

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

DATE: NOVEMBER 19, 2014

CASE NO.: 11/19/2014-1

APPLICANT: LONDONDERRY LENDING TRUST  
C/O ROBERT V. WALLACE, JR.  
132 LINCOLN STREET, SUITE 6L  
BOSTON, MA 02111

LOCATION: 73 TRAIL HAVEN DRIVE, 12-59-3, AR-I

BOARD MEMBERS PRESENT: JIM SMITH, CHAIR  
JACKIE BENARD, VOTING MEMBER  
JIM TIRABASSI, VOTING MEMBER  
ANNETTE STOLLER, VOTING ALTERNATE  
BILL BERARDINO, VOTING ALTERNATE  
NEIL DUNN, ACTING CLERK

REQUEST: VARIANCE TO ALLOW A 30-FOOT SEPARATION BETWEEN BUILDINGS  
WHERE 60-FEET IS REQUIRED BY SECTION 3.6.4.2.

PRESENTATION: Case No. 11/19/2014-1 was read into the record with one previous case listed.

JIM SMITH: Who will be presenting?

EARL BLATCHFORD: Good evening, Mr. Chairman, members of the Board, my name is Earl Blatchford. I'm with Hayner-Swanson representing the applicant. Our office is located at 3 Congress Street in Nashua. The application before you tonight is part of, or pertinent to an amended site plan application that we've submitted to the Planning Board to make some changes. Some design changes to the existing approved Whittemore Estates senior housing project. If you know some of the background on this, this plan a larger version of this plan, was originally approved about eleven years ago. The first phase of it was built about ten years ago. One six unit building, was Trail Haven Drive, and utilities, and storm water management facilities were built. Then the project stopped, and it's been idle for about ten years. We did a subdivision last year for the previously mentioned Londonderry town homes project. Which is to the North of this, and did an amended site plan for the remainder of the Whittemore Estates plan without any real design changes to that portion of the project. There is a new potential buyer for the property. They've hired us and requested that we do some design changes. Basically affecting some of the layout and the number of units proposed, so it's still a senior housing project. It's still a two unit, two bedroom townhouse style units which are exactly the same as the units that you see out there that have been built. The application before you we're requesting a variance from Section 3.6.4.2 to allow a minimum thirty (30) foot building separation. We're asking for that

46 basically in one location on the site plan where the regulation for elderly requires sixty (60) foot minimum.  
47 Thirty (30) foot minimum is allowed in other multi-family sections in the ordinance. So, we're making this  
48 request based on what is allowed in other parts of the ordinance for multi-family. The facts supporting this  
49 request are listed in the application. I'll be happy to read through them, if that's the Board's preference?  
50 Basically that's the crux of our request is that the ordinance treats elderly different than it does [Indistinct]  
51 multi-family, different than it does in other sections for multifamily, and that's the basis of our request. Like I  
52 said, I'll be happy to go through the five points with the supporting information if that the Board's request?  
53 Otherwise, you have it in writing in your applications, and I'll be happy to answer any questions anybody has.  
54

55 JIM SMITH: Yeah, we would like you to go to the five points, just so we have it on the record.  
56

57 EARL BLATCHFORD: I'd be glad to. Number one, the variance will not be contrary to the public interest. The  
58 proposed use, elderly residential housing, is an allowed use on this property. The requested variance is  
59 allowed by right for multi-family housing in other sections of the Zoning ordinance. Therefore granting the  
60 requested variance will not be contrary to the public interest. Number two (2) the spirit of the ordinance is  
61 observed. Twenty (20) foot separation between single family and two family buildings and thirty (30) foot  
62 separation for multifamily building is allowed in the multifamily residential district in the zoning ordinance.  
63 Number three (3) substantial justice is done. There is no basis for in the building code, or life safety codes for  
64 the sixty (60) foot building separation requirement in the elderly housing district. Granted the requested  
65 variance would provide equal treatment to elderly multifamily development as is currently afforded to other  
66 types of multifamily residential developments in the zoning ordinance. Number four (4) values of surrounding  
67 properties are not diminished. The neighborhood is currently a mix of single family, duplex and multifamily  
68 residential development. The subject property is already approved for multifamily elderly housing therefore  
69 granting this variance should have no adverse effect on surrounding property values, and number five (5)  
70 liberal enforcement of the provisions of the ordinance would result in an unnecessary hardship and there are  
71 two (2) parts to this the first part no fair and substantial relationship exists between the general purposes of  
72 the ordinance provision and the specific application that provision to the property, and the sixty (60) building  
73 separation required in Section 3.6.4.2 of the zoning ordinance has no basis in the building code or the life  
74 safety codes. The requirement of the ordinance imposes an unnecessary hardship on elderly housing  
75 developments that is not an imposed on similar nonelderly housing developments, and the second part the  
76 proposed use is a reasonable one. The proposed use is allowed by right in the zoning ordinance and is  
77 currently approve on this property, and that covers the five (5) points.  
78

79 JIM SMITH: Okay, questions from the Board?  
80

81 NEIL DUNN: Richard, do you know why for the elderly they went to sixty (60)? Was that some kind of effort  
82 to get parting closer or something do you know?  
83

84 RICHARD CANUEL: I do not know where the sixty (6) foot separation number comes from. Where we apply  
85 thirty (30) foot separation for other multifamily developments, I don't know why that's, I don't know if that's  
86 an arbitrary number but I haven't found out where that actual number come from.  
87

88 NEIL DUNN: All I could think of is they were trying to get more parking close to the building instead of no  
89 reference there? Okay, thank you, Richard.

90  
91 ANNETTE STOLLER: I have a question? Why did you change to the thirty (30) foot? Just is it to get more  
92 utilization out of the property?  
93

94 EARL BLATCHFORD: Yes, we've added units and going through the density calculations, and you have a copy  
95 of the master site which has the notes, but running through the density calculations this property would  
96 actually allow us as many as one hundred twenty two (122) units. The current approved plan which as I said  
97 before is basically what's left over from the original larger development has seventeen (17) units and a  
98 clubhouse. And it sat idle because it just doesn't pencil out basically. The new buyers don't want to build a  
99 clubhouse it really for the number of units that are left, it really isn't warranted anymore. That was really  
100 geared for a much larger development. They also to make this deal work they need additional units, so we're  
101 proposing to eliminate the clubhouse, add eleven (11) more two (2) bedroom units for a total of twenty eight  
102 (28). So, we're going from seventeen (17) units to twenty eight (28), but as I said, if we were to max out this  
103 property, we could fit as many as one hundred twenty two (122) units. It would require larger buildings with  
104 more units because of the wetlands that are on the property. So yeah, we are adding units so that this  
105 property can move forward. It sat idle for ten (10) years because it just doesn't work economically in its  
106 current configuration.  
107

108 ANNETTE STOLLER: And they've eliminated a clubhouse from it?  
109

110 EARL BLATCHFORD: Yes, that's the proposal that's submitted to the Planning Board now.  
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112 JIM SMITH: Any other questions? Seeing none, anyone in favor of this proposal? In favor? Anyone in  
113 opposition, or has questions? If so, will you approach a mic and identify yourself, your name and address?  
114

115 NOREEN VILLALONA: My name is Noreen VILLALONA at 72 Trail Haven Drive. I'm a resident of Whittemore  
116 Estates. I think I'm a little taken back. We were told twenty two (22), possibly twenty four (24) units. I'm glad  
117 something's being done to this property it's been pretty pitiful for a long time. If it weren't for the owners  
118 that are there which are only three (3) of us taking care of the property, it would have been a major issue. I  
119 just felt like we were abandoned and I couldn't be happier that they are taking over. My question is we were  
120 told, I'm not sure who told us, but the sixty (60) foot was a fire department issue, and when we were looking  
121 at it, I thought thirty (30) feet from sixty (60) feet, I don't know, if it's really a fire issue maybe forty (40),  
122 maybe forty five (45), but to go half and elderly just mean older people, we don't have disabled people right  
123 now, but there is that possibility and that's something that needs to be addressed. Can those people freely  
124 get in and out? Will access be available between the properties, and as far as the parking goes, we each have  
125 our own driveways, and we have a garage so it had nothing to do with the parking. That's my opinion, but like  
126 I said, this is a positive move. I really did like the new plans that they give, and if I remember correctly  
127 counting, it was twenty two (22) units, and now you're saying twenty eight (28) units, or it that incorporating  
128 the six (6) that already exist?  
129

130 EARL BLATCHFORD: That includes the six (6).  
131

132 NOREEN VILLALONA: Oh, then that's understandable.  
133

134 EARL BLATCHFORD: Yeah, the entire project including your building.  
135  
136 NOREEN VILLALONA: Right.  
137  
138 EARL BLATCHFORD: So for a total of [Inaudible]. So twenty two (22) new units plus your existing six (6).  
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140 NOREEN VILLALONA: Right, and the reason why it stood still it was because there was so many liens on  
141 everything, and that wasn't our fault, it was, it was bankruptcy. It was people that came in and didn't want to  
142 do anything.  
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144 JIM SMITH: Okay.  
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146 NOREEN VILLALONA: Again, that's my opinion.  
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148 JIM SMITH: We really don't want to get into a cross conversation. Direct your comments to the Board.  
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150 NOREEN VILLALONA: Oh, I'm sorry.  
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152 JIM SMITH: We'll give the applicant the opportunity to answer your questions at a later time. Okay, anything  
153 else?  
154  
155 NOREEN VILLALONA: No, that's it. That's pretty much it. Londonderry is well aware of the situations that  
156 went on in our buildings. My feeling is that things weren't paid attention to because everyone expected  
157 everyone to do what they were supposed to be doing. We had illegal gas pipes. We have sewage systems  
158 that are not supposed to be the way they are. From what we were recently told, that we were grandfathered  
159 in for that; however, in the future it won't happen in the other multi-buildings. I'm hoping that stays true.  
160  
161 JIM SMITH: Okay.  
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163 NOREEN VILLALONA: Other than that I honestly have nothing to say.  
164  
165 JIM SMITH: Okay, okay. Anyone else would like to make a comment?  
166  
167 TIM SIEKMANN: Tim Siekmann, 89 Hovey Road. My question since I'm kind of new to hearing about this  
168 development and stuff. What's the traffic pattern on this? How many cars are we looking at? What's their  
169 ingress and egress routes that projected is going to be on the surrounding neighborhoods as far as...? I mean  
170 it's Stonehenge Road up to Exit 5, and it's pretty much Hovey Road, which I live on going to Exit 4. So, I'm kind  
171 of curious as to where all this traffic is going to go if it doesn't hit on Mammoth Road? Thanks.  
172  
173 JIM SMITH: Those are really issues the Planning Board would have to address. Sir, [inaudible]? Anyone else?  
174 In looking at your plan, it's only actually on one location where this thirty (30) foot variance would be  
175 required?  
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177 EARL BLATCHFORD: That's correct, yes.

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JIM SMITH: That's only in the back corner of two buildings?

EARL BLATCHFORD: Exactly, the closest points. The buildings are slightly skewed to each other, and it's just the back corners.

JIM SMITH: Maybe, I could ask Richard this? The thirty (30) foot limit, isn't that based upon at what point you'd have to start building rated walls, and so forth?

RICHARD CANUEL: By the Building code for multi-family dwellings on a single lot, the dwellings can be as close as ten (10) feet before there's a requirement for a fire-rated separation wall to protect those two buildings. So, it's more for a fire department vehicle perimeter access more than fire separation.

NEIL DUNN: To the point, if it were a multi-family, not elderly, then thirty (30) would be fine?

RICHARD CANUEL: That's correct.

JIM SMITH: Okay, any other comments? Okay, I'll bring it back to you.

EARL BLATCHFORD: As far as the fire department goes, this has been review at the DRC, and they've made their comments, and the fire department has signed off on the plan that's before you. They're aware of the thirty (30) foot separation. They've looked at all of the aspects that they normally would. The widths, the layout of the roads, the widths of the roads, hydrant locations, building separation, and what have you, and they've have signed off this.

JIM SMITH: Okay, any other comments from the Board...questions? In that case, we'll close the public hearing on this issue.

DELIBERATIONS:

JIM SMITH: So what we're looking at is a variance to go from sixty (60) feet between buildings to thirty (30) feet.

NEIL DUNN: Between one building? Two buildings?

JIM SMITH: Yeah.

JACKIE BENARD: Between the two.

JIM SMITH: Yeah, just on that one.

JACKIE BENARD: In the back.

JIM SMITH: Yeah, with a very minimal impact.

222  
223 ANNETTE STOLLER: It'd be a total of how many units affected there is it...?  
224

225 [Overlapping comments]  
226

227 JIM SMITH: Two six-unit buildings.  
228

229 [Overlapping comments]  
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231 JIM SMITH: And by the looks of it...the front...you've got sixty (60) feet in the front part. So if we have no  
232 other comments, questions? I'll entertain a motion.  
233

234 NEIL DUNN: Mr. Chairman, I'd like to make a motion to grant case 11/19/2014-1 as presented as the five  
235 points of law address the thirty (30) foot rule for essentially every other multi-family building and the senior  
236 housing is the only one that requires sixty (60). So based on his responses to the five points of law, I agree  
237 with him and we move to grant it.  
238

239 [Overlapping comments]  
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241 ANNETTE STOLLER: Seconded.  
242

243 JIM SMITH: All those in favor?  
244

245 ALL: Aye.  
246

247 RESULT: THE MOTION TO GRANT CASE NO. 11/19/2014-1 WAS APPROVED, 5-0-0.  
248

249 RESPECTFULLY SUBMITTED,  
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253 NEIL DUNN, ACTING CLERK  
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255 TYPED AND TRANSCRIBED BY NICOLE DOOLAN, PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT  
256 SECRETARY  
257

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