

1 **TOWN OF LYNDEBOROUGH**
2 **PLANNING BOARD MINUTES**

3 **May 16, 2019**

4 *Approved*

5
6
7 **7:30 PM Call to Order & Roll Call**

8
9 **Member Present:** Chairman Tom Chrisenton, Vice Chair Paul Best, Selectmen’s Rep.
10 Mark Chamberlain, Bret Mader and Alternate Julie Zebuhr. Ms. Zebuhr will sit on the
11 Board.

12 **Public present:** Tom Beauregard and Steve Farmer

13 **Request for Information:**

14 Tom Beauregard, Map 239, Lot 52 which is .34 acres and Steve Farmer, Map 239, Lot
15 51 which is .72 acres.

16 They were before the Board asking questions about a lot-line adjustment between their
17 lots. They wish to transfer about half of the .34 acre lot, which is an empty lot, to Map
18 239, Lot 51. Mr. Beauregard also owns a house lot, Map 239, Lot 35 which abuts his
19 other lot.

20 This proposed lot-line adjustment would make the Map 239, Lot 52 unbuildable, which
21 would be required to be on the new plat. A variance was also discussed. The need to
22 have the property surveyed was discussed. It was discussed the neighbors could draw
23 up an easement, which is a legal document that would be recorded at the registry of
24 deeds, to allow Mr. Farmer to continue parking his vehicles on the empty lot if they do
25 not want to have the land surveyed. Mr. Beauregard might put a garage on the other
26 half of the lot.

27 Town Zoning states any existing lot that pre-existed zoning is a grandfathered lot. A
28 septic system would need to meet requirements and any structure meets the setbacks.

29 **New Business:**

30 None

31
32 **Old Business:**

33 **Approve the placement of the Zoning Amendments into the Zoning Ordinance**

34 The Board was sent the amended version of the Zoning Ordinance dated 3-16-19, Draft
35 4 to review to ensure the zoning was properly updated per the vote at Town Meeting.

36 The secretary will double check an amendment previously requested by Mark
37 Chamberlain via email regarding "Rural Lands 1".

38 **VOTE: Bret Mader made a motion to accept the updated 2019 Zoning Ordinance**
39 **as amended and as presented in the document. Julie Zebuhr seconded the**
40 **motion. Motion passed 5-0.**

41 **Minutes:**

42 Julie Zebuhr handed the secretary amendments.

43 **VOTE: Mark Chamberlain moved, Paul Best seconded to accept the minutes of**
44 **April 18, 2018 as amended. Motion passed 5-0.**

45 **Correspondence:**

- 46 1. From Piscataquog Land Conservancy (PLC) regarding the Scataquog Brook
47 work on Map 212, Lots 2 & 4. The Board reviewed the package and the letter
48 will be filed in the property file. Letter was dated 4-18-19. *(See attached and file)*
49
- 50 2. From DES signed by Robert Scott, Commissioner dated Dec. 6, 2018. The letter
51 is looking for two volunteers to serve on the Piscataquog River LAC. (Ms.
52 Zebuhr took the letter)
53
- 54 3. A corrective boundary plat for Map 212, Lot 2 on Lyndeborough Road managed
55 by the Piscataquog Land Conservancy was sent to the Planning Board for
56 "informational purpose only". The land is owned by the Towne Family Trust and
57 the piece that was incorrect was 5.37 acers which was not previously shown on
58 the Lyndeborough tax map. The property abuts Granite State Concrete.
59 Note: The next day the Town Office was opened the map was hand-delivered to
60 the Administrative Assistant in order to start the process to adjust the tax map.
61 The map is dated 4-10-19.

62 **Intent to Excavate:**

63 The Board was handed four Intent to Excavate forms which require the Planning Board
64 to initial that they reviewed the forms and there are no issues. The Board did not initial
65 the forms. The Selectmen already signed the tax portion of the forms.
66

67 **Other Business Not on Agenda:**

68 The secretary asked if the Board would like to continue receiving a magazine that is
69 sent to the Board that no one reads. Julie Zebuhr took the copy of "Convene" to review.
70

71 **Work Session:**

72 The zoning work session was tabled until the next meeting to allow more members to
73 participate in the discussion. Members were asked to review the document Tom
74 Chrisenton handed out at the April meeting titled, "Lot Line Adjustment and Other Items"
75 and come to the next meeting with any comments or suggestions regarding
76 subdivisions.
77

78 **Next Agenda:**

79 -Zoning Work Session re: Subdivisions, Lot Line Adjustments and related items.

80

81 -Review email from Bob Bell regarding the buffer work done by Granite State Concrete.

82

83 **Adjournment:**

84 **VOTE: Bob Rogers moved, Paul Best seconded to adjourn at 8:11 p.m. Motion**
85 **passed 6-0.**

86

87 Respectfully Submitted,

88

89 *Kathleen Humphreys*

90

91

92 Kathleen Humphreys

93 Planning Board Secretary

See below for:

-Email from Bob Bell in response to the status of the tree buffer installed by Granite State Concrete.

-"Lot Line Adjustments and Related Items" handout from Mr. Chrisenton for the upcoming Subdivision Work Session

This email was in response to a status check letter that was mailed to Mr. Bell's home.

From: "Bob and Diane Bell" <bellontarn@yahoo.com>
To: "Kathleen Humphreys" <kmbh@tds.net>
Sent: Thursday, May 16, 2019 11:15:28 AM
Subject: Buffer/ Granite State Concrete

In a nutshell, most of the "plantings" have perished. Greener Landscape replaced the "plantings" in the spring of 2018 with what I couldn't in my wildest dreams call trees. They looked more like a big branch of a large tree. Three of those died over the summer and were replaced with nice looking trees this past fall. Over the winter the three replacements died and the majority of the branch plantings perished as well. I give credit to GSC for their efforts but this nightmare continues. I don't know if or who might be cutting corners but it seems to me that if the proper budget was allowed to plant REAL trees in proper soil conditions and the contractor was made fully aware of the importance of this project it should be able to be completed to every ones satisfaction. As it stands I think we are back to square one and have to start from scratch. I am greatly appreciative of your follow up on this matter.

Sincerely,
Bob Bell

Received
4-18-19
KA

From Chair Tom Christon

To be reviewed at May 2019 Planning Board Meeting.

Lot Line Adjustments and Related Items:

From "The Planning Board in New Hampshire, A Handbook for Local Officials, December 2018"

Page V-9: "Minor lot line adjustments which do not create buildable lots do not require public hearings prior to approval", (supported by the Lyndeborough Planning Board Fee Schedule where the only fees are for Abutter Official Notification and Recording Fees.)

Page V-11: Exceptions to the Public Hearing Requirement: "State statutes do not require public hearing in the following situation:"

Second bullet, "The proposal is a boundary agreement or minor lot line adjustment that does not create buildable lots (RSA 676:4, I(e)(1))." (supported by the Lyndeborough Planning Board Fee Schedule where the only fees are for Abutter Official Notification and Recording Fees.)

Third bullet, "The proposal meets the requirements for the expedited review process for minor subdivisions under RSA 676:4, III and this process is allowed by local subdivision regulations."

Page V-17 & 18: "In context of a lot line adjustment, it is important to understand that the effect of the planning board approval is limited. Essentially, the approval acts as any other subdivision approval. It is recognition that the new lot line constitutes a use of the land that is consistent with local land use regulations and the overall land use plan of the municipality. The approval of the planning board does not create the new line. Lines dividing parcels of land do not move or disappear without a conveyance or a merger. In the case of a lot line adjustment, we typically see a lot line move to create more favorable dimensions for one or both lots. In order to complete this move, a conveyance must occur. The owners of the respective lots must transfer, by deed, parts of their respective parcels to each other (in some situations only one owner transfers to the other). The documents reflecting the conveyance should then be recorded in the registry of deeds along with the plan approved by the planning board. This portion of the lot line adjustment process is a private matter and the planning board need not be involved in the negotiation of the location of the line, the cost of the transaction, or other private terms of agreement. The limited job of the planning board is to review the configuration of the proposed new lots and lines to determine whether they are in conformance with subdivision regulations and any local zoning ordinance.

To alleviate any confusion regarding the effect of planning board approval, it may be advisable for a planning board to indicate in its notice of decision and/or as a note on the plan that approval by the planning board in and of itself does not effectuate a change in lot line location. Such approval merely constitutes recognition by the municipality that the lot configurations, as proposed, are in conformance with local land use regulations or are otherwise accepted with non-conformances."

NH RSA 676:18 Register of Deeds.-

"II. Notwithstanding the provisions of paragraph I, the register of deeds shall accept for recording a plat prepared and certified by a licensed land surveyor or by a former registered land surveyor if such plat bears a certificate by a licensed or registered land surveyor that

this survey plat is not a subdivision pursuant to this title and that the lines of streets and ways shown are those of public or private streets or ways already established and that no new ways are shown. The recording of any such plat shall not relieve any owner from compliance with the provisions of this chapter.

III. The certificate by a licensed land surveyor shall be in the following form:

"I certify that this survey plat is not a subdivision pursuant to this title and that the lines of streets and ways shown are those of public or private streets or ways already established and that no new ways are shown."

Date: _____

Licensed Land Surveyor
Seal"

NH RSA 676:4. Board's Procedures on Plats.

I(e)(1) Public hearings shall not be required, unless specified by the subdivision regulations, when the board is considering or acting upon:

(1) Minor lot line adjustments or boundary agreements which do not create buildable lots, except that notice to abutters and holders of conservation, preservation, or agricultural preservation restrictions shall be given prior to approval of the application in accordance with subparagraph (d) and any abutter or holder of conservation, preservation, or agricultural preservation restrictions may be heard on the application upon request;

IV. Jurisdiction of the courts to review procedural aspects of planning board decisions and actions shall be limited to consideration of compliance with applicable provisions of the constitution, statutes and regulations. The procedural requirements specified in this section are intended to provide fair and reasonable treatment for all parties and persons. The planning board's procedures shall not be subjected to strict scrutiny for technical compliance. Procedural defects shall result in the reversal of a planning board's actions by judicial action only when such defects create serious impairment of opportunity for notice and participation.

Town of Lyndeborough Subdivision Control Regulations

Section 200.00 Definitions:

Page 3: Lot Line Adjustment: The relocation of an existing boundary line that will not create a new buildable lot.

Page 4: Subdivision, Minor: The subdivision of land into three or fewer lots, with no potential for resubdivision, and requiring no new road, utilities or other municipal improvements (certain review procedures may be simplified for minor subdivision).

Section 320.08 Approval:

Page 7: Approval of the subdivision plat shall be by affirmative vote of the majority of the Board present at the meeting. The plat is certified by the signatures of the Board Chairman and Secretary and the date of approval on the plat. The Board will transmit the signed and

dated mylar copy of the plat to the Hillsborough County Register of Deeds (HCRD) along with the recording fees paid by the applicant. The approved plat will not be recorded until all fees have been paid by the applicant. The sale or transfer of land within the subdivision shall not take place until the approved plat is recorded at the HCRD.

Verified Mail:

HB 299 – relative to notice by mail for planning and zoning purposes

Chaptered Law 0059

This bill amends numerous statutes to require that the planning board and zoning board of adjustment give notice of certain hearings by “verified mail,” rather than by certified mail.

“Verified mail” is defined as “any method of mailing that is offered by the United States Postal Service or any other carrier, and which provides evidence of mailing.” This includes, but is not limited to, certified mail. Statutes amended to require verified mailing are: RSA 674:27, 674:66, 676:4, 676:4-a and 676:7.

Effective Date: August 1, 2017

Effective Date: November 20, 2014

LYNDEBOROUGH PLANNING BOARD

FEE SCHEDULE

Lot Line Adjustments:

Abutter Official Notification \$ 15.00 per abutter
Recording Fees actual cost

Subdivisions:

Application Fee \$75.00
Abutter Official Notification \$15.00 per abutter
Public Hearing Notification actual cost
Engineering Review (if required) actual cost
Consulting Fees (if required) actual cost
Conservation Land \$75 per Lot
Large Lot \$150 per Lot
Minor Subdivision (3 lots or less) \$250 per unit
Major Subdivision (4 lots or more) \$350 per unit
Recording Fees actual cost

Home Businesses:

Application Fee \$60.00
Abutter Notification \$15.00 per abutter
Public Hearing Notification actual cost

Non Residential Sites:

Application Fee \$75.00
Abutter Notification \$15.00 per abutter
Public Hearing Notification actual cost
Engineering Review (if required) actual cost
Consulting Fees (if required) actual cost
Site Plan review \$250 per acre (disturbed area)

Planned Residential Developments:

Application Fee \$75.00
Abutter Notification \$15.00 per abutter
Public Hearing Notification actual cost
Engineering Review (if required) actual cost
Consulting Fees (if required) actual cost
Dwelling Unit Fee \$350 per unit
Recording Fees actual cost

Excavation Site Plan Review

Application Fee \$75.00
Abutter Notification \$15.00 per abutter
Public Hearing Notification actual cost
Engineering Review (if required) actual cost
Consulting Fees (if required) actual cost

Supersedes: 11/4/2010