon – I claim my residency in Maine. I have a Maine driver's license and I own several properties in New Hampshire.

Citizen – How long have you been a resident of Maine?

Ms. Bragdon – I just moved here this year.

Citizen – So you are full time on the lake.

Ms. Bragdon – I am there five nights a week.

Citizen – You pay Maine income tax instead of New Hampshire. (There is no income tax in NH.)

Ms. Bragdon – Yes I pay Maine income tax.

Ms. Bragdon – I know the security issue was brought up. I do have a security system and a camera on both sides of the house where you can see all sides of the property. If anybody tries to open a door there is a very loud alarm that goes off. Some of you may have heard it because when I first got it, I set it off a few times. When the security system goes off it goes direction to the security company and authorities show up.

Citizen – So you live there now.

Ms. Bragdon – Yes, I live there but I don't stay there every night. I own multiple homes.

Citizen – Why don't you do this in New Hampshire?

Citizen – It isn't allowed.

Roger A. – Do you have a homestead exemption in Shapleigh?

Ms. Bragdon – I don't know what that is.

Barbara F. – I'm not sure if she qualifies yet?

Note: Barbara F. asked Karla B. about what is needed to get a homestead exemption. Karla stated a homeowner has to apply before April 1st in any given year, after living in Shapleigh for a minimum of six months, to qualify for the initial tax exemption. In addition, this exemption is not automatic, it is up to the homeowner to come to the Town Hall to apply.

Citizen – If this is such a small business, why are you bothering to do it?

Ms. Bragdon – It is fun, I like to help people and I enjoy it. I have parents with chronic pain and their doctor told them this would work for them.

Citizen – Can't they get access someplace else?

Ms. Bragdon – You asked why. I have several friends using medical marijuana.

Citizen – You keep saying it's a small area, so I say why bother.

Ms. Bragdon – I want to help people, and I am enjoying what I am doing.

Citizen – Is your address public knowledge to patients.

Ms. Bragdon – For any patient you do not give your home address.

Citizen – How do you get clients?

Ms. Bragdon – There are different websites run by several agencies. Patients can get contact information through the websites.

Citizen – Then anyone can find you.

Ms. Bragdon – Not the location, only a way to contact, usually via email.

Citizen – We have a property directly abutting their property. In fact, many of the pictures show a corner of our camp. I didn't know that she was even doing this until a couple of weeks ago, when she told me. We smell nothing at all. We are right next door. The fact is, marijuana is here to stay whether we like it or not. We can all put our heads in the sand and think it is just going to go away. But it is not going to. The size of their garage and the business they can do, two or three of us in here could double what she could possibly do legally. Legally we can grow marijuana in our backyard. Everybody is making this sound like it is huge. It is getting blown out of proportion.

Atty. Bedard – Just to correct what I said earlier Mr. Chairman. If you look at page 42, per patient which you can have up to five, you can have up to 12 female non-flowering plants which means you can have up to 60, an unlimited number of marijuana seedlings and up to 8 pounds harvested. Which is essentially up to 40. And that is if you just deal with up to 5 people. It sounds like more than you can do on your own. I think the gist is what most people are saying; it's not that it is a problem that is here to stay, it is legal in the State, but put it in commercial space, not on Square Pond.

Citizen – Does the majority of people on the lake, do the neighborhoods have any say at all?

Roger A. – They can give their input, but we have to go according to the Zoning Ordinance.

Madge B. – The input is to change the Zoning.

Citizen – So basically it doesn't matter.

Madge B. – Public input on the books matters.

Ann H. – It is good to voice your opinion.

Citizen – A home occupation is a commercial use in a residential area?

Roger A. – To a certain extent, it is a home occupation.

Citizen – If I was to come to this board to have a commercial use in town I would be subject to a site plan and a hearing. Fire protection. Public safety. It goes on and on. Steven Buck is here from the City of Sanford and he has been here to get a permit to service the dam. What would this applicant be up against? Does she have to have a site plan? Does she need fire protection, security, lighting, and all the things Mr. Buck has to do?

Roger A. – It is all part of the Zoning Ordinance.

Citizen – So an engineer would have to come?

Roger A. – Not necessarily.

Citizen – Parking would have to be figured out.

Roger A. – There is no parking. She is saying no customers come to the home.

Citizen – Can a fire truck turn around?

Steven Buck – Can I clear up a couple of misnomers that have been said here tonight. The City of Sanford has spent four years of legal work, working on this. We started with attorneys saying the municipality had no authority providing any standards for cultivation or distribution of medical marijuana. That is expressly reserved by the State. That is a misnomer. The State of Maine licenses registered caregivers and licenses their ability to grow medical marijuana, that does not preclude medical marijuana (adult use and medical marijuana are two separate laws), under adult use all communities are dry until such time you decide to allow any one of the five license areas, none of that activity takes place. *Medical marijuana, the State law specifically allows for the caregiver to grow in their primary residence.* There is nothing in State law that prohibits the patients from coming to your home, your location where you are growing, and picking the marijuana up doing the transaction at your home.

Ms. Bragdon – If I had the State law I could find it, they cannot come to the growing facility.

Steven Buck – The attorneys for Sanford proved you can set standards for individuals, home cultivation, for home occupation cultivation and commercial cultivation. You can set standards. If you want to look at the standards you can look at Chapter 280 of Land Use Regulation and Chapter 149 the City independently licenses medical marijuana production, at all levels, except home cultivation, you cannot license that. A registered caregiver growing for someone else, you can license that. Primary issues are odor, crime, light control, waste disposal (organic or not) you still have to get rid of unused portion of the plant and there is a significant amount of soil. You do not reuse the soil the plants are in. I can show you large piles of soil in our community.

Ms. Bragdon – I am reusing my soil.

Steven Buck – Good luck with that.

Steven Buck – You can't blend medical marijuana and adult use. Two different laws. You can set some standards for medical marijuana. There is a law pending in the next session where they will try to bring equity and parity between what was done in the adult use laws vs what has not been identified such as specific home rule authority, they are proposing to put that into the medical marijuana law.

Citizen – It sounds like it might be appropriate to table this until Madge or Barbara can get into Sanford and review some of the information that they spent four years compiling. It's not all cut and dry. I would recommend the board delay the decision until someone can do the research.

Citizen – How many employees are you planning on having? I am concerned with an increase in traffic, including having supplies being delivered.

Ms. Bragdon – The State of Maine only allows one employee.

Citizen – Doesn't your application state you are going to have up to two employees?

Ms. Bragdon – It shouldn't.

Note: The board noted Ms. Bragdon copied the Zoning Ordinance 105-40 for the board to review. This ordinance allows for up to two employees as a home occupation.

Ms. Bragdon – I have no employees and the State doesn't allow for it. They only allow one employee.

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

The public hearing closed at 7:59 p.m.

The minutes from Tuesday, May 22, 2018 were accepted as read.

The planning board meeting started at 8:05 p.m.

Conditional Use Permit – Earth Moving in the Shoreland District & Dam Repair – Map 14, Lot 16 (177 Emery Mills Road) – City of Sanford Maine, Steven Buck, Applicant; John Gallant, Property Owner Mr. Buck was present for the review of the application.

Previously, along with the application, members received the following information: Activity Description / Site Description and Proposed Dam Repairs, drafted by GZA GeoEnvironmental, Inc. Also received was an Erosion Control Plan, drafted by GZA GeoEnvironmental. The board received photographs of the existing site, Locus Plan, a pictorial of the Erosion and Sediment Control Plan and what is called a ‘Side View Plan’ of the work to be done showing the construction entrance, and cross section at the lake.

Provided were the proposed Dam Repairs, written by GZA, as follows:

- Improve the existing footpath between 177 Emery Mills Road and the Dam to serve as a construction and emergency vehicle access road with a vehicle turn-around area. The existing footpath is approximately 5 feet wide and 300 feet long. The proposed access road has a maximum base width of 12 feet and will be approximately 520 feet long. The closest point of disturbance for the access road is estimated to be approximately 18 feet from the ordinary high water mark at Mousam Lake as mapped by GZA in June 2017.
- Reinforce the top of the existing sluiceway roof (approximately 20 feet wide by 10 feet long) as necessary to facilitate construction and stabilize the structure. Stabilization will be completed from the side and roof of the sluiceway (no in-water work is proposed) and will match existing conditions to the extent practicable. Materials will include concrete, fieldstone, and/or rebar as needed.
- Install a berm on the eastern side and reinforce the existing concrete spillway on the western side of the Dam to support the Dam from the downstream side. The proposed disturbance will be within the 250-foot Shoreland zone buffer for Mousam Lake and within the 100-foot stream protection buffer for the Mousam River and is approximately 19 feet wide by 146 feet long. The downstream temporary work area abuts the fieldstone wall that contains the Mousam River at the Dam outlet and is approximately 19 feet wide by 75 feet long. Limited permeation grouting may be undertaken within the earth embankment as part of this task. No in-water work is proposed on the downstream side of the Dam.
- Install a toe drain within the berm and the concrete spillway (southwest side). The toe drain pipe will discharge into the existing stone-lined sluiceway channel via a weirbox.
- Remove overgrown vegetation and penetrating roots from the upstream (northwestern) abutment, and replace the abutment riprap to restore the previously constructed 2 ½:1 slope. The approximate volume of riprap that will be replaced or regraded is approximately 33 cubic yards over an approximately 12 foot wide by 75 foot long footprint on the upstream side of the dam. This work is proposed to be completed during the winter drawdown period to facilitate access to the riprap abutment.

Provided was a copy of the deed, conveying Mr. and Mrs. Gallant a strip of land alongside the lake. Also provided was a diagram of the piece of land.

Provided was a copy of the Easement Agreement between the Town of Sanford and Mr. and Mrs. Gallant. The easement is specific in what the easement grants which is written in part as follows:

- a) Constructing, altering, repairing, maintaining, improving, replacing a right-of-way for access, ingress and egress by foot or by vehicle (including heavy machinery and construction-related equipment) to and from the Dam in and along the area shown on the Plan; together with the right to enter upon the Easement Area with contractors, personnel, vehicles, materials and equipment from time to time (including heavy machinery and construction-related equipment) for the foregoing purposes, and to reasonably trim, cut down and remove grass, bushes and trees growing in, on and around the Easement Area, and to excavate or fill the Easement Area, all to such extent as the City or its agents deem reasonably necessary or appropriate in order to exercise the rights herein granted; and

- b) Constructing, reconstructing, repairing, maintaining, improving or replacing the Dam and related infrastructure and carrying out riverbank and lakefront stabilization and related efforts; together with the right to enter upon the Easement Area with contractors, personnel, vehicles, materials and equipment from time to time (including heavy machinery and construction-related equipment) for the foregoing purposes, and to reasonably trim, cut down and remove grass, bushes and trees growing in, on and around the Easement area and to excavate or fill the Easement Area, to all such extent as the City or its agents deem reasonably necessary or appropriate in order to exercise the rights herein granted.

Except in the case of emergency when no advance notice shall be required, upon reasonable advance notice to Gallant; the City shall have the reasonable right to enter the Easement Area for any and all of the foregoing purposes. In carrying out its agents shall use reasonable care not to damage or destroy the buildings, structures and other improvements now or hereafter existing in the Easement Area or on the Gallant Land. The City and its agents shall, after any entry, leave the Easement Area in a reasonably neat and clean condition and as close to original condition as possible. Gallant hereby reserves the full and free use and enjoyment of the Easement Area and the Gallant Land for all purposes not inconsistent with the rights herein granted.

Provided was documentation from the MDOT, specifically Anthony Fontaine, with respect to whether or not a MaineDOT Entrance Permit would be required for this location. Mr. Fontaine stated that it would not require submittal and approval, due to having existing access and that the city's proposed use would be intermittent, so it would not constitute a significant increase in daily vehicle trips, therefore, it does not trigger a 'change of use'; as long as the City does not propose to widen the access or change anything else in the right-of-way, it does not trigger a 'modification'. Therefore, per Access Management regulations, no further review by MDOT is required.

Provided was a copy of documentation from the Department of the Army, New England District, Corps of Engineers, specifically the Maine General Permit, Authorization Letter and Screening Summary. This documentation listed five conditions of approval, a copy of a Compliance Certification Form and a copy of a General Permit Work-Start Notification Form.

Member did a site inspection this evening prior to the meeting.

Roger A. began by stating the board had the engineering plans for the project, provided by GZA GeoEnvironmental. The board also had the easement agreement with Mr. Gallant for the city to be able to obtain access for the project and to repair the dam. Roger noted that at the site inspection he spoke with Mr. Gallant about moving the existing portable building on site, it will be removed. Roger said the board noted the turnaround area and the fact several trees would have to be removed in order to create the roadway and turnaround area.

Madge B. stated that she was impressed by how they figured out how to do this project. Mr. Buck stated that when they hired GZA the goal was to disturb the least amount of area by using existing pathways and a minimal amount of trees. Madge and Roger both thought perhaps more than five trees might have to be taken. Roger said that several on the ledge he thought should go while the equipment is there. Madge agreed. Mr. Buck stated that there was a certain time period they could not cut the trees due to the bats. Madge asked what kind of bats. Mr. Buck stated, "Long-eared Brown Bats".

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

- 105-21 – Traffic. *Roger A. stated access to the site was safe, at this location the minimum site distance required can be met, although he noted the recommended could not.*
- 105-22 – Noise. *Roger A. stated the noise generated by this activity would be during construction activity. There shall not be anything beyond 10 p.m.*
- 105-23 – Dust, fumes, vapors and gases. *Roger A. stated there are no fumes, vapors or gases, generated by this activity. There will be minimum dust created while the road is being built.*
- 105-24 – Odors. *Roger A. stated there will be no obnoxious odors generated.*
- 105-25 – Glare. *Roger A. stated there shall be no lighting added for this activity.*
- 105-26 – Stormwater runoff. *Roger A. stated the project includes road construction, dam repair and stormwater mitigation. Engineered plans provided by GZA GeoEnvironmental dated Nov 2017, and Dam Repair / Stormwater Flow Dec 2017.*
- 105-27 – Erosion control. *Roger A. stated there is an Erosion and Sediment Control Plan, dated Nov 2017, provided by GZA GeoEnvironmental. Plan was approved by the Army Corps of Engineers, New England District.*
- 105-28 – Setbacks and screening. *Roger A. stated existing buffers will remain, changes made have minimal impact on existing setbacks and screening.*
- 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, the project will help preserve water quality both in the lake and downstream.*
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *Roger A. stated there is no parking area being created. This is an access road for repairs only with an area for vehicles to turn around.*
- 105-32 – Relation of proposed building to the environment. *Roger A. stated there is no building being put up for this project.*
- 105-33 – Refuse disposal. *Roger A. stated the only refuse for this activity will be tree stumps.*
- 105-34 – Access Control to Route 109. *Roger A. stated that the existing entrance was in existence and the Town of Sanford received additional information from Anthony Fontaine of the MDOT that nothing further was required. Minimum site distances can be met and the use for the project is temporary and for future emergency situations and repair.*
- 105-39 – Earthmoving in the Shoreland District. *Roger A. stated there was none being done below the high water mark. The reason they are before the board is greater than 10 cubic yards of earth is being moved. Roger stated the excavation contractor must be licensed by the Maine Dept. of Environmental Protection in erosion control measures.*

105-39:

Section G. Conditions of permit. The Planning Board may issue a permit, provided that the following conditions shall be met:

- (1) The smallest amount of bare ground shall be exposed for the shortest time feasible. The Planning Board shall set a specific date after which bare ground shall not be exposed.
Roger A. stated this is to create an access road, so the area will remain open.

- (2) Temporary ground cover (such as mulch) and temporary runoff filter (such as hay bales in swales) shall be used as required to prevent stream sedimentation. The Planning Board shall set a specific date by which permanent ground cover shall be planted.
Roger A. stated ground cover has been addressed by GZA GeoEnvironmental. Temporary hay bales and/or silt fencing will be used during construction, ditching and swales constructed per the plan, followed by mulch and seeding as a permanent stabilization. The permit is open for 3 years from approval. After that there should be no need for additional work.
- (3) Diversions, silting basins, terraces and other methods to trap sediment shall be used.
Roger A. this has been addressed by GZA GeoEnvironmental. It is noted these areas will be inspected daily during construction and yearly after the project is complete.
- (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 type of fill is noted in the plan per the roadway design, drafted by GZA GeoEnvironmental. It meets the requirements of the intended use.
- (6) Fill shall not restrict a floodway, channel or natural drainage way.
Roger A. stated that it will not per the plan provided.
- (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 all of this has been addressed by GZA GeoEnvironmental, and the city obtained a full NEPA Permit for the construction of the access road complete with full design and storm water management.
- (8) Where activities carried out under this article require the removal of existing ground cover, revegetation should be carried out.
Roger A. stated there is very little revegetation required. Where it is required the area will be reseeded and/or mulched to promote establishment of permanent vegetative cover.
- (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 will be no standing water per the design provided.
- (11) No excavation shall be extended below the grade of an adjacent street, except for drainage ways, unless 100 feet from the street line. No excavation below the grade of the surrounding land shall be allowed within 100 feet of any side or rear lot line. However, removal of earth material deposits from hills or knolls may be allowed within 50 feet of a side or rear lot line if no excavation below the grade of abutter's properties occurs.

Roger A. stated this is not applicable.

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

Roger A. stated this was not required, as the applicant is creating an access road.

- (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 any changes to this permit must come back before the board.

105-39:

Section H. Optional conditions of permit.

- (1) Methods of removal or processing. ***Roger A. stated nothing shall be leaving the site and there is no processing involved.***
- (2) Days and hours of operation. ***Roger A. stated this will be started in the fall. Madge asked if the construction hours could be limited from 7:00 am to 7:00 pm. She felt it could impact the neighborhood. Roger did not feel they would work beyond 7 pm. Madge therefore wanted a condition of the permit to be operation/construction hours from 7 am to 7 pm.***
- (3) Type and location of temporary structures. ***Roger A. stated there are no temporary structures.***
- (4) Routes for transporting material. ***Roger A. stated any materials would be brought in from Route 109.***
- (5) Area and depth of excavation. ***Roger A. stated this didn't apply.***
- (6) Provision of temporary or permanent drainage. ***Roger A. stated this was provided in the plan by GZA GeoEnvironmental.***
- (7) Disposition of stumps, brush and boulders. ***Roger A. stated these would be brought to the City of Sanford.***
- (8) Clearing, repair and/or resurfacing of streets used in removal activity which has been adversely affected by said activity. ***Roger A. did not think this would be an issue for this project. Mr. Buck agreed, it would be all gravel.***
- (9) The need for written approval of soil and erosion and sedimentation plan by a State of Maine licensed civil engineer selected by the applicant for the Planning Board. ***Roger A. stated that this has been done through the permitting process. All approvals have been provided to the board.***

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. The project will be done at a time to produce minimal impact.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. ***Roger A. stated the reason for the project is create stabile access to the water body.***
- 3) The use is consistent with the Comprehensive Plan. ***Roger A. stated it is, the Comp Plan wants to preserve the dam and keep it in good working order.***

- 4) Traffic access to the site is safe. ***Roger A. stated it is, the site distances meet the minimum in both directions.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***Roger A. stated it is, all necessary permitting has been provided.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***Roger A. stated the only solid waste would be stumps on site and they are being moved to the City of Sanford.***
- 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 a stormwater management plan was designed by GZA GeoEnvironmental.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***Roger A. stated an erosion and sedimentation control plan was provided by GZA GeoEnvironmental.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***Roger A. stated this location is next to the Emery Mills fire hydrant.***
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. ***Roger A. stated there are no major changes being made to the existing vegetation. There shall be no added lighting, no odors produced, dust shall be kept to a minimum.***
- 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 hours of operation / construction hours shall be limited from 7 am to 7 pm.**
- 2) **The stumps shall be removed from site and taken to the City of Sanford for disposal.**
- 3) **The Town of Shapleigh shall be notified when the 2nd Phase of the project begins.**

Mr. Buck stated that the intent for this year, after the permits are put into place, and after the sensitive time frame for the bats, the City will go to bid. He hoped the same person who does the access road will do the embankment / slope restoration, as that is the most critical piece, getting the root penetrations out of there. This will be done after draw-down. That is all that will be done this year.

Madge B. moved for approval of the Conditional Use permit for earth moving in the Shoreland District in order to repair the Emery Mills Dam located on Map 14, Lot 16 (177 Emery Mills Road), with three conditions. Ann H. 2nd the motion. All members were in favor. Vote was unanimous, 4 – 0.

Nothing further was discussed.

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### **Findings of Fact**

1. The owner of Shapleigh Tax Map 14, Lot 16 (177 Emery Mills Road), is John Gallant of 177 Emery Mills Road, Shapleigh, ME 04076.

2. The property itself is located both in the General Purpose and Shoreland District; the work is to be done in both districts, and according to the assessor the property contains 3.42 acres. The existing use of the property is both residential and a business.
3. The detailed project description states:
  - Improve the existing footpath between 177 Emery Mills Road and the Dam to serve as a construction and emergency vehicle access road with a vehicle turn-around area. The existing footpath is approximately 5 feet wide and 300 feet long. The proposed access road has a maximum base width of 12 feet and will be approximately 520 feet long. The closest point of disturbance for the access road is estimated to be approximately 18 feet from the ordinary high water mark at Mousam Lake as mapped by GZA in June 2017.
  - Reinforce the top of the existing sluiceway roof (approximately 20 feet wide by 10 feet long) as necessary to facilitate construction and stabilize the structure. Stabilization will be completed from the side and roof of the sluiceway (no in-water work is proposed) and will match existing conditions to the extent practicable. Materials will include concrete, fieldstone, and/or rebar as needed.
  - Install a berm on the eastern side and reinforce the existing concrete spillway on the western side of the Dam to support the Dam from the downstream side. The proposed disturbance will be within the 250-foot Shoreland zone buffer for Mousam Lake and within the 100-foot stream protection buffer for the Mousam River and is approximately 19 feet wide by 146 feet long. The downstream temporary work area abuts the fieldstone wall that contains the Mousam River at the Dam outlet and is approximately 19 feet wide by 75 feet long. Limited permeation grouting may be undertaken within the earth embankment as part of this task. No in-water work is proposed on the downstream side of the Dam.
  - Install a toe drain within the berm and the concrete spillway (southwest side). The toe drain pipe will discharge into the existing stone-lined sluiceway channel via a weirbox.
  - Remove overgrown vegetation and penetrating roots from the upstream (northwestern) abutment, and replace the abutment riprap to restore the previously constructed 2 ½:1 slope. The approximate volume of riprap that will be replaced or regraded is approximately 33 cubic yards over an approximately 12 foot wide by 75 foot long footprint on the upstream side of the dam. This work is proposed to be completed during the winter drawdown period to facilitate access to the riprap abutment.
4. Received was a document entitled Activity Description which contained the Site Description and Proposed Dam Repairs, drafted by GZA GeoEnvironmental, Inc.; Attachment 8 - Erosion Control Plan, drafted by GZA GeoEnvironmental; photographs of the existing site; Locus Plan; Site Plan; a pictorial of the Erosion and Sediment Control Plan and what is called a 'Side View Plan' of the work to be done showing the construction entrance, and cross section at the lake.
5. Received was a copy of the deed, Book 17620 Page 399, dated 12/7/2017, registered at York County Registry of Deeds, conveying Mr. and Mrs. Gallant a strip of land alongside the lake. Also provided was a diagram of the piece of land.
6. Received was a copy of the Easement Agreement, Book 17620 Page 894, dated 12/7/2017, registered at York County Registry of Deeds, between the City of Sanford and Mr. and Mrs. Gallant.
7. Received was documentation from the MDOT, specifically Anthony Fontaine, with respect to whether or not a MaineDOT Entrance Permit would be required for this location. Mr. Fontaine stated that per Access Management regulations, no further review or permitting by MDOT is required.

8. Received was a copy of documentation from the Department of the Army, New England District, Corps of Engineers, specifically the Maine General Permit, Authorization Letter and Screening Summary. This documentation listed five conditions of approval, a copy of a Compliance Certification Form and a copy of a General Permit Work-Start Notification Form.
9. The board reviewed Basic Performance Standards §105-21 through §105-34, and concluded the applicant met all the criteria in these sections.
10. 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, and it is necessary for the health, safety and welfare of the citizens of Shapleigh, Acton and Sanford, therefore must be completed.
11. 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.
12. A notice was mailed to all abutters within 500 feet of the property on May 8, 2018. A meeting was held on February 13, 2018, May 22, 2018 and June 13, 2018. A site inspection was held on June 13, 2018, and a Public Hearing was also held on June 13, 2018.
13. The Planning Board unanimously agreed on June 13, 2018 to approve the Conditional Use Permit for earth moving in the Shoreland District in order to create an access road for dam repair on Map 14, Lot 16, per the plans provided with three conditions.
14. **The conditions of approval are:**
  - 1) **The hours of operation / construction shall be limited from 7 am to 7 pm.**
  - 2) **The stumps shall be removed from site and taken to the City of Sanford for disposal.**
  - 3) **The Town of Shapleigh shall be notified when the 2<sup>nd</sup> Phase of the project begins.**

**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 Wednesday, June 13, 2018, to approve the Conditional Use Permit for earth moving in the Shoreland District in order to create an access road for dam repair on Tax Map 14, Lot 16, per the plans provided with three conditions.

**Vote:**

By a unanimous vote of 4 – 0, the motion to approve the Conditional Use Permit for earth moving in the Shoreland District in order to create an access road for dam repair on Tax Map 14, Lot 16, per the plans provided with three conditions, was accepted.

**Decision:**

The Conditional Use Permit for earth moving in the Shoreland District in order to create an access road for dam repair on Tax Map 14, Lot 16, per the plans provided with three conditions, was approved.

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**Conditional Use Permit – Home Occupation / Medical Marijuana Caregiver – Map 34, Lot 3 (92 Cedar Drive) – Diane Bragdon, Applicant & Owner**

Diane Bragdon was present for the review of her application.

Along with the application, provided was a sketch plan which depicted the structures on site, all located beyond the 100 foot setback to the high water mark; the location of the well and leachfield; proof of ownership by listing deed reference Book 9769, Page 303, and noted the acreage of the lot is .51 acres.

In addition, Ms. Bragdon listed why her home occupation would meet the Shapleigh performance standards, the fact the Comprehensive Plan encourages home based businesses, and the detailed description of the project is as follows:

As a Medical Marijuana Caregiver, registered with Maine DHHS, I will be abiding by all State laws. The product will be in a locked, enclosed, in a secure existing building on the property. This is a house call service only. Patients are not allowed on the premises. There will be no changes made to the property. Existing buildings and vegetation will not be disturbed.

The detailed description of the project on the application page reads: Home Occupation (See Attached)

Barbara F. provided members with a copy of the Medical Use of Marijuana Program Caregiver Application, regulated by the State of Maine, Dept. of Health and Human Services, Division of Licensing and Regulatory Services. She also provided the information from the Rules Governing the Maine Medical Use of Marijuana Program, 10-144 CMR Chapter 122, Effective Date: September 17, 2013, specifically Section 5: Primary Caregiver & Primary Caregiver's Authorized Conduct.

*Members did a site inspection this evening prior to the meeting.*

Roger A. began by stating the board received a letter from an abutter, Lynda Brearey of 21 Gate House Road. The letter read as follows:

I have the utmost faith in the character of Diane Bragdon. Whatever she does she does it well and with professional quality. As an abutter I have no problem with her request.

Ms. Bragdon provided the board with a copy of the State letter of approval for a Caregivers-Cultivator Growing Rights card. The letter provided the website where the rules, and statute are provided, that being: [www.mainepublichealth.gov/mmm](http://www.mainepublichealth.gov/mmm) Also provided was a copy of her Maine Driver's License dated 4/12/18, a copy of her Individual Caregiver card dated 5/9/2018 and MMMP Designation card, expiration date 4/18/2019.

Madge B. stated that she did wonder if the applicant lived on site.



Madge B. believed the critical item for the board to review was the definition of Home Occupation. She recommended that the board table the application until the board gets a legal opinion from the Town Attorney to interpret the definition. She said because it reads, ‘carried on by a member of the family residing in the dwelling unit; clearly incidental and secondary to the use of the dwelling unit for residential purposes’. She said the top says, ‘An occupation or profession which is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit’. She said she would like to have the Town Attorney compare the application to that. Also, perhaps do some research if it is an occupation carried out in someone’s home, because she had no idea. She said she heard the applicant said that it was, but she would prefer to have an independent opinion.

Roger A. asked if anyone wanted to make the motion to table.

**Madge B. stated that she made the motion to table pending additional information, including a legal opinion.**

Ann H. said, the board has to go by the Ordinance, the board has to determine if it is a home occupation vs a commercial use. She said there are lots of people growing marijuana in their homes but I am not an attorney, so is it customary. Madge B. wanted to be sure it wasn’t a commercial business. Roland L. asked if she was asking for the opinion from the Town Attorney. Madge said yes, to tell us if we need more evidence. Ann said the Town Attorney could say it is customary. Madge said, “Or we need more evidence.” Roland L. asked if they could also ask the Town Attorney if patients can come to the home because there seems to be a difference of opinion. Madge agreed that would be useful.

Ann H. stated that she recently posed a question to Governor LePage, she found out that no one but the grower can go to the plants because there is a chance of contamination on the plants. She said you can go up to a facility, perhaps a driveway, but you can’t go to where the plants are, because you cannot contaminate. She said the only ones that can go up to it is the Governor, Chief of Police, and the Fire Chief. Madge B. stated, “That is why there are only two enforcers”. Ann said, “Right, because you don’t want it, it’s just like medication, you don’t want contamination and apparently it is a very weak plant that dies or gets contaminated easily”. Ms. Bragdon agreed, stating that if an inspector goes to one facility and gets contaminated and then goes to another, it could wipe out the plants.

Madge B. stated that does not answer the question whether or not a client can go to the house or property. Ann H. stated that Ms. Bragdon stated she will not allow that. (The application reads in part: This is a house call service only, patients are not allowed on the premises.) She is taking it off-premise. Roland L. stated that he heard a difference of opinion if it is legal for someone to go to a grower to pick up their medication. Madge stated, “Correct”. Roland said he would like to know. Ann said, “Can we make it a condition?” Roland said, “We aren’t there yet, but it could be.”

**Madge B. asked if someone would second her motion. Roland L. 2<sup>nd</sup> the motion. All members were in favor to table the application. The vote was unanimous, 4 – 0.**

Roland L., speaking to Attorney Bedard, noted that the pictures of the garage he showed the board, that were in the package he put together, were not the garage that Ms. Bragdon intends to use. He said the pictures lead someone to believe the growing is going to take place in the detached garage and it is not. It is going to take place in the attached garage. Roger A. agreed. A citizen stated that he was concerned with the business growing and moving into the detached garage. Roland noted that the applicant would have to come back before the board in order to be able to do that. Roger agreed, stating this would require an amendment to the original application. He noted the permit is very specific. Any change comes back to the board, such

as the business expanding. The citizen asked how the board would know. Roger said, someone would complain to the Code Enforcement Officer and then it would come back to the board.

Ann H. also noted to the citizen that the plants are not just in the garage but also in an enclosed tent of sorts. It has air filters and lights inside the tent. Roland L. said it reminded him of the new collapsible ice huts.

A citizen asked about reviewing what the City of Sanford had with respect to this subject matter. Roger A. stated the board could look further into it. It was noted by a member that at this time the Town can only use review criteria that is currently in the Zoning Ordinance and State Law.

Nothing further was discussed.

**Best Possible Location – New Foundation & Addition in Shoreland District – Map 36, Lot 35 (141 Indian Village Road) – William Neville, Applicant (Contractor); David Lemaire, Property Owner**

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

The applicant provided, along with the application, a plan depicting the existing structures on site which include the living quarters and existing deck(s), along with the location of the leachfield. The plan depicted the distance to the lot lines as 29' to Lot 34 and 33' to Lot 36, 55' to the rear setback and 19' 4" to Indian Village Road. A second sketch shows the structure nearest to Square Pond as being 218' 1" keeping it within the Shoreland District but beyond the 100 foot mark to the high water line. Also provided is a floor plan of the existing structure, the proposed mud room, which replaces the side deck, and an addition to the deck that faces Indian Village Road.

The detailed description is as follows: To remove decks, replace the front one to length of house. Add an addition to right side where deck is in place now. Jack home up and pour a walk-out foundation.

Roger A. asked Mr. Neville to let the board know what he wanted to do. Mr. Neville stated that he was going to jack up the existing camp and put a foundation under it. He said that he was before the board because the structure did not meet the setback to the road. He stated that he was the contractor doing the foundation work but someone else would be doing the actual work on the addition.

Ann H. wanted to know how high the structure would be to the highest peak? Mr. Neville stated that he would not be exceeding the maximum height allowed in the Ordinance. He believed after putting in the new foundation, the structure would only be raised an additional 2 to 3 feet from what it is at this time.

Ann H. asked what the height of the structure was at this time? Mr. Neville stated that it was a ranch and was perhaps 12 feet in height.

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

**Roger A. stated a site inspection would be scheduled for 6 p.m. on Tuesday, June 26<sup>th</sup>. A notice to abutters will be mailed as well.**

The board asked if there would be any trees coming down? Mr. Neville believed only one that is currently next to the house. Roland L. asked him if he could flag the tree that was coming down for the site inspection. It was noted that because the tree is beyond 100 feet it did not have to be replanted.

Roger A. stated that Mr. Neville still needed to have a replanting plan for the area that will be disturbed around the foundation. Roland said it had to be detailed enough so when the Code Enforcement Officer goes to the site, he knows what he is expected to look at, such as blueberry bushes or juniper, etc.

Madge B. asked about the stormwater runoff from the roof, did it need to be addressed? She said that members would look at it at the site inspection and make a decision at that time. Mr. Neville stated that he could use crushed stone around the drip edge to help with runoff. He noted that the water will be falling in the same location as it is now.

Nothing further was discussed.

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**Construction of a Private Way – Map 1, Lot 4 (428 Grant Road) – LinePro Land Surveying, LLC, Applicant; Allen White, Property Owner**

Joe Stanley of LinePro was present to review the application. Mr. White was also in attendance.

Along with the application, received was a copy of the GIS picture, with an overlay of the existing lots 4 and 4A, the proposed new lot to be accessed by the right-of-way and the location of the proposed ROW. Also, a plan drafted by Joseph Stanley, PLS #2453, dated June 4, 2018, entitled ‘Plan of Private Way for Allen White, 42 Grant Road, Shapleigh, ME 04076, Of Property Located On Grant Road In Shapleigh, Maine’. The plan depicts the new private way, the location of a turn-around, the road & ditch section, location of existing culvert, 2 foot contour lines along the roadway showing topography, the location of the 50 foot ROW and 16 foot travel way.

Plan Note 6 states: The Town of Shapleigh will not be responsible for the maintenance, repair, or plowing of the private way and further lot divisions utilizing the private way are prohibited without prior approval of the Shapleigh Planning Board. The private way is to provide access to two lots, a maintenance agreement shall be required by the Planning Board and recorded in the York County Registry of Deeds. The maintenance agreement shall specify the rights and responsibilities of each lot owner with respect to the maintenance, repair and plowing of the private way.

In addition, provided is what is entitled Exhibit A ‘Road & Drainage Maintenance Agreement’.

Roger A. asked Mr. Stanley to let the board know what he wanted to do. Mr. Stanley stated that they were proposing a private way off of Grant Road, off of Deering Ridge, White’s Farm. He they were proposing a private way along an existing well-built driveway that services an existing home on the back of the property, about 600 feet. He stated currently the applicant lives on Lot 4A and wants to gift or sell the property and create a new lot for a home. He said one existing home uses the roadway now, and therefore, the second home triggers the need for a 16 foot wide travel way to a specific standard.

Mr. Stanley stated that there were several areas along the driveway that will need 2 to 3 feet of gravel to meet the 16 foot width for two or more properties but otherwise there is a decent ditch line existing. Mr. Stanley said much of the stormwater now goes into the existing woody area or into an existing drainage ditch. He said at the end of the roadway is a culvert and there may need to be some grading to make sure the water goes into the ditch but there is very little adjustment needed. In the spring there were no stormwater issues, and the board will see it at the site visit.

Mr. Stanley said the applicant is asking that the turnaround be as marked on the plan because there is an existing entrance, instead of going another 150 feet up the road. He felt the board would understand when they see it.

Mr. Stanley felt the private way is straight forward. Roger A. asked for the total length of the private way? Mr. Stanley stated that to the end of the property is around 550 feet. Roger asked if this was total length? Mr. White stated it was 900 feet to the other property which is his brother's house. Mr. Stanley stated that there wouldn't be anyone else going to the end of the property other than the existing house, so the only area that two vehicles would pass is up to the proposed lot.

Madge B. asked if the board had to worry about a subdivision. Roger A. stated no, it is only one lot. Madge added that it is also family.

Roger A. stated that the road was 16 feet in width, so he didn't have an issue with moving the location of the turnaround. Mr. Stanley stated that after this lot it was only one vehicle. Roger said that there had to be 200 feet of road frontage on this lot. Mr. Stanley stated that he understood. Mr. White asked what that meant. Mr. Stanley said that the road frontage would need to be up to the town standard for a private way, the 16 foot width, for a distance of 200 feet along the new lot.

**Roger A. stated a site inspection would be held at 6:30 p.m. on Tuesday, June 26<sup>th</sup>. A notice to abutters will be mailed as well.**

Nothing further was discussed.

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

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**The Planning Board meeting ended at 9:25 p.m.**

**NOTE: The summer hours are in effect beginning the first meeting in April, the meetings will begin at 7:30 p.m. and public hearings will be held at 7:00 p.m.**

*The next meeting will be held **Tuesday, June 26, 2018** at 7:30 p.m. The Planning Board meets the 2<sup>nd</sup> and 4<sup>th</sup> Tuesday of each month unless it falls on a holiday or Election Day. Any scheduled public hearing takes place at 7:00 p.m. prior to the scheduled meeting. Also, should there be a cancellation due to a storm event, holiday or Election, the meeting will typically be held the following Wednesday, also at 7:30 p.m. Please contact the Land Use Secretary if there is a question in scheduling, 207-636-2844, x404.*

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

# **SHAPLEIGH PLANNING BOARD**

## **MINUTES**

**Tuesday, June 26, 2018**

Members in attendance: Roger Allaire (Chairman), Madge Baker, Roland Legere, Steve Foglio, Alternate Ann Harris, as well as Barbara Felong (Secretary). Maggie Moody was unable to attend.

Alternate Ann Harris sat in as a regular member this evening due to the absence of Maggie.

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**Minutes are not verbatim, unless in quotes “”**

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**Public Hearing Began at 7:01 p.m.**

**Amendment to a Subdivision ~ Sandy Point – Creating Road Frontage for Lot 4 (which was not completed by the original developer) – Map 12, Lot 22-4 (Knob Hill) Ted Theriault, Applicant**

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

Roger A. asked Mr. Theriault to explain to the audience what he intended to do. Mr. Theriault stated that he was planning to build a road to get to a piece of property he wanted to build a house on. He stated that it was in a subdivision, so he had to amend the subdivision to incorporate the right-of-way. He was hoping for approval this evening from the Planning Board.

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

**Citizen** – We own the abutting property, this is on the other side coming in from the Newfield Road instead of coming in on our little road. It isn't going to affect our house at all. There were people there before. I don't know how they got away with it but they brought in a trailer and set up housekeeping and grew all kinds of pot.

**Citizen** – That was our last summer, it is not quite as fragrant this summer.

**Mr. Theriault** – I won't grow pot there, you will be all set.

**Citizen** – Where are you planning on putting the road?

**Mr. Theriault** – If you come off Newfield Road, a little single cemetery, that is actually a town road and the guy uses it for his driveway. That is actually Archer Street, because it was never developed, it was only supposed to be developed if in fact they did more subdivision on the right side of the road. It never happened, I guess the recent owner died, so it never got built to the spec. In the original subdivision plan they mentioned that access to my lot was to be from the Newfield Road but because the road wasn't built, the lot didn't have any road frontage. So to make it a legal lot, I have to build Archer then build a road in to the lot to create the required road frontage.

**Citizen** – So you are going to be coming through Archer?

**Mr. Theriault** – Yup.

**Citizen** – Which is now an ATV road.

**Mr. Theriault** – Correct, it is still probably going to be an ATV road.

**Madge B.** – I would call it an ATV road.

**Citizen** – Someone is stealing my wood, maybe that is how it is happening.

**Mr. Theriault** – I am only going to upgrade the road, so we can plow past the driveway but not any further. I am building at the top to capture some of the Silver Lake view. We won't be close to the property line on the left.

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

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

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**The minutes from Wednesday, June 13, 2018 were accepted as read.**

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

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**Conditional Use Permit – Home Occupation / Medical Marijuana Caregiver – Map 34, Lot 3 (92 Cedar Drive) – Diane Bragdon, Applicant & Owner**

Diane Bragdon was present for the review of her application.

Along with the application, provided was a sketch plan which depicted the structures on site, all located beyond the 100 foot setback to the high water mark; the location of the well and leachfield; proof of ownership by listing deed reference Book 9769, Page 303, and it noted the acreage of the lot is .51 acres.

In addition, Ms. Bragdon listed why her home occupation would meet the Shapleigh performance standards, the fact the Comprehensive Plan encourages home based businesses, and the detailed description of the project is as follows:

As a Medical Marijuana Caregiver, registered with Maine DHHS, I will be abiding by all State laws. The product will be in a locked, enclosed, in a secure existing building on the property. This is a house call service only. Patients are not allowed on the premises. There will be no changes made to the property. Existing buildings and vegetation will not be disturbed.

The detailed description of the project on the application page reads: Home Occupation (See Attached)

Ms. Bragdon provided the board with a copy of the State letter of approval for a Caregivers-Cultivator Growing Rights card. The letter provided the website where the rules, and statute are provided, that being: [www.mainepublichealth.gov/mmm](http://www.mainepublichealth.gov/mmm) Also provided was a copy of her Maine Driver's License dated 4/12/18, a copy of her Individual Caregiver card dated 5/9/2018 and MMMP Designation card, expiration date 4/18/2019.

Barbara F. provided members with a copy of the Medical Use of Marijuana Program Caregiver Application, regulated by the State of Maine, Dept. of Health and Human Services, Division of Licensing and Regulatory Services. She also provided the information from the Rules Governing the Maine Medical Use of Marijuana Program, 10-144 CMR Chapter 122, Effective Date: September 17, 2013, specifically Section 5: Primary Caregiver & Primary Caregiver's Authorized Conduct.

Ms. Bragdon also provided additional information after questions were posed at the public hearing. The information on file in part is as follows:

**Security:** I have security cameras and an alarm system. The business will be run strictly as a delivery service to patients.

***Please refer to Title 22: Health and Welfare Chapter 558-C: Maine Medical Use of Marijuana Act, which discusses access to the facility:***

B. A primary caregiver who has been designated by a patient to cultivate marijuana for the patient's medical use must keep all plants in an enclosed, locked facility unless the plants are being transported because the primary caregiver is moving or taking the plants to the primary caregiver's own property in order to cultivate them. The primary caregiver shall use a numerical identification system to enable the primary caregiver to identify marijuana plants cultivated for a patient. Access to the cultivation facility is limited to the primary caregiver, except that an elected official invited by the primary caregiver for the purpose of providing education to the elected official on cultivation by the primary caregiver, emergency services personnel, an employee of a marijuana testing facility or a person who needs to gain access to the cultivation facility in order to perform repairs or maintenance or to do construction may access the cultivation facility to provide those professional services while under the direct supervision of the primary caregiver.

**Odor:** I am using a charcoal filtration system. There have been no odor concerns reported to the Sheriff's Department, filed with the Town, nor has anyone approached me about the odor. No complaints of odor occurred until the application was sent to neighbors and added to the agenda.

**Quality:** I am not changing the property. There will be no indication of a home occupation or variation from the character of the home. The quality of lake life will remain as is. Without the Public Hearing residents would not be aware of my request.

Roger A. asked Ms. Bragdon to let the audience know what her intentions are.

Ms. Bragdon stated she applied for a conditional use permit as a Medical Marijuana Caregiver. The State has approved and permitted my business as a Medical Marijuana Caregiver. I have met all of the criteria for a Conditional Use Permit. I have met all the standards for a Home Occupation and at this point I would like to have it approved.

Roger A. asked if there were any questions?

**Citizen** – Can you be more specific about what a Maine Medical Caregiver (MMC) does, what do you do?

**Ms. Bragdon** – A MMC grows the plants for edible cannabis and delivers it to patients, so patients will not come onto the property. A lot of these patients can't even drive, at least that is what I have heard from other caregivers. I do not know that yet, as I am waiting for my permit. I can have up to five patients, grow for them and deliver to their home.

**Citizen** – Is this outside growing?

**Ms. Bragdon** – No indoor, enclosed in a garage and in tents.

**Citizen** – So in a garage and in tents, everything is inside the garage.

**Ms. Bragdon** – Yes.

**Citizen** – Will it impact traffic at all?

**Ms. Bragdon** – No, no one is allowed onto the property. No patients are allowed.

**Citizen** – Will you be able to expand over time?

**Ms. Bragdon** – No.

**Citizen** – Six plants per patient, five patients.

**Ms. Bragdon** – Plus myself, for 36 mature plants. Plus you can have seedlings going until they mature.

**Citizen** – Will there be any external changes to the property?

**Ms. Bragdon** – No.

**Citizen** – Any visibility?

**Ms. Bragdon** – No.

**Citizen** – Just smell, is there smell?

**Ms. Bragdon** – No.

**Citizen** – Is this natural lighting?

**Ms. Bragdon** – No, we have LED lighting.

**Citizen** – Is there going to be signage?

**Ms. Bragdon** – No. I am allowed a sign but I am choosing not to.

**Citizen** – What about security, is this a possible invitation for criminal activity, knowing there are 36 pot plants?

**Ms. Bragdon** – We have a security system, we have cameras and security on the doors. The camera's record for 70 days.

**Citizen** – What about employees?

**Ms. Bragdon** – So I do not have employees at this time. The State of Maine only allows for one employee.

**Citizen** – On your application it said you would have two.

**Ms. Bragdon** – All I did was list the criteria, which was a mistake on my part, I listed the performance standards for a Home Occupation and that was a standard. It reads 'Not more than two persons outside the family shall be employed in the home occupation' (§105-40.B). So in my application I listed all five points of the performance standard. So that wasn't clear.

**Citizen** – So back to the odors. I have smelled it, it does not belong in the Town of Shapleigh.

**Ms. Bragdon** – When have you smelled it?

**Citizen** – I can smell it at night. My wife has smelled it during the evening. I don't know what to tell you.

**Ms. Bragdon** – We have had people there, we have had board members there, and they couldn't smell it.

**Citizen** – Then you are doing something different. What do you want me to say?

**Roger A.** – All other questions will be directed through the Chairman.

**Citizen** – I am sorry sir.

**Citizen** – It seems like every night you turn on the local news and other towns are dealing with the same issue. We are on the leading edge of this whole thing. When I was listening to the spiel on the town halls dealing with the issue, what they are all saying is the local communities have a lot more say than what they think they have on this medical marijuana issue and we don't seem to think we have any say. Because the State says it's ok, we think we don't have any choice. We think if it meets the criteria for a home operated business than we have to grant the permit, but it doesn't seem that is the case according to what I am seeing on the news.

**Roger A.** – At the present time, the legislature did just pass, according to the House and the Senate, did pass a law stating that medical marijuana and recreational marijuana are going to be lumped into one, but as of today it has not been done. LePage hasn't signed it yet. So at this time, medical marijuana is still the State.

**Madge B.** – We review it as a use, but it is a Conditional Use here, and normally a Conditional Use means it's a use that our Ordinance allows with conditions. If our Ordinance said it wasn't allowed, it would be a different case, but it doesn't say that.

**Citizen** – The Townspeople took a vote at the last Town Meeting prohibiting recreational marijuana in the Town. We are on the cusp right now, awaiting LePage's signature for putting medical and recreational together, then it is a real clear jump from there, why don't we table this until LePage has decided. If he decides not to lump them together then review it then. But if he decides to lump them together, then we will be going against the will of the Townspeople of Shapleigh by granting this permit.

**Roger A.** – The only way to get that done is by moratorium.

**Citizen** – I don't understand.



**Roger A.** – This would be something that would go before the Townspeople, that medical marijuana as well as recreational to be held up until the legislature decides what they are going to pass for laws. At this time, we have an application before us, we have to act on it. We can't take and postpone it, we have to act.

**Citizen** – If they do lump it together, are you able to revisit the issue and say the Townspeople voted no on the whole thing.

**Roger A.** – Not right now, this is grandfathered.

**Citizen** – Would this medical marijuana be done by prescription only?

**Roger A.** – Under medical marijuana there are two inspectors to oversee the whole state. At present, unless they have a complaint, they are not going to act.

**Citizen** – So at the moment, this marijuana is going to be grown for people with prescriptions by a medical provider only.

**Roger A.** – Yes, it is the only way.

**Citizen** – Is there a diagnosis or is it any diagnosis?

**Roger A.** – It depends on the doctor, they sign that the person needs to have marijuana.

**Citizen** – My concern is we start with seeing-eye dogs and now we have people bringing ostridge's on airplanes. Things get abused. Is this going to stay a small business or is it going to get out of control?

**Citizen** – There are only two inspectors in the State of Maine, so take it from there.

**Madge B.** – This particular business cannot expand. The one in front of us. But is medical marijuana going to, yes I think as there are increasing numbers of people who want to use it. And you may have read that the Federal Government just approved a marijuana drug for epilepsy and so you may also see more and more marijuana based drugs approved for use.

**Citizen** – I just wonder about the ability to control expansion in a reasonable manner.

**Madge B. & Roger A.** – We can address the expansion and control it in our town.

**Citizen** – But what about the property?

**Citizen** – The fact that there is nothing that prohibits the people from driving to this facility, I would think this would require the Planning Board to have to provide for parking, distances and all the things required of a business that people have the ability to drive to. Whether Diane says no one will drive to it, that is just what she is saying. But because people can drive to it, would it make sense that you would require parking spaces and look at site distances that any other home business would require.

**Steve F.** – I think that we just prohibit people from the business.

*Several board members agreed it would be a condition of approval.*

**Ms. Bragdon** – I gave Barbara F. a copy of Title 22 of the Maine Medical Use of Marijuana Act. She read the information provided (see above). This lists the only people who can go into the growing facility.

**Citizen** – The only people that can go into the actual growing facility, but we heard it at the last meeting that people can drive to the facility and pick up their marijuana. To me it seems they can drive to the property, whether it is the intent to allow that or not, we have to take the position that it could be the intent, so she should have to provide the parking like other businesses that someone would drive to.

**Steve F.** – Or prohibit that activity as a condition of the conditional use.

**Roger A.** – There could be a condition that no one could pick up the product.

**Citizen** – There is traffic there now, people are driving there now and driving away.

**Ms. Bragdon** – We have had no patients there, just so you know.

**Citizen** – Is this agricultural?

**Roger A.** – No, this is not agricultural in the Zoning Ordinance. Roger stated that the board received a letter from Bourque and Clegg at 5:30 this evening addressing how the board is to review the application. Roger A. read the letter dated June 26, 2018 from Bradley C. Morin. It read in part as follows:

I am writing to follow up on the question of how the Board should review the pending application for a medical marijuana growing operation inside a residential garage.

First, the Planning Board needs to make findings of fact regarding the type of use. I previously looked at this issue to determine whether the use qualified as “agriculture” or a “home occupation” under the Shapleigh Zoning Ordinance. At first glance, the proposed use would seem to fit under the definition of “agriculture”. My reasoning is based on the fact that agriculture is a very specific use, including the production or keeping of plants for sale.

I would place this use in the category of agriculture, except we must consider footnote 5 of your land use table. This footnote states “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. §558-C requires a conditional use permit*”. This footnote suggests that the drafters of the ordinance did not intend for marijuana to be reviewed under the definition of “agriculture”. At the same time, it was not intended to be viewed as “commercial”. With this particular application, the closest category appears to be a home occupation.

I was initially hesitant to call marijuana growing a home occupation, since the definition refers to activities that are “customarily” carried on within dwelling units. Production of medical marijuana is certainly not a traditional activity in dwelling units, particularly since many communities in Maine are seeing these operations proliferating warehouses and converted mills. On the other hand, I understand that the State of Maine has been approving these operations in homes and garages (and has approved this particular applicant’s proposed use). Under those circumstances, the Board could make a finding that the use is customarily carried on within a dwelling or accessory structure (relying on the fact that the State of Maine is approving such activities in residential structures).<sup>1</sup>

I note that both home occupation and agriculture are listed as allowed uses within the shoreline district (with a conditional use permit). Furthermore, the language of footnote 5 states that medical marijuana requires a conditional use permit. This suggests that the use is allowed with conditions. Footnote 5 certainly does not suggest that medical marijuana is prohibited. Based on the evidence presented, the Board could make a finding that the use is allowed within the Shoreland district with a conditional use permit, under the heading of home occupation.<sup>2</sup>

<sup>1</sup>Any interpretation of “customary” is going to be somewhat subjective. There is no doubt that legal marijuana is a relatively new phenomenon. However, who is to say that the State is not creating a new “customary” occupation by allowing this in private homes? In the end, this is a factual question for the Planning Board to decide.

<sup>2</sup>I would also point out that the land use table includes a category for ‘uses similar to conditional uses’. Those “similar” uses are allowed with their own conditional use permit. Conceivably, this application could be viewed as being similar to either home occupation or agriculture. However, I do not feel it will be necessary for the Planning Board to reach that conclusion if they found sufficient facts to categorize the use as “home occupation”.

Roger A. asked if there were any other questions? Steve F. asked Roger to read the definition of Home Occupations. It read as follows:

Home Occupation: An occupation or profession which is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit; carried on by a member of the family residing in the dwelling unit; clearly incidental and secondary to the use of the dwelling unit for

residential purposes. Real estate offices and resale of purchased merchandise will not be considered as home occupations.

Roger A. then read the ordinance §105-40. Home Occupations.

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

**Citizen** – The letter that you read said that you ‘could’ approve this, it doesn’t say that you have to.

**Roger A.** – That’s true, we have to meet all the other conditions.

**Citizen** – Those conditions are for a home occupation. Are there more specific restrictions because you are on the lake. Property values, everyone is paying a lot of money to have a place on the lake. How is that possible to have an occupation on the lake?

**Roger A.** – The Planning Board can never look at money. It can’t look at what it costs to do anything. It can’t look at the monetary impact. The Planning Board has no review over that.

**Citizen** – So this can be anywhere in the whole town.

**Roger A.** – Provided it meets the ordinance, the criteria in the ordinance.

**Citizen** – So what about the part about the odor, the buffer zone with respect to parking. The lot is still only 50 feet wide and the abutters on either side are very close. You did say something about evergreens and buffers.

**Roger A.** – If there is going to be off-street parking.

**Citizen** – Right.

**Roger A.** – If the Planning Board does approve this, they could approve it with a condition that there are no clients on site, so it would be a mute point. Another thing, odors are not allowed to be beyond your lot lines. If the Planning Board did approve the application and odors got beyond the lot lines and people are smelling it, that is a complaint to the CEO. The CEO may have to shut them down if they can’t control it, but it will be very subjective.

**Citizen** – Does this make a non-conforming lot even more non-conforming?

**Roger A.** – There are no additions to the lot. (New Structures)

**Citizen** – From what I hear there is a fair amount of waste disposal that goes with an operation like this. You have to do something with the old plants. Does there need to be a plan in place with how you take care of that?

**Roger A. & Madge B.** – Yes, there needs to be a plan, the board will look at that.

**Citizen** – If we go to the CEO, and there is an odor that is outside of the lot, end of the story.

**Citizen** – What about the use of fertilizer within 100 feet of the water?

**Roger A.** – It is not allowed on the outside of the building. Inside the structure you have to dispose of the fertilizer away from the water.

**Citizen** – Is there a method for recovering waste water and fertilizer for this operation.

**Citizen** – If it goes into the septic system that is not good.

**Ms. Bragdon** – Everything is in pots. Nothing is outside. There is no waste water. And I am growing everything organic, there are no chemicals at all. If somehow anything got outside of the tent in the garage, it would be organic. Also, the garage that it is in is more than 100 feet from the lake.

**Roland L.** – The question was raised and I am interested in the answer, after the product is harvested, there are remnant stocks, stems, what-have-you, I am assuming you don't reuse the same potting soil over and over again.

**Ms. Bragdon** – I do reuse the soil, I have been told it improves with reuse.

**Roland L.** – Every crop rotation doesn't require that you dispose of the planting medium and replace it. So forget about that part of it. So get back to the stocks and stems and what-have-you. How are those properly disposed of?

**Ms. Bragdon** – I will be removing any waste product that I am not using and I can donate it to other caregivers. All of that product, stocks and leaves, they are all ground up and used as edibles, so I can donate that to another caregiver. I know of two caregivers one in North Berwick and one in Lebanon that are willing to take my waste.

**Citizen** – It very much surprises me that neighbors choose to turn their backs on all the other property owners that are here tonight and proceed with an operation that they know will diminish property values and hurt their neighbors.

**Roland L.** – When you talk about other neighbors are you referring to us as board members?

**Citizen** – I am referring to the people that are here voicing strong opposition to this operation. I know there are a couple of people that are supportive.

**Roland L.** – Right, because there was a gentlemen at the last meeting, who isn't here this evening.

**Citizen** – Steve F. is a Realtor, tell me what you think an operation like this is going to do to other lake properties in the area.

**Steve F.** – From my standpoint looking at this project, if this is an operation that goes on within this woman's garage, does not influence traffic, has no odor, so if I walked my dog by, I didn't know what was going on, it isn't going to impact the neighbor at all. There is actually a statement, there was a neighbor that spoke at the last meeting, he is living next door and he didn't have a clue she was growing pot to begin with.

**Citizen** – People are going to have to be aware to get her services. Word gets around and people won't want to live near it.

**Ms. Bragdon** – You don't have to tell anybody what goes on at a neighbor's house.

**Citizen** – Word gets around.

**Ms. Bragdon** – I just want to say I am not taking this lightly. You make it sound like I am Cheech & Chong and smoking with my buddies. I started to research this two years ago because I had friends and relatives that were ill. My friends asked me 'what are you doing that for, you don't even smoke'. I am doing it for medical reasons and I can go through lists of medical reasons such as chronic pain, depression, PTSD, social anxiety, cancer, epilepsy and as mentioned today the Federal Government approved a cannabis drug for children who have epilepsy. This is how important this is. The cancer institute is researching it, they are finding it inhibits tumor growth. You make it sound like I am there partying, I am not. I am doing it for medical reasons and I help people. When I started researching this, people started telling me they were taking it for different medical reasons and I had no idea all it could do. Medical marijuana is different from what you would think of with people smoking it from the 70's. It is a different product, even being used in children.

**Citizen** – No one is denying the benefit of medical marijuana, what they are questioning is where you grow it. You grow it in an abandoned mill somewhere in a commercial area. Or do you grow it in a beautiful

recreational area on a southern Maine lake. We live here year round, you have year round neighbors and we are not arguing about the use of medical marijuana, we are arguing if this is the best place to grow it.

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

**Roger A. began to review the Basic Performance Standards.**

**§105-20. Applicability of standards; prohibited uses.**

- A. These standards shall apply to all new or expanded uses of land and buildings which are listed as permitted or conditional uses in Article IV of this chapter.
- B. Prohibited uses include all uses which would be obnoxious or injurious because of odor, dust, smoke, refuse matter, fumes, noise, vibration or waste material, or which would be dangerous to the health and safety of the community or which would disturb or annoy the community, notwithstanding any other provision of this chapter and applicable state and federal laws and regulations.
- C. Plans for the effective control and/or elimination of the same shall be presented to the Planning Board for approval. When the effects of a use are uncertain, the Code Enforcement Office, after prior notification to and at the expense of the applicant, shall employ such independent recognized consultants as necessary to ensure compliance with all requirements of this Code specifically related to the public health, safety and welfare and the abatement of nuisances. The estimated costs of such studies shall be deposited with the Town Clerk prior to their undertaking.

**105-21 – Traffic. *There will be no traffic to the site, no clients are allowed to pick up their product at the applicants home.***

**105-22 – Noise. *There is no noise generated by this activity.***

**105-23 – Dust, fumes, vapors and gases. *There is no dust, fumes, vapors or gases generated by this activity.***

**105-24 – Odors. *The product is to be grown inside a tent with a charcoal filter, inside a garage. There is no outdoor planting allowed.***

**105-25 – Glare. *Security lighting is allowed. Lights shall be directed so that they do not glare onto neighboring properties.***

**105-26 – Stormwater runoff. *All structures are existing, no changes to be made on site to effect stormwater.***

**105-27 – Erosion control. *All structures are existing, no changes to be made on site to create an erosion control problem.***

**105-28 – Setbacks and screening. *There are no changes being made that would necessitate screening. No new structures or parking area.***

**105-29 – Explosive materials. *There are no explosive materials associated with this business.***

**105-30 – Water quality. *All plants shall be kept in an enclosed structure, nothing added to the outside to affect water quality.***

**105-31 – Preservation of landscape; landscaping of parking and storage areas. *There is no parking required. Clients are not allowed on site.***

**105-32 – Relation of proposed building to the environment. *The buildings on site are in existence, they fit in well with the surrounding area.***

**105-33 – Refuse disposal. *Refuse, which includes plant products not being utilized, will be taken off site by the applicant.***

**105-34 – Access Control to Route 109. *N/A***

**105-40** – Home Occupations.

- A. The business will be carried out wholly in an accessory structure to the principal building, the attached garage.*
- B. Ms. Bragdon is the only employee.*
- C. The applicant stated there shall be no sign associated with the business.*
- D. There are no clients allowed on site, there is no waste discharge with this activity, no noise, vibration, smoke, dust or radiation. Odors shall be kept inside the structure, no additional lighting added.*

**105-43** – Off-street parking and loading. *There is no parking required, as clients are not allowed on site.*

**105-46** – Sanitary provisions. *There is an existing State approved Subsurface Wastewater Disposal System in existence; there shall be no fertilizer used outside of the existing structure for the plants. Plants shall be grown indoors only. The structure is greater than 100 feet from the shoreline.*

Madge B. asked if a copy of the wastewater permit was on file. It was noted that it is because the property was before the board for a Best Practical Location and the septic design was required at that time.

**105-49** – Agriculture. *N/A This is reviewed under Home Occupations.*

Roland L. stated that in the past when businesses were going to generate some type of waste, whether it be antifreeze or oil, we have asked that the applicant provide the board with a letter from whoever was going to receive that indicating that they would receive it. Could the board ask the same of this applicant? Madge B. said she was going to ask the same thing. She thought the board should because it was important this be addressed.

Madge B. said she had a question about outside lighting. She asked if there was security lighting? Ms. Bragdon stated there was security lighting there now. Madge stated that the light is supposed to shine on the property and not face or glare onto the neighboring properties.

**Citizen** – The security went off after the last meeting. It went off for quite a while. It is quite loud and it is quite bright. It goes into abutting neighbors windows and it took awhile for them to turn it off. I don't know what set it off.

**Citizen** – It wakes everybody up.

**Citizen** – Noise travels easily across the water. You can hear somebody whisper on the other side of the cove. I was wondering what your thoughts were, as to what to do about that.

**Ann H.** – There is a decibel that has a time limit to it.

**Citizen** – This was eleven o'clock at night.

**Steve F.** – The ordinance is addressing normal operations, not security. It is supposed to be loud.

**Ann H.** – It isn't like a lawnmower this is a security system which is supposed to alert people something is going on.

**Citizen** – Weren't you just saying something about a light not going beyond the property?

**Ann H.** – Like a normal high pressure sodium light that normally comes on at night. It's not about a security system, that is supposed to be loud and shine.

**Citizen** – What we are asking, is this going to be a regular thing? That is excessive in every way.

**Steve F.** – Does it happen often?

**Citizen** – It has happened a few times, yes.

**Citizen** – Occasionally.

**Ann H.** – I think at the last meeting Diane said she accidentally set it off a few times.

**Ms. Bragdon** – I can't remember the last time.

**Citizen** – It was after the last meeting.

**Ms. Bragdon** – Prior to that it was probably last summer. But yes, I have set it off accidentally and it takes some time to shut it off because I have to call the security company for them to shut it off. I can't say it will never happen again.

**Ann H.** – I guess if it happens alot it would be something for the Code Enforcement Officer to deal with. Is this your permanent home?

**Ms. Bragdon** – Yes.

**Ann H.** – There is something in the Shapleigh ordinance that says 'that would destroy or annoy the community'. So I think you would probably, not that it is dangerous, like the part before that states, but there is a part that speaks of destroy or annoy. I think we should address this somehow. I am one of the newest people on the board. I'm not sure how to address that, because there is annoyance in the community, so how do we do that?

**Roger A.** – Due to the fact this is an alarm system that goes off, it is not a noise that is going to be generated by the business, it is the same as having a fire alarm in your house. It is exceptionally loud until it is secured. It is something that you will have to deal with.

**Mr. Reeves** (accompanied Ms. Bragdon) – The security system has always been there. It is not like it was put there for the business. It has been there for at least six years.

**Roger A.** – If it gets to be a nuisance it may have to be changed.

**Citizen** – Is the section you just read dealing with just noise.

**Roger A.** – Noise in general.

**Ann H.** – I was reading about prohibited use, that section.

**Citizen** – There is a high level of annoyance.

**Ann H.** – I don't know how the board deals with this, I am open to suggestions.

**Steve F.** – It says 'Prohibited uses include all uses that would be obnoxious or injurious because of odor', and then it goes on, I supposed we could debate that.

**Citizen** – Could you read it aloud once more so we can respond to it?

**Roger A.** – 105-20. Applicability of Standards; prohibited uses. Section B. Prohibited uses include all uses which would be obnoxious or injurious because of odor, dust, smoke, refuse matter, fumes, noise, vibration or waste material, or which would be dangerous to the health and safety of the community or which would disturb or annoy the community, notwithstanding any other provision of this chapter and applicable state and federal laws and regulations.

**Citizen** – It is my understanding, you just said with all the noise and this, that, and the other, or any operation that would be annoying to the community; it doesn't tie those two together but it is an operation that is annoying to the community. This is pretty annoying.

**Ms. Bragdon** – I think there has to be a reason why it is annoying. You can't just say it is annoying. I've talked to several neighbors, who are not here today, but they said they do not care about this.

**Citizen** – Well you had one here but there is a fair amount of people that are annoyed.

**Madge B.** – We have also had it is writing from someone that they were fine with it.

**Madge B.** – The other thing I would say is, what you are reading is 'Prohibited' uses. The ordinance does prohibit some uses in some districts. But this is 'not' a prohibited use, so we can't apply that section for this use. This is a 'conditional use'.

**Citizen** – Isn't a prohibited use anything that is obnoxious or injurious?

**Madge B.** – Our Zoning Ordinance has permitted uses, conditional uses and prohibited uses, and that's what you find in the Land Use Table. So in the Land Use Table there are prohibited uses. They don't prohibited it because they create a noise or whatever.

**Citizen** – That section says because it is annoying to the community.

**Madge B.** – That is probably why it may be prohibited here (the Land Use Table). This isn't a prohibited use. I'm sorry.

**Roger A. read §105-73.A Conditional use permits, Authorization.**

The Planning Board is hereby authorized to hear and decide upon applications for conditional use permits in accordance with state law and the provisions of this chapter. The Board shall approve, approve with modifications or conditions or disapprove an application for a conditional use permit. No conditional use permit shall be authorized unless specific provision for such conditional use is made in this chapter.

*Roger A. stated the board met with the applicant, held a public hearing and notified abutters within 500 feet of the property. The Code Enforcement Officer attended all meetings. A decision will be made within 40 days of the public hearing. The Conditional Use shall expire if work or changed involved isn't started within two years of the date the conditional use was authorized.*

**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. The business will be held inside a structure, there is no outdoor activity associated with the business.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. ***Roger A. stated this is not applicable, nothing is taking place outside.***
- 3) The use is consistent with the Comprehensive Plan. ***Roger A. stated it is, the Comp Plan wants home based businesses in the Town.***
- 4) Traffic access to the site is safe. ***Roger A. stated there is no traffic coming to the site, this is a delivery based business; product to be delivered by the applicant and it will be a condition of the permit.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***Roger A. stated it is, the structure is in existence, permitted by the Town and 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 board will require information regarding plant waste. There is an existing State approved Subsurface Wastewater Disposal System. The plan is on file, Site Evaluator is Bruce L. Pohepek, License #101, plan dated 11/20/2009.***
- 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 house is in existence and no changes are being made to the property. The house location was approved by the Planning Board 4/13/2010.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***Roger A. stated there are no changes being made to the exterior of the existing structure.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***Roger A. stated this location is next to the lake, so 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 there are no major changes being made to the existing vegetation. There shall be no additional lighting added, no odors produced with the use of a filtration system, no fumes or dust is created by this activity. The only noise is from the required security system which is temporary.***



- 12) All performance standards in this chapter applicable to the proposed use will be met. **Roger A. stated they shall with conditions.**

Roger A. then reviewed Section H. Conditions attached to conditional uses.

- (1) Upon consideration of the factors listed above, the Planning Board may attach such conditions, in addition to those required in this chapter, that it finds necessary to further the purposes of this chapter. Violation of any of these conditions shall be a violation of this chapter. Such conditions may include but are not limited to:
- a) Specification for type of vegetation, increased setbacks and yards. – *N/A No changes to the existing structures or vegetation.*
  - b) Specified sewage disposal and water supply facilities. Existing State approved sewage disposal system on site. Water supply facility – *N/A*
  - c) Landscaping and planting screens. – *N/A No outside storage.*
  - d) Period of operation. – *None needed, no clients shall come to the site.*
  - e) Operational controls. *N/A State oversight.*
  - f) Professional inspection and maintenance. *N/A State oversight.*
  - g) Sureties. – *N/A*
  - h) Deed restrictions. – *N/A*
  - i) Restrictive covenants. – *N/A*
  - j) Locations of piers, docks, parking and signs. – *N/A*
  - k) Type of construction. – *N/A*
  - l) Any other conditions necessary to fulfill the purposes of this chapter.
- (2) In evaluating each application, the Board may request the assistance of the County Soil and Water Conservation District, a state or federal agency or consultant which can provide technical assistance.

**Madge B. stated the conditions of the permit are:**

- 1) No patients / clients shall come to the site to pick up the marijuana product.**
- 2) The business cannot operate until the Planning Board has a letter from the person who will accept the marijuana waste which includes stems / stalks and leaves.**
- 3) There shall be no signage allowed.**

Steve F. stated his only concern, due to the close location of the neighboring lots, was adequate fire protection. Ann H. asked Ms. Bragdon if she had a fire extinguisher in the garage. Ms. Bragdon stated that there was. Mr. Reeves stated that there were also heat and fire sensors in the garage. Madge B. asked what would cause a fire? Ann H. thought perhaps the lighting. Ms. Bragdon was asked about lighting and she stated she was using LED (which does not produce excessive heat). Madge believed there was no special electrical required. Ann stated correct, because they were using the tents with the LED lights in them. Madge didn't think there was a fire danger. Steve said, as Roger was reviewing that was his only question.

Roger A. stated the Conditional Use Permit would be valid for three years, along with the permit from the State, and the CUP goes with the person and not the property. Roger thought that every three years Ms. Bragdon should have to renew the permit. Madge B. stated the reason she is conditioned is because if she doesn't get her State permit, the board won't issue additional approvals. Ms. Bragdon stated that her license was a yearly State approval. Madge did not think the board should have to revisit it every year. She thought based on this, a better condition would be that she submits a copy of the State license every year upon renewal. The board agreed this would work best.

**Roger A. stated the last condition would be:**

- 4) A copy of a valid Maine State Medical Marijuana Caregiver license shall be submitted to the Planning Board yearly in order for the Conditional Use Permit to remain valid.**

**Madge B. made the motion to approve the Conditional Use Permit for a Home Occupation as a Medical Marijuana Caregiver for Diane Bragdon, on Map 34, Lot 3 (92 Cedar Drive) with the above stated four conditions. Roland L. 2<sup>nd</sup> the motion. All members were in favor. By a vote of 5 – 0, the vote was unanimous.**

Nothing further was discussed.

### **The Findings of Facts**

1. The owner of Shapleigh Tax Map 34, Lot 3 (92 Cedar Drive), is Diane Bragdon of 92 Cedar Drive, Shapleigh, Maine 04076
2. The property is located in the Shoreland District and according to the assessor, the property contains .59 acres.
3. The applicant is before the board for a Conditional Use Permit to have a home occupation as a Medical Marijuana Caregiver for up to five patients, as allowed and licensed by the State of Maine Dept. of Health and Human Services.
4. The detailed description of the application is as follows:  
As a Medical Marijuana Caregiver, registered with Maine DHHS, I will be abiding by all State laws. The product will be in a locked, enclosed, secure existing building on the property.  
This is a house call service only. Patients are not allowed on the premises.  
There will be no changes made to the property. Existing buildings and vegetation will not be disturbed.
5. Received was a sketch plan which depicted the structures on site, all located beyond the 100 foot setback to the high water mark; the location of the well and leachfield; proof of ownership by listing deed reference Book 9769, Page 303.
6. Received was a copy of the State letter of approval for a Caregivers-Cultivator Growing Rights card. The letter provided the website where the rules, and statute are provided, that being: [www.mainepublichealth.gov/mmm](http://www.mainepublichealth.gov/mmm) Also provided was a copy of Ms. Bragdon's Maine Driver's License dated 4/12/18, a copy of her Individual Caregiver card dated 5/9/2018 and MMMP Designation card, expiration date 4/18/2019.
7. Received was a copy of the Medical Use of Marijuana Program Caregiver Application, regulated by the State of Maine, Dept. of Health and Human Services, Division of Licensing and Regulatory Services. Also provided was the information from the Rules Governing the Maine Medical Use of Marijuana Program, 10-144 CMR Chapter 122, Effective Date: September 17, 2013, specifically Section 5: Primary Caregiver & Primary Caregiver's Authorized Conduct.
8. Received was a letter from Town Attorney Bradley Morin, dated June 26, 2018 rendering a legal opinion as to whether or not this conditional use should be reviewed as a home occupation or agricultural use. It was his opinion, based on how the Shapleigh Zoning Ordinance is written that 'Based on evidence

presented, the Board could make a finding that the use is allowed within the shoreland district with a conditional use permit, under the heading of home occupation’.

9. The board reviewed the Basic Performance Standards and the board concurred the application met all the standards imposed.
10. The board specifically reviewed Zoning Ordinance §105-40 Home Occupations, and §105-73 Conditional Uses and concurred the application and information as presented met the performance standards in these chapters with conditions.
11. A notice was mailed to all abutters within 500 feet of the property on May 23, 2018. Meetings were held on May 22, 2018, June 13, 2018 and June 26, 2018. A site inspection and Public Hearing were held on June 13, 2018.
12. The Planning Board unanimously agreed to approve the Conditional Use Permit to allow a home occupation as a State licensed Medical Marijuana Caregiver for up to five patients, to be located on Map 34, Lot 3, per the information provided with conditions.
13. **The conditions of approval are:**
  - 1) **No patients / clients shall come to the site to pick up the marijuana product.**
  - 2) **The business cannot operate until the Planning Board has a letter from the person who will accept the marijuana waste which includes stems / stalks and leaves.**
  - 3) **There shall be no signage allowed.**
  - 4) **A copy of a valid Maine State Medical Marijuana Caregiver license shall be submitted to the Planning Board yearly in order for the Conditional Use Permit to remain valid.**

Motion:

After careful consideration and a review of all material presented to the Board, including the review of the Zoning Ordinance ‘Basic Performance Standards’, §105-40 ‘Home Occupations’ and §105-73, ‘Conditional Uses, a motion was made on Tuesday, June 26, 2018, to approve the Conditional Use Permit to have a home occupation as a Maine State licensed Medical Marijuana Caregiver, to be located on Map 34, Lot 3, per the information provided with four conditions.

Vote:

By a unanimous vote of 5 – 0, the motion to approve the Conditional Use Permit to have a home occupation as a Maine State licensed Medical Marijuana Caregiver, to be located on Map 34, Lot 3, per the information provided with four conditions, was accepted.

Decision:

**The Conditional Use Permit to have a home occupation as a Maine State licensed Medical Marijuana Caregiver, to be located on Map 34, Lot 3, per the information provided with four conditions was approved.**

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**Best Possible Location – New Foundation & Addition in Shoreland District – Map 36, Lot 35 (141 Indian Village Road) – William Neville, Applicant (Contractor); David Lemaire, Property Owner**

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

The applicant provided, along with the application, a plan depicting the existing structures on site which include the living quarters and existing deck(s), along with the location of the leachfield. The plan depicted the distance to the lot lines as 29' to Lot 34 and 33' to Lot 36, 55' to the rear setback and 19' 4" to Indian Village Road. A second sketch shows the structure nearest to Square Pond as being 218' 1" keeping it within the Shoreland District but beyond the 100 foot mark to the high water line. Also provided is a floor plan of the existing structure, the proposed mud room, which replaces the side deck, and an addition to the deck that faces Indian Village Road.

The detailed description is as follows: To remove decks, replace the front one to length of house. Add an addition to right side where deck is in place now. Jack home up and pour a walk-out foundation.

Roger A. asked Mr. Neville to let the board know again what he intended to do. Mr. Neville stated that he was putting on a 9' x 22 foot addition on the side of the existing structure, removing an old deck. He would be jack up the existing camp and putting a foundation under it, and adding to the existing deck on the front of the house, adding a set of stairs off the deck. He said that the existing structure did not meet the setback to the road.

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

Roger A. began review of §105-4 'Nonconformance' Section D(3) 'Foundations'. It read as follows: 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 then read Section (7) 'Relocation' which includes the necessity of a revegetation plan for all disturbed areas. Roger noted the structure is greater than 100 feet beyond the high water mark, so tree replacement is not an issue.

Roger A. said that he believed the building could be moved back to meet the requirements in the ordinance, based on what he saw at the site visit. Roger was speaking about meeting the distance requirement to the road. Ann H. wondered if the septic would be a hindrance? Roland L. thought it would have to go back and to the side, so as not to affect the septic system. Mr. Neville believed he could move it back without affecting the septic system. He thought the homeowners would not be averse to moving the house back somewhat, especially since the footprint that they were requesting wasn't being changed. He said he could move it back 10 or 15 feet without issue.

The board agreed that if the house were to be moved back, there would be a revegetation plan required. Ann H. asked how far back the structure could be moved without affecting the septic system? Mr. Neville did not feel the septic would be affected regardless of how far back he moved. Mr. Neville stated that the tank can be greater than 10 feet from the house but not any closer than 5. He did not see the septic system as an issue.

Steve F. asked what it was the structure can't meet? Roger A. stated it currently cannot meet the road setback, it is only a little over 19 feet from the road. Mr. Neville said he would do whatever the board requests, but he also thought that perhaps there could be a compromise of 15 feet. Ann thought there may be a way to make the entire structure conforming. Roland L. asked where the driveway would be? Mr. Neville stated the driveway was where the board parked this evening. The Small side (neighbor).

Roland L. didn't think the applicants request not to go way back was a bad thing. He felt it would balance the home on the lot and would not have as extensive need for revegetation on the lot. Roger A. thought by putting it back to meet the road standard they could put the foundation in and then pick up the structure and put it on the foundation, and as they do that clean up the front. He did not feel there would need to be additional work. He believed it would be easier to do it this way. Mr. Neville agreed with respect to moving a house, but he noted that the homeowner didn't want to go back that far. Roger said that the reason they are here is for best practical location, so this is the reason the board is looking at this. Madge B. agreed that the board would like it back from the road. Roland noted there wasn't a lot of traffic on this road. He knew it had to be done, so he supported the boards view.

Mr. Neville asked, that because moving it back brought it back beyond the 250 feet, could he put on a larger addition? Madge B. stated that was correct. Roger agreed as long as he met setbacks. Ann H. said she would like to see it as conforming as possible. Mr. Neville stated that he only had to meet the 50 feet from the road, after that it would not matter where he put it on the lot.

Steve F. said the existing sketch shows the building 19.4 feet from what? Mr. Neville stated it was from the edge of the road. Madge B. asked how far it should go back? Madge asked how far the owner wanted to go back? Mr. Neville stated, "As least as possible." Madge said, "Ok". Ann asked how many feet it needed to go back to make it conforming? Madge said, "Quite a ways to make it conforming". Mr. Neville stated about 28 feet from the side of the road. Madge said it probably won't get conforming, as she was concerned with the rear. Roger A. noted that the lot behind this lot was owned by the applicants as well. Members looked at the Town maps and they show both lots combined.

Steve F. stated that often the board is looking at a lot with much tighter constraints. Roger A. agreed and noted that often there are slopes the board has to consider as well. Mr. Neville agreed. Roger thought his opinion was that it makes sense to move it back and then they have more options for the structure. Mr. Neville did not disagree. Ann H. thought the structure should be made to be more conforming. Madge thought it would maximize their investment, giving them more options in the future.

Madge B. agreed that the board should propose to move it back, as it would be the best possible location. She said if the owner really objects they can come back and discuss it. Steve F. stated that if the board was going to make them move 50 feet back from the edge of the road, someone with an instrument should determine the location, so there will be no issue later on. He said they have to have the foundation set by a surveyor anyway. Madge agreed. Mr. Neville was concerned with the added cost of a surveyor. Roger A. said it didn't matter if the board only moved it 2 feet, a surveyor would be required. Roger was referring to Section 105-4.D(7)(c) which states: All approved plans shall require confirmation in writing by a licensed surveyor that the placement of the structure is correct per the specifications approved by the Planning Board. Madge added that it was not a full survey, it is a foundation certification. Joe Stanley of LinePro was in the audience and agreed. Madge said this person will make certain the foundation is 50 feet from the edge of the road.

Steve F. wanted to be sure it was noted that the structure would not meet the 75 feet from the road centerline and that the board will be fine with it. The board members agreed.

**Ann H. made the motion to approve the Best Possible Location to replace the existing foundation, add a 9' x 22' addition and extend front deck on Map 36, Lot 35, moving the structure back 50 feet from the edge of the road, per the plans presented with conditions. Madge B. 2<sup>nd</sup> the motion. All members were in favor. By a vote of 5 – 0, the vote was unanimous.**

**The conditions of the permit are:**

- 1) The structure shall be placed 50 feet from the edge of the road to meet the road setback, but does not have to meet the 75 feet from the centerline to be in compliance.**
- 2) The foundation location shall be determined by a licensed surveyor to be correct per the specifications approved by the Planning Board.**
- 3) Per Shapleigh Zoning Ordinance §105-3, no work shall begin without a building permit through the Code Enforcement Office.**

Nothing further was discussed.

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The Findings of Fact

1. The owner of Shapleigh Tax Map 36, Lot 35 (141 Indian Village Road), is David Lemaire, mailing address of 38 Andrews Street, Manchester, NH 03104.
2. The property is located in the Shoreland District and according to the assessor contains 0.51 acres.
3. The applicant is before the board for a best possible location to add a new foundation, room addition and addition to existing deck.
4. The application detailed description is as follows: To remove decks, replace the front one to length of house. Add an addition to right side where deck is in place now. Jack home up and pour a walk-out foundation.
5. Received was a plan depicting the existing structures on site which included the living quarters and existing deck(s), along with the location of the leachfield. The plan depicted the distance to the lot lines as 29' to Lot 34 and 33' to Lot 36, 55' to the rear setback and 19' 4" to Indian Village Road. A second sketch shows the structure nearest to Square Pond as being 218' 1" keeping it within the Shoreland District but beyond the 100 foot mark to the high water line.
6. Received was a floor plan of the existing structure, the proposed mud room, which replaces the side deck, and an addition to the deck that faces Indian Village Road, adding a stairway.
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 June 14, 2018. Meetings were held on June 13, 2018, and June 26, 2018. A site inspection was conducted on June 26, 2018.
9. The Planning Board unanimously agreed to approve the Best Possible Location to replace the existing foundation, allow for the 9' x 22' addition and extend front deck on Map 36, Lot 35, per the site plan received with a revision made by the Planning Board, moving the structure back 50 feet from the side of the road.
10. **The conditions of the approval are as follows:**

- 1) The structure shall be placed 50 feet from the edge of the road to meet the road setback, but does not have to meet the 75 foot requirement from the centerline to be in compliance.
- 2) The foundation location shall be determined by a licensed surveyor to be correct per the specifications approved by the Planning Board.
- 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 foundation, allow for the 9' x 22' addition, and extend the front deck on Map 36, Lot 35, per the site plan received with a revision on June 26, 2018 made by the board, moving the structure back 50 feet from the side of the road, with conditions.

Vote:

By a unanimous vote of 5 – 0, the motion to approve the Best Possible Location application to replace the existing foundation, allow for the 9' x 22' addition, and extend the front deck on Map 36, Lot 35, per the site plan received with a revision on June 26, 2018 made by the board, moving the structure back 50 feet from the side of the road with conditions, was accepted.

Decision:

The Best Possible Location application to replace the existing foundation, allow for the 9' x 22' addition and extend the front deck on Map 36, Lot 35, per the site plan received with a revision on June 26, 2018 made by the board, moving the structure back 50 feet from the side of the road with conditions, was approved.

Construction of a Private Way – Map 1, Lot 4 (428 Grant Road) – LinePro Land Surveying, LLC, Applicant; Allen White, Property Owner

Joe Stanley of LinePro was present to review the application. Mr. White was also in attendance. *Members did a site visit before this evenings meeting.*

Along with the application, received was a copy of the GIS picture, with an overlay of the existing lots 4 and 4A, the proposed new lot to be accessed by the right-of-way, and the location of the proposed ROW. Also received, a plan drafted by Joseph Stanley, PLS #2453, dated June 4, 2018, entitled 'Plan of Private Way for Allen White, 42 Grant Road, Shapleigh, ME 04076, Of Property Located On Grant Road In Shapleigh, Maine'. The plan depicts the new private way, the location of a turn-around, the road & ditch section, location of an existing culvert, 2 foot contour lines along the roadway showing topography, the location of the 50 foot ROW and 16 foot travel way.

Plan Note 6 states: The Town of Shapleigh will not be responsible for the maintenance, repair, or plowing of the private way, and further lot divisions utilizing the private way are prohibited without prior approval of the Shapleigh Planning Board. The private way is to provide access to two lots, a maintenance agreement shall be required by the Planning Board and recorded in the York County Registry of Deeds. The maintenance agreement shall specify the rights and responsibilities of each lot owner with respect to the maintenance, repair and plowing of the private way.

In addition, provided is what is entitled Exhibit A ‘Road & Drainage Maintenance Agreement’.

Members began by looking at § 105-60.1 ‘Private ways’, Madge read Section E(1) which is as follows: One turnout to provide space for two vehicles to pass shall be provided for every 500 feet of private way. It was noted that in this case the applicant was asking to have the turnaround at about 250 feet in, in an existing location that can meet the criteria for the size of the turnaround. It was noted by Mr. Stanley that the roadway would be used by two houses up to this point, then only one house at the end of the road.

Mr. Stanley began by stating they were proposing a private way for one additional house lot on an existing driveway for a home at the rear of the property. He stated it was a well-built road. He said the applicant was looking for the Town to approve approximately 500 feet of private way, so the new lot will have the required road frontage for a lot. He stated that in most areas on the existing road there was 16 feet of travel way, but noted there were a few areas that needed to have a foot or two added to meet the standard in the ordinance. He said there were existing watercourses and ditching in existence, along with a culvert.

Mr. Stanley stated that he did look at it after a recent rain event and did not see any sediment that had moved. He felt because this road had been used for years, it was well established and it appears it is not affected by stormwater. Mr. Stanley addressed Steve F., who was unable to attend the last meeting, that typically he places the turnaround 500 feet in but in this instance they wanted to use an existing area to turn around, rather than disrupt an area up the road. He felt overall this was a straight forward plan.

Steve F. said he didn’t have any questions. Madge B. said it was an impressive road. There were no signs of erosion, she felt it was well built.

Roger A. stated that he wanted to bring up Section H, which read as follows: After a private way has been approved by the Planning Board to provide access to a lot or lots, no further lots shall be created which are to be provided access by means of the private way without the prior approval of the use of the private way for access to such lots by the Planning Board. Mr. Stanley reminded the board that this was stated in Note 6 on the Private Way plan.

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

Steve F. made the motion to approve the Private Way Plan drafted by Joseph Stanley, PLS #2453, entitled ‘Plan of Private Way for Allen White, 42 Grant Road, Shapleigh, ME 04076’. Ann H. 2nd the motion. All members were in favor. By a vote of 5 – 0, the vote was unanimous.

Roger A. stated that the plan had to be recorded within 90 days of approval at the York County Registry of Deeds or the plan will become null and void.

Nothing further was discussed.

The Findings of Facts

1. The current owner of Shapleigh Tax Map 1, Lot 4 is Norman White Inc., of 28 Grant Road, Shapleigh, Maine 04076. The right-of-way is located on a portion of Lot 4. The lot to be served shall be owned by Alan White, currently of 42 Grant Road, Shapleigh, Maine 04076.

2. The property, Tax Map 1, Lot 4, is located in the General Purpose District and according to the Assessor's Office contains 141.5 Acres.
3. Received was a copy of the GIS picture, with an overlay of the existing lots 4 and 4A, the proposed new lot to be accessed by the Private Way and the location of the proposed Private Way.
4. Received was a plan drafted by Joseph Stanley, PLS #2453, dated June 4, 2018, entitled 'Plan of Private Way for Allen White, 42 Grant Road, Shapleigh, ME 04076, Of Property Located On Grant Road In Shapleigh, Maine'. The plan depicts the new private way, the location of a turn-around, the road & ditch section, location of existing culvert, 2 foot contour lines along the roadway showing topography, the location of the 50 foot right-of-way and 16 foot travel way.
5. Private Way Note 6 states:
The Town of Shapleigh will not be responsible for the maintenance, repair, or plowing of the private way and further lot divisions utilizing the private way are prohibited without prior approval of the Shapleigh Planning Board. The private way is to provide access to two lots, a maintenance agreement shall be required by the Planning Board and recorded in the York County Registry of Deeds. The maintenance agreement shall specify the rights and responsibilities of each lot owner with respect to the maintenance, repair and plowing of the private way.
6. Received is what is entitled Exhibit A 'Road & Drainage Maintenance Agreement'.
7. A notice to abutters within 500 feet of the property was mailed on Wednesday, June 14, 2018. A site inspection was conducted on Tuesday, June 26, 2018, prior to the planning board meeting. Meetings were held on June 13, 2018 and June 26, 2018.
8. After review of Zoning Ordinance §105-60.1 'Private Way's', the Planning Board unanimously agreed to approve the Construction of a Private Way to access two lots, per the plans drafted by Joseph Stanley, PLS #2453, dated June 4, 2018, entitled 'Plan of Private Way for Allen White, 42 Grant Road, Shapleigh, ME 04076, Of Property Located On Grant Road In Shapleigh, Maine', as the private way depicted on the plan met all the requirements in the ordinance.
9. The applicant has 90 days to register the approved plan with the York County Registry of Deeds and return a Mylar copy, with the book and page number, back to the planning board. If a registered copy is not returned to the board, the approved plan shall be null and void.

Motion:

A motion was made on Tuesday, June 26, 2018, to approve the Construction of the Private Way to access two lots, per the plans drafted by Joseph Stanley, PLS #2453, dated June 4, 2018, entitled 'Plan of Private Way for Allen White, 42 Grant Road, Shapleigh, ME 04076, Of Property Located On Grant Road In Shapleigh, Maine'.

Vote:

By a unanimous vote of 5 – 0, the motion to approve the Construction of the Private Way plan, per the plans drafted by Joseph Stanley, PLS #2453, dated June 4, 2018, entitled 'Plan of Private Way for Allen White, 42 Grant Road, Shapleigh, ME 04076, Of Property Located On Grant Road In Shapleigh, Maine', was accepted.

Decision:

The Construction of the Private Way plan drafted by Joseph Stanley, PLS #2453, dated June 4, 2018, entitled ‘Plan of Private Way for Allen White, 42 Grant Road, Shapleigh, ME 04076, Of Property Located On Grant Road In Shapleigh, Maine’, was approved.

Amendment to a Subdivision – Sandy Point – Create Road Frontage for Map 12, Lot 22-4 (That was not accomplished by the original subdivision applicant) – Ted Theriault, Applicant & Owner

Mr. Theriault was present for the review of the amended subdivision plan.

At the first meeting, provided was a copy of the original approved subdivision named Sandy Point, approval date of 6/1/1991; a copy of the Town Tax Map depicting the proposed division of Lot 4 (the proposed division was removed from the application by the applicant); and a copy of the Warranty Deed transferring ownership of Lot 4 from Angie Will Young of Old Orchard Beach ME & Michael Domoretsky of Alton NH to Theodore W. Theriault & Penny Theriault of Shapleigh ME, Book 17708, Page 279, dated 5/7/18.

Mr. Theriault was originally proposing to divide Lot 4, but after the discussion on May 8th, he felt the cost to do so was cost prohibitive, so he decided to only create access to Lot 4 using the private way standards.

This evening Mr. Theriault provided the board members with a plan entitled ‘Subdivision Amendment Plan of Lot #4 “Sandy Point for Roger Croteau” Approved by the Shapleigh Planning Board 6-11-91’, drafted by David Hughes, PLS #2234 of Livingston-Hughes, Professional Land Surveying Corporation, Kennebunkport, Maine, dated June 14, 2018. The plan depicts the proposed 50’ right-of-way which begins at Archer Street and turns onto Lot 4 for a distance of 200 feet, creating the required 200 feet of road frontage. Also on the plan was a road and ditch section for the private way to be created.

Mr. Theriault noted that he did not have the Mylar with him this evening. He did have a large paper copy. Mr. Theriault asked if the board needed anything else this evening? He believed he created the road as the board requested. Roger A. asked if this was a 50 foot right-of-way. Mr. Theriault stated that it was. He stated that the road would be created to the town’s standards.

Madge B. noted that the neighbors appeared relieved by what was taking place. Mr. Theriault agreed. Roger A. stated that originally the board wanted Archer Street paved and asked them to widen it out where it was possible, which is why Archer is not 50 feet the entire length. Roger said it was because the applicant didn’t own one of the abutting lots. Roger said because it was an ATV trail when it was being reviewed the board had them add some rocks to deal with the washout. Mr. Theriault asked if someone came in and bought the abutting property, the lot that would trigger the paving of Archer per the original plan, would they be required to pave it? Roger stated that they would if they did any division to the property. Roger said because it is on the other side of Archer, it would be reviewed separately.

Roger A. stated he had no issue with the amendment to the subdivision, creating 200 feet of road frontage for Lot 4 off of Archer Street.

Roland L. made the motion to approve the amendment to the subdivision know as Sandy Point, specifically Map 12, Lot 22-4, creating 200 feet of road frontage on Lot 4. Steve F. 2nd the motion. All members were in favor. By a vote of 5 – 0, the vote was unanimous.

Board members signed the paper copy presented. Roger A. stated a Mylar needed to be recorded at the York County Registry of Deeds within 90 day of signatures or the amendment would become null and void. Mr. Theriault was also told that the board needed a Mylar copy and two paper copies for the file, once he had it recorded.

Nothing further was discussed.

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**The Findings of Fact**

1. The owners of the Map 12, Lot 22-4 are Theodore W. Theriault and Penny Theriault whose mailing address is PO Box 62, Shapleigh, Maine 04076.
2. The applicant demonstrated a legal interest in the property by Warranty Deed transferring ownership of Lot 4 from Angie Will Young of Old Orchard Beach ME & Michael Domoretsky of Alton NH to Theodore W. Theriault & Penny Theriault of Shapleigh ME, Book 17708, Page 279, dated 5/7/18, as registered at the YCRD.
3. The subdivision lot affected by the amendment to the subdivision is located at Shapleigh Tax Map 12, Lot 22-4 (Knob Hill), and is both in the General Purpose District and Shoreland District. The ROW will be located in the General Purpose District.
4. The applicant requests the ability to create 200 feet of road frontage on Lot 22-4 to the Town's Standards.
5. Provided was a copy of the original approved subdivision plan named Sandy Point, approval date of 6/1/1991, and a copy of the Town Tax Map depicting Lot 4.
6. Provided was a final plan entitled 'Subdivision Amendment Plan of Lot #4 "Sandy Point for Roger Croteau" Approved by the Shapleigh Planning Board 6-11-91', drafted by David Hughes, PLS #2234 of Livingston-Hughes, Professional Land Surveying Corporation, Kennebunkport, Maine, dated June 14, 2018. The plan depicts the proposed 50' right-of-way which begins at Archer Street and turns onto Lot 4 for a distance of 200 feet, creating the required 200 feet of road frontage. Also on the plan was a road and ditch section for the private way to be created.
7. A public hearing was held on June 26, 2018. A notice to abutters within 500 feet of the property was mailed on June 13, 2018 and a site inspection was done on an individual basis. Meetings were held on May 8, 2018, May 22, 2018 and June 26, 2018.

**Conclusions**

After review of the subdivision file for Sandy Point Subdivision, 'ARTICLE XI 'Street and Storm Drainage Design and Construction Standards' contained within Subdivision of Land Chapter 89, along with the information and amended subdivision plan provided, the board concluded the right-of-way as presented, along with the private way details met the standards in the Town's Subdivision Ordinance.

**Planning Board Action**

Based on the above facts and conclusions, on June 26, 2018, the Planning Board voted to approve the application for an amendment to the subdivision known as Final Subdivision Plan of Sandy Point for Roger V. Croteau, Plan Book 203 Page 11, specifically allowing Lot 22-4 to create a 50 foot right-of-way and 200 feet of road frontage within the lot, per the final plan presented, drafted by David Hughes, PLS #2234 of Livingston-Hughes, Professional Land Surveying Corporation, Kennebunkport, Maine, dated June 14, 2018 with the following conditions:

1. All conditions from the original subdivision plan known as Final Subdivision Plan of Sandy Point for Roger V. Croteau, Plan Book 203 Page 11, registered at the YCRD, approved by the Planning Board on June 11, 1991, shall remain in effect.
2. Any amendment to the subdivision not recorded at the York County Registry of Deeds ***within ninety days*** of the date upon which the plan is approved and signed by the Planning Board shall become null and void, unless an extension is granted by the Board in writing. A copy of the registered Mylar plan to be given to the Planning Board Secretary for proof of registration, along with two paper copies.
3. 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.

### **Decision**

**On June 26, 2018, the Planning Board voted to approve the application for an amendment to the subdivision known as Final Subdivision Plan of Sandy Point for Roger V. Croteau, Plan Book 203 Page 115, specifically approving a 50 foot right-of-way for a distance of 200 feet on Lot 22-4 to create road frontage per the final plan, entitled ‘Subdivision Amendment Plan of Lot #4 “Sandy Point for Roger Croteau” Approved by the Shapleigh Planning Board 6-11-91’, drafted by David Hughes, PLS #2234 of Livingston-Hughes, Professional Land Surveying Corporation, Kennebunkport, Maine, dated June 14, 2018. By a vote of 5 – 0, the decision was unanimous.**

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### **14 Lot Major Subdivision (Great Hollow Acres Extension) – Map 10, Lot 6A & 7 (White Pine & Town Farm Road) – Jeffrey Morrison, Property Owner; Jason Vafiades, Representative**

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

### **The subdivision application for the 14 lot subdivision, to be known as Great Hollow Acres Extension, contained the following information:**

Name of Property Owner and Applicant: Jeffrey W. Morrison, mailing address 20 East Elm Street,  
Yarmouth, Maine 04096

Name of Authorized Agent: Jason Vafiades, mailing address of 541 US Route One, Suite 21, Freeport,  
Maine 04032

Name of Surveyor, Engineer or others preparing the plan: Brad Lodge, Middle Branch, LLC,  
mailing address of 1A Depot Street, Alfred, Maine 04002 Registration # 2057

### **Land Information:**

Location of Property: YCRD Book 14362, Page 551

Shapleigh Tax Map 10, Lot(s) 6A & 7

Current Zoning: General Purpose District (GP)

None of the property is within 250 of the high-water mark of a water body.

Acreage to be

Developed: 30± Acres

Restrictive

Covenants: Homeowners Documents

Part of prior  
Subdivision: Yes  
No other divisions within 5 years.  
Existing Use: Woods, previously used as a gravel pit.  
The parcel does not include a waterbody.  
The parcel is not within a special flood hazard area.

**General Information:**

Proposed Name of  
Development: Great Hollow Acres Extension  
Number of Lots: (14) Fourteen  
Date of Construction: Fall of 2018  
Date of Completion: Spring of 2019  
Infrastructure  
Required: No  
The property currently has road access.  
Estimated Cost of  
Improvements: \$300,000  
Method of Water  
Supply: Individual Wells  
Method of Sewer  
Disposal: Individual Septic Systems  
Method of Fire  
Protection: Cistern

Streets, Recreation Area(s) and Common Land: To be determined.

Requested Waiver(s): No  
Application dated: June 1, 2018

In addition, received from the applicant was a letter to Land Use Secretary Barbara Felong, dated May 1, 2018 from Jason Vafiades of Atlantic Resource Consultants. The letter gave an overview of what the applicant, Jeffrey Morrison, was proposing for Map 10, Lots 6A, which stated in part that the applicant proposed a 14 lot subdivision; extending White Pine Lane into the subject property, as well as creating a new roadway, extending from White Pine Lane to Town Farm Road. The letter stated that they would meet with the Fire Chief, Road Commissioner and as part of the project approval, a Maine Department of Environmental Protection Stormwater Permit would be required. The road would be constructed to Town standards and electric services would be via underground primary power.

The applicant provided a copy of the USGS Map, with an overlay of the location of the project. In addition, a Sketch Plan was received, drafted and designed by Atlantic Resource Consultants, dated February 15, 2018, entitled 'Tax Map: 10, Lots: 6A & 7, Shapleigh, Maine – Phase I Subdivision, Sketch Plan'. The plan depicted the existing four lots on White Pine Lane, the proposed road extension and 14 lots and areas entitled 'Open Space' and 'Land Reserved for Future Development'. The sketch plan also cited the Net Residential Density Calculations.

Roger A. asked Mr. Vafiades to let the board know what they were proposing. Mr. Vafiades stated he was before the board on behalf of Jeffrey Morrison. He stated that Mr. Morrison has a large amount of acreage off of White Pine Lane, which also has a subdivision known as Great Hollow Acres, which consists of four lots built on a road that is to the town's standards. He said that Mr. Morrison wants to extend the road in and

create 14 lots. He stated it would be private water, private septic systems and underground power. He said there would be a cistern installed for the Fire Department, he believed it would be a 30,000 gallon tank. He thought this would be a standard subdivision, with some land left to reserve for the future. He felt it would be 10 or 15 years before Mr. Morrison developed the reserved land.

Mr. Vafiades stated that the area they are using was in part a gravel pit in the past. He noted that what they are proposing is a little different. He said they would build the roadway out to Town Farm Road, so they will not disturb the homes on White Pine while construction is taking place. He said after the road is built, he may leave it open for residents to use to come out onto Town Farm, or it could be gated and a key given to the fire department, they were open to what the town would want.

Mr. Vafiades stated some open space would be left open. There is a moth habitat, so they will try to leave that area as open as possible. He stated the pine is an indicator of the area the moth lives in. The board knew the area because of a previous subdivision review (the subdivision never was approved, it was pulled by the applicant). Madge B. stated it was Pitch Pine and Scrub Oak. He said they would try to stay away from that area. He said the area they would build had nice sandy soils which would be good for home sites.

Roger A. asked about the size of the lots, and noted the wet area delineated on the plan. He asked if the wet area was deleted from the lot size calculations? Mr. Vafiades stated that it was, there is net area calculations on the plan for the entire area and for individual parcels. He said lot sizes are in excess of 30,000 sf. Roger stated they need to be 80,000 sf. Madge B. and Mr. Vafiades stated it was a cluster subdivision. He said each lot is about an acre in size. He said there was an open space area which includes the amount of area that would be used for traditional sized lots. He added that the board was looking at a sketch plan.

Roger A. asked if the road would be paved? Mr. Vafiades stated, “Yes, to the town standards”. Roland L. asked if there would be sidewalks? Mr. Vafiades was not sure but he thought they would prefer not to have them, because they are not connected to anything. He said it was open for discussion.

Mr. Theriault asked if there would be a minimum house size? Mr. Vafiades said there would be Homeowners Documents but he didn’t think they would be too restrictive.

Roger A. stated that when the initial subdivision (on White Pine) was before the board, the DEP was involved for the stream crossing. Mr. Vafiades was aware of that and he stated they needed a permit from the DEP, because they needed to fill in about 7000 sf of wetlands to access the area they would be developing.

Roland L. said there was also an issue with lighting and the moths. Roger A. agreed but it was in a subdivision on the other side of this property off Route 11. Mr. Vafiades said they were open to discuss this, noting that he assumed lighting would be bad. Roger stated they didn’t want any lighting on the exterior of the house, because it would draw the moths in. Roland agreed there was a lot of discussion on this. Madge B. agreed it was on the other side, in the Pitch Pine, Scrub Oak area. Mr. Vafiades stated that he assumed moths would sense light for quite a distance, so he would try to get an opinion on it. Roger also thought there was a requirement for the other development to burn the area. Roland believed it was because of the limitations for the moth, that they did not pursue the development. Roger agreed.

Roland L. asked if the board was doing a site visit, was there a trail to follow? Mr. Vafiades stated there was not at this time and he planned on having his crew cut a slash line to follow. The board asked when the area might be ready? Mr. Vafiades said he needed some time. The board asked that he get in touch with Barbara when he was ready for the board to view the area, as well as do further plan review.

Nothing further was discussed.

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**Growth Permits – Map 40, Lot 30A (Granny Kent Pond Road)**

**GP #05-18**

Legal lot of record, meeting the requirements for a buildable lot in Shapleigh.

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**The Planning Board meeting ended at 9:45 p.m.**

**NOTE: The summer hours are in effect beginning the first meeting in April, the meetings will begin at 7:30 p.m. and public hearings will be held at 7:00 p.m.**

*The next meeting will be held **Tuesday, July 10, 2018** 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 10, 2018**

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

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**Minutes are not verbatim, unless in quotes “”**

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**The minutes from Tuesday, June 26, 2018 were accepted as read.**

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

\*\*\*\*\*

There were no applications before the board this evening. However, the board did hold a workshop at 5:30 p.m. and the topic was subdivision review. Lee Jay Feldman, Director of Planning, Southern Maine Planning and Development Commission kindly spent several hours speaking on the topic of subdivision, answering questions from the board members and providing previously requested information. The board was grateful for the time spent, and Mr. Feldman stated that if the board had any questions regarding a particular subdivision review that he would be available to provide assistance.

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### **Growth Permits**

#### **• Map 1, Part of Lot 15A – New Home**

**GP #08-18**

The proposed lot will meet the criteria in the zoning ordinance for dimensional requirements.

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

**NOTE: The summer hours are in effect beginning the first meeting in April, the meetings will begin at 7:30 p.m. and public hearings will be held at 7:00 p.m.**

*The next meeting will be held **Tuesday, July 24, 2018** at 7:30 p.m. The Planning Board meets the 2<sup>nd</sup> and 4<sup>th</sup> Tuesday of each month unless it falls on a holiday or Election Day. Any scheduled public hearing takes place at 7:00 p.m. prior to the scheduled meeting. Also, should there be a cancellation due to a storm event, holiday or Election, the meeting will typically be held the following Wednesday, also at 7:30 p.m. Please contact the Land Use Secretary if there is a question in scheduling, 207-636-2844, x404.*

Respectively submitted,

Barbara Felong,

Land Use Secretary     [planningboard@shapleigh.net](mailto:planningboard@shapleigh.net)



# ***Shapleigh Planning Board***

## ***Minutes***

**Tuesday, August 14, 2018**

Members in attendance: Roger Allaire (Chairman), Steve Foglio (Vice Chairman), Madge Baker, Roland Legere, Maggie Moody and Alternate Ann Harris. Code Enforcement Officer Mike Demers was also in attendance.

\*\*\*\*\*

Minutes are not verbatim, unless in quotes “” – If the name of a citizen making a comment was not requested by the Planning Board Chairman, the reference to their name will be known as ‘Citizen’.

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**The minutes from Tuesday, July 10, 2018 were accepted as read.** Note: There was no meeting held on Tuesday, July 24, 2018.

***The Planning Board meeting started at 7:30 p.m.***

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### **Conditional Use Permit – Office for Property Maintenance & Excavation Business – Map 18, Lot 32 (112 Emery Mills Road) – Paul & Bob Muse, Applicants**

Paul Muse was in attendance for the review of the application.

In addition to the application, provided was a sketch plan depicting the existing 26 x 40’ building, formerly used for Emery Mills Energy. The sketch plan depicted the distance from the building to the lot lines, the location of the well and septic system and the location of the existing sign.

On the application, the detailed description of the project is as follows: This is the old Emery Mills Energy. Replace existing sign with new sign for business. Muse Brothers – Property Maintenance & Excavation, Snow Plowing.

Roger A. opened the meeting asking Mr. Paul Muse to let the board know what his intentions were. Mr. Muse stated that he and his brother wanted to utilize his office for a billboard sign for their new business, Muse Brothers Property Maintenance, Excavation and Plowing. He said they wanted to take care of some of their old customers they had with Emery Mills Energy, who had been requesting them to do what they could. He said since Eastern Propane was moving out, they figured they would use that space and put a sign up. (Eastern Propane was utilizing the building after Emery Mills Energy.)

Mr. Muse stated that they were going to meet with customers by appointment only. He thought he may deal with customers on Saturday mornings by appointment.

Roger A. asked if it was just an office being used, there would be no equipment going in and out of the location? Mr. Muse stated, “That is correct.”

Roger A. asked if there were any other questions? He noted it was a change of use because there was an existing office, but the business is going from propane to property maintenance.

Madge B. stated there was no need for parking plans or planting plans because everything was in existence and no changes were being made. Roger A. agreed, the parking is already there. He said there is only a change of use. Madge added, “And a change of signage.” Roger agreed and stated once approved, the sign permit goes through the Code Enforcement Officer.

Roger A. stated the board should hold a public hearing because it is a change of use, but he saw no other issues. Madge B. agreed.

Mr. Muse asked if he had to come back again. Roger A. said, “Yes, in two weeks.” The board will hold a public hearing at 7:00 p.m. and take the application up at the meeting.” Mr. Muse asked if he had to wait to put up a sign for two weeks. Roger said, “Yes, you have to wait, otherwise the Code Enforcement Officer would have to tell you to take it down.”

Mr. Muse asked if someone else rented office space in the building, could he still leave his sign up? Roger said, “You could, but you may need to split the use of the sign.”

**Roger A. stated the Public Hearing will be at 7:00 p.m. on Tuesday, August 28, 2018. A notice to abutters will be mailed as well.**

Mr. Muse asked if there would be a site visit? Roger A. didn’t feel it was necessary because the board was well aware of the location.

Steve F. asked about how many offices are in the building? Mr. Muse stated it was previously used as one office, but there are four separate rooms. Steve asked if they had to come back if they rented out another office to someone else? Roger A. stated if he rented office space to another business it would be an amendment to the Conditional Use Permit for the additional use. Maggie M. stated there would have to be another public hearing. Madge B. noted the board would have to deal with the parking and amount of traffic, etc. Roger agreed, the board would have to look at this depending on what the business was, if there would be enough parking, because the board doesn’t know at this time what the new business would entail.

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

Nothing further was discussed.

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**Conditional Use Permit – Placing a Modular Home in the Shoreland District (§105-17) – Map 40, Lot 30A (Granny Kent Pond Road) – Lee Melvin – Arundel Homes, Applicant; Heather Hawkins, Elizabeth McDowell, Property Owners**

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

In addition to the application, the applicant provided the board with a sketch plan depicting the proposed location of the modular home in relation to the lot lines, as well as where silt fencing will be placed, bank erosion control, a stone area for roof runoff, and the area for the new septic system. All new structures shall be beyond the 100 foot line to the high water mark.

Also provided was a letter from the property owners stating that Mr. Melvin could represent their interest, along with a copy of the Subsurface Wastewater Disposal System Application dated 8-29-16, drafted by Kenneth Gardener, SE #73.

On the application, the detailed description of the project is as follows: 1175 SF single family ranch style home, 2 bedroom, w/walkout basement, and 8' x 16' deck.

Roger A. asked Mr. Melvin to let the board know what they intended to do. Mr. Melvin stated they were putting in a 42' x 28' ranch with an 8' x 16' deck on the front. He stated there would be a walkout door underneath the deck and he noted that they would meet all the setbacks, included being beyond the 100 foot mark to the water. He believed they were at least 16 feet away from that, including the deck. Mr. Melvin stated that because of the septic location and the slopes, they will loam up to the back of the house and there will be a stone drip edge on the back. He stated the owners want plantings on either side of the house but they are not sure if they will do it in the fall or spring, because it will be late in the season before it is completed. He said there would be four or five shrubs, which are not on the plan, along the front of the house facing the road, where the stone is located. He said they also talked about ground cover and an herb garden.

Roger A. asked about the walkway going down to the lake? Mr. Melvin stated that it was already in existence. He said there were stairs and a dock on site now. He believed there were several owners over the last few years, and they all had the intention of building but no one ever did. He thought at one time there was a trailer on site, noting there was a temporary electric service.

Mr. Melvin stated that a survey of the property had been done by LinePro about a year ago.

**Roger A. stated a site inspection would be done at 6:00 p.m. on August 28<sup>th</sup>. A notice to abutter will be mailed as well.**

Steve F. asked if this was a steep lot. Mr. Melvin stated that it was relatively flat where the house would go but then it sloped off at about the 100 foot mark. Steve said his only concern was with measurements. Mr. Melvin stated that LinePro Land Surveyors did the measurements, he did not do them, and so they should be accurate. Steve stated that the board will require them to set the foundation in a certain location, based on measurements, so they need to be accurate. He said a surveyor will be required to take measurements to the foundation. He wanted to be sure they were 100 feet back. Mr. Melvin stated that they were at least 115 feet back from the high water mark.

Roland L. asked why the board was looking at this? Ann H. asked if it was a best possible location? Roger A. stated, "No, it is because a modular home in the Shoreland zone requires approval by the board."

Mr. Melvin asked why modular homes are picked out. Madge B. was not sure. He said he did not have to do this with other towns, they consider it a stick built. It is all wood construction. CEO Demers stated there was a definition of modular or manufactured housing unit in the ordinance, that it is why it is here tonight. The definition is as follows: Manufactured Housing Units – Structures, transportable in one or two sections, which were constructed in a manufacturing facility and are transported to a building site and designed to be used as dwellings when connected to the required utilities, including the plumbing, heating, air-conditioning and electrical systems contained therein.

Roger A. stated that in prior years, when the crane was brought in to set the house, people have come in and leveled the lot, clearing all the trees out, with no regards whatsoever that they are in the Shoreland District or what is going to happen due to the removal of the trees. Roger believed this is why this is in the ordinance and it has never been changed. Mr. Melvin thought that was an issue within 100 feet. Roger said it was about how they needed to get the house to the location and to be able to set it on the foundation. Mr. Melvin said in this case it wasn't an issue. Roger said he understood but this is why the ordinance is here. He said the board needs to be able to say it isn't going to be setting in the road before it is set on the lot, or that trees will be needlessly cleared where they should not be. Roger stated the board can't take each case as an individual case, the ordinance has to cover anyone bringing in a modular home to make sure it is brought in correctly. Roger did not see any environmental issues in this case, but the board still needs to look at it.

Mr. Melvin spoke about wanting to get this in as soon as possible, being able to line up the crane and crew was difficult. Roger A. stated the board could not have a special meeting for this application. He noted that as long as he was on the board, he may have held only one special meeting. It has to be a dire need. He stated this would have to be reviewed as it is typically done, and have the final review in two weeks. He added that a notice to abutters must be done by State law and the board needed the two weeks to be able to accomplish this, as there has to be a 10 day notice.

Roger A. stated that at the next meeting the board will be taking it up and voting on it. Mr. Melvin asked if the board was going to be doing a site visit before the meeting. Roger said the board will be on site at 6:00 p.m. before the meeting. Mr. Melvin wondered why he had to send the material to members prior to the meeting, he thought they would have already gone to the site. Roger said that it just gave members notification to what was going to be on the agenda and then the site inspection notification is put on the agenda, which also notifies the townspeople in case they want to attend.

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

Nothing further was discussed.

**Best Possible Location – Replace Existing Structure in Shoreland District – Map 38, Lot 12 (13 Mill Pond Road) – James Fiske, Applicant; Patricia Ricciardi, Property Owner**

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

Provided along with the application, was a conceptual plan drafted by Joseph Stanley of LinePro Land Surveyors, LLC, dated June 28, 2018, depicting the existing lot lines, and the existing house, 20'4" x 36'7" in size, in relation to the lots lines. Including the drip edge the measurements are 21'8" x 37'11."

Also shown on the sketch is the bulk head and deck location. The structure appears to be 55.7' to the edge of Mill Pond Road in one location and 42.3' in another.

Also provided, was an email from Patricia Ricciardi, dated 7/25/2018 that grants Mr. Fiske permission to represent her on this project; pictures of the existing house; a copy of the Subsurface Wastewater Disposal System Application, dated 3/16/1986, drafted by John Large, SE #7; and a letter from Mr. Fiske of Mousam Valley Builders, Inc., dated 8/6/2018 which stated in part as follows:

We are requesting a site for best location of a non-conforming structure to replace an existing house at 13 Mill Pond Road in North Shapleigh Village. Existing house was built in the 1930's and has a failing concrete block foundation and substandard construction. We propose to tear down and remove existing 20' x 36' house and rebuild to existing codes. We hope to expand existing building from 8% to 10% lot coverage which could be accomplished with existing setbacks. Currently, lot is 9000 SF and existing house is approximately 750 SF. We are proposing to build a 24' x 36' house (900 SF).

There is an existing 2 bedroom state approved chambered septic system and well on the property. Joe Stanley from LinePro Surveying has researched deeds and has prepared a site plan including existing structures and markers.

On the application, the detailed description of the project is as follows: Tear down existing house and rebuild with new foundation.

Roger A. asked Mr. Fiske to tell the board what they were proposing. Mr. Fiske stated they wanted to replace an existing structure that was in rough shape, that was built in the 1930's. He said there is a failed concrete block foundation, it is caving in on one side allowing rodents to come in and out of the foundation. He said there wasn't anything on the house that is worth saving. He stated he was before the board to see what they can do. Currently the home is approximately 20' x 36' with a bulkhead to create one of the setbacks. He was hoping they would be able to make the house 24' x 36', which makes the house under the 10% lot coverage, barely under but under. Mr. Fiske said he was looking for the best possible location and asking if he could expand to the 24' x 36'. He said a 20 foot house makes it very hard to put in a set of stairs.

Roger A. asked from the deck to Mill Pond Road, is there any movement there? Mr. Fiske said if he was looking at the 55 feet to the road, that was the only area that he could shift it forward a little bit. He said that LinePro did this project, so that number is accurate. Mr. Fiske said this is a tight neighborhood, there are buildings everywhere. He said there is a barn very close to the back lot line. Ann H. looked at pictures and thought it looked like the barn was maybe 2 feet away. Joe Stanley of LinePro agreed.

Mr. Fiske stated that currently there is a little grass and shrubbery on the lot. He did not feel they would disturb a lot because the septic system was already in. He stated they would put in a foundation but nothing else had to be disturbed.

Steve F. asked if they would be putting a deck back on the front? Mr. Fiske stated, "Yes, we will have to put that back it is actually a porch, it's how you get into the house, the front steps as well. Something has

to go back on.” He added that if the board allows him to expand the house, he will have to figure out how to get into the basement, probably another bulkhead.

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

**Roger A. scheduled a site visit for 6:30 p.m. on Tuesday, August 28<sup>th</sup>. A notice to abutters will be mailed as well.**

Nothing further was discussed.

**Construction of a Private Way – Map 6, Lot 34E (Nason Road) – Brian White Applicant; Joseph Stanley of LinePro Land Surveyors, LLC Representing**

Mr. Stanley was present for the review of the application. Mr. White was in attendance as well.

Provided along with the application, was an aerial view of the lot which depicted the abutting lots in relation to Lot 34E; a copy of the Warranty Deed from Albert H. Conrad of Shapleigh Maine to Brian R. White and Kerri E. White of Shapleigh Maine ownership, Plan Book 9690, Page 234-235 dated received at YCRD on 9/20/1999; and a Warranty Deed granting property from Albert H. Conrad of Shapleigh Maine to Brian R. White and Kerri E. White, Plan Book 17085, Pages 422-424, dated received at the YCRD on 8/26/15; and a Sample of a Road & Drainage Maintenance Agreement by Brian & Kerry White.

In addition, provided is a plan entitled ‘Plan of Private Way For Brian & Kerrie White, P.O. Box 106, Shapleigh, ME 04076 Of Property Located on Nason Road in Shapleigh, Maine’. The plan depicts the Road & Ditch Section, Sample of Typical Ditch Turnout & Level Spreader, a 1500’ x 50’ private way with a 50’ x 50’ turnaround at the end of the private way, two proposed five acre lots that will be gifted to family and a remaining 15.71 acre lot proposed to be gifted to family (13.93 excluding ROW area). The plan depicts (3) ditch turnouts with level spreaders. On the plan, Note 6 reads as follows: *“The Town of Shapleigh will not be responsible for the maintenance, repair, or plowing of the private way and further lot divisions utilizing the private way are prohibited without prior approval of the Shapleigh Planning Board.” The private way is to provide access to three lots, a maintenance agreement shall be required by the Planning Board and recorded in the York County Registry of Deeds. The maintenance agreement shall specify the rights and responsibilities of each lot owner with respect to the maintenance, repair and plowing of the private way.*

Roger A. asked Mr. Stanley what their intentions were? Mr. Stanley stated that the project was on Nason Road, just past Ridley’s farm, on the left hand side. He said that the applicants are seeking approval for a private way for a future family division. The private way is on the easterly side of the property, using an existing road that was used previously. They want approval for the maximum amount of 1500 feet. He said the slopes of the roadway all run back toward the client’s property, so the road will be pitched to the left and any runoff will go into a ditch, evenly spreading it out with a level spreader to channel the rainwater from the ditch, spreading it out on to the applicant’s property. At present they are proposing one toward the low spot and one toward the end of the road. He pointed to the location on the plan he provided. Steve F. asked if there were three water turnouts? Mr. Stanley said, “Yes, that is what I am proposing at this point.”

Roger A. asked when the lots would get divided? Mr. Stanley thought it would be dictated when the family members were ready. He was not sure, they wanted to get the road in first. Mr. White stated that he had a child that was 2½ and he wanted to build before he starts school. Roger said that in the ordinance it states the road is to be put in for access to the lots, so if the lot is not divided then we are putting in a road for what? Roger was concerned with them circumventing subdivision. Other members noted it was going to family which is exempt. Roger said that they could sell to anyone. Steve said it could not be sold to someone else for five years. Mr. Stanley stated that it is written on the plan that they have to keep them for five years or come back to the Planning Board or gift them to family. He said the State law is on the plan which will get recorded. Roger stated that under Section 105-60.1 it states a private way is to be made specifically to provide access to those lots but at this time there are no lots, and may not be for 10 or 15 years. Mr. White stated they could create the lots now if that is what the board wants. He said that once the road is up to specs he can give his brother the land. Roger did not see that they needed to create the entire 1500 feet to get to the lots he was referring to.

Ann H. asked if it could be a condition to allow the whole road with a condition that the lots ‘will’ be divided later. Roger A. was concerned with the sale of future lots if the whole road was created. Mr. White stated that the land would be staying in the White family. Mr. White stated that he wanted to create the turnaround in what would be his son’s lot 18 years from now. He said they could create the lot now.

Maggie M. asked if there was a law that allowed for a private way, even if the lot was not being broken up. The chart on 105-60.1 does address one lot but it is a lesser standard. The Whites were going to build to the standard for 2 or more lots. Maggie said if they were building at the end they would need a driveway to the road. Roger said in that case they would just build a driveway. Madge B. noted the difference between the number of lots and the difference with what was required. Steve F. read the requirements. The requirements in part are as follows:

| <b>Number of Lots Served</b>                              |                         |                         |
|-----------------------------------------------------------|-------------------------|-------------------------|
|                                                           | <b>1</b>                | <b>2 or more</b>        |
| <b>Minimum Roadway Width</b>                              | <b>12’</b>              | <b>16’</b>              |
| <b>Minimum Subbase (Heavy Road Gravel – max. size 4”)</b> | <b>12”</b>              | <b>15”</b>              |
| <b>Wearing Surface (Crushed Gravel)</b>                   | <b>2”</b>               | <b>2”</b>               |
| <b>Maximum Length of Dead End</b>                         | <b>1500’</b>            | <b>1500’</b>            |
| <b>Maximum Grade</b>                                      | <b>10%</b>              | <b>8%</b>               |
| <b>Minimum Grade</b>                                      | <b>0.5%</b>             | <b>0.5%</b>             |
| <b>Turn Around at Dead End</b>                            | <b>Hammer Head or T</b> | <b>Hammer Head or T</b> |

Madge B. asked what the issue was, if they sell to someone other than family then they would have to come back to the board. Roger A. was concerned about the future sales. Steve F. thought the board would pick it up at Growth Permit time. Mr. Stanley said he believed the applicants would agree to any condition, and that if it wasn't conveyed to family they would automatically have to come back to the board. Mr. White agreed.

Mr. Stanley stated that in the spirit of the Private Way ordinance, it asks that all the lots be depicted on the plan or it has to come back for additional approval, which is why the lots are on the plan. Roger said once the Private Way is created any additional lots have to come back to the board. The applicants stated that they understood. Roland L. stated that the ordinance requires a maintenance agreement, where it is family is it still required? Roger A. said, "Yes." Mr. Stanley said he would always recommend a maintenance agreement, because sometimes family can have the most difficult issues. Ann H. asked, with respect to the maintenance agreement, it says where there are 2 or more lots a maintenance agreement shall be required, are there 2 or more lots at this time? Roger said the plan was showing 3 lots presently. Ann said that right now it is one lot, but the intent is 3 lots. Roger agreed.

Roland L. asked if the board needed to do a site visit. Roger A. stated yes, because the road is going on natural soil, no excavation is being done, 15 inches of gravel is going on what exist today, the board needs to see what that looks like. Mr. Stanley agreed, only trees have been cut. Roger wanted to be sure there were no wet areas that need to be addressed. Mr. Stanley said there was natural grade but he welcomed the board to look at it.

**Roger A. stated a site inspection would be done at 5:30 p.m. on Tuesday, August 28, 2018. A notice to abutters will be mailed as well.**

Nothing further was discussed.

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**Amendment to a Major Subdivision / Hidden Cove – Adding Restrictions to Approved Subdivision Plan – Hidden Cove, LLC, Applicant; Joe Stanley of LinePro Land Surveyors, LLC Representing**  
Mr. Stanley was present for the review of the application.

Mr. Stanley stated that the Town of Acton was presented with some resistance to the approved subdivision after it was approved, and he was requested to attend several meetings with the Acton Selectmen. At those meetings the Selectmen had requested several changes to the approved plan to ease those concerns, but as of today he was advised the Selectmen voted to remove the requirement.

Mr. Stanley stated that his client was ready to begin marketing the properties, and therefore he was withdrawing his request for an amendment to the subdivision. The board members accepted his withdrawal.

Nothing further was discussed.

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**Other:**

Board members agreed that it would be best to hold a workshop on any proposed ordinance changes, to be able to discuss it at length if needed. A date was not set but members agreed that either prior to a meeting or another day may work. When a date is agreed upon it will be posted at the Town Hall.

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**Growth Permits**

**Map 42, Lot 28E (Emily Lane) – New Home**

**GP #09-18**

Board members reviewed the application and agreed it was a lot of record from a subdivision entitled ‘Subdivision of Land in Shapleigh, Maine owned by Albert J. Cameron’ dated July, 1971 and recorded in the YCRD as Plan Book 55, Page 9, when it originated.

**Map 12, Lot 22-4 (Archer Street) – New Home**

**GP #10-18**

Board members reviewed the lot and approved the Growth Permit, as the lot was recently before the board and obtained approval for a Private Way to obtain the required road frontage for the lot, which had not been created when this lot was approved as part of the Sandy Point Subdivision.

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**The Planning Board meeting ended at 9:00 p.m.**

**NOTE: The summers hours are in effect thru October 31<sup>st</sup>, the meetings begin at 7:30 p.m. and any scheduled public hearings begin at 7:00 p.m.**

The next meeting will be held **Tuesday, August 28, 2018** 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. 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.

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

# ***Shapleigh Planning Board***

## ***Minutes***

**Tuesday, August 28, 2018**

Members in attendance: Roger Allaire (Chairman), Steve Foglio (Vice Chairman), Madge Baker, Roland Legere, Maggie Moody and Alternate Ann Harris. Code Enforcement Officer Mike Demers was also in attendance.

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Minutes are not verbatim, unless in quotes “” – If the name of a citizen making a comment was not requested by the Planning Board Chairman, the reference to their name will be known as ‘Citizen’.

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

#### **Conditional Use Permit – Office for Property Maintenance & Excavation Business – Map 18, Lot 32 (112 Emery Mills Road) – Paul & Bob Muse, Applicants**

Paul Muse was in attendance for the public hearing.

Roger A. opened the public hearing by asking Mr. Muse what he intended to do. Mr. Muse stated that he would like to put up a sign and use his office to start a new business.

Roger A. stated that there appeared to be no changes to what is in existence now, meaning it is the same office space, parking area is the same, and no equipment will be stored on site. Roger asked what the hours of operation would be? Mr. Muse stated that he would have hours by appointment on Saturday. Roger stated that if he thought he might have clients come in during the week it would be best to add hours, in case in the future he found the need to have them. Mr. Muse agreed to state the hours of operation as 7:00 a.m. to 5:00 p.m., six days a week, Monday thru Saturday.

Madge B. asked if there would be any changes to the lighting outside? Mr. Muse stated there would be none. He noted he changed the existing lights from regular to LED, but he didn’t add any.

Madge B. asked if the sign would be the same size? Roger A. stated the sign would be going thru the CEO.

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

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

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**The minutes from Tuesday, August 14, 2018 were accepted as read.**

***The Planning Board meeting started at 7:30 p.m.***

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*Roger A. moved the order of review, due to the minimal amount of time it would take to review the new application vs. the final review of existing applications.*

**Conditional Use Permit – Home Occupation for Dog Grooming – Map 38, Lot 24 (16 Mann Road) – Jessica Brandis, Applicant; Dan Brandis, Property Owner**

Mr. & Mrs. Brandis were both present for the review of the application.

In addition to the application, provided was a sketch plan of the existing home, depicting the grooming area within the home to be used, the location of the parking area and driveway, as well as the location of the existing well and leach field. Also on file is a copy of the Subsurface Wastewater Disposal System Application, drafted by John L. Murphy, SE #16, dated 10/31/1998.

The detailed description of the project is as follows: Dog grooming, washing, blow drying, haircuts on all type of dogs. Turning spare bedroom into grooming spa.

Roger A. asked the applicants to let the board know what they wanted to do. Mrs. Brandis stated that they wanted to open a grooming salon for dogs and cats, and they wanted to call it Grand Paws Pet Spa. She said they would be grooming all kinds of dogs and cats, and they wanted to have a small sign out front. She stated they would dispose of waste at the transfer station. Roger noted that the sign will be permitted through the Code Enforcement Office.

Roger A. asked what the hours of operation would be? Mrs. Brandis stated they would be open from 8:00 a.m. to 7 p.m., Monday thru Saturday. Mr. Brandis stated it would mostly be by appointment, but they would allow for a limited amount of walk-ins.

Roger A. asked if there would be a fenced area outside or would they all be inside? Mrs. Brandis stated they would be inside only, except for going to and from the vehicle or to go to the bathroom, for that they would be on leash.

Ann H. asked if Mrs. Brandis would be the only groomer? She stated yes, but her husband would be helping her as well.

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

**Roger A. stated a site visit would be scheduled for Tuesday, September 11<sup>th</sup> at 6:30 p.m., and a public hearing at 7:00 p.m. on that evening. The final review will be brought up at the meeting to follow at 7:30.**

Roger A. stated at the site visit the board members will be looking at the parking area and where the grooming will actually take place. Mr. Brandis asked if the area had to be all set up. Roger A. stated, “No, we just need to know where it is going to take place”. Madge B. added that the board will want to know how many animals will be groomed in a day. Mrs. Brandis stated that they were hoping for six a day. Madge said they needed to know how many cars would be coming in. Mrs. Brandis stated they would not have more than 3 pets at a time. Mr. Brandis stated that they would be dropping them off and leaving. Nothing more was discussed.

**Conditional Use Permit – Office for Property Maintenance & Excavation Business – Map 18, Lot 32 (112 Emery Mills Road) – Paul & Bob Muse, Applicants**

Paul Muse was in attendance for the final review of the application.

Previously received, in addition to the application, was a sketch plan depicting the existing 26 x 40' building, formerly used for Emery Mills Energy. The sketch plan depicted the distance from the building to the lot lines, the location of the well and septic system and the location of the existing sign.

On the application, the detailed description of the project is as follows: This is the old Emery Mills Energy. Replace existing sign with a new sign for business. Muse Brothers – Property Maintenance & Excavation, Snow Plowing.

Roger A. asked Mr. Muse to explain once again what he wanted to do, in case there was someone in the audience that missed the public hearing. Mr. Muse stated that he and his brother wanted to use the location for their old business, Emery Mills Energy, to operate their new business that would be a property maintenance and excavation business for the lakes region. He stated there would be no equipment stored on site, the equipment will be stored in Acton.

Roger A. stated that on the old permit for this location the hours of operation were 7:00 a.m. to 5:00 p.m., Monday thru Friday and 7:00 a.m. to 1:00 p.m. on Saturday. He said the new hours will be 7:00 a.m. to 5:00 p.m., Monday thru Saturday. Roger then read the other conditions for the old CUP, they are as follows:

1. Signage to be approved by the Code Enforcement Officer.
2. No trucks to be parked overnight on the property.
3. Planting to take place no later than September 30, 2000 seeded and restored.
4. Entrance and exits to be no greater than 26 feet.

Roger A. noted the entrance and exit size is also in the ordinance.

Roger A. did not see any other issues, as this office has been in existence and there are no changes to the site or use of the property. The existing conditions pertaining to this business will remain.

**The conditions of approval are:**

- 1) The hours of operation shall be 7:00 a.m. thru 5:00 p.m., Monday through Saturday.**
- 2) No trucks to be parked overnight on the property. No maintenance or excavation equipment to be located on the property.**
- 3) Signage shall be permitted through the Code Enforcement Office.**
- 4) No changes to the existing entrance and exits without Planning Board approval.**
- 5) Any additional businesses using the office space will need approval by the Planning Board, as an amendment to this Conditional Use Permit.**

**Madge B. moved for approval with the stated conditions, to allow for the use of the existing office building for the applicant's property maintenance and excavation business, on Map 18, Lot 32. 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.

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The Findings of Facts

1. The owner(s) of Shapleigh Tax Map 18, Lot 32 (112 Emery Mills Road), are listed as Paul & Robert Muse, P.O. Box 157, Acton, Maine 04001.
2. The property is located in the General Purpose District and according to the assessor, the property contains .51 acres.
3. The applicant is before the board to open an office for a Property Maintenance and Excavation Business.
4. Received from the applicant in addition to the application was a sketch plan depicting the existing 26 x 40' building, formerly used for Emery Mills Energy. The sketch plan depicted the distance from the building to the lot lines, the location of the well and septic system and the location of the existing sign.
5. The detailed description of the proposal is as follows: This is the old Emery Mills Energy. Replace existing sign with a new sign for business. Muse Brothers – Property Maintenance & Excavation, Snow Plowing.
6. The board reviewed the Basic Performance Standards for this site location and office space and concurred the application met all the standards imposed, as no changes are being made to the property or structure.
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. No changes are being made to the existing structure, office space or parking area. The only change is the type of business using the office space.
8. A notice was mailed to all abutters within 500 feet of the property on August 15, 2018. Meetings were held on August 14, 2018 and August 28, 2018. A site inspection was not necessary because the board members were very familiar with the location. A Public Hearing was held on August 28, 2018.
9. The Planning Board unanimously agreed to approve the Conditional Use Permit to operate a Property Maintenance and Excavation Business out of the existing office space located on Map 18, Lot 32, per the plan provided with conditions.
10. **The conditions of approval are:**

- 1) The hours of operation shall be 7:00 a.m. thru 5:00 p.m., Monday through Saturday.
- 2) No trucks to be parked overnight on the property. No maintenance or excavation equipment to be located on the property.
- 3) Signage shall be permitted through the Code Enforcement Office.
- 4) No changes to the existing entrance and exits without Planning Board approval.
- 5) Any additional businesses using the office space will need approval by the Planning Board, as an amendment to this Conditional Use Permit.

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, August 28, 2018, to approve the Conditional Use Permit to use the existing office space for a Property Maintenance and Excavation Business, to be located on Map 18, Lot 32, per the plan provided and with five conditions.

Vote:

By a unanimous vote of 5 – 0, the motion to approve the Conditional Use Permit to use the existing office space for a Property Maintenance and Excavation Business, to be located on Map 18, Lot 32, per the plan provided with five conditions, was accepted.

Decision:

The Conditional Use Permit to use the existing office space for a Property Maintenance and Excavation Business, to be located on Map 18, Lot 32, per the plan provided with five conditions was approved.

Conditional Use Permit – Placing a Modular Home in the Shoreland District (§105-17) – Map 40, Lot 30A (Granny Kent Pond Road) – Lee Melvin – Arundel Homes, Applicant; Heather Hawkins, Elizabeth McDowell, Property Owners

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

Previously received, in addition to the application, was a sketch plan depicting the proposed location of the modular home in relation to the lot lines, as well as where silt fencing will be placed, bark erosion control, a stone area for roof runoff, and the area for the new septic system. All new structures shall be beyond the 100 foot line to the high water mark.

Also provided was a letter from the property owners stating that Mr. Melvin could represent their interest, along with a copy of the Subsurface Wastewater Disposal System Application dated 8-29-16, drafted by Kenneth Gardener, SE #73.

On the application, the detailed description of the project is as follows: 1175 SF single family ranch style home, 2 bedroom, w/walkout basement, and 8' x 16' deck.

Roger A. asked Mr. Melvin to let the board know what they intended to do. Mr. Melvin stated they were putting in a 28' x 42' single story ranch with an 8' x 16' deck on Granny Kent Pond Road. He stated there would be a walkout basement, they were 120 feet from the water and they would be meeting all the setbacks. This would be a single family residence.

Roger A. stated the reason the application is before the board is because under §105-17, any modular home in the Shoreland District requires a conditional use permit. Roger stated §105-41 also speaks about modular homes in the Shoreland District and the requirements. Mr. Melvin did not agree that this structure should be reviewed as it is like any other stick built house in his opinion. Roger noted that most of §105-41 was for the review of mobile home parks, but the section does talk about setback requirements and this structure will meet the requirements in the ordinance, that are listed under §105-18.

Roger A. stated there is no road issue. Roger stated that the applicant would need to be sure best management practices were used during the project. Mr. Melvin stated they would be using a silt fence and erosion control chips. Roger didn't see any other issues or conditions for this project.

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

The conditions of approval are:

- 1) Best management practices shall be kept in place until the project is completed, which includes the revegetation / stabilization plan.**
- 2) A building permit must be obtained by the Code Enforcement Officer before any work shall begin.**

Madge moved for approval of the application to place a modular home in the Shoreland District on Map 40, Lot 30A, with the 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 owner(s) of Shapleigh Tax Map 40, Lot 30A (Granny Kent Pond Road), are listed as Heather Hawkins & Elizabeth McDowell, 65 Applegate Lane, Falmouth, Maine 04105.
2. The property is located in the Shoreland District and according to the assessor, the property contains .7 acres.
3. The applicant is before the board to place a modular home in the Shoreland District.
4. Received from the applicant in addition to the application was a sketch plan depicting the proposed location of the modular home in relation to the lot lines, including distance to the high water mark, parking area location, stairs to the water, and the area for the new septic system. All new structures shall be beyond the 100 foot line to the high water mark.

5. Received from the applicant was a sketch plan depicting a stone grid alongside the proposed structure, a loam and seeded area in the location of the proposed septic system, an area of bark mulch placed on the water side of the property, and the location of the silt fence to be used.
6. Also provided was a letter from the property owners stating that Mr. Melvin could represent their interest, and a copy of the Subsurface Wastewater Disposal System Application dated 8-29-16, drafted by Kenneth Gardener, SE #73.
7. The detailed description of the project is as follows: 1175 SF single family ranch style home, 2 bedroom, w/walkout basement, and 8' x 16' deck.
8. The board reviewed the Zoning Ordinance §105-18 'Dimensional requirements' for the proposed site location for the modular home and concluded it met the requirements in the Shoreland District.
9. The board reviewed Zoning Ordinance §105-41, 'Manufactured housing units and manufactured housing unit parks' and concurred the manufactured housing unit met the standard requirement for site built housing, additionally all requirements pertaining to manufactured housing units in a mobile home park do not apply.
10. A notice was mailed to all abutters within 500 feet of the property on August 15, 2018. Meetings were held on August 14, 2018 and August 28, 2018. A site inspection was conducted by the board members prior to the meeting on August 28, 2018. A Public Hearing was held on August 28, 2018.
11. The Planning Board unanimously agreed to approve the Conditional Use Permit to place a modular home in the Shoreland District located on Map 40, Lot 30A, per the plans provided with conditions.
12. **The conditions of approval are:**
  - 1) **Best management practices shall be kept in place until the project is completed, which includes the revegetation / stabilization plan.**
  - 2) **A building permit must be obtained by the Code Enforcement Officer before any work shall begin.**

Motion:

After careful consideration and a review of all material presented to the Board, including the review of the §105-18 'Dimensional requirements', and Zoning Ordinance §105-41, 'Manufactured housing units and manufactured housing unit parks' a motion was made on Tuesday, August 28, 2018, to approve the Conditional Use Permit to place a modular home in the Shoreland District, to be located on Map 40, Lot 30A, per the plans provided and with two conditions.

Vote:

By a unanimous vote of 5 – 0, the motion to approve the Conditional Use Permit to approve the Conditional Use Permit to place a modular home in the Shoreland District, to be located on Map 40, Lot 30A, per the plans provided with two conditions, was accepted.



**Decision:**

**The Conditional Use Permit to approve the Conditional Use Permit to place a modular home in the Shoreland District, to be located on Map 40, Lot 30A, per the plans provided with two conditions, was approved.**

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**Best Possible Location – Replace Existing Structure in Shoreland District – Map 38, Lot 12 (13 Mill Pond Road) – James Fiske, Applicant; Patricia Ricciardi, Property Owner**

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

Previously provided along with the application, was a conceptual plan drafted by Joseph Stanley of LinePro Land Surveyors, LLC, dated June 28, 2018, depicting the existing lot lines, and the existing house, 20'4" x 36'7" in size, in relation to the lots lines. Including the drip edge the measurements are 21'8" x 37'11." Also shown on the sketch is the bulk head and deck location. The structure appears to be 55.7' to the edge of Mill Pond Road in one location and 42.3' in another.

Also provided, was an email from Patricia Ricciardi, dated 7/25/2018 that grants Mr. Fiske permission to represent her on this project; pictures of the existing house; a copy of the Subsurface Wastewater Disposal System Application, dated 3/16/1986, drafted by John Large, SE #7; and a letter from Mr. Fiske of Mousam Valley Builders, Inc., dated 8/6/2018 which reads in part as follows:

We are requesting a site for best location of a non-conforming structure to replace an existing house at 13 Mill Pond Road in North Shapleigh Village. Existing house was built in the 1930's and has a failing concrete block foundation and substandard construction. We propose to tear down and remove existing 20' x 36' house and rebuild to existing codes. We hope to expand existing building from 8% to 10% lot coverage which could be accomplished with existing setbacks. Currently, lot is 9000 SF and existing house is approximately 750 SF. We are proposing to build a 24' x 36' house (900 SF).

There is an existing 2 bedroom State approved chambered septic system and well on the property. Joe Stanley from LinePro Surveying has researched deeds and has prepared a site plan including existing structures and markers.

On the application, the detailed description of the project is as follows: Tear down existing house and rebuild with new foundation.

Roger A. asked Mr. Fiske to tell the board what they were proposing. Mr. Fiske stated they had a place on Mill Pond Road in North Shapleigh and they want to tear it down and replace it. He said currently the house is 20' x 36' and they want to replace it with a house that is 24' x 36'. He said he believed this would be possible because they were under the 10% lot coverage and it wouldn't change any of the setbacks. He wasn't sure exactly where on the lot the board would like them to do that.

Roger A. asked if anyone had any questions? A citizen stated that her name was Pat Bailey and she and her husband Frederic owned property at 12 Mill Pond Road. She said they had several concerns. She

asked if it would have two bedrooms and two bathrooms? She also asked if they would be replacing the septic system? Mr. Fiske stated that there was one in existence now, a chambered system, he would not be replacing that. CEO Demers agreed stating that at present there is a State approved 2 bedroom septic system. Mr. Fiske stated that the new structure would be a two bedroom home.

Mr. Fiske asked where they were located? Mrs. Bailey said right across the street, 12 Mill Pond. Mr. Bailey spoke about the location of their well and its close proximity to the existing septic system. Mr. Fiske said the system was functioning properly, so it should not be a concern. He also added that they did not want to obstruct anyone's view, therefore the new structure will not be raised much from what it is now.

Mrs. Bailey stated that she also had concerns with heavy trucks using the road, because it wasn't in very good shape now. She asked if there could be provisions put into place for the road? Mr. Fiske stated that he understood her concerns and planned on regrading the road, as well as adding some stone, so the equipment will be able to pass through. He said it was to his benefit to upgrade the road, so his equipment does not get stuck.

Mrs. Bailey spoke about the old windmill on site, that there was an open pit and she was concerned someone would get hurt. She wanted to know if it could be removed or made to be safe? Mr. Fiske knew what she was speaking about and agreed it was an issue, but the owners of this property did not own the windmill, it was on the neighboring property.

Board members reviewed the sketch plan to see what would be the best location to move the existing structure. It was agreed that the structure could be moved five feet closer to Mill Pond Road, which would give them more room when putting in the new foundation, because at present the existing foundation is extremely close to the lot line. The board did not want the neighboring property affected by the project, and the existing distance to the road is 56.7'; by moving the structure five feet it would still meet the 50 foot setback to the side of the road.

Roland L. asked what would happen to the existing structure and foundation, noting that no debris can be taken to the Shapleigh Transfers Station. Mr. Fiske stated he would be getting a dumpster and it would be taken to Simpson's in Sanford.

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

**The Conditions of the permit are as follows:**

- 1. Best Management Practices shall be kept in place until the project is completed. There must be a person certified by the DEP in erosion control practices on site during the project.**
- 2. All debris including existing structures to be removed and the foundation, shall be taken to J. A. Simpson's in Sanford Maine. There shall be no debris taken to the Shapleigh Transfer Station.**
- 3. Per Shapleigh Zoning Ordinance §105-4.D7(c), 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.**

4. **Per Shapleigh Zoning Ordinance §105-4.D1(d), if the structure is expanded, the approved plan must be recorded with the registry of deeds, within 90 days 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.**

**Madge B. made the motion to move the house located on Map 38, Lot 12 toward Mill Pond Road by five feet, this being the water side of the house, in order to move the foundation away from the rear lot line in order to have more room to put in the new foundation without affecting the neighboring property, while still meeting the 50 setback to the road on this side of the structure. Steve F. 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 38, Lot 12 (13 Mill Pond Rad), is Patricia Ricciardi of 134 Oak Street, Halifax, MA 02338
2. The property is located in the Shoreland District and according to the assessor contains 0.2 acres.
3. The applicant is before the board for a Best Possible Location to replace the existing structure.
4. Received in addition to the application was a conceptual plan drafted by Joseph Stanley of LinePro Land Surveyors, LLC, dated June 28, 2018, depicting the existing lot lines, and the existing structure, which is 20'4" x 36'7" in size, in relation to the lots lines. Including the drip edge, the measurements of the existing structure are 21'8" x 37'11." Also shown on the sketch is the bulk head and deck location. The structure appears to be 55.7' to the edge of Mill Pond Road in one location and 42.3' in another.
5. Also provided, was an email from Patricia Ricciardi, dated 7/25/2018 that grants Mr. Fiske permission to represent her on this project; pictures of the existing house; a copy of the Subsurface Wastewater Disposal System Application, dated 3/16/1986, drafted by John Large, SE #7; and a letter from Mr. Fiske of Mousam Valley Builders, Inc., dated 8/6/2018 which reads in part as follows:

We are requesting a site for best location of a non-conforming structure to replace an existing house at 13 Mill Pond Road in North Shapleigh Village. Existing house was built in the 1930's and has a failing concrete block foundation and substandard construction. We propose to tear down and remove existing 20' x 36' house and rebuild to existing codes. We hope to expand existing building from 8% to 10% lot coverage which could be accomplished with existing setbacks. Currently, lot is 9000 SF and existing house is approximately 750 SF. We are proposing to build a 24' x 36' house (900 SF).

There is an existing 2 bedroom State approved chambered septic system and well on the property. Joe Stanley from LinePro Surveying has researched deeds and has prepared a site plan including existing structures and markers.

6. On the application, the detailed description of the project is as follows: Tear down existing house and rebuild with new foundation.
7. The existing structure, foundation and deck shall be removed and taken out of Shapleigh. The applicant stated he would be using a dumpster from Simpson's in Sanford, and all debris will be going there.
8. The board reviewed Zoning Ordinance §105-4, 'Nonconformance'. After the site inspection, and reviewing the existing setbacks to Mill Pond Road, the board concurred the best possible location would be relocating the new structure 5 feet closer to Mill Pond Road, moving the structure off the rear lot line by 5 feet to make more room to put in the new foundation. Therefore, the setback to Mill Pond Road will go from 55.7 feet to the edge to 50.7 feet. The board stated the size of the new structure will be determined by the Code Enforcement Officer.
9. A notice was mailed to all abutters within 500 feet of the property on August 14, 2018. Meetings were held on August 14, 2018 and August 28, 2018. A site inspection was held prior to the meeting on August 28<sup>th</sup> and a Public Hearing was held on August 28<sup>th</sup> as well.
10. The Planning Board unanimously agreed to approve the Best Possible Location to replace the existing structure on Map 38, Lot 12 using the plan provided, moving the structure from 55.7 feet to Mill Pond Road to 50.7 feet with conditions.
11. **The conditions of the approval are as follows:**
  1. **Best Management Practices shall be kept in place until the project is completed. There must be a person certified by the DEP in erosion control practices on site during the project.**
  2. **All debris including existing structures to be removed and the foundation, shall be taken to J. A. Simpson's in Sanford Maine. There shall be no debris taken to the Shapleigh Transfer Station.**
  3. **Per Shapleigh Zoning Ordinance §105-4.D7(c), 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.**
  4. **Per Shapleigh Zoning Ordinance §105-4.D1(d), if the structure is expanded, the approved plan must be recorded with the registry of deeds, within 90 days 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.**
  5. **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 replacement of the existing structure on Tax Map 38, Lot 12, moving the structure from 55.7 feet to Mill Pond Road to 50.7 feet 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 Tax Map 38, Lot 12, moving the structure from 55.7 feet to Mill Pond Road to 50.7 feet with five conditions, was accepted.

**Decision:**

**The Best Possible Location application to replace the existing structure on Tax Map 38, Lot 12, moving the structure from 55.7 feet to Mill Pond Road to 50.7 feet with five conditions, was approved.**

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*Note: Planning Board members asked CEO Demers to send a letter of concern to the property owner of the well mentioned during the Ricciardi application review. Members were concerned, as was Mrs. Bailey, that someone could very well get hurt on what exists there at this time. It appeared to be an unsafe condition.*  
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**Construction of a Private Way – Map 6, Lot 34E (Nason Road) – Brian White Applicant; Joseph Stanley of LinePro Land Surveyors, LLC Representing**

Mr. Stanley was present for the review of the application. Mr. White was in attendance as well. Board members did a site inspection prior to this evenings meeting.

Previously provided along with the application, was an aerial view of the lot which depicted the abutting lots in relation to Lot 34E; a copy of the Warranty Deed from Albert H. Conrad of Shapleigh Maine to Brian R. White and Kerri E. White of Shapleigh Maine ownership, Plan Book 9690, Page 234-235 dated received at YCRD on 9/20/1999; and a Warranty Deed granting property from Albert H. Conrad of Shapleigh Maine to Brian R. White and Kerri E. White, Plan Book 17085, Pages 422-424, dated received at the YCRD on 8/26/15; and a Sample of a Road & Drainage Maintenance Agreement by Brian & Kerry White.

In addition, provided was a plan entitled ‘Plan of Private Way for Brian & Kerrie White, P.O. Box 106, Shapleigh, ME 04076 Of Property Located on Nason Road in Shapleigh, Maine’. The plan depicts the Road & Ditch Section, Sample of Typical Ditch Turnout & Level Spreader, a 1500’ x 50’ private way with a 50’ x 50’ turnaround at the end of the private way, two proposed five acre lots that will be gifted to family and a remaining 15.71 acre lot proposed to be gifted to family (13.93 excluding ROW area). The plan depicts (3) ditch turnouts with level spreaders. On the plan, Note 6 reads as follows: *“The Town of Shapleigh will not be responsible for the maintenance, repair, or plowing of the private way and further*

*lot divisions utilizing the private way are prohibited without prior approval of the Shapleigh Planning Board.” The private way is to provide access to three lots, a maintenance agreement shall be required by the Planning Board and recorded in the York County Registry of Deeds. The maintenance agreement shall specify the rights and responsibilities of each lot owner with respect to the maintenance, repair and plowing of the private way.*

Roger A. asked Mr. Stanley what their intentions were? Mr. Stanley stated that they were requesting to put in a Private Way for 3 family lots. He stated the existing area is roughed in and stumped. He stated that while on the site inspection he noted that the drainage would pitch to the left, as would the road, keeping all stormwater on the applicant’s property. He said they would be evenly spreading out the stormwater with the use of level spreaders to channel the rainwater from the ditch, again spreading it out on to the applicant’s property and into a vegetated buffer.

Steve F. asked if the entire travel way was in the right-of-way, it appeared that in the beginning it is leaning toward the right onto the property across the street. Mr. Stanley said it does hug the property line on the right but he can center it which makes more sense, because it is being pitched toward the left. Roger A. thought the plan should be modified to show the entire right-of-way is on Mr. White’s property. Roger said he realized the neighboring property was a relative but still it should be, especially for the future, clear it is entirely on Mr. White’s property. Mr. Stanley and Mr. White assured the board it was entirely on the applicant’s property but Mr. Stanley said he would make it more clear on the final plan.

Roger A. stated another concern of the boards is to be certain of the distance from the ROW to what appears to be Resource Protection on the plan. Mr. Stanley stated that he did not believe there was an issue as the ROW was approximately 190 feet from the area in question. Madge B. stated that the Zoning Map shows it may be an area that requires the 250 foot boundary, as it could be high value. Mr. Stanley did not believe this area was, and thought they only needed to clear the area by 75 feet but he would check and have it correct on the next plan. He also noted that if he needed the 250 foot boundary, there was still enough room to create the necessary 200 feet of road frontage for the third lot by adjusting the road. He said again, for the next meeting he will make any necessary changes based on what he finds out about the wetland area.

Roger A. stated the board can table the application until the next meeting to give Mr. Stanley time to make any necessary adjustments regarding the wetland area, as well as making sure the entire travel way is on the applicant’s property.

Steve F. asked if it was ok for Mr. Stanley to bring the plan to the next meeting, instead of mailing it to members. Roger A. stated that that would be fine.

Mr. Stanley said Mr. White wanted to give the board a copy of a new road maintenance agreement that he preferred to the one that they originally submitted. Mr. White asked if he could bring it to the next meeting. Roger stated, “Yes”.

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

Nothing further was discussed.

**Other:**

Board members will hold a workshop to discuss possible Zoning Ordinance changes on Tuesday, September 18, 2018 at 5:00 p.m.

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**Growth Permits**

**Map 8, Lot 65A-1 (Ross Corner Road) – New Home**

**GP #11-18**

Board members reviewed the lot and approved the Growth Permit, as it was found to be a legally existing lot, meeting the minimum lot size requirements in the Zoning Ordinance.

**Map 1, Part of Lot 4 (Grant Road) – New Home**

**GP #12-18**

Board members reviewed the lot and approved the Growth Permit, as the lot was recently reviewed as being accessed by an approved Private Way (6/26/18), and it meets the minimum lot size requirement in the Zoning Ordinance.

**Map 11, Part of Lot 23H (Gray Road)**

**GP #13-18**

Board members reviewed the lot and approved the Growth Permit, as it was found to be a legally existing lot, meeting the minimum lot size requirements in the Zoning Ordinance, and it is part of a recently approved 3-Lot Subdivision (Gray Road Estates – 7/17).

**Map 5, Lot 20-2 (White Tail Lane)**

**GP #14-18**

Board members reviewed the lot and approved the Growth Permit, as it was found to be a legally existing lot, meeting the minimum lot size requirements in the Zoning Ordinance, and it is part of an approved Subdivision (Evergreen Overlook 6/06).

**Map 5, Lot 20-3 (White Tail Lane)**

**GP #15-18**

Board members reviewed the lot and approved the Growth Permit, as it was found to be a legally existing lot, meeting the minimum lot size requirements in the Zoning Ordinance, and it is part of an approved Subdivision (Evergreen Overlook 6/06).

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

**NOTE: The summers hours are in effect thru October 31<sup>st</sup>, the meetings begin at 7:30 p.m. and any scheduled public hearings begin at 7:00 p.m.**

The next meeting will be held **Tuesday, September 11, 2018** 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. 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.

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

# ***Shapleigh Planning Board***

## ***Minutes***

**Tuesday, September 11, 2018**

Members in attendance: Roger Allaire (Chairman), Madge Baker, Roland Legere, Maggie Moody and Alternate Ann Harris. Code Enforcement Officer Mike Demers was also in attendance. Steve Foglio (Vice Chairman) was unable to attend, therefore Roger A. had Ann Harris sit in as a regular member.

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Minutes are not verbatim, unless in quotes “” – If the name of a citizen making a comment was not requested by the Planning Board Chairman, the reference to their name will be known as ‘Citizen’.

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

#### **Conditional Use Permit – Home Occupation for Dog Grooming – Map 38, Lot 24 (16 Mann Road) – Jessica Brandis, Applicant; Dan Brandis, Property Owner**

Mr. & Mrs. Brandis were both present for the public hearing.

Roger A. opened the public hearing by asking the applicant what they intended to do. Mrs. Brandis stated she wanted to have a pet grooming salon catering to dogs and cats in her home.

Roger A. asked what the hours of operation would be? Mrs. Brandis stated they would be 8:00 a.m. to 7:00 p.m., Monday thru Saturday. Roger asked if it was going to be by appointment? Mrs. Brandis said, “Yes, by appointment only.”

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

Roger A. noted there were no neighbors present.

Madge B. said that at the site inspection the Board did not see a speed limit posted on the road. Mr. Brandis believed it was 25 mph. Madge asked how the Board could find out. Barbara F. stated they could ask Karla (Town Administrator). Ann H. looked up the State Statute, Title 29-A, Chapter 19, §2074 ‘Rates of Speed’ which states ‘*C. Twenty-five miles per hour in a business or residential district or built-up portion unless otherwise posted*’.

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

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**The minutes from Tuesday, August 28, 2018 were accepted as read. Madge B. moved for approval of the minutes, Roland L. seconded the motion, all were in favor.**

***The Planning Board meeting started at 7:30 p.m.***

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***Madge B. started the meeting by stating she did not have an issue with the minutes of the meeting but had a question about one of the conditions of approval for Paul & Robert Muse, on Map 18, Lot 32, for a Property Maintenance & Excavation Business Office.***

Madge B. stated the conditions of approval for the application were as follows:

- 1) The hours of operation shall be 7:00 a.m. thru 5:00 p.m., Monday through Saturday.
- 2) No trucks to be parked overnight on the property. No maintenance or excavation equipment to be located on the property.
- 3) Signage shall be permitted through the Code Enforcement Office.
- 4) No changes to the existing entrance and exits without Planning Board approval.
- 5) Any additional businesses using the office space will need approval by the Planning Board, as an amendment to this Conditional Use Permit.

Madge stated the issue was with condition number 5. Madge stated that the size of the property is half an acre, so there is no way you can put an additional business ‘use’ on this property. Madge believed you need additional acreage and frontage. Roland L. stated that they have a rental unit upstairs, and Roland believed Mr. Muse gave the impression that there were possibly three office suites on the main floor. He said he didn’t think about the lot size. Madge said again that it was only a half acre. Ann H. stated that he didn’t say he would be renting it out to anyone else. Madge agreed, but the conditions of approval indicate that he could. Maggie M. and Roland noted there was a banner on the front indicating there was space to lease. Madge said she did not pay attention to the size of the lot at the last meeting, and according to the Findings of Fact the lot is .51 acres.

Ann H. asked if they wanted to rent it out, they still have to come back before the Board, correct? Madge B. stated that the Board indicated that they could have another office and this is incorrect. Maggie M. thought the Board should notify the applicants that they cannot rent out additional space.

Madge B. stated that the ordinance allows for a business and a residence, and a business and a business on 2 acres and 200 feet of road frontage. She said there is nothing about two business uses on .51 acres. Maggie M. pointed out the other business & building that they own. Roger A. said that that business was on a separate lot owned by the applicants. Barbara F. agreed according to the Town records.

Madge B. stated that they already have more businesses than they should have for the size of the lot. Ann H. asked if the Board should write a letter that no changes are being made to the existing structure and the amount of businesses at this location, the only change is the type of business. Madge stated she had no issue with approving this business, as one business has been grandfathered for some time. She said it is a non-conforming business but it is legal. She said the approval indicates they can have another business at this location. She agreed they could keep their three offices, but they can only have the one business. Ann said the Board only approved the Property Maintenance and Excavation business. Madge agreed but it is implied under the conditions of approval that they could do more. Roland L. said “Right”.

CEO Demers stated that the only reason he is keeping an office for himself is to be able to put a sign out, because you cannot have an off premise sign. He said that he told Mr. Muse he had to keep one office for himself. Ann H. asked what happens if a business comes before the Board to use the office and the Board says they cannot because the lot is too small? Roland L. said since the Board has identified the issue, the

Board has a responsibility to send him a letter to say that after further review it was determined that because of lot size, no additional businesses are allowed in this location. Madge B. agreed.

**Madge B. made the motion to send Paul and Robert Muse a letter of clarification regarding the business limitations at this location due to the size of the lot, see Shapleigh Zoning Ordinance §105-18 ‘Dimensional Requirements’ and §105-19 ‘Notes to Table on Dimensional Requirements’ Section A. Ann H. seconded the motion. All members were in favor. By a vote of 5 – 0 the motion passed unanimously.**

The amended letter shall read in part as follows:

*Pursuant to Sections 105-18 and 105-19 of the Shapleigh Zoning Ordinance, the conditions of approval for the Property Maintenance & Excavation Business Office Space shall be amended as follows:*

*The conditions of approval shall be:*

- 1) The hours of operation shall be 7:00 a.m. thru 5:00 p.m., Monday through Saturday.*
- 2) No trucks to be parked overnight on the property. No maintenance or excavation equipment to be located on the property.*
- 3) Signage shall be permitted through the Code Enforcement Office.*
- 4) There shall be no changes to the existing entrance and exits without Planning Board approval.*
- 5) **There shall be no additional business uses allowed on this property due to the fact the size of the lot does not meet the minimum lot size standards set forth in Sections 105-18 and 105-19 of the Shapleigh Zoning Ordinance.***

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Madge B. stated that she wanted some information regarding the approval of the Best Possible Location for the new structure on Mill Pond Road in North Shapleigh (Map 38, Lot 12). She stated in the conditions of approval it talks about Best Management Practices and she said it occurred to her that normally the Board asks for a replanting plan and in this case the Board did not do that. She said she knew the house was beyond the 100 foot mark.

Madge B. believed the Board could have asked for a replanting plan because the area will be disturbed because there is a new foundation going in. She asked if it was because the CEO can easily handle this, that the Board did not require it? Roger A. said it was because it was beyond the 100 feet. Ann H. thought at the site inspection the Board noted it was all lawn.

Madge B. reviewed Section 105-4.D(7) ‘Relocation’, under (b) it speaks about relocation within the water or wetland section, which means it does not expressly require the Board to ask for a revegetation plan beyond the 100 feet but it doesn’t expressly say the Board cannot. She wanted to know if in this case the CEO handles the plan and she asked CEO Demers if he did ask for a replanting plan? She said the new modular home that was approved (Map 40, Lot 30A), was he looking at the replanting plan? CEO Demers stated that they had a replanting plan that he would be looking at it. Madge wanted to be sure he was also going to require replanting around the new foundation for this one.

Roger A. added that it was his hope that they would not dig for the new foundation without keeping the rear foundation in place, because he was concerned with the foundation being one foot away from the property line and the area collapsing. He said if the old foundation was kept in place while digging for the new foundation, it would hold the earth up. Ann H. noted that at the site inspection the builder said he didn't want to go onto the other person's property which is why he wanted to move it the five feet. Roger agreed. He said there would be an issue with stabilization so close to the line. Joe Stanley of LinePro Land Surveyors was in the audience and he stated he would mention it to the contractor, Mr. Fiske, when he was laying out the location for the foundation.

*The minutes were approved as read. Nothing further was discussed.*

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**Construction of a Private Way – Map 6, Lot 34E (Nason Road) – Brian White Applicant; Joseph Stanley of LinePro Land Surveyors, LLC Representing**

Mr. Stanley was present for the review of the application. Mr. White was in attendance as well.

Previously provided along with the application, was an aerial view of the lot which depicted the abutting lots in relation to Lot 34E; a copy of the Warranty Deed from Albert H. Conrad of Shapleigh Maine to Brian R. White and Kerri E. White of Shapleigh Maine ownership, Plan Book 9690, Page 234-235 dated received at YCRD on 9/20/1999; and a Warranty Deed granting property from Albert H. Conrad of Shapleigh Maine to Brian R. White and Kerri E. White, Plan Book 17085, Pages 422-424, dated received at the YCRD on 8/26/15; and a Sample of a Road & Drainage Maintenance Agreement by Brian & Kerry White.

In addition, provided was a plan entitled 'Plan of Private Way for Brian & Kerrie White, P.O. Box 106, Shapleigh, ME 04076 Of Property Located on Nason Road in Shapleigh, Maine'. The plan depicts the Road & Ditch Section, Sample of Typical Ditch Turnout & Level Spreader, a 1500' x 50' private way with a 50' x 50' turnaround at the end of the private way, two proposed five acre lots that will be gifted to family and a remaining 15.71 acre lot proposed to be gifted to family (13.93 excluding ROW area). The plan depicts (3) ditch turnouts with level spreaders. On the plan, Note 6 reads as follows: *"The Town of Shapleigh will not be responsible for the maintenance, repair, or plowing of the private way and further lot divisions utilizing the private way are prohibited without prior approval of the Shapleigh Planning Board."* The private way is to provide access to three lots, a maintenance agreement shall be required by the Planning Board and recorded in the York County Registry of Deeds. The maintenance agreement shall specify the rights and responsibilities of each lot owner with respect to the maintenance, repair and plowing of the private way.

This evening Mr. Stanley brought in a new plan for the Board to review, based on the last meetings requests by the Board. Specifically Madge B. wanted Mr. Stanley to be certain they were not encroaching on what appeared to be shown on the Shapleigh Zoning Map, an area of high value which would require a 250 foot boundary. Also, Steve F. wanted the plan to 'clearly' show that the entire travel way was within the right-of-way owned by the applicant.

Roger A. asked Mr. Stanley to let the Board know about what they had to present this evening. Mr. Stanley began by giving Board members a new Road Maintenance Agreement that he stated modeled the recent White Private Way, removing complicated language that the sample agreement had, which talked about homeowners agreements.

Mr. Stanley then gave members a new Private Way Plan. Mr. Stanley stated that after doing research he agreed with Madge B that in fact it was a significant wetland and therefore, they moved the roadway to be certain it was 250 feet away from the edge of the wetland. He said that he was surprised, using the on-line GIS system, using all the layers, it did not show up. He said it was only on the official map.

Mr. Stanley said he located the edge of the wetland, honored the 250 feet, and shorted the road by 100 feet. It was actually 83 feet to the edge of the wetland but it was easiest to make it 100 feet. The new ROW will be 1400' x 50'. He said they did not need the extra road frontage, and they moved the turn-around back 100 feet, making the turnaround 150 feet from the area. He said the lot lines will stay the same and the acreages stay the same. Mr. Stanley also stated that on the new plan it noted there was 6.52 acres of usable land out of the 15.71 acres, after removing the wetland setback.

Mr. Stanley said he reflagged the area and added a note to the plan that the travel way had to be moved to a specific location to the northerly side of the boundary, 'Traveled Way May Not Remain on Land of Albert Conrad'. He said his clients were well aware of this.

Mr. Stanley said these were the two changes the Board requested at the last meeting. He asked if there was anything additional?

Roger A. asked if there were any questions? There were none. Roger said that he felt the Board was well informed with what was taking place and the plan met the criteria in the ordinance under §105-60.1 'Privates Ways'.

**Madge B. moved for approval of the 'Plan of Private Way for Brian & Kerrie White of Property Located on Nason Road in Shapleigh Maine', drafted by Joseph L. Stanley, PLS #2453 of LinePro Land Surveying, LLC, dated September 11, 2018. Maggie M. seconded 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 current owner of Shapleigh Tax Map 6, Lot 34E is Brian White, mailing address of P.O. Box 106, Shapleigh, Maine 04076.
2. The property, Tax Map 6, Lot 34E, is located in the General Purpose District, and also contains Norton Brook (Stream Protection) and a significant wetland area (Resource Protection). According to the Assessor's Office the land in total contains 28 Acres.
3. Received was a copy of the GIS / aerial view of the lot which depicted the abutting lots in relation to Lot 34E; a copy of the Warranty Deed from Albert H. Conrad of Shapleigh Maine to Brian R. White and Kerri E. White of Shapleigh Maine ownership, Plan Book 9690, Page 234-235 dated received at YCRD on 9/20/1999; and a Warranty Deed granting property from Albert H. Conrad of Shapleigh Maine to Brian R. White and Kerri E. White, Plan Book 17085, Pages 422-424, dated received at the YCRD on 8/26/15.

4. Received was a plan entitled ‘Plan of Private Way for Brian & Kerrie White, P.O. Box 106, Shapleigh, ME 04076 Of Property Located on Nason Road in Shapleigh, Maine’ drafted by Joseph Stanley, PLS #2453 of LinePro Land Surveying, LLC, dated September 11, 2018. The plan depicts the Road & Ditch Section, Sample of Typical Ditch Turnout & Level Spreader, a 1400’ x 50’ private way with a 50’ x 50’ turnaround at the end of the private way, two proposed five acre lots that will be gifted to family and a remaining 15.71 acre lot proposed to be gifted to family (6.52 possible buildable acres excluding ROW area and wetland setback). The plan depicts Norton Brook and the wetland of significance, and the 250 setback that is required to the natural resource. The plan also depicts (3) ditch turnouts with level spreaders and the actual location of the travel way.
5. Private Way Note 6 states:
The Town of Shapleigh will not be responsible for the maintenance, repair, or plowing of the private way and further lot divisions utilizing the private way are prohibited without prior approval of the Shapleigh Planning Board. The private way is to provide access to three lots, a maintenance agreement shall be required by the Planning Board and recorded in the York County Registry of Deeds. The maintenance agreement shall specify the rights and responsibilities of each lot owner with respect to the maintenance, repair and plowing of the private way.
6. Received was a ‘Road Maintenance Agreement’, between Brian W. White, Brian J. White, and Mary Thibeault; this agreement refers to the Private Way Plan dated September 11, 2018. The road maintenance agreement was accepted by the Board on September 11, 2018.
7. A notice to abutters within 500 feet of the property was mailed on Wednesday, August 15, 2018. A site inspection was conducted on Tuesday, August 28, 2018, prior to the Planning Board meeting. Meetings were held on August 14, 2018, August 28, 2018 and September 11, 2018.
8. After review of Zoning Ordinance §105-60.1 ‘Private Way’s’, the Planning Board unanimously agreed to approve the Construction of a Private Way to access three lots, per the plan drafted by Joseph Stanley, PLS #2453, dated September 11, 2018, entitled ‘Plan of Private Way for Brian & Kerrie White, P.O. Box 106, Shapleigh, ME 04076 Of Property Located on Nason Road in Shapleigh, Maine’ , as the private way depicted on the plan met all the requirements in the ordinance.
9. The applicant has 90 days to register the approved plan with the York County Registry of Deeds and return a Mylar copy, with the book and page number, back to the Planning Board. If a registered copy is not returned to the Board, the approved plan shall be null and void.

Motion:

A motion was made on Tuesday, September 11, 2018, to approve the Construction of the Private Way to access three lots, per the plan drafted by Joseph Stanley, PLS #2453, dated September 11, 2018, entitled ‘Plan of Private Way for Brian & Kerrie White, P.O. Box 106, Shapleigh, ME 04076 Of Property Located on Nason Road in Shapleigh, Maine’.

Vote:

By a unanimous vote of 5 – 0, the motion to approve the Construction of the Private Way plan, per the plan drafted by Joseph Stanley, PLS #2453, dated September 11, 2018, entitled ‘Plan of Private Way for Brian & Kerrie White, P.O. Box 106, Shapleigh, ME 04076 Of Property Located on Nason Road in Shapleigh, Maine’, was accepted.

Decision:

The Construction of the Private Way plan drafted by Joseph Stanley, PLS #2453, dated September 11, 2018, entitled ‘Plan of Private Way for Brian & Kerrie White, P.O. Box 106, Shapleigh, ME 04076 Of Property Located on Nason Road in Shapleigh, Maine’, was approved.

Conditional Use Permit – Home Occupation for Dog Grooming – Map 38, Lot 24 (16 Mann Road) – Jessica Brandis, Applicant; Dan Brandis, Property Owner

Mr. & Mrs. Brandis were both present for the review of the application. *Board members did a site inspection prior to this evenings meeting.*

In addition to the application, provided was a sketch plan of the existing home, depicting the grooming area within the home to be used, the location of the parking area and driveway, as well as the location of the existing well and leach field. Also on file is a copy of the Subsurface Wastewater Disposal System Application, drafted by John L. Murphy, SE #16, dated 10/31/1998.

The detailed description of the project is as follows: Dog grooming, washing, blow drying, haircuts on all type of dogs. Turning spare bedroom into grooming spa.

Roger A. asked the applicant to once again let the Board know what they wanted to do. Mrs. Brandis stated that they wanted to open a grooming salon for dogs and cats in their home.

Madge B. asked if they would be adding additional lighting? Mrs. Brandis did not think they would be adding additional lighting. She said there was lighting at this time on either side of the front door. She said they may add some along the walkway for people to be able to see better at night. Mr. Brandis said that he and Jessica had discussed the possibility of motion lights that follow you, they also have a camera built in. He said you can use your cell phone to see who is there. Madge stated that she was asking because the Board does not want lighting that will disturb the neighboring properties. She said the light needs to stay on site, not shine into the road or on the neighbor’s yard.

Madge B. asked again what the hours of operations were? She believed they were 8:00 a.m. to 7:00 p.m., six days a week. Mrs. Brandis agreed. She asked if they wanted 7 days a week? Mr. Brandis said they had other plans for Sunday’s, so he didn’t see a need to include Sunday’s. They both agreed six days a week was sufficient.

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

Roger A. stated the application met the standards of a Home Occupation, under Section 105-40, as it will take place entirely within the home and there are no other employees, other than Mr. and Mrs. Brandis. There is no outside storage of materials.

Roger A. began to review the Basic Performance Standards.

- 105-21 – Traffic.** *Roger A. stated the speed limit in this location is 25 mph, and the minimum site distance required is 175 feet which can be met. He noted it could not meet the 250 foot recommended distance in one direction.*
- 105-22 – Noise.** *Roger A. stated there is a limited amount of noise generated by this activity, maybe a bark once in awhile and noted the animals will be inside the home, not outside except for transport.*
- 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 are no odors produced by this activity.*
- 105-25 – Glare.** *Roger A. stated there is to be no glare onto neighboring properties or onto the roadway. All lighting shall be toward the ground or walkways.*
- 105-26 – Stormwater runoff.** *Roger A. stated all structures are existing, no changes to be made on site to effect stormwater. Roger suggested to the applicant that they use the existing paved driveway. Two parking spots are required, if the applicant's vehicles are parked in the front there is room for two additional vehicles behind them. He did not want vegetation to be removed for additional parking.*
- 105-27 – Erosion control.** *Roger A. stated all structures are existing, no changes to be made on site to create an erosion control problem. Roger A. said if no additional parking is created there won't be an erosion problem created.*
- 105-28 – Setbacks and screening.** *Roger A. stated there are no changes being made that would necessitate screening. No new structures or parking area.*
- 105-29 – Explosive materials.** *Roger A. stated there are no explosive materials associated with this business.*
- 105-30 – Water quality.** *Roger A. stated there are no changes being made to the property to affect water quality.*
- 105-31 – Preservation of landscape; landscaping of parking and storage areas.** *Roger A. stated there is no additional parking required. There is no outside storage.*
- 105-32 - Relation of proposed building to the environment.** *Roger A. stated the building is in existence.*
- 105-33 – Refuse disposal.** *Roger A. stated that waste will be brought to the Shapleigh Transfer Station by the applicant.*

Roger A. noted that any changes to the building such as moving or modifying walls would go through the Code Enforcement Officer. This also includes a plumbing permit for any changes.

- 105-43 – Off-street parking and loading.** *Roger A. stated that one parking space for every 150 square feet of floor area is required. There is 200 square feet of working area, so two parking spaces are required. He noted again, if the applicant's vehicles are moved to the front of parking area, there will be two remaining.*

105-46 – Sanitary provisions. *Roger A. stated there is an existing State approved Subsurface Wastewater Disposal System in existence; the existing system is designed for two bedrooms. If there is an additional need due to the pet washing, permitting will be through the Code Enforcement Office.*

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. The business will be held inside a structure, there is no outdoor activity associated with the business.*
- 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, the Comp Plan wants home based businesses in the Town.*
- 4) Traffic access to the site is safe. *Roger A. stated the speed limit in this location is 25 mph, and the minimum site distance is 175 feet. He stated that applicants could meet the minimum but not the maximum which is 250 feet.*
- 5) The site design is in conformance with all municipal flood hazard protection regulations. *Roger A. stated it is, the structure is in existence, permitted by the Town and 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 applicant will take any refuse to the Transfer Station and there is an existing State approved Subsurface Wastewater Disposal System. The plan is on file, Site Evaluator is John Murphy, License #16, plan dated 10/31/1998.*
- 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 house is in existence and no changes are being made to the property.*
- 9) Adequate provisions to control soil erosion and sedimentation have been made. *Roger A. stated there are no changes being made to the exterior of the existing structure.*
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. *Roger A. stated this location is next to a water body, so 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 there are no major changes being made to the exterior of the structure or activity taking place outside, so all this criteria can be met.***

- 12) All performance standards in this chapter applicable to the proposed use will be met. ***Roger A. stated they shall with conditions.***

Roger stated the only condition of approval that he could see was the hours of operation, those being 8:00 a.m. to 7:00 p.m., six days a week.

CEO Demers asked if the applicants had their own well or was it a shared well? Mr. Brandis stated that they had their own well.

Madge B. asked what the lot size was? The Board looked on the town map. Roger A. stated that the map showed it to be 98 feet x 355 feet. Madge didn't think it had enough frontage. Roger A. stated that it was a lot of record. Madge said there was no business there previous but it is a home occupation.

Madge B. asked if that was ok to have a home occupation on a smaller lot? Madge said it was not in the Shoreland because it was 250 feet beyond the high water mark. Note: Home occupations are allowed in the Shoreland District.

Ann H. read the definition of Home Occupation which stated in part 'clearly incidental and secondary to the use of the dwelling unit for residential purposes'. Madge B. agreed it was a home occupation but she felt because it was a new use, she thought the lot had to meet the lot dimensions.

The Board reviewed the ordinance. Roger A. agreed the lot did not have 80,000 square feet or 200 feet of road frontage. Madge B. felt that based on this it would not be allowed. She added that because the Board made the error to take it this far, the applicant should get their money back. Roger had no issue with returning the money.

Roger A. stated that the application would be denied based on not having 80,000 square feet or 200 feet of road frontage. Roger said they could only have a house, no business.

The Board stated that if the applicant could obtain more acreage and the appropriate road frontage then they could come back for a new review.

Nothing further was discussed.

14 Lot Major Subdivision (Great Hollow Acres Extension) – Map 10, Lot 6A & 7 (White Pine & Town Farm Road) – Jeffrey Morrison, Property Owner, Jason Vafiades, Representing

Mr. Vafiades and Mr. James Logan a Site Evaluator were both present for the review of the application. *Board members did a site inspection prior to this evenings meeting.*

Roger A. asked the applicants to let the Board know where they were with the project. Mr. Vafiades stated he was before the Board with site evaluator Jim Logan. He stated they had no new information this

evening, they just wanted to walk the site with the Board to get comments and see if there were any issues they needed to address on the preliminary plan. He stated they wanted to do a thorough job on the preliminary application, so it might be easier to move through. Mr. Vafiades asked if there were any questions or comments.

Roger A. stated that years ago they were going to be coming out in Great Hollow (subdivision), he asked if there was a reason why now they were not? Mr. Logan stated that it was because of things like Scrub Oak and the endangered moth. He also said that they identified a vernal pool, that even though it isn't significant, they wanted to protect it. So they are trying to move away from that area while still providing a second access to the area. He stated that eventually the Town is going to want the second access for fire and safety for anything further they do beyond the 14 lots. He said with that in mind, that is why they moved the second access from where it was conceived years ago.

Mr. Logan stated that everywhere the upper land is, it is all glacial till and hardpan type soils. He said the water table in that area chases the landscape and rides on the hardpan below the surface of the soil until it gets to the flat where there are no topo lines, that is a sand and gravel aquifer type soil. The water drops right into the ground. He stated that is why the wetlands stop when you get to the bottom of the slope. He said that the sand plain has to do with aquifer protection. He stated that is why the plan is drafted the way it is, to come off the pre-approved subdivision road and to provide the second access on a location that is as far away from the natural resources on site, considering the concerns of the State and people of Shapleigh. He noted the location of the Town Forest. He said they were trying to be sensitive to the area in choosing the location.

Mr. Logan stated the predominant habitat is across the street for the Scrub Oak and moth. He said that Inland Fisheries and Wildlife came out and they wanted the plan to reflect the possible habitat, which they did, but he noted the predominant moth habitat and other sensitive things are on the Davis Farm lot. He believed they were reprimanded for clearing out the moth habitat. He stated that Phillip deMaynadier was the Inland Fisheries coordinator for wildlife habitat. Many of the Board members knew about Phillip as he had worked with the Board on previous applications. Mr. Logan noted that the area they were trying to protect was not significant but it was still meaningful to the area. Mr. Vafiades and Mr. Logan talked about the ATV traffic on Great Hollow, and wanting to keep ATV traffic from going across the sensitive area, which was another reason to create a different access to the subdivision.

Roland L. asked if lots six thru twelve would have deeded access to the open space. Mr. Vafiades believed everyone would have deeded access. He said there would be a homeowners association. Roland didn't see a deeded ROW for lots one thru five currently. He said he knew they could go beyond Phase I and access it. Mr. Vafiades stated they could create a strip for access alongside. Roland said he wasn't saying they had to do that, he just wanted to know if it was part of the plan? Mr. Vafiades stated that they could have walking trail access that is accessible from the road.

Madge B. stated that they could have ATV's crossing through the subdivision to get to Great Hollow. She said she would rather have one trail for the ATV traffic than having them run everywhere on site disturbing the area. Roland agreed that they would go all over without being discouraged from doing so. Madge thought if there was a way to encourage them to use a particular route that would be wonderful, to try to keep them off sensitive areas. Mr. Logan and Mr. Vafiades agreed to try to create an area to encourage them to stay on a trail.

Roland L. stated that he liked what he was seeing, with respect to the topography. Mr. Logan agreed, and said the soils were good for septic, and they were not in the Shoreland district. He said most of the proposed lots would meet the pre 1995 standards which were higher than what the State has today.

Roland L. asked if there would be a buffer between the roadway and the building area. He felt it would be unfortunate to cut down the existing buffer. Mr. Logan stated that only part of the area Roland was talking about belonged to Mr. Morrison. Some of it was on the neighboring property. Mr. Logan asked that the Board not hold the applicant responsible if the neighbor removed some of the trees. Roland and Madge B. stated they understood, they were just asking about the trees and buffer that they did have control over.

Mr. Logan wanted the Board to know that the neighboring property would not see any of the houses in the subdivision, only cars going by. Madge B. thought they were going to gate that end. Roger A. did not believe they could gate it. 15 lots trigger the requirement for two entrances, this is 14. Roger noted that the existing lots trip the 15 lot requirement, those lots approved in 2005.

Roger A. didn't think there were any other questions. Roger said for topography the USGS would be fine in this location. Mr. Logan agreed citing that they found the USGS to be within 6 inches of accuracy vertically of an actual land survey.

Roger A. said the other thing they would need was the test pit logs. Mr. Logan agreed and the soils information. Mr. Logan asked if they needed to do a nitrate evaluation? Madge B. stated that the Board didn't require this. Mr. Logan stated that the septic systems would be downhill of the wells. Roger said in this location they could get enough water in one well to supply the entire subdivision. Mr. Logan didn't disagree but he believed anyone in the subdivision would want their own well. Other Board members agreed.

Ann H. asked if there was any ledge. Mr. Logan said they did not encounter bedrock. Mr. Vafiades said there were some big boulders but not ledge. Madge B. agreed there would be boulders from glacial till. Roger A. didn't think there would be much of that either.

Roland L. asked if this subdivision would require underground utilities. Mr. Vafiades stated they would be underground off of one pole. Roger A. said it would.

Madge B. said they would need to request waivers. Roger A. said typically sidewalks. Mr. Logan said they would request the waiver for granite markers. Roger A. stated that the cistern would need to be approved through the fire department. Duane Romano is currently the Fire Chief.

The Board had no further questions. Barbara F. asked the applicants to let her know when they were ready to come back before the Board.

Nothing further was discussed.

Other:

The Board members agreed to meet at 5:00 p.m. on Tuesday, September 18, 2018 to begin discussing possible ordinance changes for Town Meeting in March 2019.

Growth Permits – There are permits available

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

NOTE: The summers hours are in effect thru October 31st, the meetings begin at 7:30 p.m. and any scheduled public hearings begin at 7:00 p.m.

The next meeting will be held **Tuesday, September 25, 2018** 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. 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.

Respectfully submitted,
Barbara Felong, Land Use Secretary
planningBoard@shapleigh.net

Shapleigh Planning Board
Minutes
Tuesday, September 25, 2018

Members in attendance: Roger Allaire (Chairman), Steve Foglio, (Vice Chairman), Madge Baker, Roland Legere, Maggie Moody and Alternate Ann Harris. Code Enforcement Officer Mike Demers was also in attendance.

Minutes are not verbatim, unless in quotes “” – If the name of a citizen making a comment was not requested by the Planning Board Chairman, the reference to their name will be known as ‘Citizen’.

The minutes from Tuesday, September 11, 2018 were accepted as read.

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

Conditional Use Permit – Home Occupation for Dog Grooming – Map 38, Lot 24 (16 Mann Road) – Jessica Brandis, Applicant; Dan Brandis, Property Owner

Mr. & Mrs. Brandis were both present for reconsideration of the application.

In addition to the application, previously provided was a sketch plan of the existing home, depicting the grooming area within the home to be used, the location of the parking area and driveway, as well as the location of the existing well and leach field. Also on file is a copy of the Subsurface Wastewater Disposal System Application, drafted by John L. Murphy, SE #16, dated 10/31/1998.

The detailed description of the project is as follows: Dog grooming, washing, blow drying, haircuts on all type of dogs. Turning spare bedroom into grooming spa. *Mrs. Brandis during the meeting on September 11, 2108, stated that she would be grooming cats as well.*

During the review on Tuesday, September 11, 2018 board members reviewed the definition of Home Occupation which stated in part ‘clearly incidental and secondary to the use of the dwelling unit for residential purposes’. Members agreed this was a home occupation but believed because this was a new use it had to meet the lot dimensions in §105-18, of 80,000 square feet or 200 feet of road frontage, therefore, the board denied approval of the Conditional Use Permit because the lot could not meet these standards.

Roger A. opened the meeting this evening by stating that upon further review of this application, again reading the definition of Home Occupation, noting that the dog grooming home occupation would be a secondary use to the primary use, he and the board believed they could approve the application in the existing structure, located on a grandfathered lot of record, even though it did not meet the minimum lot size requirement. The reason being this was not a second ‘primary’ use on the property. Madge B. added that the board had reviewed the Basic Performance Standards in the Zoning Ordinance, as well as §105-73.G ‘Standards applicable to conditional uses’, and the application met all the criteria.

Madge B. stated that she was content to interpret that a Home Occupation was allowed on a non-conforming lot of record in an existing structure, provided that all other standards in the ordinance are met. The other board members agreed.

Roger A. asked that the applicants use the existing driveway for customer parking because there was enough room for the required spaces for two vehicles, and because he did not feel there needed to be an additional area disturbed, keeping the existing vegetation in place to protect the environment.

Madge B. stated she did worry about winter, when snowbanks would block the view of the road. Mr. Brandis stated that he would be mindful to take care of the snow along the roadway because he didn't want there to be an issue.

Roland L. asked if they were going to remove the grass between the parking area and the front door, perhaps adding pavers? He felt for safety reasons, making it easier to walk from the door to the parking area, it would be best. Both Mr. and Mrs. Brandis agreed they would be creating a walkway. They stated that they did consider pavers, or perhaps crushed stone. Roger A. asked which one they wanted? Mr. Brandis thought crushed stone.

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

- 1) The hours of operation shall be 8:00 a.m. thru 7:00 p.m., Monday through Saturday.**
- 2) The existing driveway shall be used for parking, so as not to disturb the vegetation in the surrounding area.**
- 3) The walkway from the parking area to the front door shall be crushed stone or patio blocks in order to make it easier and safer to get from the parking area to the front door.**
- 4) Signage and a building permit for renovations to the room to be used for pet grooming, including additional plumbing, shall be permitted through the Code Enforcement Office.**

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

Madge B. made the motion to approve the Conditional Use Permit for dog and cat grooming on Map 38, Lot 24, based on the fact that a home occupation was a secondary use to the primary use as a residence, so there were not 'two' individual primary uses on the property. Therefore, the home occupation is allowed in the existing structure on the grandfathered lot of record. In addition, this application meets all other pertinent standards in the ordinance. Maggie M. 2nd the motion. All members were in favor. By a vote of 5 – 0, the motion passed unanimously.

Nothing further was discussed.

These are the Basic Performance Standards reviewed on September 11, 2018:

- 105-21 – Traffic.** *Roger A. stated the speed limit in this location is 25 mph, and the minimum site distance required is 175 feet which can be met. He noted it could not meet the 250 foot recommended distance in one direction.*
- 105-22 – Noise.** *Roger A. stated there is a limited amount of noise generated by this activity, maybe a bark once in awhile and noted the animals will be inside the home, not outside except for transport.*

- 105-23 – Dust, fumes, vapors and gases. *Roger A. stated there is no dust, fumes, vapors or gases generated by this activity.*
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- 105-29 – Explosive materials. *Roger A. stated there are no explosive materials associated with this business.*
- 105-30 – Water quality. *Roger A. stated there are no changes being made to the property to affect water quality.*
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *Roger A. stated there is no additional parking required. There is no outside storage.*
- 105-32 – Relation of proposed building to the environment. *Roger A. stated the building is in existence.*
- 105-33 – Refuse disposal. *Roger A. stated that waste will be brought to the Shapleigh Transfer Station by the applicant.*
- 105-43 – Off-street parking and loading. *Roger A. stated that one parking space for every 150 square feet of floor area is required. There is 200 square feet of working area, so two parking spaces are required. He noted again, if the applicant's vehicles are moved to the front of parking area, there will be two remaining.*
- 105-46 – Sanitary provisions. *Roger A. stated there is an existing State approved Subsurface Wastewater Disposal System in existence; the existing system is designed for two bedrooms. If there is an additional need due to the pet washing, permitting will be through the Code Enforcement Office.*

§105-73.G 'Standards applicable to conditional uses':

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. *Roger A. stated, it will not. The business will be held inside a structure, there is no outdoor activity associated with the business.*
- 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, the Comp Plan wants home based businesses in the Town.*
- 4) Traffic access to the site is safe. *Roger A. stated the speed limit in this location is 25 mph, and the minimum site distance is 175 feet. He stated that applicants could meet the minimum but not the maximum which is 250 feet.*

- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***Roger A. stated it is, the structure is in existence, permitted by the Town and 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 applicant will take any refuse to the Transfer Station and there is an existing State approved Subsurface Wastewater Disposal System. The plan is on file, Site Evaluator is John Murphy, License #16, plan dated 10/31/1998.***
- 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 house is in existence and no changes are being made to the property.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***Roger A. stated there are no changes being made to the exterior of the existing structure.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***Roger A. stated this location is next to a water body, so 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 there are no major changes being made to the exterior of the structure or activity taking place outside, so all this criteria can be met.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***Roger A. stated they shall with conditions.***

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### **The Findings of Facts**

1. The owner of Shapleigh Tax Map 38, Lot 24 (16 Mann Road), is Daniel Brandis of 16 Mann Road, Shapleigh, Maine.
2. The property is located in the both the Shoreland and General Purpose District, with the location of the home / business being in the GP District. According to the assessor, the property contains .84 acres.
3. The applicant is before the board for a Conditional Use Permit to have a home occupation as a pet groomer for dogs and cats.
4. The detailed description of the application is as follows:  
Dog grooming, washing, blow drying, haircuts on all types of dogs. Turning spare bedroom into a grooming spa.
5. During the review process the applicant stated that she wanted to groom both dogs and cats in her home, by appointment.



6. Received was a sketch plan of the existing home, depicting the grooming area within the home to be used, the location of a proposed parking area and driveway, as well as the location of the existing well and leach field. Also on file is a copy of the Subsurface Wastewater Disposal System Application, drafted by John L. Murphy, SE #16, dated 10/31/1998.
7. The board reviewed Zoning Ordinance §105-40 ‘Home Occupations’, and concurred the application and information as presented met the standards for a Home Occupation.
8. The board reviewed the Basic Performance Standards and concurred the application met all the standards imposed.
9. The board reviewed Zoning Ordinance §105-73, Section G, ‘Standards applicable to conditional uses’ and concurred the application and information as presented met the performance standards in this chapter.
10. On September 11, 2018 the Planning Board made the motion and unanimously agreed to deny the Conditional Use Permit to allow a home occupation for pet grooming on Map 38, Lot 24, based on the fact the property could not meet the requirements for both a residence and business under Shapleigh Zoning Ordinance §105-18 ‘Dimensional Requirements’.
11. A notice was mailed to all abutters within 500 feet of the property on August 29, 2018. Meetings were held on August 28, 2018, September 11, 2018 and September 25, 2018. A site inspection and Public Hearing were held on September 11, 2018.
12. On September 25, 2018, the Planning Board made the motion and unanimously agreed to reconsider the application based on further discussion on what constitutes a home occupation, along with the dimensional requirements for a home occupation. The Board concurred that a home occupation was a secondary use to the primary use of a residence, therefore, there were not ‘two’ individual primary uses on the property. Based on this, a home occupation could be allowed in an existing structure on a grandfathered lot of record, as long as it could meet all other requirements in the Zoning Ordinance.
13. On September 25, 2018 the Planning Board made the motion and unanimously agreed to approve the Conditional Use Permit to allow a home occupation for pet grooming (dogs and cats) by appointment only, to be located on Map 38, Lot 24, per the information provided with conditions.
14. **The conditions of approval are:**
  - 1) **The hours of operation shall be 8:00 a.m. thru 7:00 p.m., Monday through Saturday.**
  - 2) **The existing driveway shall be used for parking, so as not to disturb the vegetation in the surrounding area.**
  - 3) **The walkway from the parking area to the front door shall be crushed stone or patio blocks in order to make it easier and safer to get from the parking area to the front door.**
  - 4) **Signage and a building permit for renovations to the room to be used for pet grooming, including additional plumbing, 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’, §105-40 ‘Home Occupations’ and §105-73, Section G, ‘Standards applicable to conditional uses’ a motion was made on Tuesday, September 25, 2018 to approve the Conditional Use Permit for a Home Occupation for pet grooming (dogs and cats) by appointment only, to be located on Map 38, Lot 24, per the information provided and with four conditions.

Vote:

By a unanimous vote of 5 – 0, the motion to approve the Conditional Use Permit for a Home Occupation for pet grooming (dogs and cats) by appointment only, to be located on Map 38, Lot 24, per the information provided, with four conditions, was accepted.

Decision:

**The Conditional Use Permit for a Home Occupation for pet grooming (dogs and cats) by appointment only, to be located on Map 38, Lot 24, per the information provided, with four conditions was approved.**

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Discussion on Possible Ordinance Changes

Board members began the review of the existing Zoning and Subdivision Ordinance and the following are proposed changes that the board agreed are likely to be presented at Town Meeting. Additional changes may be coming forward. A Public Hearing will be held either on November 27<sup>th</sup> or December 11<sup>th</sup>, with an additional hearing after the first of the year.

**Proposed Change to §105-4. Nonconformance**

D(7) Relocation

(b)[1] Tree, woody vegetation and ground cover.

- [a] Trees removed in order to relocate a structure must be replanted with at least one native tree, six feet in height, measured from the base of the trunk to the top of the tree, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed. Trees shall be planted greater than five feet from the side lots lines, and shall create a well-distributed stand of trees. **These replanted trees shall be flagged with fluorescent tape no less than 18 inches in length which shall not be removed except by the Code Enforcement Officer upon inspection.**

**Proposed changes to §105-40 ‘Home Occupations’**

- A. Home Occupations shall be carried on wholly within the principal building or within a building or other structure accessory to it.
- B. Not more than ~~two~~ **one** employee other than the home’s occupants may work on-site at any time, and one additional on-site parking space shall be provided if there is such an employee.
- C. There shall be no exterior display, no exterior sign (except as permitted by the provision of this chapter), no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building.
- D. **Additional workers cannot gather even briefly on the property.**
- E. No nuisance, heavy traffic, waste discharge, offensive noise, vibration, smoke, dust, odors, heat, glare or radiation shall be generated.
- F. If existing off-street parking is required to be expanded, it **may be required to be** ~~shall be~~ **adequately screened from the road and** adjacent lots (for example, with a dense screen of evergreens) ~~and shall not be located between the house and the road.~~
- G. **Home occupations are allowed on nonconforming lots of record and within legally existing nonconforming structures providing all applicable performance standards in the ordinance, including those in § 105-73.G are met.**

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Possible Change to §105-43. Off-street parking and loading.

- D. Landscaping. Required parking and loading spaces for residential uses, where not enclosed within a building, ~~shall~~ **may need to** be effectively screened from view by a continuous landscaped area not less than eight feet in width containing evergreen shrubs, trees, fences, walls, berms or any combination thereof forming a visual barrier not less than six feet in height along exterior lot lines adjoining all residential properties, except that driveways shall be kept open to provide visibility for vehicles entering and leaving.

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**Proposed Subdivision Ordinance Change**

§ 89-14. Procedure

- A. Within six months after the on-site inspection by the Board, the subdivider shall ~~submit an mail a~~ **copy of the application for approval of the final plan to each Board member, including alternate members and the Code Enforcement Officer** at least seven days prior to a schedule meeting of the Board. Failure to do so shall require resubmission of the sketch plan to the Board. The final plan shall approximate the layout shown on the sketch plan, plus any recommendations made by the Board.

§ 89-16. Procedure.

- A. Within six months after the on-site inspection by the Board, the subdivider shall ~~submit an mail a~~ **copy of the application for approval of the final plan to each Board member, including alternate members and the Code Enforcement Officer** at least seven days prior to a schedule meeting of the Board.

Failure to do so shall require resubmission of the sketch plan to the Board. The final plan shall approximate the layout shown on the sketch plan, plus any recommendations made by the Board.

§ 89-15. Submissions.

Last sentence: In addition, one copy of the final plan, reduced to a size of 8 ½ inches by 11 inches, and all accompanying information shall be mailed to each Board member, including alternate members **and the Code Enforcement Officer**, no less than seven days prior to the meeting.

§ 89-17. Submissions.

Fourth sentence: In addition, one copy of the plan(s), reduced to a size of 8 ½ inches by 11 inches, and all accompanying information shall be mailed to each Board member, **including alternate members and the Code Enforcement Officer**, no less than seven days prior to the meeting.

§ 89-18. Procedure.

F. A public hearing may be held by the Planning Board within 30 days after the issuance of a receipt for the submittal of an incomplete application. This hearing shall be advertised in a newspaper of local circulation at least two times, the date of the first publication to be at least seven days before the hearing, and the notice of the hearing shall be posted in at least three prominent places at least seven days prior to the hearing. When a subdivision is location within 500 feet of a municipal boundary, and a public hearing is to be held, the Planning Board shall notify the Clerk and the Planning Board of the adjacent municipality involved, at least ~~40~~ **7** days prior to the hearing.

§ 89-19. Submissions.

Last sentence: In addition, one copy of the final plan, reduced to a size of 8 ½ inches by 11 inches, and all accompanying information shall be mailed to each Board member, **including alternate members and the Code Enforcement Officer**, no less than seven days prior to the meeting.

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Proposed Changes to § 105-15 ‘Definitions.’

HOME OCCUPATION – An occupation or profession which is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit; carried on by a member of the family residing in the dwelling unit; clearly incidental and secondary to the use of the dwelling unit for residential purposes. ~~Real estate offices and resale of purchased merchandise will not be considered as home occupations.~~ **This shall not be interpreted to include telecommuting.**

TELECOMMUTING – Telecommuting shall mean an arrangement in which a worker works at home rather than the primary place of work, and communicates with the workplace and conducts work via wireless or telephone lines or cable, using modems, fax machines or other electronic devices in conjunction with computers. This shall also include sporadic office-type work that was not completed at the primary workplace (bringing work home from the office).

BILLBOARD – A sign, structure or surface larger than ~~eight feet which is available for advertising purposes for goods or services rendered off the premises, excluding directional signs.~~ **thirty-two (32) square feet, which is available for advertising purposes for goods, services, or attractions rendered off the premises, excluding directional signs.**

DWELLING, TWO-FAMILY: A single building containing two dwelling units, neither of which is an accessory dwelling unit or accessory residential unit. May also be referred to as a “Duplex”.

MARIJUANA: As defined in State Administrative Rules (10-144 CMR Chapter 122), §1.17, “Marijuana”.

MEDICAL MARIJUANA: Marijuana that is acquired, possessed, cultivated, manufactured, used, delivered, transferred or transported to treat or alleviate a qualifying patient’s debilitating medical condition or symptoms associated with the qualifying patient’s debilitating medical condition.

MEDICAL MARIJUANA CAREGIVER: A person, licensed hospice provider or licensed nursing facility that is designated by a qualifying patient to assist the qualifying patient with the medical use of marijuana in accordance with state law. A person who is a medical marijuana caregiver must be at least 21 years of age and may not have been convicted of a disqualifying drug offense.

MEDICAL MARIJUANA HOME PRODUCTION: Cultivating, processing and/or storing of medical marijuana by a qualifying patient at their own residence or a medical marijuana caregiver at their own primary year-round residence for use by a qualifying patient. This use shall be considered an accessory use.

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Members are also reviewing Street design standards under Chapter 89-36 & 89-37, as well as the possibility of a Bed & Breakfast ordinance and medical marijuana caregiver standards.

There will be an update to the Growth Ordinance. It is likely there will be no change to the number of permits given out during the course of a year. Currently 34 permits are allowed and to date this year only 15 have been issued. The board does not feel a reduction or increase in the number is warranted.

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## **OTHER:**

### **Planning Board By-Laws**

Members voted to approve an amendment to the existing by-laws. These changes include the application submission requirement of mailing a copy of the application to members 7 days prior to the meeting the applicant wishes to attend, and that a copy of the agenda will be mailed to the applicant. Notice of special meetings or workshops will be given in accordance with the Maine Freedom of Access Act. And abutter’s notices shall be published at least 7 days prior to the hearing of the application. This change was due to the fact the local newspaper is only published weekly, so the 10 day notification currently in the by-laws could not be met for applications. There is no change to the notification with respect to ordinance changes, this will remain at 14 and 30 days as required by State law.

**Steve F. made the motion to accept the changes to the Planning Board By-laws. Maggie M. 2<sup>nd</sup> the motion. All members were in favor. By a vote of 5 – 0, the motion passed unanimously.**

**Growth Permits – There are permits available**

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**The Planning Board meeting ended at 8:50 p.m.**

**NOTE: The summers hours are in effect thru October 31<sup>st</sup>, the meetings begin at 7:30 p.m. and any scheduled public hearings begin at 7:00 p.m.**

The next meeting will be held **Tuesday, October 9, 2018** 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. 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.

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

# ***Shapleigh Planning Board***

## ***Minutes***

**Tuesday, October 9, 2018**

Members in attendance: Roger Allaire (Chairman), Steve Foglio, (Vice Chairman), Madge Baker, Roland Legere, Maggie Moody and Alternate Ann Harris. Code Enforcement Officer Mike Demers was also in attendance.

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Minutes are not verbatim, unless in quotes “” – If the name of a citizen making a comment was not requested by the Planning Board Chairman, the reference to their name will be known as ‘Citizen’.

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**The minutes from Tuesday, September 25, 2018 were accepted as read.**

***The Planning Board meeting started at 7:30 p.m.***

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### **Conditional Use Permit – Replace Four Existing Retaining Walls & Stairs – Map 28, Lot 17 (78 17<sup>th</sup> Street) – Alfred Geaudreau, Applicant & Owner**

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

In addition to the application, received was sketch plan entitled ‘Proposal for 78 17<sup>th</sup> Street Shapleigh, Maine – Replace 4 Deteriorating Block Retaining Walls & Footings with Pre-cast Blocks. Replaced Wall Will Conform to Current Dimensions. Revegetation to be Performed As Required’, which depicted the existing camp and attached porch, the walls to be replaced, stairs to be replaced, and three trees to be removed in relation to the property line and Mousam Lake. Also received were pictures of the existing walls & stairs, copy of map depicting the general location of the property; Subsurface Waste Water Disposal System Variance Request dated 6/11/15, drafted by Kenneth Gardner, SE #73; the Subsurface Wastewater Disposal System Application drafted by Kenneth Gardner, dated 5/27/15; and the Permit by Rule Notification Form, acceptance date of 9/18/18.

The detailed description of the project is as follows: Replace 4 deteriorating block retaining walls with precast blocks, remove 3 trees & replace stairs.

Roger A. asked Mr. Geaudreau to state what he intended to do. Mr. Geaudreau stated that he wanted to replace four retaining walls and a set of stairs, he will need to take down three trees and will replant with whatever is necessary, because they will be impacted by the excavators. Roger said they would need to be removed to get down to the water, Mr. Geaudreau agreed. Mr. Geaudreau stated that they applied to the DEP for a Permit by Rule and it was accepted.

Roger A. asked if they were pouring any concrete into the water? Mr. Geaudreau stated, “No”. Roger noted there was some poured concrete in the water now. Mr. Geaudreau stated that it would be removed and they would be using locking blocks which do not require poured concrete. He added that they would be removing all the debris from the old walls.

Roger A. asked if Mr. Geaudreau knew where the old concrete would be going? Mr. Geaudreau stated that he did not know, the contractors would be handling that. He said he would be using someone who is DEP certified. Roger said he was asking because any disposal from a project like this could not go to the Shapleigh Transfer Station. Mr. Geaudreau said, "OK". Roger said sometimes people use Simpsons, Triano, Punskey, etc. to haul it off site. Madge B. thought the contractors should know that? Roger said it was up to the homeowner to make certain it is disposed of properly. Roger said he hadn't heard of any issues for a few years at the Transfer Station but there was a time the Selectmen noted that it was an issue, which is why he still brings it up.

Roger A. asked if all walls were under four feet in height? Mr. Geaudreau stated, "Correct".

Roger A. asked if there would be all new stairs? Mr. Geaudreau stated, "Yes, new stairs. They will not be poured stairs, they will be natural stone". Madge B. asked if they were stone set into the dirt? Mr. Geaudreau said, "Gravel base with stone set in it".

Roland L. said on the sketch plan provided, there was a comment that revegetation would be performed as required. He said he would like to see, prior to approval, a detailed description by the applicant, of what he plans to do. He did not feel the board had to come up with a plan, but that the applicant needed to come up with a plan. Roland said he knew the area well, there is going to be a tremendous amount of disturbance created by this project, he added that he knew the project was necessary. He believed that there had to be a very well defined revegetation plan that tells the CEO how it is going to be stabilized and ultimately how it will be maintained. He wanted the applicant to know it wasn't the boards responsibility to tell him what to do, it was up to him to let the board know what would take place to stabilize the area, and the board will review it, to see if it looks like it will work well and meet the criteria in the ordinance.

Madge B. stated that she agreed with Roland. She said if they need help, they could contact the York County Soil and Conservation District. Roger A. agreed. Madge said they could create a plan for the applicant or sometimes Springvale Nurseries will create a plan using local vegetation.

Mr. Geaudreau stated the reason he put that wording on the plan is because they had to take down the three trees but he didn't know if there was anything else that would need to be removed, or how many trees he would have to replant. Roger A. said the number of trees would be equal to the number of trees removed and they have to be the same distance from the water as the trees being removed. Roger added that the trees to be replanted must be a minimum of six feet in height from ground level to the top of the tree. Roland L. added that the board has to agree that the trees have to be removed. He said at times applicants would like trees removed but at the site visit it is determined that either that is not necessary or in some cases the board recommends additional trees be removed, because they will be damaged during the project and are unlikely to survive. He said the final determination won't be made until after the site visit. Roger said he noticed there are some new trees planted there now. Mr. Geaudreau agreed and said they replanted several because they love trees.

Madge B. asked if it mattered if they leave the stump or not? She thought it was usually best to leave the stump. Roger A. said in this location he thought they may have to come out for access to the site. Madge asked if the excavator says they can leaven them, should they? Roger didn't think the stumps would help in this location.



Roland L. asked if they were going to proceed with this project this fall? Madge B. said, “Yes, they definitely want to”. Madge said they needed to wait for the water to go down. Roland thought they were going to put the water level down at the end of the week. He noted the levels were at spring level.

Roger A. stated that the other question was with the 2 foot walls coming into the camp, there was a deck, would the foundation be restabilized? Mr. Geaudreau stated that if he was referring to under the porch, yes they were going to restabilize, putting in hydraulic cement. Roger noted the mortar joints were cracking.

Mr. Geaudreau asked when the revegetation plan had to be submitted, before the next meeting or at the meeting. Roger A. stated he could bring it to the next meeting. Roger added that they would be sending out a notice to abutters per the ordinance, and the board will review once again at the next meeting and entertain any comments or concerns from abutters.

**Roger A. stated the board would need a revegetation plan to stabilize the area for the next meeting on Tuesday, October 23<sup>rd</sup>. A notice to abutters will be mailed and any members who have not been to the location are free to do so prior to the next meeting.** Roger and Madge had already been to the site. Roger noted the next meeting will begin at 7:30 p.m.

Nothing further was discussed.

**Best Possible Location – Replace Existing Structure – Map 43, Lot 26 (115 Pine Cone Drive) – Roger Pratt, Applicant & Owner**

Roger Pratt Sr. & Jr. were present for the review of the application.

In addition to the application, received was sketch plan drafted by John E. Perry Jr. PLS #2127, dated June 25, 2018 entitled ‘Proposed Building Layout, 115 Pine Cone Drive, Shapleigh, Maine’ which depicts the existing structure and proposed structure location and size. The plan shows the distance of the proposed structure to the existing lots line, distance to the water and Pine Cone Drive. The distances for the existing structure to lot lines were not depicted.

The Land Use Secretary provided an approval letter for a Best Possible Location dated October 11, 2011, for the existing structure at this location. Attached to the letter was the location of the existing structure and again the proposed structure showing the distance to the lot lines for the proposed.

The detailed description of the project is as follows: Tear down existing structure and replace with new structure but different dimensional footprint. Move back from shoreline.

Roger A. asked the applicant to let the board know what he wanted to do. Roger Pratt, Sr. began by stating it was his son’s lot but he would be building the structure. He said they wanted to build a year round camp on it, although he did not think it would be used year round.

Mr. Pratt stated there was an existing shed that they proposed to move back 75 feet from the water. He stated the septic is across the street on another lot, and there is a driven point for the well. He said they wanted to use the 10% lot coverage allowed to build a 25’ x 30’ structure.

Roger A. stated that it would be 30% of the original footprint. The board members reviewed the original Best Possible Location for the existing shed which depicts the existing shed, eave to eave as 361 sq. ft., and corner of house to eave as being 339 sq. ft. The original BPL approval letter is dated October 11, 2011, but the structure was never expanded.

Roger A. stated that the board can only look at the original footprint. He believed that is what they have to look at. Mr. Pratt asked if moving it back to the 75 feet helped them with the height of the structure, but they would still be stuck with 432 sq. ft.? Mr. Pratt asked about the 10% lot coverage allowed? Roger did not think it came in to play in this case, due to the existing non-conforming lot and building.

Mr. Pratt asked if there was any way they could get a larger size?

Steve F. noted that the only thing the board could look at is the best possible location of the existing structure, the CEO looks at the expansion.

The board members continued to review the plan depicting the existing size of the structure and its location. At present it appears the structure is 65.50 feet to the high water mark at its closest point, the accumulative side setbacks of 30 feet are currently met, but the setback to the road is not met with the existing location being approximately 35 feet from Pine Cone Drive.

Steve F. stated again that the expansion will be done by the Code Enforcement Officer. He said the board will be looking at moving the existing structure to the best possible location. Mr. Pratt stated that they want to move the structure back to the 75 foot mark, so they can build a structure 25 feet high. Steve F. stated, "Understood". Mr. Pratt said they were hoping to be able to build a structure that could have a set of stairs going to a second floor.

Roland L. stated that the board was bound by the ordinance, it wasn't that they did not want to accommodate the applicant, they can only follow the dictates that are in the ordinance for the Shoreland. Mr. Pratt stated that they understood, he didn't realize he was as limited as the board was stating. Mr. Pratt spoke about being able to move back to build a garage but for a residence it is different. Roger A. stated that the language in the ordinance speaks of a structure, it does not say 'shed', 'garage' or 'residence', the rules apply to any structure.

Roger A. asked Mr. Pratt what he wanted to do? Madge B. thought the board should go look at it. Mr. Pratt agreed, then they can discuss it at the next meeting. Ann H. asked if it was staked out? Mr. Pratt stated that what they proposed was staked out. He said even if it is smaller the 75 feet will be the same, it may be skinnier or longer.

Citizen stated, "So they go by the initial footprint, that is existing, plus add on 30%, as long as it doesn't go over the 10% lot coverage. It is not either / or". Roger A. added, "Including overhangs, so for the new building the shorter the overhang the better". Mr. Pratt stated they were not going any closer to the neighbor at 10 feet, so there is room to go by on the other side.

Steve F. stated that with respect to the revised plan, all the board needs to see is the 'existing' structure location. Ann H. stated that they didn't know how many square feet they are going to have. Steve said

the board only wants to look at the size of the existing shed, with the setbacks you are proposing, not the proposed structure. This establishes your setbacks. The board cannot look at the expansion.

Mr. Pratt stated, “Then you want just the 339 sf structure in the proposed location”. Steve F. stated, “Exactly”. Madge B. agreed. Roger A. said the board will look at the 361 sf with overhangs, and the board will be establishing the distance to the lot lines and water with that. He said the surveyor will set those figures for the distances to the front and back lines the board approves, and then CEO Demers will set the distance to the side lot lines showing it doesn’t go beyond what is allowed up to the 30%.

It was noted the existing structure does meet the side lot line distances, looking at the approved plan from 2011. Both the existing and proposed structure at that time met the distance to the side lot lines.

Roger A. asked if the leachfield had been put in? Mr. Pratt stated that it has not, they wanted to have the plan updated for a three bedroom home. He said once this is approved he will get a new design. Roger said that was fine.

**Roger A. asked members when they wanted to do a site visit? Members agreed they would drop it on the site on an individual basis due to light constraints this time of year. Roger A. stated a notice to abutters will be mailed.**

Nothing further was discussed.

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**Conditional Use Permit – In-home Day Care – Map 11, Lot 28-6 (18 Green Ghost Road) – Megan Boucher, Applicant & Owner**

Mrs. Boucher was present for the review of the application.

Along with the application, received was a sketch plan depicting the applicant’s house, front yard, location of the septic system, driveway, shed, and an area on site for vehicles to turn around.

The detailed description of the project is as follows: Licensed In-home Daycare

Roger A. asked Mrs. Boucher to let the board know what she wanted to do.

Mrs. Boucher stated that she wanted to open a licensed day care in her home, not changing anything on site, no new structures. Ann H. asked how many children she would be licensed for? Mrs. Boucher stated that just for herself it would be 3 to 6, but with a helper she could have 7 to 12. Roger A. asked if she wanted to have a helper? Mrs. Boucher stated that the number of children she could have depended on ratio’s. Depending on the age, she could have 7 by herself if they were school aged children. She said it was age dependent, so she didn’t have a definite number other than she would not have more than 12. She said she didn’t know who the children would be at this moment.

Roger A. said his advice would be to ask for as many as she could be allowed to have by the State, so she would not have to amend her application down the road. He said if the board granted up to 6, that is all she would be able to have without coming back to the board. Mrs. Boucher said she understood and she

stated that in her application to the State she asked to be licensed for 7 to 12 children. She added that she could not mail in the application to the State until she had Town approval.

Roger A. asked if she had any inspections by the State yet? Mrs. Boucher stated that a State worker came out to speak with her but no inspections were done. She said that once the Town approves the location, she mails it to the State worker and then she comes back out to do an inspection, along with the State Fire Marshall.

Roger A. asked if the yard would be fenced? Mrs. Boucher stated that the State said she did not have to have the yard fenced in because she lived on a dirt road.

Roger A. asked what the hours of operation would be? Mrs. Boucher stated that she was considering 7:00 a.m. to 5:30 p.m. Roger asked if this would be five days a week? Mrs. Boucher stated, "Yes". Roger asked if she would be holding summer hours? Mrs. Boucher stated, "Yes".

Roger A. asked if there was enough parking? Mrs. Boucher stated that they had a long driveway and a turnaround area. Madge B. said it was hard to tell on the existing drawing how much room there was for parking. Mrs. Boucher stated that with their cars pulled all the way in, she felt they could hold eight vehicles. Roger said that typically cars would be dropping off and picking up only. Mrs. Boucher agreed. Roger said that for every 150 sf of area being used for the day care, a parking spot was required. He said that typically a parking space was 200 sf or 10' x 20'. Roger felt the board will see the area at the site visit. He asked that they put the measurements on the drawing where the parking will be.

Roger A. asked the board if they wanted to visit on an individual basis or together prior to the next meeting?

**Board members agreed to meet at the Town Hall at 5:30 p.m. on Tuesday, October 23<sup>rd</sup>, and be on site at approximately 5:45 p.m. Roger stated a public hearing will be held at 7:00 p.m. and a notice to abutters will be mailed as well.**

Nothing further was discussed.

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Steve F. noted that there were deed restrictions for the proposed day care location that have not been enforced, but they do include no commercial businesses. He asked if the applicant was aware of this. Barbara F. stated that the applicant was aware of the restrictions and stated she had spoken with someone about them, and was told a day care would not be an issue. Steve said there has been legal questions in the past with regard to the restrictions, he didn't want the applicant to be unaware. He stated that there was also an opinion that they expired, then may have been reinstated. Roger A. believed deed restrictions always stay in effect.

Barbara said again, that the applicant did speak to her about this and Mrs. Boucher stated that she was told there would not be an issue. Madge B. stated that the Planning Board did not deal with deed restrictions. Barbara stated that she would mention the deed restrictions to the applicant again to be sure she was aware. Madge said that was all we could do. She stated that residents enforce the deed restrictions. She

said that if they haven't been, then they do kind of expire, even though Roger is right, but in fact it expires because if you try to enforce it, it would fail in court. Steve said the association doesn't have any money, and wondered would there be enough of a citizen initiative to get the money to bring it to court. Madge agreed it would be unlikely.

Roland L. asked if the board had the right to approve it? Madge B. said, "Yes, because it is a deed restriction, we only deal with the permits, we don't deal with deed restrictions".

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**OTHER:**

**Possible Ordinance Changes**

**Amendment to 'Establishment of Planning Board'**

- H. Meetings shall be held on the second and fourth Tuesdays of the month at the time specified on the municipal calendar. The meetings shall be at the Town Hall or other suitable meeting place. The Chairman, or upon the request of a majority of the Board, may schedule a special meeting, provided, however, that notice thereof shall be given to each member ~~and to representative of the press at least 24 hours in advance~~ **in accordance with the Maine Freedom of Access Act**, and that no business may be conducted other than as specified in said notice. All meetings shall be open to the public.

*This amendment was made so that the Establishment of Planning Board mirrored what was amended in the Planning Board By-laws.*

**Roger A. made the motion to accept the amendment to the Establishment of Planning Board, Section H. Madge B. 2<sup>nd</sup> the motion. All members were in favor. By a vote of 5 – 0 the motion passed unanimously.**

*The amendment will be given to Karla to post in the warrant for Town Meeting.*

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The following definitions were revised at tonight's meeting. *Nothing is final at this time.*

BED & BREAKFAST – A residential use conducted by the resident owner within her/his own single-family dwelling offering overnight accommodations to the general public on a transient basis, and providing a full or continental breakfast to overnight guests only. The operation is secondary to the primary residential function, and is not intended to have impacts significantly in excess of those of any other single-family dwelling. This definition shall preclude this use from being classified as a Home Occupation.

Version #2 from Madge:

BED & BREAKFAST – Temporary sleeping accommodations within an existing dwelling unit offered by the resident owner.

Madge was not sure if we then apply Home Occupation or create an ordinance for the B & B.

DWELLING, TWO-FAMILY: A single building containing two dwelling units. May also be referred to as a “Duplex”.

The following proposed change was amended to be more concise.

§ 89-14. Procedure

- A. Within six months after the on-site inspection by the Board, the subdivider shall ~~submit an mail a~~ **copy of the application for approval of the final plan to each Board member, each alternate member and the Code Enforcement Officer** at least seven days prior to a schedule meeting of the Board. Failure to do so shall require resubmission of the sketch plan to the Board. The final plan shall approximate the layout shown on the sketch plan, plus any recommendations made by the Board.

§ 89-16. Procedure.

- A. Within six months after the on-site inspection by the Board, the subdivider shall ~~submit an mail a~~ **copy of the application for approval of the final plan to each Board member, each alternate member and the Code Enforcement Officer** at least seven days prior to a schedule meeting of the Board. The original Failure to do so shall require resubmission of the sketch plan to the Board. The final plan shall approximate the layout shown on the sketch plan, plus any recommendations made by the Board.

§ 89-15. Submissions.

Last sentence: In addition, one copy of the final plan, reduced to a size of 8 ½ inches by 11 inches, and all accompanying information shall be mailed to each Board member, including alternate members **and the Code Enforcement Officer**, no less than seven days prior to the meeting.

§ 89-17. Submissions.

Fourth sentence: In addition, one copy of the plan(s), reduced to a size of 8 ½ inches by 11 inches, and all accompanying information shall be mailed to each Board member, **each alternate member and the Code Enforcement Officer**, no less than seven days prior to the meeting.

§ 89-18. Procedure.

- F. A public hearing may be held by the Planning Board within 30 days after the issuance of a receipt for the submittal of an incomplete application. This hearing shall be advertised in a newspaper of local circulation at least two times, the date of the first publication to be at least seven days before the hearing, and the notice of the hearing shall be posted in at least three prominent places at least seven days prior to the hearing. When a subdivision is location within 500 feet of a municipal boundary, and a public hearing is to be held, the Planning Board shall notify the Clerk and the Planning Board of the adjacent municipality involved, at least ~~40~~ **7** days prior to the hearing.

§ 89-19. Submissions.

Last sentence: In addition, one copy of the final plan, reduced to a size of 8 ½ inches by 11 inches, and all accompanying information shall be mailed to each Board member, **each alternate member and the Code Enforcement Officer**, no less than seven days prior to the meeting.

The board will continue to review and revise the Subdivision & Zoning Ordinance at future meetings, all changes will be presented to voters at Town Meeting.

Growth Permits – There are permits available

The Planning Board meeting ended at 8:50 p.m.

NOTE: The summers hours are in effect thru October 31st, the meetings begin at 7:30 p.m. and any scheduled public hearings begin at 7:00 p.m.

The next meeting will be held **Tuesday, October 23, 2018** 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. 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.

Respectfully submitted,
Barbara Felong, Land Use Secretary
planningBoard@shapleigh.net

Shapleigh Planning Board

Minutes

Tuesday, October 23, 2018

Members in attendance: Steve Foglio, (Vice Chairman), Roland Legere, Maggie Moody and Alternate Ann Harris. Code Enforcement Officer Mike Demers was also in attendance. Roger Allaire and Madge Baker were unable to attend. *Ann Harris sat in as a regular member this evening.*

Minutes are not verbatim, unless in quotes “” – If the name of a citizen making a comment was not requested by the Planning Board Chairman, the reference to their name will be known as ‘Citizen’.

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

Conditional Use Permit – In-home Day Care – Map 11, Lot 28-6 (18 Green Ghost Road) – Megan Boucher, Applicant & Owner

Mrs. Boucher was present for the Public Hearing. Mr. Boucher was present as well.

Steve F. opened the public hearing by asking Mrs. Boucher to let the audience know her intentions.

Mrs. Boucher stated that she wanted to open a State licensed in-home day care for up to 12 children. She would be utilizing the basement of her home, along with the 1st floor.

Citizen – My only concern is around traffic. 12 kids means 24 parents coming in and out dropping kids off and picking them up. It’s a private development that is not supposed to have any businesses in it, it is in our deeds. So I don’t know if this has been waived, as there has been a long term debate over this. The other concern is over the lake and lake access. This is a private lake and a small community, so again 12 kids means 24 parents, are they going to come in and use the lake, what would that look like. That is a lot of people.

Steve F. – The traffic part of it is something the board has to weigh when considering a Conditional Use Application.

Citizen – These are dirt roads that are not very well maintained. So that is a lot of traffic.

Steve F. – Are you familiar where the location is?

Citizen – Yup.

Steve F. – Are you an abutter or neighbor? Where do you live?

Citizen – Yes.

Citizen – We are abutters.

Steve F. – To address the concern with deed covenants. We have looked at that and we do not know if they are in effect or in use at this point. It depends on which attorney you ask. And so we put it on the applicant to make the determination if she wants to move forward. It would be a civil matter, it is nothing the Planning Board would have any jurisdiction over.

Mrs. Boucher – With respect to the lake, with a licensed day care you cannot have children around the water unless you are a lifeguard, and I am not a certified life guard. So there will not be any children or their parents going down to the lake.

Citizen – Similar concern, after pickup, especially in the summer time there is nothing to prevent them, once the parents pick up, their going down to the beach and down to the lake. That is one of the concerns I raise. It is crazy enough with all the summer people, and I am a seasonal summer person. It is crazy enough with all the seasonal summer traffic running up and down the streets. My concern would be in the winter time, the safety of the kids. The covenant thing, I would consider secondary, because I would have no problem with having some cottage industries in the neighborhood. It's the type of business that concerns me with this one. I know the kids by license cannot go down to the lake, but the beach is crowded and it is hard to keep it policed in the summer. We've had too many calls to have to get the names to give to the Sheriff in the past for folks that are around here. I don't expect that to happen from this parent group but there is nothing to prevent them from coming down and taking a swim after day care and using the facilities and that is a concern.

Mrs. Boucher – I could have it in my contract to the parents that it is a private lake, that we are an association and they are not permitted to swim down there. The other thing is that just because I am licensed for 12, does not mean I will have 12 children. I could just have a couple of kids. When it comes to getting licensed that is the number you are able to have. It does not mean I will have 12 children and 24 parents coming in and out of my home.

Citizen – So if she had six kids is there, is it a State law that she needs another adult watching the kids with her, and fencing, so kids don't go out into the road when someone is going 30 mph?

Steve F. – I believe that part of it is dealt with at the State level.

Citizen – OK

Steve F. – I believe as a board, we have the option to add requirements.

Citizen – People drive way too fast in the neighborhood. I am scared for the kids. Where Mrs. Boucher is located, maybe it isn't an issue. We are on the main road.

Mrs. Boucher – The kids will be out back. They will not be out front or near the road.

Roland L. – You may find it interesting to know that the distance from the road to the back yard, it's not like 10 feet away, there is a considerable distance. It's on the plan.

Citizen – Through the woods it is actually a lot closer.

Mr. Boucher – There is a berm. You would have to climb to get over it.

Roland L. – At the site visit, the board commented on how thick the vegetation was behind the house, even without the foliage. They would have to intentionally work to get through it.

Citizen – What are the ages of the day care kids you would be interested in?

Mrs. Boucher – I would be licensed for six weeks up to twelve years old. But again, it is a matter of who comes. Some families have more than one child, so the traffic could be one family has two or three kids, so that is one vehicle. It is not necessarily the amount of kids equals the amount of parents.

Mr. Boucher – The Association states that you can't have a commercial business but you can have a residential business.

Citizen – The reason for a Conditional Use Permit is to provide a commercial service, so how can this not be commercial. Aren't you applying for a Conditional Use Permit?

Mrs. Boucher – Yes, I guess so, but this isn't a commercial business. It is not an LLC, it is just an in-home private day care.

Maggie M. – It is a different category.

Citizen – The Association rules are not in effect.

Citizen – We do not know if they have been dissolved. Nobody knows.

Steve F. – Exactly.

Citizen – We pay road fees, like she does, he does. But to have more people come in to a private development. We pay road fees to maintain the roads, these people coming in are not paying road fees. She is collecting money to have a day care. That is a concern.

Steve F. – And there is a water association.

Citizen – After the winter plowing we have to put reclaim there and that costs money. The more traffic you get, the more pot holes you get. She doesn't live far off the town road, but still, it is a lot of traffic.

Steve F. – OK. Any comments from the board?

There were no additional comments.

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

The minutes from Tuesday, October 9, 2018 were accepted as read.

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

Conditional Use Permit – In-home Day Care – Map 11, Lot 28-6 (18 Green Ghost Road) – Megan Boucher, Applicant & Owner

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

Along with the application, received was a sketch plan depicting the applicant's house, front yard, location of the septic system, driveway, shed, and an area on site for vehicles to turn around.

The detailed description of the project is as follows: Licensed In-home Daycare

Received this evening was a second sketch plan which depicted the dimensions of the turnaround area, the width of the driveway, the size of the existing home, along with a general layout of the area to be used for the day care, the location of the existing shed, and backyard which is bordered at the rear lot line with a sand berm and vegetation.

For the file, the Planning Board secretary provided a copy of the Subsurface Wastewater Disposal System Application for a 3 bedroom home, done by Mark Truman, SE #121, plan dated 1/29/2002.

Steve F. once again asked Mrs. Boucher to state her intentions. Mrs. Boucher stated that she intended to open an in-home day care for up to 12 children.

Mrs. Boucher was asked what her hours of operation would be? She stated 7:00 a.m. to 5:30 p.m., Monday through Friday. Roland L. stated that the board generally asks that the applicant makes sure they include all hours that may be needed, such as in this case a parent running late, etc. The board did not want her to have to come back to amend the approved hours. Mrs. Boucher stated that the hours would be 6:30 a.m. thru 6:00 p.m. She believed that is the most she would need.

Steve F. stated that the board did hear a lot of concerns during the public hearing, but most had to do with the Association. In the event the Association takes issue with this, this is a step for all concerned to take through the Association. The board is going to look at this application from the applicable standards for an in-home child care and conditional use, but again the board can't deal with the Association issue. This is not the board's jurisdiction. He asked if this made sense? He stated that traffic and noise are applicable standards according to the ordinance, but them using the beach and that sort of thing, the board does not have control over that.

Citizen – And you don't plow the roads at all, so you have no jurisdiction there at all, do you?

Steve F. – Other than the fact that you live in the Town of Shapleigh, the only jurisdiction is to make sure this citizen meets our ordinance standards.

Mrs. Boucher – My only other thought is about other people coming in that are not part of the Association. What about friends and family, you can't tell them they can't come because they don't pay for the roads?

Citizen – But that isn't a business.

Mrs. Boucher – It's an in-home business.

Citizen – Years ago, people trying to get businesses in there, you denied them.

Steve F. – Who did?

Citizen – The Town denied them but I can't remember who. I have been here 16 years. It's a residential area, it is not zoned to have a business in that area.

Mrs. Boucher – Commercial business, not residential.

Ann H. – It depends on what kind of business that they are trying to put into that area.

Citizen – They couldn't have vehicles with the name of their business on their vehicle living there. So it is some type of business. It was something to do with businesses in the development.

Mrs. Boucher – It says commercial businesses, it does not say anything about residential businesses. I have read all the covenants.

Citizen – So if you give her a permit to have a day care, then you have to give two or three other places, if they want day cares, you have to give them a permit. As long as they pass everything.

Steve F. – That is correct, if they apply for a Conditional Use and meet the specific criteria.

Citizen – So if they pass it and you allow it, now we have 40 or 50 kids.

Mrs. Boucher – What are the chances of that?

Citizen – 100 percent. 16 years ago we had 25 kids in the neighborhood, five years ago we had 4 or 5.

Now we have another 12 or 15 that moved in. I do not hate kids, I have kids and grandkids of my own. I am just saying if you have a day care at one house, it will be hard to deny the next person as long as they pass the criteria.

Steve F. – What I am saying is if this applicant met the criteria in our section of the ordinance, why would we deny them? We are not the Association.

Citizen – So if we come in for one, if she comes in and wants 12 kids...

Roland L. – We are agents of the ordinance and if you are the applicant and you met the requirements in the ordinance, we cannot deny you that. Even if we may not agree with it. If the applicant meets the conditions in the ordinance then we have no choice. That is their right as residents and tax payers in Shapleigh.

Steve F. began the review of §105-40.1 ‘Child day care’, Sections A & B. Steve noted that much of the criteria for the day care is dictated by the State of Maine (Dept. of Health & Human Services).

Steve then reviewed the pertinent Basic Performance Standards as follows:

105-21 – Traffic. Roland L. stated that the site distances could be met. Ann H. stated that at least two vehicles could pull in because of the length of the driveway, to drop the child off.

A citizen asked if the children would be allowed to use the bus stop, because if so, that would create another issue because there was no parking, as it is now. Mrs. Boucher stated that she could walk the children to the bus stop, she was close enough. She added that she could not say at this time that she would have school-aged children. She would prefer younger children, because a school-aged child would be in school, taking up one of her spots, so the goal is to take younger children.

105-22 – Noise. Steve F. stated this ordinance speaks about excessive noise at unreasonable hours shall be muffled. He wasn’t sure how you would check a decibel level of a day care, but he believed in the event of a complaint the CEO would have to follow up.

105-23 – Dust, fumes, vapors and gases. Steve F. stated this would not be an issue with this application.

105-24 – Odors. Steve F. stated there would be no odors from this activity.

105-25 – Glare. Steve F. stated the board spoke about lighting at the site inspection. He believed they may want to add lighting in the front of the home, but nothing that would glare toward the road.

105-33 – Refuse disposal. The waste will be brought to the Shapleigh Transfer Station by the applicant.

Steve F. did ask the applicant how she would be disposing of any trash? Mrs. Boucher stated she would be taking it to the Transfer Station and noted that it would be minimal. She stated that this isn’t the first time she had a day care, and again, very little trash is generated. Roland L. stated again for the record, any refuse generated, Mrs. Boucher would take it to the Transfer Station. Mrs. Boucher stated, “Yes”.

Steve F. then reviewed §105-73.G ‘Standards applicable to conditional uses’:

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. There is no vegetation being cleared and it is not near any pond.**

- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. **Steve F. stated that although there was discussion about the pond, the applicant stated she had no intension of taking the children to the water, therefore this is not applicable. He noted again, that this was an Association issue with respect to the beach.**
- 3) The use is consistent with the Comprehensive Plan. **Steve F. stated it is, the Comp Plan wants home based businesses in the Town.**
- 4) Traffic access to the site is safe. **Steve F. stated that the site distances can be met in both directions. Steve stated that the board noted that the location was difficult to find when going on the site inspection, so he believed there needed to be a reflective street number sign out by the end of the driveway in case of an emergency. The other board members agreed this should be a condition of approval. Steve noted that others who live in this area may want to consider this as well.**
- 5) The site design is in conformance with all municipal flood hazard protection regulations. **Steve F. stated it is, the structure is in existence, permitted by the Town and is not in the flood zone.**
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. **Steve F. stated the applicant will take any refuse to the Transfer Station and there is an existing State approved Subsurface Wastewater Disposal System. The plan is on file, Site Evaluator is Mark Truman, SE #121, plan dated 1/29/2002.**
- 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 this is not applicable because there is no change to the existing structures on site to create an impervious surface.**
- 9) Adequate provisions to control soil erosion and sedimentation have been made. **Steve F. stated this is not applicable, as there are no changes being made to the property or exterior of the existing structure.**
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. **Steve F. stated there is.**
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. **Steve F. stated there was a very good vegetative screen at the rear of the property. The only neighbor close was to the right of this location. Steve wanted a provision that if in the future that neighbor has a concern, a fence would be erected. Roland L. agreed that if there was an issue, such as children wandering around, one should be erected. He believed the site would lend itself well to a fence, as there would not be a large distance of fence required. Maggie M. did not feel one was required now, but agreed if there was a complaint, one should be installed. Ann H. agreed, it was the only side without trees. Steve said this provision is met with a condition for the fence if needed.**

- 12) All performance standards in this chapter applicable to the proposed use will be met. **Steve F. stated they shall with conditions.**

Steve F. asked if there were any other comments or concerns? There were none.

The conditions of the permit are as follows:

- 1) **There shall be a large reflective street marker placed near the end of the driveway, so the location can be easily detected by emergency personal should it be warranted.**
- 2) **If there is a complaint by the neighbor on Map 11, Lot 28-7, regarding children going onto his property and creating a disturbance, a fence shall be erected between the two properties by the applicant.**
- 3) **The hours of operations shall be 6:30 a.m. thru 6:00 p.m., Monday through Friday.**
- 4) **The in-home day care shall not open for business until all required State permits are obtained and a copy of the permits given to the Planning Board.**

Ann H. made the motion to approve the Conditional Use Permit for an in-home day care for up to 12 children on Map 11, Lot 28-6, with four conditions. Maggie M. 2nd the motion. All members were in favor. By a vote of 4 – 0, the motion passed unanimously.

Nothing further was discussed.

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### **The Findings of Facts**

1. The owner of Shapleigh Tax Map 11, Lot 28-6, is Michale Paul Boucher, Jr. of 18 Green Ghost Road, Shapleigh Maine 04076. The property is located in the General Purpose District.
2. The applicant is before the board for a Conditional Use Permit to open an in-home child day care for up to 12 children in the existing residence.
3. Received, along with the application, was a copy of a sketch of the property which depicted the existing residence, location of the septic tank, shed on the property, driveway, and an area for vehicles to turn around on the property.
4. Received was a second sketch plan which depicted the dimensions of the turnaround area, the width of the driveway, and the size of the existing home, along with a general layout of the area to be used for the day care, the location of the existing shed and backyard which is bordered at the rear lot line with a sand berm and vegetation.
5. Received was a copy of the Subsurface Wastewater Disposal System Application for a 3 bedroom home, done by Mark Truman, SE #121, dated 1/29/2002.
6. Meetings were held on Tuesday, October 9, 2018 and Tuesday, October 23, 2018. A notice was mailed to all abutters within 500 feet of the property on October 18, 2018. A site inspection and a Public Hearing were held on October 23, 2018.

7. After careful consideration of all information received, the pertinent Zoning Ordinances, including the review of the Basic Performance Standards, §105-40.1 ‘Child day care’, and §105-73 ‘Conditional use permits’, the Planning Board unanimously agreed the information as presented met the performance standards in these chapters with conditions.
8. On Tuesday, October 23, 2018 the board unanimously voted to approve the Conditional Use Permit to open an in-home child day care for up to 12 children on Shapleigh Tax Map 11, Lot 28-6, with four conditions.
9. **The conditions of the permit are:**
  - 1) **There shall be a large reflective street marker placed near the end of the driveway, so the location can be easily detected by emergency personal should it be warranted.**
  - 2) **If there is a complaint by the neighbor on Map 11, Lot 28-7, regarding children going onto his property and creating a disturbance, a fence shall be erected between the two properties by the applicant.**
  - 3) **The hours of operations shall be 6:30 a.m. thru 6:00 p.m., Monday through Friday.**
  - 4) **The in-home day care shall not open for business until all required State permits are obtained and a copy of the permits given to the Planning Board.**

Motion:

After careful consideration and a review of all material presented to the Board, a motion was made on Tuesday, October 23, 2018, to approve the Conditional Use Permit for an in-home child day care for up to 12 children on Shapleigh Tax Map 11 Lot 28-6, with the above stated four conditions.

Vote:

By a unanimous vote of 4 – 0, the motion to approve the Conditional Use Permit for an in-home child day care for up to 12 children on Shapleigh Tax Map 11, Lot 28-6, per the information provided with four conditions, was accepted.

Decision:

**The Conditional Use Permit application for an in-home child day care for up to 12 children on Shapleigh Tax Map 11, Lot 28-6, per the information provided, with four conditions was approved.**

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**Conditional Use Permit – Replace Four Existing Retaining Walls & Stairs – Map 28, Lot 17 (78 17<sup>th</sup> Street) – Alfred Geaudreau, Applicant & Owner**

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

In addition to the application, received was sketch plan entitled ‘Proposal for 78 17<sup>th</sup> Street Shapleigh, Maine – Replace 4 Deteriorating Block Retaining Walls & Footings with Pre-cast Blocks. Replaced Wall Will Conform to Current Dimensions. Revegetation to be Performed As Required’, which depicted the existing camp and attached porch, the walls to be replaced, stairs to be replaced, and three trees to be removed in relation to the property line and Mousam Lake. Also received were pictures of the existing

walls & stairs, copy of map depicting the general location of the property; Subsurface Waste Water Disposal System Variance Request dated 6/11/15, drafted by Kenneth Gardner, SE #73; the Subsurface Wastewater Disposal System Application drafted by Kenneth Gardner, dated 5/27/15; and the Permit by Rule Notification Form, acceptance date of 9/18/18.

The detailed description of the project is as follows: Replace 4 deteriorating block retaining walls with precast blocks, remove 3 trees & replace stairs.

Steve F. asked Mr. Geaudreau if he still planned on removing all the walls? Mr. Geaudreau stated that he did. Ann H. asked if he found an excavator yet? Mr. Geaudreau stated that he had several estimates, as soon as he received one more, then he wanted to lay out more details with respect to their estimates. Steve noted it was quite a project.

Ann H. asked if they were going to use a large or small excavator? Mr. Geaudreau stated that they had to use a large excavator.

Steve F. asked if they provided a replant plan? Mr. Geaudreau did provide members with a revegetation plan which depicted the removal and replanting of 3 trees, the sloped area to be disturbed would be replanted with native ground cover, and the area around the upper retaining wall would be seeded with grass.

Roland L. asked if there was an updated plan that showed the path of travel by the excavator, would there be a pad they would be working from? Mr. Geaudreau stated that both people he spoke with said they would take part of the upper wall down and then make a pad to work from. He said that they could not use a small excavator because of the size of the blocks they were using for the lower two walls.

Roland L. said when he visited the site, at the water's edge there were two PVC pipes at each end. He asked if they were the property markers? Mr. Geaudreau stated that one of them was, looking down the hill on the right, that one was approximately the lot line. He said the other one is 8 feet from the property line but that is about where the wall was going to end. He said there were some trees on the left end that would have to be removed if they went all the way to the property line, and they wanted to keep them. He said they were stopping short, so as not to impact the trees.

Roland L. asked what size the blocks were for the lower walls? Mr. Geaudreau stated they were four feet long, 18 inches thick and about 40 inches deep. He said they weigh about 2000 pounds each, which is why the mini excavator would not work. He said on the upper walls they would be using the smaller blocks that are 12 or 18 inches in width. Roland asked about size of the upper wall. Mr. Geaudreau stated they were hoping to replace it with a lower wall, by sloping the area differently. He explained to the board how they wanted to place the blocks.

Roland L. stated that he noticed the nice vegetation that is there now, he believed it was Vinca. Mr. Geaudreau stated that was what they wanted to put back, as they liked it as well, or something similar. Roland asked if it was going to be disturbed? Mr. Geaudreau stated that it would because of how the excavator had to travel. He spoke about how they had to remove what was existing, then they would put excavation mulch down and replant the three trees. After that they would replant the area with a native ground cover and they hoped the area would again look like it does now. Roland wished there was a way



to be able to remove the upper wall from the driveway and not disturb that area. Mr. Geaudreau stated in order to do what Roland suggested they would have to remove additional trees, and they did not want to have to do that. Steve F. added that they would be traveling back and forth over the area. Roland stated that he understood but he said that they would not be able to establish a ground cover over landscape mulch. Roland said the Vinca can spread but it won't grow over landscape fabric and mulch. He was hoping it could be salvaged, as it will take a long time to come back. Mr. Geaudreau agreed with Roland and said if there was any way to do the job and not disturb that area, that would be his goal, but no one has indicated that that was possible, in order to be able to get the lower two walls done. He stated that he told the contractors that when doing the upper walls, that he wanted as little disturbance as possible. He went on to further explain to Roland how they planned to do the job.

Roland L. said something to consider would be to use a tractor with a bucket, they may be able to skim off some of the Vinca and set it to the side and then re-establish it. Mr. Geaudreau stated he would consider that.

Steve F. asked CEO Demers if he was comfortable with being able to enforce the replant plan that was presented this evening. CEO Demers stated that he was.

Steve F. began review of §105-39 'Earth removal and filling for activities other than mineral exploration and extraction', Section D 'Earth moving in the Shoreland district'. Earth moving in excess of 10 cubic yards shall require a conditional use permit from the Planning Board. Steve stated that the person doing the work had to be DEP certified in erosion control measures. Steve stated that the board received a revegetation plan.

Steve F. then reviewed Section G 'Conditions of permits' as follows:

- (1) The smallest amount of bare ground shall be exposed for the shortest time feasible. The Planning Board shall set a specific date after which bare ground shall not be exposed. **Steve F. asked Mr. Geaudreau what his time frame for the project was? Steve asked what a date of completion would be? Mr. Geaudreau believed the project would take two to three weeks to complete and he hoped to get it done this fall. He did not believe the revegetation would be finished this fall. Mr. Geaudreau agreed that a date of June 1, 2019 would work as a completion date for the entire 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. **Steve F. stated that a silt fence would need to be maintained until the project was completed.**
- (3) Diversions, silting basins, terraces and other methods to trap sediment shall be used.
- (4) Lagooning shall be conducted in such a manner as to avoid creation of fish trap conditions. The applicant shall submit written approval from the Department of Marine Resources or Department of Inland Fisheries and Wildlife, as applicable, prior to consideration by the Planning Board. **Steve F. stated there would be no lagooning on site.**
- (5) The extent and type of fill shall be appropriate to the use intended. The applicant shall specify the type and amount of fill to be used. The appropriate type of fill shall be used to create proper drainage. **Roland L. stated all fill to be removed and debris had to be taken out of Shapleigh.**
- (6) Fill shall not restrict a floodway, channel or natural drainageway.

- (7) The sides and bottom of cuts, fills, channels and artificial watercourses shall be constructed and stabilized to prevent erosion or failure. Such structures are to be designed and built according to the Maine Soil and Water Conservation Commission, Technical Guide, Standards and Specifications.
- (8) Where activities carried out under this article require the removal of existing ground cover, revegetation should be carried out. **Steve F. stated that a revegetation plan had been received.**
- (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. **Steve F. stated that there wasn't much that could be done with the excessive slopes, they are in existence. The new walls should help mitigate future erosion.**
- (11) The top of a cut or the bottom of a fill section shall not be closer than 10 feet to an adjoining property, unless otherwise specified by the Planning Board.
- (12) Sufficient topsoil or loam shall be retained to cover all areas, so that they may be seeded and restored to natural conditions. **Steve F. stated a revegetation plan has been provided and approved by the CEO.**

Steve F. asked Mr. Geaudreau what would be done with the material removed? Mr. Geaudreau stated the excess soil would be removed during the project and then returned as needed. He stated there wasn't enough room on site to store the material. He said the excess will be used by the contractor for other jobs. Steve asked about the walls that will be removed? Mr. Geaudreau stated they will be taken out of Shapleigh to be disposed of.

**Steve F. then review §105-73.G 'Standards applicable to conditional uses':**

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. **Steve F. stated, it will have a positive impact on fish, aquatic life and wildlife habitat, as it will prevent erosion, and keep soils from going into the lake, once the project is done.**  
*Steve thought multiple layers of silt fence may be required for this project. He said it would be up to the contractor, but in this situation due to the slope it would likely need more than one silt fence. Mr. Geaudreau agreed. He said they would start with the lower walls first and go up, catching the erosion as it goes. Steve noted that a Permit by Rule had been applied for. Mr. Geaudreau agreed that it had and was accepted.*
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. **Steve F. stated that this project will be an improvement to the site, both to conserve the shore and visually.**
- 3) The use is consistent with the Comprehensive Plan. **Steve F. stated it is, the Comp Plan wants the waterbodies in Shapleigh protected.**
- 4) Traffic access to the site is safe. **Steve F. stated this is not really an issue with this application. Roland L. stated that he would like to add a condition, for the protection of the applicant and neighbors, that the road be returned to the good condition it is in at this time, prior to the project. He said moving the equipment in and out may damage the road. He felt this should be a condition of the project. The board agreed.**

- 5) The site design is in conformance with all municipal flood hazard protection regulations. **Steve F. stated it is, this is not in the flood zone.**
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. **Steve F. stated the old wall will be taken out of Shapleigh by the contractor.**
- 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 walls are being replaced to prevent stormwater from having an adverse impact on this property and the lake.**
- 9) Adequate provisions to control soil erosion and sedimentation have been made. **Steve F. stated silt fences, as many as needed, will be in place until the project is completed. A person certified by the DEP in erosion control shall do the project.**
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. **Steve F. stated this isn't applicable 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. **Steve F. stated this is not applicable for this project.**
- 12) All performance standards in this chapter applicable to the proposed use will be met. **Steve F. stated they shall with conditions.**

Steve F. asked if there were any additional question? There were none.

**The conditions of approval are:**

1. **The project, including the removal and replacement of the existing walls, and revegetation plan which includes the replacement of the three trees to be removed, shall be completed by June 1, 2019. If this date cannot be accomplished the applicant must contact the Code Enforcement Office, and have a new date of completion established.**
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. **All material from the existing walls to be removed shall be taken out of Shapleigh and disposed of properly.**
4. **When the project is completed, 17<sup>th</sup> Street shall be returned to the existing 'good' condition by the Contractor and/or Property owner.**
5. **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, which are less than 4 feet in height, and stairs per the plans provided, on property known as Tax Map 28, Lot 17, with five conditions. Ann H. 2<sup>nd</sup> the motion. All members were in favor. By a vote of 4 – 0, the motion passed unanimously.**

Nothing further was discussed.

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The Findings of Facts

1. The owner of Shapleigh Tax Map 28, Lot 17 (78 17st Street), is Alfred Geaudreau, Jr. of 14 Witchtrot Road, South Berwick, ME 03908.
2. The property is located in the Shoreland District and according to the assessor the property contains .18 acres.
3. The application description reads as follows: Replace 4 deteriorating block retaining walls with precast block, remove 3 trees & replace stairs.
4. Received was a sketch plan entitled ‘Proposal for 78 17th Street Shapleigh, Maine – Replace 4 Deteriorating Block Retaining Walls & Footings with Pre-cast Blocks. Replaced Wall Will Conform to Current Dimensions. Revegetation to be Performed As Required’, which depicted the existing camp and attached porch, the walls to be replaced, stairs to be replaced, and three trees to be removed in relation to the property line and Mousam Lake.
5. Received were pictures of the existing walls & stairs, copy of a map depicting the general location of the property; Subsurface Waste Water Disposal System Variance Request dated 6/11/15, drafted by Kenneth Gardner, SE #73; the Subsurface Wastewater Disposal System Application drafted by Kenneth Gardner, dated 5/27/15; and the Permit by Rule Notification Form, acceptance date of 9/18/18.
6. Received was a Revegetation Plan which depicted the area where three native trees shall be planted, 6 feet in height, no farther from the water than the existing trees that will be removed; an area that will be revegetated with a native ground cover, and an area that will be seeded with grass.
7. The board reviewed the Basic Performance Standards in the Zoning Ordinance and concurred the application and information as presented met the performance standards, with conditions.
8. The Planning Board reviewed §105-39 ‘Earth removal and filling for activities other than mineral exploration and extraction’, and §105-73 ‘Conditional Use Permits’ and concurred the application and information as presented met the performance standards, with conditions.
9. A notice was mailed to all abutters within 500 feet of the property on October 10, 2018. Meetings were held on Tuesday, October 9, 2018 and Tuesday, October 23, 2018.
10. The Planning Board unanimously agreed to approve the Conditional Use Permit to replace the existing retaining walls, which are less than 4 feet in height, and stairs per the plans provided, on property known as Tax Map 28, Lot 17, with conditions.
11. The conditions of approval are:
 1. **The project, including the removal and replacement of the existing walls, and revegetation plan which includes the replacement of the three trees to be removed, shall be completed by**

June 1, 2019. If this date cannot be accomplished the applicant must contact the Code Enforcement Office, and have a new date of completion established.

- 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. All material from the existing walls to be removed shall be taken out of Shapleigh and disposed of properly.**
- 4. When the project is completed, 17th Street shall be returned to the existing ‘good’ condition by the Contractor and/or Property owner.**
- 5. 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, a motion was made on Tuesday, October 23, 2018, to approve the Conditional Use Permit to replace the 4 existing retaining walls, which are under four feet in height, and a set of stairs, on the property known as Tax Map 28, Lot 17, per the plans provided with five conditions.

Vote:

By a unanimous vote of 4 – 0, the motion to approve the Conditional to replace the 4 existing retaining wall, which are under four feet in height, and a set of stairs, on the property known as Tax Map 28, Lot 17, per the plans provided with five conditions, was accepted.

Decision:

The Conditional Use Permit to replace the 4 existing retaining wall, which are under four feet in height, and a set of stairs, on the property known as Tax Map 28, Lot 17, per the plans provided with five conditions, was approved.

Best Possible Location – Replace Existing Structure – Map 43, Lot 26 (115 Pine Cone Drive) – Roger Pratt, Applicant & Owner

Roger Pratt Sr. & Jr. were present for the review of the application.

At the previous meeting, in addition to the application, received was sketch plan drafted by John E. Perry Jr. PLS #2127, dated June 25, 2018 entitled ‘Proposed Building Layout, 115 Pine Cone Drive, Shapleigh, Maine’ which depicts the existing structure and proposed structure location and size. The plan shows the distance of the proposed structure to the existing lot lines, distance to the water and Pine Cone Drive. The distances for the existing structure to lot lines were not depicted.

The Land Use Secretary provided an approval letter for a Best Possible Location dated October 11, 2011, for the existing structure at this location. Attached to the letter was the location of the existing structure and the proposed structure, showing the distance to the lot lines for the proposed.

The detailed description of the project is as follows: Tear down existing structure and replace with new structure but different dimensional footprint. Move back from shoreline.

At the previous meeting, it was noted by members the existing structure did meet the side lot line distances, looking at the approved plan from 2011. The existing structure did not meet the setback requirements to the water or Pine Cone Drive. The board asked Mr. Pratt to provide the board with a sketch plan that depicted the original 339 sf structure in the proposed location. The CEO would deal with the expansion after the board approved the best possible location of the existing structure.

Steve F. stated that the applicant was requesting that the board move the existing structure back to the 75 foot mark. He said that recent changes to the ordinance allow an expansion at 75 feet for up to 1500 square feet or 30% larger.

Barbara F. asked if the applicant provided a new plan that depicts the existing structure at the 75 foot mark. The plan provided showed the proposed structure at 75 but not the existing. Steve F. asked the applicant to come up to the board and explain what was on the existing plan.

Board members, after listening to Mr. Pratt explain what he wanted to do, explained what the board needed to see on the plan, which was the dimensions of the ‘existing’ shed, placed in the proposed location on the plan ‘only’. Not the proposed structures dimensions. Steve F. stated that the distance measurements of the new shed, those that do not meet the setback requirements are very important, as they will need to be verified by a surveyor that the new structure is placed at that exact location approved by the board. Steve F. and Roland L. both wanted the applicant to be clear that the distances approved on the plan, would be exactly where the foundation of the new structure would have to be placed. Steve added that the new location and expansion will have to get recorded at the York County Registry of Deeds.

It was also discussed among members that in §105-4.D it states that an expansion can be permitted only if *the expansion does not increase the nonconformity of the structure*. It also notes under D.1(c) that *a structure can be expanded as long as other applicable municipal land use standards are met*. So in the case of this application, the structure after placement, can only be expanded toward the side lot lines, as the minimum setback to the side lot lines are met at this time, even after relocating the existing structure. It was also noted that the structure can go up to 25 feet in height per Section D.1(c)[2]. The board did state that the actual expansion was through the CEO. But the board wanted the applicant aware of what he would be able to do after placement by the board.

Steve F. asked if there was a replanting plan? Mr. Pratt stated that they intended to use a conservation mix as it worked well, even in poor soils.

After continued discussion, the board asked Mr. Pratt to have a new plan drafted, placing just the dimensions of the existing shed in the best possible location, which the applicant believes is 75 feet from the high water mark, *not the proposed size of the structure*. The dimensions of the existing shed only, in the proposed location. The board also asked to see a revegetation plan for the area to be disturbed.

Steve F. stated the next meeting will be Tuesday, November 13th. He asked the applicant to tell Barbara F. if they will be ready for the board to review on that date and if not to let her know when they are ready.

The board agreed to table the application, until the correct information is provided.

Nothing more was discussed.

OTHER:

Barbara F. gave members a copy of §89-36.I under ‘Street design standards’ and §105-17 ‘Land uses’, both changes the board had discussed at a previous meeting. She stated she would like to discuss the ordinance changes at the next meeting, and hold the first Public Hearing on the proposed amendments on Tuesday, November 27th. Board members agreed.

Growth Permits

Map 36, Lot 28 (Indian Village Road) – New Home

GP #16-18

The board reviewed the lot and approved the application as it is an existing lot of record.

David Patterson of Canbury Homes, Inc., along with the property owners, Richard & Donna Arcand, owners of Map 36, Lot 28, asked the board if they needed to obtain Conditional Use Permit approval, because the property is in part located in the Shoreland District (SD). They noted that the structure itself would be beyond the 250 foot SD delineation. The board members concurred that because the modular home would be beyond the 250 SD boundary, a Conditional Use Permit was not required.

The Planning Board meeting ended at 9:20 p.m.

NOTE: The winter hours are in effect thru March 31st, the meetings now begin at 6:30 p.m. and any scheduled public hearing begins at 6:00 p.m.

The next meeting will be held **Tuesday, November 13, 2018** 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. 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.

Respectfully submitted,
Barbara Felong, Land Use Secretary
planningBoard@shapleigh.net

Shapleigh Planning Board

Minutes

Tuesday, November 13, 2018

Members in attendance: Roger Allaire (Chairman), Steve Foglio (Vice Chairman), Roland Legere, and Maggie Moody. Member Madge Baker and Alternate Ann Harris were unable to attend. Code Enforcement Officer Mike Demers was also in attendance.

Minutes are not verbatim, unless in quotes “” – If the name of a citizen making a comment was not requested by the Planning Board Chairman, the reference to their name will be known as ‘Citizen’.

The minutes from Tuesday, October 23, 2018 were accepted as read.

The Planning Board meeting started at 6:30 p.m.

Conditional Use Permit – Relocate Business known as Keepin’ it Local – Map 18, Lot 30 (130 Emery Mills Road) – Mary Letourneau, Applicant; Paul Letourneau, Property Owner

Mary Letourneau was present for the review of the application.

Provided along with the application, was a letter from property owner Paul Letourneau stating Mary Letourneau had permission to move forward with the conditional use permit; a sketch plan depicting the existing structure, septic & leachfield location, and arrows depicting how the traffic will flow on the property; a sketch plan depicting the existing structure and driveway on the property; an aerial photo of the property; an aerial photo of the property including distances from the existing structure to the side lot lines and Emery Mills Road; Subsurface Waste Water Disposal System Application for a 3 bedroom home, drafted by John E. Large, SE #7, dated 11/4/11; and a copy of the Purchase & Sale Agreement between Mary Letourneau and Paul Letourneau with an Offer Date of October 29, 2018.

The Detailed Description of the Project is as follows:

The following is a description of the proposed project for moving Keeping’ it Local from its current location at 120 Emery Mills Road to 130 Emery Mills Road.

When purchased we would like to add on to the existing structure:

- creating a larger kitchen, dining area and retail space
- outdoor dining space
- parking area to the right of the building and behind to accommodate 60 seats (30 spaces needed for customers, employees and retail space)
- a farmer’s porch onto the driveway side and back of the building
- drive thru on the left side of the building
- upgrade septic to include chambers and grease trap
- upgrade electrical and plumbing

We would also be looking to add in beer, wine and liquor and to expand on our menu to include dinners and brunches.

Operating hours would 'be' up to 24 hours depending on baking.
Serving hours would be between 5 am and 11 pm.

Roger A. opened the meeting by asking Mrs. Letourneau if the existing house was going to be used as a house and a restaurant or only a restaurant? Mrs. Letourneau stated it would be used as a restaurant only.

Roger A. asked Mrs. Letourneau to let the board know what she intended to do? Mrs. Letourneau stated that she wanted to put an addition on the existing structure, regrade the parking area on the right, create a drive-thru on the left, and enlarge the kitchen.

Roger A. stated that he noticed the septic design submitted was from 2011 but he said that that would change because of the number of gallons to be used. Mrs. Letourneau stated, "Yes".

Roger A. stated, "You are saying you will have 30 spaces for parking". Mrs. Letourneau stated, "Yes, there will be plenty of room for parking". Roger stated that at least 6000 square feet would be needed, depending on the number of seats. With 60 seats, there is three seats per space as well as the applicable amount of clients that want to come in. Mrs. Letourneau stated that she needed one space for every 150 square feet of retail. Roger stated the board needs to be sure there is enough parking for all the people coming in.

Roger A. asked if there would be a bar, noting the application stated she would be open until 11 pm. Mrs. Letourneau stated that she was not going to be Wild Willy's. She stated that she wanted to have some special dinners, not a bar. Maggie M. asked if it was going to be private party dinners? Mrs. Letourneau stated that they would be a wine dinner or an on-tap table dinner, you gear the food towards whatever you are serving that evening. Roland L. asked on a day to day basis if someone could order from the menu and be able to order a beer or glass of wine? Mrs. Letourneau stated, "Yup".

Roger A. stated with respect to the alcoholic beverages, the board did not oversee that. Mrs. Letourneau stated that she was not sure about that. Roger said that it was a State license she would be obtaining to serve alcohol.

Roger A. stated that realizing this lot is a non-conforming lot, because it only contains 175 feet of road frontage, he would review Section 105-4 'Nonconformance', under E 'Nonconforming lots of record' (2) 'Built lots'. Roger said the existing structure meets the setback requirements and he believed even with an addition the requirements could be met.

Roger A. also reviewed §105-4.E(5) 'Vested rights'. Roger stated the building is in existence, so this section is not an issue.

Roger A. stated with respect to hours requested, he realized the restaurant would be open until 11 pm but the application asked for 24 hours to accommodate baking, etc. Mrs. Letourneau stated, "Yup". Roger said this was seven days a week. Mrs. Letourneau stated, "Yes".

Roger A. stated the site distance in this location was fine. Roger said there was no noise being generated. Roger asked if there was any exterior lighting being added? Mrs. Letourneau stated, "That is to be determined". She said there was one house that could be affected and she said she would put in hedges or something to give them privacy.

Roger A. asked about refuse disposal? Mrs. Letourneau stated that she would have a dumpster on site.

Roger A. said the other issue would be that the entrance coming in from Route 109 to the lot, the entrance can be no wider than 26 feet unless it can be proven it needs to be wider. Mrs. Letourneau asked if she could only have that one entrance? Roger said, "That's all. It will have to be addressed before we get to permitting". §105-34 'Access control on Routes 109 and 11'.

Roger A. stated that the septic system will have to be approved for the size.

Roger A. stated that the traffic access to the site is safe, site distances can be met in both directions. Mrs. Letourneau agreed.

Roger A., reviewing §105-43 'Off-street parking and loading', Section B(1) stated that one space was required for each 150 square feet or fraction thereof of floor area of any retail, wholesale or service establishment or office or professional building. He added that one space is required for each three seats, permanent or otherwise, for patron use for restaurants and other places serving food or beverage and for theaters, auditoriums and other places of amusement or assembly, and a space is required for each person employed or anticipated to be employed.

Roger A. reviewed §105-43.B(2) which stated adequate spaces shall be provided to accommodate customers, patrons and employees of drive-in establishments and open-air retail businesses.

Roger A. stated that the board has to look at the square footage, the number of seats for customers, the number of patrons and employees, and the parking area needs to be detailed on a plan to show the size of the parking area; typically a parking space is 10' x 20' or 200 sf. Roger said the board will review the plan to be certain customers will be able to pull in and out of the space easily, and to be sure the drive-thru isn't interfering with the parking area.

Roger A. stated the signage would be through the Code Enforcement Officer and in this case it would be transferred to the Deputy CEO. (CEO Demers is Mrs. Letourneau's brother.)

Roger A. did not see any other issues to be addressed at this time.

Roger A. stated a public hearing will be held on November 27th at 6:00 p.m. A notice to abutters will be mailed as well. Board members can drive by the location on an individual basis.

Mrs. Letourneau stated that there were people living in the home at this time. Roger did not believe there was any reason that board members would have to go inside.

Mrs. Letourneau asked if there was anything additional the board needed from her. **Roger A. stated the board needed a detailed parking plan.** He said the building permit, electrical and septic would be through the Deputy CEO.

Roland L. asked if Mrs. Letourneau had a time table as to when she would be opening. Mrs. Letourneau wanted to do it as soon as possible but she said realistically she was hoping for the summer of 2019. Roger said if she had any thought there would be a change in hours, have those for the next meeting.

Roger A. stated that if there was going to be an outdoor dining area, that needs to be on the plan, including the number of outdoor seats. He stated that this would also affect the parking plan.

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

Nothing further was discussed.

Proposed Ordinance Changes

Barbara F. gave members a copy of the following proposed ordinance changes. She told members these would be what was being presented at the Public Hearing to be held on Tuesday, November 27th at 6:00 p.m. She said that changes can be made after the public hearing, if after public input, members feel they are warranted. But there will be no changes allowed once the Public Hearing is held in January 2019. That hearing is likely to be on January 8th.

These are the current changes being proposed:

● **Proposed Amendment to §105-4. Nonconformance**

D(7) Relocation.

(b)[1] Trees, woody vegetation and ground cover.

- [a] Trees removed in order to relocate a structure must be replanted with at least one native tree, six feet in height, measured from the base of the trunk to the top of the tree, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed. Trees shall be planted greater than five feet from the side lots lines, and shall create a well-distributed stand of trees. **These replanted trees shall be flagged with fluorescent tape no less than 18 inches in length which shall not be removed except by the Code Enforcement Officer upon inspection.**

This proposed change is to make it easier to be certain the trees have been replanted as specified by the Planning Board and/or Code Enforcement Officer.

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● **Proposed Amendment to § 105-15 'Definitions.'**

**HOME OCCUPATION** – An occupation or profession which is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit; carried on by a member of the family residing in the dwelling unit; clearly incidental and secondary to the use of the dwelling unit for residential purposes. ~~Real estate offices and resale of purchased merchandise will not be considered as home occupations.~~ **This shall not be interpreted to include telecommuting.**

**BILLBOARD** – A sign, structure or surface larger than eight feet which is available for advertising purposes for goods or services rendered off the premises, ~~excluding directional signs.~~ **thirty-two (32) square feet, which is available for advertising purposes for goods, services, or attractions rendered off the premises, excluding directional signs.**

**DWELLING, TWO-FAMILY:** A single building containing two dwelling units, with a separate entrance for each. May also be referred to as a “Duplex”.

**LOT LINES** – A line which forms a boundary of a property dividing one lot from another, or from a street or waterbody or other public space. The lines bounding a lot ~~as~~ are defined below:

- A. **FRONT LOT LINE** – On an interior lot, the line separating the lot from the street; on a corner or through lot, the line separating the lot from either street.
- B. **REAR LOT LINE** – The lot line opposite the front lot line. On a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to the front lot line, not less than 10 feet long, lying farthest from the front lot line. On a corner lot, the rear lot line shall be opposite the front lot line of least dimension. **In some circumstances, a lot may not have a rear lot line.**
- B. **SIDE LOT LINE** – Any lot line other than the front lot line or a rear lot line.

**MARIJUANA:** As defined in State Administrative Rules (10-144 CMR Chapter 122), §1.17, “Marijuana”.

**MEDICAL MARIJUANA:** Marijuana that is acquired, possessed, cultivated, manufactured, used, delivered, transferred or transported to treat or alleviate a qualifying patient’s medical condition.

**MEDICAL MARIJUANA CAREGIVER:** A person, licensed hospice provider or licensed nursing facility that is designated by a qualifying patient to assist the qualifying patient with the medical use of marijuana in accordance with state law. A person who is a medical marijuana caregiver must be at least 21 years of age and may not have been convicted of a disqualifying drug offense.

**MEDICAL MARIJUANA HOME PRODUCTION:** Cultivating, processing and/or storing of medical marijuana by a qualifying patient at their own residence or a medical marijuana caregiver at their own primary year-round residence for use by a qualifying patient. This use shall be considered an accessory use.

*These changes were proposed for clarity of existing definitions, and with respect to Medical Marijuana the definitions were to make certain the public and members understood exactly what qualifies as an allowed use in this area. Currently medical marijuana home production is reviewed as a home occupation under a conditional use permit.*

• **Proposed Amendment to §105-17 ‘Land Uses’**

| LAND USES                                  | RP | SD | GP  | FD | SP              |
|--------------------------------------------|----|----|-----|----|-----------------|
| <b>RESIDENTIAL</b>                         |    |    |     |    |                 |
| Manufactured housing units<br>Not in parks | NO | CU | CEO | CU | CU <sup>1</sup> |

**Amendment:**

|                                            |    |            |     |            |                 |
|--------------------------------------------|----|------------|-----|------------|-----------------|
| Manufactured housing units<br>Not in parks | NO | <b>CEO</b> | CEO | <b>CEO</b> | CU <sup>1</sup> |
|--------------------------------------------|----|------------|-----|------------|-----------------|

<sup>1</sup> Provided that a variance from the setback requirement is obtained from the Board of Appeals.

*The board saw no reason why the CEO could not permit manufactured housing in the same manner as a stick built house, as long as the structure can meet current dimensional requirements.*

• **Proposed Amendment to §105-40 ‘Home Occupations’**

- A. Home Occupations shall be carried on wholly within the principal building or within a building or other structure accessory to it.
- B. Not more than ~~two~~ **one** employee other than the home’s occupants may work on-site at any time, and one additional on-site parking space shall be provided if there is such an employee.
- C. There shall be no exterior display, no exterior sign (except as permitted by the provision of this chapter), no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building.
- D. **Additional workers cannot gather even briefly on the property.**
- E. No nuisance, heavy traffic, waste discharge, offensive noise, vibration, smoke, dust, odors, heat, glare or radiation shall be generated.
- F. ~~If existing off-street parking is required to be expanded, it shall be the road and adjacent lots (for example, with a dense screen of evergreens) and shall not be located between the house and the road.~~
- F. **When off-street parking must be expanded, screening from adjacent lots (for example, a dense screen of evergreens) may be required.**
- G. Home occupations are allowed on nonconforming lots of record and within legally existing nonconforming structures providing all applicable performance standards in the ordinance, including those in § 105-73.G are met.

*Taking into consideration existing permitted home occupations, members made the proposed amendment to the existing ordinance for Home Occupations.*

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● **Proposed Amendment to §105-43. Off-street parking and loading.**

- D. Landscaping. Required parking and loading spaces for residential uses, where not enclosed within a building, **shall may need to** be effectively screened from view by a continuous landscaped area not less than eight feet in width containing evergreen shrubs, trees, fences, walls, berms or any combination thereof forming a visual barrier not less than six feet in height along exterior lot lines adjoining all residential properties, except that driveways shall be kept open to provide visibility for vehicles entering and leaving.

Again, using existing approved permits as examples, members believed that not all locations benefit from a mandatory screening, so 'shall' was replaced with 'may'.

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● **Proposed Subdivision Ordinance Change**

§ 89-14. Procedure

- A. Within six months after the on-site inspection by the Board, the subdivider shall ~~submit an mail a~~ **copy of the application for approval of the final plan to each Board member, including alternate members and the Code Enforcement Officer** at least seven days prior to a scheduled meeting of the Board. Failure to do so shall require resubmission of the sketch plan to the Board. The final plan shall approximate the layout shown on the sketch plan, plus any recommendations made by the Board.

§ 89-16. Procedure.

- A. Within six months after the on-site inspection by the Board, the subdivider shall ~~submit an mail a~~ **copy of the application for approval of the final plan to each Board member, including alternate members and the Code Enforcement Officer** at least seven days prior to a scheduled meeting of the Board. Failure to do so shall require resubmission of the sketch plan to the Board. The final plan shall approximate the layout shown on the sketch plan, plus any recommendations made by the Board.

§ 89-15. Submissions.

Last sentence: In addition, one copy of the final plan, reduced to a size of 8 ½ inches by 11 inches, and all accompanying information shall be mailed to each Board member, including alternate members **and the Code Enforcement Officer**, no less than seven days prior to the meeting.

§ 89-17. Submissions.

Fourth sentence: In addition, one copy of the plan(s), reduced to a size of 8 ½ inches by 11 inches, and all accompanying information shall be mailed to each Board member, **including alternate members and the Code Enforcement Officer**, no less than seven days prior to the meeting.

§ 89-18. Procedure.

F. A public hearing may be held by the Planning Board within 30 days after the issuance of a receipt for the submittal of an incomplete application. This hearing shall be advertised in a newspaper of local circulation at least two times, the date of the first publication to be at least seven days before the hearing, and the notice of the hearing shall be posted in at least three prominent places at least seven days prior to the hearing. When a subdivision is location within 500 feet of a municipal boundary, and a public hearing is to be held, the Planning Board shall notify the Clerk and the Planning Board of the adjacent municipality involved, at least ~~10~~ **7** days prior to the hearing.

§ 89-19. Submissions.

Last sentence: In addition, one copy of the final plan, reduced to a size of 8 ½ inches by 11 inches, and all accompanying information shall be mailed to each Board member, **including alternate members and the Code Enforcement Officer**, no less than seven days prior to the meeting.

*These changes are proposed to make it clear what is expected of the applicant during the permitting process and for consistency. In addition, the change in notification under §89-18, is to allow for times when meetings are moved due to unforeseen circumstances, making it hard to meet the 10 day deadline.*

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§89-36

• **Proposed Amendment to 89-36.I under ‘Street design standards’**

I. The following design standards apply according to street classification:

Description	Type of Street				
	Arterial	Collector	Minor	Private Right-of-Way	Industrial / Commercial
Minimum right-of-way width (feet)	80	50	50	50	80
Minimum pavement width (feet)	44	24	20	12⁽¹⁾	44

(1) Pavement Requirement for Private Right-of-Way in a minor subdivision may be at the board’s discretion.

This proposed change was done to be able to take the location of a proposed minor subdivision into account when reviewing the proposed road. In some circumstances pavement is not advantageous to the location, whereas crushed gravel or crushed asphalt better serves the area.

It was noted by Roger A. that in his opinion he prefers to require pavement in all subdivision locations, but he had no issue with this change, as it does not state pavement is ‘not’ required, it is left up to the board members.

The board did their mandatory review of the Growth Permit Ordinance and agreed, based on current trends and how many permits were given out in 2018, which was a total of 16 to date, to leave the number of permits allowed at 34.

The change to the Growth Ordinance is as follows:

Growth Ordinance – Town of Shapleigh

- (f) To allow growth of the residential population of the town at a rate which would not impose an undue burden upon the provision of community services (including education, fire protection, road maintenance, waste disposal, health services and welfare) and which would be compatible with the orderly and gradual expansion of said services.
- (1) During the most current review of the tax base for 2018, the Education system accounts for 66.75% of the cost to taxpayers. The figure calculated per child per year for 2016-2017 in RSU #57 is \$12,675.42. Although the number of children enrolled in the school system is not expected to rise dramatically in the next several years, the cost to Shapleigh taxpayers continues to have a slight increase each year. The most recent figures of cost increase to taxpayers for the school year 2016-2017 is 4.63%. The percent of the total cost of RSU #57 that Shapleigh Taxpayers currently pay is 15.69%. With this figure it is apparent that any household with even one child would be an impact since there are not enough property taxes derived from the average house to generate enough money to pay for one child's education. Therefore, the Growth Ordinance system must calculate growth in such a way as to assure the town can fund education at the current levels and those of the future.
- (g) To guide Shapleigh's expansion so that the annual increase in population and dwelling units shall not exceed the average rate of population and housing growth which occurred within the sub-region. During this time period, 2010 thru 2018, there is no census data but the number of single family dwellings permitted in the town has steadily increased from (3) in 2010, to (16) in 2018. With the current projected need for housing, the maximum annual number of Growth Permits should remain unchanged at 34 dwelling units.
- (h) To guide Shapleigh's expansion so that the increases in education costs are predictable and manageable.

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*The board made amendments to the Planning Board By-laws in September of this year. In order for the Establishment of Planning Board to mirror the by-laws, the following amendment was made:*

- H. Meetings shall be held on the second and fourth Tuesdays of the month at the time specified on the municipal calendar. The meetings shall be at the Town Hall or other suitable meeting place. The Chairman, or upon the request of a majority of the Board, may schedule a special meeting, provided, however, that notice thereof shall be given to each member **in accordance with the Maine Freedom of Access Act**, and that no business may be conducted other than as specified in said notice. All meetings shall be open to the public.

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Copies of the proposed amendments can be obtained from the Land Use Secretary at the Town Hall. A Public Hearing will be held on November 27th at 6:00 p.m. The Public is invited to attend.

Growth Permits

There are Growth Permits available.

The Planning Board meeting ended at 7:10 p.m.

NOTE: The winter hours are in effect thru March 31st, the meetings now begin at 6:30 p.m. and any scheduled public hearing begins at 6:00 p.m.

The next meeting will be held **Tuesday, November 27, 2018** 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. 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.

Respectfully submitted,
Barbara Felong, Land Use Secretary
planningBoard@shapleigh.net

Shapleigh Planning Board

Minutes

Tuesday, November 27, 2018

Members in attendance: Roger Allaire (Chairman), Steve Foglio (Vice Chairman), Madge Baker, Roland Legere, Maggie Moody and Alternate Ann Harris. Code Enforcement Officer Mike Demers was also in attendance. *Note: Ann Harris sat in as a regular member for the review of the Conditional Use Permit on Map 18, Lot 30, as Steve Foglio has a monetary interest in the property, and therefore is not a voting member.*

Minutes are not verbatim, unless in quotes “” – If the name of a citizen making a comment was not requested by the Planning Board Chairman, the reference to their name will be known as ‘Citizen’.

Public Hearing Began at 6:05 p.m.

Conditional Use Permit – Relocate Business known as Keepin’ it Local – Map 18, Lot 30 (130 Emery Mills Road) – Mary Letourneau, Applicant; Paul Letourneau, Property Owner

Mary Letourneau was present for the public hearing, along with her husband.

Mrs. Letourneau provided a new sketch plan to members this evening, provided by LinePro Land Surveying, LLC. On the new plan depicted in addition to the existing structures on site, was a conceptual parking plan, entrance and exits onto Route 109, and the proposed expansion of the existing structure. There were 33 parking places depicted, how the traffic will flow, including a separate lane for drive-thru traffic.

Roger opened the public hearing by asking Mrs. Letourneau what she wanted to do. Mrs. Letourneau stated that she wanted to move her existing store from 120 Emery Mills Road to 130 Emery Mills Road. She stated that she would be adding an addition on to the structure. Roger said, “That is for the restaurant”. Mrs. Letourneau stated, “Yes, adding in dinners, brunches”.

Madge B., looking at the new sketch plan, asked if the area noted in red was the expansion of the existing structure. Mrs. Letourneau stated that it was. Roland L. asked if the proposed expansion would be added prior to opening? Mrs. Letourneau stated, “Correct”. Roland asked where the drive-thru was on the plan. Mrs. Letourneau stated it was on the left hand side of the building (when facing the building).

Ann H. asked if Shapleigh had an ordinance for beer and wine. Roger A. stated that Shapleigh does, and it is allowed, but it is not regulated through the Planning Board. Madge B. agreed that Shapleigh is no longer a dry town.

Madge B. stated that she assumed the setbacks will be met with the addition. Roger A. stated that one issue he could see was the 2nd driveway entrance, because he believed you could only have one entrance onto Route 109. Mrs. Letourneau stated there was enough room that she could change the plan. Roland L. asked if this was a Town or State rule. Roger noted §105-35 ‘Access control on Routes 109 and 11’.

Roland asked if this was a hard and fast rule. Roger stated that because it is in the Zoning Ordinance we cannot waive it. Roland stated that he wasn't thinking about the board waiving it, but if the applicant has the option of appealing the ruling to the State, showing just cause as to why. Roger thought the State might go along with it.

Roger A. read §105-34, which read as follows: Land lying on Routes 109 and 11 may be divided into lots, but all vehicular movements to and from the highway shall be via a common driveway or entranceway serving adjacent lots or premises. All lots of record existing at the time of the ordinance amendment shall be allowed direct access to Routes 109 and 11, provided that minimum safe sight-distance standards can be met.

Roger A. stated that with respect to the entrance being limited to 26 feet in width (§105-43), this could be looked at, but there has to be a good reason why it should be greater than 26 feet. Mrs. Letourneau asked if this could be looked at down the road. Roger said yes, but at present he did not think the board would say they could go beyond the 26 feet. He said the only reason the ordinance was changed to allow greater than 26 feet was because the Town needed the entrance to the sand and salt shed wider in order for the plow trucks with wings to get in easier, this was based on comments from the Road Commissioners. But because you can't just say only the Town is allowed greater than 26 feet in width, the ordinance was changed to allow greater than 26 with just cause.

Madge B. asked if Roger A. knew if the rule for one entrance was in the ordinance because the Town wanted it or the State wanted it? Roger A. stated that at the time it went into the ordinance it was the State that wanted it. Roger said the applicant would have to ask the DOT if they could get a second entrance. Madge said the reason she asked is because the board could propose an amendment to the ordinance if the State allows more than one entrance. Roger said that was why Parker's Boathouse wasn't allowed to have a second entrance. Roger thought with respect to the application, he felt it was a nice layout with the two entrances. Ann H. agreed, she felt it would be safer. Roger agreed, especially with the drive-thru. Madge thought the board should find out if the State still requires only one entrance. If so, the board could amend the ordinance. Roger said he didn't think Mrs. Letourneau wanted to wait.

Steve F. stated that when he reads §105-34, it starts out by talking about land that is being divided into lots, he felt it was speaking about a new subdivision on Route 109 or 11 would be allowed one entrance only, not individual driveways. Madge B. read the ordinance and thought Steve might be correct. Madge stated that it was the second sentence that applied to this application because it is a lot of record. This sentence reads: All lots of record existing at the time of the ordinance amendment shall be allowed direct access to Routes 109 and 11, provided that minimum safe sight-distance standards can be met. Madge said it does not speak about just one entrance.

Ann H. asked if §105-19.F applied? Madge B. stated it did not apply.

Roland L. stated that the ordinance as he read it, is talking about multiple lots such as a subdivision. He said that being the case, what would prevent the design before the board from being acceptable. Madge B. agreed. Maggie M. asked why Parker's couldn't have more than one entrance? Roger A. stated that there were multiple lots, both had to use one entrance. He said the house was on one lot and the other lot was the business. Ann H. asked if there were any other locations with two entrances. Maggie stated the motorcycle business and storage facility. Steve F. said, "Teds".

Steve F. thought it made sense for a business to have an entrance and an exit. Madge B. agreed, that it would make it safer. Roland L. believed the traffic flow plan Mrs. Letourneau presented was very good and the board should consider it.

Ann H. asked if any shrubbery had to be put along the driveway to create a block between the neighboring property? Ann was referring to §105-31 'Preservation of landscape; landscaping of parking and outdoor storage areas'. The ordinance reads in part as follows: Parking lots shall be landscaped to prevent erosion and stormwater runoff onto neighboring properties and streets. An effective visual screen of native vegetation, including evergreens, shall be established and maintained between the parking or storage area and any abutting residential property.....All parking or outdoor storage areas shall be separated from any public road by a landscaped buffer strip at least 15 feet wide.

Madge B., referring back to the number of entrances, read from §105-43 'Off-street parking and loading', as follows: No off-street parking facility shall have more than two entrances and exits on the same street... She stated that in this section there is no issue with two entrances.

Roger A. stated that this could be brought up during the regular meeting. He asked if there were any other questions?

Mr. Bob Muse stated there was a drainage ditch that had been filled in, and it runs along the white line (on the plan) at the rear of the property. It is filled in with debris, and stormwater comes off the hill creating 6 or 7 inches of water under the office building on his property. He said at present the drainage ditch is blocked off and will hold water up. He said because of this water issue, when he created his parking lot, he had to have a plan signed off by an engineer for the stormwater. He felt Mrs. Letourneau's driveway would need to have an engineered stormwater plan as well. Mr. Muse showed the board how the water flowed on the plan, noting the water goes all the way over and floods the Simon Ricker Road.

Madge B. asked if the water isn't blocked, where does it go? Mr. Muse stated, "My basement of the office". Roger A. stated, when the Conditional Use Permit was presented for Keepin It Local, the drainage issue was brought up and the board stated that the ditch had to be maintained and kept up due to the water problem. Ann H. stated, "You are still getting water in your basement". Mr. Muse stated that he was on certain years, six or seven inches. He said that they are all sitting on ledge, so nothing flows down, it all flows across. Ann said that the parking area will have to be graded so that the runoff will be controlled. Ann asked if they were going to pave the parking area. Mrs. Letourneau stated they would be using reclaimed asphalt. Ann said they would need to pitch it correctly.

Roland L. asked if the applicant needed to have an engineered stormwater plan? Roger A. said the ordinance didn't require it to be engineered but the board can ask for it. Roger read §105-43.F as follows: Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and, where feasible, to retain all runoff on-site. Roger said in order to meet the criteria, the board can say they need somebody to create a design to meet this. Madge B. stated that this is asking for a stormwater runoff plan.

Ann H. asked if the people building the parking area did that? Madge B. stated that an engineer has to do it. Roger A. agreed.

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

The public hearing for Mrs. Letourneau ended at 6:25 p.m.

Proposed Ordinance Changes

Copies of the proposed amendments can be obtained from the Land Use Secretary at the Town Hall.

Residential Growth Ordinance Review

Roger A. stated that the board reviewed the Growth Ordinance every three years to determine if a change to the number of permits given was warranted. After this latest review it was determined the number of growth permits allotted would remain unchanged, at 34. Roger stated the only changes to the growth ordinance would be as follows:

Growth Ordinance – Town of Shapleigh

- (f) To allow growth of the residential population of the town at a rate which would not impose an undue burden upon the provision of community services (including education, fire protection, road maintenance, waste disposal, health services and welfare) and which would be compatible with the orderly and gradual expansion of said services.
 - (1) During the most current review of the tax base for 2018, the Education system accounts for 66.75% of the cost to taxpayers. The figure calculated per child per year for 2016-2017 in RSU #57 is \$12,675.42. Although the number of children enrolled in the school system is not expected to rise dramatically in the next several years, the cost to Shapleigh taxpayers continues to have a slight increase each year. The most recent figures of cost increase to taxpayers for the school year 2016-2017 is 4.63%. The percent of the total cost of RSU #57 that Shapleigh Taxpayers currently pay is 15.69%. With this figure it is apparent that any household with even one child would be an impact since there are not enough property taxes derived from the average house to generate enough money to pay for one child's education. Therefore, the Growth Ordinance system must calculate growth in such a way as to assure the town can fund education at the current levels and those of the future.
- (g) To guide Shapleigh's expansion so that the annual increase in population and dwelling units shall not exceed the average rate of population and housing growth which occurred within the sub-region. During this time period, 2010 thru 2018, there is no census data but the number of single family dwellings permitted in the town has steadily increased from (3) in 2010, to (16) in 2018. With the current projected need for housing, the maximum annual number of Growth Permits should remain unchanged at 34 dwelling units.
- (h) To guide Shapleigh's expansion so that the increases in education costs are predictable and manageable.

Roger A. stated there were no other changes made to the growth ordinance. He stated the General Requirements; Administration; Growth Permit Selection System; Appeals; Expiry of Permits; Non-Transferability; Conflict with Other Ordinances; Validity and Severability; Effective Date; Review Procedure, Amendment Procedure; Violations; and Penalties sections would all remain the same. The amendment date to the growth ordinance will be the date of Town Meeting in March 2019.

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

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**Amendment to ‘Establishment of Shapleigh Planning Board’**

Roger A. read the entire Establishment of Shapleigh Planning Board document. The only change to the document is as follows:

- H. Meetings shall be held on the second and fourth Tuesdays of the month at the time specified on the municipal calendar. The meetings shall be at the Town Hall or other suitable meeting place. The Chairman, or upon the request of a majority of the Board, may schedule a special meeting, provided, however, that notice thereof shall be given to each member ~~and to representative of the press at least 24 hours in advance~~ **in accordance with the Maine Freedom of Access Act**, and that no business may be conducted other than as specified in said notice. All meetings shall be open to the public.

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

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Proposed Amendment to §105-4. Nonconformance

D(7) Relocation.

(b)[1] Trees, woody vegetation and ground cover.

- [a] Trees removed in order to relocate a structure must be replanted with at least one native tree, six feet in height, measured from the base of the trunk to the top of the tree, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed. Trees shall be planted greater than five feet from the side lots lines, and shall create a well-distributed stand of trees. **These replanted trees shall be flagged with fluorescent tape no less than 18 inches in length which shall not be removed except by the Code Enforcement Officer upon inspection.**

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

Proposed Changes to § 105-15 ‘Definitions.’

HOME OCCUPATION – An occupation or profession which is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit; carried on by a member of the family residing in the dwelling unit; clearly incidental and secondary to the use of the dwelling unit for residential purposes. ~~Real estate offices and resale of purchased merchandise will not be considered as home occupations.~~ **This shall not be interpreted to include telecommuting.**

BILLBOARD – A sign, structure or surface larger than ~~eight feet which is available for advertising purposes for goods or services rendered off the premises, excluding directional signs.~~ **thirty-two (32) square feet, which is available for advertising purposes for goods, services, or attractions rendered off the premises, excluding directional signs.**

DWELLING, TWO-FAMILY: A single building containing two dwelling units, with a separate entrance for each. May also be referred to as a “Duplex”.

LOT LINES – **A line which forms a boundary of a property dividing one lot from another, or from a street or waterbody or other public space.** The lines bounding a lot ~~as~~ **are** defined below:

- A. **FRONT LOT LINE** – On an interior lot, the line separating the lot from the street; on a corner or through lot, the line separating the lot from either street.
- B. **REAR LOT LINE** – The lot line opposite the front lot line. On a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to the front lot line, not less than 10 feet long, lying farthest from the front lot line. On a corner lot, the rear lot line shall be opposite the front lot line of least dimension. **In some circumstances, a lot may not have a rear lot line.**
- B. **SIDE LOT LINE** – Any lot line other than the front lot line or a rear lot line.

MARIJUANA: As defined in State Administrative Rules (10-144 CMR Chapter 122), §1.17, “Marijuana”.

MEDICAL MARIJUANA: Marijuana that is acquired, possessed, cultivated, manufactured, used, delivered, transferred or transported to treat or alleviate a qualifying patient’s medical condition.

MEDICAL MARIJUANA CAREGIVER: A person, licensed hospice provider or licensed nursing facility that is designated by a qualifying patient to assist the qualifying patient with the medical use of marijuana in accordance with state law. A person who is a medical marijuana caregiver must be at least 21 years of age and may not have been convicted of a disqualifying drug offense.

MEDICAL MARIJUANA HOME PRODUCTION: Cultivating, processing and/or storing of medical marijuana by a qualifying patient at their own residence or a medical marijuana caregiver at their own primary year-round residence for use by a qualifying patient. This use shall be considered an accessory use.

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

Proposed Amendment to §105-17 ‘Land Uses’

LAND USES	RP	SD	GP	FD	SP
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RESIDENTIAL

Existing:

Manufactured housing units not in parks	NO	CU	CEO	CU	CU ¹
--------------------------------------------	----	----	-----	----	-----------------

Amendment:

Manufactured housing units not in parks	NO	CEO	CEO	CEO	CU ¹
--------------------------------------------	----	-----	-----	-----	-----------------

¹ Provided that a variance from the setback requirement is obtained from the Board of Appeals.

Roger A. stated the review in the Shoreland District and Resource Protection was going from the Planning Board to the Code Enforcement Officer.

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

Proposed Amendment to §105-40 ‘Home Occupations’

- A. Home Occupations shall be carried on wholly within the principal building or within a building or other structure accessory to it.
- B. Not more than ~~two~~ **one** employee other than the home’s occupants may work on-site at any time, and one additional on-site parking space shall be provided if there is such an employee.
- C. There shall be no exterior display, no exterior sign (except as permitted by the provision of this chapter), no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building.
- D. **Additional workers cannot gather even briefly on the property.**
- E. No nuisance, heavy traffic, waste discharge, offensive noise, vibration, smoke, dust, odors, heat, glare or radiation shall be generated.
- F. ~~If existing off-street parking is required to be expanded, it shall be the road and adjacent lots (for example, with a dense screen of evergreens) and shall not be located between the house and the road.~~
- F. **When off-street parking must be expanded, screening from adjacent lots (for example, a dense screen of evergreens) may be required.**
- G. **Home occupations are allowed on nonconforming lots of record and within legally existing nonconforming structures providing all applicable performance standards in the ordinance, including those in § 105-73.G are met.**

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

Proposed Amendment to §105-43. Off-street parking and loading.

- D. Landscaping. Required parking and loading spaces for residential uses, where not enclosed within a building, ~~shall~~ **may need to** be effectively screened from view by a continuous landscaped area not less than eight feet in width containing evergreen shrubs, trees, fences, walls, berms or any combination thereof forming a visual barrier not less than six feet in height along exterior lot lines adjoining all residential properties, except that driveways shall be kept open to provide visibility for vehicles entering and leaving.

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

~~~~~  
**Proposed Changes to §89-14, 15, 16, 17, 18 & 19**

§ 89-14. Procedure

- A. Within six months after the on-site inspection by the Board, the subdivider shall ~~submit an mail a~~ **copy of the application for approval of the final plan to each Board member, including alternate members and the Code Enforcement Officer** at least seven days prior to a scheduled meeting of the Board. Failure to do so shall require resubmission of the sketch plan to the Board. The final plan shall approximate the layout shown on the sketch plan, plus any recommendations made by the Board.

§ 89-16. Procedure.

- A. Within six months after the on-site inspection by the Board, the subdivider shall ~~submit an mail a~~ **copy of the application for approval of the final plan to each Board member, including alternate members and the Code Enforcement Officer** at least seven days prior to a scheduled meeting of the Board. Failure to do so shall require resubmission of the sketch plan to the Board. The final plan shall approximate the layout shown on the sketch plan, plus any recommendations made by the Board.

§ 89-15. Submissions.

Last sentence: In addition, one copy of the final plan, reduced to a size of 8 ½ inches by 11 inches, and all accompanying information shall be mailed to each Board member, including alternate members **and the Code Enforcement Officer**, no less than seven days prior to the meeting.

§ 89-17. Submissions.

Fourth sentence: In addition, one copy of the plan(s), reduced to a size of 8 ½ inches by 11 inches, and all accompanying information shall be mailed to each Board member, **including alternate members and the Code Enforcement Officer**, no less than seven days prior to the meeting.

§ 89-18. Procedure.

F. A public hearing may be held by the Planning Board within 30 days after the issuance of a receipt for the submittal of an incomplete application. This hearing shall be advertised in a newspaper of local circulation at least two times, the date of the first publication to be at least seven days before the hearing,

and the notice of the hearing shall be posted in at least three prominent places at least seven days prior to the hearing. When a subdivision is location within 500 feet of a municipal boundary, and a public hearing is to be held, the Planning Board shall notify the Clerk and the Planning Board of the adjacent municipality involved, at least ~~10~~ **7** days prior to the hearing.

§ 89-19. Submissions.

Last sentence: In addition, one copy of the final plan, reduced to a size of 8 ½ inches by 11 inches, and all accompanying information shall be mailed to each Board member, **including alternate members and the Code Enforcement Officer**, no less than seven days prior to the meeting.

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

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§89-36

Proposed Amendment to 89-36.I under ‘Street design standards’

I. The following design standards apply according to street classification:

Description	Type of Street				Private Right-of-Way	Industrial / Commercial
	Arterial	Collector	Minor			
Minimum right-of-way width (feet)	80	50	50		50	80
Minimum pavement width (feet)	44	24	20		12⁽¹⁾	44

(1) Pavement Requirement for a Private Right-of-Way in a minor subdivision may be at the board’s discretion.

Roger A. stated the only change is to Private Right-of-Way in a minor subdivision. The board could allow a gravel road depending on the circumstance.

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

The public hearing for the proposed ordinance changes ended at 6:50 p.m.

There will be another public hearing held on Tuesday, January 8, 2019 on the ordinance changes.

Nothing further was discussed.

The minutes from Tuesday, November 13, 2018 were accepted as read.

The Planning Board meeting started at 6:55 p.m.

Conditional Use Permit – Relocate Business known as Keepin’ it Local – Map 18, Lot 30 (130 Emery Mills Road) – Mary Letourneau, Applicant; Paul Letourneau, Property Owner

Mary Letourneau was present for the review of the application, along with her husband.

Provided along with the application, was a letter from property owner Paul Letourneau stating Mary Letourneau had permission to move forward with the conditional use permit; a sketch plan depicting the existing structure, septic & leachfield location, and arrows depicting how the traffic will flow on the property; a sketch plan depicting the existing structure and driveway on the property; an aerial photo of the property; an aerial photo of the property including distances from the existing structure to the side lot lines and Emery Mills Road; Subsurface Waste Water Disposal System Application for a 3 bedroom home, drafted by John E. Large, SE #7, dated 11/4/11; and a copy of the Purchase & Sale Agreement between Mary Letourneau and Paul Letourneau with an Offer Date of October 29, 2018.

The Detailed Description of the Project is as follows:

The following is a description of the proposed project for moving Keeping’ it Local from its current location at 120 Emery Mills Road to 130 Emery Mills Road.

When purchased we would like to add on to the existing structure:

- creating a larger kitchen, dining area and retail space
- outdoor dining space
- parking area to the right of the building and behind to accommodate 60 seats (30 spaces needed for customers, employees and retail space)
- a farmer’s porch onto the driveway side and back of the building
- drive thru on the left side of the building
- upgrade septic to include chambers and grease trap
- upgrade electrical and plumbing

We would also be looking to add in beer, wine and liquor and to expand on our menu to include dinners and brunches.

Operating hours would ‘be’ up to 24 hours depending on baking.

Serving hours would be between 5 am and 11 pm.

In addition, provided this evening was a new sketch plan drafted by LinePro Land Surveying, LLC. The plan depicted in addition to the existing structures on site, a conceptual parking plan, entrance and exits onto Route 109, and the proposed expansion of the existing structure. Additionally, there were 33 parking places depicted, how the traffic will flow, including a separate lane for drive-thru traffic.

Madge B. started the meeting by stating that she believed §105-34 allowed the parking plan provided, which includes two entrances on to Route 109. She said she agreed with Roland L. that the board needs a stormwater runoff plan for the parking area.

Roger A. stated that they would need to notify the MDOT and get an application for a second curb cut.

Madge B. asked how the property they are using now was able to have an entrance greater than 26 feet in width? Roger said the existing property has had the parking lot for years, much before Keepin It Local was there. Mr. Muse agreed stating the parking area has been there for a significant amount of time. Roger thought it may predate the 26 foot rule. He added that Ted's is grandfathered as well, noting when he was in high school there were two entrances and a large parking area at that time.

Madge B. believed the current entrance and parking configuration for this application made sense and she believed the ordinance allowed it. She added that she did believe the board needed to have an engineered stormwater plan for the parking area.

Roger A. began to review the standards in the ordinance.

105-17 – Land Uses. *Roger A. stated that this was an allowed use but required a Conditional Use Permit.*

105-4 – Nonconformance. *Roger A. stated under section D, nonconforming structures, the ordinance allows the use of the nonconforming structure as long as any additions meet setbacks.*

Madge B. asked if the parking area was included when calculating lot coverage? Roger A. stated the size of the parking area would be determined by the number of patrons and employees. Madge agreed but she wanted to know if the board needed to be concerned that the parking area would be greater than 20 percent of the properties size. Roger did not feel this was an issue. It was noted by Steve F. that driveways and parking areas do not count as lot coverage. The definition of 'lot coverage' is 'The percentage of the plot or lot covered by all buildings'.

105-20 – Applicability of standards; prohibited uses. *Roger A. stated that this was before the board because it was an expanded use of the existing permit, and the location was being changed. He added that it was an allowed use.*

105-21 – Traffic. *Roger A. stated the speed limit in this location is 35 mph, and the minimum site distance required is 245 feet which can be met. He noted it could meet the 350 foot recommended distance as well.*

105-22 – Noise. *Roger A. stated there is a limited amount of noise generated by this activity. He read the noise requirement level that being a limit of 60 dB(A) between 7 am and 10 pm, and 45 dB(A) between 10 pm and 7 am.*

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 would be no offensive odors produced by this activity. He stated it wouldn't be any different than it is now and there is no issue.*

105-25 – Glare. *Roger A. stated there is to be no glare onto neighboring properties or onto the roadway. All lighting shall be toward the ground or walkways. Roger asked Mrs. Letourneau if she was going to be adding lighting? She stated she was for the parking area, the entrance and for the sign. Roger said again it was important that the lights did not create a strong and dazzling light onto neighboring properties or cause a glare on the roadway to impair a driver's vision.*

105-26 – Stormwater runoff. *Roger A. read the ordinance. Roger stated that the board will require a stormwater runoff plan be designed for this property with respect to the parking area. Madge B. stated the board should consider changing the ordinance to the 100 year storm, instead of the 50 year storm, so it will be more relevant. Roger agreed it probably should be done.*

- 105-27 – Erosion control. *Roger A. read the ordinance. Madge B. asked if a stormwater plan would address the erosion? Roger stated that it would. Roger stated that the erosion control methods should be listed on the stormwater plan. Madge added that a planting plan should be noted as well. Roger stated that all disturbed areas for the parking area should be addressed.*
- 105-28 – Setbacks and screening. *Roger A. stated there are no changes being made that would necessitate screening.*
- 105-29 – Explosive materials. *Roger A. asked if they were going to use propane? Mrs. Letourneau stated that they were. Roger stated that they would have to comply with the NFPA 58 Liquefied Petroleum Gas Code.*
- 105-30 – Water quality. *Roger A. stated there are no changes being made to the property to affect water quality.*
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *Roger A. read the ordinance in its entirety. Roland L. asked if there was going to be an outside dumpster and if so, will it get screened. Mrs. Letourneau stated there would be an outside dumpster and it would be hidden.*
- 105-32 - Relation of proposed building to the environment. *Roger A. stated the building is in existence and fits in well.*
- 105-33 – Refuse disposal. *Roger A. stated that Mrs. Letourneau just stated they would be using a dumpster and it will be screened off.*
- 105-34 – Access control on Routes 109 and 11. *Roger A. stated the board spoke about this earlier. Roland L. asked if Roger was suggesting the applicant contact the State. Roger stated they had to in order to get the second entrance onto 109. Roland asked if you apply and automatically get it? Roger said, “No, you apply and they may put conditions on it. We have no idea, they may not want a second driveway onto 109. It is up to the DOT”. Maggie M. asked if it would hold up approval? Roger said the board couldn’t approve this evening because the applicant needs to get a stormwater plan. Roland asked if the applicant can say that the board is recommending both driveways? Roger said that the decision is totally up to the State.*

Roger A. asked Mrs. Letourneau if she knew how much material would be moved in order to create the parking lot? Madge B. stated there would be earth moving with the building as well. Roger stated the material moved for the building is incidental to the construction, so it isn’t an issue for the board.

Roland L. asked with respect to the proposed addition, if there would be a basement? Mrs. Letourneau stated, “Yes”. Ann H. noted that they would have to put in a new septic and a grease trap.

Madge B. asked Roger A. if he was asking how many cubic yards would be moved? Roger A. stated, yes, because they have to move all the topsoil to create the driveway. He thought the stormwater plan may address it. Mr. Letourneau thought he could give the board a rough idea, but he didn’t know how many inches of top soil there was, so he couldn’t be exact. He said using the square footage he could estimate it. Roger said again the stormwater report should address this. Roland L. asked if both the roadway and parking area would be reclaimed material? Mr. Letourneau stated, “Yup”.

Roger A. stated with respect to the entrances the Road Commissioner would also have to give the blessing for a culvert, so they needed a permit from him as well. Roland L. thought because it was a State

highway, they would go to the State. Roger said that both the Town Road Commissioner and the State will have to agree on what would work best.

105-43 – Off-street parking and loading. *Roger A. read the ordinance in its entirety, which included Section A which states no more than two entrances are allowed and no entrance or exit shall exceed 26 feet in width. Section B(1) which states that one space was required for each 150 square feet or fraction thereof of floor area of any retail, wholesale or service establishment or office or professional building. He added that one space is required for each three seats, permanent or otherwise, for patron use for restaurants and other places serving food or beverage and for theaters, auditoriums and other places of amusement or assembly, and a space is required for each person employed or anticipated to be employed. Roger stated that based on this, 33 parking spaces were created on the plan. Madge B. asked how many employees there would be? Mrs. Letourneau stated that on the largest shift they determined there would be six employees.*

Madge B. stated she was curious where the food trucks would unload. Mrs. Letourneau stated they can come around the side and there will be a door into the kitchen. Madge said on the far side? Mrs. Letourneau stated, “Yup”.

Roger A. asked about the 60 seats that are anticipated, is that for both inside as well as outside? Mrs. Letourneau stated, “Yes”. Madge B. asked if they calculated the number of parking spaces correctly? Roger said they did, it is 20, plus the six employees and then for themselves. Mrs. Letourneau stated there is also one parking space for every 150 sf of retail space. Madge said it sounded like it was done correctly.

Roger A. read §105-43.F, ‘Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and, where feasible, to retain all runoff on-site’.

Roger A. stated that there will need to be a new septic system put in to accommodate the number of seats. He stated that this will be permitted through the Deputy CEO. He stated that the signs for the business will also be handled by the Deputy CEO. (The Town of Shapleigh CEO is Mrs. Letourneau’s brother, therefore, permitting needs to be handled by the Deputy CEO.)

Madge B. asked if the board had information regarding the water supply? Steve F. stated that there is a drilled well.

Roger A. stated that it is under §105-60 ‘Driveways’ where it specifies that no driveway can be constructed without obtaining written permission from the Road Commissioner.

Roger A. stated that the board will review §105-73 once additional information is received. Madge B. stated that was why she asked about the water supply because it is addressed in this section. Roger said that if there is an issue with the water supply it will be a problem for them. They will have to have it tested by the State. Madge agreed and said that the only thing the board needs to be concerned with is that they do not have a dug well. Roger said, “Right”. Ann H. stated that the Fire Department will have to approve them for the Fire Suppression System, so they have to have enough water for that. Madge

asked if the board needed this information now or do they do it after. Roger believed they did it after, this was not the board's jurisdiction. Ann said they couldn't open for business without the Fire Departments approval.

Roger A. stated that at present the board needs an engineered stormwater plan drafted. Madge B. added that there needs to be a replanting plan as well.

Roger A. stated that they also need the DOT approval for the two entrances.

Roger A. told Mrs. Letourneau to contact Barbara F. when she was ready to return to the board with the information.

Madge B. made the motion to table the application pending the requirement of further information as stated this evening. Maggie M. 2nd the motion. All members were in favor. By a vote of 5 – 0 the motion passed unanimously.

Roger A. asked if there were any other questions? Mr. Muse stated that the stormwater designer should be made aware of the ditch issue and stream. Roger said that the designer would be looking at the existing conditions and determine a way to keep all the runoff on site. He said presently all the runoff is heading toward Rte. 109, so they have to make sure that is addressed with the parking area.

Roger A. and Mrs. Letourneau's' father spoke about how the water ran in the ditch at the rear of the property. They also discussed what possibly should and should not take place in order to keep the area open for the water to flow naturally.

The board will wait to hear back from Mrs. Letourneau to put the application back onto the agenda. Nothing further was discussed.

Growth Permits

There are Growth Permits available.

The Planning Board meeting ended at 7:40 p.m.

NOTE: The winter hours are in effect thru March 31st, the meetings now begin at 6:30 p.m. and any scheduled public hearing begins at 6:00 p.m.

The next meeting will be held **Tuesday, December 11, 2018** 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. 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.

Respectfully submitted, Barbara Felong, Land Use Secretary

planningboard@shapleigh.net