

TOWN OF LYNDEBOROUGH

Zoning Board of Adjustment

Meeting Minutes

September 6, 2022

Draft 1

7:00 PM Call to Order & Roll Call
Meeting held at Citizens' Hall

Members Present: Chairperson Karen Grybko, Lisa Post, Ray Humphreys in-person.
Alt. Pam Altner was on the phone and will sit on the Board.
Board members not present: Vice Chair Rick Roy and Jon Lavoie

Public Present: Applicant Geoff Brock, abutter Geoff Allen, Planning Board BOS Representative Mark Chamberlain and Code Enforcement Officer/Building Inspector Leo Trudeau.

New Business:

Case 2022-02

Variance 408.00

Map 206, Lot 22, 544 New Road

frontage on New Road and Schoolhouse Road

Owners: Geoffrey & Patricia Brock on Broman Way

The applicants are seeking a variance to section 408 (Soil based zoning)
The lot as severe soils per a soil scientist.

Mr. Brock has not been officially before the Planning Board with a publicly noticed application but has discussed this in an informal session.

The applicant proposes to subdivide at 38.9-acre lot into three-lots. Two on New Road and one on Schoolhouse Road. The road frontage is 438 feet for the lot on Schoolhouse Road, which is less than the required 500-foot road frontage.

The Five Variance Criteria

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

Mr. Brock answered this question on the application as such:

"The proposed lot borders the cemetery so the 500-feet of frontage between housing lots that require a septic system will be preserved. The lot is larger than required. The rural character is also being preserved. The severe soil designation is due to the excessively fast perc rate."

Mr. Brock said the proposed lot is in front of North Cemetery and pointed out that a cemetery won't need a septic system. He felt the 500-feet is still preserved due to the fact of the cemetery will not have a home structure there.

Mr. Brock said the lot is large enough for a septic system, it's just due to the soils it's an issue. Ray Humphreys asked it is not just for septic it is also for preservation of wells around the area. He is uncomfortable with the term it is just for soil.

Lisa Post talked a bit about driveways and if they have the road frontage for a driveway. They have 759-feet and 500-feet on the New Road lots.

This Board does not know the purview of the Planning Board so it's hard to answer that question. The process on how this case is being heard at the ZBA before the Planning Board was discussed. The Planning Board has not made an administrative decision.

Mark Chamberlain asked if he could comment on the application in relation to RSA 676:5 2B and looked it up from page 480.

Lisa Post read RSA 674:33 2 page 435, in the most recent Land Use book. She felt that everyone can come in for a variance. Chairperson Grybko said that our Circuit Rider Jay Minkarah said if you know you need a variance, you can come right to the ZBA and Mr. Brock knows he needs a variance. The chair will share the RSA when it is provided.

Leo Trudeau questioned if this variance was under the right section but NRPC confirmed it was.

Public Input

Mark Chamberlain said the question is 438-feet instead of 500-feet but the reason he need 500-feet is because of severe soil. He noted there is a method of going to 250-foot frontage and 2-acres or he can go to a soil scientist for data. He asked Ray Humphreys to confirm the accuracy of this which it was. Mr. Brock said a soil scientist from S&H Land Services did a study and reported the lot had "Severe Soil". He does not have the report here. Ray Humphreys asked if it meets 2-acres of contiguous dry land and Mr. Brock replied, "It does not". The lot does not meet the zoning. R. Humphreys said the report would have to say there is 2-acres of contiguous dry land of slight to moderate soils in order to waive the frontage.

Leo Trudeau added in the Zoning, Section 408 clearly said if you have less than 500-feet of frontage, and if you can prove you have 2 contiguous acres of slight or moderate soil,

then you can get a building permit. R. Humphreys added, if you had that you would not have to come before this Board. The report only proves why you are here.

Lisa Post returned to the issue of driveways and frontage in relation to having less than 150 feet and a driveway is necessary to access all lots. She wondered if the driveway could come off New Road. It was noted that the Planning Board does not like irregular shaped lots and the road frontage would need to be contiguous.

R. Humphreys asked Mr. Brock why they are proposing an odd shape 20-acres. He replied when Proctor did the lot consolidation, he did it from New Road and he thought it would line up, but it didn't. They discussed a small less than an acre lot.

Lisa Post asked if the tiny house on New Road/Mountain Road had a driveway. G. Brock said that it was done before zoning.

Ray Humphreys felt this Board is at the point they are digging into this as to what the Planning Board should have done. Lisa Post asked again about the report and Mr. Brock responded, "It will show us what you know, the soils are advertised as sand".

Abutter Geoff Allen, 1094 Mountain Road, asked if this variance is approved and goes before the Planning Board and gets the 3 house lots and a variance, what would prevent him from creating a road and creating a large subdivision. They discussed it could be a condition of approval. R. Humphreys said the variance goes with the land. The Planning Board has not even approved the subdivision.

Geoff Allen said his family picked this town and that area for the nature of the Town. "I'm comfortable with that Mr. Brock's proposal would not dramatically change the nature of Lyndeborough but I'm uncomfortable proposing a variance for that lot". Chair Grybko said the variance would be for that lot and the number of acres and in the Notice of Decision (NOD). Geoff Brock said he is trying to preserve nature. That area already has two new houses and that has changed traffic and so forth.

Geoff Allen mentioned he did not receive his abutter letter. He went to the post office but could not get it and it was not delivered to his house. He wondered if other abutters had an issue receiving their letters.

The Board continued to discuss RSAs, the land and zoning.

Possible conditions of approval were discussed. The Board previously granted another variance that limited the lot to a 2-bedroom home. Chair Grybko said they offered that solution, and we can't impose conditions. This was debated.

CONDITIONS Mr. Brock was agreeable to:

**Smaller lot is restricted to a 2-bedroom home for Map 206, Lot 22-02 (verify lot #)
Larger Lot, Map 20, Lot 22: No further subdivision. No restriction on home size.**

M. Chamberlain proposed these two lot numbers get switched on the map.

R. Humphreys asked if it would be a problem to vote "no" to #1 but then put conditions.

VOTE: Ray Humphreys moved that Question 1 would be contrary to public interest because of the severe soil. Karen Grybko seconded the motion.

Pam Altner, yes; Lisa Post commented about the lot sizes but said she does not like the motion. (the motion did not continue)

It was agreed that Geoff Brock will submit a new application. (Change the lot numbers)

Abutter Geoff Allen said this helps preserve the land and it would only have two new houses. Personally, he would not want to see a house built the field.

RSA's Reviewed during this case:

RSA 674:33 read #4, rules of governing Boards of Adjustment; #6 authority of BOA; ii variances, #10 (2), nature of variances; #11 purpose of variances; grounds for variances. #12 only para #1 and #18 Attachment of Conditions to Variance.
423. 425 #10 under variances.

VOTE: Lisa Post made motion, Pam Altner seconded to continue to date certain to October 3, 2022 at 7:30 p.m. at Citizens' Hall. Motion passed 4-0.

The applicant and abutter left at 8:52 p.m.

Board Action for Previously Withdrawn Application:

Case 2022-01 – Variance 411.00.02

Elise Warren and Sydney Boilard, Map 233, Lot 015-000, Curtis Brook Road.

The applicants withdrew their application without prejudice.

VOTE: Lisa Post made motion to terminate the application Case 2022-01 of Elise Warren and Sydney Boilard of 18 Curtis Brook Road due to a withdrawal without prejudice. Ray Humphreys seconded. Motion passed 4-0.

Approve Minutes:

The minutes will be tabled until the October 3, 2022 meeting.

The secretary will resend the minutes of Case 2022-01.

Adjournment:

VOTE: Lisa Post moved, Ray Humphreys seconded to adjourn at 8:56 p.m. Motion passed 4-0.

Respectfully submitted,

Kathleen Humphreys, ZBA Secretary