

1 **TOWN OF LYNDEBOROUGH**
2 **Zoning Board of Adjustment**
3 **Meeting Minutes**
4 **April 13, 2022**

5 *Draft 1*

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

10
11 **Members Present:** Vice Chair Rick Roy, Lisa Post, Ray Humphreys, Jon Lavoie and
12 Alt. Pam Altner

13 Also present were Code Enforcement Officer Leo Trudeau and Selectman Mark
14 Chamberlain.

15 Chairperson Karen Grybko was excused. Rick Roy was acting Chairman.

16 The applicants were not present at 7:00 pm. Acting Chairman Rick Roy started the
17 meeting to take care of other business. The applicants were called on the phone.

18 **Public Present:** Elise Warren and Keith Lefebvre arrived at 7:27 p.m. No abutters were
19 present.

20 **Correspondence:**

21 Temple ZBA meeting on April 14, 2022. In the ZBA mailbox was a letter from the Temple
22 ZBA notifying the Town of a case for a special exception for the wedding venue at the
23 Pony Farm on 19 Putnam Road. This mostly was deemed a regional impact case with
24 abutting towns which allows Lyndeborough to discuss the case. This area abuts
25 Lyndeborough past Temple Road. Mark Chamberlain kept the letter and will inform
26 Planning Board Chairman Charlie Post of the meeting.
27

28 **Approve Minutes:**

29 **VOTE: Ray Humphreys made a motion to approve the December 9, 2021 minutes.**
30 Pam Altner requested changes to change John to Jon for Mr. Lavoie.

31
32 **VOTE: Pam Altner made a motion, Jon Lavoie seconded to approve the December**
33 **9, 2021 minutes with amendments to correct spelling of "Jon" Lavoie.**
34 **Motion passed 5-0.**
35

36 The applicants arrived at 7:27 p.m. Elise Warren said they did not receive a certified
37 letter. Mark Chamberlain called NRPC Circuit Rider Jay Minkarah who said the owners

were in fact sent a certified letter. The abutter list had both co-owners listed together and not separate therefore one letter was sent to the address. Only one fee was paid.

New Business:

Case 2022-01 – Variance 411.00.02

**Elise Warren and Sydney Boilard, Map 233, Lot 015-000
18 Curtis Brook Road, Lyndeborough, New Hampshire**

The applicants RE-SUBMITTED a new application, dated March 1, 2022.

See application for owners' statements and supporting materials submitted.

Elise Warren and Keith Lefebvre were present. Mr. Lefebvre lives at the house but is not an owner. Co-owner Sydney Boilard was not present. She signed the ZBA application but there is not a letter on file for Ms. Warren to speak on her behalf or for Mr. Lefebvre to speak on either of the owner's behalf.

The applicants are seeking a variance from 411.00.02 for a detached Accessory Dwelling Unit (ADU). The unit does not have an attached door to the main house. The unit already exists and is occupied.

Keith Lefebvre said they are asking for the Variance from Lyndeborough Zoning Section 411.00.02 to provide relief from the requirements to not have an interior door between the main unit and the Accessory Dwelling Unit. When house was built the garage was put 83-feet away from the main house. To attach the ADU to the house, it would have to go through the yard and driveway and it would be very difficult. Elise Warren said there is a hill and a rock wall.

R. Roy verified that it's an unattached ADU vs an attached ADU.

The Five Variance Criteria

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

K. Lefebvre explained the garage was already built. They took out the garage doors and put in sliding doors. He added, that from outside no one would know there is a change to the garage. In his opinion, K. Lefebvre said it appears the former owner tried to put a garage closer where they could connect the ADU. The other location would have been right on the street. E. Warren said there is an old rock wall foundation and speculates that might have been where they wanted to build the garage (or possible where an old garage or building was built)

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

K. Lefebvre said that if the spirit is to not affect the surrounding neighborhood, in that case he does not think it affects the spirit or has a negative impact, other than the

doors do not connect. He said he understand why they have that rule because it limits residents building all sorts of building.

3. Granting the Variance would do substantial justice because:

E. Warren said she and her cousin purchased the property because it had the garage. It was their goal to make improvements for it to be a living space. She said she is a first-time home buyer and didn't realize the regulations.

K. Lefebvre said they thought it was 80% of a living area and had intentions of living in the separate quarters. They feel this created a hardship because that was why she bought it was to live in the garage unit (ADU).

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

E. Warren said there should be no negative change to the building or the property.

K. Lefebvre said the remodeling will increase their property value and be positive for the other properties

5A: Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship

(i) The following special condition of the property distinguish it from other properties in the area:

K. Lefebvre felt the original intent was to attach the garage but it would have been too close to the road and prohibit any expansion of the road in that area and concluded it could create a problems for any road work. The applicant informed the Board the former owner purchased some land out back to build the garage on.

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

The applicant felt it was the same answer as above.

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

E. Warren said it was a fully built structure, which was already there. She claimed it was approved to build it there. "We are not adding or doing anything to negatively impact others. There is no visuals going into the property. We think it's a reasonable ask".

Vice Chair Roy concluded the applicant presentation and opened the hearing up for questions from the Board.

R. Roy asked if people were living in the garage unit when they purchased the property. E. Warren said, "No". R. Roy asked if there were some bedrooms. Leo Trudeau said there are bedrooms, a bathroom, plus a space to prepare food.

131 J. Lavoie asked what was the state of building when you moved in. E. Warren said the
132 previous owner had their dogs in there. There is a bedroom and a space to make a
133 kitchen. She added you could not put a car there because she felt it was not safe and
134 added, there is no dry wall in the bottom garage. J. Lavoie asked if the top level was
135 built to be living space. K. Lefebvre said the previous owners did not live in the garage.
136 Keith the people living there previously didn't live there. The water was not turned on.
137 E. Warren said the house was owned by the government as part of an employee
138 relocation package. K. Lefebvre thought that two owners ago might have had people
139 living there; Sue and David Carriera (SP?). E. Warren purchased the house from
140 Maggie.

141
142 R. Humphreys asked if the garage had a functional kitchen and bathroom when they
143 purchased it and E. Warren answered, "Yes".
144

145 R. Humphreys has a major concern that the variance application is misleading and
146 inaccurate with the statements made in a few of the criteria that the applicant's answers
147 suggest this garage and ADU was approved by the Town already and he said, "I'm not
148 confident that the town approved another dwelling unit. The town approved a garage or
149 building but not an ADU, that means the application is inaccurate. It states the town
150 approved an ADU". Leo Trudeau said there is no evidence in the property file that a
151 living space was ever noticed. J. Lavoie said he felt that it reads that the building was
152 approved. Leo Trudeau said the building was approved; a garage and a shop. There is
153 no provision for a detached ADU.
154

155 R. Roy said what they have is a building that is a Non-Conforming Use. E. Warren said
156 she was naive to the use and it came to their attention during the inspection. They
157 would like to make this legitimate.
158

159 L. Trudeau said it was constructed to have living space, which was there when Ms.
160 Warren purchase the property.
161

162 R. Humphreys said it was NOT approved by the Town. In Question #3, it was not a true
163 statement. Leo Trudeau agreed that it is not an accurate statement.
164

165 P. Altner felt the applicant might not have been giving that specifics. R. Humphreys
166 said there is a saying, "Buyer beware. You have to do your research. That is why you
167 have inspections; check the septic, have a home inspection. A lot of people forget to
168 check with the Town". J. Lavoie said in Ray's, if you buy a 5-bedroom house and you
169 have a 3 bedroom septic system, the town will make you remove 2-bedrooms.
170

171 R. Humphreys said it would apply to #2, Deviation from strict requirements of the
172 Ordinance. In the State Statute you have a right to a Accessor Dwelling Unit (AUD). In
173 this town you have RSA 674:72, section 5 and you are asking for a variance. R.
174 Humphreys also mentioned RSA 485:28 and talked about State approval.
175

176 R. Humphreys said you are requesting us to give approval for an ADU and we have no
177 record and it, it was not approved and we have no idea if it's safe for the abutters. E.
178 Warren said, "I have been told by the previous owners that they did upgrade the unit."
179 R. Humphreys added, "There is no record of that". R. Roy asked who stated that it was
180 upgraded and the answer was Sue Carriera (sp?) and abutter Michael Belden
181 remembers when it was done. R. Roy said the problem which he has, and Ray, is we
182 need to see the plans. If it was upgraded, there should to be a plan that was approved
183 by the State. J. Lavoie said a septic system has to be registered by NH-DES. E.
184 Warren said they tried to find the septic records; there are no records at the town office
185 and they checked the State archives. E. Warren thinks that Dick Howe's company
186 installed the septic system. L. Trudeau said that Dick Howe is not a septic installer but
187 is a contractor. If he did any work, that would have been put in the property file. He
188 was a former building inspector and knows the filing system.
189

190 R. Humphreys said the tank is undersized per the RSA and it needs to be 1,250 gallons.
191 E. Warren said it is 1,000 gallons. It was discussed that regulations changed, around
192 the early 1990's, to 1,250 gallon tank for a 4-bedroom home, or less, from 1,000
193 gallons. There was a very lengthy conversation about the septic system and locating
194 the records and if there is another approved location in case the current septic system
195 fails.
196

197 It was discussed that the Town did not approve an ADU, but a garage/shop was
198 approved. There was no mention to improve the second floor. The building was built in
199 2008 and an addition in 2009.
200

201 R. Roy asked if it was inspected prior to the house purchase and why didn't this come
202 up with the bank. The inspection revealed the system was working fine. The company
203 that did the inspection never asked for septic plans. They did bring in special
204 equipment to do the inspection. E. Warren said they were going to charge her \$300 to
205 open the septic but she didn't make the decision to do that work. E. Warren said they
206 were in a hurry because the Trump tax benefits were about to expire. They were going
207 for a rural loan and had to apply for a different loan. There was also an ice storm.
208

209 It appeared the previous owners had no intentions of keeping it a shed because it has
210 features such as nice hardwood floors.
211

212 Lisa Post felt the applicant didn't do their due diligence for locating the septic system
213 paperwork. They might be able to make additional calls. Mark Chamberlain added, at
214 this point if there is nothing on record and by RSA they have to get a septic design that
215 was approved, so it is on file.
216

217 The Board decided to continue the meeting and requested the applicant get an
218 approved septic design and a letter from DES.
219

220 **VOTE: Jon Lavoie made a motion to continue the meeting to date certain, July 14**
221 **at 7:00pm.** *Discussion about the timeframe.*

222
223 **VOTE: Jon Lavoie amend motion to continue this hearing, date certain to,**
224 **Tuesday, June 14, 2022 at Citizens' Hall at 7:00 p.m. Ray Humphreys seconded**
225 **the motion. Motion passed. 5-0.**

226
227 Lisa Post gave the applicant her business card in case she can help. L. Post added,
228 this is a big deal around the State because they want to get people in compliance with
229 their septic systems and when someone is selling their property it is mandatory to have
230 a septic inspection. During Covid, people were buying homes for cash and forgo
231 inspections.

232
233 **Adjournment:**

234 **VOTE: Jon Lavoie moved, Lisa Post seconded to adjourn at 8:32 p.m. Motion**
235 **passed 5-0.**

236
237 Respectfully submitted,

238
239
240
241
242 Kathleen Humphreys
243 ZBA Secretary
244