

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

5                   *Draft 1*

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7  
8                   **7:48 PM      Call to Order & Roll Call**  
9                   **Meeting held at Citizens' Hall**

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

13                   **Public Present:** Geoff Brock and Code Enforcement Officer/Building Inspector Leo  
14                   Trudeau. Selectman Mark Chamberlain joined at 8:42 p.m. after the CIP meeting upstairs  
15                   concluded

16                   No abutters were present.

17                   **New Business:**

18                   **Case 2022-02**

19                   **Variance 408.00**

20                   **Map 206, Lot 22, at 544 New Road**

21                   **Frontage on New Road and Schoolhouse Road**

22                   **Owners: Geoffrey & Patricia Brock on Broman Way**

23  
24                   The applicants are seeking a variance to section 408 (Soil based zoning) frontage  
25                   requirement of 500-feet. The lot has severe soils per a soil scientist.

26  
27                   After the last meeting on September 8, 2022, the case was continued date certain until  
28                   tonight, allowing time for G. Brock to submit a new application that included the following  
29                   conditions: The smaller lot, Map 206, Lot 22-02, is restricted to a 3-bedroom home. The  
30                   larger Lot, Map 20, Lot 2, added, "No further subdivision in perpetuity" with no restriction  
31                   on the home size.

32  
33                   Mr. Brock has not been before the Planning Board with a publicly noticed application but  
34                   has discussed this in an informal session with the Planning Board.

35  
36                   The applicant proposed to subdivide a 38.9-acre lot into three-lots. Two on New Road  
37                   and one on Schoolhouse Road. The road frontage is 438-feet for the lot on Schoolhouse  
38                   Road, which is less than the required 500-foot road frontage.

40 Geoff Brock updated the application to read:

41 A. Variance Requested

42 A variance is requested from Section 408.00 of Zoning Ordinance to permit:

43 "A lot of Schoolhouse Road using all the existing frontage of 438-feet, less than the  
44 required 500-feet of road frontage. The lot would be restricted to no larger than a 3  
45 (three) bedroom house.

46 "

47 B. The Five Variance Criteria (as set forth in NH RSA 647:33, I(b)

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

51 G. Brock wrote, "In addition to restricting the size of the house on Schoolhouse Road,  
52 I/we/the Town, would restrict all lots including the large 27+ acre lot to "No Further  
53 Subdivision in Perpetuity". This would effectively protect the severe soils from too many  
54 septic systems as well as better than the ordinance.

55 R. Humphreys requested the applicant supply the soil survey report for the town records  
56 to be added to this application and the property file. G. Brock said he will resend the  
57 document to K. Grybko from the original email date of September 13, 2022.

58 **VOTE: Ray Humphreys moved, Lisa Post seconded to accept Criteria #1 with the**  
59 **inclusion of "No Further Subdivision in Perpetuity" for the 27+ acre lot, (Map 206,**  
60 **Lot 22 as shown on the map submitted) and to restrict the 6+ acre lot on**  
61 **Schoolhouse Road to a 3-bedroom house, (Map 206, Lot 22-2 as shown on the map**  
62 **submitted). Motion passed 5-0.**

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

66 G. Brock wrote, "Density of housing and rural road view is preserved with the large lots,  
67 large frontage, and no building at the cemetery. Septic system density is more than  
68 halved to 3 (three) from 7 (seven) if a major subdivision with roads were proposed.

70 **VOTE: Lisa Post moved, Ray Humphreys seconded to accept Criteria #2 because**  
71 **the lot is consistent to the Master Plan in regards to keeping rural neighborhoods.**  
72 **Motion passed 5-0.**

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

76 Mr. Brock wrote, "Limiting a 38.9-acre lot that has 1,802 of road frontage to only two  
77 building lots or requiring the destruction of the natural environment to build a road is  
78 unreasonable and would do more harm to the environment and beauty of North  
79 Lyndeborough".

81 **VOTE: Jon Lavoie moved, Lisa Post seconded to accept Criteria #3. Motion passed**  
82 **5-0.**

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

87 Geoff Brock wrote, "The new lots are still keeping with the current rural character of the  
88 neighborhood. The lots are larger than many of the neighboring lots".

89 **VOTE: Lisa Post moved, Ray Humphreys seconded to accept Criteria #4. Motion**  
90 **passed 5-0.**

91  
92 **5B: Literal enforcement of the provisions of the ordinance is an unnecessary**  
93 **hardship:**

- 94 (i) **The following special conditions of the property distinguish it from other**  
95 **properties in the area:**

96  
97 Geoff Brock wrote, "Although the property is 38.9 acres and has 1,802 feet of road  
98 frontage, without the variance it is only divisible into two lots. At least two neighboring  
99 lots and three in the immediate area also don't meet the very restrictive sever soil Rural  
100 Lands 1 lot requires".

101  
102 **VOTE: Lisa Post moved, Ray Humphreys seconded to accept Criteria #5(i). Motion**  
103 **passed 5-0.**

- 104  
105 (ii) **No fair and substantial relationship exist between the general purpose of**  
106 **the ordinance provision and the specific application of that provision to**  
107 **the property because:**

108  
109 Geoff Brock wrote, "The separation of septic systems can still be assured with the large  
110 lot size of 438-feet of frontage, and the cemetery and the neighbor. Also, the severe  
111 soil designation is due to excessively fast perc rate as opposed to shallow ledge or  
112 excessively slow perc rate".

113  
114 **VOTE: Lisa Post moved, Ray Humphreys seconded to accept Criteria #5(ii). Motion**  
115 **passed 5-0.**

- 116  
117 (iii) **The proposed use is a reasonable one because:**

118 Geoff Brock wrote, "The large building lot provide good housing and community for the  
119 citizens of Lyndeborough. Along with additional revenue for the town".

120  
121 **VOTE: Lisa Post moved, Ray Humphreys seconded to accept Criteria #5(iii).**  
122 **Motion passed 5-0.**

123  
124 **VOTE: Lisa Post moved, Ray Humphreys seconded to accept the application as**  
125 **reviewed and satisfied with the changes made and to approve the Variance**  
126 **Request from Zoning 408.00. Motion passed 5-0.**

127  
128 The Planning Board will need to see this case next.

129  
130 Leo Trudeau asked for a point of clarification and said the variance request is for frontage  
131 but that is not what Zoning 408.00 says. He wanted to know what the applicant is asking

for. If a lot is less than 500-foot road frontage it must have two contiguous acres of dry land. He is asking for a variance for sever to moderate soils. Chairperson Grybko said the variance was reviewed by NRPC Jay Minkarah who said that 408 was the correct zoning variance. R. Humphreys agreed with L. Trudeau but the applicant was given a variance from section 408.00.

### **New Procedures:**

Any Notice of Decision (NOD) shall go to NRPC for approval. This is the first NOD since the new requirements were enacted.

The Board, L. Trudeau, and M. Chamberlain debated if variance cases need to go before the Planning Board prior to being heard by the ZBA. Only recently cases have gone directly to the ZBA without a denial from Code Enforcement or the Planning Board.

L. Trudeau wondered how they can grant a variance for a lot that does not exist. R. Humphreys said in this case, it could be a major subdivision but without the Planning Board reviewing the case, there is no way to know. The lot numbers in this case were in question. J. Lavoie and L. Post felt they can't go looking for information. The decision is made off the material presented. The variance stays with the land. M. Chamberlain said option #1 is to hold a joint meeting with the Planning Board. This meeting would be chaired by the Planning Board. Option #2 is to deny without prejudice

Lisa Post would like to see NRPC be present at ZBA meetings. K. Grybko said it is in the budget. A discussion followed.

### **Approve Minutes:**

#### **April 13, 2022**

Amendment were proposed for lines 126, 157, 165-169, 177, 190-195, 201 and 212.

**VOTE: Jon Lavoie moved, Rick Roy seconded to approve the minutes of April 13, 2022 with the requested amendments. Motion passed 5-0-1. K. Grybko abstained.**

#### **September 6, 2022**

**VOTE: Lisa Post moved, Ray Humphreys seconded to approve the minutes of September 6, 2022 with the requested amendments to lines 24-25, 111-113, and 117-118. Motion passed 4-0-2. Rick Roy and Jon Lavoie abstained.**

### **Adjournment:**

**VOTE: Pam Altner moved, Lisa Post seconded to adjourn at 9:02 p.m. Motion passed 5-0-1.**

Respectfully submitted,

Kathleen Humphreys  
ZBA Secretary