

**Zoning Board of Adjustment  
Notice of Public Hearing and Agenda  
Monday, May 13 2024  
Citizens' Hall 7:30 p.m.**

**7:30 p.m. Roll Call**

**New Business:**

**Case 2024-02**

**Variance - Zoning Ordinance Section 411.00.** Owner Arnold Adams Byam III is seeking a Variance to Lyndeborough Zoning Ordinance Section 411.00 to permit a second accessory dwelling unit on his lot. This unit has existed for over 20 years and is occupied. Map 231 Lot 028. Zoning District: Rural Lands 1.

**Case 2024-03**

**Appeal of Administrative Decision regarding Zoning Ordinance Section 404.10.** Applicant Wadleigh, Starr & Peters PLLC have submitted an Appeal of an Administrative Decision on behalf of owner High Ridge Trust, Thomas and Virginia Chrisenton, Trustees, pertaining to the denial of a building permit for a 160 square foot woodshed. Map 230 Lot 005-2. Zoning District: Rural Lands 2.

**Approve Minutes:**

- Approve minutes of April 8, 2024
- Approve minutes of March 11, 2024

**Adjourn:**

A copy of the application(s) listed above is available for public review at Citizens' Hall during regular business hours. You may submit comments in person or in writing. Any person with a disability who wishes to attend this public meeting and who needs to be provided with reasonable accommodations, please contact the Selectmen's Office prior to the meeting so arrangements can be made. Issuance of a decision shall be in accordance with RSA 676:3.

PER ORDER OF KAREN GRYBKO, CHAIR  
LYNDEBOROUGH ZONING BOARD

*Agenda is subject to change*

APR 15 2024

Lyndeborough, New Hampshire  
ZONING BOARD OF ADJUSTMENT APPLICATION  
[Adopted: November, 2013]

SELECTMEN'S OFFICE

Office Use Only	Case #:	<u>2024-2</u>	Date Received:	<u>4/15/2024</u>
	Amount Paid: \$	<u>350.00 fees</u> <u>\$500.00 escrow</u>	Time Received:	

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: ARNOLD Adams Byam II Phone # 603 831 2771

Address of Applicant: 45 Old Temple Rd Lyndeborough

E-Mail Address: ARNIE Byam @ gmail .com

PROPERTY OWNER (if different from applicant): \_\_\_\_\_

Address: \_\_\_\_\_ Phone # \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

PROPERTY/PARCEL INFORMATION

Address: 45 Old Temple Rd MAP 231-28

Brief Directions: 96 Ac. Lot with Home Attached 3 car Garage + Detached 24x40  
Work Shop with 2nd floor Living Space  
PLAN # 24057 on file H&D

Zoning District: RL1 Assessor's Map # 231 Lot(s) # 28

TYPE OF APPEAL: (Please check one)

- Variance from Section 411-00 of the Zoning Ordinance
- Physical Disability Variance from Section \_\_\_\_\_ of the Zoning Ordinance  
(RSA 674:33-V)
- Special Exception per Section \_\_\_\_\_ of the Zoning Ordinance
- Appeal of Administrative Decision regarding Section \_\_\_\_\_ of the Zoning Ordinance
- Equitable Waiver per Section \_\_\_\_\_ of the Zoning Ordinance

DESCRIBE BRIEFLY YOUR PLANS FOR THE PROPERTY:

To Achieve correct Permitting for Existing Detached Penalty units

**APPLICATION CHECKLIST (Please check off)**

**A. Application signed by Applicant and Property Owner (if different from Applicant)**

**Note: In order for the application to be accepted and placed on the ZBA agenda YOU MUST COMPLETE (1) ALL SECTIONS ON PAGE 3 as well as (2) ALL QUESTIONS FOR THE SPECIFIC APPEAL YOU ARE SEEKING.**

**B. 7 Copies of Completed Zoning Board of Adjustment Application**

**Note: Only include those pages of the application that are relevant to your request. Please do not include the abutters list with the 7 copies (include only as part of original signed application (Part A above)).**

**C. 7 copies of a plot plan from the town tax map or a survey. They need to include the lot dimensions including area in square feet, and also the size and location of existing and proposed buildings if applicable, including setbacks.**

**D. 7 copies of photos (suggested but optional) and any other materials applicant would like to submit in support of the application.**

**E. List of abutters as defined in RSA 672:3**

**F. Mailing Labels in duplicate with abutters names and addresses for notices.**

**G. TOTAL FEE paid by cash or check made payable to "Town of Lyndeborough"**

**1. Application fee of:**

\$200.00 VARIANCE (per Section requested)	\$	<u>200.00</u>
\$200.00 SPECIAL EXCEPTION	\$	_____
\$200.00 APPEAL FROM ADMINISTRATIVE DECISION	\$	_____
\$200.00 EQUITABLE WAIVER	\$	_____

2. Abutter Notification fee: # of abutters <u>9</u> X \$15.00 =	\$	<u>135.00</u>
3. Applicant & Owner mailing fee: <u>1</u> X \$15.00 =	\$	<u>15.00</u>
4. Public notices: _____		Minimum of \$60.00 Additional fees may apply.

TOTAL FEE \$ 350.00

+ ZBA newspaper ad \_\_\_\_\_

**PAID**  
\$350.00

total

**PAID**  
\$500.00 escrow

Still owes ZBA ad fee

Due → April 22

MAY 13 meeting

\$200 for variance

Abutter = ~~\$15~~ \* 10 = \$150

Escrow = \$500

200

150

500

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\$850

Make checks payable  
to Town of Lyndeborough

1 check \$350

2nd check \$500 escrow

make your own labels x 3



# Town of Lyndeborough

## Code Enforcement Office

9 Citizens' Hall Road  
Lyndeborough, New Hampshire 03082

RECEIVED

APR 15 2024

SELECTMEN'S OFFICE

Tel.: (603) 654-5955

Fax: (603) 654-5777

March 13, 2024

Arnold A. Byam III & Korena M. Byam  
45 Old Temple Road  
Lyndeborough, NH 03082

**Re: Notice of Violation - Section 411.00 Accessory Dwelling Units,  
45 Old Temple Road (Map-Lot-Sublot 231-028-000)**  
Sent Via Certified Mail: 7004 1160 0006 3883 7170

Mr. & Mrs. Byam;

As discussed during several points of contact, the detached accessory dwelling unit (ADU) on your property at 45 Old Temple Road is in violation of the Town of Lyndeborough Zoning Ordinance as follows:

### **Section 411.00 Accessory Dwelling Units.**

- 1) **An Accessory Dwelling Unit** shall be allowed as a matter of right by the Building Inspector pursuant to RSA 674:21 in all zoning districts that permit single family dwellings. One accessory dwelling unit shall be allowed without additional requirements for lot size, frontage, space limitations, or other controls beyond what would be required for a single family dwelling without an accessory dwelling unit. Not more than one accessory dwelling unit for any single family shall be allowed.

During those conversations, I advised a remedial course of action would be to apply to the Zoning Board of Adjustment (ZBA), which has not taken place by the date of this letter.

Therefore, you may exercise your option to apply to the ZBA for relief from sections 411.00 by submitting and application by either March 18, 2024 (for the April 8, 2024 ZBA meeting) or by April 22, 2024 (for the May 13, 2024, ZBA meeting). A ZBA application is enclosed for your convenience or it can be downloaded from the ZBA page on the Town's website.

If you should choose an alternate option to remedy this situation, then notice of that action must be received in writing by this office no later than April 22, 2024.

Respectfully,

Leo M. Trudeau  
Lyndeborough Building Inspector / Code Enforcement Officer

Cc: Board of Selectmen  
Town Administrator Boland  
Planning Board  
Zoning Board of Adjustment

Enclosure

**VARIANCE REQUIREMENTS  
THIS SECTION TO BE COMPLETED BY VARIANCE APPLICANTS ONLY**

**A. Variance Requested**

A variance is requested from Section(s) 411:00 of the Zoning Ordinance to permit:  
To Permit the existing detached ADU Built many years before my house was built.

**B. The Five Variance Criteria (as set forth in NH RSA 674:33, I(b))**

Please explain how your requested action will not diminish:

1. Waiving the terms of the Ordinance will not be contrary to the public interest because:  
The buildings that are on the property are not visible from the road, the buildings are owner occupied and have been in existence for more than 24 years.
  
2. Deviation from the strict requirements of the Ordinance is consistent with the spirit of the Ordinance because:  
Detached are allowed by the town and are consistent with workforce housing needs. This has been occupied for many years and was in existence prior to building my home in 1999-2000.
  
3. Granting the variance would do substantial justice because:  
Would not displace a long-term resident, It's in the spirit of workforce housing providing small affordable living space in a rural setting.  
Keeps a large lot intact. If a subdivision was required there would be significant expenses to the landowner.
  
4. The value of surrounding property will not be diminished because:  
There are no change to the area property values will remain the same.

**5B. If the criteria in subparagraph 5A above are not established, explain how, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore.**

**necessary to enable a reasonable use of it:**

**NH House Bill 1291 will allow this unit.**

**The special conditions are existing and have been since 1999-2000**

**The buildings were both built prior to the year 2000 and an occupancy permit was issued in 2000 for my home and this issue was not brought up till 25 years later.**

**If not granted long term resident would be displaced.**

**EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS  
THIS SECTION TO BE COMPLETED BY EQUITABLE WAIVER APPLICANTS ONLY**

An Equitable Waiver of Dimensional Requirements is requested from Article \_\_\_\_\_  
Section \_\_\_\_\_ of the Zoning ordinance to  
permit \_\_\_\_\_

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1. Does the request involve a dimension requirement, not a use restriction?  Yes  No

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2. a) Explain how the violation has existed for 10 years or more with no enforcement action, including written notice, being commenced by the town **OR** b) explain how the nonconformity was discovered after the structure was substantially completed or after a vacant lot in violation had been transferred to a bona fide purchaser **AND** how the violation was not an outcome of ignorance of the law or bad faith but resulted from a legitimate mistake.

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3. Explain how the nonconformity does not constitute a nuisance nor diminish the value or interfere with future uses of other property in the area.

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4. Explain how the cost of correction far outweighs any public benefit to be gained.

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**NOTE: The Board must find in the affirmative on all four questions or the request must be denied**





**SPECIAL EXCEPTION REQUIREMENTS**

**THIS SECTION TO BE COMPLETED BY SPECIAL EXCEPTION APPLICANTS ONLY**

**A. Specific Special Exception Requirements**

Explain how the proposal meets the specific special exception requirements as may be set forth in the zoning district in which the subject property is located:

- A. \_\_\_\_\_  
\_\_\_\_\_
- B. \_\_\_\_\_  
\_\_\_\_\_
- C. \_\_\_\_\_  
\_\_\_\_\_
- D. \_\_\_\_\_  
\_\_\_\_\_
- E. \_\_\_\_\_  
\_\_\_\_\_
- F. \_\_\_\_\_  
\_\_\_\_\_

**Additional pages included if necessary.**

**ABUTTER LIST**

**THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS**

Pursuant to RSA 676:7, the Town of Lyndeborough is required to notify the applicant and every abutter of the public hearing by certified mail. The cost of required publication or posting of notice, and the cost of mailing said notices, shall be paid by the applicant.

"Abutter" is defined as:

RSA 672:3 Abutter. – "Abutter" means any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the term abutter means the officers of the collective or association, as defined in RSA 356-B:3, XXIII. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a manufactured housing park form of ownership as defined in RSA 205-A:1, II, the term "abutter" includes the manufactured housing park owner and the tenants who own manufactured housing which adjoins or is directly across the street or stream from the land under consideration by the local land use board.

Tax Map	Lot No.	Owner(s) of Record	Mailing Address
226	1	MAZERALL JOSEPH E	1572 Center Rd. Lyndeborough NH
227	29	SIMPSON KENNETH + PENELOPE	PO BOX 7 WILTON NH 03086 79 WILSON Rd Lyndeborough NH
227	31	KWIATKOWSKI MICH AEL + SUSAN	1691 OCEAN BLVD RYE NH 03870
227	32	LABARRE LEONAH LINDA J	193 WILSON Rd Lyndeborough NH

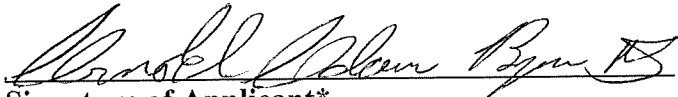
Attach with application.

	Parcel ID	Owner Na	Owner Ad	Owner Ad	Owner Cit	Owner Sta	Owner Zip	Parcel	Area
	1	226-1	MAZERAL	1572 CEN'	LYNDEBO	NH	03082	33	
<i>me</i> —	2	227-13	BYAM, AR	45 OLD TE	LYNDEBO	NH	03082	13.51	
	3	227-29	SIMPSON,	79 WINN F PO BOX 7	WILTON	NH	03086	33.5	
	4	227-31	KWIATKO'	1691 OCE.	RYE	NH	03870	28.05	
	5	227-32	LABARRE	193 WINN	LYNDEBO	NH	03082	5.28	
	6	227-35	WRIGHT,	25 OLD TE	LYNDEBO	NH	03082	5.01	
	7	231-29	THOMPSC	53 OLD TE	LYNDEBO	NH	03082	13.32	
	8	231-33	SCOTT, C.	370 FORE	LYNDEBO	NH	03082	0.96	
	9	231-35	BISHT, AS	344 FORE	LYNDEBO	NH	03082	36.49	
	10	231-7	EGGERL	F 437 FORE	LYNDEBO	NH	03082	5.8	

**SIGNATURE PAGE**

**THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS**

**I, the undersigned Applicant, hereby certify that the information contained within this Application is complete and accurate, and I acknowledge that I have read and understand the Application Instructions, which are set forth on the first two pages of this Application form.**

  
Signature of Applicant\*

\_\_\_\_\_  
Signature of Owner\*

**\*Both Signatures Required**

**AUTHORIZATION TO ENTER SUBJECT PROPERTY**

**I, and my successors, hereby authorize members of the Lyndeborough ZBA to enter my property for the purpose of evaluating this application, including performing inspections during the application phase, post- approval phase, construction phase and occupancy phase. It is understood that these individuals must use all reasonable care, courtesy, and diligence when on the property.**

**Signature of Property Owner: \_\_\_\_\_ Date: \_\_\_\_\_**

Thompson Keith M  
Woods-Thompson Helen E  
53 Old Temple Rd  
Lyndeborough, NH 03082

Thompson Keith M  
Woods-Thompson Helen E  
53 Old Temple Rd  
Lyndeborough, NH 03082

Wright Troy & Angelique  
25 Old Temple Rd.  
Lyndeborough, NH 03082

Labarre Leon H & Linda J  
193 Winn Rd.  
Lyndeborough, NH 03082

Labarre Leon H & Linda J  
193 Winn Rd.  
Lyndeborough, NH 03082

Kwiatkowski Michael & Susan  
1691 Ocean Blvd.  
Rye, NH 03870

Simpson Kenneth & Penelope  
79 Winn Rd.  
PO Box 71  
Wilton, NH 03086

Thompson Keith M  
Woods-Thompson Helen E  
53 Old Temple Rd  
Lyndeborough, NH 03082

Wright Troy & Angelique  
25 Old Temple Rd.  
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79 Winn Rd.  
PO Box 71  
Wilton, NH 03086

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79 Winn Rd.  
PO Box 71  
Wilton, NH 03086

Mazerall Joseph E  
Prior Mazerall Charlene A  
1572 Center Rd.  
Lyndeborough, NH 03082

Bisht Ashutosh  
Bhandari Rhea S  
344 Forest Rd.  
Lyndeborough, NH 03082

Bisht Ashutosh  
Bhandari Rhea S  
344 Forest Rd.  
Lyndeborough, NH 03082

Scott Carol A. TR  
Carol A Scott Rev Trust of 201  
370 Forest Rd  
Lyndeborough, NH 03082

Byam Arnold A. III  
Arnold A Byam III Rev Trust DT  
45 Old Temple Rd.  
Lyndeborough, NH 03082

Byam Arnold A. III  
Arnold A Byam III Rev Trust DT  
45 Old Temple Rd.  
Lyndeborough, NH 03082

Mazerall Joseph E  
Prior Mazerall Charlene A  
1572 Center Rd.  
Lyndeborough, NH 03082

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Lyndeborough, NH 03082

Bisht Ashutosh  
Bhandari Rhea S  
344 Forest Rd.  
Lyndeborough, NH 03082

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Carol A Scott Rev Trust of 201  
370 Forest Rd  
Lyndeborough, NH 03082

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370 Forest Rd  
Lyndeborough, NH 03082

Byam Arnold A. III  
Arnold A Byam III Rev Trust DT  
45 Old Temple Rd.  
Lyndeborough, NH 03082

Eggerl Rev Trust 2020  
Eggerl Edward M & Michael A  
437 Forest Rd.  
Lyndeborough, NH 03082

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Eggerl Edward M & Michael A  
437 Forest Rd.  
Lyndeborough, NH 03082

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Lyndeborough, NH 03082

Eggerl Rev Trust 2020  
Eggerl Edward M & Michael A  
437 Forest Rd.  
Lyndeborough, NH 03082



231-29 THOMPSON, KEITH M  
WOODS-THOMPSON, HELEN E  
Address 53 OLD TEMPLE RD, LYNDEBOROUGH

227-35 WRIGHT, TROY & ANGELIQUE  
Address 25 OLD TEMPLE ROAD, LYNDEBOROUGH, NH 03082

227-32 LABARRE, LEON H & LINDA J  
Address 193 WINN RD, LYNDEBOROUGH, NH 03082

227-31 KWIATKOWSKI, MICHAEL & SUSAN  
Address 1691 OCEAN BLVD, RYE, NH 03870

227-29 SIMPSON, KENNETH & PENELOPE  
Address 79 WINN RD, PO BOX 71 WILTON, NH 03086

226-1 MAZERALL, JOSEPH E.  
PRIOR MAZERALL, CHARLENE A.  
Address 1572 CENTER ROAD, LYNDEBOROUGH, NH 03082

231-35 BISHT, ASHUTOSH  
Name 2 BHANDARI, RHEA S  
Address 344 FOREST RD, LYNDEBOROUGH, NH 03082

231-33 SCOTT, CAROL A, TR  
Name 2 CAROL A SCOTT REV TRUST OF 201  
Address 370 FOREST RD, LYNDEBOROUGH, NH 03082

227-13 BYAM, ARNOLD A, III  
Name 2 ARNOLD A BYAM III REV TRUST DT  
Address 45 OLD TEMPLE ROAD, LYNDEBOROUGH, NH 03082

231-7 EGGERL REV TRST - 2020  
Name 2 EGGERL, EDWARD M & MICHAEL A,  
Address 437 FOREST RD, LYNDEBOROUGH, NH 03082



TOWN OF LYNDEBOROUGH

9 Citizens' Hall Road • Lyndeborough, NH 03082
Phone (603) 654-5955 • Fax (603) 654-5777

AUTHORIZED AGENT FORM

I, Thomas & Virginia Chrisenton Trustees for High Ridge Trust as owner of Map 230 Lot (s) 005-2, (print name of owner)

located at Western Way, Lyndeborough, NH 03082 (print property address)

do hereby authorize Wadleigh, Starr & Peters, P.L.L.C. to act as (print name of authorized agent)

my agent in submitting applications to the Town of Lyndeborough. I understand that I am the owner of record responsible for the applications submitted by my agent referenced above. I further understand that as the owner of record I am responsible for actions agreed to by said agent.

Handwritten signature of Virginia R. Chrisenton, TTEE, dated 4/18/2024

Do not write below this line - For Town Use Only

Date received: Received By: (initials)

Received as part of an application for:

Case No. (If applicable):

Copy to Property File:



APR 18 2024

Lyndeborough, New Hampshire  
ZONING BOARD OF ADJUSTMENT APPLICATION  
[Adopted: November, 2013]

SELECTMEN'S OFFICE

<i>Office Use Only</i>	Case #: _____	Date Received: _____
	Amount Paid: \$ _____	Time Received: _____

**APPLICANT/PROPERTY OWNER INFORMATION**

APPLICANT: Wadleigh, Starr & Peters PLLC Phone # (603) 669-4140

Address of Applicant: 95 Market Street, Manchester, NH 03101

E-Mail Address: ccleary@wadleighlaw.com, wredington@wadleighlaw.com

PROPERTY OWNER (if different from applicant): Thomas & Virginia Chrisenton, Trustees of the High Ridge Trust

Address: PO Box 121, Lyndeborough, 03082 Phone # (603) 554-7554

E-Mail Address: roads@tds.net

**PROPERTY/PARCEL INFORMATION**

Address: Western Way, Lyndeborough, NH

Brief Directions: Drive out Western Way, past the Tower Road, property starts at the West Side of Woodward Road, a Class VI Road (See exhibit A).

Zoning District: Rural Lands 2 Assessor's Map # 230 Lot(s) # 005-2

**TYPE OF APPEAL: (Please check one)**

- |   |   |
|---|---|
| <input type="checkbox"/> Variance                                       | from Section _____ of the Zoning Ordinance              |
| <input type="checkbox"/> Physical Disability Variance<br>(RSA 674:33-V) | from Section _____ of the Zoning Ordinance              |
| <input type="checkbox"/> Special Exception                              | per Section _____ of the Zoning Ordinance               |
| <input checked="" type="checkbox"/> Appeal of Administrative Decision   | regarding Section <u>404.10</u> of the Zoning Ordinance |
| <input type="checkbox"/> Equitable Waiver                               | per Section _____ of the Zoning Ordinance               |

**DESCRIBE BRIEFLY YOUR PLANS FOR THE PROPERTY:**

Build a 160 square foot wood shed.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**APPLICATION CHECKLIST (Please check off)**

**A. Application signed** by Applicant and Property Owner (if different from Applicant)

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**C. 7 copies of a plot plan** from the town tax map or a survey. They need to include the lot dimensions including area in square feet, and also the size and location of existing and proposed buildings if applicable, including setbacks.

**D. 7 copies of photos** (suggested but optional) and any **other materials** applicant would like to submit in support of the application.

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**F. Mailing Labels** in duplicate with abutters names and addresses for notices.

**G. TOTAL FEE** paid by cash or check made payable to "Town of Lyndeborough"

1. Application fee of:

\$200.00 VARIANCE (per Section requested)	\$	_____
\$200.00 SPECIAL EXCEPTION	\$	_____
\$200.00 APPEAL FROM ADMINISTRATIVE DECISION	\$	200.00
\$200.00 EQUITABLE WAIVER	\$	_____

2. Abutter Notification fee: # of abutters <u>7</u> X \$15.00 =	\$	105.00
3. Applicant & Owner mailing fee: <u>2</u> X \$15.00 =	\$	30.00
4. Public notices:		Minimum of \$60.00 Additional fees may apply.

**TOTAL FEE \$** 335.00



“Memorandum in  
support of  
Appeal of Administrative  
Decision”

Follows on the next 5 pages





**MEMORANDUM IN SUPPORT OF APPEAL OF ADMINISTRATIVE DECISION**

Lyndeborough Zoning Board of Adjustment  
Leo M. Trudeau, Building Inspector  
9 Citizens' Hall Rd  
Lyndeborough, NH 03082

**RE: Map-Lot-Sublot 230-005-002; Build Permit Application 2024-30**

***Background of Property and Application for Building Permit***

1. The property at issue, M/L 230-5-2, is a Conservation Lands lot (the "Property") owned by Thomas and Virginia Chrisenton, Trustees of the High Ridge Trust (collectively the "Chrisentons").

2. The Property was created by subdivision plan pursuant to the Town of Lyndeborough Zoning Ordinance 404.10. Said plan was approved, unanimously (7-0) by the Lyndeborough Planning Board on April 21, 2022, was signed on May 19, 2022, and is recorded at the Hillsborough County Registry of Deeds as Plan #41413 (the "Subdivision Plan") (Exhibit A).

3. Pursuant to RSA 677:15, any appeal claiming that the subdivision plan approved by the Planning Board was unlawful must have been brought within 30 days of April 21, 2022. No such appeal was taken.

4. Access to the Property is via Western Way, a private street shown on the Subdivision Plan. *See* Exhibit A. Western Way meets the requirements for lot access under LZO 404.10. Western Way was used for access to pasture lands and access to build the many miles of stone walls during the 18th and 19th century.

5. Western Way is subject to a recorded Private Road Agreement between the Chrisentons and four other property owners who utilize Western Way for access. (Exhibit B).

6. The Chrisentons have improved Western Way beyond the minimum standards required under LZO 404.10. The Chrisentons received approval from the Fire Chief, Brian Smith (Exhibit C) to construct two fire ponds, one on lot 230-7 and another on lot 229-5 on 7/22/2016. (NH DES Env-Wt 308.01 (b)(6)).

7. On February 28, 2024, the Chrisentons filed an application for a building permit to construct a small woodshed, approximately 160 square feet, on the Property (the “Woodshed Permit”).

8. On March 26, 2024, the Town of Lyndeborough Building Inspector and Code Enforcement Officer, Leo Trudeau, issued a letter to the Chrisentons denying the Woodshed Permit (the “Denial Letter”) (Exhibit D) In the Denial Letter, Mr. Trudeau states that the Woodshed Permit is denied pursuant to an “active permitting moratorium, as previously detailed in the Office of the Building Inspector letter of September 13, 2021, Board of Selectmen letter of June 14, 2023, and Town Counsel letter of July 12, 2023,” (Collectively, the “Permit Moratorium”) (Exhibit E, F, and G, respectively).

9. As set forth below, the Permit Moratorium, and consequently the Denial Letter, are unlawful and unreasonable and are premised on a faulty reading of the Lyndeborough Zoning Ordinance.

***The Permit Moratorium is unlawful and unreasonable.***

10. Foremost, the letters identified in the Denial Letter claim that the Permit Moratorium has been in place since September 13, 2021. If true, the Permit Moratorium cannot apply to the Property because it was created via a Conservation Lands subdivision plan approved

by the planning board and recorded at the registry in May of 2022. The reasons stated for the Moratorium, therefore, could not apply to a lot that was approved by the Planning Board after the moratorium was put in place.

11. The Permit Moratorium claims that the roadway serving the Property, specifically, Western Way must be upgraded to the minimum standards established in the *Town of Lyndeborough Street and Road Standards* pursuant to LZO 404.00(b). This ordinance, however, does not apply to the Property because it was subdivided as Conservation Land under LZO 404.10.

12. LZO 404.00 and the minimum standard requirement applies to the subdivision of “large lots.” LZO 404.00(b) explicitly provides that lots created by a large lot subdivision “shall be accessed by a private road constructed to meet the minimum standards established in the *Town of Lyndeborough Street and Road Standards*.” **Conservation Land subdivisions under LZO 404.10, however, does not have this requirement.** Further, LZO 404.10 explicitly states that the standards set forth in 404.10 are “the only requirements for subdivision approval.” A close inspection of the subdivision requirements under LZO 404.10 reveals there is no requirement that all access streets be upgraded or constructed to meet the minimum design standards. Accordingly, because the Property was subdivided via LZO 404.10 as a Conservation Land subdivision, the requirement under LZO 404.00 to construct access roads to meet the minimum Town standards does not apply to the Property.

13. The Town has no authority to enact a permit moratorium which unjustly and illegally targets a few property owners. In New Hampshire, municipalities only have the authority and power granted to them by the legislature. Under RSA 674:23, municipalities may enact temporary moratoriums on buildings permits in certain circumstances, but only after the

requirements of the statute are met. Here, there is no evidence that the Town has followed any of the procedural steps necessary to adopt a building permit moratorium under RSA 674:23. Rather, the Town has unfairly enacted this moratorium against the Chrisentons and a few other property owners in violation of state law in order to force the Chrisentons to upgrade a private road to Town standards.

14. Lastly, the Town claims that the moratorium has been in place since September 13, 2021; however, such moratoriums are limited by law to no longer than one year. RSA 674:23, III(c).

15. Accordingly, the Permit Moratorium is based on a misreading of the Zoning Ordinance and is invalid because it does not comply with state law.

***The Property Complies with RSA 674:41.***

16. The Town has mistakenly claimed that RSA 674:41, I(d) prevents the issuance of building permits because Western Way is a private road. A plain reading of the statute and relevant case law demonstrates that the Town has misinterpreted RSA 674:41.

17. To begin, the Property meets the requirements for the issuance of building permits pursuant to RSA 674:41. Specifically, RSA 674:41, I(b)(2) provides that a building permit may be issued for a property provided that the street giving access to the lot corresponds in its location and lines with a street on a subdivision plat approved by the planning board. As stated above, the Property has access via Western Way, a private street which is shown on Plan #41413. Accordingly, the Property complies with RSA 674:41 and does not prohibit the issuance of a building permit.

18. The Town claims that because Western Way is a private street, the additional requirements of RSA 674:41, I(d) must be satisfied before a permit can be issued. This is wrong.

The statute is clear that a “street giving access to the lot” qualifies if it meets one of the requirements set forth in paragraphs (a) through (e). The use of the word “or” in the statute is key. Because the Property meets subparagraph (b)(2), there is no need to also meet the requirements of subparagraph (d). The Supreme Court, in review of this issue, found that a private road shown on a subdivision plan is governed by RSA 674:41, I(b)(2), not RSA 674:41, I(d). *Crowley v. Town of Loudon*, 162 N.H. 768, 775 (2011). Accordingly, the Property complies with RSA 674:41 and any claim by the Town that it does not is due to a misinterpretation of the statute.

***Conclusion***

19. Based on the foregoing, the Denial Letter was unlawful and unreasonable and this Board should reverse the decision, find that the Permit Moratorium is unlawful, and order that the Building Permit be issued.



SIGNATURE PAGE

THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

I, the undersigned Applicant, hereby certify that the information contained within this Application is complete and accurate, and I acknowledge that I have read and understand the Application Instructions, which are set forth on the first two pages of this Application form.

William Reddington Esq. for Wadleigh, Storr & Peters, PLLC.  
Signature of Applicant\*

TTEE Virginia Chesert TTEE  
Signature of Owner\*

\*Both Signatures Required

AUTHORIZATION TO ENTER SUBJECT PROPERTY

I, and my successors, hereby authorize members of the Lyndeborough ZBA to enter my property for the purpose of evaluating this application, including performing inspections during the application phase, post- approval phase, construction phase and occupancy phase. It is understood that these individuals must use all reasonable care, courtesy, and diligence when on the property.

Signature of Property Owner: TTEE Virginia Chesert Date: 4/18/2024  
TTEE





**ABUTTER LIST**

**THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS**

Pursuant to RSA 676:7, the Town of Lyndeborough is required to notify the applicant and every abutter of the public hearing by certified mail. The cost of required publication or posting of notice, and the cost of mailing said notices, shall be paid by the applicant.

"Abutter" is defined as:

**RSA 672:3 Abutter.** – "Abutter" means any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the term abutter means the officers of the collective or association, as defined in RSA 356-B:3, XXIII. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a manufactured housing park form of ownership as defined in RSA 205-A:1, II, the term "abutter" includes the manufactured housing park owner and the tenants who own manufactured housing which adjoins or is directly across the street or stream from the land under consideration by the local land use board.

<b>Tax Map</b>	<b>Lot No.</b>	<b>Owner(s) of Record</b>	<b>Mailing Address</b>
228	001	Thomas & Virginia Chrisenton Trustees of High Ridge Trust	PO Box 121, Lyndeborough, NH 03082
Greenfield	R10-13	Thomas & Virginia Chrisenton Trustees of High Ridge Trust	PO Box 121, Lyndeborough, NH 03082
230	005	Thomas & Virginia Chrisenton Trustees of High Ridge Trust	PO Box 121, Lyndeborough, NH 03082
230	005-1	Mader Family Rev Trust	24 Laurel Lane, Lyndeborough, NH 03082
Owner 230	005-2	Thomas & Virginia Chrisenton Trustees of High Ridge Trust	PO Box 121, Lyndeborough, NH 03082
230	006-1	Steve & Maria Brown	290 Winn Road, Lyndeborough, NG 03082
230	007	Thomas & Virginia Chrisenton Trustees of High Ridge Trust	PO Box 121, Lyndeborough, NH 03082
230	024	Phillip & Sharon Dupont	PO Box 92, Lyndeborough, NH 03082
		Wadleigh, Starr & Peters PLLC	95 Market St, Manchester, NH 03101

Attach with application.



# Exhibit A

Hillsborough County Registry of Deeds

Plan # 41413

Planning Board Minutes

April 21, 2022



Exhibit A

Addendum to Plot Plan for ZBA Case #2024-3

Hillsborough County Registry of Deeds Plan #41413

Size of Tax Map 230-005-2 is:

34.3 Acres = 1,494,108 square feet

Initial location of woodshed is west of the electric pole nearest Road Point \*P\*.

RECEIVED  
APR 22 2024  
SELECTMEN'S OFFICE



# TOWN OF LYNDEBOROUGH PLANNING BOARD MINUTES

## April 21, 2022

*Approved on 6-16-22*

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

**Members Present:** Chairman Charlie Post, Mike Decubellis, Ray Humphreys Selectmen's Representative Mark Chamberlain. New Board Members: Mark Schultz and Alternate Alyssa Lavoie. NRPC Circuit Rider Jay Minkarah. Paul Best arrived at 7:39pm.

Chairman Post thanked Tom Chrisenton and Larry Larouche for their many years of service and hard work on the Planning Board, which helped transformed changes for the town. "Thank you from the Town and Board", he added.

**Member Not Present:** Bob Rogers

**VOTE: Mark Chamberlain made a motion, Mark Schultz seconded to nominate Charlie Post to continue as chairman. Motion passed 6-0.**

**VOTE: Ray Humphreys made a motion, Mark Chamberlain seconded to nominate Paul Best as Vice Chairman. Motion passed 6-0.**

**Public present:** Tom Chrisenton, Ginny Chrisenton, Lisa Post, Pam Holt, Charles Vars, Jonathan Lefebvre, and Tom Carr. Leo Trudeau arrived during meeting.

### **Zoning Sub-Committee Update:**

The Sub-Committee needs another member to replace Larry Larouche. Mark Schultz volunteered for the Zoning Sub-Committee.

R. Humphreys reported the committee worked on the fee schedule. They talked about the different districts and how it gets very long, cumbersome, and repetitive. They plan to design a dimensional table that illustrates this and include special exceptions noted. The process will require recodification.

The next meeting is a joint one with the Conservation Commission on May 12 at 6:30 p.m. at Citizens' Hall. The Wetlands are on the agenda.

*Paul Best arrived on 7:39 p.m. Mr. Best accepted the Vice Chairman nomination.*



**Request for Information:**

**Subdivision, Jane Hager 1990 Trust on 206 Pinnacle Road.**

Tom Carr from Meridian Land Services was representing Mrs. Hager

Mrs. Hager is proposing subdividing a 168-acre lot into two lots allowing for one of the existing three dwellings to be on their own lot. They would like to request a waiver for test pits since the houses already have septic systems. The Board asked to ensure all lots have approved septic systems on file per the RSA 485-A:38.

The secretary informed the Board that Mrs. Hager obtained a ZBA variance for the caretaker's house. The applicant should review the language on this decision, which was maybe 5-6 years ago. It was noted that Ken Dion build this house.

Jay Minkarah added the lot is not non-conforming, the use of it is.

The caretaker's lot will be 19.849 acres and main lot will be 155+. The lots will have over 500 feet of road frontage. They will share a driveway entrance and provide an easement. A two-lot subdivision would require a variance for two dwellings on one lot.

*Tom Carr left at 7:48pm*

**Case 2002-02**

*(continued and noticed from March)*

**Chrisenton, Lot Line adjustment. Map 230, Lot 7; Map 230, Lot 8 and Map 230, Lot 8-1 off Woodward Road**

Owners Tom and Ginny Chrisenton were present.

For the new configuration, the applicant needed written consent from the mortgage holder (bank). It was originally submitted as a three-lot lot line adjustment but resubmitted as a two-lot lot line adjustment.

Mark Chamberlain had a concern the letter from the bank and the plan don't match in terms of the description of what will happen. The way it is written sounds like you are consolidating the small lot. The letter was dated before the map. After a discussion about the note, G. Chrisenton said the banker was away at that time but she can ask her to redo the letter.

Correspondence: A letter from Anne Meigs was read into the minutes. *(see file)*  
*"Tom and Ginny showed me a map for a LLA a few months ago. I had no problem then or do I now that I have seen the final plans. -Best wishes, Anna Meigs."*

C. Post said he did call Anna Meigs because it was not clear which application this letter was for but she confirmed it was for this application.

**Changes:**

**Bank letter to be revised to match the purpose of the plan.**

M. Decubellis said the items we asked to be changed are here in the box and asked if the abutter was added.

Alyssa Lavoie asked what case number this is because from the March minutes this case is listed as 2022-02 on Line 170 and Line 205, while tonight's agenda list it as 2022-03. After reviewing documents, this is case 2022-02 as listed on the March minutes.

**VOTE: Mike Decubellis made a motion to approve the plan contingent on submitting the corrected letter from the bank. Paul Best seconded the motion. Motion passed 7-0.**

*Additional Abutter fees need to be paid. Send an invoice.*

**Case 2022-04:**

**Chrisenton, Lot Line Adjustment and Two-Lot Conservation Lands Subdivision Map 228, Lot 1 and Map 230, Lot 5 off Woodward Road (Noticed by NRPC)**

Owners Tom and Ginny Chrisenton were present.

The list of waivers were read.

Mark Schultz asked the purpose of the LLA. T. Chrisenton said it is stated in note 1. G. Chrisenton said to make sure Map 230, Lot 5-2 has 30 acres to fall under conservation land. M. Schultz asked why are you doing this now and have not done this in the past. T. Chrisenton said, "We didn't own a piece of it. This 13.2 acres makes sense to put it to this land, but we didn't buy that until 2017. It makes sense to have it split between the two. Steve Brown purchased a part of this lot. To the left we own that side in Greenfield."

T. Chrisenton said when we presented this in the past it was to make two conservations land lots but decide to add to the bottom parcel to make three conservations land lots.

P. Best asked if these are private roads; Klondike Road and Yukon Road.

P. Best added, in prior discussions/subdivisions, there were road agreements, and asked where is access to these properties. T. Chrisenton said either from Greenfield or Lyndeborough. Mark Chamberlain asked if they are easement. T. Chrisenton said yes.

P. Best asked if Lyndeborough is being used as access to the subdivision. T. Chrisenton said it goes by Steve Brown's property. G. Chrisenton said it depends on where someone would want to build. P. Best clarified he is not asking where they would want to build, but access. T. Chrisenton said, "Yes. The road agreement mentioned M/L 228-01 so they would be able to come out the northern lot through Lyndeborough."

The application checklist was reviewed and appears to be in order.

**VOTE: Paul Best moved to accept the application. Mark Chamberlain seconded the motion. Motion passed 7-0.**

*Opened public hearing at 8:16 p.m.*

G. Chrisenton said, "We want to restrict the use of these lots to single family use and to allow agricultural and forestry. We won't live forever. We do not want someone to come along and divide them up into small lots".

Mark Chamberlain said it's a conservation subdivision and lot line adjustment but our regulations don't have a conservation and lot line adjustment but I understand your intent. The zoning only has a conservation subdivision. He had a question on the summary and asked if they are keeping Area A in the final layout. G. Chrisenton said it has to be shown there so it's a non-buildable area. In Key 3, the area after LLA there is no Area A shown in the legend. This will be made clearer on the final map. Note 9 states it.

Abutter feedback.:

An email from Steve and Maria Brown was read letter into minutes. It is dated 4-21-22 and was emailed to T/A Russ Boland. The email had no signature.

*"Good Morning Russ,*

*Maria and I had planned on attending tonight's Planning Board meeting. Something has come up which will prevent us from being there. I would like to get a note to Chairman Post if possible instead.*

*With respect to Case 2202-04: LLA and 2 Lot Conservation Land Subdivision, Tax Map 228-1 and Map 230, Lot 5-2 off of Woodward Road. As abutters to the properties, we have no objections to the plan.*

*If you could forward this to Chairman Post we would appreciate it.*

*Thank You,*

*Steve and Maria Brown."*

**VOTE: Paul Best made a motion, Ray Humphreys seconded to approve the Lot Line Adjustment/Subdivision. Motion passed 7-0.**

*The hearing was closed at 8:22 p.m. The Mylars will be brought to the next meeting.*

### **New Business:**

#### **Case 2022-5**

*(noticed by NRPC)*

#### **Pam Holt, Two-Lot Subdivision, Map 247, Lot 25 Perham Corner Rd. & Center Rd.**

Owner Pam Holt and John Lefebvre, Fieldstone Land Consultants were present.

Charlie Vars, Ms. Holt's construction manager was in the audience.

R. Humphreys asked for a copy of the approved and certified septic system plan from the State. There is construction approval number listed on the plan for the septic.

There is no deed in the package.

M. Decubellis asked where the driveway will be and if the permit has been submitted to the State. It was discussed that Perham Corner is a State Right-of-Way. The Board would like to see this before a waiver is granted.

John Lefebvre asked about delineating the wetlands. A. Lavoie mentioned it is a four-bedroom home.

R. Humphreys asked if the access is off the gravel driveway. The Board was informed that access will be from Perham Corner Road. A portion of Chase Road through the site was discontinued. There will be no road easement through Map 247, Lot 25.

M. Chamberlain said he does not see the referencing source topography as well as vertical datum. J. Lefebvre said it is in the map. They did topography on Lot 2, which was put together onsite with GPS and from the NH site. The Board asked to add a note referencing as well vertical data.

R. Humphreys asked how many acres are wet on Lot 2 because it looks significant. J. Lefebvre said 175 square feet of land. R. Humphreys added that limits that lot from a building perspective with the well radius. J. Lefebvre said it's a 4,000 square foot area and that can be moved. They will have to take that rock wall out.

The curb cut is pending from state. The letter from the fire chief is pending. Pam Holt said that Morris Pond is around the corner. It has a dry hydrant there.

Alyssa Lavoie asked if these lots use to be part of a large parcel that was subdivided. It was explained this was the original deed when Pam holt purchased it. Pam Holt explained there was a subdivision in 2019 in which Paul Herbert built a home off Chase Road. A. Lavoie said she looked at the lot that was sold and it said the deed listed 45-acres.

M. Decubellis asked if there are 2-acres of dry land and is it contiguous. J. Lefebvre said it is and he can provide the calculations. The Board asked to show the 2-acres contiguous dryland and felt the map was difficult to read. There was a question if the drylands were in the setbacks, which can't be built in, but can be counted.

M. Decubellis asked if it's undivided by drainage ways and was informed, "Yes". There are orchards on the property. Mr. Lefebvre showed where the new home could go and it was pointed out the well would have to be moved. Mr. Lefebvre felt it could be moved a bit once the home style and location are selected.

**VOTE: Mark Chamberlain made a motion to accept the application as substantially compete. Ray Humphreys seconded the motion. Motion passed 7-0.**

*Public hearing opened at 8:51 p.m.*

J. Lefebvre explained Pam Holt has a 20-acre parcel and wants a new homesite for herself. The property meets the requirements of 2-acres contiguous dry land. There is 500 +/- feet of road frontage on Center Road and the remaining parcel will have 505 feet of road frontage. They have a septic design for the new lot and it's designed for a duplex. They are asking for a waiver. They prefer to not delineate the wetlands. There are existing improvements.

R. Humphreys questioned the road frontage because on the PDF map it comes out to 490 feet. There was a conversation about the road frontage and the process they used.

R. Humphreys said on the top of waiver, is there any desire for a future subdivision? J. Lefebvre said. "No, she is looking for a new house lot". Mike Decubellis said he would support the waiver of wetlands delineation if they knew there is no further subdivision. Other Board members agreed. J. Lefebvre said if the new owner comes in with a subdivision in the future and they meet the regulations, what is to stop them? R. Humphreys said they are asking if the applicant is willing to say, "No further subdivision". The Board was informed that the lot is already under contract to be sold, contingent on this subdivision approval.

The Building Inspector explained that Mr. Hebert's lot was the first subdivision, Pam's would be the second then another subdivision would make four lots (counting the original lot), constituting a major subdivision.

Alyssa Lavoie said the real estate advertisement states the lot can be subdivided again.

The Board would like to see a note added to make it clear, "any further subdivision of Map 247, Lot 25 would be a major subdivision."

L. Trudeau suggested the inclusion for a high intensity soil survey. It was discussed there have been quite a few cases in town recently where property owners said, "I was not told that", and it is costing taxpayers money. A note makes the intention clear plus would be easier to document and remember the action.

Mark Chamberlain said this property already had an illegal subdivision by using non-contiguous road frontage (Herbert, Map 247, Lot 25)).

J. Lefebvre said this is a large parcel of 15-acres. He was informed that is not really a large parcel for Lyndeborough. R. Humphreys mentioned that the Board is not in favor of irregular shape lots either.

The Board would like to see Baldwin Hill Road noted on the plan.

A question arose concerning how much frontage there was along Center Road. M. Chamberlain said there is approximately 50-feet, because of the road frontage issue from the former Holt Subdivision. That lot was purchased by Paul Hebert.

J. Lefebvre explained they have 51-feet from the existing home. If I change that line it will drop below five-acres, which would require them to go for State subdivision if under that. It is not a special wall, you won't see it. He added, maybe some portions of the wall will stay. Mark Chamberlain felt they can make it work and they might have to bend that line. There is 2,200 feet of area to work with to get five-acres. There was a disagreement on if the calculations would work.

R. Humphreys said they would satisfy zoning if under 5-acres but, yes, you have to go to State if under 5-acres. He pointed out a line that would allow much more room to build and it would not have snow plowing issues and have more room for the well location

options and felt from a building perspective it makes a lot of sense. He added, it seems there is a lot of additional plans. J. Lefebvre said there are no future plans, we wanted to leave the lot with over 500 feet.

J. Lefebvre felt going to the State was costly, timely and unnecessary.

There was a brief discussion about good soils and contagious acres requirements.

**To Do Items:**

**-Copy of the septic plan**

**-Deed**

**-Topography notes so you can see referencing Vertical Data. Note 10 will be expanded to include this.**

**-Copy of the driveway permit application with the State for the curb cut.**

**-see Baldwin Hill Road noted on the plan**

**-Move test pit notes and can see the 4K and 100-foot wetlands buffer.**

**-Add "Any further subdivision of Map 247, Lot 25 shall constitute a major subdivision"**

**-Letter from the Fire Chief.**

**-Review the stone wall to see if the suggested changes will work.**

**VOTE Mark Chamberlain moved, Ray Humphreys seconded to continue the public hearing to May 19, 2022. Motion passed 7-0.**

*Public Hearing over at 9:20 p.m.*

**Other Business**

**Application Process for Board Meeting**

**Master Plan Subcommittee Update**

This committee needs another member. Alyssa Lovie said she can attend.

**Changing Starting time of Meeting Discussion:**

**VOTE: Ray Humphreys made a motion to start future Planning Board meetings at 7:00 p.m. Mike Decubellis seconded the motion. Motion passed 7-0.**

**Minutes:**

**VOTE: Charlie Post made a motion, Ray Humphreys seconded to accept the March 17, 2022 minutes as amended. Mark Schultz and Alyssa Lavoie abstained. Motion passed.**

(Review Mark's and Ray's emails for changes)

**Correspondence:**

There are three (3) Intent to Cuts permits (Dutton Road, Boette and?) Mark Chamberlain had a conversation with Sam Ingram from Meridian Land Services regarding the frontage on the Dutton Road property, which is 55-feet and does not have site line to the left. Former Road Agent Mark Chase denied the permit but gave them a temporary driveway with signage. Mr. Ingram will come to the Planning Board for a driveway permit.

R. Humphreys asked if the Town is requiring a bond for temporary driveway for logging operations. That is part of the of the fee discussion.

There was a certified public notice addressed to the ZBA from the Temple ZBA notify them of a hearing on April 14, 2022 regarding a wedding venue application on Webster Highway at the old Pony Farm.

**Excavation Permits: 155-E-2**

M 213 Lot 001 Salisbury Road for Granite State Concrete. Paid \$100  
M 213 Lot 006-00 Salisbury Road  
M 238 Lot 022-00 Cram Hill Road  
All signed by the BOS on 4-16-22, Quinn Brothers. Paid \$111  
M 245 Lot 001-00, Cram Hill Road, Quinn, no fee

R. Humphreys mentioned the Rules of Procedures are not completed and the Board has to address Class VI roads and application procedures.

Building Inspector Leo Trudeau said to expect at least three (3) new building permits on a Class VI roads. For example, Nichols Road applied for a septic permit.

An "Authorized Agent Form" was approved at last night's Selectmen's meeting and that will be required for all Boards and Committees. It clearly states the owner is responsible for any actions by their agent. This will need to be updated on the application checklist.

**Adjournment:**

**VOTE: Mike Decubellis moved, Paul Best seconded to adjourn at 9:44 p.m. Motion passed 7-0.**

Respectfully Submitted,

*Kathleen Humphreys* – signed electronically

Kathleen Humphreys  
Planning Board Secretary

# Exhibit B

Private Road Agreement

Hillsborough County Registry of Deeds

Book 9486 Page 376





After Recording, Return To:  
Thomas & Virginia Chrisenton  
PO Box 121  
Lyndeborough, NH 03082

Mary Ann Crowell  
Register of Deeds, Hillsborough County

**CORRECTIVE PRIVATE ROAD AGREEMENT**

To replace the previous Private Road Agreement recorded at the Hillsborough County Registry of Deeds Book 9448, Page 476.

WHEREAS, **Thomas G. Chrisenton & Virginia L. Chrisenton** (hereinafter referred to as **Chrisenton**) own the following contiguous tracts of land: Lyndeborough Tax Map 230-8 (24.6 acres), Tax Map 230-8-1 (17.4 acres), Tax Map 230-7 (27.0 acres), Tax Map 230-5 (28.1 acres), Tax Map 230-5-2 (25.4 acres), Tax Map 228-1 (82.1 acres), Tax Map 230-24 (30.1 acres), Tax Map 229-2 (48.6 acres), Tax Map 229-8 (38.1 acres), Tax Map 229-7 (54.5 acres), Tax Map 229-5 (41.4 acres), Tax Map 229-4 (52.9 acres), Tax Map 229-6 (20.0 acres), Tax Map 229-3 (114.1 acres) and Greenfield Tax Map R10-13 (63.6 acres) and **Steven M. Brown and Maria O. Brown** (hereinafter referred to as **Brown**) own the following contiguous tracts of land: Lyndeborough Tax Map 228-2-2 (22.5 acres), Tax Map 230-6 (20.3 acres), Tax Map 228-1-1 (59.0 acres) and Tax Map 230-6-1 (29.2 acres), and **Bret M. & Donna T. Mader, Co-Trustees of The Mader Family Revocable Trust of 2019** (hereinafter referred to as **Mader**) own the following contiguous tracts of land: Lyndeborough Tax Map 230-5-1 (39.1 acres) and Tax Map 230-1 (40.4 acres) as depicted on Plan entitled "Compilation Plan for Lots of Thomas G. & Virginia L. Chrisenton and Thomas G. Chrisenton, Woodward Road, Lyndeborough and Greenfield, New Hampshire, Scale 1" =400', Date 18 December 2020" by Dennis D. McKenney, Licensed Land Surveyor which Plan is recorded in the Hillsborough County Registry of Deeds as Plan # 40795 (hereinafter referred to as the Plan); New Owners as of the date this agreement is registered, are **Philip Dupont and Sharon C. Dupont**, who now own Lyndeborough Tax Map 230-24, **Bret M. & Donna T. Mader**, as themselves and as **Co-Trustees of The Mader Family Revocable Trust of 2019**, who now own Tax Map 229-8 and **Jetavana Monastic Community**, who now own Tax Map 229-3:

WHEREAS, the access to said tracts is by way of easements along a private road in the town of Lyndeborough, County of Hillsborough, State of New Hampshire to properties in Lyndeborough and Greenfield, New Hampshire that commence from Woodward Road, Lyndeborough, (road point \*Z2\*) and traverses Tax Map 230-7, Tax Map 230-5-2, Tax Map 230-24, Tax Map 230-1, Tax Map 229-8, Tax Map 229-2, Tax Map 229-7, Tax Map 229-5 and Tax Map 229-6, the Private Road and Private Secondary Roads are shown on said Plan and described and defined below.

### Table of Contents

- A. Each individual Tax Map, listed in bold, that has the Private Road traversing their lot is listed in this section. Other Tax Maps that have access to use the Private Road to gain access to their lot are listed by Tax Map number and the Private Road Points used to enter, traverse and exit the lot.
  - B. Tax Maps that share the use of Secondary Roads to gain access to their lots are listed in this section by the Road Points used and the Tax Map number that contains these Road Points. The maintenance of that section of a Secondary Road is described for Residential and Non-Residential owners.
  - C. Agreement
  - D. Definitions
- 
- A. Each individual Tax Map, listed in bold, that has the Private Road traversing their lot is listed in this section. Other Tax Maps that have access to use the Private Road to gain access to their lot are listed by Tax Map number and the Private Road Points used to enter, traverse and exit the lot.
    - (1) **Tax Map 230-7**: WHEREAS, the future conveyance of any said lots owned by Chrisenton, Brown or Mader will be subject to said easements which follow said Private Road depicted on said Plan so that a conveyance of Lyndeborough 230-7 will be subject to easements granted to title holders of Lyndeborough Tax Map 230-8, Tax Map 230-8-1, Tax Map 228-2-2, Tax Map 230-6, Tax Map 228-1-1, Tax Map 230-5, Tax Map 230-5-2, Tax Map 230-6-1, Tax Map 230-5-1, Tax Map 228-1, Tax Map 230-1, Tax Map 230-24, Greenfield Tax Map R10-13, Lyndeborough Tax Map 229-2, Tax Map 229-8, Tax Map 229-7,

Tax Map 229-5, Tax Map 229-4, Tax Map 229-6, Tax Map 229-3 (road point \*Z2\* to \*Z1\* to \*Z\* to \*Y\* to \*X\* to \*T\*) as shown on said Plan to use said Private Road on Tax Map 230-7.

- (2) **Tax Map 230-5-2:** WHEREAS, the future conveyance of any said lots owned by Chrisenton, Brown or Mader will be subject to said easements along said Private Road depicted on said Plan so that a conveyance of Tax Map 230-5-2, will be subject to easement granted to title holders of Lyndeborough Tax Map 230-6, Map 228-1-1, Tax Map 230-5, Tax Map 230-6-1, Tax Map 230-5-1, Tax Map 228-1, Tax Map 230-1, Tax Map 230-24, Greenfield Tax Map R10-13, Lyndeborough Tax Map 229-2, Tax Map 229-8, Tax Map 229-7, Tax Map 229-5, Tax Map 229-4, Tax Map 229-6, Tax Map 229-3, (road point \*T\* to \*R\* to \*Q\* to \*P\* to \*N\* to \*H\*) as shown on said Plan to use said Private Road on Tax Map 230-5-2.
- (3) **Tax Map 230-24:** WHEREAS, the future conveyance of any said lots owned by Chrisenton or Mader will be subject to said easements along said Private Road depicted on said Plan so that a conveyance of Tax Map 230-24 will be subject to easement granted to title holders of Greenfield Tax Map R10-13, Lyndeborough Tax Map 229-8, Tax Map 229-7, Tax Map 229-5, Tax Map 229-4, Tax Map 229-6, Tax Map 229-3 (road points \*H\* to \*F\* to \*E\*) and Tax Map 230-1, Tax Map 229-2, Tax Map 229-5, Tax Map 229-4, Tax Map 229-6, Tax Map 229-3 (road points \*H\* to \*F\* to \*I\* to \*L\*), as shown on said Plan to use said Private Road on Tax Map 230-24.
- (4) **Tax Map 230-1:** WHEREAS, the future conveyance of any said lots owned by Chrisenton or Mader will be subject to said easements along said Private Road depicted on said Plan so that a conveyance of Tax Map 230-1 will be subject to easement granted to title holders of Lyndeborough Tax Map 229-2, Tax Map 229-5, Tax Map 229-4, Tax Map 229-6, Tax Map 229-3 (from \*L\* to \*LL\*), as shown on said Plan to use said Private Road on Tax Map 230-1.
- (5) **Tax Map 229-8:** WHEREAS, the future conveyance of any said lots owned by Chrisenton will be subject to said easements along said Private Road depicted on said Plan so that a conveyance of Tax Map 229-8 will be subject to easement granted to title holders of Lyndeborough Tax Map 229-7, Tax Map 229-5, Tax Map 229-4, Tax Map 229-6, Tax Map 229-3 (\*E\* to \*D\* to \*B\* to \*A\*) and Greenfield Tax Map R10-13 (road points \*C\* to \*D\*) and Lyndeborough Tax Map 229-2 (\*B\* to \*K\*) as shown on said Plan to use said Private Road on Tax Map 229-8.

- (6) **Tax Map 229-2:** WHEREAS, the future conveyance of any said lots owned by Chrisenton will be subject to said easements along said Private Road depicted on said Plan so that a conveyance of Tax Map 229-2 will be subject to easement granted to title holders of Lyndeborough Tax Map 229-5, Tax Map 229-4, Tax Map 229-6, Tax Map 229-3 (road points \*LL\* to \*KK\* to \*II\* to \*HH\* and access to road point \*MM\*) as shown on said Plan to use said Private Road on Tax Map 229-2.
- (7) **Tax Map 229-7:** WHEREAS, the future conveyance of any said lots owned by Chrisenton will be subject to said easements along said Private Road depicted on said Plan so that a conveyance of Tax Map 229-7 will be subject to easement granted to title holders of Lyndeborough Tax Map 229-5, Tax Map 229-4, Tax Map 229-6, Tax Map 229-3 (road points \*A\* to \*FF\*) as shown on said Plan to use said Private Road on Tax Map 229-7.
- (8) **Tax Map 229-5:** WHEREAS, the future conveyance of any said lots owned by Chrisenton will be subject to said easements along said Private Road depicted on said Plan so that a conveyance of Tax Map 229-5 will be subject to easement granted to title holders of Lyndeborough Tax Map 229-4, Tax Map 229-6, Tax Map 229-3 (road point \*FF\* to \*EE\* to \*CC\* to \*BB\* and road point \*HH\* to \*GG\* to \*EE\*) and Tax Map 229-6 (road point \*CC\* to \*DD\*) as shown on said Plan to use said Private Road on Tax Map 229-5.
- (9) **Tax Map 229-6:** WHEREAS, the future conveyance of any said lots owned by Chrisenton will be subject to said easements along said Private Road depicted on said Plan so that a conveyance of Tax Map 229-6 will be subject to easement granted to title holders of Tax Map 229-3 (road point \*BB\* to \*AA\*) as shown on said Plan to use said Private Road on Tax Map 229-6.
- B. Tax Maps that share the use of Secondary Roads to gain access to their lots are listed in this section by the Road Points used and the Tax Map number that contains these Road Points. The maintenance of that section of a Secondary Road is described for Residential and Non-Residential owners.
- (1) **Secondary Road Points \*V\* to \*X\* on Tax Map 230-7:** WHEREAS, the future conveyance of said Tax Map 230-8-1, owned by Chrisenton, and Tax Map 228-2-2 and Tax Map 230-6 owned by Brown,
- a. non-residential users shall be responsible for an equal share, unless there is a mutually agreed upon share, of the maintenance of a Private Secondary Road from road point \*V\* to \*X\* on Tax Map 230-7.

- b. Any Residential users using the Private Secondary road from road point \*V\* to \*X\* shall be responsible for their portion of residential maintenance from their driveway to road point \*X\* on Tax Map 230-7.
- (2) **Secondary Road Points \*N\* to \*O\* on Tax Map 230-5-2:** WHEREAS, the future conveyance of said Tax Map 230-5-1 owned by Mader shall be responsible for all, unless there is a mutually agreed upon share, of a Private Secondary Road from road point \*N\* to \*O\* on Tax Map 230-5-2.
- (3) **Secondary Road Points \*C\* to \*D\* on Tax Map 229-8:** WHEREAS, the future conveyance of said Greenfield Tax Map R10-13, owned by Chrisenton, that portion of a Private Secondary Road from road point \*C\* to \*D\* on Tax Map 229-8 will be the responsibility of Greenfield Tax Map R10-13 when there is a residence on Greenfield Tax Map R-10-13 and the owner chooses to use Private Secondary Road point \*C\* to \*D\* to said Private Road from road point \*D\* on Tax Map 229-8 to \*Z2\* on Tax Map 230-7.
- (4) **Secondary Road Points \*B\* to \*K\* on Tax Map 229-8:** WHEREAS, the future conveyance of said Tax Map 229-8, and Tax Map 229-2 owned by Chrisenton.
- a. Maintenance of that portion of a Private Secondary Road from road point \*B\* to \*K\* on Tax Map 229-8 used for non-residential use will be shared equally, unless there is a mutually agreed upon share, by both Tax Maps.
- b. Once residential use is planned on Tax Map 229-8, the owner of Tax Map 229-8 is responsible for any road upgrades and maintenance up to the driveway on Tax Map 229-8.
- c. Once residential use is planned on Tax Map 229-2, the owner of Tax Map 229-2 is responsible for any road upgrades and maintenance from the residential driveway for Tax Map 229-8 to Secondary Road point \*K\*, unless there is a mutually agreed upon share, by both owners;

### C. Agreement

- (1) WHEREAS, Chrisenton, Brown and Mader desires to enter into this Agreement regarding the costs of maintenance and improvements to said Private Road that traverses Tax Map 230-7, Tax Map 230-5-2, Tax Map 230-24, Tax Map 230-1, Tax Map 229-8, Tax Map 229-2, Tax Map 229-7, Tax Map 229-5 and Tax Map 229-6 and Private Secondary Roads that lead off of said Private Road on **Tax Map 230-7, Tax Map 230-5-1, Tax Map 229-8 and Tax Map 229-8.**

(2) WHEREAS, it is agreed that future Tax Map Owners will be bound by this agreement;

(3) NOW THEREFORE, it is agreed as follows:

(a) **Vehicle and Pedestrian Access Easement.** Said Private Road shall be subject to a perpetual, appurtenant easement for ingress and egress granted access to all Tax Map Owners and their occupants, agents, employees, guests, services, emergency vehicles and all utility easements and their agents. Tax Map Owners who primarily enter their Tax Map, by foot or vehicular access, from points other than Woodward Road, road point \*Z2\*, will be responsible for only those sections of the Private Road that they primarily use.

(b) **Parking.** For the safety of the residents, no machinery, trailers, vehicles or other property may be stored or parked upon the Private Road. No Tax Map may be used as a parking lot for non residential use without a majority vote of all Tax Map Owners that use the road to exit at Woodward Road, road point \*Z2\*.

(c) **Road Manager.** A Road Manager shall be elected by a majority of the Tax Map Owners, will serve a term as agreed to by the Tax Map Owners, and can be replaced or renewed at any time by a simple majority vote of the Tax Map Owners.

(1)The Road Manager shall be responsible for monitoring the condition of the road surface and initiating maintenance activities as needed to maintain the minimum road surface standards.

(2)The Road Manager may close the road to motor vehicles which go to non residential lots, such as during mud season, so the road is not damaged.

(d) **Road Uses.** All the roads that are mutually used shall be used for strictly vehicular residential purposes or permitted agricultural or forestry use.

(1)Any use of a Tax Map, that enters the Road at Woodward Road, (road point \*Z2\*), that is not for the residential, agricultural or forestry use has to be approved by a majority vote of the all Tax Map Owners in advance.

(e) **Road Maintenance on Roads that Provide Access to Residential Tax Maps.** Road maintenance and road improvements will be undertaken and made whenever necessary to maintain the road in good operating condition at all times and to insure the provision of safe access by emergency vehicles.

- (1) A majority vote of all Residential Tax Map Owners is required for any road improvements and to accept the bid for any road improvement contract on Sections of The Private Road that provided access to Residential Tax Map Owners. Before authorizing expenditures for future road improvements, Tax Map Owners will be notified by the Road Manager, costs estimates will be provided and an agreement will be required.
  - (2) If any Residential Tax Map Owner performs improvements, maintenance, repairs or replacements without the approval of the other Residential Tax Map Owners prior to performing such work, the Residential Tax Map Owner performing such work shall become liable for the entire cost thereof, unless such work is deemed an emergency. Any improvements can not change existing water control, culverts, or road location without the approval of the Road Manager.
  - (3) Where emergency repairs are necessary neither majority vote nor prior approval is necessary before making such improvements or undertaking such maintenance.
  - (4) For maintenance purposes only, access to said Private Road extends up to forty feet from either side of center line of said Private Road and the Private Road must have a travel width of at least 12 feet and be suitable for year round travel by Class 8 trucks.
- (f) Road Maintenance on Roads that Provide Access to Non-Residential Lots.** Road maintenance and road improvements will be undertaken and made whenever necessary to maintain the road in good operating condition at all times and to insure the provision of safe access by emergency vehicles.
- (1) A majority vote of all Non-Residential Tax Map Owners is only required for any road improvements and to accept the bid for any road improvement contract on sections of The Private Road that provided access to their Non-Residential Tax Map number. Before authorizing expenditures for future road improvements, Tax Map Owners will be notified by the Road Manager, costs estimates will be provided and an agreement will be required.
  - (2) If any Non-Residential Tax Map Owner performs improvements, maintenance, repairs or replacements without the approval of the other Non-Residential Tax Map Owners prior to performing such work, the Non-Residential Tax Map Owner performing such work shall become liable for the entire cost thereof, unless such work



is deemed an emergency. Any improvements can not change existing water control, culverts, or road location without the approval of the Road Manager.

- (3) Where emergency repairs are necessary neither majority vote nor prior approval is necessary before making such improvements or undertaking such maintenance. For maintenance purposes only, access to said Non-Residential Private Road extends up to forty feet from either side of center line of said Private Road and the Private Road must be have a travel width of at least 12 feet and be suitable for travel by Class 8 trucks.
- (g) **Width of the Private Road and Secondary Private Roads:** For maintenance purposes only, access to said Private Road and Secondary Private Roads extends up to forty feet from either side of center line of the road must have a travel width of at least 12 feet and be suitable for travel by Class 8 trucks.
- (h) **Speed Limit:** The speed limit, for all roads in this agreement, is 20 miles per hour.
- (i) **Cost sharing for vehicular access for Residential Tax Map Owners of the Road.** Road maintenance, snowplowing and road improvement costs shall be shared on a pro-rata cost basis between the Residential Tax Map Owners sharing vehicular access to said Road.
  - (1) A road account will only be applicable to those Residential Tax Map Owners that use the exit out Woodward Road (road point \*Z2\*).
  - (2) For cost percentages, Tax Map 230-7 has a rating of 1, Tax Map 230-5-2 has a rating of 2, Tax Map 230-24 has a rating of 3, Tax Map 229-8 and Tax Map 230-1 have a rating of 4, Tax Map 229-7 and Tax Map 229-2 have a rating of 5, Tax Map 229-5 has a rating of 6, Tax Map 229-6 has a rating of 7.
  - (3) Each Residential Tax Map Owner will have the same rating as the highest rated Tax Map for the primary vehicular route or the sum of the highest rated vehicular routes they primarily travel on to get from road point \*Z2\* at Woodward Road to their residence.
    - (a) For example, if there is a residence on Tax Map 230-8, it has a rating of 1 because it drives on Tax Map 230-7 to get to their residence, Tax Map 230-6-1 and Tax Map 230-5-2 both have a rating of 2 because the highest rated Tax Map number they drive on is Tax Map 230-5-2.

- (4) Each Residential Tax Map Owner's share of costs shall be determined as follows:  
Divide 100 by the total residential ratings, herein after referred to as the **Cost Share Basis**.
- (b) In the above example, (h) (3) (a), the total ratings are 1 plus 2 plus 2 which equals 5. 100 divided by 5 is 20. **20% is the Cost Share Basis**.
- (5) The **pro-rata cost** share percentage will be found by multiplying each residential rating by the **cost share basis**.

For Example:

- (a) If there is a residence on Tax Map 230-8, it has a rating of 1 because it drives on Tax Map 230-7 to get to their residence, Tax Map 230-6-1 and Tax Map 230-5-1 both have a rating of 2 because the highest rated Tax Map number they drive on is Tax Map 230-5-2.
- (b) The total rating are 1 plus 2 plus 2 which equal 5. 100 divided by 5 is 20. **20% is the Cost Share Basis**.
- (c) Tax Map 230-8 will have a **pro-rata cost** of 1 times **20%** or 20%, Tax Map 230-6-1 will have a pro-rata cost of 2 times **20%** or 40% and Tax Map 230-5-1 will have a pro-rata cost of 2 times **20%** or 40%.
- (d) Tax Map 230-8 will pay 20% of the Residential Tax Map Users road cost.  
Tax Map 230-6-1 will pay 40% of the Residential Tax Map Users road cost.  
Tax Map 230-5-1 will pay 40% of the Residential Tax Map Users road cost
- (e) The pro-rata cost percentages will change as more Residences are built using the formula above.
- (6) Every Residential Tax Map shall pay a yearly road fee to the road account.
- (7) The road fee will be voted on each year by a majority of the Residential Tax Map Owners. The road account will be shared by all Residential Tax Map Owners with one vote per Residential Tax Map.

- (8) A majority of the residential voters shall be required for dispersing money out of the Road account.
- (j) **Cost sharing for Non-residential Owners.** Non-residential Tax Map Owners that use any part of the Private Road that is not already used to get to a residence will share equally, unless there is a mutually agreed upon share, of any road repairs of that portion of the Private Road. Non-Residential Tax Map Owners, who access their land by foot or by limited, intermittent access by motor vehicle shall only pay for road maintenance or repair costs if such owners caused the damage necessitating the repairs.
- (k) **Road Improvements.** Any Tax Map Owner that wishes to improve the Private Road or the Private Secondary Road, above what is normally expected, can do so but they do so at their own expense. Any improvements can not change existing water control, culverts, or road location without the approval of the Road Manager.
- (l) **Catastrophic or Emergency Events.** Road Damage caused by a catastrophic or emergency event not related to usual Residential use, for example by Mother Nature, shall be shared equally by all Tax Map Owners that exit the Private Road to Woodward Road at road point \*Z2\* using the formulas in 6 and 7.
- (m) **Prepayment.** Prepayment of maintenance, snowplowing and road improvement costs will be made to the road maintenance account by each Tax Map Owner. Annually, or before a date as specified by the Road Manager, each Tax Map Owner will contribute their pro-rated share of the estimated annual cost for road maintenance, road improvements and annual snow removal. The Road Manager shall send each Tax Map Owner a two week notice of the annual payments due.
- (n) **Snowplowing.** The said Residential Private Road shall be snowplowed as to permit year round access to residences. The cost shall be shared by the residential Tax Map Owners as indicated in paragraph 6. Individual driveway snow plowing, if desired, will be invoiced to the Tax Map Owner directly by the snow plowing contractor if applicable.
- (o) **Damage by an Individual.** Any damage to any road sections traveled by or caused by an individual shall be paid for by that individual.
- (p) **Agriculture or Forestry.** For any agriculture or forestry road activity, not associated with residential use, the road sections traveled must be restored to an equal or better condition by the Tax Map Owner who used the Road.

- (q) **Unusual Road Use.** Any Tax Map Owners, that want to use the roads for an unusual event, other than permitted forestry or agricultural use, have to be approved by a majority vote of all Tax Map Owners in advance. (Some examples, but not all, are large groups of: people, horse traffic, animals or vehicles not associated with Tax Map Owners.)
- (r) **Checking account.** The Road Manager shall establish and/or maintain a non-interest bearing bank checking account with a local bank, and will prepare and distribute to the herein affected Tax Map Owners an annual income and expense report and a year end balance sheet, accounting for Residential Tax Map fees, Non-Residential Tax Map and Secondary Road fees received and disbursed.
- (s) **Effective Term.** This Agreement shall be perpetual, and shall encumber and run with the land. This said Private Road and Private Secondary Roads is created by way of easements across Lyndeborough Tax Map 230-7, Tax Map 230-5-2, Tax Map 230-24, Tax Map 229-8, Tax Map 229-7, Tax Map 229-5 and Tax Map 229-6 as depicted on said Plan and will be included in any deeds conveying title from
- (1) Chrisenton as to Lyndeborough Tax Map 230-8, Tax Map 230-8-1, Tax Map 230-7, Tax Map 230-5, Tax Map 230-5-2, Tax Map 228-1, Tax Map 230-24, Tax Map 229-8, Tax Map 229-2, Tax Map 229-7, Tax Map 229-5, Tax Map 229-4, Tax Map 229-6, Tax Map 229-3, Greenfield Tax Map R10-13,
  - (2) Brown as to Lyndeborough Tax Map 230-6-1, Tax Map 230-6, Tax Map 228-1-1 and Tax Map 228-2-2
  - (3) Mader as to Lyndeborough Tax Map 230-5-1 and Tax Map 230-1.-
- (t) **Binding Agreement.** This Agreement shall be binding upon the parties hereto, their respective heirs, executors, administrators and assigns.
- (u) **Amendment.** Residential Tax Map sections of this Agreement may be amended by a majority of the Residential Tax Map Owners, Non-residential Tax Map sections of this Agreement may be amended by a majority of the Non-residential Tax Map Owners, General sections of this Agreement may be amended by a majority of all Tax Map Owners, Provided these amendments do not reduce the right of any lot owner below the standards of this document.
- (v) **Enforcement.** This Agreement may be enforced by a majority of the Tax Map Owners. If a court action or lawsuit is necessary to enforce this Agreement, the party com-

mencing such action or lawsuit shall be entitled to reasonable attorney fees and costs from affected Tax Map Owners, if the party prevails.

- (w) **Disputes.** If a dispute arises over any aspect of the improvements, maintenance, repair or replacement, the dispute will be taken to a Road Committee first.
- (1) The Road Committee will be made up of an odd number of Non-Residential Tax Map Owners, not involved in the dispute, if the dispute is between Residential Tax Map Owners.
  - (2) The Road Committee will be made up of an odd number of Residential Tax Map Owners, not involved in the dispute, if the dispute is between Non-Residential Tax Map Owners.
  - (3) The Road Committee will be made up of an odd number of both Residential Tax Map Owners and Non-Residential Tax Map Owners, not involved in the dispute, if the dispute is between Residential Tax Map Owners and Non-Residential Tax Map Owners.
  - (4) If the dispute can not be resolved by the Road Committee, a third party arbitrator shall be appointed to resolve the dispute. The decision of the arbitrator shall be final and binding on all of the Tax Map Owners that are involved in the dispute. Contact information for local arbitrators can be obtained through the American Arbitration Association. In selecting a third party arbitrator, each Tax Map Owner involved in the dispute shall be entitled to one vote, and the nominee receiving a majority of the votes shall be the arbitrator. If there is a tie, the third party arbitrator will be decided by a flip of a coin. All Tax Map Owners, involved in the dispute, whose primary access is by vehicle, shall share in the cost of an arbitrator.
- (x) **Notices.** Tax Map Owners under this Agreement shall be notified by mail or in person. If an address of a Tax Map Owner is not known, a certified notice will be mailed to the address to which the Tax Map Owner's property tax bills are sent.
- (y) **Invalidity.** Should any provision in this Agreement be deemed invalid or unenforceable, the remainder of the Agreement shall not be affected and each term and condition shall be valid and enforceable to the extent permitted by law.

**D. Definitions:**

**Damage:** Some examples of damage: change existing water control, crush culverts, leave cut trees across the road, change the road location, cause ruts, post hole the road surface, cause water to run down the road instead of off the road.

**Greenfield Tax Map / Tax Map Owners.** A Tax Map in the town of Greenfield: Tax Map R10-13 as depicted on said Plan.

**Lot:** Another name for a Tax Map.

**Lyndeborough Tax Map / Tax Map Owners.** A Tax Map in the town of Lyndeborough: Tax Map 230-8, Tax Map 230-8-1, Tax Map 230-7, Tax Map 230-5, Tax Map 230-24, Tax Map 230-5-2, Tax Map 230-24, Tax Map, Tax Map 229-2, Tax Map 229-7, Tax Map 229-5, Tax Map 229-4, Tax Map 229-6, Tax Map 229-3, Tax Map 230-6-1, Tax Map 230-6 and Tax Map 28-2-2, Tax Map 230-5-1, and Tax Map 230-1 as depicted on said Plan.

**Private Road:** The main road that commences at Woodward Road, Lyndeborough, (road point \*Z2\*) and traverses:

Tax Map 230-7 (road point \*Z2\* to \*Z1\* to \*Z\* to \*Y\* to \*X\* to \*T\*),

Tax Map 230-5-2 (road point \*T\* to \*R\* to \*Q\* to \*P\* to \*N\* to \*H\*),

Tax Map 230-24 (road point \*H\* to \*F\* to \*E\* and \*F\* to \*I\* to \*L\*),

Tax Map 230-1 (road point \*L\* to \*LL\*), Tax Map 229-8 (road point \*E\* to \*D\* to \*B\* to \*A\*),

Tax Map 229-8 (road point \*E\* to \*D\* to \*B\* to \*A\*)

Tax Map 229-2 (road point \*LL\* to \*KK\* to \*II\* to \*HH\*),

Tax Map 229-7 (road point \*A\* to \*FF\*),

Tax Map 229-5 (road point \*FF\* to \*EE\* to \*CC\* to \*BB\* and \*HH\* to \*GG\* to \*EE\*)

Tax Map 229-6 (road point \*BB\* to \*AA\*).

**Residential Tax Map.** A Residential Tax Map has a permanent building with over 500 square feet being used for a single family residence.

**Road Damage:** Some, but not all, Road Damage examples are deep ruts, crushing culverts, and changing road drainage so water runs down the road and not off the road.

**Road Points:** Road Points are Points on The Private Road or on Secondary Roads shown on The Plan.

**Secondary Roads:** Secondary Roads lead off of The Private Road to provide access to Lots that do not abut The Private Road and are described by Road Points on The Plan.

Secondary Road Points \*V\* to \*X\* on Tax Map 230-7

Secondary Road Points \*N\* to \*O\* Map 230-5-1

Secondary Road Points \*C\* to \*D\* Tax Map 229-8

Secondary Road Points \*B\* to \*K\* Tax Map 229-8.

**The Plan:** "Compilation Plan for Lots of Thomas G. & Virginia L. Chrisenton and Thomas G. Chrisenton, Woodward Road, Lyndeborough and Greenfield, New Hampshire, Scale 1" =400' Date 18 December 2020" by Dennis D. McKenney, Licensed Land Surveyor which Plan is recorded in the Hillsborough County Registry of Deeds as Plan # 40795.

**Voting:** Each individual Tax Map is assessed and granted (1) vote regardless of the number of owners. If a Tax Map is owned by more than one person, all of the owners of that Tax Map will collectively be referred to as the "Tax Map Owner" for purposes of this Agreement and will be entitled to one collective vote (i.e. each Tax Map represents one vote in the matters covered by this Agreement).

**Revised June 15, 2021**

Approved by a Majority of Tax Map Owners:

Current Owners of Lyndeborough Tax Map 230-8, Tax Map 230-8-1, Tax Map 230-7, Tax Map 230-5, Tax Map 230-5-2, Tax Map 228-1, Tax Map 229-2, Tax Map 229-7, Tax Map 229-5, Tax Map 229-4, Tax Map 229-6, Greenfield Tax Map R10-13.

[Signature]  
Witness

[Signature]  
Thomas G. Christenton


[Signature]  
Witness

[Signature]  
Virginia L. Christenton

STATE OF NEW HAMPSHIRE  
COUNTY OF Hillsborough

Dated: June 18, 2021

Personally appeared, Thomas G. Christenton and Virginia L. Christenton, known to me or satisfactorily proven to be the individuals whose names are subscribed to the foregoing instrument, a.k.a: Corrective Private Road Agreement, revised June 15, 2021, and acknowledged that they executed the foregoing as their free act and deed for the purposes therein expressed.

[Signature]  
Notary Public/Justice of the Peace  
My Commission Expires:  




Current Owners of Lyndeborough Tax Map 228-2-2, Tax Map 230-6, Tax Map 230-6-1, Tax Map 228-1-1:

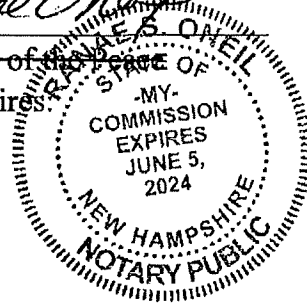
[Signature]  
Witness

[Signature]  
Steven M. Brown

STATE OF NEW HAMPSHIRE  
COUNTY OF Hillsborough

Dated: 6/21, 2021

Personally appeared, Steven M. Brown, known to me or satisfactorily proven to be the individual whose name is subscribed to the foregoing instrument, a.k.a. Corrective Private Road Agreement, revised June 15, 2021, and acknowledged that he executed the foregoing as his free act and deed for the purposes therein expressed.

[Signature]  
Notary Public/Justice of the Peace  
My Commission Expires: 

[Signature]  
Witness

[Signature]  
Maria O. Brown

STATE OF NEW HAMPSHIRE  
COUNTY OF Hillsborough

Dated: 6/18, 2021

Personally appeared, Maria O. Brown, known to me or satisfactorily proven to be the individual whose name is subscribed to the foregoing instrument, a.k.a. Corrective Private Road Agreement, revised June 15, 2021, and acknowledged that she executed the foregoing as her free act and deed for the purposes therein expressed.

[Signature]  
Notary Public/Justice of the Peace  
My Commission Expires:

Current Owners of Lyndeborough Tax Map 229-3:

[Signature]  
Witness

[Signature]  
Christopher Rhys Bowen  
a/k/a Jayanto Bhikkhu  
a.f.a.  
[Signature]  
Jetavana Monastic Community  
President

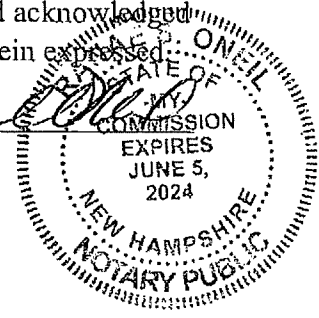
STATE OF NEW HAMPSHIRE

COUNTY OF Hillsborough

Dated: June 18, 2021

Personally appeared, Christopher Rhys Bowen aka Jayanto Bhikkhu, known to me or satisfactorily proven to be the individuals whose names are subscribed to the foregoing instrument, a.k.a. Corrective Private Road Agreement, revised June 15, 2021, and acknowledged that they executed the foregoing as their free act and deed for the purposes therein expressed.

[Signature]  
Notary Public  
My Commission Expires:



Current Owners of Lyndeborough Tax Map 230-5-1, Tax Map 230-1, Tax Map 229-8:

[Signature]  
Witness

Bret M. Mader  
Bret M. Mader

Christine M. Mader  
Witness

Donna T. Mader  
Donna T. Mader

The Mader Family Revocable Trust of 2019

[Signature]  
Witness

Bret M. Mader  
By its Co-Trustee, Bret M. Mader

Christine M. Mader  
Witness

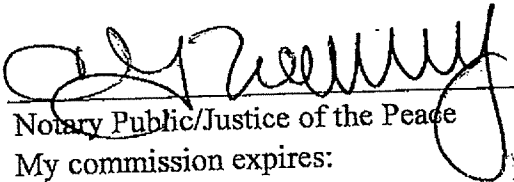
Donna T. Mader  
By its Co-Trustee, Donna T. Mader

**CERTIFICATE OF TRUSTEE AUTHORITY**

We, Bret A. Mader and Donna T. Mader, as Co-Trustees of The Mader Family Revocable Trust of 2019 hereby certify (a) that we are the current Trustees of the Trust; (b) that the Trust Indentures have not been further amended, modified; (c) that the Trust Indentures have not been revoked and remain in full force and effect; (d) that we have full and absolute power in said trust agreement to convey any interest in real estate and improvements thereon held in said trust; and (e) no purchaser or third party shall be bound to inquire whether we as the Trustees have said power or am properly exercising said power or to see to the application of any Trust asset paid to the Trustees for a conveyance thereof.

STATE OF NEW HAMPSHIRE  
COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me this 18 day of June, 2021 by Bret A. Mader and Donna T. Mader, as individuals and in their capacity as Co-Trustees of The Mader Family Revocable Trust of 2019, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the foregoing instrument, a.k.a. Corrective Private Road Agreement, revised June 15, 2021, and acknowledged that they executed the same in that capacity, and for the purposes therein contained.

  
Notary Public/Justice of the Peace  
My commission expires:

Christine M Gagnon-Trombley  
Notary Public, State of New Hampshire  
My Commission Expires Oct. 11, 2022

Current Owners of Lyndeborough Tax Map 230-24:

Linda M. Guyette  
Witness

Linda M. Guyette  
Witness

Philip Dupont  
Philip Dupont

Sharon C. Dupont  
Sharon C. Dupont

STATE OF NEW HAMPSHIRE  
COUNTY OF HILLSBOROUGH

Dated: 6/17/, 2021

Personally appeared, Philip Dupont and Sharon C. Dupont, known to me or satisfactorily proven to be the individual whose name is subscribed to the foregoing instrument a.k.a. Corrective Private Road Agreement, and acknowledged that he executed the same for purposes therein contained.

Linda M. Guyette  
Notary Public/Justice of the Peace  
My Commission Expires:

LINDA M GUYETTE, NOTARY PUBLIC  
MY COMMISSION EXPIRES JUNE 19, 2024

# Exhibit C

Fire Pond Approval

Fire Chief Brian Smith

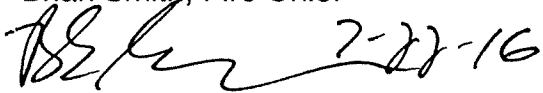


Fire Department  
Town of Lyndeborough, New Hampshire

July 22, 2016

I approve the construction of 2, approximately 1/4 acre, dugout ponds for fire suppression purposes at the locations shown by a red X on the attached maps. The tax maps numbers of the lots owned by Thomas and Virginia Chrisenton are 230-7 and 229-5.

Brian Smith, Fire Chief

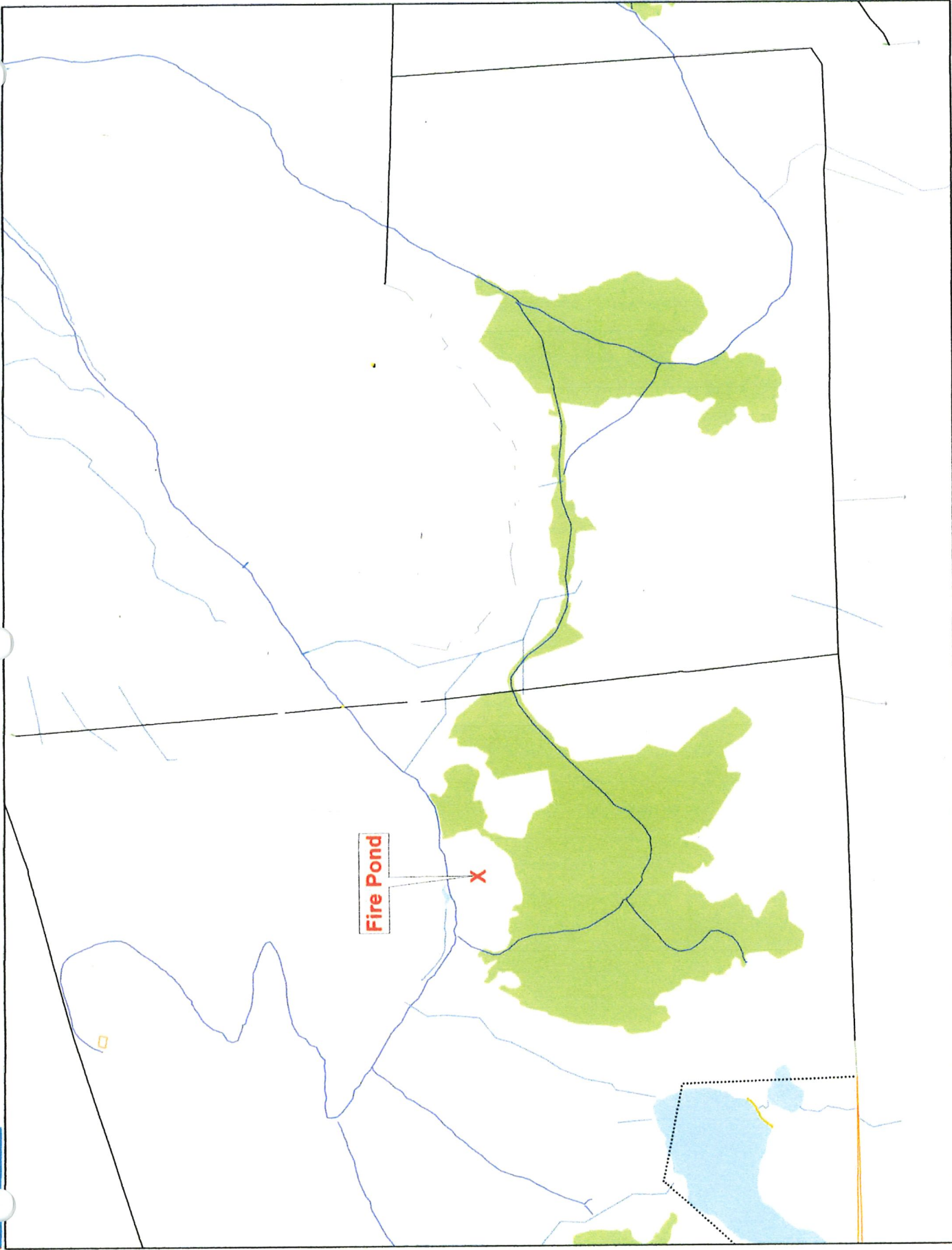
A handwritten signature in black ink, appearing to read "B. Smith", followed by the date "7-22-16".











Scale 1 : 4,400



1" = 366.7 ft

Data Zoom 15-5



# Exhibit D

Denial Letter

Building Application





*Town of Lyndeborough*  
**Office of the Building Inspector**

9 Citizens' Hall Road  
Lyndeborough, New Hampshire 03082

Tel.: (603) 654-5955

Fax: (603) 654-5777

---

March 26, 2024

Tom & Ginny Chrisenton, Trustees  
High Ridge Trust Dated May 19, 2022  
PO Box 121  
Lyndeborough NH 03082

Re: Map-Lot-Sublot 230-005-002 Build Permit Application 2024-30

Sent Via Certified Mail: 7004 1160 0006 3883 7187

Tom & Ginny,

On February 28, 2024, Tom hand delivered a build permit application (2024-30) and fee. Per the active permitting moratorium, as previously detailed in the Office of the Building Inspector letter of September 13, 2021, Board of Selectmen letter of June 14, 2023, and Town Counsel letter of July 12, 2023, this building permit application is denied and the \$50.00 fee has been retained to cover administrative costs.

Additionally, building permit application 2024-13 for map-lot-sublot 230-007-000, submitted on January 17, 2024, has been voided as the fee for it has remained unpaid for more than 60 days.

Respectfully,

Leo M. Trudeau  
Lyndeborough Building Inspector / Code Enforcement Officer

Cc: Board of Selectmen  
Town Administrator Russ Boland





RECEIVED

FEB 28 2024

SELECTMEN'S OFFICE

# High Ridge Trust

1999 New Hampshire Outstanding Tree Farmers

Tom & Ginny Chrisenton PO Box 121, Lyndeborough, NH 03082 (603) 654-6068

February 28, 2024

Dear Leo Trudeau, CEO, Lyndeborough, NH,

Attached is our building permit request, for a portable woodshed (attached), on Tax Map #230-5-2. This was 1 of 3 lots on an approved "Conservation Lands" subdivision (zoning section 404.10) by the Planning Board in 2022 and is filed at the Hillsborough County Registry of Deeds as plan #41413.

This request qualifies for a building permit per RSA 674:41 section I.(b)(2).

Thank you,

Tom Chrisenton

**HIGH RIDGE TRUST**  
PO BOX 121  
LYNDEBOROUGH, NH 03082

115  
54-89632114  
5

2/28/24 Date

Pay to the Order of Town of Lyndeborough \$ 50.00  
Fifty and 00/100 Dollars

**Northeast**  
CREDIT UNION  
PO Box 1240, Portsmouth, NH 03802-1240

For building permit 230-5-2 Virginia A. Chrisenton

⑆ 211489630⑆ 751001927639⑆ 0115

Photo Safe Deposit Details on back

BLUQUEST



# Application for Building Permit

FEB 28 2024

Lyndeborough, NH

Date: 2/28/2024 SELECTIONS OFFICE

Map-Lot-Sublot: 230-5-2 Growth Permit No: \_\_\_\_\_ Permit No.: 2024-30

Owner of Record HIGH RIDGE TRUST Phone# 603-554-7554

Address P.O. BOX 121 City LYNDEBOROUGH State NH Zip 03082

Type of Construction: New Home \_\_\_\_\_ (Growth/Build Appl. Req'd)  
\*\* Addition \_\_\_\_\_ (Regular Build Appl. Req'd)  
\*\* Alteration \_\_\_\_\_ (Regular Build Appl. Req'd)  
\*\* Other WOOD SHED ON SKIDS (Regular Build Appl. Req'd)

\*\* Please note separate elec. & plumbing permits required for all above except new home.

Location of Building (Street) \_\_\_\_\_

Purpose of Building DIRTY WOOD

Kind of Building SHED

Size of Building 10' x 16' Street Frontage Ft APX 2000' Size of Lot 34.3 Acres

Height of Building 10'6" No. Bedrooms \_\_\_\_\_ Septic Tank \_\_\_\_\_ NHWS & PCC App. No. \_\_\_\_\_

Distance from Street Line > 50' Distance from Nearest Boundary Line > 50'

Type Heating System NA Type of Foundation 1 1/2" QUARRY STONE

Septic Installer NA Lic. No. \_\_\_\_\_ Contractor \_\_\_\_\_

Contractor \_\_\_\_\_ Address \_\_\_\_\_ Phone# \_\_\_\_\_

Description of Proposed Work PLACE THE SHED ON COCK **PAID** 850.00

Estimated Construction Cost \$7,000+ Fee \$50

Is this property in a special flood hazard area? NO

SEPTIC TANK - Design and specifications must be approved by N.H. Water Supply and Pollution Commission before permit is issued. The Town of Lyndeborough is released from liability for contamination of any well dug or drilled within 100ft. of a highway by use of materials on the highway.

The undersigned agrees that the proposed work shall be done in accordance with the foregoing statement and with the plans and specifications submitted and that the work connected therewith shall conform to the Building Codes and Regulations of the Town of Lyndeborough and all applicable Federal and State requirements.

A GROWTH/BUILDING PERMIT FOR NEW HOME CONSTRUCTION WILL BE RESERVED TO THE ABOVE OWNER OF RECORD FOR 60 DAYS FROM THE ABOVE DATE IN ORDER TO COMPLETE THE CHECKLIST.

Permit Good for year of Issue Only.

Owner's Signature \_\_\_\_\_ Date 2/28/2024

## PERMIT

THIS CERTIFIES THAT \_\_\_\_\_ Owner,

may \_\_\_\_\_ in accordance with the foregoing application and approved plans.

Driveway Approval Rec'd \_\_\_\_\_ Culvert Needed \_\_\_\_\_ Installed \_\_\_\_\_

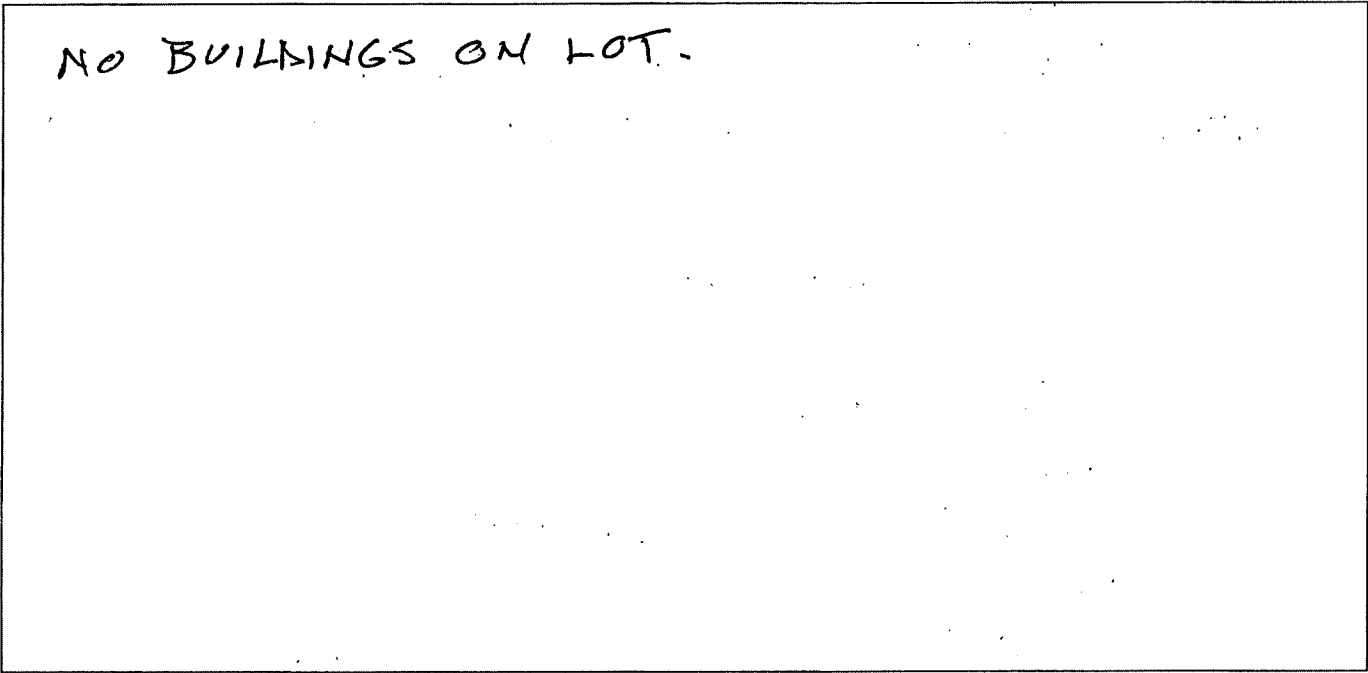
Building Inspector.

Date

Revision 2020

## Plot Plan

Show location of all buildings on lot with measurements from lot lines and lot size. Denote well, easements and wetlands locations (a separate sheet of paper may be used if needed). Certified Plot Plan may be required,



## Drawing of Structure (you may attach a plan in lieu of this page)



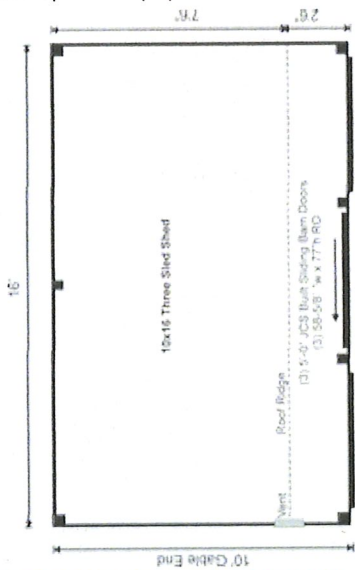
Scale: One Square equals \_\_\_\_ feet.



# COMPLETE Pre-Cut Kit



The heavy-duty sliding barn doors and wide pressure treated ramp provide three easily accessible entrances into this spacious storage shed. Many of our clients use this design to house their ATV's, snowmobiles, tractors, lawnmowers, and sports equipment.



## COMPLETE PRE-CUT KIT:

A weather tight shell. The PCK is the complete kit for a design. It includes everything required to assemble the building shell and includes doors and windows.

## EVERY KIT INCLUDES

- Color Coded
- Part Numbered
- Step-by-Step Instructions
- & All Fastening Hardware Included

Configure Yours at

[WWW.JAMAICACOTTAGESHOP.COM](http://WWW.JAMAICACOTTAGESHOP.COM)

# 10X16 THREE SLED SHED

STORAGE  
SOLUTIONS

STORAGE SOLUTIONS



## 10X16 THREE SLED SHED COMPLETE PRE-CUT KIT

Base Area: 160 sq. ft.

Total Interior Area: 160 sq. ft.

Recommended Foundation:  
6–8" Crushed Gravel

Overall Dimensions: 10'6"H  
x 17'2"W x 10'10"D

Estimated Weight: 5300 lbs

### Floor System

2 (qty) 6x6x16' Hemlock Skids

2"x6" rough sawn Hemlock

Joists 24" On Center

¾" CDX Plywood Floor Decking

Floor Weight Rating: 25 lbs/sq. ft.

### Walls

4"x4" Hemlock Post and  
Beam Wall Framing

Wall Height: Front: 83" Rear: 63"

Siding: 1" rough sawn

Pine Board & Batten

1" rough sawn Pine Corner &

Door Trim & 2" rough sawn

Pine Fascia & Shadow Trim

*10x16 Three Sled Shed - Upgraded with a 3x2 Eight-lite hinged barn sash window and flower box. Note: Pictures may reflect client upgrades and modifications that do not come standard.*

### Roof

Saltbox Roof Style

Roof Pitch: Front: 10/12 Rear: 6/12

2"x6" rough sawn Hemlock

Rafters 24" On Center

1"x6" rough sawn Hemlock

Exposed Collar Ties

1"x4" rough sawn Hemlock

Strapping 20" On Center

Corrugated 29g Metal

Roofing, Color: Evergreen

### Door

3 (qty) 5-0 JCS-built 2" Thick rough  
sawn Pine Sliding Barn Doors: w/  
3x16 Pressure Treated Ramp

### Additional Features

1 (qty) Wood Louvered Vent

### Assembly & Logistics Information

Estimated Assembly Time:

Two People: 30 hrs

Estimated Shipping Cube Sizes

Cube 1: 42"x46"x192"

Cube 2: 42"x60"x96"

3SLDSHD.10X16.PCK



# Exhibit E

Permit Moratorium

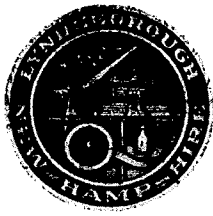
Office of the Building Inspector

letter of

September 13, 2021







# Town of Lyndeborough

## Office of the Building Inspector

9 Citizens' Hall Road  
Lyndeborough, New Hampshire 03082

Tel.: (603) 654-5955

Fax: (603) 654-5777

September 13, 2021

Tom & Ginny Chrisenton  
PO Box 121  
Lyndeborough NH 03082

Re: Map-Lot-Sublots: 228-001-000, 228-002-000, 228-002-003, 228-019-000, 229-002-000,  
229-004-000, 229-005-000, 229-006-000, 229-007-000, 229-008-000,  
230-004-001, 230-004-002, 230-005-000, 230-005-002, 230-007-000,  
230-008-000, 230-008-001, 230-008-002, 241-022-000

Dear Tom & Ginny,

The Town of Lyndeborough was recently made aware of issues relating to three specific subdivisions approved by the Planning Board in 2007 and 2008; Hillsborough County Registry of Deeds recorded Subdivision Plans #35633 (approved August 16, 2007), #35777 (approved November 15, 2007) and #35963 (approved April 17, 2008).

The Town's ongoing in-depth review found irregularities in how these subdivisions were considered and approved, relative to road specifications, design and classification. We are in the process of identifying opportunities to resolve these issues and will provide all impacted owners with more specific information once it is available.

In the meantime, owners of all parcels that were part of these subdivisions are hereby notified that new building permits for any structures (or part thereof), on these parcels shall not be approved until such time that the issues have been satisfactorily addressed. However, administrative relief that would allow the approval of a new building permit may be considered on a case by case basis, provided certain parcel-specific criteria are met and remediation on the following issues has begun (the process for seeking administrative relief is detailed later in this letter);

WHEREAS, Lyndeborough Zoning Ordinance section 404.00(b) requires that all lots in a large-lot subdivision shall be accessed by a private road constructed to meet minimum standards detailed in the Town of Lyndeborough Street and Road Design Standards; and,

WHEREAS, this office has determined the Planning Board in place at the time the above-mentioned subdivisions were approved, failed to uphold and adhere to the Zoning Ordinance and Subdivision Control Regulations while rendering approval of said subdivision plans; and,

WHEREAS, a town planning board may not approve a subdivision of land that does not comply with the terms of the town's zoning ordinance (Supreme Court's rulings *Morin v. Somersworth*, 131 N.H. 253 (1988) and *Cesere v. Town of Windham*, 121 N.H. 522 (1981)); and,

WHEREAS, the Planning Board meeting minutes during the presentation, deliberation, and approval of the above-mentioned plats do not indicate the applicant requested a waiver (as required by Subdivision Control Regulations section 320.03 Waivers) of Subdivision Control Regulations section 530.00 (o & r), which requires that all roadway details are depicted (including sight distances) on said plats; and,

WHEREAS, no documentation has been discovered indicating driveway permits were obtained and/or included in the subdivision materials provided to the Planning Board during the consideration of above-mentioned subdivisions, nor that sight distances were measured, as is required by Subdivision Control Regulations section 408.00 Driveways; and,

WHEREAS, no "streets" (as defined by RSA 672:13), or easements within the lots were defined or named on the above-mentioned plats, as required by Subdivision Control Regulations section 530.00 (o & r); and,

NOW, THEREFORE, a moratorium has been instituted regarding the issuance of new building permits for any structures on the affected parcels until such time that these issues have been satisfactorily addressed.

If the owner(s) of any above-mentioned parcels wish to obtain a new building permit once remediation on these issues has begun and prior to these matters being fully resolved, they may seek relief by making application for an administrative appeal to the Lyndeborough Zoning Board of Adjustment (ZBA) within 30 days from receipt of this notice. For further details on how to apply, please contact ZBA Secretary Kathleen Humphreys at 603-654-5111.

We appreciate your cooperation and support during this process. If you have any questions, please feel free to contact our office at 603-654-5955, extension 221 and we will be glad to be of assistance.

Respectfully,



Leo M. Trudeau  
Lyndeborough Building Inspector / Code Enforcement Officer

Cc: Board of Selectmen  
Town Administrator Russ Boland  
Town Counsel Chris Drescher, Esq.  
NRPC Executive Director Jay Minkarah  
Planning Board  
Zoning Board of Adjustment  
Tom & Ginny Christenton

# Exhibit F

Permit Moratorium

Board of Selectmen

letter of

June 14, 2023



Mary Ann Crowell  
Register of Deeds, Hillsborough County

FEE:	14.60
SURCHARGE:	2.00
CASH:	-



#554 After Recording Return to:  
 Town of Lyndeborough  
 Office of the Selectmen  
 9 Citizens' Hall Road • Lyndeborough, NH 03082  
 Phone (603) 654-5955 • Fax (603) 654-5777

June 14, 2023

Tom & Ginny Chrisenton  
PO Box 121  
Lyndeborough NH 03082

RE: Moratorium on all Certificates of Occupancy and/or Permits

Sent Via Certified Mail: 7011 2970 0002 5173 9666

Dear Tom & Ginny,

The purpose of this correspondence is to provide a reminder that the Governing Body of this Town (the "Selectboard"), instituted a Moratorium in 2021 from issuing any permits, including but not limited to, Certificates of Occupancy, building permits, electrical permits, etc., relative to your properties (Map-Lot-Sublots: 228-001-000, 228-001-002, 228-002-000, 228-002-003, 228-019-000, 229-002-000, 229-004-000, 229-005-000, 229-006-000, 229-007-000, 229-007-001, 230-004-001, 230-004-002, 230-005-000, 230-005-002, 230-007-000, 230-008-000, 230-008-002, 241-022-000).

The impetus for this Moratorium is because the roadways that serve the respective properties are not constructed to the minimum specifications as required by the Lyndeborough Zoning Ordinance ("LZO"), Section 404.00 (b).

Once the roads are alleged to have been built to specifications they must be inspected, at the developer's expense, by the Lyndeborough Building Inspector/Code Enforcement Officer, as well as the Town engineer.

This requirement is a matter of life and safety.

As such, the Selectboard cannot lawfully issue any of the aforementioned Certificates or permits until the roads are compliant with the LZO.

We strongly recommend that you coordinate with the developer to ensure that the LZO's minimum standards for the roads are met.

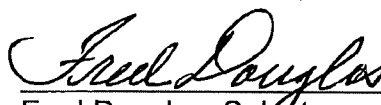
Please feel free to contact us should you like to discuss this matter further.

Sincerely yours,

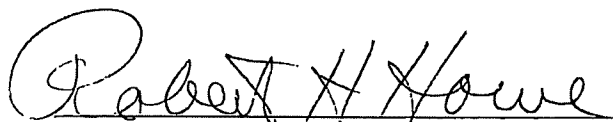
Lyndeborough Selectboard



Mark Chamberlain, Chair



Fred Douglas, Selectman



Bob Howe, Selectman

Cc: Board of Selectmen  
Town Administrator Russ Boland  
Town Counsel Chris Drescher, Esq.  
NRPC Executive Director Jay Minkarah  
Lyndeborough Planning Board  
Lyndeborough Zoning Board of Adjustment

Recorded at Hillsborough County Registry of Deeds

# Exhibit G

Permit Moratorium

Town Counsel

letter of

July 12, 2023







Christopher B. Drescher  
*Admitted in NH*

July 12, 2023

Thomas Chrisenton  
Virginia Chrisenton  
12 Western Way  
PO Box 121  
Lyndeborough, NH 03082-0121

**Re: Response to your July 6, 2023, email to Lyndeborough Selectboard**

Dear Mr. and Mrs. Chrisenton,

As you are aware, this office represents the Town of Lyndeborough.

First, as a matter of 'housekeeping,' it has been conveyed to you several times that any further communications regarding land use matters shall sent directly to me who, in turn, will relay it to the Town. The reason for this requirement is so that nothing gets overlooked.

Second, your email dated July 6, 2023, which is intended to be a response to our letter dated June 14, 2023, reminding you (*and others*) that that there is a Moratorium from the Town issuing any permits until the roadways that service your (*and others*) properties are constructed to the minimum specifications, as required by the Lyndeborough Zoning Ordinance ("LZO") Section 404.00 (b).

In your above referenced email you stated the following, in relevant part:

1. "Our home lot is part of an approved Minor Subdivision (Subdivision Section 320.06) that was the result of combining 3 lots into 2, with the provisions of a "Conservation Lands" subdivision (LZO Section 404.10), filed at the HCRD Plan #41412, and recorded on 05/20/2022. The Plan with Note #10 being the "Corrective Private Road Agreement" with the only requirement being an access easement with a width of at least 12 feet wide suitable for all season travel by a Class 8 truck. Western Way is constructed to exceed these standards and has a posted speed limit of 15 mph.
2. Notice from the Town on 6/30/2022 that Western Way will be added to the State's 911 address map book. Per the Town's request, all signs had been installed in advance.

3. Regarding “life and safety”, a residential driveway permit was issued by Road Agent Mark Chase on 11/01/21 joining Western Way at the west end of our lot #230-5-2 (also a “Conservation Lands” lot), without conditions and meeting the accessibility requirement for, “heavy and commercial trucks”, criterion. This construction standard was confirmed by the Fire Department conducting a drill by the whole Department on 9/28/2021 and by the many construction, supply and service vehicles that use the road during all seasons of the year without issue.

In summary, Western Way should not be subjected to the requirements of large tract development under LZO 404.00, but is instead subject to conservation land development under LZO 404.10, which created a legal lot of record without public frontage. See also RSA 641:41-1(b)(2) (*sic*) which qualifies our lot for a building permit and other improvements.”

Paragraph One:

Taking each paragraph in turn, your comments contained under paragraph 1 speak to a recorded plan that contains a note requiring an access easement “...with a width of at least 12 feet wide suitable for all season travel by a Class 8 truck...” and that “...Western Way is constructed to exceed these standards and has a posted speed limit of 15mph.”

None of the facts that you allege under paragraph 1 provide any type of waiver from the requirements of LZO Section 404.00 (b). All roadways of any kind in the Town of Lyndeborough are subject to the provision of the LZO and any other applicable Regulations. The aforementioned access easement, its width, and the speed limit of the road have nothing to do with compliance with the LZO.

Paragraph Two:

The same can be said for your comments under paragraph 2. Adding Western Way to the State’s 911 address map book and the installing the signage were, indeed, requirements. Another requirement that you have been advised of, several times in no uncertain terms, is that the roadways *shall* be constructed to the minimum specifications, as required by the LZO Section 404.00 (b). Once again, complying with the 911 and signage requirements do not alleviate you (and others) of the requirements of LZO Section 404.00 (b).

Paragraph Three:

As for paragraph 3, you discuss a driveway permit being issued “...without conditions...” and the fact that the Fire Department conducted a drill and other heavy trucks used the road without issue.

Again, none of the above facts are relevant to whether the roadways meet the requirements LZO Section 404.00 (b). The driveway is just that – a driveway – and does not speak to the conditions of Western Way as a whole. Furthermore, heavy trucks being able to use the road on one instance is by no means proof that the roadways are compliant or fit for life and safety.

To that point, compliance can only be determined by the Town engineer at the developer's expense.

Final paragraph:

First, you opine that Western Way is subject to the provisions of LZO 404:10 as a Conservation Land Development. However, Western Way is not subject to the provisions of LZO 404:10 for the very simple reason that the developer never availed themselves of said provisions nor was the subdivision approved as a Conservation Land Development.

LZO 404:10 is subject to NH RSA 674:21, as well as NH RSA 674:21-a.

NH RSA 674:21-a states in relevant part that “[f]or purposes of this section, an applicant's statement of intent to restrict development, submitted with or contained in an application which is subsequently approved, shall be deemed a condition of the approval.” There is no evidence in the record that you availed yourselves of the provision of the LZO 404:10 or the applicable state RSAs. Furthermore, you were not approved for a Conservation Land Development. Finally, to avail yourself of LZO 404:10 each lot would require a minimum of 30 acres, thus, your subdivision would not qualify since not all the lots are a minimum of 30 acres. You cannot retroactively call your subdivision a Conservation Land Subdivision when you were never approved as such.

Second, you further opine that you are qualified for a building permit because NH RSA 674:41 (I) (b) (2)<sup>1</sup> somehow qualifies for you for a building permit.

NH RSA 674:41 (I) (b) (2), states in relevant part:

*“I. From and after the time when a planning board shall expressly have been granted the authority to approve or disapprove plats by a municipality, as described in RSA 674:35, no building shall be erected on any lot within any part of the municipality nor shall a building permit be issued for the erection of a building unless the street giving access to the lot upon which such building is proposed to be placed:*

...

*(b) Corresponds in its location and lines with:*

...

---

<sup>1</sup> The email dated July 6 cites to NH RSA 641:41-I(b)(2), which does not exist as Ch. 641 falls under the Criminal Statutes and Ch. 641 does not go as high as 41.

*(2) A street on a subdivision plat approved by the planning board.”*

The flaw in your cite is that Western Way is a Private Road, which falls under NH RSA 674:41 (d), which states in relevant part;

*“(d) Is a private road, provided that:*

***(1) The local governing body, after review and comment by the planning board, has voted to authorize the issuance of building permits for the erection of buildings on said private road or portion thereof; and***

*(2) The municipality neither assumes responsibility for maintenance of said private roads nor liability for any damages resulting from the use thereof; and*

*(3) Prior to the issuance of a building permit, the applicant shall produce evidence that notice of the limits of municipal responsibility and liability has been recorded in the county registry of deeds for the lot for which the building permit is sought”*

Here, it has been made clear that the governing body will not issue any permits until Western Way is constructed to the minimum specifications, as required by LZO Section 404.00 (b).

Finally, you have opined several times that Western Way is sufficiently constructed to manage heavy trucking and is compliant ‘as is.’ Once again, compliance with the LZO must be determined by the Town engineer at the developer’s expense. As such, if you are so confident that Western Way is compliant, we can make arrangements to have the Town engineer conduct an inspection once the funds for their services are escrowed.

Please feel free to contact me should you like to discuss this matter further.

Sincerely yours,  
CRONIN-BISSON & ZALINSKY P.C.

By: 

\_\_\_\_\_  
Christopher B. Drescher, Esq.  
722 Chestnut Street  
Manchester, NH 03104  
(603)-624-4333  
[cdrescher@cbzlaw.com](mailto:cdrescher@cbzlaw.com)

CC: Sent *via* Electronic Mail and USPS  
CC: Russ Boland, Town Administrator

# Photos

6 photos along Western Way

Location identified on the Map





43°  
38 AQI



Search here

Driscoll Rd

Scoll Rd

3  
4

2

1

6

5

Tower Rd

Western Wy

Western Wy

Western Wy

Western Wy

Western Wy

Laurel Ln

Beasom Rd  
Old Temple Rd

Pony Farm  
200 ft  
100 m

Latest in the area

- Explore
- Go
- Saved
- Contribute
- Updates





#1





#2





#3





# 4







#5





#6





1                                   **TOWN OF LYNDEBOROUGH**  
2                                   **Zoning Board of Adjustment**  
3                                   **Meeting Minutes**  
4                                   **April 8, 2024**

5  
6                                   **Meeting held at Citizens' Hall**  
7  
8

9   **7:00 PM     Call to Order & Roll Call**

10  
11   **Members Present:** Chairperson Karen Grybko, Vice Chair Rick Roy, Lisa Post, and Jon Lavoie  
12   (arrived at 7:35pm)

13   Not present: Ray Humphreys and Alt. Pam Altner

14   **Public Present:** Code Enforcement Officer/Building Inspector Leo Trudeau, NRPC Circuit Rider  
15   Jay Minkarah and Selectman Mark Chamberlain

16  
17   **New Business:**

18   **Case 2024-01**

19   **Variance - Zoning Ordinance Section 406.00.** Owners Robert and Michelle Thigpen are seeking  
20   a Variance to Lyndeborough Zoning Ordinance Section 406.00 to permit them to live in a  
21   recreational vehicle on-site for no longer than twelve months during the construction of their  
22   new home at 405 Mountain Road. Map 210 Lot 002. Zoning District: Rural Lands 2.

23   Robert Thigpen passed out an information sheet on proposed water supply and wastewater  
24   disposal to Board members prior to the opening of the public hearing.

25   Chairperson Grybko called the meeting to order at 7:15pm.

26   Robert Thigpen explained that they (the applicants) currently live in Surry. They want to be able  
27   to be on-site to supervise construction of their new home, but it is difficult since they live over  
28   an hour away. They would also like to be able to sell their current home so they can use the  
29   proceeds to help fund the new house. He noted that the camper would go where the old lodge  
30   was. Michelle Thigpen added that Robert is the general contractor.

31   Mr. Thigpen explained where the house, camper, driveway, and power line would be located on  
32   the plan submitted with the application.

33   Karen Grybko asked whether water would come from the dry well for all purposes. The applicants  
34   replied that drinking water would come from Monadnock Springs in Wilton. Rick Roy asked  
35   whether they are planning to drill a well. Mr. Thigpen replied that they would be drilling a well  
36   and showed the proposed location along with the location of the septic system on the plan.

37 Karen Grybko asked when they would be moving into the camper. Michelle Thigpen replied that  
38 they would like to start living there in early to mid-May adding that they are pretty close to  
39 starting construction. The applicants went on to explain that they asked for approval to live in  
40 the camper for 12 months or until a CO is issued, whichever comes sooner, though they do not  
41 plan to be in the camper that long. Their intent is to take over finishing the house themselves  
42 after the drywall is in.

43 The applicants went on to explain that they will be using solar power for electricity. They added  
44 that this is one of the reasons why they propose locating the camper closer to the road. The  
45 proposed location of the camper would get better sun exposure. Rick Roy asked why they don't  
46 hook up to the electric panel. Mr. Thigpen replied that they cannot hook up to it because the  
47 temporary panel needs to be located near the future home for power tools and that Eversource  
48 would not allow a second temporary panel for the camper.

49 Mr. Roy asked the applicants to describe the camper. They replied that they have not picked one  
50 out yet because they were waiting for approval, but that it would likely be a 28-foot RV.

51 Mr. Roy asked how they were planning to empty the toilet. Mr. Thigpen replied that if they use  
52 a port-a-potty service, then the company would remove it. Otherwise, they would empty it into  
53 the septic system. He added that the tank should last about a month to month and a half.  
54 Discussion continued. It was noted that the septic system should be in by June.

55 The applicants added that they both commute to Devens and that living in Lyndeborough would  
56 shorten their commutes significantly.

57 Leo Trudeau addressed Section 406 of the Zoning Ordinance; he stated that the spirit of the  
58 ordinance was to prohibit the use of RVs as permanent dwelling units. He intends to propose a  
59 zoning amendment that would allow the use of RVs as temporary dwellings so long as there is a  
60 building permit in place for a permanent house. He added that another reason this should be  
61 allowed is for security. He stated that there is going to be thousands of dollars of materials at the  
62 site and that the location is remote. Mr. Trudeau noted that they could stay in a tent by right and  
63 would not have to come to the Zoning Board. The distinction between an RV and a manufactured  
64 home was discussed.

65 Rick Roy asked whether a person could camp on his/her property in an RV. Mr. Trudeau replied  
66 that the issue was that they are asking to be able to stay in the RV for up to 12 months. Lisa Post  
67 asked about the timing of construction. Discussion continued.

68 Jon Lavoie asked whether the applicants had a construction loan. Mr. Thigpen replied that they  
69 have a loan approved conditioned on approval of the septic plan.

70 Rick Roy asked Leo Trudeau whether the camper would meet setback requirements. Mr. Trudeau  
71 replied that it would have to meet the fifty-foot setback requirement.

72 Karen Grybko asked the applicants to address the criteria and asked them to describe the use of  
73 the property. Mr. Thigpen replied that the home would be a 2,800 sq. ft. 1820s style Colonial  
74 with four bedrooms and 3&1/2 baths. The applicants addressed the criteria.

75

76 **1. Waiving the terms of the Ordinance will not be contrary to the public interest because:**

77 Robert Thigpen stated that there would be no additional traffic or noise, basically, everything  
78 would remain the same.

79 **VOTE: Jon Lavoie made the motion, Lisa Post seconded to accept Criterion #1.**  
80 **Motion passed 4-0.**

81 **2. Deviation from the strict requirements of the Ordinance is consistent with the spirit of the**  
82 **Ordinance because:**

83 Mr. Thigpen stated that the spirit of the ordinance was not to allow people to live in an RV  
84 permanently. They are only seeking to live in the RV temporarily while their home is being  
85 built.

86 **VOTE: Jon Lavoie made a motion, Lisa Post seconded, to accept Criterion #2.**  
87 **Motion passed 4-0.**

88 **3. Granting the Variance would do substantial justice because:**

89 Mr. Thigpen stated that granting the variance would allow them to keep a close eye on the site  
90 during construction and that it would make it a lot easier for them to work on the house (after  
91 the contractors are done).

92 **VOTE: Jon Lavoie made a motion, Lisa Post seconded to accept Criterion #3.**  
93 **Motion passed 4-0.**

94 **4. The value of surrounding property will not be diminished because:**

95 Mr. Thigpen stated that because the RV would be temporary, there would be no impact on  
96 surrounding property values.

97 Lisa Post asked whether the applicants had spoken with the neighbors. Mr. Thigpen replied,  
98 not really, adding that there are very few, but that they had spoken with a few.

99 Karen Grybko asked whether you would be able to see the RV from the road. The applicants  
100 replied that it would be partially screened and that they planned to re-wild the area  
101 afterwards. Lisa Post asked whether they planned to keep the RV after the house is built. The  
102 applicants replied that if they keep it, it would be moved further back on the property and  
103 would be screened.

104 **VOTE: Jon Lavoie made a motion, Lisa Post seconded to accept Criterion #4.**  
105 **Motion passed 4-0.**

106 **5B: Literal enforcement of the provisions of the ordinance is an unnecessary hardship:**

107 **(i) The following special conditions of the property distinguish it from other properties**  
108 **in the area:**

109 The large size of the lot, and security concerns due to the location of the property on  
110 Mountain Road and the distance of the proposed house from the road were  
111 referenced.



112 (ii) No fair and substantial relationship exist between the general purpose of the  
113 ordinance provision and the specific application of that provision to the property  
114 because:

115 The spirit of the ordinance is to prohibit the use of RVs as permanent dwelling units  
116 whereas the applicants seek to live in the RV temporarily while a permanent at home  
117 is built.

118 (iii) The proposed use is a reasonable one because:

119 Granting the variance would allow the applicants to supervise construction and  
120 enhance on-site security.

121 **VOTE: Jon Lavoie made a motion, Lisa Post seconded to grant the variance request.**  
122 **Motion passed 4-0.**

123

124 **Other Business:**

125 • **Selection of officers**

126 Karen Grybko made a motion, seconded by Jon Lavoie, no nominate Rick Roy as  
127 Chairman. Motion passed 3-0-1 (Rick Roy abstained).

128

129 Jon Lavoie moved to nominate Karen Grybko as Vice Chair, seconded by Rick Roy.  
130 Motion passed 3-0-1 (Karen Grybko abstained).

131

132 • **Appointment of Alternates**

133 The appointment of alternates was discussed. It was noted that having two alternates  
134 would be great.

135

136 • **Next Meeting**

137 Karen Grybko made a motion to change the next meeting time from 7 to 7:30pm,  
138 seconded by List Post, to accommodate Jon Lavoie's schedule. Motion passed 4-0.

139

140 **Approve Minutes:**

141 March 11 minutes were unavailable.

142

143 **Adjournment:**

144 **VOTE: Karen Grybko moved; Lisa Post seconded to adjourn at 8:15 p.m. Motion passed 4-0.**

145

146 Next meeting: May 13 , 2024 at 7:30 p.m.

147

148 Respectfully submitted,

149

150 Jay Minkarah

151 NRPC Circuit Rider

152

1                                   **TOWN OF LYNDEBOROUGH**  
2                                   **Zoning Board of Adjustment**  
3                                   **Meeting Minutes**  
4                                   **March 11, 2024**

5                                   *Draft 1*

6  
7  
8   **7:00 PM      Call to Order & Roll Call**  
9                                   **Meeting held at Citizens' Hall**

10  
11   **Members Present:** Chairperson Karen Grybko, Vice Chair Rick Roy, and Jon Lavoie

12   **Public Present:** NRPC Circuit Rider Jay Minkarah

13   **New Business:**  
14   **No new cases.**

15   **Continued Business:**  
16   **Rules of Procedures**

17  
18   Jay Minkarah provided a document that highlighted the changes of the Rules of  
19   Procedures that were discussed at the last meeting.

20  
21   Membership is appointed by the ZBA.

22  
23   The Board discussed "reclused".

24  
25   Item #4, Meetings: Decided on monthly meetings on the second Monday of the month  
26   at 7:00 pm. The Board won't consider a new matter after 9:00 pm at night. Agendas  
27   and Public Notices will be posting at Citizens' Hall and the Lyndeborough Post Office, or  
28   as otherwise required by law.

29  
30   Karen Grybko asked Jay Minkarah if he checked on item #4, on page 5. Jay Minkarah  
31   confirmed that he did. The word he got back was the Board will allow abutters to speak  
32   or any party that can say they are directly affected. For example, someone that holds an  
33   easement who is not an abutter, or if someone says that is the only way to get to their  
34   house. They need to show they are directly affected. It's at the chair's discursions.  
35   Rick Roy asked about "a person with standing". It was noted that only abutters get  
36   public notices. Guests that attend have an interesting in speaking. In conclusion, the  
37   chairperson can allow someone to speak. They have the right to deny a speaker,  
38   except an abutter.

39 Rick Roy asked if members of the Board may ask questions at any time and if members  
40 have to be recognized. Jay Minkarah says that is the right procedure.

41  
42 Burden of Proof:

43 If applicants fail to appear then they must submit a new application and pay the new  
44 fees. Karen asked if the escrow for legal fees is still in effect. Jay Minkarah said they  
45 can get their escrow back but when they reapply, they need to submit the escrow again.  
46 Discussed if the language “non-refundable” should be on the application.

47  
48 Decisions:

49 There should be a decision within 90-days and a written notice to applicant and  
50 available in the office within five business day. The chair will draft the Notice of Decision  
51 (NOD) with assistance of town staff if required. Edit to, “The board shall decide in  
52 90-days. The Town shall provide written Notice of Decision to the applicant(s) within  
53 five-business days”.

54  
55 Findings of Fact and Reason for Decisions changed to “shall” be added, which is a  
56 change from “should”.

57  
58 Records:

59 Strike the last paragraph. The Board may employ a secretary but do not have to.  
60 At the last meeting we struck all on audio and video. “Board may employ a secretary to  
61 take minutes and....and assigned duties”.

62  
63 **VOTE Jon Lavoie made a motion, Rick Roy seconded to accept the Rules of**  
64 **Procedures as amended. Motion passed 3-0.**

65  
66 **Approve Minutes:**

67 Have 2 out of 3 members in attendance.

68  
69 **November 2, 2023**

70 **VOTE Rick Roy made a motion to approve the minutes of Nov. 27, 2023 as**  
71 **amended, Karen Grybko seconded. Motion passed 2-0-1. Jon Lavoie abstained.**

72  
73 **November 30, 2023**

74 **VOTE: Jon Lavoie made a motion to approve the minutes of Nov. 30, 2023 as**  
75 **written, Rick Roy seconded. Motion passed 2-0-1. Karen Grybko abstained.**

76  
77 **January 8, 2024**

78 **VOTE: Rick Roy made a motion to approve the minutes of Jan. 8, 2024 as**  
79 **amended, Rick Roy seconded. Motion passed 3-0.**

80 Line 146 change to the “Board”

81  
82 **February 12, 2024**

83 There are not enough members to approve this set of minutes.

84 Rick Roy referenced the McEntee property and looked back at the history. There was a  
85 vote in 2001 with a discussion in 2000. At the time, they asked the rational of 500 feet  
86 road frontage. The minutes showed that Tom Christenton said, "We don't want bowling  
87 lane lots". There was a focus on the soil and septic design and that evolved with septic  
88 design. No one testified with anything negative. Lots over 5 acres it is understandable.  
89 These lots over 5 acres.

90  
91 Jay Minkarah researched ZBA applications to assist in updating our documents and  
92 provided sample ZBA applications.

93  
94 **Adjournment:**

95 **VOTE: Jon Lavoie moved, Rick Roy seconded to adjourn at 7:51 p.m. Motion**  
96 **passed 3-0.**

97  
98 Respectfully submitted,

99  
100  
101  
102  
103 Kathleen Humphreys  
104 ZBA Secretary