

TOWN OF LYNDEBOROUGH

Zoning Board of Adjustment

Meeting Minutes

November 2, 2023

Approved: Nov. 30, 2023

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

Members Present: Chairperson Karen Grybko, Vice Chair Rick Roy, Lisa Post, Ray Humphreys, and Jon Lavoie

Not Present: Alt. Pam Altner. *The Humphreys arrived at 7:32pm*

Public Present: Jason Cillo, Code Enforcement Officer/Building Inspector Leo Trudeau, NRPC Circuit Rider Jay Minkarah, and Bob Newton

New Business:

Case 2023-04

(Continued from July 17, 2023 & August 21, 2023)

Map 250, Lot 014

1 Chase Road, Lyndeborough

Seeking relief from Zoning Ordinance 411.00 (2)

Jason and Lori Cillo, property owners

Jason Cillo was present.

The applicant submitted a \$500 check, #1236 for the administrative escrow.

August 21, 2023 Meeting - Action Items:

#1. Amended Septic plan.

#2. Opinion as to whether, the ZBA can impose a condition requiring if it can be rented/occupied to family members only.

#3. Allow the applicant to supply another answer to Question #5.

Mr. Cillo worked with Audrey Carr & Jason Bullock from Meridian Land Services. If the current septic fails, they will have to put in 64x20 ft. field and explained the process which includes being able to T off on the backside and extend it rather than go the width.

The State stamped the septic system design on 9-28-23. *(See file)*

There was a question if Meridian Land Services replied to the correspondence from Mr. Cillo regarding the amended plan. The plan needs to be on file.

5B: Literal enforcement of the provisions of the ordinance is an unnecessary hardship:

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

The applicant provided supplemental photos of the property.

Jason Cillo explained the following conditions based on topography of the land. The house is situated on the flattest part of land on the upper quadrant. He felt this was the best location for the barn and house and there was an 8-foot drop off the back of the house, which they felt impacted the barn being located there. He said there is river that runs through the land. The topo map was reviewed.

At that location the barn was not able to be attached on the western drop-off. The barn is on slab foundation.

Jason Cillo described the wet area and said it is wet nearly all year. In July of 2020, when it was a dry year, they perked water at 10 ft. and put in 2-ft. of crushed stone. About 20-25 feet where the chimney comes off, it just drops. There is the manhole for the septic tank. He described the wetlands. They had a difficult time logging the property because the skidder got stuck. He said described the swale and felt the corner was the flattest part and the second flattest part is where the barn is.

Jason Cillo confirmed when they did the foundation excavation, they took that material and run it on the backside to build a walkout of the basement.

Rick Roy asked about the road location. Their driveway easement is over Paul Hebert's land off Chase Road which goes through the apple orchard and then it's a hard left and drops off. The brought in a lot of material to build the driveway. The driveway is at the intersection of Chase Road/Center Road. They do not have road frontage.

The house was built a few months before the barn. The slab was poured as they were finishing house. The discussion turned to other possible locations to build. Jason Cillo said if they had a full foundation maybe it could be off the house but it was not possible with a slab foundation, the drop-off would be too dramatic.

Mr. Cillo said they originally thought with the barn would be next to the house but in his opinion, it didn't work due to setbacks and the water. Jason Cillo said he had the means and the equipment to build the driveway.

Jon Lavoie asked if building on the south side was possible. Jason Cillo responded, "To be selfish, there it would have blocked the field".

Lisa Post asked if the leach field and if it goes downhill. Jason Cillo responded, "Yes, they had to bring in material/fill to get that leach field to fit in there". It requires a 1,248 sq ft. area and they would do a 1,300 sq. ft.

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

Jason Cillo read that the ADU is for family and personal office space.

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

Jason Cillo read the shop and ADU is for family and property owners plus an office space.

Jon Lavoie reviewed the map and figured it was an 8-foot drop-off at 296-288 on the topo, if put from northwest to southeast he would have been dealing with an 8-foot elevation change. Ray Humphreys said that is about right because he looked at it on Google Earth.

Rick Roy asked fellow ZBA member Lavoie about the relevance to his statement regarding an 8-foot drop. Jon Lavoie said he is just putting it out there because his yard is similar and added, "We had to do the same with our pool. It is not insurmountable".

Ray Humphreys said, "I do not want to put words in Jon's mouth, but to me it does not demonstrate a hardship. It probably was financial. The barn could have been built on a step foundation to deal with that elevation change. It is changes in grade". Mr. Cillo said his plan was the path of less resistance. The discussion continued if this had a financial hardship. Lisa Post felt the impact is, the workshop/ADU is already built.

Jon Lavoie asked Jason Cillo if it was built as a garage. Jason Cillo corrected him and said it was a workshop. Jon Lavoie added, now it's being used as an ADU. Jason Cillo said yes, and his brother is living there. The change of use was discussed and how that is impacting the process.

It was mentioned that the Planning Board is looking at amending the ADU Zoning Regulations, but this has not gone to a public hearing yet.

VOTE: Lisa Post made a motion to accept this because this is a reasonable situation since the building is already finished and ADUs are very sought after right now and this would be a good thing to do. Rick Roy seconded motion. Vote was 2-1-1.

Lisa Post voted Yes; Rick Roy voted yes; Ray Humphreys abstained; Jon Lavoie Karen Grybko voted yes. (did chair vote?)

The Board continued to discuss hardship, setbacks and water.

Lisa Post said she still stands by her motion to accept #5b. Rick Roy voted yes; Lisa Post voted yes; Ray Humphreys abstained.

List Post referenced page 424 of ZBA powers of Zoning Boards 2023-23 edition, 674:33
The barn is 30 feet.

Findings of facts: Special condition of land are the slope, topography, wetlands, and drainage issues.

Motion passed 3-0-1. Rick Roy voted yes; Lisa Post voted yes; Jon Lavoie voted yes; Ray Humphreys abstained.

Jason Cillo was informed he must apply for a building permit for the deck which was not on the building permit.

VOTE: Lisa Post made a motion, Jon Lavoie seconded to grant the variance from Zoning Ordinance 411.00 (2) for Map 250, Lot 014. The variance was granted 4-0-1. Ray Humphreys abstained.

Jason Cillo left at 8:15 p.m.

Other Business:

ZBA Rules of Procedures

- The Board discussed and agreed on these items:
- Up to five members.
- Encouraged members to attend.
- All members and alternate members can vote on procedural items.
- Regular meetings start at 7:00 p.m. One scheduled meeting per month.
- The clerk is not a member of the Board and is not elected.
- Will not hear any new matters after 9:00 p.m. The ZBA can continue and hold a special meeting.
- Records of the Board should be kept at the town office.
- Consider a date for a regular meeting.
- Can amend ROP at any time.
- ADD: can have a joint meeting with the Planning Board.

Jay Minkarah said that is an option to schedule a meeting a month. It can be cancelled if there are no agenda items. He will draft the procedures.

All ZBA members were invited, individually, to a Planning Board workshop on Nov. 9th at 7:00 p.m. at the J.A. Tarbell Library.

Approve Minutes:

January 25, 2023

VOTE: Jon Lavoie made a motion, Ray Humphreys seconded to approve the January 25, 2023 minutes as amended. Motion passed 4-0.

Adjournment:

VOTE: Jon Lavoie made a motion, Ray Humphreys seconded to adjourn at 8:39 p.m. Motion passed 5-0.

Respectfully submitted,
Kathleen Humphreys