

TOWN OF LYNDEBOROUGH

PLANNING BOARD MINUTES

November 17, 2022

Draft 3

7:04 PM Call to Order & Roll Call

Members Present: Acting Chairperson Alyssa Lavoie, Alternate Bob Rogers, Mike Decubellis, new full member Lou Rota, new Alternate member Bob Newton, and NRPC Rep. Jay Minkarah. Selectmen's Representative Mark Chamberlain arrived at 7:10pm and minute taker Katheen Humphreys arrived at 7:09 p.m. and started recorder.

Not present, Chairman Charlie Post, Vice Chair Ray Humphreys, and Mark Schultz

Public present: Tom Chrisenton, Ginny Chrisenton, Geoff Brock, Rob Degan, Conservation Commission member John Pomer, Building Inspector/Code Enforcement Officer Leo Trudeau

At the November 16, 2022 Board of Selectmen's meeting, new Planning Board members were voted in, all with a 2-0 vote. The Selectmen accepted Bob Rogers' resignation as a full member. They approved Lou Rota as a full member, then approved Bob Newton and Bob Rogers to fill the two vacant alternate member positions.

Acting Chairperson:

VOTE: ? made a motion to approve the Alyssa Lavoie the acting chair in the absence of the chairman and vice chair who are not present tonight. Bob Rogers seconded. Motion passed unanimously.

New Business:

Zoning Amendments Public Hearing

Jay Minkarah reviewed the amendments. Alyssa Lavoie opened the Public Hearing.

Bob Rogers expressed his concern with only the table in the zoning and wanted the text language to remain.

VOTE: Bob Rogers moved, Mike Decubellis seconded to have the tables as a supplement and not to replace the written text, and to move this amendment to the January 19, 2022 meeting as a Public Hearing. Motion passed 6-0.

Jay Minkarah addressed amending the Zoning Ordinance to create a new section 301 relative to this and added, we need to move this to another public hearing due to

38 substantive changes to the language. It was recommended to hold a second meeting for
39 January and make a motion to move to a second public hearing.

40 The Board discussed the building height requirement. It will be added to the next public
41 hearing.

42 Jay Minkarah asked Conservation Commission member John Pomer for any concerns.

43 Mike Decubellis brought up the vegetative buffer and asked if there is that language in
44 here and if it's clear for property owners to know what they can do with their property. He
45 felt it's a big win to get the setbacks from the wetlands. To get the buildings away is good
46 and not what we have now. Discussion continued.

47 The meaning of "Vegetative Buffer" was discussed which means the area has to be
48 comprised of vegetation, trees, scrubs, grass, not paved. It was discussed to possibly
49 change it to "vegetative buffer" and not referred to as "wetlands buffer"

50 Bob Newton asked if we properly defined the wetlands, why do we need 50-feet? Mike
51 Decubellis said because the health of the wetlands is depending on what is going into it.
52 A lot of towns are at 100-feet buffer, but 50-feet is common. Some vary by the size or
53 quality of the wetlands. Right now in Lyndeborough, anyone can build a house right up
54 to the wetlands. This protection has long been needed, and not done, in Mike's opinion.

55 Mark Chamberlain said that most of this part of town feeds into the Purgatory or Souhegan
56 water shed. The Souhegan watershed is most of Lyndeborough, except north
57 Lyndeborough.

58 Leo Trudeau added, right now someone could build right up to the wetlands, including
59 manufacturing or an autobody shop, right up to the wetlands. It's not about taking land;
60 it's about protecting natural resources.

61 Wetland can change due to things such as beaver activity, but it has to be a 3-point test,
62 it's not just temporary water. It was noted wetland can be dry at times during the year.

63 The subdivision regulations we have now requires the applicant to get their wetlands
64 mapped by a wetlands scientist if there is a disagreement.

65 Bob Rogers questioned Section 100.00, are those permitted uses automatically. Jay
66 Minkarah said they are permitted but under special exception. The Board debated this.

67 The date on the articles needs to be changed: all effective dates from last year were a
68 carryover and all dates should be March 18, 2023. It was discussed if it should be the
69 election date or town meeting date in 2023.

70 Tom Christensen approached the Board and provided copies of the proposal he sent
71 Town Clerk/Tax Collector Trish Schultz last year and said, "I have no problem with the
72 wetlands buffer, but it has to be solid".

73

T. Chrisenton handed out 2 documents:

1. Email dated Jan. 22, 2022 at 11:40am from Roads@tds.net to tschultz@lyndeboroughnh.us

2. "Recommended change to proposed Zoning changes", undated document.

Mr. Chrisenton discussed how it is written as "national wetlands survey" which replaces "National Wetlands Inventory". They are similar but not the same. He made copies of the national wetlands survey and said they have this available to show where wetlands are. There was a discussion about the various wetlands map and access to the data.

Tom Christenson said the old ordinance says the wetlands district is show on the map at the town office and the town clerk has a copy of it.

RSA 675:1 I.(a) was read by Mr. Chrisenton. *"If a proposed amendment to a zoning ordinance would change a boundary of a zoning district and the change would affect 100 or fewer properties, a notice of a public hearing on the amendment shall be sent by first class mail to the owners of each affected property. If a zoning ordinance would change the minimum lot size or the permitted uses in a zoning district that includes 100 or fewer properties, notice of a public hearing on the amendment shall be sent by first class mail to the owner of each property in the district."*

There was a discussion if there are less than 100 properties affected. The feeling was this does not apply. Tom Christenson said to read last line by Cordell Johnson, *"However, keep in mind that a zoning amendment frequently affects more than one zoning district. In such as case, it will be necessary to consider each district individually."*

T. Chrisenton would like the Board to change the wording, shown on the map, proposed "the National wetlands inventory and the wetland scientist is also included". He noted that any wetland scientist can find some sort of wetlands. Mentioned soil component such as well draining, they list what % can be poorly defined as wetlands. M. Chamberlain said that poorly drained soil is not defined as wetlands anymore.

Alyssa Lavoie asked for clarification in relation to wetland zone on these maps or the maps the town is showing and asked if the "wetland scientist" factors in after there is a problem. She read the language.

Discussed how the subdivision regulations can help in terms of wetlands but some members felt that defeats the purpose and is only for new properties.

T. Chrisenton discussed the MWI and the soil mapping are both high level and you can make an argument on a soil scientist. The Board pointed out if there was a delineating survey in the file, regardless of how long ago, it can be used if there is a dispute

Tom Chrisenton said, "I gave these maps to the town".

Acting Chair Lavoie addressed Mr. Chrisenton and asked, "You understand these regulations, you oversaw hundreds of subdivision application, has it been an issue?" Mr. Chrisenton responded, "No, not for a subdivision, if their property has water on the map, we can have them hire a wetland scientist to delineate it over and above what is on the wetlands if you try to expand." A. Lavoie said they are not trying to expand that.

115 Alyssa Lavoie asked, "You have not run into this issue with what you brought up?" Mr.
116 Chrisenton answered that the new language takes out district boundaries and says the
117 map are in the town office, the new proposal as National Wetlands plus a soil scientist.
118 M. Chamberlain added, "No, not a plus".

119 Alyssa Lavoie read that wetland district encompasses all area as stated in a document
120 by Hillsborough County dated, October 1985 and any areas delineated by corps of
121 engineering in relation to the Department of Army 1987 and also referenced 1995. *(Should*
122 *we get a copy of that for the minutes?)*

123 T. Chrisenton's concern is the new language eliminates the last sentence. There was a
124 debate after this. He said, "You don't have "Shown" on the town map". A. Lavoie wanted
125 clarification if he is saying that the Corps of Army Engineer, are too exclusive. Jay
126 Minkarah added the new language says "soil" and the old said "wetlands"

127 Mike Decubellis added the purpose is to reference any new maps. It was discussed to
128 have a printed map and how often to update that map. Discussion. M. Chamberlain said
129 there is a link on the website to NRPC and they have the MWI lines on the town's tax map
130 and they have the tax maps so you can access it that way and they can print it. M.
131 Decubellis added it's available on GRANIT.

132 The Chairperson asked if anyone wants to make a motion to Tom's points to have the
133 districts shown and to notify residents if less than 100 homes. M. Decubellis said the
134 town already had this topic reviewed by Town Counsel and notification was not needed.

135 The Chairperson asked if there is any more public comment.

136 Zoning overlays and district boundaries were clarified per Leo Trudeau's question.
137 Overlay districts, flood plain and soil based were mentioned. The discussion on buffers
138 and activity at the state level were discussed.

139 **VOTE: Bob Rogers started to make a motion then withdraw his motion.**

140 **VOTE Alyssa Lavoie made a motion to move Amendment 4 to a second public**
141 **hearing on January 19, 2023 with additional edits.**

142 The conversation continued regarding the buffers.

143 **VOTE: Bob Rogers seconded the motion.**

144 Ginny Chrisenton asked if someone identifies a vernal pool, would a 50- foot wetlands be
145 required around that. She was informed that a vernal pool is not a wetland.

146 Tom Chrisenton suggested, if an area on the map is in dispute, then you would have a
147 wetlands scientist come out and concur with that are, and not to ask a wetland scientist
148 get all areas.

149 **VOTE: Motion passed.**

Leo Trudeau said every permit that comes across his desk has a question "Is this in a wetlands area?" and the main office and his office looks that up and they reference that.

VOTE: Mike Decubellis made a motion to moved forward all amendments the Board is considering, including Amendment #1 and Amendment #2, to the public hearing on January 19, 2022. Alyssa Lavoie seconded. Motion passed unanimously.

The public hearing closed at 8:29 p.m.

CASE 2022-11

Three-Lot Subdivision, Map 206, Lot 22

Lot address 545 New Road with frontage on Schoolhouse Road

Owners Geoffrey and Patricia Brock (home address is 39 Broman Way)

Present: Owner Geoff Brock and Rob Degan from S&H Land Services

This application was publicly noticed and abutter notifications mailed via certified mail.

The proposed plan was dated April 21, 2022 and last revised on November 16, 2022.

Map 206, Lot 22 is 27.109 acres. The property owners proposed to subdivide the lot into three-lots. The house lot, Map 206, Lot 22-1 will retain 5.0 acres and Map 206, Lot 22-2 is proposed to be 6.815 with road frontage on Schoolhouse Road.

It was noted that the lot numbers were not in the correct series format and the original lot should keep the original map/lot number and subdivided lots then are descendants with 22-1 and 22-2. After a discussion and because the Zoning Board of Adjustment granted a variance dated October 13, 2022, with the lot numbers provided, the Board reluctantly agreed to keep the lot numbers as shown on the proposed map.

ZBA Variance: See file for full document

NOTICE OF DECISION

You are hereby notified that the request of: **Geoffrey Brock**
Map 206, Lot 22 at 545 New Road, Lyndeborough, NH 03082

For a **Variance** from **Section 408 (Soil Based Zoning, due to the severe soils)**, of the Lyndeborough Zoning Ordinance, to allow a building lot with 438 feet of frontage, less than required 500 feet of frontage

Has been GRANTED

For a three lot minor subdivision, consisting of two lots on New Road, one 5 acre lot (lot 22-1) with 500 feet of frontage, one 27 +/- acre lot (lot 22) with +/- 770 feet of frontage, and one lot on Schoolhouse Road with 6.8 acres (lot 22-2) with 438 feet of frontage. Furthermore, lot 22-2 would be restricted to no larger a three (3) bedroom home and there be no further subdivision in perpetuity on lot 22.

Karen Grybko, Chairperson
Zoning Board of Adjustment

October 13, 2022
Date

Note: A motion for rehearing by the Board of Adjustment shall be filed in accordance with RSA 7677:2.

Notice of Decision: **Case 2022-02**

PB, November 17, 2022

178 The Board requested the owner's legal address be referenced in the block

179
180 Mark Chamberlain mentioned that under Note 3, in referenced "soil-based lot sizing: all
181 lots of 2-acres..." that shall be changed to say 5-acres.

182
183 The Board requested to include the width of the road.

184
185 There were no waivers presented.

186
187 **VOTE: Alyssa Lavoie moved to accept the application; Mark Chamberlain**
188 **seconded the motion. Motion passed 6-0.**

189
190 Acting Chair Lavoie opened the Public Hearing.

191
192 Rob Degan started his presentation and said they came before the Board a few months
193 ago in a "Request for Information" session, and not as a publicly noticed hearing. The
194 test pits were witnessed by Code Enforcement/Building Inspector Leo Trudeau. They
195 received a ZBA variance for the 438 feet of road frontage, which imposed condition
196 restrictions that Map, 206, Lot 22-03 be limited to 3-bedroom house and Map 206, Lot 22-
197 01 will not be further subdivided in perpetuity.

198
199 Mr. Degan said that Map 206, Lot 22-01 has met all regulations.

200
201 Bob Rogers was pleased to see the map included the required 25-foot no-dig zone around
202 the cemetery.

203
204 Mark Chamberlain reiterate the lot number should be swapped to 22-01 because the
205 numbers should go with the original house. Bob Rogers and Mark Chamberlain felt that
206 consistency is a good thing. The variance was granted as shown on the map presented,
207 dated April 21, 2022. Jay Minkarah said the Town can renumber and it won't affect your
208 variance. This was discussed.

209
210 The public hearing was closed. No abutters were present.

211
212 **VOTE Bob Rogers moved, Mike Decubellis seconded to conditionally approve the**
213 **application, subject to the three notes requested by the Board (see below).**

214 **#1. Legal address of owners (39 Broman way)**

215 **#2. Note 3 shall be changed to "5-acres" in place of where it referenced 2-acres for**
216 **soil-based lot sizing.**

217 **#3. Add dimensions of the width of the street.**

218 **Motion passed 6-0.**

219
220 Mr. Degan inquired about the town's policy regarding setting monuments and can they
221 set bounds with pins.

222
223 *The applicant left at 8:34pm*
224

225 **Other Business**

226 Jay Minkarah handed out the Table of Permitted Uses

227 For discussion, schools are now SE and they added schools and daycares to RL1.

228 Added Note 7 to state that an attached dwelling units is permitted in all districts.

229 It is adding a section C to 701, etc.

230 **VOTE Alyssa Lavoie made a motion, Bob Rogers seconded to table the Permitted**
231 **Uses discussion to the December 15, 2022 meeting. Motion passed.**

232
233 Setbacks around wells, swimming pool, tennis courts, and other items. The verbiage
234 would have to change in every district. Minimum setbacks to structures was discussed.
235 Jay Minkarah will write a draft for a definition for language by district.

236 Leo Trudeau provided insight into what NH DES allows and the problems with septic
237 systems being in setbacks. Becoming a Pre-Approval Town would be helpful to look at
238 the septic designs before the State approves them.

239 *Building alarm went off at 8:57 p.m., interrupting meeting.*

240 **Expiration of Variances**

241 Article 10, Expiration of Variances and Special Exceptions.

242 They currently expire after two (2) years. This relates to variances and special exceptions
243 issued prior to August 19, 2013. This process would happen in a period of 3-years. The
244 Board would post the meeting. A vote can happen in March and after an affirmative vote,
245 the language will be posted in a public notice for a year so anyone affected by this change
246 will be noticed. They still have two-years beyond that. After that, we don't have that
247 timeframe. It's a lengthy process but should be started.

248 **VOTE: Bob Rogers moved to send the Expiration of Variances and Special**
249 **Exceptions to Public Hearing on December 15, 2022. Alyssa Lavoie seconded the**
250 **motion. Motion passed unanimously 6-0.**

251 Alyssa Lavoie discussed a recommendation from NHMA to require a pre-application
252 review, so the clock is not running after the first meeting. This process would need to be
253 approved at Town Meeting. Jay Minkarah will provide draft language at the next meeting.

254 **Minutes:**

255 **VOTE: Bob Rogers moved, Mark Chamberlain seconded to accept the October 20,**
256 **2022 minutes as amended. Motion passed 6-0.**

257 The Board agreed to table the February 2022 and July 2022 meeting minutes.

258 Alyssa Lavoie wants to add Tom Chrisenton's suggestion that Attorney Chris Drescher
259 was present at the February 17, 2022 meeting. Mark Chamberlain said he does not think
260 his comments for the February meeting were adjusted.

261 **Correspondence:**

262 None

263 **Other Business Not on Agenda:**

264 None

265

266 Next meeting is Thursday, December 15, 2022 at 7:00 p.m.

267

268 **Adjournment:**

269 **VOTE: Bob Rogers moved, Mike Decubellis seconded to adjourn at 9:16 p.m.**
270 **Motion passed 6-0.**

271

272 Respectfully Submitted,

273

274

275

276

277 Kathleen Humphreys

278 Planning Board Secretary

279

280 **November 17, 2022**

281 **VOTE: Member A moved, Member B seconded to accept the ? minutes as written.**
282 **Motion passed 6-0.**

283 **Page 2, bob rogers questions section 100, change this this to "1002.00" perniteed**
284 **uses..**

285 **NWI is correct and not MWI**

286 **Way donwn on end after vote to conditioally approve...where it says Mr. Degan**
287 **questions the town policy to set momunments. It say that "Mark Chamberlain will**
288 **verify the policy and change to " mark Chamberlain read section 710.00 of the**
289 **subdivision reguations"**

290

291 **Other business. Get rid of fact to include "50 foot figure requireiments"**

292 **Way**

293