

**LYNDEBOROUGH BOARD OF SELECTMEN
MEETING MINUTES
November 14, 2012**

Members Present: Chairman Arnie Byam & Kevin Boette

Staff Present: Town Admin Kate Thorndike, Code Enforcement Officer Peter Hopkins and Fire Chief Rick McQuade

Public Present: Alan Morrison and Lee Mayhew

Media Present: Jessie Salisbury and Dave Anderson

Recorder: Pauline Ball

Approval of Minutes, Manifests, and Items For Signature

The Board addressed all items that needed their signature.

Appointments:

6:30 p.m. Alan Morrison

Chairman Byam said that Mr. Morrison was present to discuss the unsettled issue concerning his Mountain Road cabin which is situated within the lot line setback.

Mr. Morrison informed the Board that the chimney has been removed and the cabin has been placed on skids; therefore it isn't a permanent structure and it can be moved anywhere on the property. **Chairman Byam** responded that although it is now portable, it still needs to be moved out of the setback.

TA Thorndike referred to Town Assessor Todd Haywood's letter, in which he believed Mr. Morrison was erroneously advised by his attorney that by putting the cabin on skids and dismantling the chimney, it would not be taxable. Mr. Morrison replied that it was exactly what he was told. **TA Thorndike** said that this is contrary to what the NH Supreme Court states; if a structure is on site year round and is meant to be permanent, it is taxable. She didn't understand why the cabin has not been moved out of the setback so that this issue could be put to rest. Mr. Morrison said that it was built in that location because of the view and for the use by handicapped children, such as his grandson. **TA Thorndike** asked how far the cabin had to be moved to be in compliance. Mr. Morrison said another 35-40 feet. **Chairman Byam** did not think moving it that far would impact the view and he would be in compliance with the zoning regulation. He added that this structure is not a tool shed; instead it is a living space in a temporary structure. **TA Thorndike** said that Code Enforcement Officer Peter Hopkins has seen the cabin and asked him to try to explain this issue. Mr. Hopkins said that it went back to the definition of a Structure in the zoning regulations. The ordinance states that you can not have a structure (permanent or temporary) within 50 feet of a property line. It's an aesthetic ordinance to protect property owners on either side of the property line (100 ft.

buffer between structures.) **Selectman Boette** said that the town is not changing its position and because this is an ordinance violation, a cease and desist will be enforced if the structure is not moved. Mr. Hopkins said that this cabin issue was brought before the ZBA for a variance and it was denied; an administrative order has been issued and the cabin (permanent or non-permanent) must be removed from the setback. Lee Mayhew, a member of the ZBA, said that after being denied for a variance, Mr. Morrison did not apply for an appeal of the compliance order.

Mr. Morrison said that he was willing to pay a fair tax but he was still in dispute as to whether or not he should be taxed on a movable structure. **Selectman Boette** said that he removed the chimney and put the cabin on skids to avoid taxes. Mr. Morrison responded, "bingo." **Chairman Byam** said that the town assessor determines the value of the structure and rates it accordingly. **T. Thorndike** explained that part of the value is the land surrounding the area around the building that is taken out of Current Use. The assessor thought that taking one-half acre out of Current Use from a 25 acre parcel was conservative.

Mr. Morrison, at this time, continued to question who had the authority to remove and tax a portable structure and said that he would contact his attorney for advice. The Board tried to explain that the town's authority came from the zoning ordinances adopted by the voters. Mr. Hopkins also stated that the Zoning Board must operate within NH statutes. Mr. Morrison asked the Board to provide a letter of explanation that he could bring to his attorney. **TA Thorndike** responded that the November 12th letter sent to him by Code Enforcement Officer Peter Hopkins referenced the decision from the ZBA, but she could also provide a letter explaining the situation.

Mr. Hopkins asked the Board, before ending this meeting, to determine a timeframe for the cabin's removal because the next step will be a legal order.

VOTE: Chairman Byam made a motion that the Board is going along with the Zoning Board of Adjustment's decision to move the cabin outside the setback by November 28th or they will proceed with the cease and desist order. **Selectman Boette** seconded the motion and the VOTE passed.

Mr. Morrison again asked about the letter for his attorney. **TA Thorndike** said that she would have a letter prepared on Friday.

7:00 p.m. Open Forum No one was scheduled for this time period.

Old Business:

- **Health Officer Update**

TA Thorndike said that she had received information from the health officer about a serious septic system concern and asked Peter Hopkins to explain the issue. Mr. Hopkins said that he and the health officer will be visiting the property to verify and take photographs of a failure which affects three households. He said that leachate on top of the ground has been observed and a septic system designer may need to be consulted to review the situation. A design which addresses three different septic systems or one system for three households will have to be discussed. This could be very expensive and cause a financial burden on the land owner; but noted that there are grants for financial hardships. Because this may be a financial hardship, **TA Thorndike** asked how this situation will need to be handled when the determined repairs are required; this is an eight (8) acre parcel with three failed systems. The Board agreed that it would need to be discussed after the site visit and evaluation.

- **Perambulation Request**

TA Thorndike said that the Francestown Select Board sent a letter asking to schedule a town boundary line perambulation. The Board suggested two dates for a walk; Saturday December 1st or December 8th at 8:00 a.m.

7:30 p.m. Rick McQuade---- Fire Dept. Septic

Chief McQuade explained that there is a concern about the septic tank at the Village fire station. It appears that the bottom of the concrete tank is cracked allowing ground water to seep back into the tank. 1300 gallons were pumped from the tank and about 3-5 inches of water quickly filled the tank. Since the pumping, the alarm located on the station wall has not gone off, but there is still a concern. After discussing the situation and noting that the station is not in constant use, **Selectmen Boette** suggested waiting to see what happens and having the tank pumped more often. **Chairman Byam** also recommended increasing the fire department budget for any extra pumping next year. **TA Thorndike** also suggested discussing this problem with the septic service for some points on how to locate the leach field. **Chief McQuade** said that Kent Perry may know where the outlet baffle is located because he was able to view the inside of the tank with a camera. **Chief McQuade** said that he would update the Board if there were any further concerns.

Because **Chief McQuade** needed to discuss a non-public issue, the Board closed the public session at 7:45 p.m.

8:00 p.m. The Board, having ended the non-public session, reopened the public meeting to discuss the remaining items on the agenda.

New Business:

- **Goss Park Wilton/Lyndeborough**

TA Thorndike said that she pulled the file on Goss Park to locate the agreement between Wilton and Lyndeborough. She discovered that the By-Laws were updated in 2003 but the agreement has not been updated since 1977. She said that this issue was “red flagged” when Primex was reviewing the town’s property liability insurance. After a brief discussion, it was agreed that this should be discussed with the Wilton Board of Selectmen to see which town attorney would review the agreement.

- **Other Business:**

TA Thorndike asked for a Boardmember to attend a NRPC meeting which is scheduled for Thursday, November 29th. The agenda will include housing choices, transportation choices, economic development, community vitality, natural resources and energy efficiency.

TA Thorndike asked if there was any procedure to follow for an offering to donate wood to someone in need. She said that presently, there isn’t anyone asking for wood.

Chairman Byam suggested asking Karen Grybko and the Women’s Club or church officials.

TA Thorndike mentioned her conversation with Jack Morehouse concerning the funding for the Johnson Corner project which was denied. It appears that the town is back in the queue and it is very promising.

Adjournment:

All scheduled items having been addressed, **Selectman Boette** made a motion to adjourn the meeting at 8:23 p.m. **Chairman Byam** seconded the motion and the VOTE in favor was unanimous.

Date: November 14, 2012

Pauline Ball, Recorder

Chairman Arnie A. Byam, III

Donald R. Sawin

Revised on 11-27-12

Kevin J. Boette

APPROVED BY THE BOARD OF SELECTMEN ON NOVEMBER 28, 2012