

1 **TOWN OF LYNDEBOROUGH**
2 **Zoning Board of Adjustment**
3 **November 8, 2018**

4 **Minutes**

5 *Working Copy 2*
6
7

8 **7:00 p.m. Roll Call:** Chairman Karen Grybko; Vice Chair Rick Roy; Lisa Post, Linda
9 Anderson and alternate Pam Altner

10
11 Member Tom Chrisenton was not present and recused himself because he is also the
12 Planning Board Chairperson. Alternate Pam Altner took Mr. Chrisenton's seat.
13

14 Public Present include: Larry Boisvert, Attorney James Lombardi, Sharon Boisvert,
15 Steve Brooks, Paul Turner, Tracey Turner, Dave Roemer, Bob Booream, Donna
16 Anthony, John Anthony, Code Enforcement Officer Leo Trudeau and Selectman Mark
17 Chamberlain in addition to other citizens.
18

19 Media Present: Jessie Salisbury
20

21 **CONTINUED BUSINESS:**

22 **Case 2018-3**

23 **Boisvert Variance Request, Section 1200 for a Home Business.**

24 **Lot 237, Map 13 and Lot 237, Map 14, 52-54 Johnson Corner Road.**

25 **The Applicant is seeking a variance from Section 1200 of the Town's**
26 **zoning to run a portable toilet business from his property.**
27

28 **Applicant is:**

29 **Laurent (Larry) Boisvert and Sharon Boisvert; owners of Portable Privies, Inc.**

30 Also D/B/A Feel Good Farm, 52-54 Johnson Corner Road, Map 237, Lot 13 & Map 237,
31 Lot 14.

32 **New Documents:** Attorney Lombardi emailed three photographs of the property that
33 were taken from Johnson Corner Road looking into the Boisvert's property. Hard copies
34 were available at the meeting for the Board to view then added to the application file.
35

36 **Site Walk:** Since the last meeting the Board held a site walk on Mr. Boisvert's property
37 on November 5, 2018. Mr. Lombardi requested restrictions on what the Board could
38 see. The Board was not allowed to enter any buildings including the home, farmhouse,
39 barn, greenhouse or other buildings; not allowed to take photographs; not allowed to
40 wander or linger on the property and instructed to park in the lot and go directly to the
41 toilet storage area. (See letter dated Oct. 24, 2018, RE: Site Walk 11-5-18 at 11AM)
42

43 Chair Gryko opened the meeting and announced the Board has listened to concerns
44 from all parties during the past several meetings and felt the Board is ready to
45 deliberate. Each Board member had a copy of the application in front of them to review
46 the Five Criteria questions and answers.

47

48 **VARIANCE CRITERIA QUESTION #1:**

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

51

52 **Lisa Post:** I believe waiving the terms of the Ordinance will be contrary to the public
53 interest and opposite of what they [Mr. Boisvert] presented. I say this because this is a
54 commercial business that will significantly alter the nature of the neighborhood and will
55 have a big impact on it. There are many concerns about the health and welfare from
56 abutting neighbors and abutting water neighbors. I think it's a potential threat to the
57 health and safety. A big part of the Ordinance is, we are bound to protect our residents
58 from.

59

60 **Rick Roy:** I think it is, to some extent, contrary. I think if we can put certain conditions
61 on it, we can align it with the public interest.

62

63 **Lisa Post:** There are conditions that we have previously discuss in the appeal and put
64 on that we have found to be not valid. The conditions we put on for it for the Variance to
65 end with Mr. Boisvert, is not true. The Variance will go with the property. It will forever
66 be a business. For example, Dave Septic System can buy this property and operate
67 their big business on it. We will change that forever and ever and ever by granting this
68 Variance.

69

70 **Rick Roy:** Can I do a condition? The condition would be that Mr. Boisvert complies
71 with all the 2018 ordinances.

72

73 **Lisa Post:** He can't because he can't meet any of those because he is strictly a
74 commercial, industrial, portable potty business with everything that goes with it such as
75 their trucks and the cleaning. We also know there has been a history of conditions
76 being put on, and not only with this business, but with other businesses, and Mr.
77 Boisvert not following them.

78

79 We discussed last time Rick, the fact the porta potties needed to be washed on site.
80 We were there and we saw where they are being washed. We saw the proximity to
81 Curtis Brook and we know that a permit is needed to do that. A commercial operator of
82 a business should be responsible enough to know what they need to legally operate
83 their business and have concerns for their neighbors. I don't believe that was shown. I
84 believe if I was his neighbor, I would want this board to make that decision for me. I do
85 believe it impacts the health and welfare.

86

87 I know Curtis Brook goes down to Purgatory Falls. People swim in the falls. There has
88 been a history of septic release on their property. It took three-years to clean-up. That

89 is not something that belongs here. It also opens it up to make it customary in this area
90 for this industrial use.

91
92 **Pam Altner:** That is my biggest concern of the precedent it will set for the Town of
93 Lyndeborough for the future. If you allow it once, how can you turn-around and tell
94 someone who wants to compete they can't do it. I'm having the biggest struggle with
95 the precedent it will set.

96
97 **Rick Roy:** With respect to the conditions. The first one you mentioned about whether
98 this property can be, in the Ordinance, this can't be brought forward. When he is done
99 with the business, it's done.

100
101 **Chair Grybko:** No, we can't do that. The variance travels with the property.

102
103 **Rick Roy:** I'm asking if one of the conditions is he has to comply with the 2018
104 Ordinance except for...

105
106 **Chair Grybko:** He doesn't. If we give him a Variance, the Variance travels with the
107 property. If they sell it, they can use it. We can put conditions such as it can only be
108 Monday through Friday, hours of operation, and things like that but we can't say he
109 can't sell it to someone else because the Variance goes with the property.

110
111 **Lisa Post:** We were misinformed last time. We put those conditions on thinking it would
112 end when the Boisvert's no longer owned the property and that business will not
113 continue.

114
115 **Rick Roy:** That is in the language of the Ordinance.

116
117 **Lisa Post:** No, it is not the law.

118
119 **Rick Roy:** It's in the Ordinance, under Home Business, in "General Use", that if a
120 person has a home business it is not transferable.

121
122 **Lisa Post:** This is not a home business. This is a commercial, industrial operation. It is
123 not a home business. It does not fit that. He is asking for a Variance from it. He will
124 never be a home business. It is a commercial, industrial operation. There are trucks.
125 There is the washing of the porta potties. There is the transportation. There is the
126 septage on the property. I'm sure he does not go to clean out a toilet, with just a little
127 piece of it in his truck and tanks, and go immediately to the facility to empty the tank out.
128 He waits until it's fuller so it does not cost him as much. Every time he goes to the
129 waste treatment plant there is a cost. So it's sitting there on his property. It may be not
130 sitting there overnight like it was stated; it could be sitting there for weeks. Mr. Boisvert
131 stated to us, sometimes he does not have to. I asked Mr. Boisvert on the site walk, how
132 often he is transporting, picking up and delivering his porta potties and he basically
133 refused to give an answer. I asked if it's a lot and sometimes it is a little and does it
134 depends on if it's the summer months or fall, and he agreed to that. As a commercial

135 business man, he is not evening keeping track of that information on how much septage
136 he is keeping in his trucks and the waste on the property. How many times a week he
137 delivers his toilets? Most people who own big commercial operations take good care to
138 know all those facts. That is my concern, the care that is being shown for this business.
139 I'm also concerned there is no emergency plan in place. You said, the only thing you
140 have is lime if there is a big spill. We heard Mr. Boisvert talk about the truck, and one
141 moment he said, the "Tank it's so strong and so heavy that nothing can happen to it",
142 then to say, "I don't trust it". You can't have it both ways with that. We know there are
143 disasters that happen. It is a threat if that happens to everybody downstream in the
144 water.

145
146 **Rick Roy:** I did speak with Tim Sweatt [NHDES]. Larry does have what is expected of
147 him on the truck. They didn't have anything further recommended.

148
149 **Lisa Post:** I agree. I also spoke to Mr. Sweatt and he told me an abutter had called and
150 was concerned but because the abutter didn't smell anything, they [NHDES] didn't
151 check it out. I asked when was the last time it was checked it. Mr. Sweatt couldn't
152 remember.

153
154 **Rick Roy:** Did you talk to Tim? **Lisa Post:** Yes Tim. It was many years since it was
155 checked... **Rick Roy:** The tank or the truck? What was checked?

156
157 **Lisa Post:** The property was not checked.

158
159 **Rick Roy:** The property. Can I respond to that because I asked a similar question?
160 Tim said because Larry's operation, compared to other ones, is so minor they keep
161 track by the volumes that are recorded at the Milford Waste Treatment facility. That
162 was his accountability. I asked him directly, how he knows the septage isn't being
163 improperly disposed of and that is what he told me.

164
165 **Lisa Post:** I asked him the same question in a different way. I said, "If you know how
166 much he is bringing into you, does that give you an indication of how many porta potties
167 he has or what you would expect?" He [Mr. Sweatt] said, "We have no way of knowing
168 that." So he only knows what is brought there on a regular basis. It does to mean that
169 there aren't other things happening on that property, that were in the past. He said,
170 "The property is so large, there is no way they can possibly check the whole property."
171 And that was a real big concern of mine as well, they can't check it and they don't have
172 the man-power to get out there and do it. So how can we put conditions on when no
173 one is really checking on them?

174
175 **Rick Roy** asked for clarification of the Ordinance. He read Section 1200.00 under
176 General Regulations, Item #10.

177
178 10. A Home Occupation or Home Business legally operating under the provisions of
179 Section 1200 as amended in 2017 of the Zoning Ordinance on the date of the
180 enactment of this Ordinance may continue unless and until the following:

- 181 a. The occupation or business expands in size, scope or purpose.
182 b. The ownership of the property is transferred.

183
184 **Chair Grybko** mentioned it also says, "...legally operating under the provisions..." He
185 is getting a Variance because he does not meet those provisions.

186
187 **Lisa Post:** He will never be a Home Business. He is not operating under the structure
188 of a Home Business.

189
190 Rick Roy debated if this could be a legal condition and again asked if this can be a legal
191 condition.

192
193 **Lisa Post:** He will never operate under the structure of a Home Business.

194
195 **Chair Grybko:** This is the Ordinance. He does not fit this definition of the Ordinance for
196 anything so we are giving him a Variance so it excludes him from everything in here.
197 The Variance travels with the property. We can only put conditions on the operation of
198 the business that will also travel with the property. But the Variance will travel.

199
200 Rick Roy said he doesn't understand why this can't be a condition.

201
202 **Linda Anderson:** That was a condition on another property in town that once the
203 property was sold, that it could not be continued.

204
205 Lisa Post asked if it was a Home Business or a Variance. If they got a variance on that
206 it no longer applies.

207
208 **Chair Grybko:** Remember the Variance we gave to the property up here on Rt. 31 for a
209 Gas Convenience Station. That travels with the property. Even though the owner of the
210 property never put a gas station there, that Variance travels with the property so it will
211 always be able to be built as a gas station. That is kind of what this is.

212
213 **Lisa Post:** That is, Rick, what we are straightening out today. We were pretty shocked
214 because we felt we understood before when we put those conditions on with the
215 understanding we were doing the right legal thing, the legal thing, and obviously we
216 were not.

217
218 **VARIANCE CRITERIA QUESTION #2:**

219 **Deviation from the strict requirements of the Ordinance is consistent with the**
220 **Spirit of the Ordinance because:**

221
222 **Chair Grybko:** Basically he can't meet the requirements for the strict Ordinance. If we
223 give him a variance is it consistent with the Spirit of Ordinance that was written?
224

225 **Lisa Post:** I would make the same arguments I made before. It is not in the Spirit of the
226 Ordinance because it does significantly impact the nature of the...It's a commercial
227 business.

228
229 **Chair Grybko:** When you look at the deviation from the requirements. It said that
230 exterior display of materials and equipment related from the business is not secured
231 from public view. Mr. Boisvert told us that he keeps his trucks and his trailers and
232 sometimes porta potties in his driveway. That was a big concern of the neighbors. You
233 can't see 80 porta potties but you could potentially see the 10 on the trailers, four (4) on
234 truck and two (2) on the other truck and some on the driveway.

235
236 **Rick Roy:** Again, I'm asking the same kind of question. Can't that be a condition?

237
238 **Chair Grybko:** We can make that a condition because it's business of exterior display
239 of materials and equipment. We could make that a condition that they have to all be out
240 of sight.

241
242 **Rick Roy:** or some portion.

243
244 **List Post:** I feel it's a definitely a deviation from the strict requirement of the Ordinance.
245 It's a commercial building in a residential neighborhood. I ask everybody here tonight
246 and at this table to understand that people live in residential neighborhoods for a
247 reason. You don't live in commercial districts.

248
249 **Pam Altner:** On that note, if you look at the nature of the neighborhood and what draws
250 people to Lyndeborough and the surrounding area. It's a beautiful area. What is it
251 going to do to those properties to people that potentially want to sell, if they find out that
252 next door, it has this type of business on the property? That is a concern.

253
254 **VARIANCE CRITERIA QUESTION #3:**

255 **Granting the Variance would do substantial justice because:**

256
257 **Chair Grybko:** When you look at the substantial justice we have to remember it's not
258 the fact there is an office in the house to take calls or do scheduling or any paperwork
259 for the business. He did operate the business from another location, I don't know how
260 long. I don't know about substantial justice because we are not telling him he can't
261 have that business.

262
263 **Lisa Post:** I will say that granting a Variance would allow again, a commercial, industrial
264 portable toilet, maintenance and distribution facility with trucks and trailers and storages.
265 There are some businesses that can be permitted on that property, and in fact he does
266 have other business on that property. But this is not one of the businesses that belong
267 on that property because it's a commercial business. There are worries by the
268 neighbors and water abutters that there are hazards with this type of commercial
269 business. And the Variance, would go with the land and not the owners so forever,
270 these folks with their homes, when they go to sell they, will have a commercial operation

271 next to them. My heart really goes out to that because I know as a person who moved
272 here four years ago, and I moved here for a specific reason. You are out in the country,
273 there is beauty and quiet. A commercial industrial facility does not belong in
274 Lyndeborough.

275
276 **Chair Grybko:** Does anyone else have a comment?

277
278 **Lisa Post:** Mr. Boisvert never operated that business legally here. Never, ever, ever
279 was it legal here.

280
281 **VARIANCE CRITERIA QUESTION #4:**

282 **The value of the surrounding properties will not be diminished because:**

283
284 **Chair Grybko:** We do have a letter from Jim Goodard [Real Estate Agent] that says he
285 feels it does not affect the values of the surrounding property. That is probably
286 subjective. Who knows if it was ever disclosed that there was a porta potty business in
287 the neighborhood. I don't know. It's kind of subjective. I don't know how you all feel?
288 *(See file for letter)*

289
290 **Rick Roy:** I would say in respects to that one letter from one person, it does not mean
291 much at all and carries very little weight. We need at least a few people who know
292 something about the history and so forth.

293
294 **Chair Grybko:** Because the business never had a Variance or was legal, I wonder if it
295 was ever disclosed to buyers that it was operating there. I don't know if realtors are
296 obligated.

297
298 **Pam Altner:** When I came up here from New York. We took a year and a half to buy
299 the home that I'm living in now. A lot of what came into play was what was going on in
300 the surrounding neighborhood. What is going on in the area? Is there hazards? We
301 were concerned about water. We backed out of a few potentials because there was
302 arsenic in the water. I would think because there are people out there, much like
303 myself, that would want to know what is going on around the house they might be
304 interested in buying. If it was me, I would shy away in this situation.

305
306 **VARIANCE CRITERIA QUESTION #5A:**

307 **Literal enforcement of the provisions of the Ordinance would result in an**
308 **unnecessary hardship.**

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

311 **Chair Grybko:** I don't know if we can consider that unless somebody has a strong
312 feeling they want to bring up. Number 5, this is the special conditions of the property.
313 Basically Mr. Boisvert's big thing is he has a large piece of land, 215 acers. He said it's
314 much greater in size than most if not all the neighboring properties. There are some

315 large properties in that area, Paradise Farm is there, Holt Brothers is there, Joan Lemire
316 is there. There are other large properties. It is a large property. You can't take that
317 away. Is it a uniquely large property? I don't know. I don't have enough information.
318 Anyways, it is true, it's large enough that he could hide his porta potty business in the
319 property.

320
321 (i) **No fair and substantial relationship exists between the general purpose**
322 **of the ordinance provision and the specific application of that provision**
323 **to the property because:**

324 **Chair Grybko:** There are a lot of uses for a property of that size, a lot of uses which he
325 already has. He has trails. He has a recreational facility. He has blueberry picking and
326 a cord wood co-op. There is lot of suitable activities on his property. So the porta potty
327 business is not the only thing it can be used for. So I don't know if anyone wants to
328 discuss this.

329
330 **Lisa Post:** I do. In the addendum that was presented to us [in the revised application
331 dated, Oct. 15, 2018]. In regards to this "no fair and substantial relationship exists, the
332 reasons they [Boisverts] give the reason as "*the purpose of the home business*
333 *ordinance, and the other provisions of the Zoning Ordinance is to 'promote the health,*
334 *safety and general welfare of the residents [of the town of Lyndeborough] by preserving*
335 *the values of buildings; by encouraging the appropriate use of land...[; and] securing*
336 *safety from fire, panic and other dangers; providing adequate area between buildings*
337 *and rights-of-ways; preserving rural character of the community; [and] promoting good*
338 *design and arrangement of land uses."* (see application addendum, page 3)

339
340 Everybody that was on that site walk the other day can probably attest to the fact it was
341 not a good use of the land. The porta potties were not in storage containers except for
342 three (3) like they had told us in the past. I was pretty shocked to see that because I
343 expected to see less. There were about 37-40 portable toilets at there. There are also
344 portable toilets for the handicap, which are very big. It was not a good use of the land.
345 They were sitting in mud. Mr. Boisvert washes them there. There were broken ones.
346 There were pieces of them all over. It was not a well-run business that a neighbor
347 would say, "He does a good job keeping it clean. We don't hear anything. We don't
348 see anything. We don't smell anything." It not that type of business. It is just kind of
349 willy-nilly throw it together. It's just a commercial, industrial operation that does not
350 belong on a property, especially one that someone is not taking care to have respect for
351 neighbors, the environment and the town.

352
353 **Rick Roy:** I guess my mis-understanding is that how the mechanism of the variance
354 and conditions we could apply. We are restricted in some of the conditions that they
355 extend to the next owner. That is disturbing to me to be honest. I felt better if we could
356 apply the 2018 Ordinance for the incidental and secondary, and all the other attributes.
357 I didn't feel so bad about the circumstances but you can't do that so it puts a spin in my
358 thoughts.

359

360 **Chair Grybko:** We were told we could only set conditions on hours and he could hide
361 things further back into his property. The Variance does travel with the property.

362
363 **Lisa Post** addressed **Rick Roy**. When we did the appeal, we all wanted to do
364 something and to find a middle ground. I think we have been doing that throughout this
365 whole process. **Rick Roy:** I agree with that. **Lisa Post:** After looking into it and hearing
366 everything and getting a better understanding of the business, I just don't feel it belongs
367 here because it's a commercial operation. I don't think he [Mr. Boisvert] meets the
368 hardship for various reasons and I believe it does not belong here.

369
370 **Linda Anderson:** I'm blown away because I thought we could have the condition that it
371 does not continue once he sold it.

372
373 **Chair Grybko.** We asked today because what the Variance met. We all thought we
374 could put conditions, like we did on the Administrative Appeal, then send it to the
375 Planning Board. But the Variance travels with the property.

376
377 **Linda Anderson:** It's a major factor.

378
379 **Lisa Post:** Another major factor for me was on that site walk his neighbors were telling
380 us that if we put conditions on it, they were not convinced Mr. Boisvert would do all
381 those things because that has been past history that he hasn't. With that in mind, it
382 makes it hard to make a decision for Mr. Boisvert to have that on his property, to have a
383 commercial, industrial porta potty, maintenance, distribution business and the fact that it
384 goes with the land. I don't know how anyone else would feel if their neighbor was
385 selling their house and moved in and got a Variance for that and put that business
386 smack dab right next to them. And this is sort of what will happen to his neighbors.

387
388 **Pam Altner:** The history of non-compliance and the history of the property not being
389 check-on unless there were complaints. So it's a two-fold. It's not just a single
390 concern. My own concern, not sure if it's the nature of the world I come from in health
391 care, is that you say there are 40 privies. I was unable to do the site walk. My concern
392 is he also mentioned the only chemical he uses is the chemical he puts in the toilet.
393 Inherently, I have concerns about the cleanliness. You have that many in a compacted
394 area that you have, in my opinion, are not being properly cleaned on the inside,
395 because people use the toilet and things go places. If you blue light it, you probably will
396 be grossed out. Then you put all those in a confined area and what are you potentially
397 releasing in the area, maybe something, maybe nothing? We don't know. This is a
398 health hazard for me, coupled with the non-compliance and it does not get checked on.

399
400 **Lisa Post:** In addition to that, he is responsible for finding out what regulations they
401 need to abide by. And the fact he is washing them on his property without a permit is
402 bothersome to me as well. Especially, considering he had an issue in the past.

403

404 **Pam Altner:** He might be doing what is required but for me I would think maybe
405 cleaning the inside a little bit more than rinsing it with water would be more appropriate.
406 I have an issue with that many in a confined area.

407
408 **Lisa Post:** When he is washing it Pam, where is that water going?
409

410 **Pam Altner:** So the disinfecting is not even killing the bugs before they get to the
411 ground...

412
413 **Chair Grybko:** He is not cleaning the inside.
414

415 **Lisa Post:** Read some stuff about dirty jobs and porta potties. There is a lot of mess
416 that gets transferred to the inside. People don't often make it to the proper place.
417 People are abusing it. That stuff has to be cleaned.
418

419 **Pam Altner:** Yes.
420

421 **Linda Anderson:** I'm trying to think back to the time when there was a situation and
422 thinking back to when there were conditions. I believe a report had to be given to the
423 Selectmen as to the number of trips. I think Peterborough was being used. So we
424 would be aware of how much was going in and what the cost of it was. It was my
425 thinking that the State did more inspections. It might not have been.
426

427 **Grybko:** The State is being more financially strapped and not having a lot of
428 employees. Most departments don't have time for inspections, only complaints
429

430 **Linda Anderson:** I don't have confidence in the State.
431

432 **Chair Grybko:** I don't think that is something we can consider because that is not
433 something we can control or regulate. Basically we are just looking at; does it fit into the
434 neighborhood and if you can put it in the neighborhood with conditions is something for
435 us to consider. The big thing is do we feel it fits into a residential neighborhood.
436

437 **Lisa Post:** And the greater Town. Because this just opens it up as a precedent for
438 other areas.
439

440 **Pam Altner:** It's something we might not necessarily expect in front of us. So it might
441 not be a porta potty company, it might be something totally different that would have an
442 impact, so to have to say "no" when we allowed another.
443

444 **Rick Roy:** In respect to that, I not sure that is a legal argument for someone to say,
445 "You let him do it so why not let me do it." It is the same as a Variance, as you say, he
446 is getting away with it why not me?
447

448 **Chair Grybko:** It's case by case. We are not setting precedent or anything. We are
449 trying to figure out if this is good for the neighborhood.

450 **Rick Roy:** The essence of the answers.

451

452 **Rick Roy:** What kinds of conditions are we allowed to put on a Variance?

453

454 **Chair Grybko:** Hours of operation, days of the week, location of stored items from porta
455 potties to trucks. He does have some porta potties he is using for his recreational
456 business. He said there is usually four (4) but they can be more. I don't know how
457 many more there is. I guess he decided those. As I understand, they are temporary.
458 They are used year-round as recreational activities. It is not those four we are talking
459 about. Maybe paint camouflage on them.

460

461 **Rick Roy:** or put a fence up in front of it.

462

463 **Chair Grybko:** I don't think we can tell someone where to put their recreational toilets.

464

465 **Lisa Post:** I don't feel they [The Boisverts] met the burden of proof to us. This business
466 is in the best interest of the community, the neighbors. They say the use of the Boisvert
467 for the portable toilet business is "minimal". We were there the other day, it's not
468 minimal. It takes up a lot of space.

469

470 **Chair Grybko:** I think they mean minimal in terms of 215 acres.

471

472 **Lisa Post** read from the Addendum, page 3, "Moreover, the size and shape of the
473 property create such an enlarged buffer between the abutters and public on them,
474 whether visually or otherwise." We know that not to be true. We know neighbors have
475 been driving by and seeing them. We know, we just drove down the road to go there
476 and we saw them. You don't have to slow down very much to see what is going on
477 there. It is, all though they say that, it is not what they are doing. They obviously,
478 before we went there, moved some things around. We were under the impression that
479 most of them were stored in the storage trailers but they are not. Mostly what is being
480 stored in the trailers are items from their home because they had a fire. So there is no
481 room for those porta potties to be put away. They are laying on the ground. They are
482 sitting on the ground. The wind can blow them over. There are broken pieces all over
483 the place. I believe it poses a health hazard. It's a commercial, industrial porta potty
484 business, maintenance and hauling facility on that property. You have to think of it that
485 way because if we grant a Variance, that is what we are granting him a Variance for to
486 have.

487

488 **Chair Grybko** We met with Attorney Dresher for two hours to see what a Variance with
489 conditions would look like. **Lisa Post:** And we tried to argue that every which way too.

490

491 **Rick Roy:** Historically going back to when we just started, we tried to make a big
492 compromise but because we were denied the authority to make those conditions the
493 whole thing started over again.

494

495 **Chair Grybko.** Right. We can do hours of operations, days of operations, moving the
496 porta privies further into the woods. Don't store on the driveway. We can do all that but
497 the thing is, it will travel with the property. If we grant him a Variance, he can go and
498 sell it to some big porta potty business tomorrow and he would have it so that is a
499 concern.

500

501 **Lisa Post:** Those only strengthen my resolve. My push for this was, my belief this is
502 not right.

503

504 **Pam Altner:** So a Variance carries with the property. Say a big company buys the
505 property. Can they build a big facility and building? I'm talking about the growth of the
506 business.

507

508 **Karen Grybko:** They would need a building permit.

509

510 **Rick Roy:** I don't think there is anything in the Ordinance that limits the growth?

511

512 **Lisa Post:** You can put a condition on that but again you are creating a commercial,
513 industrial business which then travels with the life of the property forever and ever.

514

515 **Karen Grybko:** He did operate the portable toilet business off-site and we don't have
516 an issue with that.

517

518 **Lisa Post:** Again, he never legally operated that portable privies business and that was
519 an argument in many of his...

520

521 **Karen Grybko:** That is nothing we can consider. We are talking about the application
522 and the information we were given and what we saw. Basically that is it. Does anybody
523 have anything else they want to talk about? Are you ready for a vote?

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540 Chair Grybko asked for a motion. Lisa Post indicated she would make the motion and
541 started: Mr. Boisvert, I wish we could have found some kind of reasonable solution that
542 this would work for everyone. I believe the Zoning Board of Adjustment tried very hard
543 to do that. I believe this Board considered everything. I have been very opened about it
544 in terms of looking at it from your perspective and from your neighbor's perspective and
545 the Town's. It's really is a commercial business that will forever change that property,
546 will forever change the nature of the neighborhood and could have, as in the past, a
547 significant negative impact with septage being released on the property.
548

549 **VOTE: Lisa Post made a motion to deny the Variance for a Home Business in**
550 **Case 2018-3, for applicant Larry Boisvert's Portable Privies, Inc. business. Pam**
551 **Altner seconded the motion.**

552 ZBA Members were polled:

553 **Member Lisa Post:** Aye
554 **Chair Karen Grybko:** Aye
555 **Vice Chair Richard Roy:** Aye with the same sentiment.
556 **Member Linda Anderson:** Aye
557 **Alternate Pamela Altner:** Aye
558

559
560 **Motion passed 5-0.**

561
562 **Chair Grybko announced the Variance for Larry Boisvert's portable potty Home**
563 **Business is denied. (Case 2018-3, Portable Privies, Inc.)**

564
565 *The public left at 7:54 p.m.*
566

567 **Other Business:**

568 **Michael Young Application, 1613 Center Road. Setback for shed and garage**

569 The Board will review the application after Code Enforcement Officer Leo Trudeau
570 confirms if the shed and garage are in the setback.
571

572 The Board agreed to meet **November 13, 2018 at 5:00 p.m.** at Citizens' Hall to discuss
573 the following:

- 574 1. Take up the appeal of the Administrative Appeal of the Rehearing from Boisvert.
575 2. Approve minutes
576 3. Discuss Michael Young's application after Mr. Trudeau provides the information.
577

578 **Adjourn:**

579 **VOTE: Rick Roy made a motion, Lisa Post second to adjourn at 8:14 p.m.**
580

581 Respectfully submitted and transcribed by,

582
583 *Kathleen Humphreys*

584
585 Kathleen Humphreys, ZBA Secretary