

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

DATE: FEBRUARY 18, 2015

CASE NO.: 11/19/2014-4 (REHEARING)

APPLICANT: FIRST LONDONDERRY ASSOCIATES, LLC
80 NASHUA ROAD
LONDONDERRY, NH 03053

LOCATION: 30 STONEHENGE ROAD AND 113 HARDY ROAD, 12-120 & 131, AR-I

BOARD MEMBERS PRESENT: JIM SMITH, CHAIRMAN
JACKIE BENARD, VOTING MEMBER
JIM TIRABASSI, VOTING MEMBER
BOB BERARDINO, VOTING ALTERNATE
NEIL DUNN, ACTING CLERK

ALSO PRESENT: RICHARD CANUEL, SR. BLDG. INSPECTOR/HEALTH/ZONING OFFICER

REQUESTS: CASE NO. 11/19/2014-4: VARIANCE TO ALLOW 24 DWELLING UNITS PER MULTI-FAMILY BUILDING WHERE A MAXIMUM OF 16 UNITS IS ALLOWED BY SECTION 2.3.3.7.3.1.2.

CASE NO. 11/19/2014-5: VARIANCE TO ALLOW THE PERCENTAGE OF WORKFORCE HOUSING UNITS IN A MULTI-FAMILY WORKFORCE HOUSING DEVELOPMENT TO BE LIMITED TO 50% WHERE A MINIMUM OF 75% IS REQUIRED BY SECTION 2.3.3.7.1.1.4.

CASE NO. 11/19/2014-6: VARIANCE TO ALLOW PHASING OF A PROPOSED WORKFORCE HOUSING DEVELOPMENT OVER THREE YEARS WHERE OTHERWISE LIMITED BY SECTION 1.3.3.3, AND TO EXEMPT SUCH DEVELOPMENT FROM FUTURE IMPLEMENTATION OF GROWTH CONTROL REGULATIONS AS PROVIDED IN SECTION 1.4.7.2.

PRESENTATION: Case No. 11/19/2014-4 was read into the record with one previous case listed. Two new supplemental letters were presented (supplemental from their previous reports). One letter was from Russ Thibeault, and the other letter from Mark Fougere.

43 JIM SMITH: Okay, before we start tonight, I think we need to clarify what we're trying to do with this
44 particular hearing. We're looking at three (3) different variances. They all deal with the economic ability for
45 this project to work, or not to work. We're not talking about the use in this particular situation. The use will
46 be determined by the Planning Board on whether or not they issue a Conditional Use Permit. That's their
47 prevue. All we're looking at is whether or not it makes economic sense to grant, or not to grant these
48 variances. So, I would like, if everybody could bear with us, to confine your comments and observations to
49 something that has something to do with the three (3) variances we're actually talking about. With that said,
50 I'll leave it to the applicant. Also, I would like if you could present us some clear distinct arguments on the
51 five (5) points of law. So that we have them in a distinct manner, so that we call all understand them.

52
53 BILL TUCKER: I will do my best to do that. Certainly last time it may have been a little confusing because I
54 addressed each of the five (5) criteria for all three (3) of the variances. This time, I'll go variance and go
55 through the five criteria for that; second variance, five (5) criteria for that, and so on. I think it'll be a little
56 easier to understand that way.

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58 JIM SMITH: I think it will be.

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60 BILL TUCKER: The first thing I would like to say; however, is on the third variance. The second portion of
61 that...the growth control regulations I believe expired on January 1st.

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63 JIM SMITH: Correct.

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65 BILL TUCKER: So, we will not be seeking that second portion of that requested variance. The one relating to
66 Section 1.4.7.2. Only with respect to the phasing under 1.3.3.3.

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68 JIM SMITH: Correct, that's a moot point on that second part.

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70 NEIL DUNN: Well, if I may just for clarity, because it seems to me to be exempt from future implementation?

71
72 JIM SMITH: I don't think we can...we couldn't have granted that, if we wanted to?

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74 NEIL DUNN: Well, so how do...we're striking that from the record?

75
76 BILL TUCKER: We are.

77
78 NEIL DUNN: Thank you.

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80 BILL TUCKER: I agree, you can't grant a variance for an ordinance that doesn't exist.

81
82 NEIL DUNN: But, you were more or less asking if it was to be implemented?

83
84 [Overlapping comments]

85
86 BILL TUCKER: That's right; we were concerned that it might be extended before the end of the year...

87
88 RAJA KHANNA: At that time.

89
90 BILL TUCKER: ...but it actually did expire. So just seeing we've been here before, and have reviewed the
91 outline of the project. We're seeking to build two hundred eighty eight (288) workforce housing units,
92 affordable units on a parcel approximately sixty two (62) acres. We're seeking to build twelve (12) buildings
93 with twenty four (24) units each. We are in the AR-I zone. Where the Chairman indicated, this is a permitted
94 use. We have access on Stonehenge Road, and Hardy Road...or we have frontage on those two; however, we
95 will only have access, and our only entrance and exit will be one on Stonehenge Road. Right about where the
96 current driveway is that services a dilapidated structure there. So, we have pictures of what these will look
97 like. We have the layout there, and with that, I'll start my presentation. Unless there are any questions
98 about the physical site? We have Keach-Nordstrom if there are any of those questions. Also, Russ Thibeault
99 is here, and Mark Fougere had, I think he was first on the list at a hearing in Pelham, or Plaistow tonight, and
100 he hopes to be here soon. In case there are questions for him. So, what we have here is three (3) variances
101 that we are seeking because the provisions of those ordinances that we are seeking variances from clash with
102 the requirements of the zoning ordinance workforce housing provision, and the provision of New Hampshire
103 RSA 674, Sections 58-61. Which require the Town to make efforts to have workforce housing, and I'd just like
104 to read the purpose of these statutes because the purpose of the statutes, both the Londonderry one, and
105 the state statute are important to the overall discussion here tonight to make this an affordable and realistic
106 project. The purpose of the inclusionary housing ordinance of Londonderry is to encourage and provide for
107 the development of workforce housing within Londonderry to ensure the continued availability of a diverse
108 supply of home ownership, and rental opportunities meeting the definition established by the New
109 Hampshire state workforce housing statutes. Two critical provisions of those statutes; in every municipality
110 that exercises the power to adopt land use ordinances and regulations such ordinances and regulations shall
111 provide reasonable and realistic opportunities for the development of workforce housing including rental
112 multi-family housing (that's 674, Section 59). The definition of reasonable and realistic opportunities for
113 workforce housing means opportunities to develop economically viable workforce housing within the
114 framework of the municipality's ordinances and regulations adopted pursuant to this chapter and consistent
115 with the RSA's. So, this is a unique situation where the state requirements act as an umbrella or a canopy
116 which the Town must operate within and remain in compliance with. What may be an acceptable provision
117 with respect to a multi-family market rate project may well not be acceptable and may require modification
118 for a workforce housing project. The only comparison that I'm aware of for something like this is the Federal
119 statute dealing with cell towers. Where the Federal statutes says to every town you can regulate them, but
120 you must make them available within the town. Londonderry, I don't know if you knew the Board back in
121 2007, or 08 when that case was before the Board, but that was a similar type of situation where the Federal
122 statute said here's what you must do. You can regulate it, but you must make it available...same type of
123 umbrella that these variances must be considered with. As I've said, we have submitted reports from Mark
124 Fougere, and Russ Thibeault. They have supplemented those reports. There in your materials, and I'm sure
125 you've had a chance to review them. So, the five (5) criteria for each of these variances; the variance must be
126 not contrary to the public interest; the spirit of the ordinance must be observed; substantial justice must be

127 done; the values of surrounding properties are not diminished, and little enforcement of the provisions of the
128 ordinance would result in unnecessary hardship. So, the first variance we are requesting is to allow twenty
129 four (24) units in a building where sixteen (16) are permitted by the statutes...by the ordinance, I'm sorry.
130 We have here...we could have eighteen buildings. We want to do twelve (12). The only difference would be
131 we're adding a floor onto each building. The physical footprint on the ground will be basically the same.
132 We'll just add story on to those buildings. So, with respect to the first two criteria, and with to the respect to
133 the twenty four (24) units verses the sixteen (16), not contrary to the public interest, and the spirit of the
134 ordinance will be observed. The Supreme Court has looked at these two criteria, and they've looked at them
135 together. Most all the cases look at these together, and the Supreme Court in 2011 in the Harborside case
136 stated that the first step in analyzing whether granting the variance would not be contrary to the public
137 interest and would be consistent with the spirit of the ordinance is to examine the applicable ordinance
138 noting that as the provisions of the ordinance represent a declaration of public interest. The Court noted
139 that any variance is bound to be contrary to some provision of the ordinance that's why you're asking for the
140 variance. The Court went on to say... accordingly, to judge whether granting a variance is not contrary to the
141 public interest, and is consistent with the spirit of the ordinance, we must determine whether to grant the
142 variance would unduly and in a marked degree conflict with the ordinance such that it violates the ordinances
143 basic zoning objectives, and basic zoning objectives is the key there. Mere conflict with the ordinance is
144 insufficient. The Court went on then to say there are two methods for ascertaining whether granting a
145 variance would violate the ordinances basic zoning objectives. One way is to examine whether granting the
146 ordinance would; key words, alter the essential character of the neighborhood. Another approach is to
147 examine whether granting the variance threatens the public health, safety and welfare. So, by examining
148 those two criteria that's how you determine spirit of the ordinance and public interest. So, let's look at those
149 two. Altering the essential character of the neighborhood; we're asking for twenty four (24) units in a
150 building as opposed to sixteen (16). The footprint won't be any larger. The buildings are removed from the
151 road, so adding an additional story will not make them more visible. We have submitted Ralph Valentine's
152 letter, and Mr. Valentine, real estate broker and principle of the Valentine...stated there in, the proposed use
153 will not be out of character with the neighborhood. The building envelope will be substantially buffered from
154 the properties located to the South and Southwest by both natural and manmade ground utilities and sewer
155 easements buffers. He also stated that the property is bounded by a thirty five (35) unit mobile home
156 cooperative and a forty eight (48) multi-family complex across Stonehenge Road. Increasing the units per
157 building will have no effect on the essential character of this neighborhood. The project as a whole might,
158 but a number of units in the building won't. As I said, the footprint is the same. So, I believe it's easy to
159 conclude that the essential character won't be changed by increasing the number of units in a building.
160 Again, on the second point, will allowing twenty four (24) units in the building threaten the public health,
161 safety, or welfare? We don't believe it will. The difference in the number of units in the building should have
162 no impact on health, safety, or welfare. Mr. Fougere report that we submitted in October, stated that the
163 Town of Londonderry's infrastructure is not at risk, and there are no significant improvements that will be
164 required by this proposal. The housing task force for Londonderry identified this property as site appropriate
165 for high density multi-family development, and we have adequate water, sewer, and utilities available
166 nearby. The basic zoning objective of the ordinance as I read before the purpose your ordinance with respect
167 to inclusionary zoning is to encourage and provide for the development of workforce housing within
168 Londonderry, and it is the intent to ensure continued availability of the diversified ownership including rental

169 housing. So, the basic objective of the ordinance to provide workforce housing by granting these variances,
170 we will do that, and we won't be violating the spirit the ordinance, or it will not be against the public interest.
171 In addition, Mr. Fougere's report went in to how the sixteen (16) unit criteria came in to Town. The Planning
172 Board had originally proposed twenty four (24). The Town Council said sixteen (16). There appears to be
173 nothing in the record as to the rationale where that number came from. So, to say that it's a public interest
174 to have sixteen (16) units as opposed to twenty four (24) just doesn't carry through. There is no public
175 health, safety criteria that says sixteen (16) units in a building is better than twenty four (24). So, we believe
176 we have satisfied the first two criteria. With respect to substantial justice being done, again the Supreme
177 Court has set the standard for this in the case Malachy versus Chichester in 2007 where they said perhaps the
178 only guiding rule on this factor is that any loss to the individual that is not outweighed by a gain to the
179 general public is in injustice. So, you've got to balance by denying the variance...Is the public gaining more
180 than the individual applicant is losing? Here I can't see any loss to the general public by allowing twenty four
181 (24) versus sixteen (16) units per building. In fact, there is a gain to the public. I would say, because we are
182 allowing for more green space. We're allowing for workforce housing, and we're allowing for the Town to
183 satisfy the state statute to give real and realistic opportunities for the development of workforce housing.
184 The gain to the developers obviously that the project will be built and will be able to supply workforce
185 housing. I believe you also previously voted in the affirmative that this criteria has been met. In the same,
186 would be the case with respect to the value of surrounding property not being diminished. We previously
187 submitted the report of Ralph Valentine, and the letter from John MacGilvary of Verani Reality. Both
188 concluding that there be no negative impact on surrounding properties. Again, at your previous decision, you
189 voted that to be the case. With respect to hardship, again, we have the issue of not being contrary to the
190 public. That the hardship, I think you all know what the standards are there? Just so I have them, and that
191 we all have them in front of us. Unnecessary hardship means that only through special conditions of the
192 property that distinguish it from other properties in the area. No fair and substantial relationship exists
193 between the general public purposes of the ordinance provision. The specific application to the property,
194 and the proposed use is a reasonable one, or an unnecessary hardship will be deemed to exist if an only if
195 owing to the special conditions of the property that distinguish it from other properties in the area. The
196 property cannot be used in strict conformity with the ordinance and a variance is therefore necessary to
197 enable a reasonable use of it. We have submitted Mr. Thibeault's report who does a detailed economic
198 analysis on this issue to require that there be sixteen (16) units as opposed to what we are asking for twenty
199 four (24). Means we have to build sixteen (16) additional buildings. That's sixteen (16) additional roofs.
200 Substantial additional site work, and building costs. It increases the cost of this project approximately four
201 million five hundred thousand dollars (\$4,500,000). That is a significant amount. It has a huge economic
202 impact on the project. Again, we don't believe that having sixteen (16) verses twenty four (24) units in a
203 building has any substantial rationale for it being there. We have a property identified by the task force as
204 being appropriate for this use. We have a project that complies with all of the dimensional requirements of
205 the ordinance as far as setback, building height, and what not. To not grant this variance basically makes the
206 project economically unfeasible by adding an additional four and a half million (\$4,500,000) dollars of cost to
207 it. That is my presentation on the five (5) points for the first variance.

208
209 JIM SMITH: Okay.
210

211 BILL TUCKER: Do you want me to...?

212

213 JIM SMITH: I think at this point, I'd like to stop and allow the Board to have any questions about that
214 presentation regarding the first variance. Any questions?

215

216 NEIL DUNN: If I may Mr. Chairman? Getting to granting the variance not being contrary to the public
217 interest, and the spirit of the ordinance which you were referring to. I also believe that the courts have ruled
218 that the character of our neighborhoods is allowed. You're saying because the trailer park is there the
219 character wouldn't be...and specifically to sixteen (16) units verses twenty four (24). I guess to me, a taller
220 building, and...does change the character compared to a lower building. You're saying because it's further
221 from the road...

222

223 BILL TUCKER: Yeah.

224

225 NEIL DUNN: ...it would be less obvious, I guess I don't know. I'm trying to get a handle on that rationale.

226

227 BILL TUCKER: Okay. The property slopes from the road downward. So, from the top of that picture back...so
228 when you're out on Stonehenge Road, even though these buildings will be three (3) stories. They'll barely be
229 visible. There's a good buffer there, which we're going to do our absolute best to keep, and I'm sure the
230 Planning Board is going to want us to do that. The setback, and across from us is another multi-family
231 project. A current forty eight (48) unit...

232

233 RAJA KHANNA: Those are three (3) stories...

234

235 BILL TUCKER: ...multi units, and those are three (3) stories. So, if you drive along Stonehenge Road, the three
236 (3) stories that are there across the street you don't even think about it. Are buildings will be further back
237 from the road. Again, with the sloping of the road off, there will not be intrusive...

238

239 RAJA KHANNA: Would it help to have the engineers talk about the actual topographical nature of the site to
240 give you an idea about the kind of heights we're talking about?

241

242 NEIL DUNN: No, I'm just trying to the character...the character thing is big with me. I travel all over this
243 country, and I see in Georgia, and everywhere you go you get off the highway, and you see these big over
244 powering buildings. These aren't maybe to that extend, but usually there at the highway; however, you do
245 get in and you see more and more of these big apartment complexes, and you know people say where are
246 you from, and you say New Hampshire and they love the character. So, I'm big on character in Londonderry.
247 My bigger concern would be if you're going to maintain that buffer, what are you maintaining from
248 Mammoth Road? Because that's where you probably come down, and it's a pretty scenic...you know what
249 kind of exposure are you seeing there? What kind of buffers will be...I realize you don't own the lot, so it's
250 kind of hard to tell with your picture there? So Mammoth Road is down below the two...

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252 [Overlapping comments]

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NEIL DUNN: ...Mammoth is over there?

[Overlapping comments]

RAJA KHANNA: I could...do you have to go the exact distance for Mammoth?

[Overlapping comments]

NEIL DUNN: Well, it's more I guess the buffers? Maybe that's getting away from it, but I'm talking to the character of...

BILL TUCKER: Um hum.

NEIL DUNN: ...bigger buildings, where smaller lower buildings might not be so obvious, I guess is just where I'm trying to get comfortable with the character of the...

RAJA KHANNA: Well, I can certainly say that it won't be visible from Mammoth Road, for starters...

NEIL DUNN: I'm sorry?

RAJA KHANNA: It won't be visible from Mammoth Road. If you look at this little section right here, this swamp right here. This is actually a utility easement. That runs all the way to Stonehenge Road, and meets kind of at the corner of the road, the mobile home park, and actually another multi-family building that's part of the forty eight (48) units that Mr. Tucker was referring to. So, that continues down this way, and all between here and there are trees, forest, ledge...greenery that we don't intend to touch. Again, Jeff can probably...

JEFF MERRITT: Yeah

RAJA KHANNA: ...give you the exact distance, but...

JEFF MERRITT: Just for the record, my name is Jeff Merritt. I'm an engineer with Keach-Nordstrom, Associates. I would echo the comments there. It's not going to be visible from Mammoth Road. There's a substantial distance between the back side of that utility corridor and Mammoth Road. I can't imagine it being visible from there? There's a large wetland area adjacent to that that railroad corridor, and then there are lots that front on 28 between that swamp and 28, so the distance is considerable.

BILL TUCKER: In addition, I could say that in a multi-family complex the smallest size building that you typically see is twenty four (24) units. Because it's the smallest you can build economically. Eight (8) apartments on each floor; three (3) floors. Developers love to build thirty six (36) – twelve (12), twelve (12) and twelve (12); or forty eight (48) – eighteen (18), eighteen (18), and eighteen (18). Because those are much

295 more economical, much more economical, and when you talk about larger apartment projects, that's what
296 you typically see. You'll very, very rarely see a developer build under twenty four (24) units in a building.
297

298 JIM SMITH: Neil, if you review the ordinance, it does address number of stories and allows up to four (4) in
299 this section.
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301 NEIL DUNN: Right, but they would...

302 [Overlapping comments]
303

304 JIM SMITH: I don't know how you'd build a four (4) story...
305

306 NEIL DUNN: I don't think they'd be going over twenty four (24) units...
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308 [Laughter]
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310 JIM SMITH: Even with the sixteen (16), I'm not sure how you'd build a four (4) story building.
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312 NEIL DUNN: Right, and again, I'm getting back to the character of the neighborhood. That is probably my
313 biggest concern in a project like this. The sixteen (16) to twenty four (24), and trying to protect that
314 character. To me that's very important, in a Town like Londonderry.
315

316 JIM SMITH: Okay, anything...
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318 NEIL DUNN: I was just trying to alleviate that concern.
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320 JIM SMITH: Anyone else on the Board have any questions on this particular part? Okay, I'll open it up to the
321 audience. Anybody in favor? Seeing none...any folks that have questions, or concerns?
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323 DEB PAUL: Yes.
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325 JIM SMITH: Want to address...name?
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327 DEB PAUL: My name is Deb Paul, and I live at 118 Hardy Road. I'm a longtime resident of Londonderry. I
328 want to address a couple of things. I keep hearing it doesn't affect the neighborhood. Well, I live in the
329 neighborhood, and I'm here telling you that I don't like it, and it doesn't seem that it matters to these
330 people? Safety, we're talking about traffic being unbelievable...
331

332 JIM SMITH: Okay.
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334 DEB PAUL: ...and I know that's not it, but let's talk about the sixteen (16), twenty four (24)...
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336

337 JIM SMITH: ...Yeah, that's what we're talking about right now.
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339 DEB PAUL: ...I just wanted to...
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341 JIM SMITH: ...Okay.
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343 DEB PAUL: ...He said safety, so I mean he had plenty of opportunity to speak...
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345 JIM SMITH: ...I know, I know, but...
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347 DEB PAUL: ...I would like to be able to do that to...?
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349 JIM SMITH: ...I'm trying to keep this segregated...
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351 DEB PAUL: ...I understand...
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353 JIM SMITH: ...and...
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355 DEB PAUL: ...I understand, but...
356 JIM SMITH: ...and on track...
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358 DEB PAUL: ...It should be fair and balanced...?
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360 JIM SMITH: No, I...
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362 DEB PAUL: ...not one sided...
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364 JIM SMITH: Well, I'm...
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366 DEB PAUL: ...so that being said, I sat on that Committee and Board, and I was part of it. We worked for a
367 year in a half. It was a large group of over fifteen residents in this Town talking about that ordinance, and
368 about workforce housing. It has been going back and forth recently since 2012. We've been talking at Town
369 Council meetings, because I've been writing about it. We've been talking about it at Planning Board
370 meetings, and about this ordinance. We've been talking about it in our Implementation Committee, as well.
371 That is why we are getting the whole new rezone and rewrite. Is because our own Town Planner, Cynthia
372 May said it. According to our Town Assessor, and the assessment in this Town, we fulfill seventy (70) percent
373 of the workforce housing. That is why they are rezoning everything. They actually have a warrant. That
374 would be good if you guys actually vote for it. To pay to have the whole thing redone. They do have enough
375 to rewrite these ones. So, I wanted to bring that there, that there was a lot of back and forth. We were at
376 twenty four (24), and then we were at thirty six (36), and the compromise was that number. Because the
377 people did not want to damage the character of this Town, and make it look like a Manchester, or Derry, or a
378 Salem. We wanted to keep the rural flow. So, I wanted to address that because it's very important. What a

379 minute, sorry...and I think that these buildings do a injustice to the neighborhood. Maybe not on one side of
380 Stonehenge, but on the back side...Faye Lane, Hardy Road, Hovey Road. Where all these brand new houses
381 are coming in...there are nice families, single family homes. That, yeah their assessment of their property may
382 not go down, and that is what Mr. Valentine is talking about. Yeah, your assessed property value does not go
383 down. It goes down when you go to sell it. That is when they look at a neighborhood, and go oh is that
384 what's over there? Uggh, well I'm not going to pay what it's assessed because of that. A typical example of
385 that, and I'll bring the sore spot up is Murray's Junk Yard. You know, you buy a house, and it wasn't there,
386 and then all of a sudden it's there. That may not affect the assessed value of a home, but it affects the resale
387 value of a home. I just think that those are a couple of important things that we need to look at. I know they
388 keep bringing up rentals, but one of the big things that is being talked about at the Planning Board right now,
389 and it's a big question. Our Town attorney will be going to it. Is fifty five (55) plus. We just built three (3)
390 fifty five (55) plus rentals. Well, I'm fifty six (56) years old, so is that considered workforce housing? Because
391 they were fifty five (55) plus rental workforce housing...so, does that fix...does that fit for that? Does that
392 come into that piece of the pie of our fulfillment and the quota? We don't know that yet, but we are looking
393 at it. I'm sorry, I always get nervous when I get up here, and I apologize for that. As far as Mr. Thibeaut's
394 report, and other people's reports that they have. These reports keep in mind are all one sided for them.
395 They are paid by them, or they get a retainer, if they get the deal. They get paid. Anybody can make a
396 report, or statistics to prove anything they want. Anyway they want. So, keep that in mind. Their issue is to
397 make sure they get what they want. Not what's right for this Town, and they keep bringing up the Task Force
398 thing. That was done in 2008. Believe you may, a lot, a lot has changed in Londonderry, and in the flavor of
399 the economic atmosphere since then. To even think about what they are trying to do. So, I wanted to bring
400 those little facts up. You know, it's not my fault they bought this piece of property. They should have got a
401 conditional use. They bought it thinking that they were going to get this variance, and be able to just storm
402 through here and do whatever they wanted because the other fifty...and they said it at a meeting. We'll take
403 you to court. The bullying and the legal stuff has to stop, and think of what's right for this community. By the
404 way, the New Hampshire Housing Authority...just case people don't know this, they should know this because
405 that's being thrown out a lot...is a private company. It may be non-profit, but it is a private company. It has
406 nothing to do with the State. It's there to make money. There's no difference in that than Quicken Loans.
407 This is just another avenue for them, as a business to make money, and that's not our job here. And that's
408 not funny.

409
410 JIM SMITH: Okay, we are talking about the variance of twenty four (24) verses sixteen (16).
411

412 MARTIN SRUGIS: Hi, Martin SRUGIS, 17 Wimbledon Drive. I don't live anywhere near this project. I'm on the
413 West side of Town, but I was on the committee that worked on the variance, and the ordinance...on getting
414 the sixteen (16). For a long time, for over thirty (30) years, the Town only allowed twelve (12) units per
415 building. Then somewhere, I think in the 90's or the 80's. I'm not quite sure, the years, it went up to thirty
416 six (36), and a lot of people came concerned about the size of these mammoth projects that they see up and
417 down 93, and we didn't want to lose the rural character of Londonderry. So, as we discussed the issue, we
418 came up with a compromise of sixteen (16). We thought that would fit the character of the neighborhood.
419 Not overload the neighborhood. You're talking a two eighty eight (288) unit. You're talking roughly...it could
420 be possibly over five hundred (500) hundred cars going up and down Stonehenge Road, possible. I travel

421 through that road every day on my way to work. That's going to be a huge increase which obviously will
422 force other people to go elsewhere. There's other housing projects on Perkins Road that will add to the
423 traffic on that road. So, that road is going to be on failure overload. That's another day, I realize that, but I
424 just wanted to give a little history on the fact why we went to sixteen (16). It was to keep to the rural
425 character of the Town that everybody's interested in. That's why we have a Heritage Committee, in where we
426 try to keep the character of the buildings. That they don't become huge boxes, but they have roofs, peaks.
427 They have you know New England colors, and styling so that it fits the neighborhood, and it doesn't look out
428 of place. Okay, thank you.

429
430 JIM SMITH: Anyone else, on this variance? Sixteen (16) verses twenty four (25)...twenty four (24) verses
431 sixteen (16), excuse me...

432
433 DAVID NEASE: David Nease, 11 Faye Lane. I am a direct abutter for the property. I know they are
434 mentioning the additional eight (8) units between the sixteen (16) and twenty four (24) is only one level.
435 However, it's eight (8) units, so you're talking additional parking...additional cars driving up and down
436 Stonehenge Road. You're also talking about additional Town services, police, fire, school. All of those are
437 going to have an impact on the Town. Especially since in a different section here they are going to ask for
438 instead of building it...stretching out the building to a longer term. They want to build it faster. So, they want
439 to build it faster, and they want to build more of them, but yet they haven't taken into consideration the
440 impact that those extra units will have on the Town. I also wanted to mention that this project was originally
441 brought forward in 2008 by Em-Lew Properties, or Em-Lew Realty. The current people here are saying that
442 this is not economically, or it is economically unfeasible the way it is. However, the same exact building, or
443 the same exact project was brought up in 2008, so when they purchased this property, and they started
444 thinking about this, they already knew about all of the challenges that they had. They already know that they
445 were going to need these variances. So, why would you purchase a project that was economically unfeasible
446 in 2008, and expect it to be feasible today. Doesn't make sense to me? It seems like they should have done a
447 little bit of due diligence on their part, and maybe negotiated a little bit less for their property? That would
448 have made it more economically feasible, but it's not our responsibility as residence, or you as a Board to
449 make it an economically feasible project for them. If they overpaid on the property to begin with...it didn't
450 make sense in 2008, and it doesn't make sense today. It's not going to make sense next year either. Thank
451 you.

452
453 [Inaudible]

454
455 JIM SMITH: Certainly, as long as you on a mic...

456
457 [Overlapping comments]

458
459 JIM SMITH: ...and you identify yourself.

460
461 GREG STANLEY: I will. Greg Stanley, 112 Hardy Road, and I'll try to stick to just the sixteen (16) verses twenty
462 four (24).

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JIM SMITH: Exactly, that is what we are trying to do.

GREG STANLEY: Um...

JIM SMITH: One step at a time.

GREG STANLEY: From my perspective, I think it will impact what will be able to see from the road. I believe at night that the buildings going to have lights on it? It's going to have no lights?

RAJA KHANNA: On the building?

GREG STANLEY: The building itself? So as you go up an extra...I'm sorry, I know I can't direct questions to him, but I know as you go up an extra story, it's going to have lights on the building. I believe that at night this particular area with twelve (12) buildings all being lit up, it's going to be very, very visible from what the current use shows right now. Which is no light, pollution so to speak...I mean if I wanted to live next to Shaw's parking lot, I would have bought a house next to Shaw's parking lot. So, I do believe that it does have a negative impact on the surrounding properties. I do believe you'll see it because of the extra increase in height, and the fact that you're going to have outside lights on these buildings. So, contrary to the fact that there will be no impact to the surrounding nature of the existing properties, I do believe it will have an impact.

JIM SMITH: Okay, anyone else?

BOB RIMOL: Bob Rimol, 2 Faye Lane. So, you said tonight that your...

JIM SMITH: Direct your question to the Board.

BOB RIMOL: Okay. So the developer has stated that they are trying to save four and a half million (\$4,500,000) dollars, and their proposing to go from hundred ninety two (192) units to two hundred eighty eight (288) units, and I'm wondering what the revenue per month would that be? How much would that increase? The reason why I'm asking is...why is the developer proposing to violate an ordinance to change the character of the Town? It's just very concerning because I do live at the top of Faye Lane, and it would affect everything around us just like the other comments were with the traffic, the water, the sewer, the views. I didn't move to Londonderry for this. Thank you.

CHRIS PAUL: Hi, Chirs Paul, 118 Hardy Road. I don't think really...I mean, I think you should just stick with your original verdict from two months ago. They really haven't brought anything new to the table. I mean, let the ordinance stand on its own. We said sixteen (16). That's what we came up with two years ago. I don't' see any reason to change it. For them to say that's not going to devalue my property, I think their one hundred (100) percent wrong. Thank you.

505 JIM SMITH: Anyone else?
506
507 ANN CHIAMPA: Ann Chiampa, 28 Wedgwood. Could I ask a question?
508
509 JIM SMITH: Certainly.
510
511 ANN CHIAMPA: What is the setback of the buildings?
512
513 JEFF MERRITT: As proposed, they are setback at least eighty (80) feet.
514
515 [Inaudible]
516
517 JIM SMITH: You want to get on a mic, so...
518
519 JEFF MERRITT: The actual building setback is less than that, so their even further back than what's required
520 in the zone.
521
522 ANN CHIAMPA: Okay, thank you. That was just a question that I wanted an answer to. Also, they mentioned
523 the forty eight (48) units complexes across the street. They are single lots for eight (8) buildings, and I think
524 they are six (6) units a piece? Is that correct?
525
526 JIM SMITH: Well...
527
528 ANN CHIAMPA: There six units per building on separate lots. Thank you.
529
530 JIM SMITH: Okay. Anyone else? Okay, I'll give the applicant a chance to address those concerns.
531
532 BILL TUCKER: Okay, a couple of the concerns. I do want to point out that if you look at how the buildings are
533 orientated on the site. The narrow end is facing Stonehenge not the full width of the building. That
534 minimizes the visibility from Stonehenge Road. We had a couple comments relating to the issue of they'll be
535 more cars. They'll be more parking spaces. They'll be more traffic. That's not a question here because two
536 hundred eighty eight (288) units, is two hundred eighty eight (288) units. Whether you have eighteen (18)
537 buildings with sixteen (16) units each, or twelve (12) buildings with twenty four (24), you have the same
538 number of residence. You have the same number or cars, so that those types of impacts are going to be
539 exactly the same. In addition, if this was built with eighteen (18) buildings, we would be spreading out over
540 probably an additional six (6) plus acres. That would lead to the light pollution if someone was saying being
541 over a bigger area. The disturbed area will be six (6) acres, plus or minus bigger; therefore, you'll have that
542 bigger open area where light is emanating up from. Whereas, what we are doing with the twenty four (24)
543 units per building is disturbing much less of the landscape of the sixty two (62) acres; therefore, condensing
544 the buildings that are throwing off light. Obviously, every building throws off light. Every house throws off
545 light, but we still maintain that the impact from going from sixteen (16) to twenty four (24) really has no...any
546 type of significance, if any at all on this neighborhood...

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RAJA KHANNA: ...I'm sorry.

BILL TUCKER: The buildings are going to be, I believe more than a thousand feet from the properties on Hardy Road. That's fifth (5th) of a mile. I can't believe that they will be visible from there. Again, as the land slopes off, and someone drives by Stonehenge Road, these buildings are not going to jump out at you because of how they are orientated with the short end of the building facing the road.

JIM SMITH: Okay.

RAJA KHANNA: It is a thousand feet, over a thousand feet through trees, shrubbery. You know rocks, leaves all that good stuff. Just to address the lighting question because that was asked as well. A lighting plan is obviously part of the Planning Board process. Lighting in general for these types of communities are to light up the parking lot, so people can see, walk, etc., to their cars, or to their homes. So, the intent is to light up the ground, not to light up the air. They are very special lights. They are very appropriate lights for that measure that actually reduce, or eliminate light pollution into the air, and focus that light onto the ground. So, the impact will be minimal, if any. Especially at a thousand (1,000) feet.

BILL TUCKER: Our consultant, Mark Fougere.

MARK FUGERE: Mark Fougere, for the record just a couple points, Mr. Chairman. I just want to remind the Board that the present ordinance does allow going up to twenty (20) units. If the site has significant constraints, so if our property was more ledge, and more wetlands, we could go to twenty (20) units. Our property doesn't meet that criteria, so that's why we have to come in at sixteen (16), but there is a provision in the current ordinance that's on the books today that allows for twenty (20) unit buildings, and we're looking for twenty four (24). There isn't a large variance in character going from twenty (20) to twenty four (24). During the discussion of the...you know when this ordinance was written there was concerns going back and forth as previously stated between thirty six (36) units, twenty four (24), and sixteen (16) units. There was some discussion, and actually the Planning Board brought in an expert, I believe from Housing Works in Manchester to provide some information to the Board. He conveyed that there would be an increase in costs of over nine (9) thousand dollars per unit. If you went with sixteen (16) units verses twenty four (24) that there would be a cost increase. Because of that, obviously that didn't win the day during the discussions, and you went with the sixteen (16), but cost concerns were expressed, and the ordinance was written, and it's still true today. Thank you.

BILL TUCKER: The final point I'd like to come back with again is that sixteen (16) units may be fine for a market rate project, if this was all market rate, and not a workforce housing project, sixteen (16) units wouldn't be an issue because you have higher rents to support those. Where we are doing workforce housing, and have committed to do that, and these will be workforce for forty (40) years. We have to commit to that, and they have to be rental for forty (40) years. The additional cost of that four and a half million (\$4,500,000) dollars just makes this project unfeasible. The economics of it make this variance necessary. It's one of those things that the statute throws that umbrella on top of this that although sixteen

589 (16) may be reasonable for a typical project for a workforce. It doesn't allow this to be a reasonable and
590 realistic project.

591
592 [Overlapping comments]

593
594 JIM SMITH: Yeah.

595
596 DEB PAUL: Deb Paul, 118 Hardy Road. Then personally, I'd rather see them put in the more buildings at the
597 sixteen (16). Then that would be fine with me as a resident. Go ahead and do it. Light pollution is light
598 pollution. Period end of conversation, because my driveway lights get shut off when they get shut off. To
599 what he said with the sixteen (16) conversation, and they called in a consultant, and yes they did, and it went
600 on and on...but at the end of the day, the ordinance was written, and showed to our Town attorney who said
601 yes, this will hold up in court. So, if it wasn't going to hold up in court, why would the attorney who we pay
602 good money to say no. So, and back then, not for anything, things cost a lot more, and they said it was
603 feasible.

604
605 JIM SMITH: Okay. Let's go on to the next variance, which is...

606
607 NEIL DUNN: If we may first. Now that Mr. Fougere here is here. I apologize if I pronounced that wrong, I
608 pronounce the roads wrong, nothing personal. In your report where you do the four point five million
609 (\$4,500,000) dollar difference in cost where you're using a comparative performance of seventy five (75)
610 percent workforce housing with two story building, was that supposed to equate to sixteen (16) units?

611
612 MARK FOUGERE: You mean Mr. Thibeault?

613
614 [Overlapping comments]

615
616 NEIL DUNN: I thought it was yours, I'm sorry. I'm not sure who the comparative thing was. I was trying...

617
618 RUSS THIBEAULT: That was me. Russ Thibeault, Applied Economic Research.

619
620 NEIL DUNN: ...sorry about that, Mr. Thibeault.

621
622 RUSS THIBEAULT: No problem. Could you repeat the question? I'm not sure...

623
624 NEIL DUNN: Well there was a table in here with comparative performance, and it says...there's a lot in there,
625 and I seem to have lost it again...

626
627 RUSS THIBEAULT: Yeah, okay.

628
629 NEIL DUNN: ...I know it's in here.

630

631 RUSS THIBEAULT: Yeah, okay. Yeah, it's a four point five million (\$4,500,000) dollar difference. That's based
632 on the developers cost estimates.
633
634 NEIL DUNN: Right, but on the table, it says seventy five (75) percent workforce housing with a two story
635 building, and then there's other value that shows the four and a half million (\$4,500,000) dollar savings. Is
636 fifty (50) percent workforce housing with a three (3) story building. I'm trying to get a handle on the number
637 of units. So, is it the seventy five (75)...
638
639 RUSS THIBEAULT: It's the...I'm sorry, go ahead, I'm sorry.
640
641 NEIL DUNN: ...is it seventy five (75) percent workforce housing with sixteen (16) unit buildings, or...?
642
643 RUSS THIBEAULT: Oh, I see what you are saying.
644
645 JIM TIRABASSI: You've got two sets of data and neither one of them correlate. You've got one on seventy
646 five (75) percent and fifty (50) percent. Then you've got another separate one based on two levels and three
647 levels. You don't have a comparison of all the combinations? Not giving justifiable information.
648
649 RUSS THIBEAULT: The first column is seventy five (75) percent workforce housing in two story configuration.
650 You're looking at page fourteen (14)? Would it be?
651
652 NEIL DUNN: Well, it's a...
653
654 RUSS THIBEAULT: On my power point, comparative performance?
655
656 NEIL DUNN: Yeah, that's what I was looking at, but when it says two story, does that equal sixteen (16) units
657 per building? Is that the implication is there?
658
659 RUSS THIBEAULT: Yes.
660
661 NEIL DUNN: Then the fifty (50) percent with three story which gives you more income and more buildings.
662 So, I guess that's what I was trying to figure out. So, we don't really know what the true cost differential is
663 between...
664
665 RUSS THIBEAULT: It is the difference between...the only difference between these two columns is the
666 number of units in the building.
667
668 [Overlapping comments]
669
670 NEIL DUNN: Well, one says seventy four...
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672 [Overlapping comments]

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RUSS THIBEAULT: Four point five million (\$4,500,000) is the difference. Is the development cost difference between the two story buildings and three story buildings with the same number of units in both. Does that answer it?

JIM TIRABASSI: No.

NEIL DUNN: Well, I guess that wasn't clear, and that's why I'm looking for...

RUSS THIBEAULT: Okay, that's what it is.

NEIL DUNN: ...so you're saying both units are twenty four (24) percent. One has obviously a bigger footprint? Is that...?

RUSS THIBEAULT: It's, well more expensive to do more buildings because you have more roofs, more foundations, right? Is that...?

[Overlapping comments]

NEIL DUNN: I don't know, it wasn't clear, that's why I'm looking for clarification.

RUSS THIBEAULT: Yeah, that four point five (4.5)...to build the two hundred eighty eight (288) units with two story buildings would cost forty seven million (\$47,000,000) dollars.

RAJA KHANNA: So, sixteen units per building. Is what you're asking?

[Overlapping comments]

RUSS THIBEAULT: Do you see that?

NEIL DUNN: I don't know, that's what I'm trying to figure out?

RAJA KHANNA: I'm telling you.

NEIL DUNN: Is it twenty eight (28) sixteen (16) unit two story buildings verses...the...where were we, the...

[Overlapping comments]

RUSS THIBEAULT: Twelve...

[Overlapping comments]

715 NEIL DUNN: Twelve (12) twenty four (24)...

716

717 RUSS THIBEAULT: Twelve buildings, yes, that's what it is.

718

719 NEIL DUNN: So, it wasn't clear, so...

720

721 RUSS THIBEAULT: That is the difference, and that is the only difference. That's the only thing that generates

722 the difference in the development costs.

723

724 NIEL DUNN: Okay, where the...that again...

725

726 BILL TUCKER: Let me see if I can state it. On that chart on page fourteen (14). The first, or left hand column

727 shows you the cost. When we go down to total development costs of [Inaudible] that relates to building

728 eighteen (18) two story buildings, sixteen (16) units per building.

729

730 RAJA KHANNA: Right.

731

732 JIM TIRABASSI: I asked the...

733

734 BILL TUCKER: Regardless of who lives in them.

735

736 JIM TIRABASSI: I asked this question in November. This exact same sheet, and I asked for the clarification,

737 and you haven't changed it. You have two different scenarios...you have four different scenarios...three

738 scenarios really. You've got seventy five (75) percent workforce housing; fifty (50) percent workforce

739 housing. Then you've got the three level, and the two level. You're not presenting all the different options.

740 Nowhere in there do you have all those options? Because you're showing a loss...

741

742 [Overlapping comments]

743

744 JIM TIRABASSI: There's four things, meaning there's three options.

745

746 RAJA KHANNA: What are the options?

747

748 JIM TIRABASSI: If you have fifty (50) and...

749

750 [Overlapping comments]

751

752 JIM TIRABASSI: If you have seventy five (75)...there's actually four. If you have seventy five (75) percent

753 workforce...

754

755 [Overlapping comments]

756

757 JIM TIRABASSI: ...you have three levels and two levels. If you have fifty (50) percent workforce, you have two
758 levels and three levels. You've given three options, and there's four.
759
760 RAJA KHANNAL: I think the point of the table is to show that regardless, as Mr. Tucker said...
761
762 JIM TIRABASSI: The point of the table is it doesn't give valid figures, so it doesn't show all the options. It
763 doesn't show where it's profitable?
764
765 [Overlapping comment]
766
767 RAJA KHANNA: I beg to differ, but I will try to explain that.
768
769 [Overlapping comments]
770
771 JIM TIRABASSI: Okay, it doesn't give the data we need really...that I need to make a justifiable decision.
772
773 RAJA KHANNA: Well, I think that's what we're trying to help you understand.
774
775 BILL TUCKER: Let me just see if I can...
776
777 JIM TIRABASSI: You're not explaining...it's not there. I need to see the figures.
778
779 RAJA KHANNA: I haven't been given the opportunity...
780
781 BILL TUCKER: As far as the cost of construction, whether is seventy five (75), fifty (50), or zero (0), or a
782 hundred (100) percent workforce housing the cost is irrelevant because a unit is a unit is a unit. The
783 difference in cost relates only to whether you're building twenty four (24) unit buildings, or sixteen (16).
784
785 JIM TIRABASSI: This doesn't reflect at the end the cost of building. It reflects the cost of profit. You're profit
786 difference comes from those two options. This gives you your investor's rate of return. Your rate of return is
787 going to be different on those other two options.
788
789 RUSS THIBEAULT: Which other two options? I don't know what you're...I'm sorry...I don't understand?
790
791 BILL TUCKER: When you get down...
792
793 [Overlapping comments]
794
795 JIM TIRABASSI: Okay, I can't make it any simpler...
796
797 [Overlapping comments]
798

799 JIM TIRABASSI: ...Okay, please...that we have seventy five (75) percent workforce, and fifty (50) percent
800 workforce.
801
802 RUSS THIBEAULT: Correct.
803
804 JIM TIRABASSI: Those are your two options. Then you have two levels, or three levels...
805
806 RUSS THIBEAULT: Correct.
807
808 JIM TIRABASSI: ...and you don't have that in here?
809
810 RUSS THIBEAULT: Yes, I do.
811
812 JIM TIRABASSI: No, you don't.
813
814 RUSS THIBEAULT: I think I do?
815
816 JIM TIRABASSI: I'm looking at the piece of paper right here.
817
818 RUSS THIBEAULT: I wrote it.
819
820 BILL TUCKER: Well...
821
822 JIM TIRABASSI: I'm reading it.
823
824 [Overlapping comments]
825
826 RUSS THIBEAULT: I think you're misreading it?
827
828 [Overlapping comments]
829
830 JIM TIRABASSI: Yeah, but seventy five (75) percent workforce...this comes down to the revenue. This comes
831 down to the interest rate of return. If he's got a seventy five (75) percent workforce, he could still have three
832 levels.
833
834 JIM SMITH: That's twenty four (24) units?
835
836 JIM TIRABASSI: Right, but he doesn't have that option there? If he has fifty (50) percent, he could still have
837 two levels? Their debating on the point of the rate of return, and we can't get an actual rate of return...
838
839 JIM SMITH: Okay, okay...
840

841 JIM TIRABASSI: ...if we don't have all of the options?
842
843 JIM SMITH: Okay, what...okay, I think we are looking at is the statistical probability. You've got two different
844 variations. You can combine them in four different configurations.
845
846 RUSS THIBEAULT: Um, hmm.
847
848 JIM SMITH: You're showing us two of the possible configurations.
849
850 RUSS THIBEAULT: Okay.
851
852 JIM SMITH: That's what he's looking for.
853
854 [Overlapping comments]
855
856 JIM SMITH: So, the first one would be seventy five (75) percent - two story with sixteen (16) units; next one
857 could be seventy five (75) percent – three stories with twenty four (24) units; the next one would be...what
858 fifty...
859
860 JIM TIRABASSI: Fifty (50) percent...
861
862 JIM SMITH: ...fifty (50) percent with two stories and sixteen (16) units; and the fourth one would be fifty (50)
863 percent with three stories and twenty four (24). That would give us all of the various possibilities so if you
864 got one of the variances this would come out...
865
866 RUSS THIBEAULT: Um, hmm.
867
868 JIM SMITH: ...if you got one of the other variances, you would get this result that's what he's trying to get at.
869
870 RUSS THIBEAULT: Okay, I understand now. Thank you, Okay. Excuse me for not...
871
872 JIM TIRABASSI: Okay.
873
874 RUSS THIBEAULT: ...for not grasping it.
875
876 JIM TIRABASSI: As I said, I brought this up in...
877
878 RUSS THIBEAULT: You did, and I recall that, you're right.
879
880 [Overlapping comments]
881

882 RUSS THIBEAULT: This is my response to you. The applicant is asking for three variances. If you...it requires
883 all three variances, okay, to make the project only marginally viable. So, if you take out any one of the three
884 variances...

885
886 JIM TIRABASSI: Yup.

887
888 RUSS THIBEAULT: ...the number of units per building, or the phasing, or the percentage of the workforce
889 housing. If you take out any one of those, this project is not viable, and the state statute as Council has said
890 requires that the Town provide a reasonable and realistic opportunity to construct workforce housing. So,
891 I'm saying, you need all three of those variances to create a marginally viable rate of return. You need all
892 three. So, no matter what combination, you work seventy five (75) percent in three story, or fifty (50)
893 percent in two story, you need all three variances.

894
895 JIM TIRABASSI: But, you haven't shown me that at seventy five (75) percent at three stories that it isn't
896 profitable? You haven't shown me that. You're asking me to take your word?

897
898 RUSS THIBEAULT: You need all three because the first column is without any variances. The second column
899 is with all variances. So, the answer to your question is no matter what configuration you want me to run, it
900 will tell you the same thing, which is that you need all three variances. Now this is the same analysis that I
901 did for Wallace Farms. The Zoning Board of Adjustment picked an independent consultant to review it...along
902 the lines that I talked about the same conclusion. Your independent consultant changed nothing in the
903 report, nothing at all. You need all three variances. So, if you want to say, well we'll grant you the number of
904 units per building, but we won't go to fifty (50) percent. It won't work.

905
906 JIM TIRABASSI: You're telling me this. You're not showing me this. You're asking me...

907
908 RUSS THIBEAULT: It is showing you very clearly on this table, I think...

909
910 JIM TIRABASSI: You're not showing me. You're not showing me

911
912 RUSS THIBEAULT: I don't want to debate with you, but I...

913
914 [Overlapping comments]

915
916 RUSS THIBEAULT: ...don't know how to convey it more clearly. You need all three variances. This is my...

917
918 RAJA KHANNA: Can I just put it another way?

919
920 [Overlapping comments]

921
922 JIM SMITH: Wait a minute. Wait a minute. I want to ask a question, and this may help to clarify? The
923 difference is on the...with no variances, you've got a minus 1.9 percent.

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RUSS THIBEAULT: Yes.

JIM SMITH: With everything, you're getting a 4.4 percent.

RUSS THIBEAULT: Correct.

JIM SMITH: What percentage do you need to make this viable? Three percent, two percent, two and a half?

RUSS THIBEAULT: Good question. The current rate, rates of return, if you look on the next page, on page fifteen (15). The overall rate of return for projects is 4.4 percent, and that's based on a survey of investors in multi-family projects. So, that's why I say, with all three variances, you have a 4.4 percent return, which is razor thin. If you didn't grant anyone of the three variances. So, you asked for the different combinations. I'm telling you that any one of those combinations that you talked about...granting one variance, but not the other two...granting two, but not the other one. It's going to drop below that 4.4 percent, because with all three of them, you are barely at the rate of return indicated by Realty Rates.com, which surveys national investor rates of return required. We use them in the appraisal and banking field all the time.

JIM TIRABASSI: Now do those show depreciation rates? In earnings based on depreciation?

RUSS THIBEAULT: This is pre-tax income, and that's what...

JIM TIRABASSI: That's pre-tax on those ones as well?

RUSS THIBEAULT: ...both of these are, yes.

RAJA KHANNA: Can I take it a step further? The debt service coverage ratio that he's showing, at the best case scenario, is 1.2. Lenders don't lend any less than that. So, if it gets worse. If you take away one of those variances as he was suggesting, and that ratio gets worse, you can't even get a loan to get the project. Do you know what I mean? So, you need that 1.2 at least.

RUSS THIBEAULT: I think it's right on the edge of not working with all three variances.

NEIL DUNN: If I may, Mr. Chairman? I think what you presented, and I was looking for the better resolution. So, what you've really presented is the worst case, and the best case.

JACKIE BERNARD: That's exactly right.

NEIL DUNN: The two others that I was...

RUSS THIBEAULT: Right, right.

966 NEIL DUNN: ...looking for also really are going to come in the middle.
967
968 RUSS THIBEAULT: Right.
969
970 BILL TUCKER: That's exactly...
971
972 RUSS THIBEAULT: It's going to come in less than 4.4 percent...
973
974 NEIL DUNN: Right, but...
975
976 RUSS THIBEAULT: ...and not be viable.
977
978 NEIL DUNN: ...negative 1.9. I don't know if we're finished there. I do have a question. I know last time we
979 went out, we had a independent party validate your numbers. What we never saw there was the resolution,
980 or the...do these units have marble granite tops, and yeah, he looked and said they're marble granite tops,
981 they're marble floors. We have fountains in side, and everything else. We don't know what's in these units.
982 We don't know that you'll build them to whatever this supposedly this cost price is. How do we get a handle
983 on that?
984
985 RUSS THIBEAULT: Well, I'll answer briefly, and then probably turn it back to the developer. This is the way I
986 viewed it. Both of these are experienced developers. They are out to make efficient buildings. Both of the
987 developers came in with essentially the same kind of program, and the same kind of costs, and the same kind
988 of thin return. In both cases, I had their actual cost estimates from independent firms that provided the
989 costs. So, I think in the first instance, these costs, and it's legitimate. I mean costs can vary depending on
990 what you put in, and what you don't put in, but then so do rents, and so do income. I think you have to
991 have...you have to balance costs and rents, and I think it's a judgment that developers make all the time. Just
992 as when you're building a house. You have to...or renovating your house. You know you can over improve
993 your bathrooms and kitchen, and not get all your money back, or you can do it kind of at a sweet spot. I think
994 it's a developer's decision. You have to balance whether you're putting in the right elements that the market
995 is going to pay for or not. These are the costs...where these...both of these developers feel is the sweet spot,
996 but I'll defer to...
997
998 RAJA KHANNA: Yeah, just to reiterate actually. I think you said it right on. Two things, one in terms of the
999 cost being accurate, we built these twenty four (24) units elsewhere. So, we know the costs. We use real
000 numbers based on that experience to give to Mr. Thibeault. We feel comfortable with those numbers, those
001 costs numbers. Then again, to reiterate his point, you have to be able to rent these. You mentioned marble,
002 and things like that. Unfortunately, in the rental community, you know putting in marble verses maybe
003 porcelain tile doesn't generate that much rent. It doesn't justify the expense, so therefore you don't do it.
004 It's really a cost benefit analysis where you look at it, and you say okay this is what justifies the projections of
005 the revenue that I am looking for to make sense for this project. This is what I'll put into the project.
006

007 NEIL DUNN: So, my question is before we took it at face value and said that's a developers decision, but
008 because it getting to such a point where it's all about the numbers with all three of them, and I understand all
009 that. But, we still don't know that what's being proposed here at the cost level is what's going to be built and
010 spent. We don't have that...

011
012 RAJA KHANNA: Well...

013
014 NEIL DUNN: ...resolution of here's what...we don't know that the third party looked at?
015

016 RAJA KHANNA: Well...

017
018 NEIL DUNN: He looked at the information you gave him. It could have had fountains and everything else,
019 and said oh yeah, it's all the same? But, we don't know what's in that...

020
021 RAJA KHANNA: Well, I think you do because...

022
023 NEIL DUNN: ...If you understand where I'm going?
024

025 RAJA KHANNA: Well, I think you do though? You have some security and comfort in that because if I don't
026 build what I'm going to say, based on the numbers, that you can see are razor thin. I'm going to fail. I'm not
027 going to get the rents I want to get. People aren't going to rent them, and I'm going to fail. So, I would be
028 shooting myself in the foot if I didn't do what I said I was going to do...which is to build this level of quality,
029 and this level of finish that's going to justify the rents that I think I'm projecting, that I think I'm going to get.
030 Right, so if I say I'm going to put in xyz, and I put in xyz minus ten, renters aren't dummies. They're going to
031 come and say well that's a lot worse, I'm not going to pay the rents you think you can get for it, and I'm going
032 to fail. So, that's your security blanket. That's your comfort knowing I'm going to do what I say I'm going to
033 do.
034

035 BILL TUCKER: You know, all of the units have to be built as though they were market rate units.
036

037 NIEL DUNN: Absolutely, but all I'm saying is we don't know...you can make numbers meet almost anything
038 you want. So, we don't know what these numbers include, and if fact they are over inflated...because we
039 don't have resolution. Yes, we can send a third party over to talk with Mr. Thibeault, or somebody. He's
040 going to say here's what we have, and here's what we came up...and the last report basically said yeah
041 that's...he's right. But, we don't have the resolution of what's there, and to your point. I mean you
042 could...you're rates...you're...if I look at the rental rates for the Fairway's, you know I saw an ad in the paper
043 they're advertising two bedrooms for nine hundred (\$900) bucks, and you have them listed at fourteen
044 (\$1,400). Numbers can say a lot of things. We don't have the resolution. I would like to have better
045 resolution, and have a third party evaluate it. So that we can see that the 4.4 percent return is based on
046 these things, and that's what you're going to put in. I mean how do we know...it's just not kind of inflated,
047 and you could step back and still get it? It's only because the arguments all about money and financial
048 viability. I would like to see that resolution, I guess. Is my thought?

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[Overlapping comments]

RAJA KHANNA: I mean, I don't know, are you suggesting something? I guess, I'm not sure?

NEIL DUNN: I think much to the point that we did the last time, we had a third party evaluate it. However, I think there should be more transparency on what's being compared. I guess, I don't know? Then my second thought is, how do we know that that's what gets put in? There's so many variables...

[Laughter]

NEIL DUNN: ...and it's a very hot subject...

RAJA KHANNA: Yeah.

NIEL DUNN: ...and that's why we're trying to get as much...I personally, am trying to get as much information as I can to satisfy that no we're doing the right thing. We're doing it to the ordinance and the RSA's, and all that. But...

RAJA KHANNA: And I think that...

NIEL DUNN: ...sometimes we don't always have all that maybe we need, or that the crowd needs.

RAJA KHANNA: I think that I counter that in two ways; one you're right there's...aside from relying on your building inspectors, and the Planning Board, and their plans that's you're verification on building what you said is going to get built. That's our job, that's our goal. As I said, as a developer, we want to build something that meets our projections, and we're aren't going to go below that because we're only hurting ourselves. With regards to the review, the reason why we picked Mr. Thibeault was because of his experience. Because of what he's done here previously, because of the fact that his numbers had been peer reviewed previously, because they came out stellar and clean before. After that peer review. So, I'm confident that with another peer review, the same results will come. I personally feel that it a delay and waste of time, but you know, it's a...I don't know, I don't know the correct resolution here, because...

NEIL DUNN: I'm not sure either? I'm throwing it out for everybody to think about, I guess. Is my point.

[Overlapping comments]

JIM SMITH: Okay, I think what Neil is...at least what I'm getting out of what Neil is saying.

NEIL DUNN: [Laughter] I'm not always clear.

090 JIM SMITH: He's looking for a guarantee that what's your proposing with these numbers are guaranteed in
091 some way. That's what's you're actually going to build?
092
093 RAJA KHANNA: How have you asked that to other developers? Maybe, we can...
094
095 JIM SMITH: No, no. I'm not talking...
096
097 RAJA KHANNA: No, I'm saying...
098
099 JIM SMITH: What you're proposing?
100
101 RAJA KHANNA: Yeah.
102
103 JIM SMITH: You're proposing, I don't know, what's in that picture there or something...
104
105 [Overlapping comments]
106
107 RAJA KHANNA: Granite counters tops, and stainless steel appliances.
108
109 JIM SMITH: Okay. What he's looking for is there's a guarantee in some form or another that that's actually
110 what's going to be built. If we grant this, or don't grant this variance?
111
112 RAJA KHANNA: I mean short of coming up with a spec sheet for every item we put in there. Which frankly,
113 we just built this, so I'm happy to do it. I don't know how else to do that? You know, I don't know? Is there
114 something that you can write into our approval that would say you must do granite counters tops and
115 stainless steel appliances? I probably would be comfortable with that. I don't know?
116
117 NEIL DUNN: I just want to know that what's being presented, and I'm not questioning you. Everything's
118 about...
119
120 RAJA KHANNA: I understand.
121
122 NEIL DUNN: ...you now nothings financially viable, and we have to make it viable for everybody.
123
124 RAJA KHANNA: Believe it, or not all this that goes in, I don't take it personally.
125
126 NEIL DUNN: But, things...numbers can be skewed, and you can get almost numbers to say anything you want.
127
128 RAJA KHANNA: I agree.
129

130 NEIL DUNN: And, I'm looking for insurance that what's your're proposing is what's going to be put in, and
131 that that we...again, last time, we don't know what the third party went. He went to Mr. Thibeault, he said
132 yeah, this is it. I could have had fountains? It could have had gold plated fixtures? I don't know that?

133
134 RAJA KHANNA: No, no. To re-clarify, it wasn't that...Mr. Thibeault didn't go to a third party.

135
136 [Overlapping comments]

137
138 NEIL DUNN: No, no.

139
140 RAJA KHANNA: The Zoning Board went to the third party.

141
142 NEIL DUNN: No, right, but then...

143
144 RAJA KHANNA: It was commissioned by them.

145
146 NEIL DUNN: ...we sent the third party to the other applicant's to get the information. I mean, he had to go
147 somewhere to get it, and so I don't know how you go up with...they match very well, but he had to have
148 some kind of a spec?

149
150 RAJA KHANNA: Right, right.

151
152 NEIL DUNN: We never saw what that spec is. We don't see that resolution, and to me, and then to the point
153 that I was trying to get at. How do we guarantee that's what gets done. If everything's is based on numbers?

154
155 RAJA KHANNA: I think what you are looking for is a sensitivity analysis? So, maybe if Mr. Thibeault were to
156 do an analysis we're going to do...and this is no disrespect to anything...but formica countertops and vinyl
157 floors. The rents would then you know would coincidentally be this much lower. The numbers are going to
158 come out the same because the ratio and the percentage are going to be the same. If you say my costs of
159 constructions is going to go down my ten percent, but so it my revenue. Well then you end up with the same
160 number at the end of the day which is your rate of return of negative. It's relative in that sense if you up your
161 scale, then you're going to up your scale. I mean it's...it's, I don't know how else to describe it? I don't know
162 how else to describe it? I can't...I don't know how else...

163
164 NIEL DUNN: No, it's...I was looking for better resolution...

165
166 [Overlapping comments]

167
168 RAJA KHANNA: Yeah, and I wish it were that transparent?

169
170 NEIL DUNN: ...and that's one of my thoughts I'm bringing out here.

171

172 RAJA KHANNA: And like I said, I'm open to...if there have been projects in the past where you've had these
173 similar concerns, how have you resolved it with them? Let me ask you that? I'm probably open to that
174 because, I don't know?
175
176 NEIL DUNN: Well, the last time we had a third party evaluate it, and he said yeah based on what they
177 presented the numbers are right, but what...again...
178
179 [Overlapping comments]
180
181 NEIL DUNN: ...gold plated fixtures with...I don't know? I want better resolution before the Town says oh
182 yeah we made it financially viable, and he's going to get great rents.
183
184 RAJA KHANNA: It sounds like...
185
186 NEIL DUNN: [Laughter]
187
188 RAJA KHANNA: It sounds like what you're saying is that if I were to give it to a third party...again, you'd still
189 have those same concerns? So that's why I'm not...
190
191 NEIL DUNN: I would want better resolution, I guess. More definitive..and then some kind of guarantee that
192 what was being presented is what's going to be built?
193
194 RAJA KHANNA: I'm open to the Board's suggestion on how to do that?
195
196 NEIL DUNN: Yeah, and I'm still thinking in through, I guess.
197
198 [Overlapping comments]
199
200 JIM SMITH: I think you need to come up with some way to satisfy what you're asking for, and not just asking
201 an open ended question. We need to have some viable way of pinning down what we're looking for? I
202 mean, if it's a set of specs on what is proposed, and this is what's going to be built. That's one possibility.
203
204 NEIL DUNN: At that price level, and then...
205
206 [Overlapping comments]
207
208 NEIL DUNN: ...and then have it validated, I guess. I guess that's what's I'd be looking for, but I...
209
210 JIM SMITH: No, again...
211
212 NEIL DUNN: ...was throwing it out there for people to have a discussion. If nobody else agrees with it then it
213 doesn't really matter.

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JIM SMITH: Again, we've got to have something that makes sense?

[Overlapping comments]

NEIL DUNN: No, absolutely, and I was throwing it out there for discussion, and trying to get feedback.

JACKIE BENARD: Okay, so let me put it to you in my simple terms. Right now we're taking under consideration to allow twenty four (24) dwelling units, or a maximum of sixteen (16). I'm looking at your comparative performance, and what is hard for me to conclude from your own comparative performance numbers that I am reviewing. Is there is not enough to substantiate the justification for the twenty four (24) units definitively so that we can approve...

[Overlapping comments]

JACKIE BENARD: ...the variance at that level where sixteen is our variance. So when I look at your comparative performance some of the things that come into mind, you have an interest rate on both your charts of 5.25. Well what if it's at the end of the day 3.0, you come out ahead. We don't know? These numbers can be skewed. A term for twenty five (25) years, what if you get it for thirty (30), what if you get it for forty (40), I don't know that? So, I think Neil's questions are putting...he wants clarity for some of these numbers because we're only going by what we see here, and what you gave to us.

RAJA KHANNA: Sure.

JACKIE BENARD: Which wasn't really clear so that we could see that twenty four (24) unit, and we could see okay this is why they are asking this?

RAJA KHANNA: Sure. I was just trying to clarify for Mr. Dunn. It's certainly possible to have another party come in...

JIM SMITH: So, when we're talking about the sixteen verse twenty four (24), we need this cost analysis just based on that one scenario.

[Overlapping comments]

JIM SMITH: Then when we go to the case of the seventy five (75) verses fifty (50). Again, we're looking for an argument just based on that part of it. Then when we get to the...

NIEL DUNN: The phasing.

254 JIM SMITH: ...the phasing, another one based on that. So that we can address each of the variances
255 independently of each other...I think if we get that kind of information we'll be a lot further ahead than we
256 are at this moment? Does that make a certain amount of sense?
257
258 RAJA KHANNA: No, it makes sense. I think it makes sense?
259
260 RUSS THIBEAULT: It can be done.
261
262 BILL TUCKER: Yeah.
263
264 RUSS THIBEAULT: That can be done, yeah, and I think it gets at what Mr...
265
266 [Overlapping comments]
267
268 RUSS THIBEAULT: ...Tirabassi, am I pronouncing that right?
269
270 JIM TIRABASSI: Yeah, yeah.
271
272 RUSS THIBEAULT: I think it gets at your comment as well? It can be done. We can work those...I can do
273 those three analysis for you. I want to make sure that I...it would be for each. Look at each variance verses
274 no variance, correct?
275
276 JIM SMITH: Right.
277
278 JACKIE BENARD: Correct.
279
280 RUSS THIBEAULT: Each variance verses no variance?
281
282 JIM SMITH: Right.
283
284 NEIL DUNN: Individually.
285
286 RUSS THIBEAULT: Now having said that it can be done you also understand that even with all three you're
287 right at the cusp of...
288
289 [Overlapping comments]
290
291 RUSS THIBEAULT: ...viable verses unviable.
292
293 JIM SMITH: I understand that.
294
295 NEIL DUNN: Absolutely.

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JIM SMITH: Again, we're looking for a concrete argument on each of the five criteria on each case so it stands alone.

RUSS THIBEAULT: Um, hmm.

JIM SMITH: Not a combination. We know that the net results will mesh together at some point, or not.

RUSS THIBEAULT: Um, hmm.

JIM SMITH: I think...

JACKIE BENARD: Because I want to tell you, thank you for being very clear this time on the first case we are talking about. That has helped get through all of the information that we were thrown from the first meeting that we had with you. So, now if we can clearly just rule on each of the variances independently as you come before us, then it will be easier for us to sift through that information alone, and we're not constantly given all of the variance information. Saying that all of the variance information, all three do apply to this one and keep coming back so that we keep doing this circle. Because that's what we need some clarity.

RAJA KHANNA: Yeah, okay. I think we'll be fine with that.

JIM SMITH: Having said that. Here's what I would like to propose. Have you develop that information on those five variances.

RUSS THIBEAULT: Three variances.

[Overlapping comments]

JACKIE BENARD: Three variances.

JIM SMITH: Three variances. I'm getting all mixed up.

RUSS THIBEAULT: I just want to make sure.

JIM SMITH: Three variances.

NEIL DUNN: Five points of law.

JIM SMITH: Five points of law on each of the three variances, and I think just to make it one fell swoop have some sort of a third party review of whatever you generate on the financial end of it which is what you're looking for.

338 RUSS THIBEAULT: Is it the costs, it sounds like the costs?
339
340 NEIL DUNN: Well, I mean...again getting back to them individually as each one. Technically, on this one you
341 know sixteen (16) versus twenty four (24). I mean I would presume...the resolution I talk, and maybe it's not
342 clear because I deal with data all the time. I'm looking at well if you're going to quote a sixteen (16) unit with
343 vinyl counters and a twenty four (24) with, or vice versa sixteen (16) with marble, and a twenty four (24) with
344 vinyl. You know that's not apples to apples either. We don't know what's in those packages. So, we want all
345 things to be equal, and I don't expect a complete spec list, just something we can see yeah there apples to
346 apples.
347
348 RAJA KHANNA: Okay.
349
350 NEIL DUNN: We don't know, we're getting a bunch of numbers that we can't tell what's in that.
351
352 BILL TUCKER: Just as a for instance, under the site work, that number is different from the twelve (12)
353 building to the eighteen (18) building by about a million (\$1,000,000) dollars.
354
355 JACKIE BENARD: Yes.
356
357 BILL TUCKER: So, would you be comfortable if Severino gave us those numbers?
358
359 RAJA KHANNA: Yeah?
360
361 BILL TUCKER: I think everybody's seen his trucks around? We would produce a letter from Severino saying
362 here's the basis for those differences in costs? I've got a clear foot...whatever he's got to do?
363
364 [Overlapping comments]
365
366 NEIL DUNN: Right, no...right, site work...
367
368 [Overlapping comments]
369
370 NEIL DUNN: ...is a little bit easier and cleaner. There...I don't know...
371
372 [Laughter/Overlapping comments]
373
374 BILL TUCKER: Well, that jumped out at me, cuz...
375
376 [Laughter]
377

378 NEIL DUNN: No, no that's a fine example, and that's fine. The site work is fine, and that's a clean one
379 because we don't have all these other variable of what you're...how you're appropriating the building, or
380 outfitting the building, or what kind of gold tubs you're putting in, or whatever...

381
382 RAJA KHANNA: I think we can break it down to some...because this is what we do all day. We have
383 categories or buckets of expenses. You know, and so to talk on that point, the roof bucket you might under
384 the twelve (12) building scenario is going to be less than your roof...

385
386 NEIL DUNN: Absolutely.

387 RAJA KHANNA: ...number for the eighteen...

388
389 JACKIE BENARD: Exactly.

390
391 RAJA KHANNA: ...so you're going to see right there that your costs for roofs is fifty (50) percent more over
392 here because you're building fifty (50) percent more roofs.

393
394 NEIL DUNN: But, there both going to have the same roof material?

395
396 RAJA KHANNA: Yes, yeah.

397
398 [Overlapping comments]

399
400 [Laughter]

401
402 RAJA KHANNA: Just by the sheer fact that it's fifty (50) percent more expensive will tell you that it's the same
403 material. Do you know what I mean? You want me to actually identify the products we are going to use?

404
405 [Laughter]

406
407 NEIL DUNN: No, no, I'm just trying to say that's the kind of insight we don't have.

408
409 RAJA KHANNA: I mean, I will...

410
411 NEIL DUNN: Numbers can be goofed with. It can be one verses the other. I'm presuming to your point you
412 still have to write them. I'm giving you some credit, but I do want to be able to see a better comparison.

413
414 RAJA KHANNA: You know because I listen to the people talking, and I could very easily take this all very
415 personally, and I don't. I live here. I grew up here. I work here every day in Londonderry. So, I know these
416 people, and I'm probably going to run into them here and there. This is my lively hood. This is what I do for a
417 living for my family to raise money. I'm not trying to gain the system. I'm not trying to build a beautiful
418 quality project. I understand that there's opposition and frankly it's understandable at certain levels, but I'm
419 happy to sign on a piece of paper my name, my personal name. Any sort of recourse, and sort of personal

420 guarantee. I do this for loans all day long by the way. We've never defaulted on any loans because I do
421 it...I'm willing...it's my livelihood. I'm willing to do that. If you want me to say, I Raja Khanna, promise to put
422 granite counter tops and fine I'll do it because I'm not trying to skirt the system here. I'm giving you my
423 word, and I'll put it in writing. So, that's the best I can offer you, I guess, but short of that, I'm open to your
424 suggestions? That's all.

425
426 JIM SMITH: Okay. Thank you.

427
428 RUSS THIBEAULT: I may have...go ahead, excuse me?

429
430 NEIL DUNN: My only other thought was on the phasing, Richard when we talk about phasing the way the
431 ordinance is written now. Could they do all the foundations and landscaping, or no?

432
433 RICHARD CANUEL: They could certainly do all the landscaping, do all the site work...

434
435 NEIL DUNN: Site work.

436
437 RICHARD CANUEL: ...that they...

438
439 NEIL DUNN: Foundations.

440
441 RICHARD CANUEL: ...chose to. It's the number of units per year for the phasing applies.

442
443 NEIL DUNN: So the number of units with occupancy permit, or how's that go? They can't pour all the
444 foundations at once?

445
446 RAJA KHANNA: Building permit, I think?

447
448 RICHARD CANUEL: No, because the building permits are issued on the number of units, so the number of
449 units are allowed. I forget what the number is off the top of my head, but you know no more than...

450
451 BILL TUCKER: Forty eight (48).

452
453 RICHARD CANUEL: ...forty eight (49) units per year. Thank you. That's from date of final approval from the
454 Planning Board. So, that's when the year starts, so I could not issue a building permit for more than forty
455 eight (48) units. Whether they're occupied, or not.

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457 NEIL DUNN: So forty eight (48)...

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459 RICHARD CANUEL: Because they're developing forty eight (48) units.

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461 NEIL DUNN: ...units would be? Two foundations?

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RAJA KHANNA: Right.

JIM SMITH: If there were twenty four (24).

[Overlapping comments]

NEIL DUNN: If there were twenty four (24), or...

[Overlapping comments]

NEIL DUNN: ...all I'm trying to say is what can they do in that phasing. Okay, I was just trying to get clarity on that, so whatever. So, forty eight (48) a year so that only comes...put in either three, or two foundations?

[Overlapping comments]

RUSS THIBEAULT: I don't know if I...I don't want to impose on the Board's decision here at all, but on the first point about each variance, and look at the financial implications of that verses no variance...I can do that, it's not very difficult. That I can do, and I'll be glad to do. On the...If I may make a suggestion...maybe it doesn't address your point? It sounds like if you have a good set of specifications from the developer that'll give you what you're looking for in terms of what's in these units? Right?

NEIL DUNN: Well it give me a better feeling that if a third party looks at it and says here's what the specifics are the he's...

RUSS THIBEAULT: So, you're thinking an independent review of the costs...

JIM TIRABASSI: Right.

RUSS THIBEAULT: ...is the cost estimates?

JIM TIRABASSI: Right. Right because it all ties in with the rents you're going to be charging...

[Overlapping comments]

JIM TIRABASSI: ...no, but he was talking about that you know if he goes from one material to another material he saves ten percent on his building costs, but also his rents go down ten percent. That ten percent is a different part of your rate of return because it's part of your whole rate of return? So, the ten percent less in the quality in your rent it's not reflective the same way. I mean ten percent is ten percent, but when you look at your bottom line, the ten percent doesn't vary out that way.

RAJA KHANNA: Yeah, sure, it comes out a little different.

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JIM TIRABASSI: It comes out a little different skew because it's part of a whole greater package.

RAJA KHANNA: I think maybe what he's asking is would you like a review of his work, or my work? What I mean by that is...

RUSS THIBEAULT: Is it the costs?

JIM SMITH: See if I can clarify. What we're looking for is what you're proposing which would be the cost analysis based on each variance for each case. To address the specs, what we're looking for would be to have a third party review...what you come up with based upon the criteria of his specifications.

RUSS THIBEAULT: But, not his specifications?

[Laughter]

RUSS THIBEAULT: Is that right?

JIM SMITH: No, in other words, we're just looking for a line in the sand. This is what I'm proposing to build.

RAJA KHANNA: Let me give you just a concrete example. So, granite counter tops, like I said we've built multiple buildings twenty four (24) each...same exact thing. I'm going to give Russ a number that says that per unit granite counter tops costs x. Do you want me to go out to verify that it's x, or x...

JIM SMITH: No, no, no, no, no. What we're looking for is...you to give him information. Have him develop his cost analysis. Then [indistinct] with those same based specifications. Have a third party look at it and say. Yes, these numbers make sense.

RAJA KHANNA: Okay.

JIM SMITH: So, now the third party analysis of what he's doing are looking at the same thing, and we're having the same basic criteria of what's proposed.

RAJA KHANNA: I got you. I think I got you, right Russ?

RUSS THIBEAULT: Ah, not quite exactly clear in my mind.

[Laughter]

JIM SMITH: Okay, what we want you to do...

545 RUSS THIBEAULT: I understand about the three, but I'm not quite clear on the verification because I was
546 thinking that Mr. Dunn's question, or issue was, or the confirmation you were looking for...the comfort level
547 you were looking for had to do with the costs. Two things; what's going to be in these units which would be
548 specifications, and are these costs realistic that were provided to me. Am I right? In other words, what's
549 going in there, and are the numbers that Russ is using a realistic reflection of what's going in there in terms of
550 cost. Is that right?

551
552 NEIL DUNN: [Laughter] I can see where...

553
554 RUSS THIBEAULT: I'm trying to operationalize...

555
556 NEIL DUNN: Yeah, no, and so am I...I don't think we need to have the guy validate every line item on the
557 thing; however, we never could see what was being used, and...

558
559 RUSS THIBEAULT: Okay.

560
561 NEIL DUNN: ...we want a spec of some nature that you're using, and then based on that spec that we would
562 give to a third party, and he would come up with the same numbers. So, it has to have enough information
563 to make it work...

564
565 RUSS THIBEAULT: Um...

566
567 NEIL DUNN: ...to match...

568
569 RAJA KHANNA: I got you.

570
571 NEIL DUNN: ...but I don't want to know what kind of nails you're using. I mean enough information that
572 someone can have enough resolution without going to you sitting down looking at a spec, and not giving us
573 any idea that it compares...

574
575 RAJA KHANNA: Um...

576
577 NEIL DUNN: ...I...does that help, am I still as confused as I was?

578
579 JIM SMITH: Okay, ah...

580
581 RAJA KHANNA: I think so?

582
583 JIM SMITH: One point, when we did the third party review, how did we arrange that?

584
585 RUSS THIBEAULT: You retained a man named Jack Mette. Who is an independent, and Jack looked at my
586 numbers independently. I think we spoke maybe once or twice over the phone, and then Jack issued a report

587 to you which...I'm not sure I ever saw, but I know the result was that you know that things were copacetic,
588 so...
589
590 JIM SMITH: Okay.
591
592 RUSS THIBEAULT: What you might be able to do is have Mr. Mette do the same thing again?
593
594 JIM SMITH: Right.
595
596 RUSS THIBEAULT: On the tree variances, and have him also examine...and I'll be, you know the costs
597 estimates given the specifications. So, you have one consultant look at both aspects of it come to you and
598 say well I disagree with Russ on this point, or I think the costs are too high, or too low. To try to give you a
599 comfort level, I think is what you are looking for?
600
601 NEIL DUNN: Right, resolution and comfort, absolutely.
602
603 RUSS THIBEAULT: Comfort level for the costs, and that the figures I'm giving you are realistic. I would you
604 know...there's a lot of estimates, there's a lot of number crunching that goes into this, and I try to keep it
605 pretty straight forward. So, that's what you did last time, you retained Mr. Mette at the developer's expense
606 to review my work. In this review of the work, it can include the specifications and the costs.
607
608 JIM SMITH: Okay.
609
610 RUSS THIBEAULT: If you want to make...
611
612 JIM SMITH: How long will it take you to generate?
613
614 RUSS THIBEAULT: It's not...it shouldn't take me long. I mean when's you're next meeting? I don't know how
615 long it will take...
616
617 JIM SMITH: The 18th of next month, just so happens.
618
619 RUSS THIBEAULT: ...Mr. Mette?
620
621 NEIL DUNN: March 18th.
622
623 RUSS THIBEAULT: March 18th. Yeah, I could be ready by then. I would try to get it ready, if you retain Mr.
624 Mette in time for him to give you...
625
626 JIM SMITH: Yeah, that's what we need.
627
628 RUSS THIBEAULT: ...his report then. You know, I'd try.

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JIM SMITH: And, Nicole.

RUSS THIBEAULT: I think it would work.

JIM SMITH: I think Jaye was the one who made the liaison with arranging all of that, so she should be able to help you.

RUSS THIBEAULT: I think the Board was comfortable with his work last time, and you know, he did it very independently. Like I said, I think we had one conversation, so.

JIM SMITH: Okay. So, I think we have a plan of action. Rather than continue the hearing tonight without that additional...

[Overlapping comments]

JIM SMITH: ...information, I don't think really makes much point, so I would to propose that we continue this hearing until next month. Anyone have any objections to that? I'll entertain a motion?

[Overlapping comments]

MARK FOUGERE: At this point, going through my mind just to make sure that Russ is gives you the analysis that you want. So, the first scenario is going to be...he's going to run the numbers between a sixteen (16) unit building and a twenty four (24) unit building, and that'll be one scenario.

JIM SMITH: Correct.

MARK FOUGERE: Assuming that we meet the phasing requirement, and we meet...

JIM SMITH: No, no, no.

RUSS THIBEAULT: Phasing is another variance.

MARK FOUGERE: I know...I know, but we're going to have the phasing requirement that you have in place today, and we're going to have to meet the seventy five (75) percent set aside. So, that's going to be one scenario?

JIM SMITH: Correct.

MARK FOUGERE: The second scenario...

[Overlapping comments]

671
672 MARK FOUGERE: That's why I'm trying to clarify the scenarios.
673
674 RUSS THIBEAULT: Yeah, yeah, I thought it was...yeah, they're like nine...eight or nine different scenarios here.
675
676 JIM SMITH: I know, I know...
677
678 RUSS THIBEAULT: I thought it was...
679
680 JIM TIRABASSI: Because you're taking the phasing portion.
681
682 RUSS THIBEAULT: ...only give us the sixteen (16) verses twenty four (24)...
683
684 [Overlapping comments]
685
686 RUSS THIBEAULT: ...unit variance, only give us the fifty (50), seventy five (75) variance.
687
688 RAJA KHANNA: Yes.
689
690 [Overlapping comments]
691
692 RUSS THIBEAULT: The others...
693
694 JIM SMITH: Everything else being in conformance?
695
696 [Overlapping comments]
697
698 RUSS THIBEAULT: Well, in conformance?
699
700 [Overlapping comments]
701
702 JIM SMITH: When you do the sixteen (16) versus the twenty four (24).
703
704 RUSS THIBEAULT: Yeah, I was thinking it was not in...the other two would not be in conformance because if
705 you only grant...you see what I'm saying?
706
707 [Overlapping comments]
708
709 MARK FOUGERE: The want to know how each one stands alone by itself meeting everything else.
710
711 RAJA KHANNA: I think you're saying the same thing Russ...?
712

713 [Overlapping comments]
714
715 RUSS THIBEAULT: No, we're saying the exact opposite.
716
717 BILL TUCKER: The exact opposite things.
718
719 [Overlapping comments]
720
721 RAJA KHANNA: If the other two are non-conformance then you're giving all the variances? He's saying you
722 get one variance the sixteen (16) versus twenty four (24) how does it perform.
723
724 BILL TUCKER: Every one of your calculations will show a loss.
725
726 RAJA KHANNA: Right.
727
728 RUSS THIBEAULT: Yeah, if you only grant one variance, right...and for example the first scenario would be give
729 us the twenty four (24) versus the sixteen (16), but we still have to do seventy five (75) percent, and we still
730 have to do six years phasing, correct?
731 RAJA KHANNA: Right, right, yup.
732
733 [Overlapping comments]
734
735 RUSS THIBEAULT: Okay. It was the opposite of what you were thinking.
736
737 [Overlapping comments]
738
739 RUSS THIBEAULT: So we'll go through...you give us one variance, but not the other two on each of the three.
740
741 JIM SMITH: What we're looking for is the effect of that one variance on the overall project.
742
743 RUSS THIBEAULT: Right.
744
745 JIM SMITH: Then you go to the second one. The effect of that variance on the overall project, and when you
746 go to the third one the effect of that one on the overall project.
747
748 RUSS THIBEAULT: I think I got it. So, it would be give us this variance, but not the other two. Give us that
749 variance, but not the other two. Give us the third one, but not the other two.
750
751 JIM SMITH: Right.
752
753 RUSS THIBEAULT: Okay, I got you. That will work.
754

755 [Overlapping comments]
756
757 MARK FOUGERE: I hate to have you do a report and not answer the question being asked.
758
759 [Overlapping comments]
760
761 RUSS THIBEAULT: The issue was each variance...what's the impact of each variance?
762
763 JIM SMITH: Correct. That's what we're trying to get at.
764
765 [Overlapping comments]
766
767 JACKIE BENARD: So, that way we can actually go in and hit each variance independently.
768
769 RUSS THIBEAULT: Yes, I think...
770
771 NEIL DUNN: If they all add it up and they presumed let's say they were granted, they would all add up to
772 the...
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774 RUSS THIBEAULT: 4.4.
775
776 NEIL DUNN: The 4.4, or the magic number.
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778 RUSS THIBEAULT: Presumably, yeah.
779
780 BILL TUCKER: I'd like to have that 4.4 in the report so that you can see, and we can all see the combined
781 effect of it.
782
783 JIM SMITH: Yeah, yeah.
784
785 [Overlapping comments]
786
787 BILL TUCKER: I think at the end of the day, you know the statute talks about the combined effect of all of the
788 ordinances on affordable housing...
789
790 [Overlapping comments]
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792 BILL TUCKER: ...so we need that final one.
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794 JIM SMITH: Well...
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796 RUSS THIBEAULT: That's the one you have now.

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JIM SMITH: That's what we actually have.

[Overlapping comments]

BILL TUCKER: Yeah, we've got that now. So, I just want to make sure that one stays in the report?

RUSS THIBEAULT: Yeah, and I think that was the way I was looking at...

JIM SMITH: Okay.

RUSS THIBEAULT: ...the overall impact of the workforce housing ordinance was what I was examining, and I understand it's important for your people to know the impact of each variance. I can do that, and it's not a massive undertaking, and then you're going to make the arrangements, I assume with Mr. Mette...?

JIM SMITH: Yeah, once you, well...

RUSS THIBEAULT: ...or do you want to wait? Do you want me to come in with that, and then you have the review?

JIM SMITH: No, no, no. I don't want to prolong this any longer than we have to.

RUSS THIBEAULT: Right, okay.

JIM SMITH: If you can get that report out as quickly as you can.

RUSS THIBEAULT: Alright.

JIM SMITH: Bring it in to the Town Hall then Nicole can make...I know she can with Jaye's help make arrangements for that third party reviewer to take that information and generate a report. Hopefully, and we can have this completed by the next meeting which is...

RUSS THIBEAULT: I'll do my best.

JIM SMITH: ...March 18th.

RUSS THIBEAULT: I don't know about Jack's schedule, but yup, I'll do my best.

JIM SMITH: Well, if you can't then...

RUSS THIBEAULT: Yeah, I think I can get it done within two weeks, and that would give him two weeks...fifty, fifty is fair.

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[Laughter]

JIM SMITH: Hopefully.

RUSS THIBEAULT: Thank you very much.

BILL TUCKER: Well how far in advance of the meeting do you need it to have time to review it?

JIM SMITH: Okay, before we go to the...you still have a comment, or...

DAVID NEASE: Yeah, David Nease, 11 Faye Lane. I guess my question is they keep razor thin margins, and everything like that...what if he overpaid on the price of the land? What if the price he paid for the ordinal parcel of land, he over paid by twenty percent? Is that our responsibility to make up for that? It's obvious that the previous building, Em-Lew went out of business. Went bankrupt because it didn't work. Whittemore Estates right around the corner went out of business. If their margins are that razor thing maybe one they over paid, but two what is the Town's responsibility if this goes upside down? If it is so razor thin, and he hits ledge are we going to be stuck with Whittemore Estates where it's a half built project right on Stonehenge? What if they did pay twenty percent too much for the property? How does that figure in to it? Are we responsible to make it economically feasible because he over paid for the land? I mean, it's obvious that you can't build the type of project that they want to build, in that spot without needing a lot of variances. So, maybe that's not the right project because it's too expensive to build there? Why are we responsible to make it economically feasible, if it's not feasible? Is the point.

BILL TUCKER: If I may respond, the cost...

JIM SMITH: Wait, wait, wait...I don't want to prolong this tonight. We're going to have another bite at the apple next month, but again, I think what we're looking for is some clarification and trying to come up with a reasonable way to look at these three variances and make a reasonable determination. Having said...wait a minute, okay.

[Overlapping comments]

GREG STANLEY: I'll make this quick. Greg Stanley, 112 Hardy Road. Seeing how we're going to continue to March 18th, or whatever day is set forth. I would just like to ask if people could drive down Stonehenge Road and if people could drive through Vista Ridge. What they are proposing is larger than Vista Ridge to be put on Stonehenge Road. I would just ask that you guys drive...you know drive those neighborhoods. Take a look at Vista Ridge, and drive by Stonehenge Road where this is going to go, and maybe you'll...It'll be an enlightening experience? Thank you.

JIM SMITH: Okay. I will entertain a motion at this point for a continuation.

881 [Overlapping]

882

883 JACKIE BENARD: Mr. Chairman, I'd like to make a motion for a continuance...

884

885 NEIL DUNN: [Laughter] I'm sorry.

886

887 JACKIE BENARD: ...for case number 11/19/2014-4, also case number 11/19/2014-5, and case number
888 11/19/2014-6 to be continued to March 18th.

889

890 JIM SMITH: Okay, do I have a second?

891

892 JIM TIRABASSI: Second.

893

894 JIM SMITH: Jim seconds. All those in favor?

895

896 ALL: Aye.

897

898 RESULT: THE MOTION TO CONTINUE CASE NOS. 11/19/2014-4, 5 and 6 WAS APPROVED, 5-0-0.

899

900 RESPECTFULLY SUBMITTED,

901



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903

904 NEIL DUNN, ACTING CLERK

905

906 TYPED AND TRANSCRIBED BY NICOLE DOOLAN, PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT
907 SECRETARY

908

909 **APPROVED APRIL 15, 2015** WITH A MOTION MADE BY NEIL DUNN, SECONDED BY JACKIE BENARD AND
910 APPROVED, 5-0-0.

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