



Town of Lyndeborough
 9 Citizens' Hall Road
 Lyndeborough, New Hampshire 03082
 Tel.: (603) 654-5955 Fax: (603) 654-5777

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 SELECTMEN'S OFFICE

ZONING BOARD OF ADJUSTMENT APPLICATION

Office Use Only

Case #: 2026-01 Date Received: 3/19/26

Amount Paid: \$ 463.08 \$500.00 Time Received: 2:14pm
fees escrow

APPLICANT/PROPERTY OWNER INFORMATION

APPLICANT: Phil Brooks Phone # 603-496-6479

Mailing Address: 202 Pettingill Hill Rd Lyndeborough, NH 03082

E-Mail Address: phil@spbrosks.com

PROPERTY OWNER (if different from applicant): _____

Mailing Address: _____

Phone # _____ E-Mail Address: _____

PROPERTY/PARCEL INFORMATION

Property Address: 170 Pettingill Hill Rd Lyndeborough, NH

Brief Directions: _____

Zoning District: Rural Lands 1 Tax Map # 240 Lot(s) # ~~10~~ 10

Is Site Plan or Subdivision Approval required for this project? 10

TYPE OF APPEAL: (Please check one)

- Variance Per Section 702.02 of the Zoning Ordinance
- Special Exception Per Section _____ of the Zoning Ordinance
- Appeal of Administrative Decision Per Section _____ of the Zoning Ordinance
- Equitable Waiver Per Section _____ of the Zoning Ordinance

Describe briefly your plans for the property:

In 2007 I had conservation easements placed on four lots (map 240 lots 9, 9-1, 10 and 11. There is a residence on each of these lots that were excluded with the legal (at that time) acreage and frontage. It was recently revealed that a clause in the easement deed required that the homes on lots 9, 9-1 and 10 could only be sold as a package causing obvious problems. After years of legal hassling, this clause has now been deleted. I would like to now subdivide lot 10-1 (which has 6.5 acres and 250 feet of frontage) from lot 10.



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APPLICATION INSTRUCTIONS

These instructions will serve to briefly inform you as to what you must do to bring a petition before the Lyndeborough Zoning Board of Adjustment (ZBA). Please refer to the NH Statutes on Land Use and Regulation and the Lyndeborough Zoning Ordinance for more specific information. You must complete the application(s) applicable to you. There are four (4) purposes to petition the ZBA; they are:

Variance - where special conditions exist in the property warranting the use of that property in a manner which literally or technically is in violation of the ordinance. Variances can be sought to dimensional or use requirements.

There is a special type of variance allowed for persons having a recognized physical disability, which may be granted for as long as the particular person has a need to use the premises (see RSA 674:33-V). Any medical information submitted to substantiate a disability will be considered part of the public record.

Special Exception - where the ordinance specifically permits a particular use provided the applicant can prove that whatever conditions attached to such use by the ordinance(s) have or will be complied with.

Appeal from Administrative Decision - where the applicant feels that an Administrative Official has made an error in applying or interpreting the zoning ordinances in a particular case.

Equitable Waiver of Dimensional Requirement - where a lot or other division of land, or structure thereupon, is discovered to be in violation of a physical layout or dimensional requirement imposed by a zoning ordinance enacted pursuant to RSA:674:16.

The ZBA cannot and will not grant the relief sought unless the applicant proves the elements of their case. For example, variances may not be granted solely because the applicant is suffering from financial hardships or other personal hardships or whimsically would like to put his or her property to a non-conforming use.

YOU, THE APPLICANT, ARE RESPONSIBLE FOR PRESENTING SUFFICIENT INFORMATION TO SUPPORT AND PROVE YOUR CASE. WHEN FILLING OUT THE APPLICATION, PLEASE PRINT OR TYPE.

You may represent yourself or authorize, in writing, someone else to represent you.

Please be advised that this application is a public document. The process that Zoning Board of Adjustment applications go through is a public process and as such there is no guarantee that any information submitted in an application will remain confidential.



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APPLICATION CHECKLIST - Listed below are all materials required to be submitted for an application to be considered complete.

- Seven (7) copies of the **Completed and Signed** Application. Application must be signed by the Applicant and Property Owner (if different than the Applicant).
- Applicable Fees Paid (Please see Land Use Fee Schedule)
- List of abutters (as defined in RSA 672:3)
- Three (3) copies of abutter address labels
- Seven (7) copies of any engineering plans/plot plans.*
- List of related materials included: _____

*Please provide a digital copy of any engineering plans/plots if available (*Email address to send materials available upon request*)

FEES - Please refer to the Lyndeborough Land Use Fee Schedule for current fees.

Application	\$ 20.44 ²⁰⁰ × 7 = 143.08
Abutter Notification fee (including applicant and owner)	\$ 20.44 × 7 = 143.08
Newspaper Notice	\$ 200 120
Escrow	\$ 500
TOTAL DUE	\$ <u>963.08</u>

\$463.08 fees
PAID
\$500.00 escrow



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APPLICATION FOR VARIANCE

Per NH RSA 674:33, I(b), you must demonstrate the following to qualify for a variance from the terms of the zoning ordinance:

1. The variance will not be contrary to the public interest;
2. The spirit of the ordinance is observed;
3. Substantial justice is done;
4. The values of surrounding properties are not diminished; and
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship
 - A. For purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area: i. No fair and substantial relationship exists between the general purposes of the ordinance provision and the specific application of that provision to the property; and ii. The proposed use is a reasonable one.
 - B. If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to specific conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

A variance is requested from Article/Section(s) 702.02 of the Lyndeborough Zoning Ordinance to permit:

I am seeking a variance to allow the portion of map 240 lot 10 (lot 10-1) excluded from the easement on lot 10 in 2007, to be subdivided from lot 10 with only the 250 feet of frontage that was legal at the time of its exclusion. It is not possible to increase the frontage of lot 10-1 because all the frontage surrounding this lot is covered by conservation easement property that will not allow this.



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1. **Please describe how the Variance will not be contrary to the public interest.** Will the variance alter the essential character of the neighborhood and/or threaten the health, safety, or general welfare of the public?

A home has existed on this lot since the 1950's

2. **Please describe how the spirit of the ordinance is observed.** The proposed use must not conflict with the general purpose of the ordinance.

More than 500' frontage requirement already exists in reality because of 1262' of conservation land that cannot be developed

3. **Please describe how substantial justice is done.** The benefits to the applicant must not be outweighed by harm to the public.

The public benefits because more of all the undevelopable frontage and acreage surrounding this lot

4. **Please describe how the values of the surrounding properties are not diminished.**

The value of the surrounding properties is actually enhanced because of the conservation easement which exludes any future development



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Please complete EITHER question 5A OR 5B. The Zoning Board of Adjustment recommends that you complete paragraph 5B only if you feel you cannot meet the requirements set forth in paragraph 5A.

5A. Please describe how literal Enforcement of the provisions of the Lyndeborough Zoning Ordinance would result in an unnecessary hardship (only hardship to the property, not the owner, can be considered):

- i. What special conditions of the property distinguish it from other properties in the area, i.e. slopes, wetlands, etc.?

The conservation deed will not allow more frontage to be added

- ii. Explain how no fair and substantial relationship exists between the general purposes of the ordinance provision and the specific application of that provision to the property. How does literal enforcement of the Zoning Ordinance fail to advance its objectives in a fair and substantial way?

The general purpose of the ordinance is to assure that each lot has enough frontage and acreage to support septic system requirements and the rural feeling of Lyndeborough's roadways. This is accomplished by the conservation easement

- iii. The proposed use is a reasonable one because:

A residence already exists since the 1950's and no other subdivision is possible

5B. ONLY COMPLETE IF YOU ARE NOT COMPLETING QUESTION 5A. If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to specific conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.



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APPLICATION FOR SPECIAL EXCEPTION

Explain how the proposal meets the specific special exception requirements as may be set forth in Section 1002.00 of the Lyndeborough Zoning Ordinance (refer to the list of permitted special exception uses specified below):

- a. Streets, roads and other access ways.
- b. Utility right-of-way easements including power lines and pipelines if essential to the productive use of land not in the Wetland District.
- c. A use not otherwise permitted in the Wetland District, including the erection of a structure, dredging, draining or otherwise altering the configuration of the land, if it can be shown that the proposed use is not in conflict with the purpose and intent of this section and if the proposed use is otherwise permitted by the Zoning Ordinance. Proper evidence of this shall be submitted in writing to the Zoning Board and is subject to review by the Hillsborough County Conservation District to determine the effect of the proposed use on the wetlands in question.
- d. Accessory uses within the Wetlands Buffer District as defined in 200.04.
- e. Expansion of an existing structure built prior to March 12, 2022, where there is no reasonable option to expand outside of the wetland buffer district.
- f. Erection of a structure partially or fully within the wetland buffer district on a wetlands district non-conforming vacant lot, provided the lot was on record at the Hillsborough County Registry of Deeds as of March 12, 2022, and that the structure cannot feasibly be built on a portion of the lot which is outside of the buffer district. In any case, no part of the structure shall be built within 25 feet of a wetland.

Please write explanation here and reference the permitted special exception use (items a through f):

Nothing in items "a" through "f" apply

N/A



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APPEAL FOR ADMINISTRATIVE DECISION

Explain why you feel the Administrative Official made an error in applying or interpreting the zoning ordinance in a particular case.

N/A



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APPLICATION FOR EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS

An Equitable Waiver of Dimensional Requirements is requested from Article/Section(s) 702.02 of the Lyndeborough Zoning Ordinance to permit:

500 feet of frontage

1. Does the request involve a dimension requirement, not a use restriction? Yes No

2. Explain how the violation has existed for 10 years or more with no enforcement action, including written notice, being commenced by the town OR b) explain how the nonconformity was discovered after the structure was substantially completed or after a vacant lot in violation had been transferred to a bona fide purchaser AND how the violation was not an outcome of ignorance of the law or bad faith but resulted from a legitimate mistake.

Because the frontage requirements have change since the conservation easement was established in 2007

3. Explain how the nonconformity does not constitute a nuisance nor diminish the value or interfere with the future uses of other properties in the area.

It actually enhances the value of other properties in the area because there can be no more developement along a 1/2 mile stretch of Pettingill Hill Road

4. Explain how the cost of correction far outweighs any public benefit to be gained.

Not applicable



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SIGNATURE PAGE

THIS SECTION OF THE APPLICATION MUST BE COMPLETED BY ALL APPLICANTS

I, the undersigned Applicant, hereby certify that the information contained within this Application is complete and accurate, and I acknowledge that I have read and understand the Application Instructions.

Signature of Applicant*

Signature of Property Owner*

*Both Signatures Required if Different Applicant/Owner

AUTHORIZATION TO ENTER SUBJECT PROPERTY

I, and my successors, hereby authorize members of the Lyndeborough ZBA to enter my property for the purpose of evaluating this application, including performing inspections during the application phase, post- approval phase, construction phase and occupancy phase. It is understood that these individuals must use all reasonable care, courtesy, and diligence when on the property.

Signature of Property Owner

3/19/26

Date



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ABUTTER LIST

Pursuant to RSA 676:7, the Town of Lyndeborough is required to notify the applicant and every abutter of the public hearing by certified mail. The cost of required publication or posting of notice, and the cost of mailing said notices, shall be paid by the applicant.

RSA 672:3 Abutter. – "Abutter" means any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the term abutter means the officers of the collective or association, as defined in RSA 356-B:3, XXIII. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a manufactured housing park form of ownership as defined in RSA 205-A:1, II, the term "abutter" includes the manufactured housing park owner and the tenants who own manufactured housing which adjoins or is directly across the street or stream from the land under consideration by the local land use board.

	Tax Map	Lot Number	Owner(s) of Record	Mailing Address
1	240	01	Doria Harris	P.O. Box 179 Lyndeborough, NH 03082
2 [240	02	Stella Abbott	157 Pettingill Hill Rd Lyndeborough, NH
	240	08	Stella Abbott	157 Pettingill Hill Rd Lyndeborough, NH
3	240	11	David Emery	110 Pettingill Hill Rd Lyndeborough, NH
4	231	01	Marc Schwartz	61 Brandy Brook Rd Lyndeborough, NH
5 [240	10	S Philip Brooks Trust	202 Pettingill Hill Rd
	240	09	"	"
6			PLLC	5 mill st, New Boston, NH 03070
7			Meridian	31 Old Nashua Rd, Amherst, NH 03031