

**LYNDEBOROUGH BOARD OF SELECTMEN**  
**MEETING MINUTES**  
**April 19, 2023**  
*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 and minute taker Kathleen Humphreys

**Public & Media Present:** Jessie Salisbury, Attorney Tom Quinn, Maria Brown, Steve Brown, Building Inspector/Code Enforcement Officer Leo Trudeau. Road Agent Rick McQuade, Stephanie Roper, and Planning Board Chairman Charlie Post arrived after the meeting started.

**III. Appointments:**

**6:05 p.m.: Request for Board of Selectmen to Authorize Issuance of Building Permit Pursuant to RSA 674:41 I (d), Map-Lot-Sublot 225-018-000, off Dutton Road. (Attorney Tom Quinn)**

Attorney Tom Quinn represented the property owner, GS Mission Farm, LLC/Greg Strasburg.

Attorney Quinn is here tonight asking this Board to authorize the building permits.

GS Mission Farm, LLC owns two lots off Dutton Road. Map 225, Lot 17 has 50-feet of road frontage and is 50 acres. Map 225, Lot 18, is the concern tonight because it has no road frontage on the 105-acre lot. The property owner acquired the lots in 2021. They had separate deeds and were separate tracts of land, which existed prior to 1959. Lot 17 goes back to 1920, 1918 or 1904. Attorney Quinn will provide confirming documents.

GS Mission Farm, LLC plans to develop the lots for residential agricultural use. They obtained a building permit to construct a house on Map 225, Lot 17.

The owners plan to use a large portion of Map 225, Lot 18 to grow hay. The landowner wants to build a barn and a pavilion, to be used by the farm workers and for themselves. Plans include a kitchen area with a microwave, fridge, sink, a bathroom, an area to change and showers. Plans to not include a stove. The pavilion will have a common area, storage, and a screen porch. The building is not intended to be used as housing and they do not include plans for bedrooms. Mr. Quinn also said the plans are not finalized.

The other building planned for Map 225, Lot 18 is a much more substantial building is the barn, which will be two-stories tall. The structure will be designed to house the hay on upper level and farm equipment on the lower level with a machine shop. It is not intended to be a dwelling unit. Mr. Quinn said the buildings are to support agriculture.

We don't have a problem with zoning, we have a problem with RSA 674:41. The Statute prohibits issuing of building permits on a lot that is lacking road frontage on a Class V

road. Mr. Quinn addressed a provision and an exception. One is for access to the lot over an easement, which requires the applicant(s) to meet with the Board of Selectmen to sign a Municipal Waiver. The Waiver is to release the Town of liability. For example, if there is a fire or emergency at the property and the town emergency apparatus does not or cannot get there, the Town is not responsible for lack of getting there. Mr. Quinn felt this is a routine process. It requires two meetings: 1) To raise the issue and put in an application. 2) Then the Selectmen consult with the Planning Board before taking a vote.

Mr. Quinn submitted a copy of the plan that shows the two lots of records, the lack of frontage on one plus provided an exhibit that shows approximate building locations.

Selectman Chamberlain asked if there is any particular reason why they don't do a lot merger, then there is no issue. Mr. Quinn said because a lot merger would reduce the overall flexibility. At this point, they owned the property for only a short while and he is just getting started and what he wants to accomplish is residential and agricultural. He does not know how the plans will all play out so the landowner would like to preserve his flexibility of being able to convey the property separately if this does not work out. He has no intentions personally of selling the lots separately but if he does have to make a change of direction, he has the option to sell the lots separately.

Mr. Quinn also said another example of the status of Map 225, Lot 18 as a separate lot allows GS Mission Farm, LLC to do things that are more difficult to do. At some point GS Mission Farm, LLC may decide to put another dwelling on Map 225, Lot 18 to be used in connection with the operation. The owner envisions a gentleman's farm on 50-acres. His vision is it will be very upscale, on a beautiful country setting. He has no intentions of selling. He has to consider the possibility of once the farm is up and fully operational, the owner may hire a caretaker, supervisor or foreman and he may want to put another dwelling up there to accommodate an on-site manager. There are two lots and he has the right to do that. As a second lot, he would need a variance. That is down the road a bit. That is the advantage of have a separate lot of record. Mr. Quinn said the owner has no intentions of a subdivision. He knows he would have to put in a substantial public road in there for that purpose. Their interest is in maintaining the farm for residential and agricultural use.

Chairman Douglas asked to hear from the Code Enforcement Officer. Code Enforcement Officer/Building Inspector Leo Trudeau said he was also curious why the owners would not consider a lot merger. With the statement above from Attorney Quinn, Mr. Trudeau felt the intent seems clear he wants to maintain the possibility of another residence. "I'll tell you why that can't happen because it does not abut a public way at all. Earlier you said because it's a lot of record it would be allowed to have a driveway permit just because it's a lot of record. That only comes to play if that lot abuts a public way. The land locked property you are talking about does not abut a public way. So, it's not about if it has reduced frontage, it has none at all so it does not qualify as I interpret it. The problem seems to me, that either you merge the lots and use the driveway permit you have now or build a private road. That would be expensive but certainly do-able. You can't have a shared driveway because all lots accessed by a shared or common drive have to have a legal road frontage per our driveway regulations.

Attorney Quinn. I'm not letting anything out of the bag, that is an example of what could be done. He said that zoning allows buildings to be constructed for agricultural and residential purposes is allowed, despite the fact it has no frontage. Mr. Trudeau did not

agree but said it does not have to meet the current frontage but it has to abut a public way. Mr. Quinn thinks it said, "without frontage" as long as it meets the other regulations. There is a difference in interpretation here and can consult town counsel.

Mr. Quinn said, "Even if what you said is correct, then the driveway regulations can still be waived by the Planning Board". Leo Trudeau said, "That is true". If the Board should decide to authorize the issuance of the building permit, that does not supersede other applicable regulations. We are talking about with the RSA 674:41 hearing is to satisfy the state requirements and it does not supersede other regulations, which could be waived or granted by way of a variance, it's part of the process. If we are asking the Board tonight, to authorize the issuance of the building permit, it does not mean we are coming in the next day to authorize that, it just clears the RSA 674:41 problem.

Attorney Quinn discussed RSA 674:41 and how other towns handle relief from the State Statute and overall constitutional issue for technical grandfathered lots.

He is aware they would still have to comply with zoning, with driveway regulations, and septic regulations. This is just one step in the process but an important step.

Mr. Trudeau said he interprets it differently, which the Board acknowledged. Mr. Trudeau added, a land lock lot, grandfathered or not, a lot of record prior to zoning, would still have to have some access to a public way. That would have to be, as I know it, as a legal easement of some sort. They can do that up against the lot that does have the frontage. Mr. Quinn discussed how GS Mission Farm the two lots abut and they own both lots. Mr. Trudeau asked the Board to think forward to a point where a request comes in for a building permit for a residence that does not abut a town road or public way at all. That is a probability to be coming.

Chairman Douglas addressed Attorney Quinn and said, "Your client, back about five-months ago, don't quote me on that. He was here and during that meeting when we were talking about that property, he was asked if he has any intentions of building a home or structure out here. His response was "No, it was strictly going to be fields" but now we are into this situation. He has a right to change his opinion. My question to you is this, are you asking this Board to engage in a waiver where he is not held liable should emergency vehicles not be able get up that driveway? Or are you asking us to consider the building permit? Attorney Quinn said, "It's both". *(find date of this meeting)*

Attorney Quinn said he got involved in October 2022 and was not at that meeting Chairman Douglas referenced. It has already been a kafuffle after the land alteration issue. They were before the Planning Board for the sight distance for the driveway. I understand there was the question of a grandfather lot. They contacted me in October to answer that questions and to help them get a building permit for the residence, Map 225, Lot 17. (Tonight, the applicant supplied Planning Board minutes from July 21, 2022).

At that time, it was a discussion of development of the front lot, Lot 17, for residential/agricultural purposes and upper lot, Lot 18, for agricultural uses. That is what he has done. I can't comment on the rest. If the question was phrased, do you plan to develop the lot or improve it or something then I can easily speculate how the question can be misconstrued in that way. If the question was flat out, do you plan on building any houses as you clear the fields. I don't have an answer for that. As far as I'm informed, it's always been clear, that is what they plan to do. Chairman Douglas said he appreciated

that but he chaired that meeting and he (*the applicant*) was sitting right there very cordial and his response to the question of putting a residence up there was, "No".

Chairman Douglas asked to get back to the waiver. Mr. Quinn said the waiver is not that he (property owner) won't be responsible but is that the Town won't be responsible. That is the way it is written. Chairman Douglas said he served on this Board pretty close to four different terms. You made a statement that a waiver and this process is "routine". The waivers in Lyndeborough, I had several occasions to be on the Board and sign waivers for not holding the Town liable for Class VI roads. I have never, ever, signed anything for a private driveway. I have never heard of it.

Attorney Quinn speculated that Lyndeborough is not the most developed town in the region so maybe that is why it has not come up before. Chairman Douglas is trying to understand how the Board can sign a waiver for a private driveway. How does that involve this Board?

Attorney Quinn said the reason it has to do with this Board is because the statute requires that as a condition to try to protect the town, if you don't have the required frontage but you do have an easement then the easement can serve as the access and the permit can be issued, providing that we meet with the Board or consult with the Planning Board and the Board votes and the applicant signs the liability, protecting the Town from unfortunate circumstance. It goes on to say the waiver has to be recorded at the Registry of Deeds so subsequent property owners of the property are aware of it. If you have not experienced it before, maybe it is because you have never been asked before. The Statute references an easement.

He said he can understand the reluctance and you don't want to create new lots with a subdivision with no frontage or easements but because of the constitutional right to use your land, lots that existed prior to zoning have to have allowances. Discussion continued.

Chairman Douglas said he respects it but does not agree with the concept personally only because that is private property. Other than the statute saying, and it does not say "shall", it might say "will" or "may"... Atty. Quinn said he thinks the statute anticipates the need to protect the towns in the event where the Board authorizes the building permit then something unfortunate happens and fire apparatus can't get there. Now your argument against the town is you should never have approved this. So need a waiver.

Chairman Douglas added, with all due respect, I think that is what the Code Enforcement Officer was bringing out if in fact this Board does not approve it or the Planning Board or the ZBA will allow it would be to put a road in with minimum town specifications.

Selectman Chamberlain addressed the declaration of the driveway easement. From his understanding you can't have an easement to yourself because they are in concurrent ownership.

Atty. Quinn said his initial response is technically "Yes", but the practice is if you have two lots you create the declaration and say in the declaration that the easements run with the land and you record it at the Registry of Deeds. It happens all the time with subdivisions. The Planning Board requires all sorts of easements: driveway easements, utility easements. In most cases, all those properties are owned by a single developer and the easements are created and recorded. It's all the developers land until they sell a lot. 29:00

Selectman Chamberlain asked has the owner filed with DES for an AoT (Alteration of Terrain) permit. The reason I'm asking is at the meeting it was discussed earlier with Spencer Tate from Meridian Land Services who stated they were just hay fields and for agricultural purpose and for that purpose they don't need an AoT. However, as I stated then, the AoT agricultural regulation has a limitation of 10,000 square feet of impervious before it becomes non valid. I know that the house is 10,010 square feet so they are obviously over already over the 10,000 square feet impervious. Atty. Quinn said he thinks it's 100,000 sq. feet. Selectman Chamberlain corrected, it is 100,000 sq. feet required to do an AoT. The reason they didn't need to do an AoT is because less than 10,000 square feet impervious and under and it's agricultural. Once it becomes over 10,000 sq. feet, it is no longer under an agricultural waiver and you have to get an AoT.

Atty. Quinn said all he knows is Meridian has been in contact with AoT and they are aware of what is going on at the property and the residential and the buildings associated with that and involved in the process. He believes that AoT inspected the work done on Lot 18. It may be that the construction of the barn or pavilion may require an AoT permit. At some point, they may have to file but I don't think it has been determined yet.

Selectman Chamberlain wanted to address the wetlands violations and asked for clarification with what AoT is doing. Atty. Quinn said he will reach out to Meridian Land Services to request information in the form of a letter or to attend an upcoming meeting.

*Attorney Tom Quinn and the Browns left the meeting.*

#### **6:38pm – Road Agent Rick McQuade re: 2023 Paving Plan**

Road Agent Rick McQuade was present.

Road Agent Rick McQuade presented the updated paving plan for the Town of Lyndeborough and a budget of \$199,929.68.

Advanced Pavement measured the last section earlier today. The plan includes 1-1/2" overlay of Salisbury Road and Center Road from Wilton line to the end of the 2021 reconstruction, reclaim, grade and 2-1/2" winter binder pavement portions of Johnson's Corner Road, and shim areas of Center Road from the overlay to Cemetery Road. The shim will be the last phase of the project and will carry that over.

Chairman Douglas asked if they will go all the way to Cemetery Road and the answer was, "Yes". He asked about the hump at the bottom of the road near the flagpole place and referred to it as "a reverse speed bump".

Leo Trudeau asked if work will be done on Rose Farm Road culvert. The Road Agent will look at that culvert tomorrow. Chairman Douglas recommended that the Road Agent contact Police Chief Deware before doing work in that area due to the murder case at the red house last year. That area had "police tape" around it and may be needed for a site review when a jury is pulled for that horrible incident.

The Board discussed previous work done east of Wilton Road and the work to reshape a low spot as well as drainage work needed. Much of the water is from the Wilton section and cooperation between the towns will be necessary to resolve it. Rick McQuade said the paving company didn't have any problems with that section.

**VOTE: Selectman Chamberlain made a motion, Selectman Howe seconded to authorize T/A Boland to enter into a contract with Advanced Paving for the 2023 Paving Projects for the cost of \$199,929.68. Motion passed 3-0.**

Chairman Douglas asked the Road Agent to provide information for the 2024 paving budget as soon as possible. Rick McQuade said he already started it.

The Highway Garage Open House will be scheduled for the end of May. The Public Works Department has been working ambitiously with not only storm damage clean-up but also cleaning up the debris that has been there a while. They have produced 16 loads of chips so far. The Town has received positive public comments regarding the work.

Rick McQuade will look at the guardrail on Mountain Road, which has been damaged.

**IV. Community Forum and Public Comment:**

Charlie Post said he has seen the Town Department of Public Works crews working and noted it's heavy and hard work. They are working early to late and working under tough circumstances.

**V. Decision Making Actions:**

**a. Old/Tabled Business:**

**Old Temple Road Stone Arch Bridge Condition Assessment Contract Review Budget**

Stephanie Roper and Jessie Salisbury were present.

It was noted that Attorney Drescher's only comment is to specify when the work will be done. The Board discussed what a "brief letter style report" really means and will that be sufficient if we apply for a grant. They expected an engineering report. The Board also discussed what the various draft levels mean.

Jessie Salisbury will contact Thistle Stone tomorrow and try to see Wilton's report. The Board can expect feedback.

**2023 American Rescue Plan Act Grant Reporting Update**

On April 12, 2023, T/A Boland and Finance Director Hebert filed the required reporting with the Federal Government for the activity with the American Rescue Plan Act Grant received by the Town of Lyndeborough for the time period ending March 31, 2023. As of March 31, 2023, no money had been expended but \$100,000 had been committed to Comcast for the installation of high-speed internet in North Lyndeborough (residences in the 487 telephone exchange).

Comcast had advised the Town previously to March 31, 2023, not to expect an invoice for the work as Comcast was waiting on a possible grant to cover the cost of the installation. On the afternoon of April 12, 2023, Bryan Christiansen of Comcast notified the Town the grant is not going to happen and the Town will be invoiced for the work in the amount of \$100,000. T/A Boland reminded the Board all of the remaining ARPA funds need to be committed by December 31, 2024, and expended no later than December 31, 2026.



**Future Fire Apparatus Purchase Committee – Committee Creation & Charge**

T/A Boland read the committee charge and shared a draft agenda. Members on the Committee include Chief Brian Smith, CIP member Karen Grybko, Budget Committee member Geoffrey Allen, Selectman Chamberlain, residents Richard Herfurth and Jim Prefakes as well as T/A Russ Boland as an ex-officio member.

**VOTE: Selectman Howe moved the charge of the Fire Apparatus Purchase Committee for meeting on April 21, 2023, and to proceed with the agenda as presented to us. Selectman Chamberlain seconded. Motion passed 3-0.**

**b. New Business:**

**Scheduling/Plan to Review, Amend and/or Re-Adopt Town Policies**

T/A Boland asked the Board if they prefer to do a review then adopt at the next meeting. The Board agreed with this procedure.

**Distribution for Review of 2023 Lyndeborough Investment Policy Proposed for Re-Adoption on May 3, 2023, Board of Selectmen's Meetings**

Chairman Douglas asked if there is anything that stands out from the last time or needs to be changed as well receiving comments from the Finance Director. This will be tabled until the next meeting.

**c. Items not on Agenda:**

Nothing

**VI. Town Administrator Report**

The office would like clarification on escrow payments/requirements relative to the Planning Board and Zoning Board of Adjustment. Charlie Post said this was discussed at a recent policy meeting. The Selectmen would like to ask Charlie Post and Karen Grybko to attend an upcoming meeting to discuss this.

The office opened a three-months CD in the amount of \$200,000 at 4.65% which will earn about \$3,000.

**VII. Selectmen's Report**

**a. MACC Base Action & Agenda**

T/A Boland attended a meeting Monday night. There is a new board member, the Mont Vernon Police Sergeant has replaced the Mont Vernon Fire Chief on the board.

**b. Transportation Committee**

There was no meeting.

**c. Planning Board**

The Board will meet tomorrow night. The agenda includes a driveway inquiry at 405 Mountain Road. The potential buyers want to ensure they can get a permit for a driveway big enough to bring in a modular home. There is also sight distance issues with this driveway.

**d. Heritage Commission**

The Commission will meet next month.

**e. Conservation Commission**

The Commission met and discussed recruiting new members to fill vacancies. They will continue working with the Piscataquog Land Conservancy (PLC) and on the town forest.

Leo Trudeau inquired about the policy on the town forester and does that individual need to have a degree as a licensed forester first? He asked if this is an appointed position. He discussed logging cuts and current use. Mr. Trudeau will research this and report back to T/A Boland.

**f. Ambulance Commission**

T/A Boland and Chairman Douglas attended the meeting last month. The director went over modifications on the building and put together a document. The future of the building will be discussed at the next meeting on July 12th, and in light of the association being disbanded, how that will play out. The breakdown is Wilton 55%, Lyndeborough 25%, and Temple 20%.

**VIII. Consent Agenda:**

This will be tabled until the non-public session of the meeting.

**Board Appointments**

**Election of Board of Selectmen Officer:**

**VOTE: Selectman Howe made a motion to appoint Selectman Mark Chamberlain as new Chairman for the Board of Selectmen. Chairman Douglas seconded. Motion passed 3-0.**

**Board of Selectmen's Representative to the Budget Committee:**

**VOTE: Chairman Douglas made a motion to appoint Selectman Bob Howe as the Selectmen's representative to the Budget Committee. Selectman Chamberlain seconded the motion. Motion passed 3-0.**

**Board of Selectmen's Representative to the Planning Board:**

**VOTE: Selectman Howe made a motion to re-appoint Selectman Mark Chamberlain as the Selectmen's Representative to the Planning Board. Chairman Douglas seconded. Motion passed 3-0.**

**VOTE: Selectman Chamberlain made a motion to appoint Selectman Bob Howe as the Alternate Selectmen's Representative to the Planning Board. Selectman Howe seconded. Motion passed 3-0.**

**Board of Selectmen's Representative to the Ambulance Committee:**

**VOTE: Selectman Chamberlain made a motion to re-appoint Chairman Fred Douglas to the Ambulance Committee. Selectman Howe seconded. Motion passed 3-0.**

**Board of Selectmen's Representative to the MACC Base:**

**VOTE: Selectman Chamberlain made a motion to re-appoint T/A Russ Boland to continue with MACC Base. Selectman Howe seconded. Motion passed 3-0.**

**Board of Selectmen's Representative to the NRPC Transportation:**

**VOTE: Selectman Howe made a motion to re-appoint Selectman Mark Chamberlain to the NRPC Transportation Committee. Chairman Douglas seconded. Motion passed 3-0.**



**Board of Selectmen's Representative to the Heritage Commission:**

**VOTE:** Selectman Howe made a motion to appoint Selectman Mark Chamberlain to the Heritage Commission. Chairman Douglas seconded. Motion passed 3-0.

**Board of Selectmen's Representative to the Conservation Commission:**

**VOTE:** Selectman Chamberlain made a motion to re-appoint Selectman Bob Howe to stay on the Conversation Commission. Chairman Douglas seconded. Motion passed 3-0.

**IX. Information Items Requiring No Discussion**

None

**X. Non-Public Session RSA 91-A:3 II (a, c & l)**

**VOTE:** Selectman Chamberlain made a motion, Selectman Howe seconded to enter into a non-public session at 7:33 p.m. Motion passed 3-0.

**VOTE:** Selectman Howe made a motion, Selectman Chamberlain seconded to reenter the public session at 8:56 p.m. Motion passed 3-0.

Once back in public session the Board approved the Consent Agenda.

**VOTE:** Selectman Howe made a motion, Selectman seconded to approve the Consent Agenda for April 19, 2023. Motion passed 3-0.

**VOTE:** Selectman Howe made a motion, Selectman Chamberlain seconded to adjourn at 9:05 p.m. Motion passed 3-0.

**XI. Adjournment:**

All scheduled items having been addressed, the public meeting was adjourned at 9:05 p.m.

Next regular meeting: May 3, 2023, at Citizens' Hall at 6:00 p.m.

Kathleen Humphreys, Transcriber

Chairman Fred Douglas \_\_\_\_\_

Selectman Mark Chamberlain \_\_\_\_\_

Selectman Robert Howe \_\_\_\_\_

*After the meeting Jessie Salisbury and Bob Howe were sworn-in to their elected positions.*

*See next page for Consent Agenda details.*

## Consent Agenda – April 19, 2023

Item #	Item Title	Approved
1	AP Warrants – April 11 & April 18, 2023	Yes
2	Payroll Warrant – April 3, 2023, through April 16, 2023	Yes
3	VALIC ACH Payroll Warrant – April 3, 2023, through April 16, 2023	Yes
4	Request for Approval of Purchase Order # 2965 – HM Fleet Service – 2003 Mack Repairs (\$4,514.54 – Inv. # 195)	Yes
5	Request for Approval of Payment – Comcast – Town Share of Cost to Construct Cable Infrastructure to Homes per the “Lyndeborough NH Line Extension Agreement 4/14/22”, Section 3 (\$100,000.00 – Inv.# 04122023)	Yes
6	Request to Approve Issuance of Excavation Yield Tax Levies & Warrant, Granite State Concrete Operations 22-279-01E (Map-Lot-Sublot 213-001-000) & 22-279-02E (Map-Lot-Sublot 213-006-000)	Yes
7	Request to Approve Issuance of Excavation Yield Tax Levies & Warrant, Quinn Properties, LLC Operations 22-279-03E (Map-Lot-Sublot 238-022-000) & 22-279-04E (Map-Lot-Sublot 245-001-000)	Yes
8	Request to Appoint Michael Decubellis as Full Member of the Planning Board, Term Ending 2026	Yes
9	Request to Appoint Louis Rota as Full Member of the Conservation Commission, Term Ending 2026	Yes
10	Request to Appoint Robert Howe as Full Member of the Heritage Commission, Term Ending 2026	Yes
11	Request to Appoint Robert Howe as Full Member of the Historic District Commission, Term Ending 2026	Yes
12	Request to Appoint Jessie Salisbury as a Full Member of the Historic District Commission, Term Ending 2026	Yes
13	Board of Selectmen’s Public Meeting Minutes – April 5, 2023	Yes
13	Board of Selectmen’s Non-Public Meeting Minutes RSA 91-A:3 II (a, c & I) – April 5, 2023	Yes