

# TOWN OF LYNDEBOROUGH PLANNING BOARD MINUTES

## January 20, 2022

*Approved on 2-17-22*

### 7:30 PM Call to Order & Roll Call

**Members Present:** Chairman Charlie Post, Vice Chair Bob Rogers, Selectmen's Representative Mark Chamberlain, Larry Larouche, Mike Decubellis, Tom Chrisenton, Alternate Ray Humphreys and NRPC Circuit Rider Jay Minkarah. Paul Best arrived at 7:40pm.

**Members Not Present:** Alternate Julie Zebuhr.

**Public present:** Dave Roemer, Attorney Chris Drescher, Attorney Jim Lombardi, Tanner Holt, Steve Brooks, Mike Beebe, Code Enforcement Officer Leo Trudeau, reporter Ashley Saari, Jim Phippard, Officer Hervieux and about 25 other people were present.

Ray Humphreys was on the Board for Paul Best until 7:40pm then returned as alternate.

### **Continued Business:**

This case was noticed and heard at the Dec. 16, 2021 meeting. Tonight is a second hearing.

**Boisvert – Feel Good Farm AirSoft Business Permit Application** (Noticed)

**Map 217, Lot 14 at 52 Johnson Corner Road**

Attorney James Lombardi, Airsoft Activity Manager Tanner Holt and Land Use Planner Jim Phippard. Property owners Larry and Sharon are not present.

The applicants submitted an updated map from Brickstone Land Use Consultants. There is no revision date on Sheet 1 which is dated Nov. 1, 2021. Sheet 2 has a revision date of Jan. 12, 2022.

Jim Phippard reviewed the maps. Additions to the map include abutter's names, Curtis Brook is shown, and property dimensions.

Additional sheets provided show an enlargement of the western portion of property of Johnson Corner Road, the driveway leading in, identify the gaming area with heavy hash lines. They created a 100-foot buffer between property line and playing area and a 100-foot buffer to Curtis Brook. The buffer will be identified with 3" markers in the ground. The previous plan listed the playing area as 70-acres and this plan makes minor alteration to address concerns heard at last hearing. This area shows the USGS and topography.

The Board was informed the rules will include; if a player crosses the river or are outside the playing area, they will be considered "hit" and not be able to continue play.

Sheet 3 shows and enlarged graphic of the parking area and driveway area from Johnson Corner Road. The applicant would like to keep the parking in the grassy area. They feel the soils are well drained with soil type 22A and they have used basement material for different improvements on the site, which they feel works well for the parking area

Mr. Phippard said the games are played 1-2 times per week. They observed how people park, and they tend to avoid muddy areas. These parts are represented on this plan. He suggested using another area instead (*could not see where he was referring to*). He felt that to construct a gravel or paved parking lot there could be run-off, which can carry sediment or debris. They feel that keeping people out of the muddy areas, works the best for both areas. He recommends additional screening on westerly side of property with a double row of arborvitaes trees.

Mr. Phippard said he tried to add where the props are located but acknowledged they do get moved. He noted that gas and oils are removed from the prop vehicles and the plane. The plane does not have wings attached, it's just the fuselage.

Mr. Phippard acknowledged that occasionally people camp overnight; players who travel a distance from states such as Rhode Island and Connecticut. They sleep in their vehicle in the parking lot or set-up a tent. He pointed out the rectangle area on the map as identified for a sleeping area and that this section on the map needs to be corrected and shifted about an inch to properly show the exact location.

Buffer: They plan to plant two rows of trees about 4-6 feet in size. M. Decubellis asked how many trees and Mr. Phippard replied, "A dozen trees". M. Chamberlain asked about a berm.

M. Decubellis said the narrative said the playing area was reduced down to 61-acres, but the latest plan still indicates 70-acres. Mr. Phippard pointed out that sheet 2 mentions 60- acres. M. Decubellis asked if the 100-foot buffer pertains to the stream and was told yes. M. Chamberlain asked if the buffer will be from the center line of the brook or edge. Mr. Phippard answered it was from the center. They will be marked with stakes, neon tape and marked with lettering. The stone wall is a natural boundary. It was mentioned by a Board member that the play area was supposed to be clearly marked in the past and it was not.

Roughly about this time Mr. Best arrived. Mr. Humphreys resumed his alternate position.

Chairman Post said that overnight camping (staying) needs to be explored further. "We saw pictures at the last meeting pictures of players on another property and in Curtis Brook." Tanner Holt pointed out those photos were 12+ years old and that Larry's other property abuts Curtis Brook.

Mike Decubellis asked how they know which vehicles are game props. It was mentioned at the last meeting there were vehicles abandoned in the woods. The Town allows only two unregistered vehicles. Attorney Lombardi said the Mr. Boisvert has two un-registered vehicles and that there are no other non-operational vehicles on the property.

Paul Best brought up the bull horn that is used to start and stop games. Tanner Holt said the PA system gets used mostly for emergencies. He felt the bull horn is necessary to communicate over the game play. He said they will use it as sparingly as possible.

Bob Rogers mentioned that for \$250 they can purchase 20 walkie talkies with chargers and earpieces and wondering if this type of communication would work instead of using the bull horn. Tanner Holt had a concern that a player might be far enough away or it might fall off. Mr. Rogers said if they are issued it during the game and they should have it on.

Jim Lombardi, the PA is only for game use and they are willing to adjust (starting and stopping the game) they feel it is necessary, for example severe weather or an injury in which people can be notified immediately. B. Rogers said that can be done by walkie talkie. Larry Larouche agreed and said that players can be issued a fob. There is technology out there. Mr. Lombardi said that the ordinance allows for noise that is not above normal residential use. This was debated. Decibel levels were discussed. Chair Post asked if they can put their willingness to limit the PA use in writing. Mr. Lombardi said it is addressed as item #3 in his letter, which shows good will and willingness to make modification for abutters. It is not etched in stone, but a willingness to make modifications.

Charlie Post said it is not only how loud the PA system is but also the frequency because there are several games per day.

Chairman Post made reference to camping and that the presentation tonight mentioned that camping has taken place there but you realized it is not allowed. Mr. Lombardi said the ordinance does say that campgrounds are not allowed in this area. The ordinance allows outdoor recreation facilities, which this is. What we are doing is accommodating people who are driving a distance. They make camping available. They can stay in their car or a tent. Is that camping? There is no charge and no hookups.

Putting a number to the amount of people who spend the night was discussed. Tanner Holt said the designed area on the plan can accommodate about two-dozen tents, which is between 24-48 people. The overnight guests keep the area clean, there are no fire pits and they are respectful of the area.

Chairman Post asked about the store. Tanner Holt said the 8x8 foot office sells supplies and necessities such as water, Gatorade, paint pellets, safety goggles and more. Mr. Lombardi said this is recreation and similar to a golf course that has a pro shops and felt this incidental to the business.

Chairman Post asked about prepared and cooked meals. Tanner Holt said they sell hamburgers, hot dogs, chips and a drink for \$5.00. They do not make money from food sales. J. Lombardi felt it is incidental to the business.

C. Post reminded Mr. Lombardi that the Town requires fire permits. Mr. Lombardi asked if he is referring to the photos from Dave Roemer and said they were old photos (2009 or 2010). M. Decubellis also said a permits or yearly permit is needed for campfires.

Chairman Post brought up the concern from an abutter, Beth Penney, if the pellets are biodegradable. He wondered if moving to 100-foot buffer to Curtis Brook will help.

Mr. Lombardi said they did address that in his letter. Those articles support that. There are organic BBs that take 500 days to degrade. Mark Chamberlain still had concerns about the BBs that they don't degrade soon enough, especially if going in the brook. Mr. Tanner said the brook is about 15-feet wide and discussed the BBs and felt they pose any danger. He said that BBs don't float and some are plastic made from a natural product. Mr. Lombardi read statements and recognize this and moving this back from Curtis Brook is good. M. Decubellis said he gets boulders in his stream that wash down the stream. His major concern is micro-plastic because they leach off everything. He would appreciate that people do not shoot BBs into the water. M. Chamberlain asked if the players pick p their BBs and Mr. Holt said that not a general practice in the industry.

**Mark Chamberlain would like to see a 125 ft. setback from the brook's center line. There is 15 feet of water in the spring.** Mr. Lombardi does not think the Boisvert's would have any problem with this.

Tom Chrisenton said this will this be up for renewal in five-years and if an abutter has a concern, they can bring it up. Mr. Lombardi reminded him they are asking for the permit to be retroactive to 2019 which would expire in 2024.

Mike Decubellis discussed the complaints of loud noise from the abutters and said, "I don't think the grenades were part of the original plan. We see police reports regarding them. Is that a necessary part of the game? Would you be willing to live without that for the abutters?" Tanner Holt said that is part of the game but is willing to reduce the standard to 125 decibels. It will more like a small pop to a loud bang. "The grenades add excitement to the game. I feel it's a good compromise." He also stated, "We agreed that a shotgun is a residential noise that 165 decibels. If we are not doing AirSoft we can do skeet shooting." M. Decubellis said there is a difference between one person shooting in his yard shooting then going back in the house, then a lot of people shooting for a while.

Larry Larouche expressed concern there are abutting properties with horses and people engaging in horse riding activates and the loud noise can be surprising. If you know someone is shooting you can anticipate it.

Paul Best asked how many grenades are used. T. Holt said maybe a dozen. He said they can put a limit on them to make everyone happy.

Mr. Lombardi said mentioned that the feels their noise is much less than other things that go on in the district.

Chairman Post asked if they use those during a night game? Tanner Holt said, "No, after dusk you don't want to hear loud noise. They have to listen to me. Nights are typically stealth."

L. Larouche said in the original plan there was no overnight accommodations and no overnight games. I can't recall the original size of the game area. Seems to me it was

smaller than this 60-70 acres. He asked Mr. Phippard if he recalls the original size. Jim Phippard said back in 2004, on our plans we identified the general area, we didn't put an acreage on it. We chose it because it was located a distance from nearest resident, and most were not viewed from street. Didn't put acreage on until the renewal.

Tom Chrisenton asked if we are allowing camping, will it be allowed in tents and be allowed on the playing area. He felt that camping in the parking lot can be seen from the road. Mr. Phippard said the area near pond is an appropriate area. There is one regular participant who sleeps in his vehicles. Tanner Holt said that he has a truck and parks on the pond.

Leo Trudeau asked Attorney Lombardi if he has been at an abutter's property when the horn has gone off then added, "I have and it's loud." He asked what guarantee that it will be limited. Mr. Trudeau said this has been a history of broken promises, reneged agreements and ignored conditions. The cart path was never supposed to be used, there was plenty of evident it was. The gentleman said there were games last weekend. There was no permit for last weekend they have been operating without permits for the past two years. Limited trust. If there is something in writing, that makes good sense but there has to be policing. I'm the one who gets the phone calls. Regarding the protective buffer from the stream, especially to the north; 100 feet is not enough. Maybe 100 yards is not enough. Was it 4 cars not 17 cars? Can all the oils be verified they are removed? Can that be inspected? Can that be enforced.

Mr. Trudeau addressed the line of sight in the driveway. This was talked about in 2007 yet no evidence a line-of-sight measurement was taken and verified. Mr. Trudeau expressed concerns about the line of sight and safety.

Mr. Trudeau said the Board should think about the permit and it should go forward and be clean. He did not think it should be retroactive back two-years. He also felt that approving a five-year permit is a mistake and start with a two-year permit due to the history. The annual reports have been filed except for one year. Permits were not pulled for specific events as required. Mr. Trudeau asked the Board to consider the history as they move forward.

Jim Lombardi said, "I have not stood on Mr. Roemer's property but have been there during a game. It is fun game. Has there been a history of broken promise and reneged promises; yes. The annual report has not been filed. Not sure it makes a big difference. The Board is looking at numbers and traffic. No excuses. Those are forthcoming and we are working on getting them up to date.

In terms of not having a permit. There was communication between the town and the Boisvert's regarding the props. They were before the Board twice to get some sort of response. No one knows what happened to their application. Mr. Lombardi went over a timeline that included a letter from Mr. Rogers in 2016 to a cease & desist order from the Selectman. He felt a permit should have been requested in 2014 but the town never approached them. Both sides were involved in the legal issues of the porta-potty business. He felt there were faults on both sides.

Mr. Lombardi said he thought he submitted the police complaints he requested last October and would like to submit it now. From Sept 2018 – Sept. 2021, only one name was on that list and it was Dave Roemer. He does not say that Mr. Roemer does not have a right to complain. If other people had complaints, then others would have complained.

Mr. Lombardi said as far as the junk yard concerns, this is not a junk yard. He referenced Section 201.4.

Attorney Lombardi requested the audio recording from the Dec. 16, 2021 meeting be included into the record. All the supporting statements were not documented. Chairman Post said they have in the record all the statement letters the applicant submitted plus the additional letters that support the AirSoft activity.

Mr. Lombardi referenced statements made last meeting from abutters. Dave Roemer complained about the noise. Beth Penney, a teacher, would like to see more activities for kids that are non-violent. Mr. Lombardi said that even Mr. Brooks said good things and “recognized” there should be limits. Mr. Lombardi said he would look on that as favorable.

The floor was opened for abutter and public comments.

Abutter Dave Roemer from Lyndeborough said that the parking lot and arborvitaes don’t affect him. Overnight camping does not bother him, even though there is an ordinance. The store does not bother him. “What bothers me is the bomb that goes off. It startles me. They played these games for 13-years without them and is it necessary now? Get rid of the bombs. Get rid of the PA system. Let me have my life back without the noise.” He referenced that the games are played on Saturdays and Sundays.

Some Board members wondered if the PA system was part of the original plan.

Heather Cini from Nashua, NH. Heather is a parent. Her son plays AirSoft at Feel Good Farm. She is a psychologist who is seeking a grant to better understand how youth can use AirSoft and other activities to support mental and physical health for the community and others. Ms. Cini talked about the mental health problem and the concern with screen time usage. She felt that AirSoft is a good activity, especially for boys. It builds community, strategic planning, and they complete tasks. She feels that the kids play so much video games that they are accustomed to following rules and will follow the 100-foot buffer rule. She feels it helps them to be functionable adults who go onto to fast-paced career; such as entrepreneurs and stock traders. She hopes the Board allows this activity to continue.

Mike Beebe, Lyndeborough. Mr. Beebe spoke at the last meeting. He worked in recreation (skiing) and was a Physiotherapist who worked with adolescents; in the schools for 15-years. He said he was impressed with the kids here at the last meeting and their statements. He visited Feel Good Farm after the meeting to have a hamburger and saw how Sharon and Larry Boisvert acted as “Mom & Dad” to the young people. He



was impressed with how supportive they were and said it was an oasis of love and kindness.

Joseph Peterson, New Ipswich. He has been attending AirSoft at Feel Good Farm since 2007 and was one of the original attendees. He said they are taking steps to mitigate the sound concerns and provided an example that two players had different types of grenades and were told which ones they could use.

Abutter Steve Brooks, Lyndeborough. (could not clearly hear him)

Mr. Slater (could not clearly hear him)

James Vilodeau, Deerfield, NH asked about the noise ordinance in town and said they have no limits on decibels.

Mike Decubellis responded it is not just about the noise ordinance. This is a Site Plan Review for a Non-Residential Use. There is a process.

**VOTE: Bob Rogers moved, Tom Chrisenton seconded to close the hearing at 9:25pm. Motion passed unanimously.**

The Board deliberated:

Areas of concerns/problems the Board would like to address

Noise and the bullhorn.

Camping

125-foot setbacks

Special permits

Time of annual report

The conditions will be reviewed by NRPC and Attorney Drescher and shared with Attorney Lombardi.

**VOTE: Mark Chamberlain moved, Mike Decubellis seconded to continue this case to February 17, 2022. Motion passed unanimously.**

### **Continued Business:**

**Two-Lot Conservation Land Subdivision, Lot 228, Lot 1** (Noticed)

Owners Tom & Ginny Chrisenton propose subdividing an 82-acre lot off Woodward Road into two lots of 50.04-acres and 31.8-acres.

*Tom Chrisenton is off the Board, Ray Humphreys will sit on the Board.*

The Driscoll Road Agreement was discussed. Tom Chrisenton said the agreement is on file at the Hillsborough Registry of Deeds. C. Post said he pulled that at HCRD and it said it was "Not valid" and asked when it was upgraded. T. Chrisenton said there is a second road agreement at HCRD that go through the Mardus property. The Board asked if we have copies and T. Chrisenton said they are at the HCRD. This was discussed. The Board would like copies supplied.

T. Chrisenton said that Driscoll Road ends at Mardus and that gives them access to Lyndeborough. The Board asked him to explain because he previously said it ended at a Class V Road and borders the Town and said it was a Private Road and used the word "easement". It sounded as if the applicant is using the words "easement" and "private road" interchangeably. This was debated.

T. Chrisenton pointed out the notes on the plan: HCRD plans No. 31644 and 31812. Book 5241, Pg. 1970 number 5 and Bk. 6674 Pg. 612.

The Board asked if the applicant can access the private road system through Greenfield and Mr. Chrisenton replied, "Yes". It was discussed that Klondike Road was listed as a Private Road and Alaska Road as a Forest Management Road.

It was discussed to have the road agreement in this file. T. Chrisenton said it is the same for the Mader side and Brown side.

**Circuit Rider Jay Minkarah suggested that the Town Attorney review Note 11 that states; Tax Map 228-1 is subject to a "Corrective Private Road Agreement", see HCRD Bk.9486 Pg. 376. Access to Woodard, a private road maintenance agreement.**

"Will be a deeded easement", that verbiage should be changed to "shall".

J. Minkarah said a corrective road agreement is not an easement.

The process to have the lots sold and the agreements signed was debated. T. Chrisenton said before they sell a lot, the agreement has to be signed. The Board requested the documents but T. Chrisenton kept saying the Board can get them from the HCRD.

Access to the second lot needs to be shown on the map. T. Chrisenton said the second property does not touch Westerly Way.

T. Chrisenton said the purpose of this is a Large Lot Subdivision and read the regulation, including, "B. No access Road". Section 404.10 (?) "each lot shall have direct access to a public highway on all future deeds". L. Trudeau asked about enforcement.

The Board again asked for a draft deed. Deed 230-5-2 was discussed and requested. T. Chrisenton said that when a lot is sold, we will go back to the corrective easement.

Town Counsel will verify if there is access to these lots.

M. Decubellis asked about Point P on the map. T. Chrisenton said there is an 80-foot easement.

R. Humphreys said the easement goes with the property and the agreement changes with owners. T. Chrisenton said there are five individuals on the agreement who all signed it.

M. Chamberlain asked about Map 228, Lot 001 and Map 228, Lot 001-01, which was a Lot-Line Adjustment created from Steve Brown's lot. That was Brett Mader's lot, in which he sold each track separately. T. Chrisenton mentioned that Tom Macauley never owned Steve Brown's land.



M. Chamberlain said that he did not have time to properly review the new documents as he recently received. He said that Macauley owned a piece of land with two tracts. M. Chamberlain said it was in Lyndeborough while T. Chrisenton said the land was in Greenfield. He added that he and Steve Brown purchased all that land; each purchased a tract. M. Chamberlain said there is a single deed with multiple tracts. Bob Rogers said that historically, the Board could recognize separate tracts as separate lots. This was debated.

Attorney Chris Drescher was consulted, and he addressed that if you go back in time and they were one large lot. This matter can be put before the Board again for it to be blessed. T. Chrisenton said that this already happened since he purchased the lot from Eva (?).

Attorney Drescher reviewed the information that back in 2002, it was a single parcel with two (2) tracts, not two lots. In 2016 it was sold as two (2) parcels; one (1) lot to Chrisenton and one (1) lot to Brown. Both sales took place the same day.

It was one lot in assessing prior to 2017. The 2016 sales in the assessing database was then noticed as two (2) lots. It was one (1) lot in assessing prior to that. A tract vs a lot was discussed.

J. Minkarah mentioned tracts and deeds but it was difficult to hear him. It was discussed. Being able to do research to trace it back.

M. Decubellis wanted to clarify that it was one (1) lot on our tax maps. He was informed Yes. M. Decubellis said, "And you did a self-subdivision? You can't do that. You know that." R. Humphreys referenced the lot numbers in, which one lot is the "first child" off the lot and we are creating a second child.

Leo Trudeau had a question regarding the lot number and asked if they assigned those lot numbers at the time of conveyance (2016), why wouldn't they have been given two different lot number with a whole number and not that third digit which is indicative from a subdivided lot? T. Chrisenton said the Town assigned the lot numbers. 228-01-02 and 228-01-01 and 228-01. Mr. Trudeau asked if this was the former assessor who did this? The answer was yes.

*Bob Rogers left at 10:30 p.m.*

The Macauley deed from 2000 was discussed. T. Chrisenton said they have separate deeds. P. Best asked if this Board has them on record of being merged involuntarily. T. Chrisenton said the State does not have a time limit.

Chairman Post said the issue here is this lot and Steve Brown's lot to the north were not properly subdivided. The deed may be defective. This was discussed. T. Chrisenton said that the Selectmen agreed with this subdivision. M. Chamberlain disagreed.

Attorney Drescher made a comment but it was difficult to hear him clearly. T. Chrisenton answered they are two old deeds from 1800's or 1700's and referenced John Stiles did this in 1800's.

The question was brought up about who is paying the attorney fees for the research. J. Minkarah advised that it is at the Board's discretion.

Attorney Drescher and J. Minkarah agreed there could be a title issue here.

**Attorney Drescher will review:**

**1764 2030**

**Corrective Road Agreement**

**Driscoll Road**

**Note #11**

**VOTE: Paul Best moved, Mike Decubellis seconded to continue until this is reviewed by Town Counsel. Motion passed 5-0-1. M. Chamberlain abstained**

### **New Business:**

**Lot-Line Adjustment Between Five Lots: Map 230, Lot 5; Map 230, Lot 05-02; Map 230, Lot 07; Map 230, Lot 08; and Map 230, Lot 08-01**

The five properties total 122.8 acres off Woodward Road. Owners Tom and Ginny Chrisenton propose adjusting the acreage, making four out of the five lots have over 25-acres each and allowing all lots to have road frontage and access off Woodward Road.

*Applicant Tom Chrisenton is off the Board still. Ray Humphreys will take his place.*

Tom Chrisenton asked to continue this application. It was discussed to amend the plan since it was submitted as a Five-Lot Lot-Line Adjustment and is the applicant wants to consider a Three-Lot Lot-Line Adjustment now.

Jay Minkarah advised the previous plan should be withdrawn and the applicant should submit a new application.

T. Chrisenton had a concern about re-noticing and did not want to pay the fees for abutters certified letters and legal notice in the newspaper.

**VOTE: Mark Chamberlain made a motion to deny acceptance. Paul Best seconded the motion. (no vote was taken)**

The updated map was submitted yesterday, Jan. 19, 2022. Discussion continued.

NRPC Circuit Rider Jay Minkarah said the Board has never had a plan that meets the Town's rules for this application.

**VOTE: Mark Chamberlain made a motion to defer consideration. Paul Best seconded the motion. Motion passed unanimously.**

*Tom Chrisenton is the Board. Ray Humphreys will take Bob Roger's place who left the meeting.*

### **Request for Information:**

None

### **Other Business:**

**-Road Policy Procedure Manual Update from Sub-Committee**

**VOTE: Mark Chamberlain moved, Mike Decubellis seconded to continue this at the next meeting. Motion passed unanimously.**

**-Master Plan – Appoint Sub-Committee.**

**VOTE: Mark Chamberlain moved, Mike Decubellis seconded to continue this at the next meeting. Motion passed unanimously.**

**-E-911 for Roads**

**VOTE: Mark Chamberlain moved, Mike Decubellis seconded to continue this at the next meeting. Motion passed unanimously.**

**-Update Fee Schedule**

**VOTE: Mark Chamberlain moved, Mike Decubellis seconded to continue this at the next meeting. Motion passed unanimously.**

**Minutes:**

No minutes were reviewed

**Correspondence:**

None

**Adjournment:**

**VOTE: Larry Larouche moved, Mike Decubellis seconded to adjourn at 11:03 p.m. Motion passed unanimously.**

Respectfully Submitted,

Kathleen Humphreys  
Planning Board Secretary

*Audio: 801\_2066 and 220119\_0071*