

# TOWN OF LYNDEBOROUGH PLANNING BOARD MINUTES

## May 19, 2022

*Approved on 6-16-22*

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

**Members Present:** Chairman Charlie Post, Bob Rogers, Mike Decubellis, Alt. Mark Schultz, Selectmen's Representative Mark Chamberlain, and NRPC Rep. Jay Minkarah.

**Members Not Present:** Ray Humphreys, Vice Chairman Paul Best, Alt. Alyssa Lavoie and Alt. Julie Zebuhr.

**Public present:** Leo Trudeau, Tom & Ginny Chrisenton, Rick DuPleasant, Walter Holland, Real Estate Agent Deb Farrow, Jane Hager, Pam Holt, builder Charles Vars, Abutters Carolyn and Roy Thorkildsen, Abutter Michelle Borgattia, few additional abutters, and Officer Shawn MacFazden.

### Request for Information:

#### **Three-Lot Subdivision, Map 206, Lot 22, 545 New Road – Geoff Brock**

Owner Geoff Brock and Rob Degan from S&H Land Services were present

Mr. Degan asked if they could schedule test pits and were informed, they can coordinate the test pits with Code Enforcement Officer Leo Trudeau.

They were informed they need to keep 25-feet from the cemetery.

Mr. Degan said they are 60-feet short on the frontage and wondered if they could ask for a variance. The proposed lot is almost 7 acres. Mike Decubellis said they don't typically do a variance for frontage. He said they have it but they need to take it from another section. Mark Chamberlain said that would violate several things from the town:

- Unconventional lots created solely for road frontage. He reviewed the definition of frontage.

- The property needs to have continuous road frontage.

#### **Two-Lot Subdivision, Map 232, Lot 54, Putnam Hill Road**

##### **Rick Duplease**

Mr. Duplease said the property will be 23-acres and have 600-feet of road frontage. The 4K area is designed.

Mr. Duplease will meet with Leo Trudeau this Saturday at noon to review the test pits.

Mike Decubellis suggested checking the lots against the soils. Mark Chamberlain reviewed the subdivision regulations for the 4K area.

**Continued Business:**

**Case 2022-5**

**Pam Holt, Two-Lot Subdivision, Map 247, Lot 25 on 166 Perham Corner Road & Center Road. Owner Pamela J. Holt Revocable Trust**

Property Owner Pam Holt and Jonathan Lefebvre from Fieldstone Land Consultants were present.

The 20.2 acre lot will be subdivided to 15.2 acres and 5.050 acres.  
The updated map was sent electronically.

**Review of Action Items from the April 2022 meeting:**

- A copy of septic plan was sent to the chairman. Copies were presented tonight along with a copy of the DES construction approval.
- Deeds for the property were emailed to the Chairman along with the septic plan. The deeds to the property outlined the history. Copies were presented tonight.
- The letter from fire chief is still outstanding. The applicant has not received the letter yet but they have communicated with the fire chief.
- Revised Note #10 – asked for data and base of the contoured
- Copy of State driveway permit. There was a delay because the permit was sent to the wrong district.
- Added Baldwin Hill Road to the map.
- Rotate the test pit symbol to see 4K box.
- Reconfigure the shape of the lot to follow the stone wall request. Mr. Lefebvre said he did put effort into this request, but it ended more or less the same shape lot. They would prefer to leave the lot the way it was originally presented.
- Add note “Any further subdivision would be considered a major subdivision” as Note #15.

The Board reviewed the deeds. Chairman Post asked about the easement. This easement accesses the lot behind the cemetery. The one behind the house from the cemetery, on Chase Road, which can be seen from Center Road. There is another house and there is a driveway but this house is actually in Milford but the easement was from Pam Holt’s former lot.

**VOTE: Bob Rogers made a motion to conditionally approve the application. The conditions are to receive the letter from the fire chief, to receive the driveway permit from the State and to have that location plotted on the map. Mark Schultz seconded the motion. Motion passed 5-0 to conditionally approve the application.**

**VOTE: Mark Chamberlain made a motion, Mike Decubellis seconded to close the public hearing. Motion passed unanimously 5-0.**

No abutters made comments

**New Business:**

**Case 2022-06**

**Jane Hager, Two-Lot Subdivision, Tax Map 215, Lot 2**

**206 Pinnacle Road. Owner Jane E. Hager 1990 Trust.**

The application was publicly noticed by NRPC

Jane Hager, owner of the property was present. Her land use planner was not present.

Mrs. Hager has copies of the approved septic systems for all three homes including the detached Accessory Dwelling Unit (ADU), which was granted a variance as a caretaker's cottage in 2016 by the Zoning Board of Adjustment. The other houses were labeled as the 1784 farmhouse (white) and the 1980 house.

Chairman Post read into the minutes a letter from Tom Carr, Meridian Land Services dated April 28, 2022.

*"This property has two main dwellings and a detached Accessory Dwelling Unit, originally constructed in 2015 for a care takers quarters, existing on the property. All dwellings are currently utilizing on-site subsurface disposal systems (septic systems) and water from individual drilled wells. As such, we are requesting the requirement for the soil test (Test Pits) to be completed and witnessed by the Planning Board. In lieu of this, and as a result of our conceptual discussion, we will be providing either the State approvals for the existing Septic Systems or approved replacement designs for when they are needed.*

*The Zoning Variance granted for the Detached Accessory Dwelling Unit (ADU) on the lower part of the property and to be part of the Proposed Lot 215-2-2, was issued for a caretakers quarters in 2015. Regardless of the intended use at the time or presentation materials, the structure meets the definition of a Detached Accessory Dwelling Unit as evidence in the attachment from the Office of Energy and Planning. Therefore, we see no issue with the Proposed Lot having a Primary Dwelling with a Detached ADU.*

*The objective of the Minor Subdivision is to subdivide the property into two, separating the two main dwellings onto separate large lots."*

*-Thomas E. Carr, CSS/CWS Project Manager.*

A copy of the deed was presented. The ZBA Notice of Decision was read, which stated the approval for an accessory outbuilding as a care takers cottage and no rent will be charged. These conditions will run with the property. Jane Hager said, "Yes. We understood and have done those conditions since the ADU was granted in 2016".

The ADU was for the whole property, but the proposal is for the ADU to be part of the 19-acre property. It is across the driveway from the 1700's farmhouse. Chairman Post asked if the access to the driveway is an easement. Mrs. Hager said, "Yes".

M. Decubellis would like to see a note added to the plan restating the conditions of the variance so it's clear. NRCP Circuit Rider Jay Minkarah agreed it can be a note item.

The Board reviewed the checklist

Checklist item A under Abutting Information says Conservation Easements shall be identified. The Board questions where that information is on the smaller lot. They can see it on the larger lot. Jay Minkarah said the easements in A are only in conservation and agriculture. There is an easement that would fall under item B. The areas of wetlands and dry area under Subdivision item B was questioned. Mrs. Hager said there is an existing shared driveway. Upon approval she will prepare a shared driveway easement to be shared by the owners of that property. If the properties are sold, they will share the driveway, there will be no other entrance. There is road frontage further up Pinnacle Road.

The Board requested the wetlands be added.

Mark Chamberlain said he has a few issues with the plans but said it is okay to accept it.

**VOTE: Mark Chamberlain made a motion, Bob Rogers seconded to accept the Application. Motion passed unanimously 5-0.**

*The Public Hearing was opened at 8:14 p.m.*

Leo Trudeau had a question regarding the legality of the language of the ADU decision from the ZBA and in relation to the unit cannot be a rental unit and asked if that language can stand the test of time legally. Jay Minkarah said, "Yes, because Lyndeborough does not allow a detached ADU therefore the property owner had to get a variance and the ZBA can impose any restrictions. Their decision stands."

There is zoning subcommittee on June 9<sup>th</sup>. ADUs could be a topic of discussion.

Public Comments:

**VOTE: Mark Chamberlain made a motion, Bob Rogers seconded to accept the Application. Motion passed unanimously 5-0.**

Cemetery Trustee Ginny Chrisenton asked if there was a private cemetery on the property. The answer was yes. She said asked for a notation that they can't dig or disturb the earth within 25-feet of the cemetery. Jane Hager said that is very acceptable. The cemetery is a large lot and there are only a few headstones, plus it is far away from the residence. They didn't know the cemetery was there when they bought the property in 1976 and found it a year later to their surprise. It has never been disturbed

Abutter Michelle Borgatti, 251 Pinnacle Road asked if they could see the map. Abutters visited the map up close.

Abutter Roy Thorkildsen approached the map, that was on an easel, to ask about what areas will be with each lot. He is concerned there is an access to his driveway via a walking path that has been widened. He does not want vehicles to access the path. Jane Hager said she is not sure who widened it. There is a note from 1915, that specifies access used for pasture and water. She pointed out where it is near the 1784 farmhouse.

## **Conditions**

- ZBA Restrictions Language**
- Review of Note 10 – easement**
- Cemetery – 25 feet non-disturbed area around the cemetery.**
- Add wetlands**

**VOTE: Bob Rogers moved to continue the hearing until June 16, 2022 and the changes and issues will be addressed. Mike Decubellis seconded the motion. Motion passed 5-0.**

Jane Hager asked if all the comments and conditions be made very clear so she can inform her land use planner. She is okay for an approval for when the Board sees fit but would like to make sure all the items are on the plan. Mark Chamberlain will write the letter then Charlie Post will send it to Tom Carr and Jane Hager.

## **Other Business**

### **-Fee Schedule**

Bob Rogers and Mike Decubellis had concerns with the fee increases, especially for the conceptual review. It was explained the fees would be covering the administrative costs and expenses. The form was approved by the Selectmen on 4-20-22 and expected to be utilized by all Boards and Committees.

-The **Zoning Subcommittee** met with the Conservation Commission regarding wetlands buffer & definition. They are looking at going with the NWI, (National Wetlands Inventory). Jay Minkarah will revise the language. The next meeting is June 9<sup>th</sup> at 7:00 p.m.

### **-Planning Board Procedures:**

Mark Chamberlain suggested adding the Waiver Request Form.

The application form will be updated. An electronic form will be designed. The hope is to have GIS information so it can be handed off to NRPC to be added to the maps.

## **Minutes:**

The April minutes will be updated to include proposed changes before the Board votes.

### **Public comments:**

G. Chrisenton has an outstanding fee(s) and asked for the balance so she can to pay it.

## **Adjournment:**

**VOTE: Bob Rogers moved, Mike Decubellis seconded to adjourn at 8:57 p.m. Motion passed 5-0.**

Respectfully Submitted,

*Kathleen Humphreys*– signed electronically

Kathleen Humphreys  
Planning Board Secretary