

LYNDEBOROUGH BOARD OF SELECTMEN
MEETING MINUTES
September 8, 2021
Final

I. Call to Order:

Chairman Douglas called the meeting to order at 6:00 p.m.

II. Introduction of Members Present:

Chairman Fred Douglas, Selectman Mark Chamberlain, and Selectman Robert Howe
Town Administrator Russ Boland

Public & Media Present: Jessie Salisbury, Steve Brown, Maria Brown, Code Enforcement Officer/Building Inspector Leo Trudeau, Road Agent Mark Chase and Robert Levesque.

III. Appointments:

6:05pm: Steve Brown re: Building Permit Issuance on an Unclassified Road

Steve Brown and Maria Brown were present

Mr. Brown said he was here to discuss the delay in the issuing a building permit. Mr. Brown sent an email to the Town and asked if the members saw it.

The Browns are in the process of building a house off Woodward Road on a piece of retirement property they purchased in 2008. It has a Sawmill/workshop structure.

They are working their way through the permit process. They received a foundation only permit a year ago and are in the process of doing site work to have the slab foundation poured. Other permits are in place.

Steve Brown: "I'm aware there is also some work going on relative to, I'll call it either, "permits on private roads" or on the roads themselves; Class VI and private roads. It is my understanding that because of those ongoing discussion or concerns relative to that, the permit was held and the permit was not issued. My intent is not to talk about that tonight but focus on the permits we have submitted and the wickets we have to go through to have that approved. There are a number of things we have to have happen and a number of different entities involved in getting approvals."

1. Driveway permit, which involved the Highway Department and other folks
2. Waiver of Municipal Liability
3. Current Use Tax change
4. Septic design stamped by the State

The Browns filed paperwork for the Land Use Change Tax, Driveway Permit and the Waiver of Release of Municipal Liability. He understands since the permit is on hold, those are stopped.

S. Brown: "I would like to request, going under the assumption that a building permit will be approved, that these will be done and out of the way. Meaning if we do this all in a parallel, I assume it will be okay to get a driveway permit and the release approved and

sent to the Hillsborough County Registry of Deeds to be recorded and get the State septic approval and the Land Use Change Tax. All of those need to happen before the permit can be issued. If we wait until we resolved the concerns of building on the road, and then I have to do those things, it adds more time.”

The pre-site built house is expected to arrive from North Carolina around October 18, 2021. This can be moved to November but then there is the risk of snow. The Browns have made financial commitments to the builders and the shell erection crew, which will assemble it on-site. He is concerned there is no activity on the permit.

Code Enforcement Officer/Building Inspector Leo Trudeau confirmed the Browns building permit is unapproved waiting the developments on the road issue that needs to happen first. This includes the foundation permit. Mr. Brown applied for a full house permit. The fees have been paid.

Steve Brown asked if it is “possible to keep the other elements moving in anticipation getting the permit approval rather than waiting for that to happen instead and then starting the clock on Land Use Tax. There are other people involved and it takes time.”

Chairman Douglas asked the Code Enforcement Officer for his position on this. CE/BI Trudeau said he advocates for some compromise. He added, “Steve in an exacting person, a professional. I admire him. The way he has conducted everything he has done has been first class. His situation has a unique situation for that subdivision up there (Woodward Road). He does have a private driveway street/roadway that is accessed by an unclassified road and it is on a subdivision plat. There is a length of an improved portion of that unclassified road that is to, and beyond, his driveway. That portion of that improved road is not at the Town of Lyndeborough Street & Roads Minimum Standards. Our zoning requires that it is. That is the real issue. What do to about that and that is not for me to say. I advocate for some compromise to get the Brown’s moving. The work he has done is allowed. He has done site work and a foundation preparation, that is all allowed before a permit. He can’t pour any concrete without an inspection of the soil and the foundation set-up. I advocate for some compromise to get him to a point where he can pour the concrete to the garage foundation only...to have a place to put the building pieces off the ground, covered and safe.”

Mr. Trudeau felt the road can support the truck traffic for this project but it is not at a minimum standard going forward for all the lots that are up there. Mr. Trudeau said that the expensive fabric material on top of the insulation can deteriorate in the sun as well as the pex tubing for the radiant heat.

Mark chamberlain said that there is a partial misunderstanding in that the road policy really has nothing. It is how we administer the existing RSA and work through that. The problem we have is the subdivision was flawed, they were not properly done. The road aren’t technically roads. They don’t have names or numbers for E-911 and they are not up to a standard that meets zoning. It is not what I would consider safe. It’s more of a driveway. It’s a very long driveway. If you have a fire up there. Do you have a water source? Mr. Brown reported they have a couple of fire ponds. Maria Brown shares that concern. That is a major issue to fix. In order to give a release form, you need the frontage of the road but you don’t have the frontage of the road because the road really does not exist. The road was not built to the correct standards and it isn’t even properly defined.

Selectman Chamberlain pointed out that Mr. Brown has been on the Planning Board. He brought inquiries for road acceptance for Rose Farm Road and Tarn Road. That is the concern we have right now. If someone went to your house because you have a problem, how do they know how to find you? What road are you on? What number?

Selectman Chamberlain asked Road Agent Mark Chase if the road has been inspected. He replied not to his knowledge.

Steve Brown reiterated he wants to try to stay out of the road discussion tonight. He invited the Board to visit that area and added, "Are they perfect, no, but a lot of our Town roads are not perfect, but they are pretty good roads."

Selectman Chamberlain added, "I find it hard to issue a permit for something that doesn't really exist."

Selectman Howe also has a safety concern. He felt that giving this whole process started a while ago and they proceeded with what they needed to do and they committed to other parties, he would consider of pouring the garage only slab so they can store their materials to build the house with the caveat that it is an "at risk" thing.

Selectman Chamberlain agreed with Selectman Howe and also emphasizes with the situation. He would consider the slab, if nothing else, to protect what they have. "We are working our way towards approving things up there without fixing the problem. That is what worries me."

Chairman Douglas asked Selectman Chamberlain, "But you are in agreement, that under these circumstances, you would agree?" Selectman Chamberlain replied he would agree to the partial foundation.

Chairman Douglas wanted to revisit events from 2000-2001. In 2000, he was elected to the Select Board. He served with Linda Anderson and Arnie Byam. He inquired about the E-911 system, a State RSA about the number and street numbering, public highways, Class VI roads or private ways, and was told it has not been done in two-years because one location in the Town of Lyndeborough was holding it up for two-years. "I contacted the person in charge of E-911, we had a public hearing, the whole issue over there was it was a private road, it was named, but the people did not want the numbering system to conform to state standards, which is required." Bruce Cheney talked to these individuals.

The Board at the time agreed to have Chairman Douglas work on this. "It went through the whole attribute, we went through the numbering system we went through the measurements, we went through everything. It was completed in approximately eight-months. The Board made them change their numbers. I understood they have home businesses. Unfortunately, that is the way life is. There are obstacles and you have to get over them. What I'm concerned with here, with your set-up, the RSAs are very clear." He asked Mr. Brown if he is familiar with them and he said he has read them.

Chairman Douglas continued, "We have no street names. We have no number. That very much concerns me because that is the first thing that should be put in the ground when a street or private road or building permit is being considered. It is required by E-911."

Chairman Douglas repeated a recent situation where the Wilton ambulance responded on a longer route of Center Road due to a number issue. Numbers should start at the center of town but Wilton did their section of Center Road first therefore Lyndeborough's number system starts on the Milford/Wilton side of Center Road.

Chairman Douglas, "We need to move on this and we need to move quickly. This Board is the authority in setting numbers and setting names and coordinating with E-911 and doing the mapping. If we have an emergency in Southwest Lyndeborough, are they going to find your house? Steve Brown felt it was a fair question. Discussion continued.

Chairman Douglas reviewed the process and asked if Mr. Brown knows why it has not been done? Mr. Brown does not but speculated that for a long time there were no houses in there because it was forest land and the roads were put in way before the houses went in. Discussion continued.

Chairman Douglas asked CE/BI Leo Trudeau if he understands this process, and with this in mind, do you have a problem with no numbering system and no street going forward. He wanted a yes or no answer and Mr. Trudeau felt his response was more than a yes or no answer. Chairman Douglas withdrew the question.

VOTE: Selectman Howe moved, Selectman Chamberlain seconded to allow Maria and Steve Brown of Woodward Road to go forward with a modified foundation permit for their garage. (lot number please?) Motion passed 3-0.

The Browns thanked the Board and left at 6:28pm

IV. Community Forum and Public Comment:

Jessie Salisbury reported that the Historical Society was given a "historical curiosity" which was a 39-star United States flag. There was never an official 39-star flag but they were made in 1889 when it was assumed that North Dakota and South Dakota would join the Union as one state. This flag was found in the house next to the common where Robert and Daisy Smith lived. In 1889, the house was occupied by William Steel, who was a Civil War Veteran and a member of the Lafayette Artillery Company. The Society is assuming it belong to him and the Artillery carried it occasionally in parades because it is called parade flag. The condition is fragile.

Chairman Douglas asked how many were made back then. Ms. Salisbury responded maybe a few thousand. The value of the flag depends on the condition of the flag. They did see 39-star flags advertised on eBay for \$500-\$1,500.

Jessie Salisbury said the Wilton-Lyndeborough History video should be done in a couple of weeks.

Robert Levesque of 24 Woodward Road asked if he could speak.

He would like to get identified where Woodward Road starts and where it ends. What is it Class V and what is Class VI. For many years since the Chrisentons have purchased the property, they have changed the direction of the road called Woodward Road, formerly Putnam Road.

It has been blocked off with large stones and trees across where the original Woodward road was and now it goes straight up the hill. He also has signs in three different locations. The sign has the emblem of Fish & Games on it and says "No wheeled vehicles" and that goes across the cable of Woodward Road. Now the people who are up there, the Browns who were just here, and the other people up there have to take this down every time they have to go up there. No one is allowed on that road." 31:30

Mr. Levesque said, "Last summer, my son when up the road on the old 4-8 end (?) with his son on the tractor with him, just for a ride. The cable has been face-down and the sign was faced down, so he just continued. He was going to go up the cell tower and turn-round. He got chased by Tom Chrisenton in his pick-up truck. He came at them at a very high rate of speed with my grandson, 2½ years old, on that tractor with his dad. My son said he skidded right up to the side of it and the only thing he said was, "Didn't you see the sign?" My son Adam said, "What sign"? He [Tom] said, "You saw the sign". He put the truck in reverse and sped back to his house."

I would like to know:

If Woodward Road is closed to the public?

Is that Woodward Road that he built up there, where the Browns are?

Mr. Levesque discussed a piece of property recently sold to Phil DuPont and it was advertised, in the real estate market, ass 100 Woodward Road. "I'm confused here. I know that Tom built that road but really, where is Woodward Road? Is it a closed or abandoned Town road? Is it still a Right-of-Way (ROW) that Town's people can still go up on with a wheeled vehicle or snowmobile? I'm under the impression it goes out, about 3,800 feet. Tom has bulldozed over it, ran over it, covered over it, and camouflaged it..."

Chairman Douglas asked Mr. Levesque if he is saying that he [Chrisenton] changed the layout of the road? Mr. Levesque answered, "Absolutely."

Chairman Douglas asked the Road Agent if that is true. Road Agent Chase replied that he does not know.

CE/BI Leo Trudeau said, "I have seen it with my own eyes. It is blocked off at the beginning." Chairman Douglas wanted to confirm if the road has been changed from its original road. Can we determine that?

Selectman Chamberlain said that looking at aerials on Google Earth, it looks like it has been. You can see when you get past the Levesque house it went to the left a bit and you can see where the trees are in the ROW but there is another road that goes to the right. It is more clear on the aerial on the one that is there now. We would have to do more research to find out exactly where that ROW is.

Chairman Douglas agreed and said, "If that layout of the road has been changed, not only is it illegal, but it's inappropriate. Barring the fact that there is a cable across it or how far it goes up, it does not matter, it's wrong. I would like to identify the layout of the road exactly where it should be as much as possible. This is an issue that needs to be addressed. The Town of Lyndeborough has never closed a road. Abandoned a road is when it has not been maintained for five-years, it just converts to Class VI.

Mr. Trudeau confirmed if abandoned is going from Class V to Class VI, which is yes. The Town needs to vote to close a Town road. A portion of Chase Road was closed but no others.

Mr. Trudeau said there are portions of the old Woodward Road, it really should be called Putnam Road, in all the history, there are portions of it that have been erased by machinery.

Chairman Douglas asked how it got changed from Putnam to Woodward Hill Road? Was it a vote of the Town. Mr. Levesque said, "Yes". Mr. Trudeau: When Bob father's, the elder Bob Levesque, back when and by the vote of the Town.

Chairman Douglas: So, we are talking the legal portion of Woodward Hill. But we want to make sure that it is following the same path as Putnam Road did, correct? Both Mr. Levesque and Mr. Trudeau agreed that it does not follow that path. Chairman Douglas: You are saying there is a cable across it? Leo Trudeau: There is not a cable, there are rocks and trees. Mr. Levesque added, "There are big boulders. I have pictures."

Mr. Trudeau: There are boulders, it is impossible to access the original Woodward Road.

Chairman Douglas: Who put them there? Mr. Trudeau: Tom Chrisenton. Chairman Douglas: How do you know that? Mr. Trudeau: I did not see him do it but... Chairman Douglas: Then you don't know that. As Board members, if this is our road, and it has not been closed, I would like the Town Administrator to direct the road agent to go up there and remove the obstacles up there.

Selectman Howe asked if this would be working on (improving) a Class VI road and would it convert it to a Class V road? Selectman Chamberlain said this is not an improvement; this is a removal of an illegal obstacle. This is also at the mouth of Woodward Road and defiantly know this is Class VI. This is no different than Joslin Road when a new owner, Swartz, put a cable across it and he was immediately informed that was a Town road and not allowed. When the research was done, that road ran through Pinnacle and came back out on Pinnacle Road. This is no different.

The Board discussed removing the obstructions and coordinating with the landowner. T/A Boland asked if he could do a little research on this.

Selectman Howe reminded the Board the other issues is the course of the road has been changed. It was discussed if the mouth of the road has been changed. Mr. Levesque provided a visual explanation of the direction the road was and now goes in.

The boulders are at the top of Mr. Levesque's land as the ROW goes up. He built all that road going up to this house. Woodward Road went another way. There is a telephone pole there now with a sign on it restricting wheeled vehicles. Pine trees are covering the road.

Chairman Douglas asked Mr. Levesque if he is saying that the original Woodward Road is blocked off. Mr. Levesque answered, "Yes. It has been for 30-something years. When you walk up through it you get to a point that the road that he built makes a curve and goes over to Steve Brown and the other gentlemen's house and it has been all built up there and naturally over time."

Mr. Trudeau: The history shows, and Scott Roper did research of the roads, shows that that road use to go to Greenfield, and it entered into Greenfield on what they called Driscoll Road. In conversations with Tom Chrisenton, he said that road was abandoned by the Town years ago. I don't know what evidence there is to support that but the history shows that road went all the way through. Scott Roper's writing say it was discontinued at a point.

Mr. Trudeau said he provided Selectman Chamberlain a larger map of that area in which the road is labeled "Class VI" and goes right above the higher point of the improved unclassified road that is in there now. A little farther it goes around Steve Brown's lot and further up to Bret Mader and to Phil DuPont. If the original road is still supposed to be an opened Class VI Town road (ROW) then it should be opened to everyone to walk, ski or snowmobile on and not to be told to get out. I've seen the signs myself, "No wheeled vehicles" on a Fish & Game sign with their logo on it as if they put that there.

The Board discussed that they need to define where the road is. T/A Boland would like to consult with Scott Roper.

Selectman Douglas said that if it is a Class VI road, the only way to run a motorized vehicle on it, other than registered motorized vehicles, is with the Town permission. So the snowmobiles and 4-wheelers can't go on a Class VI road unless the town gives permission to utilize it. If you have a tractor that is registered, you can drive it right through.

Notes, the cable is on the private road. The private road intersections with a Class VI road where the Class VI road was erased.

The Board thanked Mr. Levesque for bringing this to their attention.

Mr. Levesque said he also has a concern with the number of lots up there. If Woodward Road, if that is it's name, with everybody building up there. I don't see where the road construction was done properly, engineering wise, the wetlands, all of that. I have never seen maps that show those lots were done by a certified surveyor and they put actual markings in the ground. I have not seen them out there. Is it just an iron rod? If so, that seems antiquated in today's standards. I thought it would be granite posts for a subdivision. Mr. Trudeau confirmed that the monuments are in place, he could not get his lot line approvals without them.

Selectman Chamberlain said there are drill holes in walls in some cases, which is acceptable. Pins with a cap are acceptable.

Mr. Trudeau said that the Chrisenton's plan to provide names for the roads.

Robert Levesque asked about if the Old Woodward Road will remain blocked off. It was discussed if that road is on his land and not interfering with the Town road. Mr. Levesque asked what road classification could be on those roads in the future. It was speculated if Woodward Road would be extended or it could be a private road.

Chairman Douglas said that in terms of the E-911 system, it does not matter if it's a private road or Class VI road, it still has to have the numbering system. Private roads names have to be submitted to the Board.

Mr. Levesque was informed there is a meeting tomorrow night to discuss roads.

Mr. Levesque left at 6:51 p.m.

Decision Making Actions:

Old/Tabled Business:

Assessing Services Requests for Proposals Discussion 2022-2025

VOTE: Selectman Howe moved, Selectman Chamberlain seconded to table this discussion. Motion passed 3-0.

2008 Volvo Dump Truck Municibid Proposal Discussion 2022-2025

The Board discussed advertising the sale of the 2008 Volvo Dump Truck locally including advertising it on Facebook and the Town of Lyndeborough's website.

VOTE: Selectman Chamberlain moved, Selectman Howe seconded to put the 2008 Volvo Dump Truck For public sale to highest bidder for a period of two weeks starting Sept. 9, 2021 with a minimum of \$15,000. Motion passed 3-0.

b. New Business:

Nothing

c. Items not on Agenda:

Nothing

V. Town Administrator Report

The Town wrote a letter to the Cemetery Trustees regarding lights on the flag poles. They responded with a letter dated Sept. 17, 2021 and will discuss it at their next meeting.

There is a joint board meeting tomorrow night at 7:00 p.m. at Citizens' Hall to gather input from multiple Boards and Committees regarding approving the Insurance of Building Permits on Class VI and Private Roads Policy and Procedures Manual.

The Broadband Committee is moving forward. T/A Boland is putting together a list of candidates and should have a list for the next meeting.

Chief Deware worked hard on the PRIMEX Renewal. The Town earned a 2.5% reduction.

VI. Selectmen's Report

a. MACC Base Action & Agenda

The DOT's Ten-Year Plan was discussed.

b. Transportation Committee

There was not a quorum at the last meeting.

c. Planning Board

A two-lot conservation subdivision is on the agenda – Chrisenton off Woodward Road, and the Rules of Procedures.

d. Heritage Commission

The Commission ordered the five "Welcome to Lyndeborough" signs.

Jessie Salisbury and Stephanie Roper plan to meet with a man regarding Lyndeborough glass.

e. Conservation Commission

Their meeting scheduled for tomorrow night was cancelled due to the joint Board meeting regarding roads.

Consent Agenda:

VOTE: Selectman Howe moved, Selectman Chamberlain seconded accept the Consent Agenda for September 8, 2021 with the excluding items #11 and #13. Motion passed 3-0. (need copy of the Consent Agenda)

VII. Information Items Requiring No Discussion

None

VIII. Non-Public Session RSA 91-A:3 II (a, b & c)

VOTE: Selectman Chamberlain moved, Selectman Howe seconded enter into a Non-Public Session at 7:06 p.m. Motion passed 3-0.

VOTE: Selectman Howe moved, Selectman Chamberlain seconded to reenter the Public Session at 9:55 p.m. Motion passed 3-0.

Upon reentering the Public Session, the Board announced they hired Joshua D. Joki and Nicholas M. Lavioe as part-time police officers.

Adjournment:

VOTE: Selectman Howe moved, Selectman Chamberlain to adjourn at 9:57 p.m. Motion passed 3-0.

All scheduled items having been addressed, the public meeting was adjourned at 9:57 p.m.

Next regular meeting: September 22, 2021 at Citizens' Hall at 6:00 p.m.

Kathleen Humphreys, Transcriber

Audio 801_2016

Chairman Fred Douglas_____

Selectman Mark Chamberlain_____

Selectman Robert Howe_____