

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

DATE: DECEMBER 17, 2014

CASE NOS.: 11/19/2014-4 (CONTINUED)
11/19/2014-5 (CONTINUED)
11/19/2014-6 (CONTINUED)

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
NEIL DUNN, VOTING MEMBER
JACKIE BENARD, VOTING MEMBER
ANNETTE STOLLER
DAVID PAQUETTE, CLERK

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 Nos. 11/19/2014-4, 5 and 6 were read into the record. While the Clerk was reading the previous case into the record, a member of the public came forward and submitted Exhibit "I" for the record.

DEB PAUL: I don't know why this didn't get to you, but this was sent to Kirby and someone else from Speltz. It was supposed put in and I wanted to make sure that you got a copy.

45 [The Clerk read Exhibit "I" into the record].

46
47 [Overlapping comments]

48
49 JIM SMITH: There were a couple of emails.

50
51 [The Clerk read Exhibit "J" into the record].

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53 [The Clerk read into the record the previous case associated with map 12 lots 120 & 131, i.e. Case No. 3-19-
54 2008-4].

55
56 JIM SMITH: Okay, who will be presenting?

57
58 BILL TUCKER: I'm Bill Tucker from the Wadleigh law firm in Manchester and one of the principals of the
59 owners is with me. I may address that notice issue, we checked with Jaye and she indicated
60 that I believe it was Mr. Nease on 11 Faye. He was on the abutters list to be notified. He
61 indicated that he was sent a certified mail letter; however, the return receipt was never
62 returned. Accordingly, she sent him a second one notifying of this meeting, and there has
63 been notice on that and as her records indicate it was sent the first time also. Do you want
64 me to start from the very beginning, or are we going on the record of last time.

65
66 JIM SMITH: I think we need to at least review what's been presented.

67
68 BILL TUCKER: In that case, we're here with a sixty two (62+) acre lot. It has frontage on Hardy Road and
69 Stonehenge Road; however, our access will be only from Stonehenge Road. The variances
70 we seek are in order to make the workforce housing project intended to develop able to be
71 done in an economically efficient manner. The variances we seek are not use variances.
72 These variances are related to the restrictions in your zoning ordinance which make the
73 project economically feasible for workhouse housing. The three (3) variances are that the
74 zoning ordinance requires a minimum of sixteen (16), a maximum of sixteen (16) units per
75 building. We are asking that the increase to twenty four (24) units. In addition, the
76 Londonderry zoning ordinance only, or requires that there be seventy five (75) percent of the
77 units in the project as workforce housing meeting the rent restrictions that that implies. We
78 are asking that to be reduced to fifty (50), and by way of background, we don't believe that
79 here is another town in the state that has the seventy five (75) percent requirement. We
80 believe there is one other town that has a fifty (50) percent requirement. Most every town
81 has a twenty five (25) to thirty (30) or could be within the thirty three and a third (33 1/3)
82 percent. The third variance is to be allowed to build this project within three (3) years as
83 opposed to complying with the requirement that no more than three (3) buildings of forty
84 eight (48) units be built in a year. All of these requirements basically impact either the cost
85 of building it going from sixteen (16) to twenty four (24) reduces significantly the cost of
86 building the project and the phasing also in order to do it in three (3) years reduces the cost
87 of the project by about three (3) million dollars. The seventy five (75) percent being lowered
88 to fifty (50) will increase the income to the project and therefore create the required debt

89 service covered ratios and income necessary to support the mortgages because it would put
90 on the project. Overall, these impose a hardship on the project to the extent that the project
91 does not meet the state requirement that it be reasonable and realistic opportunity for
92 development of workforce housing in the Town of Londonderry. We believe in the memo
93 that I submitted and that we went through in great detail last time that we meet all of the
94 criteria review items and that without these variance this project – the workforce housing
95 will not be able to completed and that they in effect taken as a total the three (3) of them
96 grouped together make the project incapably constructed and would put Londonderry in the
97 position of not providing reasonable and realistic opportunities for the development of
98 workforce housing which the state statute 674.59.60, etc., require, and the key here the
99 comments we heard last time from the public and also were mirrored in the letter and what
100 you received tonight relate to the use of this property not the variances that we are
101 requesting. Statements such as “this is not the right spot”, or what "we just heard", does not
102 fit here. The concerns about traffic and that workforce housing should be spread around
103 town are not relevant to our discussion tonight because those all relate to the use of this
104 property and under the zoning ordinance workforce housing through the Planning Board’s
105 conditional use permit is a permitted use. This project can be built here. The problem is that
106 the building – 16 unit buildings the phase of over (six) years and require that there be
107 seventy five (75) percent workforce lowered income housing just makes the project not
108 capable of being build, and that is what fly’s in the face of the state statute requirement
109 there be realistic opportunities to build workforce housing. The issues that have been
110 brought up such as traffic and not the right spot are issues for the Planning Board they are
111 not relevant to the variances that we have before you and we are requesting tonight. In
112 addition, I want to put out a couple of other things; one last time it was stated that the letter
113 we had submitted regarding effect on surrounding properties and no diminution of value
114 that was submitted from a local relator, Ralph Valentine. I recall in a statement that he was
115 a commercial voter and not qualified on residential properties. We take issue with that. We
116 believe he is qualified, but in order to back that up, we submitted a letter [Exhibit “K”:] from
117 Verani Realty which reinforces and is probably even stronger in its opinion than the one
118 submitted by Mr. Valentine. In addition, one thing that came up last time was a question on
119 the rental rates that were used in Mr. Thibeault report that was submitted there was a
120 question regarding using the \$1,440 dollar rent [Exhibit “L”] seeing the entire focus of our
121 rationale requesting these variances was economic we feel it’s important that be very clear
122 that the numbers he submitted which support our request for variances be clear and that
123 there be no misunderstanding there. Mr. Thibeault is here tonight and I’d like to ask him to
124 speak briefly with respect to the calculations he went back and reworked his numbers to
125 make sure they were correct, and I would request that Russ, Russ would you please..

126
127 RUSS THIBEAULT: Thank you very much Mr. Chair and members of the Board. I think it was Mr. Dunn that
128 raised the question last time about the rent levels and working for you, and in fact after the
129 meeting, I called the Housing Finance Authority and the rent levels are for three (3) persons
130 in a two (2) bedroom unit. We have some one (1) bedroom units here, etc. An abundance
131 of caution, I have rerun the numbers with \$1,440 just across the board so we are kind of
132 bracketing and I’ll summarize using the exact same analysis, the same math, but raising only

133 the rents to the \$1,440 for all of the workforce units. The complying with zoning yields a
134 minus .5 percent return not viable with the variances, and that's a little bit less negative than
135 before but still negative. With the variances, it's now 5.5 percent return which remains razor
136 thin. The materials that I submitted show an average rate of return for garden apartment
137 complexes of 10 percent, so it's very very close it has a debt service coverage ratio of 1.25
138 the point without numbers are hard to digest and some of this stuff can get it's there's an art
139 to it I guess you would say, but the bottom line is using the \$1,440 rents the project is not
140 viable with the provisions of the ordinance. With three (3) variances it remains a razor thin
141 project a little less razor thin I guess you could say but generating only a 5.5 percent return.
142 What I can do I don't know whether the Chairman would like, which would you like me to do
143 with this, it's the same analysis, but I just changed that one number the \$1,440.

144
145 JIM SMITH: Why don't you submit it for the record?

146
147 RUSS THIBEAULT: Okay.

148
149 JIM SMITH: When you said 1.25 what is that really.

150
151 RUSS THIBEAULT:What that means is that the net income after you pay operating expenses is 25, there is a
152 cushion of 25 percent on the debt service and that is what a principal [Indistinct] 25 is like
153 bare minimum. We like to see more like 1.50. In other words the net income is 50 percent
154 higher, so what its saying is to pay a \$1,000 dollars a month in debt service, the bank would
155 like to see your project generate \$1,250 dollars a month 25 percent more. Is that clear?

156
157 JIM SMITH: I was just trying to get some clarity.

158
159 RUSS THIBEAULT:Yeah, the 1.25 is barely adequate. I'm speaking as someone who serves on the investment
160 committee on a bank here in New Hampshire. 1.25 is barely adequate, you like to see 1.5,
161 and it gives a cushion in case goes wrong. You know the project can still be debt serviced, so
162 its...the other big number or important number is that after you pay all of this stuff what's
163 left over to pay the investors who have put money in and that's the minus .5 with your
164 provisions and 5.5 without the provisions using the \$1,440 dollars a month in rent for the
165 units. I think the math basically is that 75 percent of workforce housing is not enough
166 market rate units to in effect help carry the subsidized units at a 75 percent ratio. That was
167 true in the Analysis that I presented last week that you all have copies of and it's true again
168 at \$1,440.

169
170 JIM SMITH: Okay.

171
172 RUSS THIBEAULT:Thank you.

173
174 JIM SMITH: Do you want to give that?

175
176 [Overlapping comments]

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RUSS THIBEAULT: Thank you very much.

JIM SMITH: Anything else?

BILL TUCKER: The only other thing is additional; I want to point out that the MARK FOUGERE our expert with respect to workforce housing and [Indistinct] has submitted a letter today outlining the status of workforce housing the town. We know that the report back in 2010 said that by the end of 2015 there should be at least 374 units in town. As of today, not one has been built you know there are a couple of projects that have been approved even with those there certain won't be 1,374 by the end of the 2015 and of course that number with actually be updated with another report later on so clearly there is a need for these units in town and a need for them in order for the town to comply with the state statute to provide again the reason with more realistic opportunities for workforce housing in the town.

NEIL DUNN: What's the current account.

BILL TUCKER: The current count is zero.

NEIL DUNN: Workforce housing.

BILL TUCKER: Yes.

NEIL DUNN: Really.

[Laughter]

BILL TUCKER: Since 2010.

NEIL DUNN: No no your rentals are you talking strictly rentals what are you talking please.

BILL TUCKER: No, I'm talking since the 2010 report said that you need an additional 374 units as it goes.

NEIL DUNN: Just overall workforce housing, not necessarily rental or housing or to own or whatever?

BILL TUCKER: Yeah.

ANNETTE STOLLER: And that's what you need.

BILL TUCKER: No because there were some here these were what additional units needed to be built by the end of 2015. Workforce housing 374 units.

JIM SMITH: Okay, who is the author of this report that you're talking about.

221 BILL TUCKER: I'm going to ask Mark if you.
222
223 MARK FOUGERE: Who is here applying for the applicant. The report was written by Southern New Hampshire
224 Regional Planning Commission. It was updated in 2009 because of the statute change the
225 workforce housing statute change, so they wrote that the whole region not just Londonderry
226 working with Bruce Mayberry came up with a projected need of 374 unit in the community
227 to be in place by the end of 2015. Obviously, there's existing units in town already more
228 than 374. This was their additional units needed based on population growth, business
229 development, etc.
230
231 DAVE PAQUETTE: In the region or just in Londonderry.
232
233 MARK FOUGERE: Well, they did the entire region. The report wasn't just for Londonderry, but for
234 Londonderry it was 374. Obviously, there has been some projects approved the one that's
235 under construction is won't be occupied until later on this year.
236
237 JIM SMITH: Could we have your name and address for the record.
238
239 MARK FOUGERE: It's Fougere Planning of Milford, NH.
240
241 JIM SMITH: Anything else.
242
243 NEIL DUNN: And do we have a copy of that report, or package?
244
245 BILL TUCKER: It was submitted to the Planning Department today, but I have a number of copies if you
246 would like to pass them around exhibit "[Inaudible]"?
247
248 JIM SMITH: Look at your exhibits.
249
250 NEIL DUNN: Right, but there was some, I think that's why they were brought up to date because what
251 was exhibited was dated, and their original submittal was the 2010 data. I'm trying to find it
252 now. There's just some much documentation. I just think that's one of my thoughts that
253 were using the fairly old data, but maybe.
254
255 BILL TUCKER: Right the 2010 report you can say is dated, but what it did was look through that point in
256 time through the end of 2015, and concluded that a lot of Londonderry does satisfy its share
257 of the regional needs. Londonderry only has 374 additional units, and the only project
258 currently under construction is the Neighborworks project, and that will start to be occupied
259 per unit I believe in August of 2015 but between 2010 when the report was done and today
260 not one of those 374 units has been built and occupied. Am I correct that the concept at
261 that time was that in 2015 Southern New Hampshire will do another?
262
263 MARK FOUGERE: I'm not going to speak for the commission, but obviously the time period of the study was
264 2/20/15. So that's all they looked at. I would assume they would do another one but the

265 report is for a specific time period. I mean you never want to predict too far out, but they
266 typically do that.

267
268 DAVID PAQUETTE: Sorry, I missed your name.

269
270 BILL TUCKER: Bill Tucker.

271
272 DAVID PAQUETTE: Thank you Bill. I missed your hardship statement. I didn't quite understand your.
273

274 BILL TUCKER: We have a piece of land that is suitable for this development but the town has a
275 responsibility to provide reasonable and realistic opportunities to workforce housing.
276 Economic hardship in making a project incapable of being built is in effect a recognized
277 hardship. The three (3) provisions of your zoning ordinance that we are asking relief from
278 create that economic hardship such that workforce housing cannot be built on this project
279 because you have more rents. If this was going to be a full regular rental project the income
280 would be different. It could support a different type of project but the states and the towns
281 goal and the town has also set forth the same goal to provide workforce housing as part the
282 inclusionary housing portions of the ordinance so that goal is incapable of being met when
283 these three (3) restrictions apply so for workforce housing projects the phasing requirement
284 – the idea that you can only have 16 units in the building and the seventy five (75) percent.
285 Each one has an effect on this project such that all three (3) together even if we were to take
286 out one of them each of the three (3) make the project incapable to being built. Make the
287 project unviable and therefore that creates a hardship here. In addition, if you look at the
288 purpose of these three (3) provisions of the ordinance – first to require sixteen (16) units in a
289 building really has nothing to do with that building. Zoning ordinances typically control the
290 size of the building by regulating the foot print, and the height not units in the building. You
291 could have the same size building and have three (3) units in it or have thirty (30) units
292 depending on the size of them. So to restrict the number of units in the building is not a
293 reasonable and realistic restriction that produces anything in a zoning ordinance.
294

295 DAVID PAQUETTE: It's still a town ordinance though.

296
297 BILL TUCKER: It is.

298
299 DAVID PAQUETTE: Why we are here.

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301 BILL TUCKER: That's right, that's why we are here, but in addition by making this twenty four (24)
302 units a building we reduce the debt/the footprint of the overall development portion of
303 the site and we create five (5) more acres of open space and open land. With respect
304 of the seventy five (75) percent requirement the purpose of the zoning ordinance in
305 allowing workforce housing is to create the ability to have workforce housing the
306 seventy five (75) requirement does just the opposite. It is so high a standard and so
307 high a requirement that you cannot build a project have seventy five (75) percent of
308 the rent meet the lower level of New Hampshire Housing Finance Authority sets and

309 get enough income from the project to support it. A lower level, and we've done the
310 math, fifty (50) percent is the cut off if we could have made that number sixty (60) and
311 made it work that's what we would have been asking for, but as Mr. Thibeault said we
312 were going at a very razor thin level and fifty (50) percent is what we need to make the
313 project work. Again phasing over three (3) years puts a constraint on this project. You
314 can't go over and get financing that will allow construction of a project that will extend
315 over the six (6) years. It's just not available about that. So much can happen over
316 period of time, interest rates can change and there are just so many factors that if we
317 are required to build this over three (3) years it'll be extremely difficult. I never like to
318 use the word impossible, but if not impossible to get financing for this project and by
319 spreading the costs out by having contractors in there for over a six (6) year period as
320 opposed to a three (3) the construction costs are increased by three (3) million
321 dollars. That means you have to borrow three (3) million from one and that means you
322 got to pay back three (3) million dollars more, and the incomes just support that on
323 workforce housing projects, so these three (3) provisions in your zoning ordinances
324 again have nothing to do with use but only have to do with how you build the project
325 and how rent it out. Make a workforce housing project at the site economically
326 unviable.

327
328 DAVID PAQUETTE: Thank you sir.

329
330 JIM SMITH: Okay, anything further.

331
332 BILL TUCKER: I think that's it. I'd like to reserve the right for any rebuttal.

333
334 JIM SMITH: You will be given the opportunity. Questions from the Board?

335
336 DAVE PAQUETTE: Excuse me sorry, do we have a definition of hardship?

337
338 JIM SMITH: Well hardship does include financial problems at one time it didn't but currently it
339 does.

340
341 DAVE PAQUETTE: That answered my question thank you.

342
343 ANNETTE STOLLER: Mr. Chair that includes financial problems, it doesn't mandate a certain level of
344 productivity a certain level of...

345
346 JIM SMITH: Well, I think what will, okay, I don't want to get in to that's something we should get in
347 to in a deliberative session.

348
349 ANNETTE STOLLER: Okay.

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351 JIM SMITH: Because I do have an answer for that, but it's up to the applicant at this point.
352

353 ANNETTE STOLLER: My question to the applicant is knowing you were skating on a razor thin profitability
354 here why did you go ahead? Did you realize that going ahead in this situation would
355 only cost you more?
356

357 RAJA KHANNA: You're looking at me, would you like me to answer?
358

359 ANNETTE STOLLER: Well yes.
360

361 RAJA KHANNA: Can you repeat the question, I'm sorry, I didn't quite understand it.
362

363 ANNETTE STOLLER: Well I wonder why you went forward knowing that you profitability was going to be
364 razor thin if existing at all.
365

366 RAJA KHANNA: Sure, well for a number of reasons first we are looking for the Town of Londonderry –
367 we've operated a business here for twenty five years. We love the town. We think it's
368 a great town and we have a lot of action based upon the law this day you know any
369 person would want to live in. So for that reason for lack of a better word, we believe in
370 the town and we think it's a good place to raise a family and build housing. We also
371 believe that the variances that we've requested are reasonable in merit. Nature of
372 intent. We Mr. Tucker's point, believe that if they are rented they will achieve the goal
373 of the town ordinances and the state statute which is to provide housing for workforce
374 housing. We believe that the area and the region especially Londonderry is in need of
375 this type of housing given the growth and commercial/industrial projects through the
376 town and most importantly elsewhere and so people that are going to be working at
377 those jobs and people who are going to be working in this striving area are going to
378 need quality housing of the workforce nature, so we think that there is an opportunity
379 there to provide a quality housing at a cost effective level, so you know there's
380 obviously room for growth and there's obviously room for that to change over time but
381 we think right now that this risk associated with the project is worth it because we
382 believe strongly in the town. We think that the demand is there and everyone to fill
383 that demand.
384

385 ANNETTE STOLLER: How'd did you considered that Londonderry is perceived as the town that is going to
386 have the most growth with or without workforce housing, and that is I don't have as
387 good as quotes as you have but according to the universities that have explored this,
388 etc. So if we are going to increase the other type of housing my question is why, my
389 thought is why couldn't you mix the uses within your project and not have a building of
390 twenty four (24) of workforces housing, but for example: I'm not saying you should do
391 this have a building with twelve (12) units of workforces housing and twelve (12) units
392 of other housing. There was a project like this that was built in Exeter for example.
393

394 RAJA KHANNA: That's exactly our intent, we are planning on discriminating in any way between the
395 units that are going to be rented to workforce housing individual or not workforce

396 housing. From our perspective when we construct the unit that we intend construct
397 them identically and so.
398

399 ANNETTE STOLLER: Except I haven't heard of that.
400

401 RAJA KHANNA: Okay, I'm sorry, I can explain basically there's going to be twelve (12) buildings with
402 twenty four (24) units each that are going to be identical. It's up to us to report to the
403 town or to report to you that we have fulfilled the requirement of fifty (50) percent
404 workforce housing, so what we aren't going to say you know as an example unit one is
405 workforce housing unit two is non, unit three is, and so forth.
406

407 ANNETTE STOLLER: Understandable.
408

409 RAJA KHANNA: It's going to be I don't know on demand basis, but it's up to us to have a market of fifty
410 (50) percent and we will make sure that ratio is met at all times and that's our goal, but
411 from the quality of construction perspective from the look and feel perspective all
412 units will be identical. Frankly, it would be too much of a management nightmare for
413 us to even try to segregate them the two types.
414

415 ANNETTE STOLLER: And you shouldn't.
416

417 RAJA KHANNA: And we shouldn't, exactly. We understand that the rents are what they are at the
418 workforce housing level and we were knowing that eyes wide open going in and a
419 project that we are going to be proud of and that frankly the Town of Londonderry will
420 be proud of.
421

422 JIM SMITH: Any other questions?
423

424 NEIL DUNN: I'm looking at the latest version of that, there's a time limit on how long this remains
425 workforce housing, or no?
426

427 BILL TUCKER: I believe it's a minimum of forty (40) years. We have to put a restriction on the
428 property. It's forty is it not Mark?
429

430 MARK FOUGERE: I'm pretty sure it's forty (40) yeah.
431

432 NEIL DUNN: Because I'm looking at the 2014 and I thought in here it used to talk about that, but I'm
433 not seeing that anywhere, and so when we talked about the foreseeable future and
434 providing adequate workforce housing. I personally been in Londonderry thirty four
435 (34) years so someone moving in today could be going back through this we won't
436 have land, but will need more workforce housing if this expires, so I'm trying to get a
437 better handle on that.
438

439 BILL TUCKER: We will commit to you tonight that it will be forty (40) years. For forty (40) years, I am
440 virtually positive is required by the New Hampshire Housing Finance Authority in order
441 to qualify for workforce housing and in other projects I've dealt with.
442

443 NEIL DUNN: Are you using New Hampshire Housing work Finance Authority for money?
444

445 BILL TUCKER: No, no, no, but this...
446

447 NEIL DUNN: But then you won't be up...
448

449 BILL TUCKER: Each year, they set what the rents can be. They do the math and they look at the
450 median income and in the area and they are the ones that set the rent you can charge
451 in order for it to be workforce housing. They set it differently in each metropolitan
452 area. It's not the same in Berlin as it is in Londonderry or in Keene or Portsmouth, it
453 differs throughout the state.
454

455 NEIL DUNN: Absolutely, that's why everyone is here in Londonderry, absolutely, we have the
456 highest rent.
457

458 BILL TUCKER: That number is set by the Housing Finance Authority what you can charge for rent.
459

460 NEIL DUNN: I was more looking at where the mandate for the longevity of the project of the
461 workforce housing stands because we also supposed to be get...
462

463 RICHARD CANUEL: Neil if I could just add the applicant is required to provide what is called assurance of
464 continued affordability and that's required both in our ordinance they are required at
465 part of their site plan and approval to provide some written agreement to the Planning
466 Board and they also include that as part of a deed restriction on the property for a
467 period of forty (40) years.
468

469 NEIL DUNN: So that's mandated to forty (40). It's either in our actual ordinance.
470 MARK FOUGERE: Just for the record. Every town has the statute that requires that timeframe that
471 obviously is recommended when the ordinances statutes passed so every community is
472 different. Some have ninety nine (99), some have thirty (30), twenty (20) years, but it's
473 up to each community to decide what that limit should be. It's not in the statute.
474 Londonderry if forty (40). If you're going to build this type of housing you have no
475 choice to comply with that provision.
476

477 BILL TUCKER: In a typical situation, in other towns with these projects take conventional restrictions
478 is reported at the registry such that somebody can't come in thirty (30) years for now
479 and say they didn't know about it.
480

481 NEIL DUNN: I guess what I'm looking at and what do we do forty (40) years from now when there is
482 still an issue and when years lapse and there's nothing left to build and therefore were

483 putting up skyscrapers and I don't think, I mean to me in order to make it feasible for
484 somebody to take an acre lot and put in enough workforce housing. We are putting in
485 high skyscrapers. I'm just trying to think the whole thing through. If I may, you
486 mentioned Trail Haven which has seventy eight (78) units. Those ones don't, they
487 didn't come in here and look for...I'm trying to understand the financials here. They
488 didn't come in here looking for a less percentage of workforce housing, as a matter of I
489 think they are all workforce housing over there, and they are making it work financially,
490 so I know that you sent a report in with the financial numbers but it's very hard to get a
491 handle on how much of that the Town is supposed to make this project economically
492 feasible without having a little more detail in the financial plan. Again, I brought this
493 up before, I don't have granite counters in my house, and I know if you go around Town
494 and you buy a big house with granite counters and all the best things the price goes up
495 considerably, and I'm a little concerned that you financial numbers because you're
496 trying not to make them less than the market unit, I guess how you are describing it
497 that we are king of subsidizing or the financial picture doesn't play out as well. Where
498 it could work if you weren't going maybe upper scale because we don't have that
499 resolution on your report if you follow that thought.

500
501 RAJA KHANNA: True, ahh.

502
503 NEIL DUNN: We have numbers, but we don't know what that includes.

504
505 RAJA KHANNA: Finishes is that what you are saying?

506
507 NEIL DUNN: I mean you could have triple pane windows. I don't know, we don't have any of that
508 resolution to know. Is this spending a lot of money for very nice project which to me
509 we shouldn't be subsidizing as affordable housing.

510
511 RAJA KHANNA.: Well first I'll speak to the seventy (70) unit project.

512
513 NEIL DUNN: And why that might not be.

514
515 BILL TUCKER: I can speak to that. Let me speak to I believe the Neighborworks project.

516
517 NEIL DUNN: Yes, correct.

518
519 BILL TUCKER: The Neighborworks project was subsidized from a grant from the Federal Home Loan
520 Bank of Boston and also go subsidized financing from the New Hampshire Financing
521 Authority and it was also a tax credit deal, a Federal tax credit deal where tax credits
522 were sold that brings in income. I believe at the end of the day the mortgage for the
523 project is going to be somewhere under one million (1,000,000) because the sell the
524 tax credits which go into the project Neighborworks is a not for profit and that's all
525 they do they subsidize tax credit projects, so that was not a project and I believe that
526 all of those units are workforce.

527
528 NEIL DUNN: They are, correct.
529
530 BILL TUCKER: And the only way you can do that is with a tax credit transaction.
531
532 JIM SMITH: So basically you are saying it a non-profit enterprise.
533
534 BILL TUCKER/
535 RAJA KHANNA: I think that's special unique financing that frankly is not available.
536
537 JIM SMITH: So you it's not like you are comparing apples and oranges when you are comparing
538 these two projects.
539
540 RAJA KHANNA: You are comparing apples to oranges.
541
542 BILL TUCKER: Yeah, it is apples to oranges with the financing structure to the Neighborworks type
543 deal.
544
545 NEIL DUNN: But there's money and credits but you folks aren't choosing that take that route.
546
547 RAJA KHANNA: No, so there's two types of credits available there's one (1) percent credits and nine (9)
548 percent credits and it's A) there's not enough of the nine (9) percent credits to even if
549 we got them all awarded them even if we were awarded them all it's still wouldn't put
550 a big enough dent into our cost to make it financially viable, where with that project it
551 was smaller and it didn't have that effect. So even if we were to go after the four (4)
552 percent credits, it would help, but again, it wouldn't get us over that hurdle that I think
553 Neighborworks was able to get over. We have looked in to that by the way, and we
554 have me with the New Hampshire Housing Finance Authority for just that reason to see
555 if there is other ways to make this work, but so far we have not been able to come up
556 with a program a financing program to make it work that way.
557
558 BILL TUCKER: And I believe the grants that they got such as from the Federal Home Loan bank of
559 Boston are only available for not for profits.
560
561 RAJA KHANNA: Regarding your question about the subsidizing the workforce housing with regular
562 housing and how constructing that I think you're actually right and that's the only way it
563 would work is that if we build a quality product that going to attract the customer at
564 certain rental levels to help offset the less than market workforce housing units. That's
565 the only way this project works. If you were to go in and target a rent with lower than
566 that you know if call it you know with call it non granite or lesser grade it would be even
567 less of a financial viable project. We're hoping that by targeting you know a quality
568 product where both sides of the workforce housing as well as the market that we
569 believe exists which is a need to quality rental market.
570

571 NEIL DUNN: If I may, another question. If we did have sufficient workforce housing because we have
572 quite a few units in the pipeline and although they aren't built, we can't just keep giving
573 out permits and not worry about growth management and everything else because
574 latterly everybody could come in start building at the same day and all of them got the
575 variance to limit or do away with growth management or whatever, but if we had
576 enough housing stock then from what I'm reading then we wouldn't have to worry
577 about your workforce housing application and the way you are trying to justify it. Is that
578 correct?
579

580 BILL TUCKER: I think that is correct. I think if the Town had its fair share of workforce housing then
581 would have provided what the statute requires reasonable and realistic opportunities
582 for the development of workforce housing. For instance, the City of Manchester has
583 tons of them. They are under no pressure to create more. The surrounding towns, the
584 bedroom towns such as Bedford, Londonderry, Amherst haven't met their fair share
585 over the years and that's why the state statute was enacted about five (5) years ago
586 requiring that towns provide this opportunities and the statues basically says if you're
587 going to have zoning in our town your ordinance has to provide the reasonable and
588 realistic opportunity of workforce housing.
589

590 NEIL DUNN: So in one of your submittals, I think it was in case-4, you used the workforce housing
591 task force and they reference some documents that you have in here but you're were
592 2010 and it talks about the rental affordability and again we are looking at a region we
593 don't have to cover the whole town it's all part of our region or MSA or whatever they
594 are calling it . I could try to find it here in a minute, but I went out, and last night there's
595 a 2014 NHHFA residential rental cost survey and Rockingham County is a percent of two
596 (2) bedroom units and rental cost survey affordable to medium income renters were
597 over twenty five (25) percent in Rockingham County, so I'm still trying to figure out with
598 what we have in the pipeline how do we determine that we do or do not have enough
599 workforce housing.
600

601 BILL TUCKER: I think you have to rely upon the study done five (5) years ago that says you needed as a
602 goal the 374 by the end of 2015.
603

604 NEIL DUNN: And then we look at the data put out by the Planning Commissions and the same thing
605 you referenced in the workforce housing task force only updated and that Rockingham
606 is like the second highest one with affordable rental housing in the whole state, so I
607 understand what you are saying but I'm trying to get a better handle on whether we
608 need it considering we have somewhere around, I know we have 298 workforce housing
609 units in process there was one that we don't have the minutes on that there was at
610 least fifty (50) percent of 196 that are them, so I think we do have them in the supply
611 chain. Will they be built, I don't know, but we can't just keep in my eyes authorizing or
612 allowing it without trying to get a handle on where we are at now, and then as a follow
613 up to that, there was also a new thing with the Planning Commission talking about
614 looking at existing stock and if we go to the MLS listing in Londonderry there is 131

615 housing units state-wide in the MLS listing, eighty seven (87) of those units fall below
616 the 139, excuse me 349 which is the priced that is considered affordable housing in this
617 MSA which is about sixty six (66) percent of our housing stock. I think people tend to
618 think that Londonderry is all four hundred thousand dollar (\$400,000) houses. There's
619 a lot of housing that fall into the workforce housing - housing stock. I'm trying to get a
620 handle on that, so I'm trying to understand, how we are not in compliance there maybe.

621
622 BILL TUCKER: I'll take a short stab at it, but maybe I'll let Mark do it first.

623
624 MARK FOUGERE: Well, first of all, the ordinances in place there is no change being proposed by the
625 Planning Commission or the Planning Board and there's been no determination by the
626 community that you've met your obligation under the state statute.

627
628 [Overlapping]

629
630 MARK FOUGERE: So right now you're not in compliance with state statute there is a document that the
631 Regional Compliance Commission put out in 2010 that stated by the end of 2015 the
632 community needed three hundred seventy four 374 units of workforce housing
633 constructed added to what was already here. To date, no units have been built, none,
634 zero (0). They will not be occupiable until August of this year at the earliest. These
635 other projects that were approved – Wallace Farms hasn't started construction yet, and
636 will not be starting until 2015, and I believe the Board granted a variance to another
637 project recently in October that project still has to go through the Planning Board and go
638 through that process before that can start construction, so again that study which is
639 really the only thing that outs there right now and is getting older indicated at that time
640 the need for three hundred seventy four 374 units. The community is growing, you
641 approved over a million (1,000,000) square feet of industrial space at the airport alone,
642 jobs are coming to the community. The workforce housing task force from this
643 community strongly recommended the adoption of this regulation which the Town did,
644 so that's what's out there right now in the stratosphere so to speak.

645
646 NEIL DUNN: So you didn't really answer the thing on housing. You're saying that the 2010 study said
647 we needed three hundred seventy four (374), but when we look at today's numbers the
648 market has changed over four years, prices have gone down; however, still sixty six (66)
649 percent of our housing stock on the market today for sale qualifies for affordable
650 housing and that's eight seven (87) units there. We have at least two ninety eight (298)
651 rental units in the loop.

652
653 RAJA KHANNA: We are selling these, they are for rent.

654
655 NEIL DUNN: I know, but it get back to that statement where if a community is in compliance or has
656 their fair share then this whole workforce housing thing doesn't really become an issue.
657

658 JIM SMITH: I want to ask a question at this point. Are you saying that the Town has to make a
659 determination that we are in compliance? The Town has to make that?
660

661 MARK FOUGERE: Absolutely.
662

663 JIM SMITH: And you're saying that the Town has not made that determination.
664

665 MARK FOUGERE: Well made a determination that they are not because they passed an ordinance, so they
666 haven't withdrawn the ordinance, and they haven't made a statement that we are not
667 going to allow any more to be built and they haven't conducted an updated study to say
668 that we have enough. I mean you need to provide more than just single family homes.
669

670 NEIL DUNN: It doesn't say that in the workforce housing statute.
671

672 MARK FOUGERE: Well you have to provide both opportunities for single unoccupied and rental.
673

674 NEIL DUNN: I don't think, again, I haven't read it, I have a day job, as I'm reading is that yeah you
675 have to have some many workforce housing units. It doesn't say rental or ownership.
676 That's what I'm reading.
677

678 MARK FOUGERE: And there's nothing in the statute that says you know unlike Massachusetts is a specific
679 number.
680

681 NEIL DUNN: Very, very specific, yeah.
682

683 MARK FOUGERE: An you know, it makes it a little easier because you know when you are there, okay you
684 know when you've crossed that line and every community tracks the units very
685 specifically because when you get below a certain number that's when you get these
686 projects. You know, we don't have that here, there's no magic number, and all we have
687 to go by is you know the report that was done by the Regional Committee, the Planning
688 Commission a few years ago, and the fact what you have on the books right now, so...
689

690 BILL TUCKER: If I may, the state statute does require that you have rental units available units as part
691 of the workforce housing you can't just be housing units – single family or duplex type
692 housing. I'm going to quote you, 67459 Roman numeral I where it says each
693 municipality shall provide quite "reasonable and realistic opportunities the development
694 of workforce housing, including rental multi-family housing", so that is a category that
695 must be looked at as rental multi-family housing.
696

697 NEIL DUNN: Thank you, I was looking for that's specific to rental, thank you.
698

699 RAJA KHANNA: It should also be noted that market sketches of this particular site was identified
700 specifically for this type of development. I forget what the same commission.
701

702 MARK FOUGERE: The work, yeah.
703
704 RAJA KHANNA: Was it the same commission.
705
706 MARK FOUGERE: Yeah.
707
708 RAJA KHANNA: Yeah, the same commission identified this site specifically. So to the earlier question
709 about why we thought the site was good for it and we went ahead with it anyway was
710 supporting factor I should have mentioned was that a third party commission identified
711 this site ideal for what we want to with it.
712
713 ANNETTE STOLLER: Can I just go ahead and ask him one more question?
714
715 JIM SMITH: Yeah, go ahead.
716
717 ANNETTE STOLLER: Okay, going back to some of the points we covered or not trying to make your life
718 difficult or mine. It was not clear to me whether you were planning the development
719 entirely as workforce housing, if you were splitting it, and if so by what ratio, and so on.
720
721 RAJA KHANNA: So when we initially looked at this project, we also looked at it in compliance with the
722 existing ordinances, the existing you know boards that are out there and to Mr.
723 Thibeault's point earlier, we looked at the numbers and try to make sense of it and we
724 said this doesn't make sense, is there another way we can make this work, and that's
725 basically how we reached the conclusion where we are now where we are now in
726 addition to the sixteen (16) / twenty four (24) units in addition to the three year (3)
727 phasing, or six year (6) phasing, we think we can make this work at a fifty (50) percent
728 workforce housing ratio as opposed to a seventy five (75) percent ratio.
729
730 ANNETTE STOLLER: Okay, so without adjusting the percent, the percentage, you'd still be in trouble so to
731 speak.
732
733 RAJA KHANNA: Correct, absolutely, yes.
734
735 BILL TUCKER: That is absolutely correct, and again all of the units are going to be similar.
736
737 ANNETTE STOLLER: I understand that.
738
739 BILL TUCKER: And...
740
741 RAJA KHANNA: One other factor you guys brought up earlier there was a person before us that looked
742 at this site and came up with a site plan that did a variation of this that we again when
743 we were coming to the process of due diligence and looking at this site, we said let's
744 resume, let's talk about this. He went bankrupt. He couldn't get the project off the
745 ground, never got it off the ground and never obviously a raw piece of land for that

746 reason because it wasn't viable. He didn't get this far, or if he did maybe he wasn't
747 going about it the right way. He did look at the alternatives on how to arrange the site
748 and arrange the buildings and do all that stuff so I think to the Mr. Tucker's point earlier
749 would be and that last time someone brought up the point of research alternatives, we
750 certainly did, we considered our own alternative, we considered you know past failures
751 and we reached this with a fair amount of thought and purpose.

752
753 JIM SMITH: Okay, any other questions? Okay, at this point, I'll open it up to anyone who would like
754 to speak in favor.

755
756 AL BALDASARO: Mr. Chairman, I sat on that board that we are reading from on the affordable housing
757 that's why I'm here.

758
759 JIM SMITH: Okay, well, anyone who is in opposition, or has questions, I'll recognize Al first then.

760
761 ALL BALDASARO: Thank you, I have to go back and prepare for a meeting tomorrow anyways.

762
763 JIM SMITH: Want to get on a mic and identify yourself, and you know the drill.

764
765 AL BALDASARO: For the record, Al Baldasaro, 41 Hall Road, Londonderry. I'm also the Londonderry
766 State Representative and also the Chairman of the Elders Affairs Committee. I've also
767 sat on the housing board that you read from. I was one of the members of the
768 affordable workforce housing board. For the record, just so you know, I actually voted
769 against this in 2008, and for the last few years tried to appeal it workforce housing. Let
770 me tell you why. The Legislative intent under the Brittan, in a case that went on with
771 Brittan vs. Chester, the Legislator thought they were doing the best thing and saving the
772 communities. Our Board here that I sat on before on the workforce housing, we looked
773 at apartments, or housing. We looked at possibly for workforce for teachers,
774 policeman, fire, young professionals here in Londonderry at the time, we had the Elliot
775 going in. If you go through our minutes, that report you'll see where we went with that.
776 I respect what they are trying to do, but I question you to read 674, because they are
777 not reading you the whole law because workforce housing is for sale or apartments,
778 either, or. There is also other areas where you draw the rent and its needing you know
779 depending on how much they make to live there. My understanding is this here is going
780 to put a burden to raise it twenty four (24) because I was one of the Elder Affairs, we
781 had issues with the sixteen (16) vs. the twenty four (24) because we needed forty eight
782 (48) apartments we were waiting for HUD 202 to be built on Sanborn okay which is real
783 cheap, real workforce housing not put a little bit of workforce housing and sell a lot of
784 houses in the back and then we use that workforce thing to work off. I'm asking you do
785 not tie up the Town because in another year under growth control, we don't know
786 where we are going to be. I'm glad you've asked some great questions. I sat in the back
787 some with similar questions. I'm hearing you ask, I heard the same thing at every
788 hearing I went to before from the other cities and towns. This was designed for
789 regional, you have Derry, you have Manchester, your have Litchfield and other areas all

790 surrounding us with a high percentage of workforce housing. We have houses here in
791 Londonderry which is in our report that are under like you said, you hit it right on the
792 money under the medium. I'm hoping that we do not set the town up for future to be
793 over-abundance of apartments here in Londonderry, and why do I say that because I've
794 worked in the city in Cambridge, MA where housing was built for Veteran's and in those
795 housing (they were for Veteran's) once they moved out and bought their own homes
796 they became Section 8. In medium housing/workforce housing attracts Section 8
797 certificates into Londonderry. In other areas workforce for those housing not that I
798 knock them, but I look at Stonehenge and I've been over there many times as State
799 Representative for issue for people over there and you look at it as run down, it was a
800 lot of crime in those areas, and I look at it now and they've cleaned them up. Sullivan
801 Brady has done a great job over there. They are cleaned up, I'm hoping it stays that
802 way. I'm asking you please do let lawyers push you around in the laws and also using
803 these words that they are using these words that they use in the Brittan/Chester case
804 are reasonable and realistic offer because that don't get it. We have a lot of workforce
805 housing here. I went together say complete inventory of today, not using a report of
806 2010, not using the census, and not using what I think we did in 2009 or 10. Get
807 something today before any decisions are made. Thank you.
808

809 JIM BULTER: 57 Mammoth Road. I'm here as a tax payer and a citizen of Londonderry. A couple of
810 things concern me. I know that as I was driving up from Boston, I was listening to this, I
811 know that there was a report out from the Southern New Hampshire Planning
812 Commission that had indicated at one point that Londonderry under their fair share of
813 the region of Rockingham County was looking at increasing our workforce households to
814 three hundred seventy four (374). I believe there is a draft which hasn't been presented
815 that this report is Moving Southern New Hampshire Forward and they talk about the fair
816 share of distribution analysis and under this report which is more updated
817 Londonderry's fair share which is very important is one hundred and eight seven (187)
818 units, so there's been a change here. The report hasn't been mentioned tonight, I do
819 have a copy of it. I you want me to...

821 JIM SMITH: Excuse me.

823 JIM BUTLER: Yes.

825 JIM SMITH: Clarification the one hundred eight four (184) that's additional new units, or what.

827 JIM BUTLER: It doesn't say that and that's where my concern is. They have one report at three
828 hundred eight seven (387) units. Now this report which covers 2010 to 2020 that
829 indicates that we only need one hundred eight seven (187) units. As eloquently as the
830 lawyer had stated that if Londonderry has shown that they have provided their fair
831 share then why do we need to continue more. I think right now in the pipeline, I think
832 we have over two hundred (200) now in the pipeline of workforce housing. If that's the
833 case, I think personally we need to take a stand. We need to take and stand and say

834 something, I'm all in favor of helping out and having workforce housing, but I don't want
835 to be abused as a tax payer, I do not want to be abused. We are following the Southern
836 New Hampshire Planning Commission reports, and like I said this report says 2010 to
837 2020, we need one hundred eight seven (187) units, and I believe we have in the
838 pipeline two hundred (200). So when do we stop. When do we stop, and if we have
839 concerns about the housing stock in town, I truly believe that what we need to do is to
840 determine what exactly what we do have. On the reports that they are talking about,
841 the latest report, it's one hundred (187) we are there. In my opinion from what I've
842 looked at have complied. We've done our fair share, so I think that before we make a
843 decision, or before the board makes a decision, I think that we need to look into this and
844 find out okay exactly where Londonderry stands with workforce housing. I have
845 concerns and that's why I'm here tonight. I think we need more information to really in
846 my opinion make the right decision.

847
848 JIM SMITH: Okay.

849
850 JIM BUTLER: Thank you.

851
852 JIM SMITH: I think at this point, I'd like to raise this point and then anybody can make their
853 comments about it. What we are here tonight, we are looking at three (3) variances,
854 one variance is to reduce the percentage of workforce housing from seventy five (75) to
855 fifty (50) percent; the other one is to increase the numbers of units in the building from
856 sixteen (16) to twenty four (24); and the third part deals with how long it takes to build.
857 All of these three (3) variances are dealing with the financing of the project, we are not
858 dealing with whether or not this type of housing is required. If there is a problem with
859 the Town needs to make a decision from what I understand, if the Town goes out, if I
860 say it's between the Planning Board and the Town Council they have to make a study
861 and make some sort of determination of where we stand on whether or not we need
862 this type of housing. This is not the issue that we are trying to decide with these three
863 (3) variances because we have an ordinance which says the Town wants workforce
864 housing. It's on the books. All we are trying to determine is whether the ordinance
865 meets the require of the state rules or law that it's a financially viable set of rules that
866 allows this type of construction to take place, and this is what the argument should be
867 about as I understand it. No if anybody else would like to comment on that.

868
869 NEIL DUNN: I would like to comment on that they are here under premise of the workforce housing
870 and because of the lower rent for workforce housing they are claiming they need all
871 these extra...

872
873 JIM SMITH: Well that's not the determination we need to make.

874
875 NEIL DUNN: It absolutely is.

876
877 JIM SMITH: It's up to the Town to do it.

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NEIL DUNN: If they aren't here under workforce housing then they can build whatever they want and get a bigger rent. It all ties together, otherwise we wouldn't be here and it wouldn't say in the application workforce housing it would just be a regular unit and we could talk that way differently. It's a different thing when you take it out of the workforce housing block. It's the same issue, I agree with you, yes, but it's being presented under the workforce housing and limited income because of the low cost rent.

JIM SMITH: But the problem is we are talking about the finances of the project not whether or not that type of housing is required.

RAJA KHANNA: To the Chairman's point, we would need a variance at seventy five (70) percent and went forward with seventy five (75) percent workforce housing to excuse me, I have a cold so the irony here is we are actually trying to reduce the percentage of workforce housing and the Town seems to be closer with their desire not to have it at all, so we kind of have the same goal if you think about it in that perspective, but to the Chairman's point, I think we are focused on the wrong issue. Whether or not there's going to be workforce housing get accomplished.

BILL TUCKER: I completely agree with your statement. You said it more succinctly than I think I have in all the words I've used, but that's exactly the point.

JIM SMITH: Now having said that.

DEB PAUL: Thank you.

JIM SMITH: Refer to the microphone.

DEB PAUL: Sure. I'm Deb Paul of 118 Hardy Road. A couple of things I heard you talk about was the bank and I just want to know what the zoning board if they complete financial feasibility reports to look at and if not they really should. Also, did you could you get a copy of the bank statement saying this is what's required to give them the loan in confidentiality, and if you didn't I think you need to see that. That talks about the finances and what truly is so there is no – makes it completely transparent see there is no well he said this and that you going by an assumption you have no idea, and the people he has speaking here no offense are paid for by him, I would like to see these paperworks out there. The other thing, I'd like to talk about is on the phasing part of the project. Just recently on our budget meetings we were talking about not having enough fire, not enough police and road problems. With all of the other projects coming in to this area with no impact fees going on right now you are putting our community in great unsafety. The phasing project/process is there so that people can bring in the project slowly so that we can have time to get funds to be able to have the safety that we need and the road infrastructure that we need as a community so I know we did give it away and these guys sitting over there did all of the work for Wallace. They are the same people and

922 they have the same facts and the same numbers it's like deja vu, and it's all about
923 making it work for them, but the fact is at the end of the day, we have to pay for this for
924 the fire, for the police for the road infrastructure and all of it hitting at once it really
925 going to not help us this is for phasing. The other thing is with you talk about the
926 seventy five (75) percent the intent of workforce housing is to have affordable houses
927 for people. What I'm seeing is that you're not really following the intent of it. You are
928 looking at your profitability because fourteen hundred dollars (\$1,400) for an apartment
929 is what the mortgage is on a house on a small house without all of the taxes. At least at
930 the end of the day somebody has something to sell and to make a living off of and
931 actually have some sort of future, so I wanted to address that, and I know that these
932 guys brought up about the development and the building at the airport area and about
933 jobs the fact of the matter is I know they have about five hundred (500) jobs in fact they
934 are jobs that are already there. You're only talking about twenty (20) to thirty (30) new
935 jobs, and if those people don't have homes up here already, they aren't moving up here
936 for those jobs. They'll average maybe fifty (50) to seventy five (75) thousand dollars a
937 year. So my point is they are already living here they are going to apply for those jobs,
938 it's not five hundred (500) brand new jobs that UPS, Fed Ex or Mill Cat are bringing to
939 this area it's a great misnomer. That kind of bothers me because it just isn't a fact.
940 Lastly, I guess I want to state, sorry I get so nervous up here and I don't know why. I
941 want to echo that yes, I believe that we did fulfill the fair share that addresses the
942 seventy five (75) percent again. Hold on one second, the other thing I wanted to point
943 out is that I keep hearing a great need and that Londonderry wants this I don't see one
944 person that says they want this. I don't see one letter coming to say they want it. My
945 job get no phone calls saying they want it it's all against it. I get e-mails no Debbie, no
946 don't them do this, so I really think I know this is supposed to address what they are
947 talking about. They went in there eyes wide open and they went in there eyes wide
948 open to make a ginormous profit, they don't live in this town. They say they're a good
949 business here, but you know what I solicit ads from business all through this town. I've
950 never seen you guys. I've never see you buys at an event, I've never seen you donate to
951 any organization, so I have an issue. And another thing about Ralph Scanlon/Dan/Ralph
952 Valentine rather the real estate agent, just so you know, he only sold condo in a year in
953 a half. I don't know how that makes him an expert. Thank you. Stop bullying people.
954 Sorry, I'm nervous because I'm [Overlapping].
955

956 MARTIN SRUGIS:

957 I live at 17 Wimbledon Drive. I was one of the residences in town that worked on the
958 ordinance on the growth management ordinances over a year and a half on developing
959 this ordinance, and I'd just like to remind the board that when this was passed by the
960 Town Council they said it was defensible. That we can go and say to developers here's
961 what we need, this is what we want in the town, as Deb said we wanted the phasing so
962 we're not overwhelmed with cars, with people. Hardy Road and Stonehenge there is
963 going to be a convergence of a lot of cars. Especially with Wallace Farms coming. The
964 only way to get in to town is going to be going up Perkins Avenue crossing Stonehenge
965 and then going down Hardy. I go through that street every day it's already in failure
now. The intersection with Route 28 has no lights people are going to pledge you know

966 Russian roulette trying to get out there, but that's beside the point. What I'm really
967 interested in is that you support the ordinance that we passed. The developer or
968 lawyers said themselves that they have razor thin margins on this. This is the wrong
969 project in the wrong place, and what the developer is asking you is to save him from his
970 own falling of putting in the wrong project at the wrong place, so I ask you not to
971 continue this but leave it the way the ordinance reads and the development in the town
972 will continue, will have workforce housing and you know it's not going to be the end of
973 the world. He may have to go somewhere else to buy a better piece of property that fits
974 his needs and all that stuff.

975
976 JIM SMITH: Okay, Al before you leave, I have a question for you.

977
978 AL BALDASARO: Yes, Sir.

979
980 JIM SMITH: Was this particular piece of property one of the ones identified by your workforce
981 housing.

982
983 AL BALDARSARO: Without looking at the maps, I believe we have the maps in the report, and in there I
984 identify here is with sewage and pipes and I think there were maps in there that
985 identified about five (5) or six (6) different properties throughout the town that would
986 work for workforce housing, so without looking in the report there I can't remember,
987 It's been a while.

988
989 JIM SMITH: Okay, thank you.

990
991 AL BALDASARO: All I know is that I've been trying to kill this for the past few years.

992
993 MARTIN SRUGIS: Like I said, I just want you guys to defend what the town did with the residences that the
994 town wanted. I just as the developer said himself razor thin margins – it's the wrong
995 project at the wrong place and you know, it's not your job to fix his profitability. You
996 know, that's for him to work out. If you went in to this and looking at and said this isn't
997 enough money, he shouldn't have come here, he did, he bought the property, and that's
998 his mistake, don't make it our mistake that's all I'm asking you okay. Thank you.

999
000 JIM SMITH: Okay, anyone else. Please identify yourself, name and address.

001
002 DAVID NEASE: My name is David Niece, I live at 11 Faye Lane and I am one of the abutters. I noticed
003 earlier that they were talking about how someone from the town said that I was notified
004 or that they did attempt to leave a notified a letter for me. I've gotten many certified
005 letters at my house over the past ten (10) years that I have lived there. They usually
006 leave something on your door. They make multiple attempts. That was never done, so I
007 don't know who in the town said that, but it's not true. I did receive the second (2nd)
008 letter. The letter that was sent to my house last week. I came certified, you know the
009 person from the Post Office got my signature on it and all that good stuff, so I did

010 receive that thank you. I do want to talk about a couple of different things, I know that
011 just sticking with the variance part of the ordinance, I would like to echo the same
012 sediment, we have these ordinances for a reason, and that they are asking for a variance
013 to those ordinances, and members of the town volunteered and studied these things
014 and they came up with these specific ordinances so for them to come in now and ask for
015 variances, you know I think it's the wrong way to go. I think that after they admitted
016 that they reviewed the EM-LEW paperwork they saw some of the same pitfalls that EM-
017 LEW had back in 2008, and they chose to move forward anyways. They thought that
018 they could just come in and get those. They thought they could just come in and stem
019 roll us. That they could threaten us with law suits on workforce housing statute, and
020 that we would roll. I don't think that's the way to go, I think that in order to get a
021 variance, you have to have to your five criteria of law per areas of law and all that good
022 stuff. It's contrary to the public's interest. That area is a very dangerous area. The
023 Stonehenge is a very populated road. The intersection of Stonehenge, Mammoth,
024 Litchfield, and Bartley Hill was one of the worst intersections in town, we had to rebuild
025 that entire intersection right there. There isn't a light on the other side where it
026 connects to Rockingham and the gentlemen is right it is Russian roulette trying to get
027 out of there. I have to go through it every day, so to add another two hundred and
028 eighty eight (288) vehicles plus, I you have some two (2) bedrooms upwards of five
029 hundred (500) vehicles a day in the morning and five hundred (500) vehicles coming
030 home at night. You know that's all extra traffic that we have to deal with, the people
031 that live in that area, so it isn't in our best interest to allow them to make changes to the
032 ordinances. If they want to build their project stick within the ordinances. That's why
033 we have them. Some other things that I noticed, you know values for the surrounding
034 properties, I laugh, we talk about they came in with reports from another, Ralph
035 Valentine saying that it wasn't in the best interest and that will come forward with a
036 letter from Verani also saying that you know it would not diminish property values.
037 Well, I would just like to you know common sense because all of you will know homes in
038 town, I would assume, if they build a two hundred and eighty eight (288), twelve (12)
039 building apartment building in close proximity to your house do you think your property
040 value will go up or down. Its common sense, nobody is going to want to buy your house
041 if there is an apartment building next to it. Your value is going to go down. It's common
042 sense. Many people know that I am a real estate agent in the town. I've been here for
043 ten (10) years, I've been a real estate agent for ten (10) years. If you want to give me a
044 piece of paper and a pen, I write you a letter saying that it diminishes it that's what their
045 letters are worth. It's a fact, when you build an apartment building next to a house the
046 property value goes down, it doesn't go up. It's just crazy to even think the opposite.
047 The other item that I had on my thing here was just that if we allow this developer to
048 get a variance, what stops the next person. I mean can't they just keep coming in after
049 this one right after another, but the bottom line is we have ordinances in place for a
050 specific reason. It's not my fault, or not our fault that they didn't do their homework
051 hat their profit margins are too thin. That's not my fault build somewhere else. Thank
052 you.
053

054 JIM SMITH: Anyone else.
055
056 CHRIS PAUL: I have two (2) properties, one at the bottom of Stonehenge.
057
058 JIM SMITH: Your address, please.
059
060 CHRIS PAUL: What's that.
061
062 JIM SMITH: Your address
063
064 CHRIS PAUL: I'm giving it to you. I have two (2) properties, one at the bottom of Stonehenge at 2
065 Litchfield, and one at the top at 118 Hardy Road. I just want to echo their sentiments. I
066 have a whole bunch of notes here, but pretty much all of them have been covered. The
067 whole thing about the workforce housing ordinance that we have in place. A lot of
068 people came out and took their time to speak on the proposal and it took a lot of time
069 to finally come to that sixteen (16) number but just through that out the window now is
070 just awful. Reasonable opportunity is a very vague statement in regard how much we
071 have to supply them. I think its three hundred eighteen (318) units that are being built
072 now. That's certainly doing our fair share. That's pretty much it [overlapping]. I think
073 that if the Board does decide to grant these waivers some action needs to be taken on
074 the ordinance itself. I don't know what the process is for that, but the book has to be
075 opened up again, we have to make it stronger, and more defensible. Thank you.
076
077 JIM SMITH: Is there anyone else.
078
079 ANN CHIAMPA: 28 Ledgewood Drive. I don't want to make a comment on the project, I just want to put
080 out some numbers. In 2013, seventy eight (78) units of workforce housing were
081 approved in this town, and in 2014 two hundred and forty (24) of workforce housing
082 were approved. So for the last two (2) years, three hundred and eighteen (318) units
083 were approved.
084
085 JIM SMITH: Excuse me, want to come back up. Were they identified as workforce housing or
086 separate apartments.
087
088 ANN CHAMPA: Yes, workforce housing.
089
090 JIM SMITH: Okay, thank you.
091
092 BILL GARVEY: 110 Hardy Road in Londonderry. Are we allowed to address questions to the applicant?
093
094 JIM SMITH: No, not directly. You address us, you ask the questions, then when they have their
095 rebuttal, you'll have an opportunity to address those questions.
096

097 BILL GARVY: Okay, my biggest question is the strength of that company that is doing the project. I
098 have a question about if they've done a project like this before of this size, and how long
099 have they been doing projects like this, and if they have the strength to build this
100 property out without going bankrupt half way through. I oppose the passage of the
101 variances for basically all of the reasons that we have heard so far, and I guess that's
102 about it. Thank you.

103
104 JIM SMITH: Anyone further.

105
106 GREG STANLEY: 112 Hardy Road. I think what we've heard tonight is that we have a certain amount of
107 stock that is in the pipeline, we don't know exactly what amount of stock we have in
108 the pipeline, but we think we might have enough in the pipeline that it seems
109 reasonable to me that there's no for the Board to grant the variance so it makes it more
110 financially feasible for him to build the project. I would strongly encourage you guys to
111 take that into account. If you want to play that we have to very specific about what we
112 are going against. Anybody that travels that area of Hardy Road, Stonehenge on a daily
113 basis knows that it's a building of this size build three hundred (300) units times two (2),
114 I'm just going to make the math easy. Six hundred (600) additional cars is just not going
115 to work in that area, so you can say that's not something you're going to consider so just
116 consider the financial aspect. I don't think they're a financial burden, so I don't think
117 you need to create the variances. I guess that's all I had to say, I know that everyone
118 has already said that up to this point. We were here in 2008, we talked about the same
119 things. While there is already apartment complexes, or rental units in that area, they
120 would be dwarfed by this project, and do we need three hundred (300) additional units
121 in this area of town. I don't think the infrastructure is there to support it. Anybody
122 going from Mammoth Road, or from Perkins, or from that area of town who needs to go
123 to Home Depot or get to 102 they are going to come down Hardy Road so unless you're
124 going to turn Hardy Road into a four (4) lane highway, I don't know how you could
125 support this type of project and I'd encourage you to go by the strict letter of the
126 ordinances and vote no. Thank you.

127
128 VALERIE CLOUTIER: 8 Twin Isle Road here in Londonderry, and I don't live anywhere near this proposed
129 development. It doesn't affect me in the least. As a Londonderry resident and tax
130 payer, I'm really concerned with the phasing of trying to go three (3) years instead of six
131 (6) years. We need time to adjust with taxes, police, fire road maintenance which has
132 been said over and over again. We've seen our taxes go up and up, this just I just can't
133 see how they can buy this property, and want these three variances. They should have
134 done their homework beforehand. The town can't subsidize their subsidized housing,
135 we just can't do it. As far as going sixteen (16) units to twenty four (24) units again this
136 is just for profitability it does not benefit the town. It does not make this housing new
137 project any more attractive to renters coming in. Do renters really want to be in a
138 building with twenty four (24) units, or would they prefer sixteen (16) units. Do the
139 right thing for the town and the tax payers. Thank you.

140

141 RICHARD FLYER: I live at 9 Isabella Drive, and I'm a real estate developer and investor, so I just want to
142 make that clear from a conflict of interest point of view. The only thing that concerns
143 me, it all concerns me, but I look at numbers and we would never get involved with a
144 project that has such a marginal return outlook from the start regardless of whether you
145 need variances or not. Perhaps they're paying, I don't know if they own the land yet,
146 but they are paying way too much. The land isn't worth anywhere near what they are
147 paying if the project is so marginal, so perhaps whoever owns the land should reduce it
148 so that you wouldn't have to get variances. It shouldn't be the town paying really for
149 the owner of the land to be able to get more money than it's worth. The other thing, if
150 the project [Inaudible] is so marginal starting in I don't see very much margin if
151 something goes wrong. In fact, I don't see any. Again, I don't understand this, but the
152 town will get burdened by a project that let's say is build, half built, and if it goes under
153 you got all those folks living in those units they still are going to live there but the
154 building has to be managed and the quality of it, the money that has to go in year by
155 year to keep it up might deteriorate. This isn't a condominium in that we just look at it
156 in a different way, but if the town is left with a project that went under right from the
157 beginning. That's a pretty irresponsible I think for all of us in town to let happen,
158 because the town gets stuck with it, and that's not good, so I look at the numbers again
159 and maybe cut the land value less than half and not have the town subsidize it. Thank
160 you.

161
162 JIM SMITH: Do we have anyone else who would like to speak? Okay, I'll bring it back to the
163 applicant to address any of the issues that have been brought up.

164
165 BILL TUCKER: Thank you very much, Mr. Chairman. I'm going to let Mr. Khanna speak to the
166 qualifications of his company and his experience in development and I think that was a
167 question that was asked.

168
169 RAJA KHANNA: Yeah, thank you. As I mentioned earlier, we have been in business over twenty five (25)
170 years now primarily out of in the Londonderry area. We have a little under one
171 thousand (1,000) units throughout Southern New Hampshire and Seacoast area that we
172 owned and have managed throughout that time all quality properties, all properties that
173 frankly you'd be proud to call home. We've done a number of development projects
174 since 2009. We've developed five (5) projects, so we have significant development
175 experience we have confidence both financially as well as our skill that we can take on
176 this project and do this project until completed, and manage it well. So from that
177 perspective, I want to give the town and you the Board that we are in this to again
178 deliver quality product, manage it well and serve the citizen and the futures of the
179 Londonderry well. I'm not sure if that answers his question or not, but I hope it does.

180
181 JIM SMITH: Any other comments?

182
183 BILL TUCKER: Let me try to answer some of the other questions, if I can?
184

185 JIM SMITH: Go ahead.

186

187 BILL TUCKER: The first was yours Mr. Chair, you asked if this property identified in the Londonderry
188 Task Force report. Attached to our application as Exhibit "A" is that report and on page
189 twenty one (21), this area is identified as appropriate for workforce housing. That's
190 page twenty one (21) if anyone wants to look. Also, it was stated if you build this type
191 of project next door to a private residence. It's going to affect the value. I want
192 everyone to realize that where these apartments are located on this property and with a
193 large buffer zone around it and green area we are going to leave that the closest house
194 to one of these buildings are the apartments across the street that Brady Sullivan owns,
195 but the closest house will be about one thousand (1,000) feet away. A goodly distance.
196 With respect to the numbers that were thrown out from the lady who spoke, I believe
197 only fifty (5) percent of those units except for the Neighborworks project fifty (5)
198 percent of the numbers she had with workforce housing under the variances were
199 previously granted down from seventy five (75). With respect to the issue of whether
200 there is a need, any issue with traffic that has been mentioned numerous times. Before
201 this project and be built, we need a conditional use permit from the Planning Board the
202 criteria for the conditional use permit are set forth in Section 1.5.2 of the ordinance.
203 Among those are 1.5.2.2.1 granting of the application would meet some public need or
204 convenience so the questions of need will be address at the Planning Board level and
205 I'm sure they will look at it in depth, so that issue will be address before a shovel is put
206 in the ground. Will addressed at the Planning Board, and it will obviously have to satisfy
207 them of the need at that point in time. Also, another one of the provisions is with
208 respect to traffic and that states below in 1.5.2.6 there must be appropriate for access
209 facilities adequate for the estimated traffic from public streets and sidewalks so at to
210 assure public safety and to avoid traffic congestion. We will be required at the Planning
211 Board, again before we get conditional approval to submit a traffic report and to satisfy
212 the Planning Board that traffic is not an issue. So getting back to what we are looking at
213 tonight and again the Chairman I think stated very succinctly is the economics of this
214 project to those three (3) zoning restrictions put economic restraints on this project do
215 they make the project economically unfeasible. Mr. Thibeault's report that we
216 submitted to you outlines the economics of this project, sets forth the numbers and we
217 believe proves our point proves our case that those three (3) requirements without the
218 relief we are asking the project is not economically feasible is not economically viable
219 and therefore the reasonable ability to build this project the reasonable and realistic
220 again the buzz word that shows up in the state statute is not met, so we are asking that
221 you grant these variances, you look at the relevant issue and leave to the Planning
222 Board the issues that are appropriately dealt with from there. Thank you.

223

224 [Overlapping]

225

226 JIM SMITH: Anyone in opposition has the opportunity at this point.

227

228 DEB PAUL: Thank you, I remember I had asked about the complete financial.

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JIM SMITH: You want to identify give to the record, so we can get it on record.

DEB PAUL: 118 Hardy Road. I'm sorry, you get so nervous up here.

JIM SMITH: Relax, we aren't going to bite your head off up here.

DEB PAUL: It's better than coffee. I'm sorry, anyway I had asked for the complete financial feasibility reports and I sincerely appreciate it if you guys would ask for that and have that, so that you can look at it and really see the numbers there, and I also would ask again that you ask for what the bank is truly is requiring what the bank really wants to see. The public doesn't have to see that, but I do believe it kind of puts validity to what they are saying as opposed to this is a paid report by Russ that we paid him for to show that our project won't succeed. Again, this is kind of like a little shell game and people like to show pieces of the truth and it's not necessarily all of the truth and I just want all of the truth to be there and so that you guys can make a very hard decision I'm sure, but the right decision for this community and for its residence as well.

JIM SMITH: Before you leave.

DEB PAUL: I'm sorry.

JIM SMITH: I think one of the problems with what you're requesting if you're looking for information which would be confidential business information once it would be submitted to this Board, it would then become public information, so we are kind of in a quandary on how far we can go in asking for that.

DEB PAUL: Well, I'm just going to say this, as a business owner, if you have nothing to hide you have nothing to hide and it wouldn't be a big deal. We've asked it about the developer.

JIM SMITH: Wait a minute, okay, stay on the mic please.

DEB PAUL: We've asked that of other developers and they've done it, so.

JIM SMITH: Okay, I just wanted to point that issue out.

DEB PAUL: No, and I get that, but if you have nothing to hide, you have nothing to hide, you've already bought the land so.

JIM SMITH: Okay, thank you.

BILL GARVEY: 110 Hardy Road. I don't' believe me question from previously was answered. I had asked it this company had done a project of this size before. Thank you.

273 JIM SMITH: Do you want to address that?
274
275 RAJA KHANNA: Yes, we have not done a two hundred and eighty (280) unit project before.
276
277 JIM SMITH: What's the largest you have.
278
279 RAJA KHANNA: One hundred and twenty four (124).
280
281 JIM SMITH: One hundred and twenty four (124).
282
283 RICHAR FLYER: 9 Isabella Drive. For everybody's sake the developer and the Board, when you allow a
284 marginal project as I said earlier, and with such a small margin of success or failure at
285 stake, if a project like that goes under the values in town, every time a project goes
286 under it will bring down the values of everything in town or in the city and more the
287 worse it gets. We've handled well over one million (1,000,000) square feet of failed
288 properties many of them in the state when I used to live in Massachusetts throughout
289 the state and the blight is not just on the project but on other commercial projects
290 nearby brings down rents and values and it just makes it so developers that come in
291 look twice at the community as to whether they will invest again and to a viable project,
292 and I go back to this land and it'll be awfully expensive to bring it out to this particular
293 level and it's not the town fault, but if you let a project going in knowing in the
294 beginning that it may fail just based on the three (3) things that are being asked for you
295 are asking you're putting the town in jeopardy. There's in terms of future investment
296 value here in town, so that's my point.
297
298 GREG STANLEY: 112 Hardy Road. I believe that is was indicated that this property was identified at some
299 point in the past as being suitable. I guess my understanding of suitable is that it was
300 close to water and sewer. I assumed there were other properties identified back in the
301 past that were also suitable being close to I suspect water and sewer, and what we still
302 don't know at this point, is given the build out that we know is forthcoming or had
303 already been approved would this property still be identified as suitable. Again, I
304 understand it's close to water and sewer, but given that there are other projects that
305 have been approved I'm not quite certain as to what's going to happen at the off of 102
306 when they build the new center of town. Is there going to be affordable housing there?
307 Are we going, what is it that we are going to choose with our town. I know the last time
308 I was here there was a lot of discussion about a signage. How big a sign can be and
309 things of that nature, and you guys went to great detail and make sure that you didn't'
310 want the town to turn into a Salem, or something along those lines. So again, my
311 questions is, okay, I understand that this property it was a big piece of land that is close
312 to water and sewer, but what do we have in the pipeline, what's coming online and
313 must we make this decision to grant financial gain to the developer when we don't
314 know the answer to all of these things. I would say no from that perspective, and I ask
315 you to take that in to consideration.
316

317 JIM SMITH: Anyone else? Does the applicant have any further comments?
318

319 BILL TUCKER: Only one final thing and that was that the lady requested feasibility study the numbers
320 those were all submitted by Mr. Khanna to Mr. Thibeault. He put those together in his
321 financial analysis and his report they are all there, they were submitted as part of our
322 application and if anyone wants to look at them, they are available you know at the
323 town office during regular hours. Those numbers were not pulled out of thin air for
324 instance Severino construction looked at the site, expected the site, and gave estimates
325 on all of the excavation work. They are real numbers. Mr. Thibeault is one of the most
326 respected, if not the most respected economist in the state and we stand by his
327 numbers, and we ask you to look at them as thoroughly as you'd like.
328

329 JIM SMITH: We will bring it back to the Board and any further questions.
330

331 NEIL DUNN: You were mentioning on the Planning Board having conditional approval use and they
332 would evaluate the need, I'm presuming you're trying to say they would determine if we
333 needed workforce housing. Is that what you are saying?
334

335 BILL TUCKER: I have not delved greatly into conditional use permits, but I looked at it in preparation of
336 this whole projected and I recall the question of need came up and I believe has some
337 conditional use permits so I pulled out the ordinance and yes, I mean it's right there.
338 One of the criteria that the Planning Board has to look at and decide whether to grant
339 CUP is granting in the application would meet some public need or convenience. I
340 believe that is an applicable criteria. Am I.
341

342 NEIL DUNN: And why is it a conditional use permit, if everything is allowed?
343

344 BILL TUCKER: Pardon me?
345

346 NEIL DUNN: Why would it be a conditional use permit in front of the Planning Board. I thought
347 everything is allowed other than these three (3) variances.
348

349 BILL TUCKER: To do workforce housing the.
350

351 [Overlapping]
352

353 RICHARD CANUEL: Yes, by our ordinance, the use if permitted by conditional use permit from the Planning
354 Board.
355

356 NEIL DUNN: Okay. So presuming you're saying they would determine the need if we already
357 approved the variances then I think it's too deep into the muck. Okay, I see where you
358 are going with this.
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360 BILL TUCKER: But you still need to go before the Planning Board.

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NEIL DUNN: Yup.

BILL TUCKER: We've only been there for conceptual review.

JACKIE BENARD: I do have one other question for you. In your packet on page fifty nine (59), you note that the proposed project will guarantee affordable rental rates for forty (40) years. So, what you are saying is that it will remain a rental property for forty (40) years under the affordable housing.

BILL TUCKER: Correct. That is a condition from day one. It is a requirement of Londonderry zoning ordinance for this type of housing. We can't convert it to condos.

JACKIE BENARD: You keep reverting back to that, so what I do is, I'm trying to make sure we follow the law of the letter of the law here.

BILL TUCKER: Um hum.

JACKIE BENARD: So under the workforce housing, in our New Hampshire planning and land use, six seventy four (674:58) which we keep referring to and yes workforce housing is rental, but it also states clearly that workforce housing is also houses that are for sale.

BILL TUCKER; It's both.

JACKIE BENARD: It's both. Its ownership and rental. Okay, so it's both, and you are locking this out saying this will be strictly rentals for forty (40) years.

BILL TUCKER: Yes, because it's being approved as workforce rental housing not workforce single family type housing.

JACKIE BENARD: So I guess, I'm a simpleton, I'm not a lawyer, so I read it for what it is. I'm not a lawyer. I just go by the definition, so the definition of workforce housing instructs me that I must look at it in its entirety. It is workforce housing it rental units and it's also homes for sale, so it's both.

BILL BENARD: The zoning ordinance is two (2) separate sections to deal with. There's 2.3.3.6 single family and duplex workforce housing categories and then there is 2.3.3.7 standards and requirement for multi-family workforce housing. We will be asking to be approved at the Planning Board under 2.3.3.7 (not 6).

JACKIE BENARD: Tonight's conversation was very specific to rental units and we keep referring to the statutes. The statutes clearly say that it is both, so I just want a clear line of sight here because you have made reference to it.

405 BILL TUCKER: The state statute does exactly what you say.
406
407 JACKIE BENARD: Correct.
408
409 BILL TUCKER: The Londonderry zoning ordinance has those two separate categories and you would be
410 approved under one or the other. Am I stating that correctly?
411
412 RICHARD CANUEL: Yes.
413
414 JACKIE BENARD: Okay, but you have referred to both. I mean, we are using it both ways not so much our
415 ordinances, but you keep referring to the workforce housing statutes.
416
417 BILL TUCKER: Correct.
418
419 ANNETTE STOLLER: Okay, I want to, may I Mr. Chair
420
421 JIM SMITH: Sure.
422
423 ANNETTE STOLLER: I want to in effect second what Jackie has been saying. Looking at the letter of the law
424 and looking some background that I have in other different areas, we do know that if
425 the rental units cannot provide the feasibility support for that project than it is always
426 possible to appeal that whether it be to the town or the state or both, and get some
427 relief from that to turn some of the other units into for sales units whether they be
428 condos, whether they be duplexes, whatever they might be, and I've seen this happen.
429 It doesn't mean it's going to happen here if we have a very good management of the
430 system and from what I've seen so far, we will have that, but I'm just not sure not that
431 you've looked at all of the alternatives if that should happen particularly since you are
432 constantly talking about a razor thin margin.
433
434 BILL TUCKER: Let me offer this as suggested, and I'll get kicked if I'm speaking out of school, but we
435 would welcome in your consideration of these variances you'd have consider putting a
436 condition on the variances that these buildings be only multi-family workforce housing
437 for minimum period of forty (40) years.
438
439 RAJA KHANNA: Rental?
440
441 BILL TUCKER: Rental, rental yeah. Rental units that for the forty (40) years they have to be workforce
442 housing under the ordinance, but if you want to put a condition that during that forty
443 (40) year period they will be only rental units, please that's our intent, that's what we
444 are planning to do, but if it gives you the comfort that you are locking this up as rental,
445 we will gladly accept that as a condition to the approval.
446
447 RAJA KHANNA: Exactly, what are you trying to ask? I guess I'm a little confused?
448

449 ANNETTE STOLLER: There was much of what Jackie said and much of what I was following up.
450
451 BILL TUCKER: If I can think about what I think you are concerned about is at some point in time, we
452 could keep it workforce housing, but convert it to condos and sell it as workforce units
453 as condominiums. If that's a concern, we don't intend to do that and if you want to put
454 that condition on the approval that it remain rental units for the forty (40) years that's
455 very acceptable because that's what the plan is.
456
457 ANNETTE STOLLER: Is this property solely owned by the developer, or who actually owns the property right
458 now?
459
460 RAJA KHANNA: So that First Londonderry, LLC that has a number of partners including myself. Does
461 that answer your question?
462
463 ANNETTE STOLLER: Okay.
464
465 JIM SMITH: I'd like to ask Richard a question. How does the ordinance works that building it under
466 the rental. Is there anything in the ordinance which restricts it to be continued to be
467 rental for the forty (40) years.
468
469 RICHARD CANUEL: No, the restriction is that has to be some guarantee that the development will remain
470 affordable workforce housing, not necessarily rental or [Overlapping].
471
472 [Overlapping]
473
474 JIM SMITH: Okay.
475
476 BILL TUCKER: You should be a lawyer, you are thinking of these.
477
478 ANNETTE STOLLER: Oh, no [Overlapping].
479
480 JIM SMITH: Okay, is there any other questions?
481
482 NEIL DUNN: Richard, do you know what we have as a town for a database, I know that when we did
483 the MLS, we come up with so many percentages of houses that qualify, and those are
484 legit listings, and I come up with sixty six (66) percent of that one hundred and thirty
485 one (131) units. Do we have anyway that we can have you or somebody in the
486 Collectors office, or Tax office whatever looks at fair market value. I mean how do we,
487 how do we help determine. I would really like to know where we are at. I kind of
488 believe we are there especially with the three hundred and eighteen (318) units and
489 she's getting that because one hundred and twenty (120) units were half of them were
490 down at Exit 5 of two forty (24) is one twenty (120), seventy eight (78) for Trail Haven
491 makes it one ninety eight (198) and the last project had I think fifty percent (50) or so,
492 and they were around one ninety six (196). I think we do have good numbers on the

rentals, but I would really like to get a better handle on that, do we have the provisions, do we ask them to pay to have someone do that, what would we do.

RICHARD CANUEL: I think the only feasible way to do that is for the Board to actually request a market analysis to be done as part of the record. [Overlapping] Done by a third party appraisal firm to come up with those numbers that the Board needs to make their determination.

RAJA KHANNA: Can I make one clarification, the houses that you talked about the numbers from that study in 2010 were three hundred and fifty seven (357), or so additional units, so that would apply to the house that are for sale at that level hadn't been built for 2010 and over.

NEIL DUNN: No, there were two (2) different components there and we've heard since then that maybe that three hundred forty seven (347) is now really one eight seven (187) and we have three eighteen (318), so I personally need more time to look at the new study. There are 2014 data points out there. You were referring to the three seventy four (374) from a 2010 study someone else Mr. Butler, I think was the one who brought up this second study that is more current, so I would like to spend more time to look into that, but also I gets back to the component that we do already have, I mean there was also some rental listings, there's five (5) rentals listed on the MLS two (2) of them qualify under the fourteen hundred (\$1,400) dollars out of five (5). It's a terrible sample statistically. The eight seven (87) out of one thirty one (131) not's bad because I think we did this once before and it was around the same percentage sixty six (66) percent so I just want to get a handle on what the numbers are and it kind of looks to me like we are in compliance so I mean at this point I would I guess I would not be supporting this unless I had better information.

RAJA KHANNA: The only other information we would like to add to that unfortunately is not the question at hand the question was the Chairman pointed out was more of a financial feasibility. [Overlapping]

NEIL DUNN: Well that's Jim's opinion, my opinion is there is state and workforce housing here once we comply with workforce housing then your argument goes away for half of this stuff and you would have to come back under multi-family building and you can change rents and your models.

RAJA KHANNA: [Inaudible]. I'm sorry, say that one more time.

NEIL DUNN: Right now, you're referencing workforce housing standards and yes it talks about financial and number of units, but workforce housing gives you some densities, give you a few other things and your numbers aren't working because you applied for the workforce housing, so if we have enough and say we are good with our share of workforce housing, now if you want to build multi-family rentals that's a different request.

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RAJA KHANNA: And it's not that we already have turn to Mr. Fougere, and he's probably reading my mind as to what is about to say again that the town has it best as it rescinded the ordinance hasn't changed ordinance in reflection of that actual unit because there aren't those additional units.

NEIL DUNN: Right and that's why I'm looking for the information to see if we are in compliance, and as far as I'm looking at I feel we are and I would like better data so to Richard's point, Mr. Chairman I would like to make a request that we have a formal study done paid for by the applicant. We do that with all kinds of other.

ANNETTE STOLLER: Can you define the study you want done?

NEIL DUNN: Determine what are share, if our fair share or what our units are and if we are in compliance with this latest study that someone said is one eight even (187) units. I mean it needs to be worked on I've been throwing that out there because we've done this for evaluations, for financials, we do it when they want to build cell towers, when people have to fly balloons and everything else, it's not unheard of.

[Laugh]

JIM SMITH: Okay, the only problem I have with that approach is like the ordinance says they need a conditional use permit from the Planning Board. The Planning Board when it through that procedure is going to be looking at those issues which you are talking about, and it's up the to the Planning Board to make a decision whether or not there's a need for that, and if there isn't they don't issue a conditional use and the project dies at that point. What we are looking at is whether the ordinance the way it's written allows this project to go forward as a financially feasible project, and those are the three (3) variances in what they address. Not whether or not we have enough units, we don't have the information, and I don't think the Zoning Board is supposed to be making that decision because the Planning Board when it goes through the conditional use permit is going to be looking at whether or not the uses, the need is there. It's also going to be looking at the infrastructure as far as the highway and the traffic and the study, and they're going to be asking for a traffic study at that point and all those go into their decision on whether or not a conditional use permit is feasible to issue, so I think we are talking about the wrong thing when we are talking about whether or not we got two hundred eighteen (218) or three hundred, or whatever. It's not, that's not the issue we are trying to address. Okay, anybody else?

DEB PAUL: I don't know if I'm going to phrase it right?

JIM SMITH: We he's been standing for.

DEB PAUL: Yeah, I'll sit and let him talk.

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JIM SMITH: Okay, go.

RAJA KHANNA: Excuse me one second.

MARK FOUGERE: Just to clarify the report you are looking to do is to replicate by having this report updated which is not an easy matter. It's not a market study it's a needs analysis that is typically done by the community developer. It's almost like asking the developer to undertake a master plan for you, so with all due respect, I agree with the Chairman that isn't this board's role why we are here is asking for some variances in order to make this project happen under the rules that are in place today. This is the study out there and at some point it'll be updated by either the Town, by the Council, by the Planning Board, or by the Regional Planning Commission, but this is not something that is easily accomplished.

NEIL DUNN: Except for the variance, so help me, I'm sorry, I guess it I may talk to Richard? Richard, if the variance is granted and we are granting it under quote unquote these workforce premises and it goes to the Planning Board and the Planning Board decides workforce housing is needed then they wouldn't let it go through as workforce housing?

RICHARD CANUEL: Under the ordinance, there are certain criteria that the Planning Board has to apply. Very specific criteria to grant that conditional use permit for multi-family workforce housing. If Planning Board finds that any part of that criteria just like the Zoning Board has to apply the five points of law to grant a variance. If the Planning Board finds any part of that criteria does not meet the intent of the ordinance they have the right to deny the use.

NEIL DUNN: Deny the use, and then what happens to the variances? They'll go with the property for life?

RICHARD CANUEL: The variance is, of the Board so chooses to grant the variances the Board as they've done in the past can grant the variances contingent upon Planning Board approval. Then at the point, if the Planning Board does deny the application then the variances become null and void.

NEIL DUNN: Okay. So I guess my thought is if, I have to think about it, I'm not sure. Well no, if we do as a Board here that, no let me finish please [Overlapping]. Oh, I'm sorry Chris you're right.

DEB PAUL: 118 Hardy Road, I forgot where I lived for a second. My fear is that if you vote yes tonight which that would that would be a really sad day in Londonderry, that the Planning Board will think or have an assumption that you want the project to go forward as a workforce housing project. In my opinion, and that you and I to down the same path. I mean everything then states to it who was in the future would turn around and

625 go well if the Zoning Board gave these variances then that might have been the intent of
626 what they were thinking, so I kind of got a little nervous, but you were addressing the
627 same thing that I was thinking in my head and again I'm just going to say you need to
628 vote no and take a stance and be strong Londonderry strong.

629
630 BILL TUCKER: Again, you should have no objection to having the variances granted with conditions
631 upon the Planning Board's ultimate approval. [Overlapping] It's got to be anyway.

632
633 RAJA KHANNA: It's an early reply that if you were to approve the variances it's based on Planning
634 Board's recommended approval as well that goes without saying.

635
636 JIM SMITH: Okay, any further questions from the Board?

637
638 RAJA KHANNA: And that approval will be based on need per Mr. Tucker.

639
640 JIM SMITH: Anything else from the audience? Okay, in that case, I'm going to declare a ten (10)
641 minute break and close the public hearing. When we come back, we will go into the
642 deliberative session.

643
644 JIM SMITH: Okay, we will call the meeting back, everybody back, yeah. Okay, we are in the
645 deliberative session.

646
647 **DELIBERATIONS:**

648
649 JIM SMITH: It's up the Board how we agree we are going to vote on each case separately right?

650
651 DAVE PAQUETTE: Go through the five points.

652
653 NEIL DUNN: Absolutely.

654
655 DAVE PAQUETTE: Yeah, each case separately.

656
657 JIM SMITH: So we are looking at the first case. The first one is the fifty (50) percent vs. the seventy
658 five (75) percent.

659
660 DAVE PAQUETTE: No, the number of units.

661
662 JACKIE BENARD: Dash four (4).

663
664 JIM SMITH: Okay, case four (4). Twenty four (24) vs. sixteen (16).

665
666 ANNETTE STOLLER: I feel we still have too little information, I just don't think we are there, and that's just
667 taking into consideration these three points..

668

669 JIM SMITH: Well we have to go through the five (5) points. Okay grant the variance would or would
670 not be contrary to the public interest because.
671
672 DAVE PAQUETTE: My stance on the first point is that it would be contrary to public interest as we've seen
673 people here are opposed to it regardless of their the details of their opposition there's
674 opposition to it.
675
676 ANNETTE STOLLER: You don't just shoot something down because there's opposition to it.
677
678 DAVE PAQUETTE: No, I understand that, but it's only a small percentage of the whole of Londonderry, but
679
680 ANNETTE STOLLER: Well the other thing is was that it might be contrary to public interest because I don't
681 think the analysis have been done properly, and that comes from experience, so we
682 certainly don't think so..
683
684 DAVE PAQUETTE: I don't disagree with that.
685
686 JIM SMITH: Neil?
687
688 NEIL DUNN: I am trying to go through the application for that point because 214-4 although I think
689 maybe it's called just the same thing but I'm trying to find that talking point to see what
690 was written.
691
692 DAVE PAQUETTE: Yeah, it's not well organized.
693
694 JACKIE BENARD: Okay, it starts with page?
695
696 NEIL DUNN: And you're under the submittal for case 11-19-2014-4, yes [Overlapping], okay.
697
698 JACKIE BENARD: Page 14 the spirit of the ordinance substantial justice backup fourteen (14). It's laced
699 in there.
700
701 DAVE PAQUETTE: Okay, there we go thirteen (13).
702
703 JACKIE BENARD: Yeah, so you see what I mean it's laced in. So it starts on page nine (9) actually.
704
705 NEIL DUNN: I'm getting twelve (12).
706
707 JACKIE BENARD: Because nine (9) says analysis variances then it starts one (1).
708
709 DAVE PAQUETTE: Oh, the actual total document page not the actual that section. The acrobat page nine
710 (9).
711

712 JACKIE BENARD: Yeah, so where was he looking and he was looking at the bottom of theirs, so I'm
713 looking at our number of pages here.

714

715 [Overlapping]: It starts off with unnecessary hardship.

716

717 NEIL DUNN: Well that's what I am saying.

718

719 JIM SMITH: On page thirteen (13) on the 10th line.

720

721 JACKIE BENARD: Okay, public interest, which is their page twelve (12), our page thirteen (13). It starts
722 and the fourteen (14) gives public interest and then it goes.

723

724 DAVE PAQUETTE: Okay, it's just numbered differently.

725

726 JACKIE BENARD: Correct.

727

728 NEIL DUNN: Again, we are looking just at twenty four (24) from sixteen (16).

729

730 DAVE PAQUETTE: Correct.

731

732 ANNETTE STOLLER: [Indistinct] in terms of police, fire the whole deal, but we have to take that into
733 consideration.

734

735 JIM SMITH: What's that.

736

737 ANNETTE STOLLER: Going back to this my mind keeps thinking police, fire and things like that we can't
738 considerate that obviously. Is that correct?

739

740 DAVE PAQUETTE: [Overlapping] Well you can, of course you can on this the third entry when they are
741 looking for the phasing. Yeah, so the reason why the phasing ordinances are there are
742 to lay the town burden the tax burden support burden across more years than you know
743 if you through up three hundred (300) units and fill those three hundred (300) units in a
744 year and a half for even three (3) years with what they are requesting. Then the town
745 fire, police support.

746

747 JACKIE BENARD.: But are we doing the very first one?

748

749 [Overlapping]

750

751 DAVE PAQUETTE: Yeah, we are.

752

753 ANNETTE STOLLER: The twenty four (4) units vs. the sixteen (16). Okay, sorry, I'm trying to pollute my mind.
754 That's why I was thinking of the applications of the police and fire because that would
755 be heavily on the difference on the number of units.

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JACKIE BENARD: So, I guess doing the five (5) points of law, the variance will not be contrary to the public interest or would be contrary?

ANNETTE STOLLER: I find it contrary to allow the twenty four (24) units.

DAVE PAQUETTE: I mean their document, their response to the first point whether or not that the variance unduly and a marked degree conflicts with the ordinance such that it violates the ordinance basic zoning objectives, so the basic zoning objective of this particular ordinance is density.

JACKIE BENARD: Correct.

DAVE PAQUETTE: So. I think that's what we need to address in this point.

JACKIE BENARD: Right.

JIM SMITH: You know when you are talking about density. If you take forty eight (48) units and you build it with sixteen (16) units per building.

DAVE PAQUETTE: Then I guess then yeah you're right.

JIM SMITH: You'd have more of an environmental impact with that vs. two (2) buildings with twenty four (24) units because you have a third less roof area and by combining the buildings closer together you're going to reduce the road network and you're not combining the parking lots and the more unified areas.

ANNETTE STOLLER: But that also depends on the height of the buildings.

JIM SMITH: Well we have a restriction in the ordinance on building height, so I believe its thirty five (35) feet.

ANNETTE STOLLER: Thirty five (35).

JIM SMITH: So whether its two (2) stories, or the three (3) stories it's still got a restricted thirty five (35) feet, so that's built in to the body [Overlapping].

DAVE PAQUETTE: So that's not necessarily a density thing then because you could put the same density in multiple buildings within the ordinance, right?

JIM SMITH: Right.

DAVE PAQUETTE: If it could fit in the land.

800 JIM SMITH: Right, because when they looked at the, they didn't really address it, but when they first
801 started they said that given this odd section of the ordinance, you have so many units
802 per acre and you can have "x" number, and it was way over the total number that's...
803

804 DAVE PAQUETTE: To be a fly on the wall when they double sixteen (16) units to understand the reasoning
805 at the sixteen (16) units, we don't necessarily get a reasoning on the...
806

807 ANNETTE STOLLER: We don't, just like we don't reasoning on the original space between the buildings.
808

809 JACKIE BENARD: Well, what I find in the applicants in his answer. He's addressing basically all of three (3)
810 of these cases at once with number one (1), and we are dissecting it because we are
811 going to vote on these three (3) different variances, so he's rolling everything in to this
812 one (1) paragraph to basically be his reasoning for all three (3) variances, so it's like a
813 template.
814

815 DAVE PAQUETTE: The ordinance does directly speak to density, design, and dimensional standards for
816 development level.
817

818 JACKIE BENARD: Right.
819

820 DAVE PAQUETTE: So, this particular ordinance if we look at the variance is based on permitted density. So
821 to go back to – is the variance unduly and in a marked degree conflict with the
822 ordinance such that it violates the ordinances basic zoning objectives, so what we don't
823 have is the data and the reasoning towards the selection of when these ordinances
824 were made and approve. What their reasoning for sixteen (16) was, but the ordinance
825 states that sixteen (16) units is there...
826

827 JACKIE BENARD: Correct.
828

829 DAVE PAQUETTE: Is there and that's the basic zoning objective toward density.
830

831 JACKIE BENARD: Correct, and the section that we're following is 2.3.3.7.3.1.2 which clearly states
832 maximum dwelling units in a single building may be increased may be increased from
833 sixteen (16) to no more than twenty (20) if the applicant is granted a conditional use
834 permit from the Planning Board in accordance with Section 2.3...
835

836 JACKIE BENARD: So the Planning Board still has [Overlapping]
837

838 NEIL DUNN: Not if we give it twenty four (24) and we just over ruled that sixteen (16) to twenty four
839 (24).
840

841 ANNETTE STOLLER: Well the variance stays with property it might.
842

843 NEIL DUNN: Unless we make it contingent.

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JACKIE BENARD: Exactly.

DAVE PAQUETTE: I think to your point on being would be contrary to public interest because we don't have the data to support the need to make this twenty four (24) unit.

ANNETTE STOLLER: That that makes sense to me.

NEIL DUNN: Where did that all go to?

DAVE PAQUETTE: The interest, so analysis of data to support the interest.

JIM SMITH: Okay, what's our conclusion on the first one?

DAVE PAQUETTE: That it would be contrary to the public interest because analysis of the data doesn't support the interest of the public. The lack of analysis to support the interest of the public.

ANNETTE STOLLER: So, we are not upholding the wellbeing of the public in that case. So it would be contrary.

JIM SMITH: Do you agree with that Jackie?

JACKIE BENARD: If it's contrary to the public of the interest. I think I just said this backward to.

[Overlapping]

DAVE PAQUETTE: Spirit of the ordinance.

JACKIE BENARD: Hum

JIM SMITH: Okay, before we go any further.

DAVE PAQUETTE: Sure.

JIM SMITH: I need someone, what do you have written down there.

DAVE PAQUETTE: I'm keeping notes of this.

JIM SMITH: Okay, because what I would like. Okay, I'm going to appoint Dave. I want you to write down those reasons for each of the points and then when we vote on it that's going to be the support for that.

DAVE PAQUETTE: Okay, that sounds good.

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JACKIE BENARD: Okay, that'd be great.

JIM SMITH: That way there because we are going to need a good written logic on each of these cases, so if it goes to appeal land all that stuff, we'll...

DAVE PAQUETTE: Sure, alright, hang on one minute.

JIM SMITH: Okay, what do you have for the first one.

DAVE PAQUETTE: Okay, give me one second to just put the words together. Analysis of data to support the need for this type of housing, lack of analysis to data to support the need to support this type of housing.

[Overlapping] Twenty four (24) units or sixteen (16)?

DAVE PAQUETTE: Well, so it would be contrary to the public interest because there is a lack of analysis of data for the need for the town to have the need of this.

JIM SMITH: To increase the building size to twenty four (24).

DAVE PAQUETTE: Correct.

JIM SMITH: [Overlapping] correct.

DAVE PAQUETTE: Ok, so lack of analysis of data to support the need for this type of housing at twenty four (24) units [Overlapping] at twenty four dwelling units per building.

JIM SMITH: Okay, now let's attack number two. Spirit of the ordinance would or would not be observed because?

DAVE PAQUETTE: Let's go back to his argument.

JIM SMITH: Usually public interest and spirit go almost hand in hand.

JACKIE BENARD: I was just going to say, it's looping me back, [Overlapping] back to the data. The spirit of the ordinance. I want to make sure I don't give this backwards now.

DAVE PAQUETTE: Would not be.

JACKIE BENARD: Would not be observed because of.

DAVE PAQUETTE: The lack of analysis of data to support the need.

932 JACKIE BERNARD: The lack of analysis of data to support the need of this type of housing for our
933 community.
934

935 DAVE PAQUETTE: The lack of analysis of data to support the need of this type of housing of twenty four
936 (24) dwelling units. Okay.
937

938 JIM SMITH: Okay.
939

940 JIM SMITH: Going on to number three. Granting the variance would or would not be do substantial
941 justice because?
942

943 DAVE PAQUETTE: Okay, in determining whether or not substantial justice is done the Board must look at
944 whether the lost to any individual would be outweighed by a gain to the general public,
945 and whether the proposed development is consistent with the areas present land uses.
946

947 JACKIE BENARD: David, say that beginning part again.
948

949 DAVE PAQUETTE: Determining whether or not substantial justice is done the Board must look at whether
950 the lost to any individual would be outweighed by a gain to the general public, and
951 whether the proposed development is consistent with the areas present land uses. So
952 this is coming from the applicant's document.
953

954 [Overlapping] Yes, correct.
955

956 DAVID PAQUETTE: In this case the project would involve the constructions of multi-family housing which is
957 predominate land use which is the predominate land use in the general vicinity of the
958 property. So what's their definition of general vicinity because there's six (6) buildings
959 that Brady Sullivan owns right there.
960

961 NEIL DUNN: On one (1) side and on the other side is houses, yeah.
962

963 DAVE PAQUETTE: Yeah, single family right.
964

965 JIM SMITH: Now, we can say that they proved some points.
966

967 DAVE PAQUETTE: Right, right.
968

969 JIM SMITH: I don't mean to be, and when we vote on the variance, they have to prove all five
970 points, so we've already.
971

972 JACKIE BENARD: Knocked them out of one (1), now you've.
973

974 JIM SMITH: But you still have to go through the other four (4).
975

976 JACKIE BENARD: Correct.
977
978 JIM SMITH: And have a logic on those other four (4) on whether or not they've, whichever way you
979
980 DAVE PAQUETTE: [Overlapping] would be outweighed a gain to the general public.
981
982 JACKIE BENARD: But the thing is granting the variance would not do substantial justice because the, it has
983 not been proven that there is the need for this due to the lack of the analysis of the data
984 that we have. We may already have enough workforce housing?
985
986 JIM SMITH: No, no, no.
987
988 [Overlapping]
989
990 NEIL DUNN: But we're looking at.
991
992 JACKIE BENARD: Oh no, that's right, we have to stay on the units.
993
994 [Overlapping]
995
996 NEIL DUNN: However; in his response, he references workforce housing, yes, no and that's where it
997 gets confusing because it wasn't directed, yes.
998
999 JACKIE BENARD: Okay, because this is the template again.
000
001 DAVE PAQUETTE: Okay, so, I think this makes it look, this helps me understand.
002
003 JACKIE BENARD: Okay.
004
005 DAVE PAQUETTE: So we look at whether the lost to any individual, any individual being the surrounding,
006 the impact of the surrounding area be outweighed by the gains of the general public, so.
007
008 JACKIE BENARD: Or vice versa.
009
010 DAVE PAQUETTE: Right, right.
011
012 JACKIE BENARD: Correct.
013
014 DAVE PAQUETTE: The impact to the individuals in the surrounding area whether it be the land owners, the
015 traffic people, the you know outweighed by
016
017 JIM SMITH: Which one are we on, number two (2), or number three (3).
018
019 DAVE PAQUETTE: Number three (3).

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JACKIE BENARD: Number three (3) substantial justice, yeah substantial justice, so.

DAVE PAQUETTE: And whether the proposed development is considered consistent with the areas present land uses, so this project is consistent with the land uses.

JACKIE BENARD: In its surrounding areas.

DAVE PAQUETTE: Yeah.

JACKIE BENARD: That's correct.

DAVE PAQUETTE: And it fits into the AR-1 zone.

JACKIE BENARD: Correct.

DAVE PAQUETTE: So, I'm not sure.

NEIL DUNN: Here's the only problem I have with it when we get a blanket like this because we are talking about going from sixteen (16) to twenty four (24) units and he's talking about public interest, the response to substantial justice is because you know it's a good use and because granting it would satisfy the obligations for the general welfare of the community and provide reasonable opportunities for workforce housing. Substantial justice from going to from sixteen (16) to twenty four (24).

DAVE PAQUETTE: What's the gain to the general public.

JACKIE BENARD: Maybe there's a deficit not a gain when you look at strictly the number of units?

DAVE PAQUETTE: In reverse right.

JACKIE BENARD: in reverse.

DAVE PAQUETTE: What's the deficit to the general public though?

NEIL DUNN: To be honest with you, going from sixteen (16) to twenty four (24) that give more open space we do again, but that's not what's presented here, and that's why I always have issue with.

JACKIE BENARD: Because we have to go with how it was presented.

NEIL DUNN: No exactly, so that is where I'm trying to decipher how do we apply this and accurately describe whether it's covered.

064 JACKIE BENARD: Because it will require more public services than our presently available.
065
066 DAVE PAQUETTE: Yeah, but if they me the sixteen (16) unit building and made you know to get to their
067 two hundred eighty eight (288) units then it just made enough buildings if they had the
068 space and.
069
070 NEIL DUNN: Then we wouldn't be here on number one (4), or case-4.
071
072 DAVE PAQUETTE: Right, so that would still bring about the same number of units to the public services like
073 they are talking about, so I'm not sure if that would.
074
075 JACKIE BENARD: But the loss vs. the gain, so who's loosing and who's gaining that's the substantial justice
076 here? So going from to allow twenty four (24) vs. the sixteen (16), if allowing it, who
077 gains?
078
079 [Overlapping]
080
081 JACKIE BENARD: That's the substantial justice and the loss, and whose, where's the lost to the individual?
082 Where's the flip side of this.
083
084 DAVE PAQUETTE: Or the loss to the general public, or the gain of the general public.
085
086 JACKIE BENARD: Or the gain to the general public. I have to, we have to determine where that is.
087
088 DAVE PAQUETTE: Right, so I guess that there would be a gain to the general public because of this type of
089 housing whether or not there's a need for it or not the general public would have a gain.
090
091 JACKIE BENARD: I see what you are saying.
092
093 DAVE PAQUETTE: By, by having this type of housing provided to them, the general public, so I suppose
094 that it would do substantial justice because there is a gain to the general public, but
095 pointing it directly towards the number of units is now.
096
097 JACKIE BENARD: But there is a gain to the type of housing in that area.
098
099 DAVE PAQUETTE: But we aren't really talking about the type of housing we are talking about the sixteen
100 (16) to twenty four (24) units.
101
102 JACKIE BENARD: Correct.
103
104 DAVE PAQUETTE: So that kind of scratches the entire thought off my head it doesn't really point toward
105 the sixteen (16) to twenty four (24) unit change so.
106

107 NEIL DUNN: Go from sixteen (16) to twenty four (24) I don't, I guess the substantial justice is the lost,
108 it's less expensive so.
109
110 DAVE PAQUETTE: An economic loss.
111
112 NEIL DUNN: And to us there no real change, so I think he's alright on that one.
113
114 DAVE PAQUETTE: Would do substantial justice?
115
116 JACKIE BENARD: Uh hum.
117
118 NEIL DUNN: And that would be my thought.
119
120 DAVE PAQUETTE: Based on an economic loss?
121
122 JIM SMITH: Yeah.
123
124 JACKIE BENARD: Yeah.
125
126 JIM SMITH: Number four (4), on for the following reasons values of surrounding properties would or
127 would not be diminished? This is a very subjective issue.
128
129 DAVE PAQUETTE: So we've heard supporting evidence to both sides of that. No there's been letter
130 written from a person in that profession the knowledge to be able to support their side,
131 but there's also the, who it's hard to do this late, this late at night, to make my brain
132 work.
133
134 JACKIE BENARD: So the next meeting will be.
135
136 DAVE PAQUETTE: Yeah, right. So there's support from both sides. Official support in a letter that was put
137 in and unofficial support that was what I was trying to get to unofficial support from the
138 public opposition.
139
140 NEIL DUNN: Well I guess, they wouldn't, be on dash 4, if he did sixteen (16) buildings with
141 construction twenty four (24) buildings.
142
143 DAVE PAQUETTE: I guess that wouldn't really impact changing from sixteen (16) to twenty four (24).
144
145 NEIL DUNN: In result to more compact construction development. I'm looking at his response which
146 twelve (12) twenty four (24) buildings instead of eighteen (18) sixteen (16) unit
147 buildings, and the only trouble is he's saying it give you more green space, but we never
148 really find out if eighteen buildings would have fit there with slopes and everything else.
149
150 DAVE PAQUETTE: And or will it affect the value based on sixteen (16), or?

151
152 NEIL DUNN: I guess either way, would either one of those affect the value? An apartment complex.
153
154 JACKIE BENARD: I don't think that would, but that come from.
155
156 DAVE PAQUETTE: My opinion states that it wouldn't be diminished.
157
158 JACKIE BENARD: No.
159
160 DAVE PAQUETTE: Part of the applicant's statement was that their/the closest building.
161
162 [Overlapping]
163
164 DAVE PAQUETTE: So the closest house other than the Brady Sullivan properties similar to this the closest
165 dwelling is a thousand (1,000) feet away so, but then there is also a statement made
166 that in the event that his project didn't make it, what's that going to do to the value at
167 that point?
168
169 JACKIE BENARD: Well what happens if the stock market crashes and everybody is broke?
170
171 DAVE PAQUETTE: This is true.
172
173 NEIL DUNN: So I guess is it, what would be allowed, he wouldn't be here if he was doing twelve (12),
174 excuse me eighteen (18) sixteen (16) unit buildings, so by going to twenty four (24) unit
175 buildings does it you know to be honest with you my thought eighteen (18) sixteen (16)
176 unit buildings if I was living behind it, I would probably be of the belief that yes, that
177 would diminish the property values, but he wouldn't even have to be here for eighteen
178 (18) sixteen (16) unit buildings and we would have no input.
179
180 DAVE PAQUETTE: Right.
181
182 JACKIE BENARD: Oh, that's right that's a valid point.
183
184 NEIL DUNN: So the difference goes to, okay, now we are going to less buildings with more open
185 space which will make it airier and more pleasing and more less noticeable because of
186 the lack of the and we have twelve (12) twenty four (24) buildings, so to me you know
187 it's almost a wash I vs. what would be allowed without even having to talk to us about it.
188
189 JACKIE BENARD: Well, I was going to say, on our page forty seven (47) which is go by that because it's not
190 numbered, his presentation to us and the twelve (12) buildings and how it is to be done
191 and the amount of green space and the presentation that he has proposed.
192
193 DAVE PAQUETTE: This is forty seven (47) us that what you were saying.
194

195 JACKIE BERNARD: Yeah, forty seven (47) yeah.
196
197 DAVE PAQUETTE: Okay, yeah.
198
199 JACKIE BERNARD: If you actually look at that you know you have a valid point if it was the eighteen (18)
200 you wouldn't even be here.
201
202 NEIL DUNN: Except for looking at the layout is there a reason why eighteen (18) wouldn't fit?
203
204 [Overlapping]
205
206 DAVE PAQUETTE: But the difference between sixteen (16) and twenty four (24) what is the impact on the
207 values, so if they were building sixteen (16) buildings, or whatever the number is to fit
208 within the ordinance vs. doing it this way, I think it was stated there's more green space
209 and it's airier, so I would think it would not diminish the property.
210
211 JACKIE BERNARD: That's correct.
212
213 [Overlapping]: Based on our information here.
214
215 DAVE PAQUETTE: So for the following reasons, the surrounding properties would not be diminished due to
216 negligible impact between sixteen (16) and twenty four (24) buildings to the values.
217
218 JACKIE BENARD: More open green space vs.
219
220 NEIL DUNN: Except or I don't', is he using the whole lot though, I still, it's something.
221
222 JACKIE BENARD: No.
223
224 [Overlapping]
225
226 NEIL DUNN: If you put eighteen (18) there, he would, I hate it when they do this. If it was eighteen
227 (18) buildings, it would be spread out over land.
228
229 JACKIE BENARD: Yes.
230
231 DAVE PAQUETTE: And would consume more green space.
232
233 NEIL DUNN: Well, but look how much land is left to be developed. We shall be here next year, huh?
234
235 [Overlapping]
236
237 NEIL DUNN: Well no all I'm saying is, so when we start looking at the ordinance and we are saying
238 sixteen (16), you can squish a whole lot more in, it comes back to the density issue.

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JIM SMITH: Go to the next page.

JACKIE BENARD: Forty nine (49), do you see forty nine (49) that's exactly what I am looking at, yes.

[Overlapping]

JACKIE BENARD: I think that answer's it.

DAVE PAQUETTE: Oh, there's wetlands over there.

JIM SMITH: You have wetlands over there.

NEIL DUNN: There's one border of it, there's a little slope of it here, he still has all that doesn't he?

DAVE PAQUETTE: To the right side.

JIM SMITH: No, no, no.

JACKIE BERNARD: There are more engineering reasons.

[Overlapping]

JIM SMITH: See right here.

NEIL DUNN: Yup, I see that.

JIM SMITH: That's all wet lands, so he's.

NEIL DUNN: Yeah, you can see.

JIM SMITH: He's got wetlands on there and he has wetlands over here.

DAVE PAQUETTE: You can see a little bit to if you need to right there, must be river, brook whatever it looks like

[Overlapping]

NEIL DUNN: So that's this lot, we aren't looking at this whole thing? This isn't his lot too?

JIM SMITH: Well, but he'd have to, he'd impact that wetland.

NEIL DUNN: Yeah, but he'd have to stay back his fifty (50) foot, and he'd have to come over here when he's building, and all I'm saying is that [Overlapping]..

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JIM SMITH: I'm not sure how he'd access?

[Overlapping]

NEIL DUNN: Right here, same road he'd just have a different driveway.

JACKIE BENARD: The thing is the slope problem to.

NEIL DUNN: I know, but it was never addressed, so all I'm looking at is what happens next down the road because there's this whole other lot that is open.

JIM SMITH: Okay, we got to move on this.

DAVE PAQUETTE: Okay, let me give you a couple of things here, so for the following reasons, the values of the surrounding properties would not be diminished more open green space at twenty four (24) units per dwelling.

JIM SMITH: Yeah.

DAVE PAQUETTE: Smaller footprint.

JIM SMITH: Yup.

[Indistinct]

JACKIE BENARD: It might be a smaller footprint, not necesarrily. If you're taking two story buildings, and keeping them two story, it wouldn't be a smaller footprint.

DAVE PAQUETTE: Okay, I will scratch that from my notes.

JIM SMITH: Okay, well.

DAVID PAQUETTE: I'm comfortable with the more open green space, personally.

JIM SMITH: Okay.

DAVID PAQUETTE: Being a reason that it wouldn't diminish.

NEIL DUNN: Versus what would be allowed there anyway.

DAVID PAQUETTE: Right, right vs. the following the ordinate that.

NEIL DUNN: Not that might not might not.

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[Overlapping]

JIM SMITH: So we got beyond four (4), number five (5). Owner's [Inaudible] property of that's distinguished from other properties in the area denying the variance would result in unnecessary hardship because?

[Indistinct]

DAVE PAQUETTE: Okay, so I don't know if I have data to support A-1.

NEIL DUNN: Is that where he answered that ahead of the other ones?

DAVE PAQUETTE: Let me go back to that and see what his, there response were [Indistinct]. Okay, page fifteen (15). I lost it. Okay. I don't see that he actually spoke directly to number five (5).

JACKIE BENARD: He did not answer number five (5).

DAVE PAQUETTE: So, if the criteria in sub paragraph A are not established an unnecessary hardship would be deemed. So the proposed use, is a reasonable one because that zoning allows this type of building?

[Overlapping]

JIM SMITH: No we aren't really talking about use, so I don't thing 2-A really.

ANNETTE STOLLER: It doesn't really apply.

JIM SMITH: Doesn't fit this.

ANNETTE STOLLER: Because the ordinance says sixteen (16) and maybe up to twenty (20), and he's looking for twenty four (24) units, so it does not, it's not a reasonable one under the ordinance.

NEIL DUNN: Except for the financial hardship?

DAVE PAQUETTE: But we have to speak to A-1 and A-2, or B.

NEIL DUNN: Correct, and that's what I'm looking to see, if we had it.

DAVE PAQUETTE: [Indistinct], an unnecessary hardship will be deemed existing and only if only special conditions of the property, so I don't think there's any special conditions of the property that make this a hardship to go from sixteen (16) to twenty four (24).

371 JACKIE BENARD: No, it was strictly from a monetary standpoint.
372
373 ANNETTE STOLLER: Well are we sure of that?
374
375 NEIL DUNN: Unless he couldn't.
376
377 JACKIE BENARD: No, it was their presentation.
378
379 ANNETTE STOLLER: It's their presentation.
380
381 [Overlapping]
382
383 JACKIE BENARD: I'm not seeing that.
384
385 ANNETTE STOLLER: We don't have.
386
387 DAVE PAQUETTE: Can reasonably be used in strict conformance with the ordinance with the ordinance,
388 and the variance is therefore necessary that enable reasonable use that conflicts? The
389 property can be reasonably in strict conformance with the ordinance, so I think that it
390 can be reasonably used in strict conformance with the ordinance.
391
392 JIM SMITH: Uh hum.
393
394 DAVE PAQUETTE: Ok, so this statement conflicts itself.
395
396 JACKIE BENARD: It isn't it conflicting itself at the moment with the last one.
397
398 DAVE PAQUETTE: Yeah, so.
399
400 JACKIE BERNARD: If you answer B, it can, and a variance is therefore necessary to enable reasonable use of
401 it.
402
403 NEIL DUNN: Special conditions of the property though, so I think.
404
405 DAVE PAQUETTE: Okay, there is a fair and substantial relationship between the general public purpose of
406 the ordinance provision and the specific application of the provision to the property
407 because.
408
409 JACKIE BENARD: Well it cannot be used in strict conformance.
410
411 DAVE PAQUETTE: [Indistinct], between general public purpose of the ordinance and the specific
412 application. Between general public purpose of the ordinance and the specific
413 application of the provision of the property because.
414

415 JACKIE BENARD: Okay, well we could answer also that the proposed use is a reasonable one because of
416 the area, so that means it is.
417

418 NEIL DUNN: I mean it's allowed so it's reasonable.
419

420 JACKIE BENARD: It's allowed, I mean so that's answered, so we have to answer one (1) at that point, we
421 don't go to B.
422

423 DAVE PAQUETTE: That's what I'm working on right, trying to figure out, so is there or is there not a fair
424 and substantial relationship between the general public purpose of the ordinance and
425 the specific application? I don't know that there is any data to support either side of
426 that.
427

428 [Overlapping]
429

430 NEIL DUNN: That's on page eight (8) of his lettering, and page nine (9).
431

432 JACKIE BENARD: Yeah.
433

434 DAVE PAQUETTE: So I guess their, I had him reiterate it, their unnecessary hardship is an economical one,
435 and that is written in to the hardship. The definition Jim?
436

437 JIM SMITH: Um hum.
438

439 DAVE PAQUETTE: That the economics.
440

441 JIM SMITH: Yeah.
442

443 DAVE PAQUETTE: That economics is writing into the hardship.
444

445 JACKIE BENARD: You know the one.
446

447 [Overlapping]
448

449 JIM SMITH: At one time it didn't, but now it did.
450

451 DAVE PAQUETTE: So them B, we can answer B then?
452

453 [Overlapping]
454

455 DAVE PAQUETTE: As is cannot be reasonably used in strict conformance of the ordinance due to economic
456 reasons.
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458 JIM SMITH: Yeah, that one makes sense.

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DAVE PAQUETTE: Okay, so that would cover number five (5).

JIM SMITH: Okay.

DAVE PAQUETTE: We on board with that?

JACKIE BENARD: Yes.

JIM SMITH: Yeah.

DAVE PAQUETTE: [Indistinct], due to economic.

JIM SMITH: Okay, now having come up with reason for those five (5) points.

DAVE PAQUETTE: As far as restriction, we don't need to visit it at this point, at the point of denying.

JACKIE BENARD: We had a condition weren't going to put in there.

DAVE PAQUETTE: But that's if we grant it.

JIM SMITH: Okay, it looks like at this point, we've build a case to deny it.

JACKIE BENARD: Right.

JIM SMITH: So there's no.

JACKIE BENARD: We don't need the conditions.

JIM SMITH: Right. So now we need someone to make a motion.

DAVE PAQUETTE: Right. Okay, Mr. Chairman.

JIM SMITH: Since you've got the.

DAVE PAQUETTE: Mr. Chairman, I'd like to raise in regards to case 11/19/2014-4, I'd like to raise a motion to deny a variance to allow the percentage of workforce housing in a multi-family workforce housing development to be, wrong one, scratch that. I'd like to make a motion to deny case number 11/19/2014-4, requesting a variance to allow twenty four (24) dwelling units per multi-family building where a maximum of sixteen (16) units allowed by section 2.3.3.7.1.2 on the five point of law number one (1) granting the variance would be contrary to the public interest because of a lack of analysis of data to support the need for this type of housing at twenty four (24) dwelling units per building. Number two (2) the spirit of the ordinance would not be observed because a lack of

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analysis of data to support the need for this type of housing at twenty four (24) dwelling units per building. Number three (3) granting the variance would do substantial justice because based on the economical loss at sixteen (16) units per building. Point four (4) for the following reasons the values of the surrounding properties would not be diminished more open green space at twenty four (24) units vs. following the ordinance at sixteen (16) units. Point five (5) if the criteria in sub paragraph A are not established and unnecessary hardship will be deemed to exist if and only if only special considerations of the property that distinguish it from other properties in the area the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a necessary use of it. This is due to the economic impact to the project.

JIM SMITH: Okay, do I have a second?

JACKIE BENARD: Second.

JIM SMITH: Okay. All is in favor.

[Overlapping]: Aye.

JIM SMITH: Okay, any opposed?

DAVE PAQUETTE: Oh yeah, all those in favor.

JIM SMITH: Okay. Let's try that again.

DAVE PAQUETTE: Yeah.

JIM SMITH: All those who are.

NEIL DUNN: Your motion was to deny correct?

JACKIE BENARD: Yes, so you're in favor of it if you move to deny it.

JIM SMITH: Right, so all those in favor of the motion to deny?

ALL: Aye.

JIM SMITH: Anyone in opposition to the motion to deny?

[SILENCE] No answers.

JIM SMITH: I love those.

547 **RESULTS: Case 11/19/2014-4 - DENIED**
548
549 DAVE PAQUETTE: One of the three (3).
550
551 JACKIE BENEARD: Okay.
552
553 DAVE PAQUETTE: Do I need to move all of this over to the voting shoot or are they going to take this off
554 the record by the recording?
555
556 JIM SMITH: Why don't you attach that.
557
558 DAVE PAQUETTE: Put them together.
559
560 JIM SMITH: Put them together.
561
562 DAVE PAQUETTE: [Indistinct]
563
564 [Indistinct]
565
566 JIM SMITH: Make a note on the bottom of the voting sheet to look at.
567
568 [Overlapping]
569
570 DAVE PAQUETTE: See variance.
571
572 JACKIE BENARD: I put see attached. See attached.
573
574 JIM SMITH: Okay.
575
576 DAVE PAQUETTE: What do I do with, do we need Bill's vote in this?
577
578 JIM SMITH: No, not really.
579
580 DAVE PAQUETTE: Because, we have one, two, three, four, five.
581
582 JIM SMITH: No, but you can pass yours over anyways, and just identify it as a non-voting.
583
584 NEIL DENN: Not voting, yeah, in that way.
585
586 DAVE PAQUETTE: And then Jacqueline, that must be Jim?
587
588 JIM SMITH: Yeah, yeah.
589
590 DAVE PAQUETTE: That's yours?

591
592 [Overlapping]
593
594 DAVE PAQUETTE: Bill is that yours? Is this one yours?
595
596 JACKIE BENARD: He's hiding it like a prescription.
597
598 JIM SMITH: No, I didn't do one.
599
600 DAVE PAQUETTE: Oh, you didn't do one, okay.
601
602 NEIL DUNN: Oh, that's me.
603
604 DAVE PAQUETTE: Oh yeah, I guess that could be a Neil. Okay. So I don't have a sheet from Jim, from Bill,
605 so that's good. Alright, Mr. Chairman in regards to case 11/19/2014 the request for a
606 variance has been denied with a vote to 5-0.
607
608 [Overlapping]
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610 DAVE PAQUETTE: I'm going to keep notes on the variances of voting this time. Alright, so now we are
611 talking about.
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613 JIM SMITH: Now, let's.
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615 NEIL DUNN : Opps, I'm sorry, summary.
616
617 JIM SMITH: Is that the right way to score on the top?
618
619 NEIL DUNN: Ahh, 5-0.
620
621 DAVE PAQUETTE: 4-0, yes, 4-0 against 5, yes.
622
623 NEIL DUNN: And so we don't want to put that in her, since she's not here, we want it in that case
624 folder. Right at least me have the right number?
625
626 [Overlapping]: 2014-4.
627
628 DAVE PAQUETTE: Yup, that one's done.
629
630 [Overlapping]
631
632 DAVE PAQUETTE: Alright case 11/19/2014-5. 12/17/2014. Now how do I [Inaudible].
633
634 [Overlapping] It's all the same package.

635
636 JACKIE BENARD: Did you open the other one to compare all the pages?
637
638 NEIL DUNN: Ahh, yes, that's what I'm looking at now.
639
640 JACKIE BENARD: Yeah, it's exactly one hundred twenty seven (127) pages, which is.
641
642 NEIL DUNN: Obviously, the front page is different because it addressed the specific.
643
644 DAVE PAQUETTE: Yeah, so it is the same data when they are speaking to the points.
645
646 JACKIE BENARD: Okay.
647
648 DAVE PAQUETTE: I want my notes back for that though.
649
650 JIM SMITH: [Overlapping] One on one.
651
652 NEIL DUNN: Yeah, that's why they can minimize it by getting taking you mouse over the edge of it
653 and [Overlapping].
654
655 JIM SMITH: It went the wrong way.
656
657 NEIL DUNN: Just go over to the edge.
658
659 JACKIE BENARD: Okay.
660
661 JIM SMITH: Okay, so we are now dealing with case number five (5). Case five is the fifty (50) percent
662 vs. the seventy five (75) percent.
663
664 JACKIE BENARD: Yes.
665
666 NEIL DUNN: And, just as a general statement the reason I was curious why it makes a difference is
667 we, the ordinance isn't that old, the ordinance is only a few years old, and to honest
668 with you, I do believe it should be defensible as written; however, because of the past
669 we knew, or we believed we didn't have the proper amount of workforce housing for
670 rentals and other good things then as a member of the Board and what's right for the
671 Town and for the workforce housing statute then I would be more than willing to accept
672 fifty (50) percent, but at this point, where I'm feeling that we're are confident and that
673 is why I was looking for more information. I would be less likely to support a fifty (50)
674 percent reduction, so I guess why I was looking for better information on it so I'm just
675 stating that because I know in the past we went to fifty (50); however, I don't believe we
676 need to if we are in compliance. Anyway, the five (5) points.
677
678 DAVE PAQUETTE: So the first point fits in with the same lack of data that we were speaking of before.

679
680 NEIL DUNN: That's exactly more, even more so here, absolutely.
681
682 DAVE PAQUETTE: So granting the variance would be contrary to public due to the same reasons lack of
683 analysis of data to support the need to support the need for this type of housing at fifty
684 (50) percent.
685
686 JACKIE BENARD: Say that again, I hate to make you do that.
687
688 NEIL DUNN: Or is it. Personally, I think it's contrary because I think we have enough, so I mean, we
689 don't necessarily have to agree on the exact, on our own voting sheets.
690
691 DAVE PAQUETTE: Sure, no no, I understand.
692
693 NEIL DUNN: That's all I'm saying.
694
695 DAVE PAQUETTE: At least, we can come to an agreement on the motion.
696
697 NEIL DUNN: Correct.
698
699 DAVE PAQUETTE: Okay. So granting the variance would be contrary to public interest because the lack of
700 analysis of data to support the need for this type of housing, the need for, yeah I guess
701 this type of housing at fifty (50) percent.
702
703 JACKIE BENARD: Yeah, because lack of analysis.
704
705 DAVE PAQUETTE: Work housing, workforce housing.
706
707 JACKIE BENARD: To support a current need when in fact it may have already been that.
708
709 DAVE PAQUETTE: Uh hum.
710
711 NEIL DUNN: And that's, so that more of where, and that's why, I won't say that anymore, I said my
712 piece.
713
714 DAVE PAQUETTE: Okay, so we really we are all in favor, we are all on the same page as it would be
715 contrary to public interest but we're just looking for the correct because.
716
717 [Laugh]
718
719 DAVE PAQUETTE: So the lack of analysis of data to support the need, so limited to fifty (50) percent.
720
721 [Indistinct]
722

723 DAVE PAQUETTE: The lack of analysis to support.
724
725 JACKIE BENARD: I said the current need.
726
727 DAVE PAQUETTE: Yeah.
728
729 JIM SMITH: No, no, no. Okay, here's where I think we need to be careful because we are talking
730 about fifty (5) vs. seventy (75). We aren't talking about how many units are in the
731 Town, or how many units we need in the Town, and I think part of the problem with the
732 way this is put together and when you review this stuff, state law one of the criteria of
733 the state law say on workforce housing opportunities, and it says in part this is under
734 674:59 roman numeral II part of it "the municipality, shall not fulfill the requirements of
735 this section by adopting voluntary inclusionary zoning provision that rely on
736 reductions that render the workforce housing development economically unviable".
737
738 DAVE PAQUETTE: What was the number to that? I'm sorry, 674:59.
739
740 JIM SMITH: Yeah.
741
742 NEIL DUNN: The inducements were favored, so you're thinking. How is it an inducement in my
743 question? Were' not given them.
744
745 JIM SMITH: Yeah, well inducements are those, are the criteria to meet to have a workforce housing
746 project. I mean one of the more viable ones would be the increase in density, in which
747 it would have a normal [Inaudible].
748
749 NEIL DUNN: Right, and we are given that with the.
750
751 JIM SMITH: yeah, but what it saying is if you set it up, the inducements in such a manor, or the
752 requirements, that make it economically unfeasible, then you're not meeting the
753 requirements. I think part of what we have to prove, be careful how we write our
754 reasoning one way or the other. If they go to court that's part of what they are going to
755 be looking at, whether or not the logic follows suit, so again, we don't have to make
756 each, if we want to deny this thing, we can have several of these things that they meet
757 and several that they don't, but it doesn't mean say that we have to prove that they
758 didn't meet all five (5) of them just as long as they don't meet one (1).
759
760 NEIL DUNN: No absolutely, but I'm just looking at this individual point and to me, we have a fairly
761 new ordinance that we've heard that somebody who was supposedly involved with it
762 say it was advised that it's defendable, and when we don't know at this point, well I
763 personally believe that after my research because we seem to be hitting the right
764 numbers that we do comply with it, then I don't think if they want to come in here.
765
766 JIM SMITH: When you say comply with it?

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NEIL DUNN: It's not, you don't even have to comply, it's supposed to be, you're supposed to do your fair share for the number of units or whatever, I mean.

JIM SMITH: Okay, the point I'm trying to make is does the ordinance the way it's written provide an opportunity to.

NEIL DUNN: Absolutely.

JIM SMITH: To have a viable economic project, and I'm saying, the debate is fifty (50) vs. seventy five (75), does that make it viable, or unviable?

NEIL DUNN: Well the argument, although I'm not sure where it was put in here, let's see where it is.

JACKIE BENARD: Wasn't the argument that.

NEIL DUNN: It makes it unviable financially?

JACKIE BENARD: Financially.

NEIL DUNN: However, we are not.

JACKIE BENARD: Because.

NEIL DUNN: We are not responsible for making ever project be financially viable. We set up a section or our ordinance or whatever to comply with the workforce housing standard. I think to one of the points earlier that it is defensible and is there it is inexistence and just because it doesn't work in this case doesn't mean we have to make everything financially viable that's not our requirement, we have the ordinance, it's fairly new test it, is my thought.

JACKIE BENARD: Because the um applicant so stated that the granite counter tops the nicer units, he was making them all the same, and that that was one of his arguments as to why it wasn't viable.

NEIL DUNN: Was the cost.

JACKIE BENARD: He used that as the basis for one of the basis that it wasn't viable because of how he was building it, so it goes back to you, Jim saying, it's our responsibility to try to meet construction costs, or hardship monetarily, I mean it's a fine line.

JIM SMITH: Oh, I know. I mean again, that's the balancing act and I think part of the problem, I think what we are faced with is trying to balance the state law vs. the criteria of the variance, and I think possibly the arguments of the applicant really didn't address the points clear

811 enough to make some of these points. Now, what I'm trying to do is keep us on a path
812 that addresses.
813
814 NEIL DUNN: The five (5) points.
815
816 JIM SMITH: The variances, or the points on the variance not the broader question on whether or not
817 we need this type of housing, and whether the Town has met the, those questions really
818 should be answered between the Planning Board and the Town Council, so if they
819 decide that we have sufficient um of this type of housing, I think the logical next step
820 would be for them to remove this section from the zoning.
821
822 DAVE PAQUETTE: Right.
823
824 JIM SMITH: If the believe that they have enough of this type of housing.
825
826 DAVE PAQUETTE: Uh hum.
827
828 JIM SMITH: If we live this thing in, by implication to me, it says the Town has not made that
829 determination.
830
831 NEIL DUNN: We couldn't allow more than our share, and just keep it at seventy five (75) percent,
832 and keep it as the ordinance is written, absolutely, we could.
833
834 ANNETTE STOLLER: There's no reason why you have to stop anybody, from.
835
836 NEIL DUNN: Yeah.
837
838 ANNETTE STOLLER: Let's say you those.
839
840 JIM SMITH: Well, I.
841
842 ANNETTE STOLLER: its three hundred seventy four (374) units they were talking about.
843
844 JIM SMITH: Right.
845
846 ANNETTE STOLLER: Uh hum, somebody comes in here with another two hundred (200). There's no reason.
847
848 JIM SMITH: Okay, but, but
849
850 ANNETTE STOLLER: That we can't approve that.
851
852 JIM SMITH: I think the point I'm trying to raise is did they write an ordinance with provisions in it
853 which made it impossible to use?
854

855 ANNETTE STOLLER: That's possible.
856
857 JIM SMITH: That's the point I'm trying to make.
858
859 [Overlapping]
860
861 JACKIE BENARD: The seventy five (75) percent might be impossible to use.
862
863 JIM SMITH: Again, when you look at what the other cities and towns have done from what we've
864 been presented with, the highest is a fifty (50) percent of any other town and most of
865 them are around twenty (25) to thirty (30).
866
867 NEIL DUNN: And they also have the lower, we are the highest rent district, and they have lower
868 rents, so those numbers would be even more exaggerated, absolutely, and I think that's
869 where I think we are kind of bumping in to so many of these because we are in the
870 Western Rockingham County. We get the highest, and so the ordinance has been
871 written, but that's my point, but I'm good with.
872
873 [Laugh]
874
875 DAVE PAQUETTE: So let's get back on track.
876
877 JIM SMITH: Okay, so what you have to do. You have to come up with a legitimate reason on each of
878 these five (5) points. One way, or the other.
879
880 DAVE PAQUETTE: Just like we did with the last one.
881
882 JIM SMITH: Right.
883
884 DAVE PAQUETTE: Sure.
885
886 NEIL DUNN: So if we go back to what was presented, did we get past the first one?
887
888 [Overlapping] No, no.
889
890 JACKIE BENARD: Yes, we did, we did the first one.
891
892 [Overlapping]
893
894 DAVE PAQUETTE: Okay, so it would be contrary to the public interest due to the same lack of analysis of
895 data to support the.
896
897 JACKIE BENARD: Right.
898

899 DAVE PAQUETTE: For this type of housing.
900
901 JIM SMITH: Okay, are you going to.
902
903 DAVE PAQUETTE: Yup.
904
905 JIM SMITH: Have basically the same argument for the second one, which is almost the same.
906
907 JACKIE BENARD: Spirit of the ordinance.
908
909 JIM SMITH: Yeah.
910
911 JACKIE BENARD: Would be observed, or would not, and obviously would not?
912
913 JIM SMITH: Because again, I think it would also have to follow the same logic on that one, so. So
914 number two (2), you got the same thing.
915
916 NEIL DUNN: Yeah. I think we get to the same point, but with a different thought process.
917
918 JIM SMITH: No, I, I'm.
919
920 NEIL DUNN: No, no, I'm good, Jim.
921
922 DAVE PAQUETTE: Okay, so okay would not be observed, correct?
923
924 JIM SMITH: Yeah.
925
926 DAVE PAQUETTE: So, at this period, would not be observed due to the lack of analysis of ba, ba, ba, ba, ba,
927 okay.
928
929 [Overlapping]
930
931 JIM SMITH: [Inaudible] would, or would not do substantial justice because?
932
933 JACKIE BENARD: No.
934
935 NEIL DUNN: So, he listed it as number four (4).
936
937 DAVE BENARD: Yeah, yeah, the spirit of the ordinance is three (3). Oh, they corrected it in this one, oh
938 you're right, number four (4).
939
940 NEIL DUNN: His, his has changed, and right.
941

942 DAVE PAQUETTE: And okay, so the last, I think that our decision is on the last case, is fits here as well.
943 Granting the variance would do substantial justice because based on the economical
944 loss at seventy five (75) percent.
945
946 NEIL DUNN: Right.
947
948 [Indistinct]
949
950 NEIL DUNN: [Inaudible] the loss to the individuals outweighed by the gain to the general public. And
951 this is for going to fifty (50) percent. I'm not really sure, I think that the general public
952 gains by having a higher percentage, and his financial thing, it's not the only
953 consideration, we, that's why we are having how many different locations with
954 workforce housing because we didn't stick to the original seventy (75), and.
955
956 DAVE PAQUETTE: Yeah.
957
958 NEIL DUNN: So we have to, therefore, we the public are subsidizing four (4) projects instead of two
959 (2). I'm.
960
961 DAVE PAQUETTE: Can you put it together from the top?
962
963 [Laugh]
964
965 DAVE PAQUETTE: Can you put that thought together from the top for me?
966
967 JACKIE BENARD: Well number four (4), it would not be diminished.
968
969 NEIL DUNN: No, we are on substantial just now.
970
971 JACKIE BENARD: You're still there [Laugh], well percentage is very different than.
972
973 NEIL DUNN: Go with what you had. That's, I'm just saying that's.
974
975 DAVE PAQUETTE: Based on the economic loss?
976
977 NEIL DUNN: I'm not.
978
979 DAVE PAQUETTE: At fifty (50) percent.
980
981 NEIL DUNN: But we were saying that you're saying, I guess you guys are saying that it would be.
982
983 DAVE PAQUETTE: It would do substantial justice because granting the variance would do substantial
984 justice.
985

986 NEIL DUNN: And, yeah, so.
987
988 DAVE PAQUETTE: Based on the economical loss at fifty (50) percent.
989
990 NEIL DUNN: So I don't necessarily agree with you on that one, but I. So that's what I am saying that
991 you want to have in your motion.
992
993 DAVE PAQUETTE: Okay.
994
995 [Laugh]
996
997 NEIL DUNN: Well, no.
998
999 JIM SMITH: Okay, well I think.
000
001 NEIL DUNN: [Inaudible].
002
003 JIM SMITH: Where we are going with this.
004
005 NEIL DUNN: Yeah, all's I'm saying though is.
006
007 JIM SMITH: Given the fact we have the same basic information for all three of them, we pretty much
008 have to come up with the same basic arguments for all three of them.
009
010 JACKIE BENARD: Seems though, hum.
011
012 [Overlapping] Which is.
013
014 NEIL DUNN: Yeah, close on some of the things. Some things change.
015
016 [Overlapping] Seriously.
017
018 JIM SMITH: Okay, so let's proceed to the next one. Number four (4), the following reasons the
019 values of surrounding properties would or would not be diminished?
020
021 DAVE PAQUETTE: I think we are still on the same.
022
023 JACKIE BENARD: Would not.
024
025 DAVE PAQUETTE: That it would not be diminished.
026
027 JIM SMITH: Okay.
028
029 DAVE PAQUETTE: Because this doesn't, this particular ordinance doesn't impact.

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071

NEIL DUNN: Yeah. Yeah that one doesn't, yeah, but percentage in there doing it that doesn't really change.

JIM SMITH: Right. Okay, last.

DAVE PAQUETTE: Give me just one second to put that down for the following reason the value would not be diminished um there's no impact to property values, no impact.

JIM SMITH: Yeah.

DAVE PAQUETTE: To property values based on percentage of workforce housing. No impact of [Indistinct] of values [Indistinct-Writing]. Okay.

JACKIE BENARD: Number five (5).

DAVE PAQUETTE: Yup. Anybody have anything to.

NEIL DUNN: Uh hum, it, he doesn't really talk to this the special conditions of the property which is a [Inaudible].

DAVE PAQUETTE: Uh hum.

NEIL DUNN: Other than it um it was two (2) lots and they got six (6).

JIM SMITH: If one person makes [Indistinct]

[Overlapping] Yes, yes.

JACKIE BENARD: In [Inaudible].

DAVE PAQUETTE: So if we are sticking with the economical loss on number (3), I think the economical loss, the economic impact on the project fits with five (5) B on this one as well? So it cannot be reasonably used in strict conformance with the ordinance and a variance is therefore necessary to enable the reasonable use.

NEIL DUNN: We are talking again about the fifty (50) percent and the seventy five (75) percent, so I don't know if that's why, I don't think they were all quite the same.

JACKIE BENARD: Well it is, and this is.

072 DAVE PAQUETTE: Yeah, this is a direct relation to their, their, their return on this right, so their, the reason
073 why they are doing fifty (50) percent so they can do another fifty (50) at non-workforce
074 pricing.
075
076 JIM SMITH: Yeah, basically.
077
078 NEIL DUNN : What's that have to do with the conditions of the property? [Laugh]
079
080 JIM SMITH: The extra money they get out of the non.
081
082 [Indistinct]
083
084 NEIL DUNN: Alright so, it's not that.
085
086 JIM SMITH: Compensation for the lower, you know the lower rents they get on the other side.
087
088 NEIL DUNN: But I still have trouble with the whole thing being the special conditions of the property
089 there's no special, it's the financial.
090
091 DAVE PAQUETTE: Yeah.
092
093 JIM SMITH: Again, that's part of the problem with what we are faced with because.
094
095 [Overlapping]
096
097 JACKIE BENARD: But that percentage is a special financial condition.
098
099 JIM SMITH: At one time, we didn't' have to consider finances you were on the board then.
100
101 NEIL DUNN No, yeah, absolutely.
102
103 JIM SMITH: No we, finances are part of the variance. Finances can be considered as a hardship.
104
105 NEIL DUNN: I think that more comes under the substantial justice where we out way the cost to the
106 applicant then to the Town, but when we get to special conditions of the property, I
107 don't' see anything in here where he speaks to point five (5) and special conditions of
108 the property.
109
110 DAVE PAQUETTE: Um hum, yeah.
111
112 [Overlapping]
113
114 ANNETTE STOLLER: The percentage alone makes it unique.
115

116 DAVE PAQUETTE: Yeah, but they don't necessarily have to be workforce housing, and wouldn't
117 necessarily.
118
119 ANNETTE STOLLER: No they don't.
120
121 DAVE PAQUETTE: And wouldn't necessarily have to follow this ordinance, but the applicate
122
123 ANNETTE STOLLER: But he is.
124
125 DAVE PAQUETTE: Wants to be workforce housing so, if I mean they were building a sixteen (16) unit or a
126 twenty four (24) unit
127
128 ANNETTE STOLLER: Development.
129
130 DAVE PAQUETTE: Development of just normal rental properties. They wouldn't be here this fifty (50) to
131 seventy five (75), but like Neil said, is there a special condition on the property that
132 makes it distinguish itself from other properties in the area where denial on the
133 variances would result in a hardship.
134
135 ANNETTE STOLLER: Yeah, that percentage.
136
137 DAVE PAQUETTE: But, I guess, I guess, I guess this ordinance.
138
139 [Overlapping]
140
141 ANNETTE STOLLER: Yeah, because their condition.
142
143 DAVE PAQUETTE: Is a special condition is on this property based on this applicants request of being
144 workforce housing, so you put workforce housing in there, there's special condition of
145 this property.
146
147 NEIL DUNN: I don't see it that way, but, that's fine.
148
149 DAVE PAQUETTE: In but just in like we need to come up with.
150
151 NEIL DUNN: No, yeah, I'm trying to see where, where the best, where the best applicant's best
152 response was.
153
154 JACKIE BENARD: Umm, page six (6), our page six (6).
155
156 NEIL DUNN: Pdf page six (6).
157
158 JACKIE BENARD: Yes, thank you.
159

160 DAVE PAQUETTE: Pdf page six (6), that's have something special in there regarding?
161
162 JACKIE BENARD: Because that's his response for number five (5).
163
164 [Indistinct/Overlapping]
165
166 DAVE PAQUETTE: I just, I don't think there's enough, a stance from the applicant to either support or not
167 support, or oppose number five (5).
168
169 [Overlapping]
170
171 JACKIE BENARD: That's where I was going with it so we can draw our own conclusions because we have
172 to.
173
174 NEIL DUNN: There's no special conditions of the property.
175
176 JACKIE BENARD: No, there is not.
177
178 DAVE PAQUETTE: So it not, it is a fair and substantial between the general purpose of the ordinance and
179 then because that would answer that right, so there is a fair and substantial between
180 the general public purpose of the ordinance provision and the specific application of this
181 provision to the property.
182
183 NEIL DUNN: So ordinance provision, there is a fair.
184
185 DAVE PAQUETTE: Because our ordinance states that workforce housing needs to be a minimum of seventy
186 five (75) percent.
187
188 [Indistinct]
189
190 NEIL DUNN: [Inaudible] sub paragraph A
191
192 DAVE PAQUETTE: Okay, we are back to there is not a fair and substantial relationship between the general
193 public purpose of the ordinance and the specific application. So there's not a, between
194 the applicant, the application and the ordinance itself, there is not a fair and substantial
195 relationship because the ordinance is written to be seventy five (75) percent workforce
196 housing.
197
198 [Overlapping]
199
200 JACKIE BENARD: Well isn't the answer that is a fair and substantial relationship between the general
201 public purpose which is seventy five (75) percent workforce housing?
202

203 DAVE PAQUETTE: Yeah, but the specific application is at apply for fifty (50) percent, a variance for fifty (5)
204 percent.
205
206 JACKIE BENARD: We are dealing with.
207
208 NEIL DUNN: Okay, so it's that that double negative.
209
210 [Overlapping]
211
212 NEIL DUNN: Okay, so it is not, so in this case it is not because of the fifty (50) percent.
213
214 [Indistinct/Overlapping]
215
216 NEIL DUNN: Okay, so he's saying that it interferes with his reasonable use, but it doesn't other than
217 [Indistinct].
218
219 [Indistinct/Overlapping]
220
221 DAVE PAQUETTE: So that covers it then, because the propose use is a reasonable one because it's.
222
223 NEIL DUNN: Allowed.
224
225 DAVE PAQUETTE: Due to the AR-1 zone right?
226
227 JIM SMITH: Um hum.
228
229 JACKIE BENARD: Yeah, that's what I put because it's reasonable because of the area.
230
231 JIM SMITH: Okay, [Indistinct/Overlapping]
232
233 DAVE PAQUETTE: Okay.
234
235 JIM SMITH: Okay, do you want to make a motion?
236
237 DAVE PAQUETTE: Yup, so at this point, we have a motion to deny because we didn't meet all five points?
238
239 JIM SMITH: Right.
240
241 DAVE PAQUETTE: Mr. Chairman, in regards to case 11/19/2014-5, I raise a motion to deny the request of
242 variance to allow the percentage of workforce housing units in a multi-family workforce
243 housing development to be limited to fifty (50) percent where a minimum of seventy
244 five (75) percent was required by section 2.3.3.7.1.1.4. Going through the five (5) points
245 - number one granting the variance would be contrary to the public interest because of
246 the lack of analysis of data to support the need of this type of housing at fifty (50)

247 percent; the spirit of the ordinance would not be observed due to the lack of analysis of
248 data to support the need of this type of housing at fifty (50) percent; number three (3)
249 granting the variance would do substantial justice because based on the economic loss
250 at seventy five (75) percent workforce housing vs. fifty (50) percent workforce housing;
251 number four (4) for the following reasons the property of the surrounding the values of
252 the surrounding properties would not be diminished due to there's no impact of
253 property values based on percentage of workforce housing; number five (5) [Inaudible]
254 to special conditions of the property that distinguishes it from other properties in the
255 area denial of the variance would result in an unnecessary hardship because there is not
256 a fair and substantial relationship between the general public purpose of the ordinance
257 provision and the specific application of that provision to that property because the
258 ordinance is written to support seventy five (75) percent in a workforce housing project;
259 and five (5) A-2 the proposed use is a reasonable one due to the AR-1 zone.

260
261 JIM SMITH: Okay, who's second?

262
263 JACKIE BENEARD: I'll second.

264
265 JIM SMITH: Okay.

266
267 JIM SMITH: All those in who are in favor of the motion to deny.

268
269 ALL: Aye.

270
271 JIM SMITH: Anyone in opposition to deny?

272
273 SILENT: No answers.

274
275 DAVE PAQUETTE: Mr. Chairman in regards to case number 11/19/2014-5 the variance has been denied on
276 a vote of 5-0.

277
278 [Indistinct/Overlapping Papers]

279
280 **RESULTS: CASE NO. 11/19/2014-5 - DENIED**

281
282 DAVE PAQUETTE: Alright, so we were speaking to this before that the phasing has a direct impact on the
283 cost of supporting project growth, or housing growth like this.

284
285 NEIL DUNN: Absolutely, but we also are allowed to look out for our own good, and the one thing that
286 he did the he used the school enrollments, or they who ever; however the school
287 enrollments did not include any updates for anything that in the pipeline that been
288 approved from looking at Woodmont, I guess isn't finished yet, but the rest of them
289 have been approved, I believe. I'm looking at the housing developments and the
290 impact, and where I saw looking at it quickly is Matthew Thornton and North School

291 would be the most impacted because I don't know they bus kids across to South, but I
292 guess they would do what they had to.

293

294 JIM SMITH: Where are those.

295

296 DAVE PAQUETTE: The blank ones?

297

298 JIM SMITH: No.

299

300 DAVE PAQUETTE: Oh.

301

302 JACKIE BENARD: Keep in mind as much of [Inaudible] then they switched the school population.

303

304 DAVE PAQUETTE: What are you looking for.

305

306 [Overlapping]

307

308 NEIL DUNN: No, right but when in part of the presentation where he would, or in his application here
309 findings and conclusions page sixty two (62) of the pdf [Overlapping] the phasing and
310 both the phasing and growth ordinance haven't been in place so [Overlapping], so if
311 there not in place then it might not [Inaudible] them, but we have so much going on
312 right now, I hate not to leave them in place, but also by virtue in supporting he came up
313 with school capacities and Matthew Thornton and North School there is a total of one
314 hundred fifty nine (159). [Overlapping]

315

316 DAVE PAQUETTE: Sign, sealed, delivered.

317

318 NEIL DUNN: Spaces if you will based on I'm not even sure where this came from if that's current
319 from this year, from Nate, or where it's from, but we'll presume it's good, but basically
320 we would have between everything that's in the pipeline, he hasn't included any of that
321 in these numbers. I think these were what came out from either the School Board, or
322 whatever, so the three hundred eighteen (318) other units times one point two (1.2)
323 and we don't know where the kids end up, they could be high school, they could middle
324 school, they could nursery, so using this chart here they [Inaudible] include, or at least
325 give us some accommodation for the projects that happened past, and you know that's
326 three hundred and eighteen (318) workforce housing that's almost double that on total
327 units so I was having trouble with allowing the growth ordinance based on the fact that
328 he didn't adjust for it. I don't think he did a fair share on that, but I think it all goes back,
329 we're pretty much at the same spot on the, I think we, it's allowable and we need that
330 growth management to pace our growth the way it's going now, it's crazy, we've had
331 just too many projects go through so in a general sense that's where I'm coming from. If
332 we look at the five (5) points.

333

334 DAVE PAQUETTE: Is it the same, I'm assuming it's the same data again for number six (6)?

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NEIL DUNN: It's a little bit different, but it's. It's a little different, and that's why I was bringing up that because that same chart was in the other ones, but I think it talks more to the growth and.

DAVE PAQUETTE?: Right.

NEIL DUNN: And so if it didn't kick in, then he's probably

[Overlapping]

DAVE PAQUETTE: Three (3) years instead of six (6).

[Indistinct/Overlapping]

[Indistinct]

DAVE PAQUETTE: Okay, so 1.3.3.3 states.

NEIL DUNN: On his conclusion is based upon research and finding there's no up to date findings that support restricting the construction timing workforce project in limit to it the infrastructure not [Inaudible] there are no improvements will be required and that's where I'm saying because of the other projects and what he's proposing that we have one hundred fifty nine (159) slots between North and.

DAVE PAQUETTE: No this particular one, but the Town growth as a whole.

NEIL DUNN: Well just all the projects we've approved in the last that are on the books that are approved.

DAVE PAQUETTE: Right.

NEIL DUNN: The workforce housing projects, the housing developments.

JACKIE BENARD: They've all been approved by us, but they haven't all gone through the Planning Board.

NEIL DUNN: No they haven't, but they are still in the loop.

JACKIE BENARD: They're in the pipeline.

NEIL DUNN: And that's, I'm mean how do we, that's the GMO is about, what happens when the pipeline gets so full and things start things start squishing, we need to protect ourselves, and I think that allowed, so I'm not.

379 DAVE PAQUETTE: Forty eight (48) per year. So the ordinance reads that dwelling units not to exceed forty
380 eight (48) per year. So their total dwelling units is two hundred eighty eight (288)
381 divided by forty eight (48) is how many years.
382
383 [Laugh]
384
385 NEIL DUNN: What do we go?
386
387 DAVE PAQUETTE: Two eighty eight (288) divided by forty eight (48), so the ordinance states that forty
388 eight (48) per year from the date of final approval.
389
390 NEIL DUNN: Six years.
391
392 DAVE PAQUETTE: Alright.
393
394 NEIL DUNN: And he wanted to do it in three (3).
395
396 DAVE PAQUETTE: Right. So the ordinance states that this particular project would need to be build out
397 across six (6) years.
398
399 JACKIE BENARD: Six years.
400
401 NEIL DUNN: By then Woodmont could be, I mean where do we give them an exception over
402 somebody else?
403
404 DAVE PAQUETTE: Right.
405
406 NEIL DUNN: I don't think it's fair. It's not fair to the rest of the any other applicants coming in before
407 us, and it's.
408
409 DAVE PAQUETTE: Okay, so granting the variance would be contrary to public interest due to the rapid
410 growth impacting public services.
411
412 NEIL DUNN: So what's the purpose if we go to our ordinance? What the purpose say?
413
414 [Overlapping] Impact on services and amenities. To protect our impact on services and amenities.
415
416 DAVE PAQUETTE: Okay, so we should use those words?
417
418 [Overlapping]
419
420 [Laugh]
421
422 DAVE PAQUETTE: Where did you see the services and amenities?

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JACKIE BENARD: I didn't, I just said.

DAVE PAQUETTE: Oh, I thought. [Laugh] I thought you pulled that out of the ordinance somewhere?

JACKIE BENARD: You don't have to.

DAVE PAQUETTE: Right. For multi-family development. Okay.

[Overlapping]

NEIL DUNN: What do we need, just a straight vote?

JIM SMITH: No, I got, I found [Indistinct].

NEIL DUNN: You mean the Chairman sheet?

JIM SMITH: Yeah.

[Overlapping]

DAVE PAQUETTE: Granting the variance would be contrary to public interest because of the rapid impact of, what was the , what did you say? What were your words?

[Overlapping].

DAVE PAQUETTE: The rapid impact of growth.

[Overlapping]

DAVE PAQUETTE: Monitor and guide the growth, alright but would, the rapid impact, but that doesn't speak towards that would be contrary? So granting the variance would be contrary to the public interest because of the rapid impact of growth.

[Overlapping]

DAVE PAQUETTE: Ah.

[Overlapping]

DAVE PAQUETTE: Lack of monitor and control of growth.

465 JACKIE BENEARD: Well our ordinance says that it's a sensible expansion of its services to accommodate
466 such development without establishing absolute limits on the overall growth rate of the
467 community. So see its [Indistinct].
468

469 DAVE PAQUETTE: Where did you see that so I can read it?
470

471 [Overlapping]
472

473 DAVE PAQUETTE: 1.3.3 page fifteen (15) of the ordinance.
474

475 JACKIE BENEARD: Yup.
476

477 DAVE PAQUETTE: 1.3.3 (not 1.3.3.3).
478

479 JACKIE BENEARD: It is the purpose the ordinance so.
480

481 NEIL DUNN: Our 1.3.2.1, our 1.3.2?
482

483 JACKIE BENEARD: 1.3.2.1.
484

485 DAVE PAQUETTE: Because 1.3.2.1 [Indistinct]. Okay, for planned orderly and sensible expansion.
486

487 JACKIE BENEARD: Correct, because of all those areas.
488

489 DAVE PAQUETTE: Because, would be contrary to public interest because.
490

491 JACKIE BENEARD: The Town would not be able to.
492

493 DAVE PAQUETTE: Of the impact to planned orderly and sensible expansion.
494

495 NEIL DUNN: Of its services?
496

497 DAVE PAQUETTE: [Overlapping] of services as explained in 1.3.2.1 (1.3.2.1).
498

499 [Overlapping]
500

501 DAVE PAQUETTE: Okay, so the spirit of the ordinance follows under that same right?
502

503 NEIL DUNN: Um hum.
504

505 DAVE PAQUETTE: You guys agree if the spirit falls into the same.
506

507 JACKIE BENEARD: That's absolutely correct, yes.
508

509 DAVE PAQUETTE: Would not be observed.
510
511 JACKIE BENARD: That's correct, yeah.
512
513 DAVE PAQUETTE: Because of [Indistinct]. Granting the variance would or would not do substantial justice
514 so [Overlapping], so I don't think.
515
516 NEIL DUNN: I don't know how it does other than.
517
518 DAVE PAQUETTE: It wouldn't do substantial justice because of the rapid growth, honestly along the same
519 lines of the planned orderly and sensible expansion.
520
521 NEIL DUNN: Yeah, but I think if we go back, let's see what he's saying because it's. What page are
522 we on in here now [Indistinct].
523
524 DAVE PAQUETTE: Page fifteen (15), I think, pdf 15ish, in that same, substantial justice. Page yes page
525 fourteen (14). Thank you very much. Thank you.
526
527 DAVE PAQUETTE: Determine whether or not [Inaudible] departments look at the loss to any individual
528 would be outweighed by the gain to the general public, so that.
529
530 NEIL DUNN: So I don't' think there, yeah.
531
532 DAVE PAQUETTE: So there's no gain to the general public it's a [Inaudible]. It's a loss to the general
533 public.
534
535 JACKIE BENARD: There's a loss, yeah.
536
537 DAVE PAQUETTE: Okay, would not do substantial justice due to the loss to general public vs. the
538 individual gain. No I'm not going to put that in there, I don't' like that. Do to the loss of
539 the lost to the general public and its services.
540
541 NEIL DUNN: To control its services.
542
543 DAVE PAQUETTE: To control expansion.
544
545 NEIL DUNN: There you go, good job Dave.
546
547 [Laugh]
548
549 DAVE PAQUETTE: We'll get there.
550
551 NEIL DUNN: Property values if they didn't three (3) vs. six (6) would not be diminished [Overlapping].
552

553 DAVE PAQUETTE: No impact to values vs. speed.
554
555 NEIL DUNN: Yeah, speed.
556
557 DAVE PAQUETTE: Speed of project.
558
559 NEIL DUNN: If you believed it impacted, it would just impact it quicker, or slower.
560
561 DAVE PAQUETTE: Alright. There is [Overlapping/Indistinct]. Alright, so A-1, there is not a fair and
562 substantial relationship between the general public purpose of the ordinance and the
563 specific application.
564
565 JACKIE BENARD: No.
566
567 DAVE PAQUETTE: Because of that same expansion control.
568
569 JIM SMITH: Um hum.
570
571 DAVE PAQUETTE: [Indistinct]. There is not, there is a fair, no there is not a fair and substantial
572 relationship between the general public purpose of the ordinance so the purpose of
573 the ordinance and the specific application. It's not fair to the public because, okay.
574
575 NEIL DUNN: I'm glad you're here tonight Dave.
576
577 [Laugh]
578
579 DAVE PAQUETTE: Well as soon as Jim, you stated something about them appealing and going to superior
580 court, it's like okay, we need to make sure we have this done right.
581
582 JIM SMITH: Yeah, yeah that's why I wanted you know one person write something on each of the
583 points [Overlapping], so we have.
584
585 [Overlapping]
586
587 DAVE PAQUETTE: Alright, so the proposed use is, or is, yeah, again, the proposed use is a reasonable one
588 because it's an AR-1 zone.
589
590 JIM SMITH: So you only have to either do 1-A, or 2-A.
591
592 DAVE PAQUETTE: Oh, really.
593
594 JIM SMITH: I don't think you have to do both.
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596 DAVE PAQUETTE: I thought we had to either support both of those, or B.

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JACKIE BENARD: Or B, yeah.

[Overlapping]

NEIL DUNN: Right, that's my, that's how I always looked at it, but yeah, I think guess either way if one of them doesn't make it then the other one could still, and it still doesn't [Inaudible] right.

JIM SMITH: Okay, so go over them again.

DAVE PAQUETTE: Okay, so number one (1) granting the variance would be contrary to the public interest because of the impact to planned orderly and sensible expansion of services as explained in 1.3.2.1. I know, I went too fast, but I didn't know if you were trying to take notes, but.

JIM SMITH: No, no, no this is good.

DAVE PAQUETTE: Okay, the spirit of the ordinance would not be observed due to the same reasons.

JACKIE BENARD: [Inaudible] and monitoring.

DAVE PAQUETTE: Same as number one (1). Granting the variance would not do substantial justice due to the loss to the general public to control expansion. Due to the loss to the general public and expansion control. Due to the loss to the general public in regards to expansion control. For the following reasons the values of the following the values of the surrounding properties would not be diminished, not impact to values vs., no impact to the values based on the speed of the project. Five A-1, there is not a fair and substantial relationship between the general public purpose of the ordinance provision and the specific application of that provision because the control of expansion due to. There is not a fair and substantial relationship between the general public purpose of the ordinance provision and the specific application, so it's not a fair and substantial relationship because [Indistinct] because, I'm just trying to word the rapid expansion.

JIM SMITH: Yeah.

DAVE PAQUETTE: Because the rapid expansion.

JIM SMITH: Would not allow for the desired control.

DAVE PAQUETTE: Right. The rapid expansion would not allow planned, orderly and sensible, would not be, would not be. Planned orderly [Indistinct]. Okay, so back to that. There is not a fair and substantial relationship between the general public purpose of the ordinance and the specific application of the provision of that provision to the property because

641 the rapid expansion would not be planned, orderly, and sensible, as explained in
642 1.3.2.1. The proposed use is a reasonable one because due to AR-1 zone.
643
644 JIM SMITH: Good.
645
646 DAVE PAQUETTE: Okay. Mr. Chairman, I'd like raise a motion.
647
648 JIM SMITH: Okay, do ahead.
649
650 DAVE PAQUETTE: In regards to 11/19/2014-6 to deny the variance request to allow phasing for a
651 proposed workforce housing development over three (3) years, or otherwise limited by
652 Section 1.3.3.3, [Indistinct] and to exempt such development from future
653 implementation of growth control regulations provided in 1.4.7.2, so there's actually a
654 two (2) part there, but. So the five (5) points towards the denial number one (1)
655 granting the variance would be contrary to public interest because of the impact to
656 planned, orderly, and sensible expansion of services as explained in 1.3.2.1; number
657 two (2) the spirit of the ordinance would not be observed because of the impact to
658 planned, orderly, and sensible expansion of services as explained in 1.3.2.1; number
659 three (3) granting the variance would not do substantial justice because due to the loss
660 to the general public in regards expansion control; number four (4) for the following
661 reason the values of the surrounding properties would not be diminished, no impact to
662 values based on speed of project; number five (5) A-1 there is not a fair and substantial
663 relationship between the general public purpose of the ordinance provision and the
664 specific application of that provision to the property because the rapid expansion
665 would not be planned, orderly, and sensible as explained in 1.3.2.1; A-2 the proposed
666 use is a reasonable one due to the AR-1 zone.
667
668 JIM SMITH: Do I have a second?
669
670 JACKIE BENARD: Second.
671
672 JIM SMITH: All those in favor of denying the variance.
673
674 ALL: Aye.
675
676 JIM SMITH: Anyone in opposition?
677
678 SILENCE: No Answers.
679
680 [Overlapping]
681
682 DAVE PAQUETTE: Do I need to state his non-vote in this?
683
684 JIM SMITH: [Indistinct] put it in.

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NEIL : No, I don't think we usually do, but it's more for him to go through it and get used to it as an alternate member.

DAVE PAQUETTE: Okay.

[Indistinct].

DAVE PAQUETTE: So I can still say 0-5?

[Overlapping] Yeah.

DAVE PAQUETTE: 4-0, 5-0 instead of 6.

JIM SMITH: Yeah, his doesn't count.

DAVE PAQUETTE: Okay. Signed, sealed, delivered.

RESULTS: CASE NO. 11/19/2014-6 - DENIED

RESULTS:
CASE NO. 11/19/2014-4: THE MOTION TO DENY CASE NO. 11/19/2014-4 WAS APPROVED, 5-0-0.
CASE NO. 11/19/2014-5: THE MOTION TO DENY CASE NO. 11/19/2014-5 WAS APPROVED, 5-0-0.
CASE NO. 11/19/2014-6: THE MOTION TO DENY CASE NO. 11/19/2014-6 WAS APPROVED, 5-0-0.

RESPECTFULLY SUBMITTED,



DAVID PAQUETTE, CLERK

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

APPROVED JANUARY 21, 2015 WITH A MOTION MADE BY NEIL DUNN, SECONDED BY ANNETTE STOLLER AND APPROVED, 5-0-0.