

TOWN OF LYNDEBOROUGH

PLANNING BOARD MINUTES

March 17, 2022

Approved on 4-21-22 with amendments

7:30 PM Call to Order & Roll Call

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

Members Not Present: Alternate Julie Zebuhr.

Public present: Ginny Chrisenton, Maria Brown, Steve Brown, Leo Trudeau, Brett Joy, Mr. Huntley, two abutters and additional guests.

Public Comment

Steve Brown said that a piece of property he was involved with was discussed at the February 2022 meeting, but the meeting minutes didn't reflect any resolution. Chairman Post said the minutes reflect the votes/motions, as required by the timeframe, and more details will be added to the next draft.

Chair Post talked about Attorney Drescher's comments about the corrective road agreement involving Tax Map 228, Lot 01.

Point of interest:

- Approved plans will NOT be signed by the Board until after the 30-day appeal period.
- Public notices are not required to be published in the newspaper anymore.

New Business:

Case 2022-01:

Map 220, Lot 21-1 and Map 220, Lot 21-2 on Pinnacle Road

Owners Kevin and Michelle Boette, of Ridge Road, were present

The public notice for this application was posted on the Town Website, Citizens' Hall, The Village Store, Old Town Hall and the Lyndeborough Post office by March 5, 2022.

Abutter letters were date stamped March 5, 2022, from the Lyndeborough Post Office.

The applicant requests changing two conditions from the 2006 approved subdivision.

- 1) Require landowner(s) to be responsible for road improvements in front of their lots.
- 2) Shared driveway on these two lots due to sight line concerns

Chairman Post read a report from Town Engineer Kevin Leonard of Northpoint Engineering into the minutes. (See file for letter). The letter was a result of a site visit to the lots by Kevin Leonard, Road Agent Mark Chase, Selectman Mark Chamberlain, Chairman Charlie Post, Jay Minkarah, and Kevin Boette.

The applicant feels the town should continue with the road work that was already in progress on Pinnacle Road. The subdivision requirements for the landowners to improve the road was not brought to the attention of the Road Agent/Town Officials until the Boette's purchased the two lots and questioned the note on the subdivision plan. The applicant also requested to have an individual driveway cut for each lot, now that the sight distance is not a concern, due to road improvements.

Mr. Boette was not informed of these requirements from his real estate agent when he purchased the properties nor informed by the seller.

Mark Chamberlain has concerns with the work that is not completed and some of the items pointed out in Mr. Leonard's letter. Mike Decubellis asked what the consensus of the work was. Mark Chamberlain replied all the work was not completed. Mr. Boette felt this work is necessary and talked to other property owners regarding the run-off onto their property and the culverts.

Bob Rogers said the Mr. Boette is fortunate the town had done a lot of work and he is not responsible for compensating the town for what was done and felt any further improvements for the subdivision plan, he should be responsible for that. He made the point he was not made aware of this when he purchased the property. He can go after the seller, Jane Hager.

Kevin Boette said it has been 15-years since this has been subdivision and no other owners have had to do this but now they have to comply. Mark Chamberlain said from what I understand the road agent did not realize this plan was in existence. It became know when the property owners asked for a driveway permit.

Tom Chrisenton said there were five-lots on the subdivision and asked if the other three lots cut their driveways in? Mr. Boette answered that only two lots have cut driveways, Lot 1 and Lot 5. Mr. Chrisenton asked if they have received building permits. Mr. Boette answered that Lot 1 has been living there for years while Lot 5 is currently building. He asked about public safety concerns. Discussion continued.

Mark Chamberlain has a concern with the map: It is not a full-size plan, the abutters are not on the map which regulations call for name/address/deed etc.; the sight line is not identified on the plan properly for either driveway that is proposed. (Appears to be just a thumb scale of the sight line are about 100 feet but needs 300 feet.) Sight lines are coming from the edge of the road, but shall be 10-feet back. The plan does not have a profile showing the vertical works, as other plan did. There are concerns about banks on lower driveway.

Kevin Boette said that driveway has been there and they are not going to use it. He was informed it is the responsibility of this Board to ensure you can get a driveway there. They discussed the driveway grade and sight distance and so forth.

It noted that if the property owner does work in the right-of-way (ROW), they would require an excavation permit.

The Chairman asked for a motion to accept the application.

VOTE: Bob Rogers made a motion, Larry Larouche seconded to accept the application.

Mike Decubellis asked what requires the Board to have another plan to supersede the first plan and asked if a letter would suffice. C. Post said since the Planning Board put these restrictions on here, we are the only board that can take them off. The process was discussed. Jay Minkarah said this is not a new development, it is a modification of conditions of approval with regards to these two lots and in particular the process for a driveway.

VOTE: Motion passed 6-1-0. Mark Chamberlain voted no.

Ray Humphreys asked how the other home on lot 220-21 got a permit with these restrictions on this subdivision. It was explained that the property owners were responsible for pieces of the road. Mr. Humphreys acknowledge that but if you look at the line of sight, it goes into other lots, should be a conglomeration for all to come together and make road improvements.

Leo Trudeau reported that in regards to the lower lot owned by Tim Sullivan, that is off a paved road and the road agent oversaw the placement of the culvert and the way the driveway comes down to meet Pinnacle Road. He said the head walls need to be better. He felt the work was done to the satisfaction of road agent before he issued the permit. There were no other requirements other than the way the driveway connection to the road and the culvert.

Kevin Boette felt there were other things that were to be done. M. Chamberlain said possibly rip rap and culvert work and asked when the house on Lot 5 was built and was informed about 4-5 years ago.

Abutter Michelle Borgatti, Map 251, Lot 5, was present and said they did not apply for a building permit because they purchased the house from the Hagers, which was built about 12-years ago. Kent Perry would have been the road agent at that time.

8:05pm: Opened public hearing

Mike Decubellis would like to know the road agent's intentions for the on-going Pinnacle Road improvement project. He asked if there is a letter, which outlines this.

Kevin Boette said he is doing the tree removal for the driveway and will follow all the driveway permit requirements. He is not arguing over the work to build the driveway and his point is with the work in the ROW. He asked why the highway department would stop halfway through and toss the bill at someone else. M. Chamberlain said it does not seem right the taxpayers are paying for the road and it's this Board's responsibility was to make sure this was done and they failed to do so according to the approved plan.

The requirements from the 2006 subdivision are:

- Add 18" headwall above driveway and across the road**
- Cut back slope**
- Add ditches with rip rap to down the driveway and ditch**
- Put 18" HOPE in the driveway**
- Cut slope towards paved area**

There was a discussion if this work was done and that there were homes built after this, such as on Summit Drive.

Abutter Michelle Borgatti said she does not have a comment right now. Many Board members felt it would be helpful to hear what the Road Agent has planned and what is left to do. Discussion. It would be helpful to clarify what we want the road agent to do. It was noted that there will be a new road agent by the time this work is resumed. Agreeing to the changes, would release the homeowner of the restrictions. It was noted, that Road Agent Chase did not know these restriction were in place from the subdivision.

It was discussed that the Planning Board records a letter, at the applicant/property owner's expense, at the HCRD regarding removing the restrictions. Jay Minkarah suggested to reference these as exhibits because the Planning Board is modifying conditions of approval.

Discussed Note 17 on the original plat on Lots 9-12 and 9-13 will be borne by the landowner. Discussed relaxing Note 14 for the driveway. Maybe remove Note 17 because it is for both lots. Jay Minkarah said a vote is required to remove the roadway improvements requirements.

VOTE: Paul Best made a motion to approve the MODIFICATIONS of the CONDITIONS OF APPROVAL to remove conditions for the off-site improvement as recorded on the plan, HCRD 34988, and remove the shared driveway requirements. Map 220, Lot 21-1, formerly known as 9-1-2, and Map 220, Lot 21-2, formerly known as lot 9-1-3. In Plan number HCRD 34988. The applicant will record a new letter at the HCRD. Bob Rogers seconded the motion. Motion passed unanimously 7-0.

Mark Chamberlain informed Kevin Boette they shall remove that easement so it un-burden's your land and to make sure it is on both lots because both deeds reference it. This was part of the discussion regarding the motion.

8:36pm, Tom Chrisenton is off the Board, Ray Humphreys will sit on the Board.

Case 2022-2: This is a new application.

Lot Line Adjustment: Map 230, Lot 7, Map 230, Lot 8 and Map 230, Lot 8-1 to create two lots; Map 230, Lot 7 and Map 230, Lot 8, off Woodward Road. This is a new application.

Owners Tom and Ginny Chrisenton of Woodward Road were present.

The public notice for this application was posted on the Town Website, Citizens' Hall, The Village Store, Old Town Hall and the Lyndeborough Post office by March 5, 2022. Abutter letters were date stamped March 5, 2022, from the Lyndeborough Post Office.

TO DO LIST for REVISION ON PLAN:

- Revise title block to read, "Lot Line Adjustment and Consolidation plan"**
- Revise Note 1: Purpose to adjust the boundaries between tax Map 230, Lot 7 and Map 230, Lot 8-1 and consolidation Map 230, Lot 8 and Map 230, Lot 8-0-1.**
- Revise plan date to when the new plan is completed.**

In reviewing the consolidation paper just handed to the Board, M. Chamberlain said it mentions Lot 230-7 is to be consolidated with 230-8 and 230-8-1 and not subject to a mortgage. It was suggested to read all lots, ARE NOT SUBJECT TO A SEPARATE MORTGAGE AND SEPARATE ENCUMBRANCES. Fix year to 2022.

VOTE: Bob Rogers made a motion to accept the application. Paul Best seconded the motion. Motion passed 7-0.

Ginny Chrisenton said they are putting the land in a trust. Jay Minkarah said if the ownership changes to the trust before the next meeting, then change it on the plan. The title block would change and Note 2 would have to change and abutters would have to change (them).

VOTE: Mike Decubellis made a motion to continue this application next month. Bob Rogers seconded the motion. Motion passed 7-0.

8:51pm

Tom Chrisenton is back on the Board, Ray Humphreys is an alternate.

Case 2022-03:

**Three-Lot Subdivision, Map 207, Lot 25; Map 207, Lot 25-1; Map 207, Lot 25-2
Mountain Road and Warner Road**

Owner Brett Joy and Russ Huntley from Huntley Survey & Design were present.

No abutters present.

The public notice for this application was posted on the Town Website, Citizens' Hall, The Village Store, Old Town Hall and the Lyndeborough Post office by March 5, 2022.

Abutter letters were date stamped March 5, 2022, from the Lyndeborough Post Office.

There was debate if an abutter was missing and the definition of an abutter. That abutter of Map 202, Lot 02, would be Leo Trudeau of Warner Road. Mr. Trudeau was not notified but was present at tonight's meeting in his role as Building Inspector/Code Enforcement Officer for the Town of Lyndeborough.

CHECKLIST:

Tom Chrisenton felt the frontage on the big lot does not come out to 500 feet, it's short. Russ Huntley said it comes out to 509 feet. Mr. Chrisenton said they can't use the "jog" in the wall but even if you use it you are short a foot. It was determined it's 498 feet, if take out the 10.74 feet. The definition of frontage in the Zoning Ordinance was read and a majority of the Planning Board agreed the surveyor was correct.

ADD to PLAN:

Road Name; Mountain Road.

Change from four lot subdivision to three lot subdivision in Note 3 on the plan.

VOTE: Bob Rogers made a motion, Tom Chrisenton seconded to accept the application. Motion passed unanimously.

Bob Rogers said this subdivision abuts the Whittemore Cemetery. Mr. Joy was unsure of that and said he does not see it on the plan and asked if there is another plan. Cemetery Trustee Ginny Chrisenton said that cemetery is on the Forest Society land. The town has taken over maintenance of the cemetery. If Mr. Joy's lot is within 25-feet of the cemetery, it would need to be on his plan. Any area 25-feet outside the cemetery is not allowed to be disturbed because people could be buried there. This was a family burial ground and not separately deeded. Brett Joy said that being on the site, it is his evaluation there is a buffer. It was discussed if it should be surveyed.

Ray Humphreys said it is required to show 4K boxes. After a discussion, Mark Chamberlain will ask Road Agent Chase to give a driveway report.

VOTE: Motion passed 7-0 to accept the application.

9:32pm: Public Hearing

Abutter Leo Trudeau said he is happy that the lot on Warner Road which went from two-lots to one-lot and added he felt it is an interesting looking lot. Mr. Humphreys suggested to add Leo Trudeau as an abutter before this plan gets recorded.

VOTE: Bob Rogers made a motion to approve the three-lot subdivision subject to the corrections of the map and the granting of the waivers from 530.00 for test, test pit data and the 4,000 square foot septic area. Paul Best seconded the motion.

Mike Decubellis questioned if the Board typically delineates wetlands and that in the future, if we have wetlands set-backs, this is where we start the process. He asked Mr. Huntley how he came up with the wetlands data. Mr. Huntley said it is from DES and aerial photography and imported the data. M. Decubellis said this is two different data and asked Mark Chamberlain if we can use this date and felt this could be mis-represented. He is concerned which layer they are referencing and suggested to use the reference in our wetlands.

AMEND MOTION TO ADD: modification of wetland delineation references.

Discussion: Mr. Huntley will modify Note #3 can say from "NWI mapping from NH GRANIT".

Bob restated his motion to include:

Change 3 lot subdivision

Change wetlands

Name Mountain Road on the map

List of waivers

Add Leo Trudeau as abutter up in the corner.

Paul Best seconded. Motion passed 7-0.

M. Decubellis suggested Mr. Huntley look at zoning, 200.29 for wetlands.

Abutter Leo Trudeau asked if this subdivision be restricted to "no further subdivision" in the future. It's a minor now but how many times can this be subdivided? Mr. Huntley said it can't be subdivided again while Mr. Chrisenton said they can build a road.

The applicant was asked to submit five copies of the map to the Town. It was noted the Board will not sign the plan until the 30-day appeal process is over.

9:49pm

Correspondence:

Mr. Kling came to the Town Office in regards to his driveway permit decision. It appears he has to go back to the ZBA because he changed the type of house structure that the ZBA approved. Leo Trudeau asked if Mr. Kling was informed he has to apply for a building permit then he would

have the denial to go to the ZBA. Chairman Post will send a retroactive Notice of Decision from the Board.

Minutes:

No minutes were reviewed or approved.

Other Business:

Chairman Post handed out a document titled, "Application Process for Board Meeting" dated 3/17/22 for the Board to review and provide input.

Workshop Appointments

1. Amend the Fee Schedule
2. Master Plan
3. Zoning Amendments

Zoning & Fees Subcommittee & Zoning:

Ray Humphreys, Larry Larouche, Mark Chamberlain, and Bob Rogers

Master Plan Subcommittee:

Tom Chrisenton, Bob Rogers, Paul Best, and Charlie Post

Thank you to all who "volunteered" to be on the committees.

Adjournment:

**VOTE: Tom Chrisenton moved, Mike Decubellis seconded to adjourn at 10:05 p.m.
Motion passed 6-0.**

Respectfully Submitted,

Kathleen Humphreys
Planning Board Secretary