

ZONING BOARD OF ADJUSTMENT  
268B MAMMOTH ROAD  
LONDONDERRY, NH 03053

DATE: AUGUST 21, 2013

CASE NO.: 8/21/2013-2

APPLICANT: 3 WEYMOUTH ROAD LLC  
PO BOX 5365  
MANCHESTER, NH 03108

LOCATION: 3 WEYMOUTH ROAD; 15-187; AR-I

BOARD MEMBERS PRESENT: JIM SMITH, CHAIR  
LARRY O'SULLIVAN, VOTING MEMBER  
JAMES TOTTEN, VOTING ALTERNATE  
NEIL DUNN, CLERK

REQUEST: VARIANCE TO ALLOW A DUPLEX ON A LOT WITH LESS THAN 52,500  
SQUARE FEET OF AREA AS REQUIRED BY SECTION 2.3.1.3.1.1.

PRESENTATION: At the opening of the meeting, the Chair announced to all applicants that with only four Board members in attendance, they would have the opportunity to request a continuance.

Case No. 8/21/2013-2 was read into the record with four previous cases listed.

JAMES SMITH: Who will be presenting.

ALAN YEATON: My name is Alan Yeaton, architect. I'm going to pass out a little site sketch that I've come up with (see Exhibit "A") and try to better explain what it is and what you have copies of.

NEIL DUNN: Do you want to reiterate the four members or...?

LARRY O'SULLIVAN: Make sure Alan understands that he has to get three out of four?

JAMES SMITH: He was here, but I'll reiterate; you understand the fact that we only have four members; to get your variance, you would need to get at least three positive votes?

ALAN YEATON: Yes, I do.

JAMES SMITH: Okay. And you wish to proceed?

ALAN YEATON: Well, again, my name is Alan Yeaton. I'm an architect and planner from Manchester, New Hampshire. I'm here representing the proposer, 3 Weymouth Road, LLC. And what we propose to do is to

47 construct...if you look at the little site sketch that I just gave to you, it's a lot in the AR-I zone. It's about 46,500  
48 square feet. If you look to the north, which is...item four, there's a small triangular lot there with a single  
49 family on it. If you look to the left of the site, there is a single family on the lot next door. To the east, which  
50 would be to the right, there is a vacant lot. And to the south is the rail trail and then there is an industrial  
51 segment and development directly below that. So the area is a mixed use area now. The lots in this area tend  
52 to be smaller than this one. Some are half the size, some are a little bit bigger, some are not. But I've tried to  
53 show here is what is on the site now and if you've been out there, you'll notice that there's a driveway or a  
54 road. There's a loop at the end of it and we thank the Town for paving it. But right now there's a paved, I'll  
55 call it turnaround that exists there now. The driveway continues a little bit further along to the house on the  
56 left of this site. I've shown the required setbacks in this zone of front yard, side, and rear yards. I've shown  
57 the fact that this site, this development, would be serviced by sewer. In the street there's a manhole right at  
58 the intersection of where the loop comes together. I've also shown a well radius because this development  
59 would also have to be serviced by a drilled well. And that is within the property lines and not within the  
60 confines of the proposed location of the building. Which, we're talking about building a two-story structure,  
61 approximately the size of a single family house. About 44 foot long and a maximum of 30 foot in depth. And  
62 I'd like to design a couple of patios to the left and right for use by the residents. Parking for two cars allocated  
63 outside of that. I also thought, in the interest of what might have to occur here is that since their driveway  
64 already exists and is utilized by the public, that I might have to grant an easement for that road being on the  
65 property, which I don't believe exists at this present time. And I would be more than happy to do that, should  
66 our proposal be approved. Now, to address the specific instances of the zoning, we're asking for lot size.  
67 Granted, we need about 52,500; we have 46,000, which means we've got about 90% of what would have been  
68 required to do a two family dwelling. The variance is not contrary to public interest. If you canvas the local  
69 area, you will find that there are numerous two- families in the area. Some are on...most of them are on  
70 smaller lots than this. The site design will adequately provide for open space, given the fact that when you  
71 look at this, both to the left and the right, the site is almost 300 feet long. And if you look at the...consider the  
72 relative size, you'll find that it's about the size of a football field. And we're going to put a two family dwelling  
73 in the middle of it, basically. So the site design adequately deals with the open space and provides, actually,  
74 more open space than most projects of this type. The spirit of the ordinance is observed; the structure is well  
75 placed, leaving adequate open space, on-site well with the protective radiuses, which are within the property  
76 lines. And we do have the public sewer. So the spirit is to allow the development of this site. The site to the  
77 east; if you look at the current GIS, it has a contiguous wet area in it. Most likely that lot to the east will not be  
78 built upon unless it's directly out off the street. The lot next door is a relatively long lot. Substantial justice is  
79 done; because of the rail trail and the commercial development on the back, it's really suited for some type of  
80 multi-family development versus a single family house because of the visual impact that everything else  
81 around it has on this particular site. I believe, in talking to the proposer, that the local Public Works said they  
82 have worked with the owner on the turnaround issues to make sure that the public interest is secured here.  
83 And showing the location of the development here, I believe everything that we have proposed will meet all  
84 other aspects of the zoning ordinance. The value of the surrounding properties are not diminished. This is a  
85 relatively larger lot, it's a similar scale in terms of size of the houses in the neighborhood. It's not larger, it's  
86 not smaller, it's not going to project beyond, in terms of relative size. And the use is residential, which is  
87 allowed in this particular AR-I zone. Literal enforcement of the provision of the ordinance would result in an  
88 unnecessary hardship. The dense development in the area, and also the adjacent house lots, are basically  
89 smaller. So if I could divide this in half, I would have two lots bigger than the lots adjacent to us and build two  
90 single families. But in this case, I think the preservation of open space and building a two family here is much  
91 better for the overall neighborhood. It's a lot of record. I don't know exactly when it might have been  
92 created, but I suspect it was a long time ago because the railroad has been there for as long as anybody that I

93 know of. And the proposed use is a usual one, given the Town maintains the cul de sac here. That's my  
94 understanding. And it was recently paved by their...the continued development must have been anticipated  
95 for a residential use on this particular site. Given that short presentation, I'd be more than happy to answer  
96 any questions you might have. Also, if any questions from the public. And we look forward to a successful  
97 presentation. Thank you.

98  
99 JAMES SMITH: Neil?

100  
101 NEIL DUNN: So you don't have a recent survey or something that is showing who owns the road? You're  
102 saying the Town definitely owns it? Our cul de sac portion of the road that is in there; is that an easement, do  
103 you know? We don't have anything formal on what it is?

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105 ALAN YEATON: There is no easement that I'm aware of, that I can find.

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107 NEIL DUNN: Richard, do you know what the status of that is?

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109 RICHARD CANUEL: Yeah, there is no formal easement. It's sort of an informal agreement that has been a  
110 standing agreement between the property owner and the Town. The Public Works Department has been  
111 allowed to use that turnaround for road maintenance operations; plowing and so forth. So there was not ever  
112 a dedicated easement drafted for that.

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114 LARRY O'SULLIVAN: You just said the Town was allowed to...?

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116 RICHARD CANUEL: Yeah, there's sort of an informal agreement, from what I understand from our Public  
117 Works Department.

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119 NEIL DUNN: So if they were to dig it up, which it sounds like they could do, then what happens?

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121 LARRY O'SULLIVAN: Yeah, what are ramifications?

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123 NEIL DUNN: Then they back up the road.

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125 LARRY O'SULLIVAN: What are the ramifications of having this thing removed? Because obviously, there's  
126 three quarters or more than that of this roundabout, or whatever you want to call it, sits in this lot. So we're  
127 going to have a dead end road there?

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129 RICHARD CANUEL: Yes.

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131 LARRY O'SULLIVAN: We're going to create a dead end road by allowing this lot to be built?

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133 RICHARD CANUEL: Well, there's essentially a dead end road there now.

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135 NEIL DUNN: Already. If they can dig it up anyway, yeah. Richard...

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137 LARRY O'SULLIVAN: It's not a dead end in my book if it's got a cul de sac on the end.

139 RICHARD CANUEL: Well, it's not on the end.  
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141 JAMES SMITH: Where that driveway; that's a continuation of Weymouth Road, so...  
142  
143 RICHARD CANUEL: Right.  
144  
145 NEIL DUNN: But it dies there, doesn't it? It dead ends there? It dead ends? Richard, according to 2.3.1.3.1,  
146 "Minimum Area," because he has municipal water...  
147  
148 JAMES SMITH: No, he hasn't got municipal water...  
149  
150 NEIL DUNN: Well, I wasn't finished. I was reading it. Minimum lot sizes and requirements for lots with  
151 municipal water and sewer, which he doesn't have municipal water, and we look at the table, that's where the  
152 52,500 comes from. If we go down one line, 2.3.1.3.1.2, the minimum lot size for a single or two family  
153 residence not served by municipal wastewater shall be 43,560, which he's got...  
154  
155 RICHARD CANUEL: Correct, yeah.  
156  
157 NEIL DUNN: ...there seems to be a contradiction there? Am I missing something?  
158  
159 RICHARD CANUEL: No. No, there's not a contradiction. Based on that section that you just quoted, they are  
160 required to have the minimum one acre, which is the required minimum lot size for any residential  
161 development. And the additional area by the other sections of the ordinance. Section 2.3.1.3.1.4.7; for duplex  
162 use, is that you increase the lot size by 40% of the minimum lot size, up to five bedrooms. Any bedrooms  
163 above that, it's an additional 15% for each additional bedroom beyond the five. So there would be an  
164 additional lot area requirement well above and beyond the minimum one acre. So you'll end up with  
165 something that's approximately...I think I came up with, like, 67,000 square feet. Somewhere in that area. So  
166 comparing that to what's allowed by the table, with a property that's served by municipal sewer, their  
167 minimum lot size requirement is only 52,500 square feet. I think the point of municipal water is pretty  
168 irrelevant because the determination is to have adequate lot area for sewerage disposal. If you're using public  
169 sewerage, then you don't have that restriction for the lot size.  
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171 NEIL DUNN: How many bedrooms were you anticipating?  
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173 ALAN YEATON: Initially, we're looking at 3 bedroom units.  
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175 LARRY O'SULLIVAN: Two three's or three two's?  
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177 NEIL DUNN: Each of them would be three?  
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179 ALAN YEATON:  
180  
181 LARRY O'SULLIVAN: Two three's or three two's?  
182  
183 NEIL DUNN: Each of them would be three?

184  
185 ALAN YEATON: Yes.  
186  
187 LARRY O'SULLIVAN: Because I saw four in your notes. Two bedrooms, isn't that four bedrooms? I guess I  
188 didn't see that there. Maybe I heard it, but...alright. So you're planning on three...two three-bedroom homes/  
189  
190 ALAN YEATON: Correct. And that's similar to the ones that are in the neighborhood on smaller lots. They're  
191 three bedrooms. I checked the assessing statute on several of the abutting properties. Not abutting  
192 properties. Neighborhood properties.  
193  
194 LARRY O'SULLIVAN: Nearby.  
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196 ALAN YEATON: Yes.  
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198 LARRY O'SULLIVAN: Do you have any two-family abutting?  
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200 ALAN YEATON: No. There's one about 300 feet away on one of the northern streets above Weymouth.  
201  
202 JAMES TOTTEN: So, this is 3 Weymouth, right?  
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204 LARRY O'SULLIVAN: Street address?  
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206 ALAN YEATON: Yes.  
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208 JAMES TOTTEN: And I'm showing that this is zoned commercial?  
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210 ALAN YEATON: In looking at the zoning map, it says AR-I.  
211  
212 NEIL DUNN: AR-I according to the...  
213  
214 JAMES TOTTEN: When I go...yeah, so I was just looking at the past cases and it...the last one indicated...if I can  
215 find it again...case 3/17/92-4 was a variance to use a portion of a building as a single family dwelling where a  
216 single family dwelling is not allowed in Commercial-I. So in going to that Patriot Properties site, it shows it as  
217 zoned Commercial-I.  
218  
219 LARRY O'SULLIVAN: Are you talking about the same lot? Is there anything built on this lot now?  
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221 RICHARD CANUEL: Yeah, if I could...  
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223 ALAN YEATON: There's nothing built on this lot.  
224  
225 RICHARD CANUEL: Yeah...  
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227 LARRY O'SULLIVAN: I think this has been subdivided off of another, larger lot.  
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229 JAMES SMITH: No.

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RICHARD CANUEL: At one time, some years ago, that lot was spot zoned as commercial, simply because there was a commercial use existing on the lot. That lot has since been reverted to the AR-I zone since that commercial use has gone away.

JAMES TOTTEN: Okay.

JAMES SMITH: I believe there was a commercial building that burned down.

RICHARD CANUEL: That's right.

LARRY O'SULLIVAN: Oh yeah.

ALAN YEATON: It's probably before my time here.

LARRY O'SULLIVAN: Okay, so...

NEIL DUNN: So, in actuality, if I may, the letter back to you...to Mr. McCurdy is from Richard, the Building Department, is really stating that because of the six bedrooms, you need 67,518 square feet. And you were just saying that you needed 52,500, so I'm getting a little bit even more confused on the square footage thing.

ALAN YEATON: Not fully understanding everything in the zoning ordinance, the 264 pages, probably I'm in error.

JAMES SMITH: Well...

ALAN YEATON: But I would suggest that we proposed to build three bedroom units. We would like approval to build three bedroom units and I also feel that because of the sewer, there's not a large demand for the, I'll call it the square footage of the site. If I had a septic system on the site, then obviously, there would be a demand based upon and be consistent with the percolation rates and the soil types on this particular site. It would also help determine the size of the lot required for the number of units and the number of bedrooms. I was hoping that the bedrooms would not be restricted since we are using public sewerage on this site.

JAMES SMITH: Neil? I think you have to carefully read this. When you look at the chart which is labeled 2.3.1.3.1.1, it says "single or two family lots serviced by municipal water and sewer will not be subject to the high intensity soil study requirements," then they have to meet that chart. But then when you drop down to .2, "the minimum lot size for a single or two family residence not served a municipal wastewater system shall be 43,560."

NEIL DUNN: Right, but in Richard's letter, he's saying the amount needed is 67,000. I'm presuming Richard did his calculations properly, based on whatever, if he has wastewater or sewer or water or whatever. So it's considerably more than the 52 that we're being asked for relief from, I guess is my point. And being an architect and writing it up, I'm just looking for clarification.

LARRY O'SULLIVAN: So is it the 6,000 square foot difference or is it the...what is that? Sixteen thousand square foot.

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277 JAMES SMITH: Okay.  
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279 RICHARD CANUEL: Allow me to clarify.  
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281 JAMES SMITH: Okay, Richard.  
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283 RICHARD CANUEL: The 67,518 square feet was based on the original application of a total of six bedroom  
284 units, based on no municipal sewer. Because presently, the property is not served by municipal sewer. If the  
285 applicant proposes to provide municipal sewer to the lot and wants to build five or more bedrooms, it would  
286 be in accordance with that table one, which would require the 60,000 square feet.  
287  
288 NEIL DUNN: That's still higher than the 52 on the application.  
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290 RICHARD CANUEL: Correct.  
291  
292 NEIL DUNN: Thank you.  
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294 RICHARD CANUEL: The 52,500 would be based on a maximum of four bedrooms; two bedrooms per unit.  
295  
296 LARRY O'SULLIVAN: So a 7,500 square feet lot size and two bedrooms away from fitting within the  
297 requirements that we have.  
298  
299 RICHARD CANUEL: Yes.  
300  
301 LARRY O'SULLIVAN: Okay. Isn't that the way to look at this? Is there anything unique about this lot? [Laughs].  
302 Help us out here, will ya?  
303  
304 RICHARD CANUEL: It has a cul de sac on it.  
305  
306 JAMES SMITH: It's old...  
307  
308 NEIL DUNN: There doesn't have to be, though. [Laughs].  
309  
310 ALAN YEATON: To be honest with the Board, I would like not to have to take it out. Because I think from the  
311 standpoint of safety and other issues, it's beneficial to both the Town and to the neighborhood. Remembering  
312 there are only three houses, basically, served by this...I'll call it 'road,' because it is a right-of-way, although it  
313 might not be built to any particular standards at the moment.  
314  
315 NEIL DUNN: But by the same token, at any point, it could be removed.  
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317 ALAN YEATON: I believe so, yes.  
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319 NEIL DUNN: Yeah.

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ALAN YEATON: But in the interest of everything, we're not proposing to remove it. I would propose granting the Town an easement for that turnaround so that it would be at least legalized in that sense.

LARRY O'SULLIVAN: You're proposing that or you're suggesting that that become of your variance?

ALAN YEATON: As somebody that deals with this, the development process, I would suspect that the municipality would want an easement for their own protection. Because it gives them the right to repair, move over, drive over, and all the kinds of things that customarily happen.

LARRY O'SULLIVAN: You're still going have...

NEIL DUNN: Your thoughts on that, Richard?

LARRY O'SULLIVAN: ...room to build on that lot?

RICHARD CANUEL: Well...

NEIL DUNN: I mean, I don't want to speak for Janusz, but...

RICHARD CANUEL: My thoughts are, I mean presently, as I said, there's sort of an informal agreement to allow the Public Works Department to pass on that property where that cul de sac is now paved. I would say now that we're looking to develop that lot, for the benefit of the Town as well as the property owner or future owners of that lot, I think it would be wise to make, if the Board so chooses to grant the variance, to grant the variance contingent upon an easement being negotiated between the owner and the Town.

NEIL DUNN: And you don't see any issues with the road specs or anything? Better than nothing at this point.

RICHARD CANUEL: Yeah, I don't foresee that the Town is going to look to develop that road to Town specs, but I think they more or less would prefer to have the convenience to allow trucks to turn around then trying to back all the way down that road.

NEIL DUNN: And to the applicant's point, it does address does safety concerns that we would maybe be more willing to...okay.

LARRY O'SULLIVAN: We also have to make sure, though, that they have room to build here. You're still going to have separate requirements...although is this one of the paper roads or is this actually a road?

RICHARD CANUEL: It's actually a road. Yes.

LARRY O'SULLIVAN: Okay, so it's a plotted road. So what you're going to need to do is you're still going to have setback requirements from that cul de sac to be able to build or put anything on...

NEIL DUNN: No.

JAMES SMITH: No.



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RICHARD CANUEL: Well, no, if you look at the plan that Mr. Yeaton provided, he does have the setbacks shown on there and the setbacks would be from the property lines.

LARRY O'SULLIVAN: I had seen that. [Indistinct].

RICHARD CANUEL: And the cul de sac sort of encroaches onto the owner's property, so...

LARRY O'SULLIVAN: Good

ALAN YEATON: I think the easement will probably also state that there be no construction or improvements within that easement area that's granted to the Town.

LARRY O'SULLIVAN: So can I ask a question? Is sewer already available on Weymouth? Are there currently homes that use the public sewer on that road?

ALAN YEATON: I don't know exactly who is hooked up to the sewer. There is a manhole right at the beginning of that turnaround. In the pavement. And the sewer runs out to the main street. Sewer for the rest of the neighborhood goes through on of the backstreets, so the houses that are further beyond this are actually serviced through one of the backstreets. They have not been improved to a level of a street but the right-of-ways are there and the sewer is in those right-of-ways and in a couple of the backstreets there further north. And those also run out to the main road. So collectively, the sewer is there, probably providing service to whatever building might have been there beforehand. And we would propose to activate that now. And I don't know whether the house on lot number four as I've shown on the diagram is connected to the sewer or not. I would hope that he is. It's a very small lot and I hope he's not on septic.

JAMES SMITH: Okay. Any other questions?

JAMES TOTTEN: No.

JAMES SMITH: Okay, seeing no...we'll open it up to the public. Anyone in favor? Would you approach one of the mics and identify yourself?

DAVID MCCURDY: I'm David McCurdy. I live at 5 Weymouth Road, which is a direct abutter to this property and I have no problem with this and I'm in favor for it.

JAMES SMITH: Okay, could you answer the question; are you tied into the sewer or are you using a...?

I'm not, but I believe 4 is.

JAMES SMITH: Okay.

I believe 4 is the only one that's tied into that.

JAMES SMITH: Okay. Thank you. Anyone in objection or other questions or in favor? Approach a mic, sir.

412 BOB MERRILL: Conceptually, I'm not against this project but...

413  
414 JAMES SMITH: Could you give us your name?

415  
416 BOB MERRILL: Oh, I'm sorry. Bob Merrill, 569 Mammoth Road, Londonderry, and my family owns the lot  
417 directly to the east, 15-186. That would be...the lot has some wetlands on it, particularly on the western part  
418 of it. It's an old industrial lot. It's been used for a number of different uses over the years. I'd recommend  
419 that he can hook into the Town water. It would be a good thing. Manchester Water Works, I meant. But I'm  
420 just trying to see the map and what they're trying to do. That would be pretty much in the area of the old  
421 industrial building where they are proposing to put the building, by the looks of it. As I remember, there was  
422 a project, I mean, a proposal that was for duplex, you know, that was not granted twenty-odd years ago and  
423 they basically wanted to divide the building into two and make it into a duplex but it was not approved by the  
424 Town at that point. What is the difference between now and then? You know, coming to the Board on this  
425 plan versus the plan twenty-odd years ago? After the plan was not approved, the building burned for the  
426 second time.

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428 JAMES SMITH: Okay, hold that. On that case...do you want to...?

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430 NEIL DUNN: There were four previous cases...

431  
432 BOB MERRILL: Yeah.

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434 NEIL DUNN: ...and I would guess you're speaking to...they all they had to do with the existing building on the  
435 lot and converting an existing building. So case one was to use an existing building for moving and storage. It  
436 was tabled for more information. Case two was a variance to use an existing building for a children's center  
437 for normal and handicapped children which was denied. And that probably had to do with day care  
438 regulations. And case 1/21/92-13; a variance to use a portion of the commercial building as a single family  
439 home. That was a no-show. And then case 3/17/92-4; a variance to use a portion of a building as a single  
440 family dwelling where a single family dwelling was not allowed in the commercial zone. It was commercial at  
441 the time and that's why it was probably denied.

442  
443 BOB MERRILL: Yeah, it's just my memory of it was it was supposed to have been a duplex but of course, the  
444 records... and I could be off. But this looks like awful close to the property line in looking at the map and by  
445 the looks of it, you've got 150 feet on the map, wide, and of course, the State took 15 feet to widen out the  
446 railroad bed, so he may only have dropped into a 135 feet wide instead of 150. You know, width-wise. And  
447 the other thing is I did not...the Merrill family did not receive a certified letter. Having being an abutter.

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449 LARRY O'SULLIVAN: Alan, could you address the first point there that he raised about the 15 or whatever it is,  
450 35 feet that the State took for the railroad...?

451  
452 BOB MERRILL: Well, the old railroad bed was 66 feet and 2/3 and the State took 15 feet on each side of it and  
453 made it, I think, 99 or 100 feet wide by eminent domain a number of years ago and when the Town auctioned  
454 off the lot, it reflected the change in the size of the lot. I have a map that is before the State took, you know,  
455 widened out what will be the bike trail, rail road track.

456  
457 LARRY O'SULLIVAN: We're attempting to go through the GIS system...

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459 BOB MERRILL: Yeah.  
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461 LARRY O'SULLIVAN: ...to show exactly where the right-of-ways are and so forth.  
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463 JAMES TOTTEN: Yeah, it looks to me like the map has been...it's up to date.  
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465 BOB MERRILL: Okay.  
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467 JAMES TOTTEN: It's got a swath chopped out...  
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469 BOB MERRILL: Yeah.  
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471 JAMES TOTTEN: ...for the rail and it's 150 feet.  
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473 BOB MERRILL: Yeah, well, as I understood, it was supposed to...the property line started at the center of the  
474 railroad and you go 40 feet, 49 feet or 50 from there, then the property line starts from there.  
475  
476 JAMES TOTTEN: Yeah, the property line I'm looking at is well off of...  
477  
478 BOB MERRILL: Mm-hmm. Yeah.  
479  
480 JAMES TOTTEN: ...the row.  
481  
482 BOB MERRILL: Yeah, I was just concerned that the building might be right on the property line if he didn't take  
483 into consideration what the State took for the widening of the rail trail.  
484  
485 NEIL DUNN: Richard, that's up...and you would be evaluating on the...and the Planning Board would be  
486 looking at one the formal submittal? The setbacks?  
487  
488 LARRY O'SULLIVAN: Would this go to Planning Board? Why would this go...?  
489  
490 RICHARD CANUEL: This won't go to the Planning Board. It's residential development. The Planning Board  
491 won't look at this. But the dimensions that Mr. Yeaton shows on his sketch; it's odd that I had just looked at  
492 that earlier today on the Town's GIS and they're exactly the same.  
493  
494 BOB MERRILL: Oh.  
495  
496 RICHARD CANUEL: So, I've got to say, you know, even though our GIS is not an official survey, it's pretty  
497 darned close.  
498  
499 BOB MERRILL: Yeah.  
500  
501 RICHARD CANUEL: So I would say that those lot dimensions are correct.  
502  
503 BOB MERRILL: What about...?

504  
505 JAMES SMITH: Could you hold it for a second?  
506  
507 BOB MERRILL: Oh, I'm sorry.  
508  
509 JAMES SMITH: And also, just for your information, as part of the building process, as soon as the footings are  
510 in the ground, there's going to have be a certified plot plan done at that point, so if there was any discrepancy,  
511 it would come out at that point and they would have to...  
512  
513 BOB MERRILL: So you'd want to get it before the concrete goes in the ground.  
514  
515 LARRY O'SULLIVAN: No, we don't. He doesn't.  
516  
517 BOB MERRILL: Yeah, I mean him. Yeah, I'm sorry. Doesn't the Town automatically require that the abutters  
518 get a certified letter?  
519  
520 JAYE TROTTIER: They are on the abutter list, but I don't have the record that anything was sent.  
521  
522 BOB MERRILL: Yeah, because we never got a letter.  
523  
524 JAYE TROTTIER: All the other residents did.  
525  
526 BOB MERRILL: We're on every day. Most every day.  
527  
528 LARRY O'SULLIVAN: Well, I'm glad you read the Londonderry news to find out that we were still here.  
529  
530 BOB MERRILL: Yeah.  
531  
532 LARRY O'SULLIVAN: The public notice part of that worked, then.  
533  
534 BOB MERRILL: The public notice part didn't work in terms of the letter.  
535  
536 NEIL DUNN: Do we have any concerns about re-noticing?  
537  
538 LARRY O'SULLIVAN: No.  
539  
540 NEIL DUNN: Was that the only abutter that it looks like was not, for some reason, not...? No?  
541  
542 JAYE TROTTIER: I don't have a receipt back from the Post Office.  
543  
544 BOB MERRILL: We didn't sign anything, so we didn't get any notice. You get a notice telling you to check with  
545 the mailman if they didn't...  
546  
547 LARRY O'SULLIVAN: I think we've got a moot point because you're here anyway. But thank you very much for  
548 bringing that to our...  
549

550 BOB MERRILL: Well, I mean, I could challenge it. [Laughs].  
551  
552 LARRY O'SULLIVAN: Well, we have...not to defend the way we notify, we do our best with the registered  
553 letters, but at the same time, we also do the newspaper stuff, so.  
554  
555 BOB MERRILL: Could I get a copy of this? [Exhibit "A"].  
556  
557 ALAN YEATON: Sure, you can have that copy.  
558  
559 BOB MERRILL: Thank you very much, sir.  
560  
561 ALAN YEATON: You're welcome.  
562  
563 BOB MERRILL: Yeah, okay.  
564  
565 JAMES SMITH: I would say the notification is a moot point since you were actually here and you did find out  
566 about it through the other required means, so...  
567  
568 BOB MERRILL: Well, I'll let it go this time, but just, you know, I just wanted to make sure the proper  
569 procedures were being used.  
570  
571 LARRY O'SULLIVAN: Did you have an objection...?  
572  
573 JAMES SMITH: I think they work about 99% of the time, but...  
574  
575 LARRY O'SULLIVAN: Do you have any objection to this happening here on this lot, can I ask?  
576  
577 BOB MERRILL: Well, I don't have...particularly don't see any major problem with putting a duplex on it. It  
578 might be because of the size, he might want to reduce down to two bedrooms instead of six total. But that's  
579 between you and him what to figure out. If it were me, I would bring it closer into, you know, into the  
580 regulations, hopefully.  
581  
582 JAMES SMITH: Okay, if you have nothing further...  
583  
584 BOB MERRILL: Thank you very much for your help.  
585  
586 NEIL DUNN: Thank you for being understanding.  
587  
588 BOB MERRILL: Yup.  
589  
590 JAMES SMITH: Anyone else?  
591  
592 RICHARD CANUEL: If I could just clarify for the Board's information and for the property owner's information;  
593 the statute only requires that the Town notify abutters through certified mail. There's no requirement that we  
594 have verification that they received the notice. As long as the abutters list is complete as required and those  
595 notices went out to those abutters, that is all that is required by the statute.

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LARRY O'SULLIVAN: We don't have that.

BOB MERRILL: Well [indistinct] the letter...

JAYE TROTTIER: It's on the list.

LARRY O'SULLIVAN: It's on the list, but we don't have a receipt, obviously.

RICHARD CANUEL: It's on the list. Okay. Alright.

JAMES SMITH: Anything else at this point? Any other comments from the audience? Okay, back to the Board. I will now close the public hearing part of the meeting at this point. Deliberations.

DELIBERATIONS:

LARRY O'SULLIVAN: No a nutshell, just for my sake. We have two issues. One of them is; there's six bedrooms in this building and the lot's too small for six bedrooms.

JAMES SMITH: That's the issue.

LARRY O'SULLIVAN: Okay. Now, where that affects the public interest, in my opinion, is health and safety and neighborhood values. I don't think, in either case, because it has public sewer and it will be a requirement of the...of anything that I propose or in the way I propose the acceptance or approval of this variance, that it be connected to the sewer before...I don't know, acceptance of the building or...but other than that, I don't have any issues with that. There's the six bedroom versus four bedrooms that I am open to, if anybody has any suggestions how we can cover that, that we wind up closer to our standard, as opposed to...because it's still out of the range with four bedrooms, right? It's 7,500 feet short, lot size, for four bedrooms. Is that correct?

JAMES TOTTEN: Two to four is 52,500.

JAMES SMITH: Yup.

LARRY O'SULLIVAN: So we're 6,000 feet short.

NEIL DUNN: No, I think you go to a different...let me see...

JAMES TOTTEN: And that's when served by both water and sewer.

LARRY O'SULLIVAN: Right.

JAMES TOTTEN: Which, it will only be served by sewer.

LARRY O'SULLIVAN: Not the water.

JAMES TOTTEN: Right.

642

643 LARRY O'SULLIVAN: Okay, is there any chance that...how close is water? Do we know, Richard, how close  
644 water is to this site? Or if this is something we can just make a requirement to if it's close enough?

645  
646 RICHARD CANUEL: I have no idea.

647

648 LARRY O'SULLIVAN: And then you could build a, you know, an apartment building if the lot was a little bit  
649 bigger but at the same time, we know you're only trying to get a two family out of it, so...I don't see anything  
650 in the way of the multi-families in the area being a problem...that this would be a problem, so I don't have any  
651 other objections with it regarding the facts that he's provided in support of the spirit. I think he's covered  
652 that.

653

654 JAMES SMITH: So are you suggesting we go to four bedrooms?

655

656 LARRY O'SULLIVAN: I don't know if that's a viable option. We just went through this 'can you afford to build  
657 these places if there's only two bedrooms versus three bedrooms?'

658

659 JAMES SMITH: Well, that's a different scenario.

660

661 LARRY O'SULLIVAN: I know, but at the same time, the scale is the thing that I'm talking about versus cost,  
662 versus, you know, this whole problem or this whole issue goes away or the two family goes away if you have  
663 to have four bedrooms as opposed to six. It's not worth your while to build it if there are only four bedrooms.  
664 That's what I'm saying. Because the architect is requesting six bedrooms on this site. Is that something we  
665 could ask?

666

667 JAMES SMITH: Yeah, I think we could.

668

669 LARRY O'SULLIVAN: Alan?

670

671 JAMES SMITH: We'll open it up for that one question.

672

673 LARRY O'SULLIVAN: I've got a question for you. Some of us have a problem with the number of bedrooms  
674 because there's a requirement that you have four bedrooms, two each I suspect, with the lot size, which is  
675 closer to our requirement square footage-wise, for your lot. Your request is for three times two, which is 33%  
676 larger than what we require by ordinance. So my comeback is; can this project be scaled to two bedrooms and  
677 still be viable? Two bedrooms each, obviously.

678

679 ALAN YEATON: Let's talk about viability for a second. The last time I did a two bedroom apartment or a unit  
680 was probably 30 years ago.

681

682 LARRY O'SULLIVAN: They're just not done that often?

683

684 ALAN YEATON: And the reason, it has to do with marketing, obviously.

685

686 LARRY O'SULLIVAN: Mm-hmm.

687

688 ALAN YEATON: It also has to look for, you know, what people are looking for and what type of residence that  
689 you hope to have in your building or in my building or whatever the case might be. And I think the offering of  
690 a three bedroom unit is more marketable, more financially feasible based upon the income projections that  
691 you might get from a rental property versus two versus three bedroom. Obviously, you can achieve a greater  
692 financial return. No question about it. A two bedroom unit almost always...it's the same square footage or  
693 just slightly reduced lower than a three bedroom, but the chances that two bedrooms, if you want to call it  
694 bedroom two and three, are probably smaller than if you had a...

695  
696 LARRY O'SULLIVAN: Each of the rooms is smaller.

697  
698 ALAN YEATON: ...you know, a two bedroom. The result is you get the same number of people. I mean, you  
699 can put the same number of people in it and so, what I'm saying is, that because the fact that we have sewer  
700 here, the impact of the lot size is greatly diminished over what it would be if I didn't have sewer because then I  
701 would have to take into consideration of lot sizing as it is established by the Town regulations when it has  
702 septic systems in addition to what the State also has. And if you take this lot and you had the best soil  
703 conditions, technically, I could probably...and I want to...probably 2,000 gallons an acre is about the most you  
704 can put onto it by State regs right now. And if you take a three bedroom unit is, say, 400 gallons a day, we  
705 would still be way below that, just doing septic. But since the sewer is there, I certainly wouldn't mind a  
706 stipulation that requires us to connect to the sewerage to protect the interest of the public in that aspect. But  
707 I would certainly understand that no matter how many bedrooms you have doesn't limit the number of  
708 people, which is what you're really concerned about here.

709  
710 JAMES TOTTEN: What about your ability to hook up to water?

711  
712 ALAN YEATON: In looking at the Manchester Water Works plans, I want to say I'm like 900 feet away.

713  
714 LARRY O'SULLIVAN: And that's totally doable, so why not, right? [Laughs].

715  
716 JAMES SMITH: Yeah, sure.

717  
718 ALAN YEATON: Well, in certain instances, it might. If you could talk to everybody in the neighborhood and you  
719 could get everybody to get involved in a project like that, that takes something more than what I've been  
720 asked to do at the moment. But certainly, some of these areas to the north here are served by public water  
721 that are closest to the road, the main road.

722  
723 LARRY O'SULLIVAN: Mm-hmm.

724  
725 ALAN YEATON: They just don't branch in very often. And I suspect, given the age and when these industrial  
726 buildings were here and disappeared...

727  
728 LARRY O'SULLIVAN: Mm-hmm.

729  
730 ALAN YEATON: ...you know, the use was there and then it wasn't there and they were probably never served  
731 by water. They might have been, but I don't think so. I think there's probably a well on the property  
732 somewhere before it was subdivided. Does that answer your question, Mr. O'Sullivan?



733

LARRY O'SULLIVAN: I'm just a proponent of getting the infrastructure in place so that your neighbors can also benefit from anything that you may be able to do for them, but...

736

737

ALAN YEATON: Well, Goffstown would welcome you because that's what we're trying to do in Goffstown right at the moment.

738

739

JAMES SMITH: Okay, we've got two people...why don't you go first, then...?

741

742

Dave McCurdy, 5 Weymouth. Direct abutter. I live in the neighborhood and two lots away from this, there's a half acre lot that has six bedrooms and within a quarter mile, there's another lot, half an acre, 6 bedrooms. So I think it fits in the neighborhood. It's not unusual to have those multi-bedrooms. And in those instance, they are half the size of this lot, so...That's all I can say.

744

745

JAMES SMITH: Thank you.

747

748

BOB MERRILL: Bob Merrill again. Now, on this road directly north of it, what is it, Fox...? What is it, Fox Hollow or something? I believe there's water on that then there's Town right-of-way between Weymouth and what is it, Fox...?

750

751

LARRY O'SULLIVAN: Foxglove?

753

754

BOB MERRILL: Yeah, Fox...whatever. And you might be able to hook...use the right-of-way and hook into the water that way instead of running it down Weymouth. But it just might be a possibility, but you'd have to look into it more. No, maybe there isn't water. Okay, maybe I'm thinking of the sewer. There's definitely sewer on the other road. I made a mistake. I apologize.

756

757

LARRY O'SULLIVAN: You don't think it is water on Foxglove? Do you think it's just sewer?

759

760

BOB MERRILL: Well, there's definitely sewer there, but I can't remember on the water. You'd have to check with Manchester Water Works or with maybe the Town infrastructure, you know, the GIS might have it.

762

763

JAMES SMITH: Okay.

765

766

BOB MERRILL: Okay, thank you very much.

767

768

JAMES SMITH: Okay. I think, when I look at this chart, they talk about both sewer and water. Sewer is the thing that has the biggest impact. I wish this chart had a provision for...

769

770

NEIL DUNN: One or the other?

771

772

JAMES SMITH: ...one that just had, you know, sewer available. And I think it would make a little more sense and give us a little more flexibility, but we don't, so....What is everybody's pleasure at this point?

773

774

LARRY O'SULLIVAN: Well, how does everybody sit versus the six bedroom? Obviously, there's some in the neighborhood or in the area. But to me, that's going to be a major thing is...

775

779

780 JAMES SMITH: Well, the other thing about it is; when you look at the chart, it does say it needs 200 feet of  
781 frontage. He has more than meets that requirement. So the lot meets one of the two requirements under  
782 that chart. So...and given the fact that you have similar type uses on smaller lots in the neighborhood, it's  
783 basically on the edge of the area which is known as the village area, which is a very, very old development in  
784 this town on very small roads and small lots and so forth, so it's not out of character for the area.

785

786 NEIL DUNN: And if I may, and talking to the public interest by making the cul de sac being contingent on the  
787 easement of the existing cul de sac to the Town, it provides for better public safety. Whereas right now, it  
788 could be ripped right out.

789

790 JAMES SMITH: Yeah.

791

792 NEIL DUNN: And make it a dead end, which would make it harder for Fire and emergency people. And the  
793 applicant did seem fine with that. As a matter of fact, he sounded like he was proposing that, so it looks like a  
794 little bit more give and take here.

795

796 LARRY O'SULLIVAN: Let's just make sure we cover all the five points. And I think you just covered the public  
797 interest issue as well, so that, as far as I'm concerned, covers that. So it's...let me be clear. If he was asking for  
798 an apartment building here, that would be a requirement...or that would still be part of the discussion or does  
799 that make a difference to you? My concern is not so much that...the public interest is going to be met by this  
800 cul de sac. Not the issue. Six bedrooms on a smaller lot than we allow a two family home is the issue. So  
801 that's why I'm trying to separate a little bit from, you know, the extraneous stuff, just to focus on the issue of  
802 the six bedrooms versus four. Right? So there are benefits on the other side, but it doesn't make...you know, I  
803 use my blinker all the time, but I can do 75 miles an hour, alright? That's what I'm saying is there's a  
804 difference. So here I am still sitting with four and no issue. Six bedrooms, I'm having a problem, so six may be  
805 in the area according to the neighbors. Six bedroom two family homes that is in the area, but we're not  
806 talking about them in front of this Board, 2013, today's Master Plan, okay? So our ordinances, as far as I'm  
807 concerned, are right and fair for everyone in town, so...

808

809 JAMES SMITH: Well, you also have to look and...is this a unique lot?

810

811 LARRY O'SULLIVAN: Yes, there is some uniqueness about it. But does the rail trail have that significant a  
812 difference that we would allow a 33% increase in the number of bedrooms? In your opinion, is that a yes or  
813 no? Am I drawing the wrong conclusion here? I mean, asking the wrong question?

814

815 NEIL DUNN: Richard, if you were to do the calculations. I did it quickly. I'm not sure I'm doing it right. Based  
816 on 2.3.1.3.1.4.7, he would have to add 40%...because he doesn't have both wastewater and sewer, he has to  
817 take the 43,560 and add 40% because he exceeded five bedrooms?

818

819 RICHARD CANUEL: For a duplex use, you add the 40%...

820

821 NEIL DUNN: Right.

822

823 RICHARD CANUEL: ...to the minimum lot requirements of the 43, 560 square feet.

824

825 NEIL DUNN: So it would still....  
826  
827 RICHARD CANUEL: Then for every bedroom above five bedrooms, you add another 15%.  
828  
829 NEIL DUNN: So we're at 60,900 and then another 15. So we're almost back at that original...Richard's letter, I  
830 guess. Yeah, I understand your point, Larry and I see it well, I guess.  
831  
832 LARRY O'SULLIVAN: So what makes this lot so unique that we would want the density that we haven't allowed  
833 elsewhere? The rail trail. It's a flat lot. It's got public sewer. It's got a cul de sac in it that the Town doesn't  
834 own and doesn't have a right-of-way for that the Town wants. Is that enough of a reason to say, okay, we'll  
835 take the density issue and put it aside because that's more important to us? I'm looking for an instance here  
836 where you could say yeah, there's a value there and it exceeds the density issue because it's a public safety  
837 issue or...I don't know, something else. Is that what will outweigh the density issue?  
838  
839 NEIL DUNN: Hmmm.  
840  
841 LARRY O'SULLIVAN: I have a problem with it, so...  
842  
843 NEIL DUNN: So would you be agreeable to a four bedroom with the cul de sac?  
844  
845 LARRY O'SULLIVAN: No, I didn't have a problem with the four bedroom, with or without the cul de sac. Two  
846 two-bedroom places.  
847  
848 JAMES SMITH: I want to back up one step. When we look at these requirements about the 40% and the 15%  
849 and all that stuff; that relates to a lot that's been subjected to this high intensity soil study. Is that not correct?  
850  
851 RICHARD CANUEL: Well, you add that to it as well, yeah. I mean, considering the fact that you're going to be  
852 designing an on-site sewerage disposal system, the soil types have a, you know, play a big factor in that. And  
853 the soils that are listed in those following tables...  
854  
855 JAMES SMITH: yeah.  
856  
857 RICHARD CANUEL: ...you know, would determine the lot size in addition to that minimum five bedrooms...  
858  
859 JAMES SMITH: So we really don't know how big a lot...  
860  
861 RICHARD CANUEL: ...and the 40 and 15%.  
862  
863 JAMES SMITH: ...would be required based upon the soils of this particular lot.  
864  
865 RICHARD CANUEL: That's right.  
866  
867 NEIL DUNN: But we know sewer is there and he's agreed to that, so we still come up with the 67...  
868  
869 LARRY O'SULLIVAN: For that number of bedrooms?

870  
871 NEIL DUNN: Mmm.  
872  
873 JAMES SMITH: No, I...no, the point I'm raising is until you do the soil studies...that's where you get your start  
874 point to add the 40% and the 15% to it. Because when you look at this chart, you have to have both sewer  
875 and water to use it.  
876  
877 NEIL DUNN: Would you feel better having the soil studies, Larry, I guess?  
878  
879 JAMES SMITH: No, I'm not saying that.  
880  
881 NEIL DUNN: No, I'm asking Larry. I was asking Larry.  
882  
883 JAMES SMITH: I'm just saying we're in a quandary as to what size this lot should be...  
884  
885 LARRY O'SULLIVAN: Could support.  
886  
887 JAMES SMITH: ...or shouldn't be. That's the trouble with this chart because it says 'both sewer and water.' If  
888 we had a chart that said a lot that has sewer needed 'x' amount of space, then we would have something to  
889 work with. But we don't.  
890  
891 LARRY O'SULLIVAN: We don't do policy, right?  
892  
893 JAMES SMITH: Richard, what would be your comment on that?  
894  
895 RICHARD CANUEL: My comment would be; considering that the applicant is looking to tie into the municipal  
896 sewer, then just apply the provisions from table one.  
897  
898 LARRY O'SULLIVAN: Just leave it at that.  
899  
900 RICHARD CANUEL: Yes.  
901  
902 LARRY O'SULLIVAN: Okay.  
903  
904 JAMES SMITH: Okay.  
905  
906 NEIL DUNN: Which, to Larry's point, is still larger than the lot.  
907  
908 LARRY O'SULLIVAN: No, that answers my question. That covers my issue.  
909  
910 NEIL DUNN: Okay.  
911  
912 LARRY O'SULLIVAN: So if you put that in your motion, I saw you were writing it down, that table one  
913 provisions still will apply. That 2.3.1.3.1.1 table one provisions still apply.  
914  
915 NEIL DUNN: He can't even build a...

916  
917 LARRY O'SULLIVAN: He can build his four bedroom place, no problem.  
918  
919 NEIL DUNN: No, he can't.  
920  
921 LARRY O'SULLIVAN: Yes, he can.  
922  
923 NEIL DUNN: No, because he needs 52,500. He's got 46. That's why he's here.  
924  
925 LARRY O'SULLIVAN: "Minimum lot size for single or two family residences not served by municipal wastewater  
926 systems shall be 43,560.  
927  
928 NEIL DUNN: That's not...table one was what Richard was talking to.  
929  
930 LARRY O'SULLIVAN: Right. And all I'm saying is that he meets table one and 2.3.1.3.1.2, the following  
931 ordinance, should be sufficient for allowing the two two-bedrooms. Do I read that incorrectly?  
932  
933 JAMES SMITH: Okay, when you look at point two, where it says the minimum lot size is 43,560; that's giving  
934 you the start point for where you would go with a soil study.  
935  
936 LARRY O'SULLIVAN: Mm-hmm. Not as far as I'm concerned. Is it? It seems to me that you wouldn't need a  
937 study if you're hooked into a wastewater system. Municipal waste water system. Right? Why would you?  
938  
939 RICHARD CANUEL: Yeah, like I said, if you're connecting to a municipal sewer, then just the minimum lot size  
940 requirements in table one would be applicable, period.  
941  
942 JAMES TOTTEN: So he has enough room to build a single family three bedroom.  
943  
944 LARRY O'SULLIVAN: No, he can do a duplex...  
945  
946 NEIL DUNN: Table one.  
947  
948 LARRY O'SULLIVAN: ...two...  
949  
950 NEIL DUNN: That's not table one, though, Larry, is, I guess, the point.  
951  
952 JAMES TOTTEN: No, he could do...  
953  
954 NEIL DUNN: Although you gave a little on that.  
955  
956 LARRY O'SULLIVAN: He's got more than 43,560 square feet.  
957  
958 JAMES SMITH: No, forget the...  
959  
960 JAMES TOTTEN: That's the one without municipal wastewater, right?  
961

962 JAMES SMITH: Yeah.  
963  
964 JAMES TOTTEN: So if you're going to say that he's going to hook up to the sewer, right?  
965  
966 JAMES SMITH: So he's just looking at table one right now.  
967  
968 JAMES TOTTEN: And just be good with that.  
969  
970 JAMES SMITH: Table one. Forget everything else.  
971  
972 LARRY O'SULLIVAN: I must be missing something.  
973  
974 JAMES SMITH: Okay. Go down to point four. Read that section.  
975  
976 LARRY O'SULLIVAN: "In the absence of a municipal wastewater system, to protect groundwater quality for the  
977 purpose of public health and safety, minimum lot sizes shall, in addition to the zoning ordinance requirement  
978 listed above, also meet such additional lot size requirements as specified by minimum lot size by soil type..."  
979  
980 JAMES SMITH: Okay, wait. Before you go any further. Where it says "listed in .2..."  
981  
982 LARRY O'SULLIVAN: Yeah.  
983  
984 JAMES SMITH: That's where that 43,500 is.  
985  
986 LARRY O'SULLIVAN: Forty three five sixty, right. In the absence of it.  
987  
988 JAMES SMITH: That's the minimum. Then, but in addition, you have to add on the rest of it. That's why that  
989 43,500 doesn't kick in when you're looking at table one.  
990  
991 LARRY O'SULLIVAN: I think that whole paragraph four says "In the absence of a municipal wastewater  
992 system..."  
993  
994 JAMES SMITH: Right.  
995  
996 LARRY O'SULLIVAN: Well, we're not in the absence of it if it's required for the lot.  
997  
998 JAMES TOTTEN: Well, and that's why point two is not applicable either. Because we're not in the absence of  
999 it.  
000  
001 NEIL DUNN: That's why table one is taking over in this case, because it has...  
002  
003 JAMES TOTTEN: Right.  
004  
005 NEIL DUNN: ...municipal wastewater. I'm sorry, it has the municipal wastewater, so table one is there. If it  
006 didn't have it, then you would go down to this section which would start kicking in.  
007

008 JAMES TOTTEN: And we don't have water. It would be well.  
009  
010 LARRY O'SULLIVAN: Right. Four addresses wastewater. The first one addresses municipal water and  
011 wastewater or sewer, right? That's where I think the significant difference is. We know that he's not going to  
012 be doing municipal water. Or we assume that. But he's already said he's going to do municipal sewer. So, I...  
013  
014 JAMES TOTTEN: What...why...why is there an appetite to waive a requirement for municipal water and to  
015 allow more on this lot than any other lot? Right? To your point, I think you started going down that road.  
016 What's unique, right? Is it just the cul de sac? Is it just the easement? You take that away...  
017  
018 LARRY O'SULLIVAN: Mm-hmm.  
019  
020 JAMES TOTTEN: ...are we...  
021  
022 LARRY O'SULLIVAN: Horse trading? Which we can't do.  
023  
024 JAMES SMITH: Okay. Here's the way I'm looking at it.  
025  
026 JAMES TOTTEN: I mean...  
027  
028 JAMES SMITH: Jim, when you look at table one, the key thing about it is whether or not you're going to need  
029 septic system on a lot. Once you eliminate that, you dramatically reduce the required amount of land you  
030 need to build anything on.  
031  
032 JAMES TOTTEN: Mm-hmm.  
033  
034 JAMES SMITH: The second thing you have to look at is; what's unique about the lot? It backs up to the old  
035 railroad right-of-way. It's in an area of town that has a lot of very small lots with large...several duplexes with  
036 multiple bedrooms. So if that fits into the general...  
037  
038 LARRY O'SULLIVAN: It's not changing the character...  
039  
040 JAMES SMITH: ...character of the area and it's to the advantage of the town in that they're agreeable to give  
041 an easement for this....  
042  
043 LARRY O'SULLIVAN: Turnaround.  
044  
045 JAMES SMITH: ...turnaround that's now being used by the Town and so forth, so I think it's in the overall  
046 scheme of things to the advantage of the Town to allow this type of use. Now the debate comes back to the  
047 four bedrooms versus six.  
048  
049 LARRY O'SULLIVAN: Right, that's where I thought we were.  
050  
051 JAMES SMITH: Okay. Now, as far as the six bedrooms, it's not out of character for the general neighborhood  
052 because we have several other duplexes, as evidenced by one of the neighbors in this general area. So I think

053 it kind of fits. It's not out of character and it makes a certain amount of sense to allow this particular variation  
054 to go forward. Do you agree or disagree?

055  
056 LARRY O'SULLIVAN: I can buy that, yes.

057  
058 JAMES SMITH: Jim?

059  
060 JAMES TOTTEN: Yeah, I don't disagree with the argument or the justification. The minimum lot sizes in table  
061 one are minimum, inclusive of water and sewer. Right? So it's already been taken into account that that's the  
062 minimum lot size for five or more with sewer. We're not even close.

063  
064 JAMES SMITH: Say that again?

065  
066 JAMES TOTTEN: We're not even close. We're 17,000 square feet short for five or more, right? I mean, he's  
067 got what, 43,000?

068  
069 JAMES SMITH: We're actually, well, that's true on that issue but it is also meeting the 200 feet frontage. So  
070 it's meeting half of the requirement.

071  
072 NEIL DUNN: Actually...

073  
074 JAMES SMITH: Because the frontage goes from 150 to 200 when you go up to the five bedrooms.

075  
076 LARRY O'SULLIVAN: Mm-hmm.

077  
078 JAMES TOTTEN: Mm-hmm.

079  
080 NEIL DUNN: Which he has 295...

081  
082 JAMES SMITH: [indistinct] he has part of that.

083  
084 NEIL DUNN: He has 295 feet of frontage.

085  
086 JAMES SMITH: Yeah. At this point, I would entertain a motion one way or the other. So we can move on.

087  
088 LARRY O'SULLIVAN: Okay, Jim.

089  
090 NEIL DUNN: Mr. Chairman, I'd like to make a motion to grant case 8/21/2013-2, contingent upon an easement  
091 being given to the Town leaving the existing cul de sac in place, contingent on connection to a sewer service  
092 for the occupancy permit, and contingent on no improvements on the cul de sac, except for typical  
093 maintenance by the Town so as to infringe any further into the applicant's property.

094  
095 LARRY O'SULLIVAN: I don't understand the last part of that before I second it.

096  
097 NEIL DUNN: Well, if the Town wanted to go in and widen it and take away more of the property from the  
098 applicant...



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LARRY O'SULLIVAN: Well, that's why he's offering the right-of-way, right?

NEIL DUNN: An easement with it, but if...they wouldn't be able to go in and take more land because the easement was given for it. It's existing as it is. It's more to give...to protect them from more encroachment into the easement, making the lot even smaller, I guess, is my thought. It was something the applicant had mentioned. I thought it was fair. That's all.

LARRY O'SULLIVAN: Okay. Alright, I'll second that.

NEIL DUNN: Other than normal maintenance of the road.

LARRY O'SULLIVAN: I'll second it.

JAMES SMITH: All those in favor?

JAMES TOTTEN: Aye.

JAMES SMITH: Aye.

LARRY O'SULLIVAN: Aye.

NEIL DUNN: Aye.

RESULT: THE MOTION TO GRANT CASE NO. 8/21/2013-2 WITH RESTRICTIONS WAS APPROVED, 4-0-0.

RESPECTFULLY SUBMITTED.



NEIL DUNN, CLERK

TYPED AND TRANSCRIBED BY JAYE A TROTTIER, SECRETARY

**APPROVED SEPTEMBER 18, 2013** WITH A MOTION MADE BY LARRY O'SULLIVAN, SECONDED BY JAMES TOTTEN AND APPROVED 3-0-1 (JACKIE BENARD ABSTAINED AS SHE WAS NOT A MEMBER OF THE BOARD AT THE TIME).