

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

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5 DATE: JULY 16, 2014  
6  
7 CASE NOS.: 3/19/2014-4, 5, AND 6 AND 5/21/2014-2 (CONTINUED FROM JUNE 18,  
8 2014)  
9  
10 APPLICANT: TEAM BUSINESS DEVELOPMENT CORPORATION  
11 C/O CHARLIE KULCH  
12 491 AMHERST STREET  
13 NASHUA, NH 03063  
14  
15 LOCATION: 5 BUTTON DRIVE, 4 GOLEN DRIVE, 6 GOLEN DRIVE, 8 GOLEN DRIVE, 12  
16 GOLEN DRIVE, 1 REED STREET & 3 REED STREET; 7-132-8, 9, 13, 14, 18,  
17 19, AND 20; C-I, WITHIN THE RTE. 102 PERFORMANCE OVERLAY DISTRICT  
18  
19 BOARD MEMBERS PRESENT: NEIL DUNN, ACTING CHAIR  
20 JIM TIRABASSI, VOTING MEMBER  
21 JACQUELINE BENARD, VOTING MEMBER  
22 ANNETTE STOLLER, VOTING ALTERNATE  
23 DAVID PAQUETTE, CLERK  
24  
25 ORIGINAL REQUESTS: CASE NO. 3/19/2014-4: VARIANCE TO ALLOW AN ELDERLY HOUSING  
26 DEVELOPMENT ON A 7.96 ACRE PARCEL WHERE 15 ACRES IS REQUIRED  
27 BY SECTION 3.6.4.1; AND TO ALLOW AN ELDERLY HOUSING  
28 DEVELOPMENT WITH 56% OPEN SPACE WHERE 70% IS REQUIRED  
29 UNDER SECTION 3.6.4.8.1.  
30  
31 CASE NO. 3/19/2014-5: VARIANCE TO ALLOW AN INCREASE IN THE  
32 NUMBER OF DWELLING UNITS IN A SINGLE BUILDING OF AN ELDERLY  
33 HOUSING DEVELOPMENT TO 36 UNITS AND 42 UNITS WHERE 16 IS THE  
34 MAXIMUM NUMBER OF UNITS ALLOWED BY SECTION 3.6.4.7; AND TO  
35 ALLOW AN INCREASE IN DENSITY IN AN ELDERLY HOUSING  
36 DEVELOPMENT TO 15.8 UNITS PER ACRE WHERE ONLY 6 UNITS PER  
37 ACRE IS ALLOWED BY SECTION 3.6.4.14.2.1.  
38  
39 CASE NO. 3/19/2014-6: VARIANCE TO ALLOW AN ELDERLY HOUSING  
40 DEVELOPMENT WITH SEPARATION BETWEEN BUILDINGS OF 20 FEET  
41 WHERE 60 FEET IS REQUIRED BY SECTION 3.6.4.2; AND TO ALLOW AN  
42 ELDERLY HOUSING DEVELOPMENT WITH A MIX OF 1-BEDROOM AND 2-  
43 BEDROOM UNITS WHERE THE STANDARD 2-BEDROOM UNIT IS  
44 REQUIRED BY SECTION 3.6.4.7.1.

45  
46 CASE NO. 5/21/2014-2: VARIANCE TO ALLOW .95 PARKING SPACES PER  
47 DWELLING UNIT WHERE 1.2 SPACES IS REQUIRED PER BEDROOM IN EACH  
48 UNIT BY SECTION 3.6.4.5.  
49

50 AMENDED REQUESTS:

51 CASE NO. 3/19/2014-4: VARIANCE TO ALLOW AN ELDERLY HOUSING  
52 DEVELOPMENT ON A 12.72 ACRE PARCEL WHERE 15 ACRES IS REQUIRED  
53 BY SECTION 3.6.4.1

54 CASE NO. 3/19/2014-5: VARIANCE TO ALLOW AN INCREASE IN THE  
55 NUMBER OF DWELLING UNITS IN A SINGLE BUILDING OF AN ELDERLY  
56 HOUSING DEVELOPMENT TO 32, 36 AND 42 UNITS WHERE 16 IS THE  
57 MAXIMUM NUMBER OF UNITS ALLOWED BY SECTION 3.6.4.7; AND TO  
58 ALLOW AN INCREASE IN DENSITY IN AN ELDERLY HOUSING  
59 DEVELOPMENT TO 8.6 UNITS PER ACRE WHERE ONLY 6 UNITS PER ACRE  
60 IS ALLOWED BY SECTION 3.6.4.14.2.1.

61  
62 CASE NO. 3/19/2014-6: VARIANCE TO ALLOW AN ELDERLY HOUSING  
63 DEVELOPMENT WITH SEPARATION BETWEEN BUILDINGS OF 26 AND 30  
64 FEET WHERE 60 FEET IS REQUIRED BY SECTION 3.6.4.2; AND TO ALLOW  
65 AN ELDERLY HOUSING DEVELOPMENT WITH A MIX OF 1-BEDROOM AND  
66 2-BEDROOM UNITS WHERE THE STANDARD 2-BEDROOM UNIT IS  
67 REQUIRED BY SECTION 3.6.4.7.1.  
68

69 CASE NO. 5/21/2014-2: VARIANCE TO ALLOW 1.0 PARKING SPACES PER  
70 BEDROOM WHERE 1.2 SPACES ARE REQUIRED PER BEDROOM IN EACH  
71 UNIT BY SECTION 3.6.4.5.  
72

73 PRESENTATION:

74  
75 DAVID PAQUETTE: Case number 3/19/2014-4 continued from June 18, 2014...case number 3/19/2014-5,  
76 amended and continued from June 18...case number 3/19/2014-6, amended and continued from June 18.  
77 There is an additional letter added in regards to cases number 3/19/2014-4 and 5. Should be read into the  
78 record. A letter from Mike Speltz date Monday, July 14, 2014...sent to Jaye Trottier. Jaye please forward these  
79 comments to the member...members of the ZBA so that they may consider them as the...as the...as they  
80 deliberate on cases 3/19/2014-4 and 5. Mr. Chairman I will be out of the State at the time of your July 16<sup>th</sup>  
81 meeting when you continue cases number 3/19/2014-4 and 5. Please consider the following as you deliberate  
82 these cases. One of the fundamental planning concepts is that...that is consistent throughout our Master Plan,  
83 Zoning Ordinance and site plan regulations is allowed....is the allowance of increased density for open space.  
84 This concept saves money for developers by reducing infrastructure costs...it saves money for consumers by  
85 lowering the prices a business must charge and it provides all residents of the Town natural services such as  
86 flood control, scenic views, habitat, natural cooling and clean water. The applicants request for increased  
87 density will surely reduce the development costs but the proposed plan is not consistent with the concept of  
88 trading increased density for open space, as codified in section 3.6 of the Zoning Ordinance. This can be

89 remedied by increasing the amount of open space by using land controlled or acquired by the applicant to at  
90 least the minimum required by section 3.6.4.1 and by reducing the number of units. When the Town created  
91 the affordable housing provisions and the Zoning Ordinance, residents made clear that several public hearings  
92 and in no uncertain terms their desire to limit the building size to the sixteen units....or less. Reducing the  
93 number of units per building to a maximum of twenty four would likely resolve the problem of exceeding the  
94 allowed number of units per acre where creating a more pleasant campus like....while creating a more  
95 pleasant...pleasing campus like environment. Senior rental units would be a welcome addition to the Town's  
96 housing stock. Allowed for reduce parking and covered walkways as requested in case 3/19/2014-6...seem  
97 consistent with this proposed use. However...we should not abandon our overall vision for our Town to  
98 achieve this. Our Zoning Ordinance provides for reasonable mix of density and open space, we should adhere  
99 to it. Thank you, Mike Speltz at 18 Sugar Plum Lane. Any more details you would like?

100  
101 NEIL DUNN: ...I think that satisfies me...before you do proceed I know this case has been continued from the  
102 original date of 3/19 so you have had some different board members here...I think Annette was here for one  
103 of the meetings....

104  
105 ANNETTE STOLLER: Right...

106  
107 NEIL DUNN: Last month it was basically a continuance so she didn't miss anything there. I guess it would be up  
108 to you...Richard...I mean we have five members tonight but there is a little bit of discontinuity there...is it  
109 alright to allow them to consider that...

110  
111 RICHARD CANUEL: That is the board prerogative. You can certainly do that.

112  
113 NEIL DUNN: I am comfortable offering it to them. Is anyone else on the board?

114  
115 ANNETTE STOLLER: Yes.

116  
117 NEIL DUNN: So I guess that would be your decision if you want to continue at this point tonight.

118  
119 PAT PANCIOTTO: I think Mr. Chairman what we would like to do...Attorney Panciocco for the record, is to  
120 move forward and if we find there is areas where we need additional information to answer board's  
121 questions...than perhaps we continue again but...we will play it by ear and see what we can do to meet your  
122 request.

123  
124 NEIL DUNN: Alrighty...alright so...we...as mentioned we have heard these cases a couple of times and there has  
125 been some changes. Last month we did a quick summary over the changes so I see some different faces, I  
126 don't know what you are all here for so if you would do just a quick rundown. Not too long because we do  
127 have a lot of cases tonight...that...just a scenario of where it is at at this point, that would be fine...if the rest of  
128 the board agrees.

129  
130 PAT PANCIOTTO: Ok...again...Attorney Panciocco...I am here on behalf of Calamar Construction and as  
131 the...chairman has said,, a lot has happened since March and even since May when we were last here and had  
132 a long discussion with the Board, a number of things have happened. We did come to the board in...June 18<sup>th</sup>,

133 about a month ago we had submitted amendments to our applications to the board to address a number of  
134 things that the board found troubling about the application during the previous month and for that reason,  
135 these amendments were submitted. The first one there is a change to and I will just breeze over these quickly  
136 for those who were not here last month, we have increased the size of the tract by 4.75 acres. So at this point,  
137 it is twelve point seven two acres...only fifteen percent shy of what the Ordinance requires. With all of that  
138 said and done, we now meet the open space which seemed to be the biggest concern that we heard when we  
139 were here in May, so that application has been withdrawn officially. The next two requests related to the  
140 density of the project and under the Ordinance, only sixteen units are allowed per single building. There is no  
141 change to that request...we are still requesting thirty two, thirty six and forty two units within the three  
142 buildings which are interconnected by conditioned hallways, if you will, so that people who reside there can  
143 freely move in between the buildings in just their slippers if they so choose. With the increased acreage the  
144 six acres per unit, the relief requested was cut in half. Fifteen point eight units per acre were previously  
145 requested and that has now been reduced to eight point six, substantial reduction. There has been no change  
146 to the number of two bedrooms, one bedroom units...because the ordinance requires all two bedrooms. We  
147 still have some one bedroom units proposed and there is no change to the sixty foot building separation.  
148 However, in response to the concerns about parking, we now have one parking space for every bedroom  
149 shown on the plan where the Ordinance requires one point two per bedroom, so that has also been relieved I  
150 guess and the relief being requested...requested has been lessened. Amendments to the plan are listed below  
151 as is some news about a companion project on the site and if it is possible I would like to...we had sent in the  
152 overviews of the plan that we are proposing now, the new plan and I have George here from Bedford Design  
153 who can describe the changes to the plan and point to the more specifically. I don't know if...we have the  
154 ability, we did send them in so they could be put up.

155  
156 NEIL DUNN: Do you know if they are on the drive.

157  
158 KIRBY WADE: I am not entirely sure.

159  
160 NEIL DUNN: Oh here we go...yup...they are under the...

161  
162 PAT PANCIOTTO: He is best suited to take you through the plan he has been working on. He has been working  
163 on it very hard.

164  
165 [Long pause]

166  
167 DAVID PAQUETTE: I think the site plan is probably the one we are after. Yes...the bottom right hand corner.

168  
169 NEIL DUNN: I am waiting for the computer...yes so why don't George if you would like go ahead. You will need  
170 to speak into a microphone the best you can. Where we don't have an overhead...

171  
172 GEORGE CHADWICK: I have boards I can put up...

173  
174 NEIL DUNN: If...if there is some way we can also...

176 GEORGE CHADWICK: If you have them in front of you, I can spin them to the board...to the audience...or...how  
177 would you like me to proceed?  
178

179 NEIL DUNN: If you could askew it to the audience, we do have them here on our drive so if we have any  
180 questions or if we are at a point where we are not clear we may have you...move them around a bit. Does  
181 anyone want a paper copy over there...we have enough papers...[chuckling]...and where will be starting  
182 George? With the site plan or...?  
183

184 GEORGE CHADWICK: With the site plan yes please...good evening...for the record George Chadwick with  
185 Bedford Design. I would just like to go over the changes to the plan that...Pat had mentioned in her...in her  
186 opening statement. We did...approach the land owner and the project has obtained three additional lots 131-  
187 10 and 131-11 and 12 to add to the project and those lots are sort of in the...the bottom corner of the  
188 site...adjacent to route 101. As well as at the request of some of the abutters, although it wasn't entered in  
189 public testimony yet, we have illuminated any access to Reed Street. Originally we had access connecting for  
190 fire purposes and pedestrian access out to Reed Street. We may still have a...when we get into the Planning  
191 process, we may still have a fire connection, gates and bars or something...some pavers or something the fire  
192 department can pass through but there will be no connection for the residence or anybody else. We...just to  
193 clarify, we are asking for the two bedroom variance. There are seventy seven two bedroom units and thirty  
194 three one bedroom units for a total of one hundred and eighty seven beds. Parking since the last time we  
195 added some parking around the site...we added about ten parking spaces. As Pat had mentioned we have one  
196 hundred and eighty eight parking spaces now shown on the plan, where before I believe it was one hundred  
197 and seventy seven so it is eleven but can't do any math...with the ability to add additional parking if necessary.  
198 The reason we are requesting this variance is that if we do add the additional thirty seven parking spaces to  
199 the plan, it throws us over the open space requirement so our feeling is that as long as Kaplan...excuse me...as  
200 long as Calamar is...happy with the number of parking spaces on the plan, we prefer to ask for a variance of  
201 the parking versus the open space...[long pause]...since Pat...eluted to a little bit earlier since the time of last  
202 meeting our company has been...engaged by a company called Kaplan Development Group to design an  
203 assisted living project, maybe the second one that you have there. We...last week were in front of the Planning  
204 Board conceptually and I believe we were well received...in front of the...in front of the Planning Board. What  
205 there proposal is, just to give you a little insight...assisted living facility that would be located in the...Meadow  
206 Drive, Button Road intersection. What that does is...it encompasses between the two projects it takes up the  
207 entire tract area, or multiple tracts...on that side of Button Road. So...by adding the four point seven acres to  
208 the project and the future assisted living project, you know...as I stated...all the land...and...and we have done  
209 our best to try to increase the land area and the parcel area to the largest extent possible and at this point  
210 there is no more land to be obtained. As I finished off the last time I sort of quoted section 3.61 of the elderly  
211 housing regulations and basically it states that the elderly housing standards are designed to permit an  
212 increased residential...density. The section doesn't stat that the ranks should be more restrictive but less  
213 flexible in the multifamily so what I would like to do is do a little comparative real quick of the multifamily  
214 versus the elderly housing regs. When it comes to a minim track size in the multifamily, there is none. There is  
215 not multi...minimum track size where in the elderly it says you have to have fifteen acres. Section 2.3.2.3.2.3  
216 requires a thirty foot building separation between structures where the elderly housing ordinance requires  
217 sixty feet. In section 2.3.2.3.2.1.4 allows in a multifamily project age restricted that you are allowed to have  
218 two bedroom units and they give you the flexibility to have one bedroom units based on the market demand  
219 where the elderly housing regulations state that you have to have two bedrooms. SO there...there is three

220 items...that support our variance requests...that is in front of you tonight. I have elevations of the buildings  
221 and what it looks like from...102...and I also have the plan we initially put up in the first meeting and it is  
222 basically the composite of the existing area and the particular project super imposed on it to give us an idea of  
223 its location, road networks around the neighborhood and that it is a...in our opinion and I believe the Planning  
224 Boards opinion because it has been stated, that it is a great transition between the duplexes to the east and  
225 the commercial development that is to the west. So we truly feel that although we are asking for variances  
226 from your regulations that we know are antiquated or confusing at the least...I think we believe that it is a  
227 great fit for the area so...in saying that I will turn it back to Pat if she has anything to add or...we will move on  
228 from there.

229  
230 PAT PANCIOCCO: Ok...

231  
232 NEIL DUNN: If I may though for clarification...

233  
234 PAT PANCIOCCO: Sure...

235  
236 NEIL DUNN: Pat, in...in your statement, on your comparison of the new version versus the old version, you  
237 were talking about having one parking space per bedroom...

238  
239 PAT PANCIOCCO: Yes.

240  
241 NEIL DUNN: Base on what George just said I am seeing that you have over that because you only have one  
242 hundred and seventy seven bedrooms that you...

243  
244 GEORGE CHADWICK: We have one extra space.

245  
246 NEIL DUNN: Oh because I thought you said one eighty eight now on these spaces.

247  
248 GEORGE CHADWICK: There is one hundred and eighty seven bedrooms and one hundred and eighty eight  
249 spaces.

250  
251 NEIL DUNN: Ok I am sorry I have one hundred and seventy seven bedrooms...[chuckling]...okay, thank you.

252  
253 PAT PANCIOCCO: Ok no problem...ok so I...I think what George has tried to bring to the board attention, we  
254 really have tried our very best to push the envelope and do our utmost to comply with the Ordinance...but we  
255 are out of land. There is no other land that we can tap into to make it any better and without the labors that  
256 to too much and all the complexities that this board has had to listen to us complain about...I...I just wanted to  
257 bring to the boards attention that there was a little article by the new Town Manager in the newspaper about  
258 a week ago and in there he says 'finally the Town is in the midst of going through an audit of the zoning and  
259 administration regulations. The intent to do so is to find greater efficiencies in the Planning process which is a  
260 hooray for you and zoning that will allow for more flexibility at both Planning and Zoning Board levels. It will  
261 be more likely to be in areas that have been designated for that...for certain changes.' I know that the staff is  
262 working hard at that but unfortunately we are here before they have gotten to that so I thought that was  
263 worth mentioning and I was really glad to read that because it goes to show that it is indeed going to happen.

264 So...with that said just to go back and summarize and boil this down so we are not taking up any more time  
265 than we need to we already have and there is a voluminous record here. In 2008 the housing task force and  
266 the town of Londonderry recommended high density housing development where there is water and sewer  
267 which is not a lot a whole lot of areas in the Town of Londonderry right now...although there is a need. The  
268 Master Plan has identified a clear need for more options for senior housing. Calamar is hoping to respond to  
269 both recommendation's but in doing so and to meet the need of the seniors it requires an additional  
270 investment in addition to the land on which a project like this would be located being far more valuable  
271 because of the services that are available. For that reason and to support investor financing in a project such  
272 as this because anyone who lends their money is entitled to a reasonable rate of return...there is a certain  
273 amount of economic sense associated with a project like this. Now to reflect our efforts I have updated the  
274 economic analysis that was submitted to the board...I think two meetings ago. It's pretty distilled...it was  
275 written to try to keep it simple rather than getting into financial terms too deeply but nonetheless it was very  
276 well thought out and truly reflects the comparison of what is permitted on this site now under the Ordinance  
277 which is sixty-two units versus the hundred and ten units that Calamar has proposed. The property is zoned  
278 commercial. That again is another enhancement to its value and it is further restricted by the performance  
279 overlay zone. Once we get through those two layers of regulations, as we have explained and I think Richard  
280 will confirm, we than will have to comply with the elderly housing ordinance regulations which have proven to  
281 be very difficult even more so than the C-1 and the PZ zone. However of all the uses that could be proposed in  
282 this particular zone which are permitted of course, this is perhaps most benign...and I say that because it is  
283 compatible with the residential housing to the west...that in...I believe the condos are to the north and it  
284 allows us to provide a transition between the traffic on route 102 which isn't probably going to become less,  
285 and those residential properties which you typically find on a larger lot and there is children you wouldn't  
286 want playing up by 102. The configuration of the project though and the Cinergy that...that is on the plan  
287 that...George showed you with the companion project that we hope it will move forward also, allows for most  
288 of the green space to remain continuous and in one area. It is not fragmented throughout the site, but as to  
289 the elderly housing ordinance regulations it requires a seventy percent green space requirement but the C-1  
290 uses only require is it thirty...thirty percent green...so we feel this is far less intense than it could otherwise be  
291 for other uses of the site...now with that said...I...and I proposed this to you Mr. Chairman and other members,  
292 I have tried to look at the test and kind of deal with all of the relief requested under the test to boil it down a  
293 little more sensibly, you are probably really tired of hearing from me...[chuckling]...saying the same thing so, I  
294 thought I would just boil it down and go through the test and if there are questions we welcome any  
295 comments or questions you may have.

296  
297 NEIL DUNN: So if for clarity you are going to speak generically to the points of law for all of them?

298  
299 PAT PANCIOTTO: Yes...

300  
301 NEIL DUNN: Oh ok

302  
303 PAT PANCIOTTO: Yeah I am hoping to shorten the presentation for all concern

304  
305 [Chuckling]

308 PAT PANCIOTTO: We don't feel this project in the relief that we have requested is contrary to the public  
309 interest. To be contrary though it must unduly into a market degree is what the Supreme Court has told us,  
310 conflict with the Town's basic zoning objectives which requires that the relief we request alter the essential  
311 character of this area or threaten the public's health safety and welfare. It's hard to understand from our point  
312 of view and perhaps you see it differently how a fifteen percent size reduction in the overall tract for an...for  
313 this project is contrary to the public interest or allowing the buildings to be bundled together and three  
314 buildings that have three story's each as opposed to what would be seven buildings with sixteen units each,  
315 scattered about the site. And to allow some units in...a limited number of units within those buildings to be  
316 one bedroom units to keep the rents lower for those who don't require as much space...although I am sure a  
317 lot of the two bedroom units are...may very well be used as a one bedroom and a study. We also don't see the  
318 connecting card is between the building, being shorter than sixty feet, is contrary to the public interest. We  
319 think that is better for the residents. They are shorter and conditioned and they don't need a coat, they can  
320 travel freely about the community at their leisure. We have also provided a parking space for every bedroom  
321 and as opposed to the one point two parking space per bedroom. So we don't see how this relief that I have  
322 just described, alters the essential character of the area or threatens the public's health, safety and welfare to  
323 any demonstrable degree that would violate the town's zoning objectives. In fact we feel very strongly that we  
324 are fulfilling a need that the community has identified the town has. No diminishing in the surrounding  
325 property values. Elderly housing is a permitted use in the C-1 zone. It is quite compatible with the residential  
326 uses to the east and it acts as a buffer. Of all the uses, as I previously mentioned, this is likely the least intense  
327 and while surely produce the least traffic. In addition the applicant has met all of the buffer requirements  
328 including the open space. The tract is slightly smaller but we don't see how that is...going to diminish  
329 surrounding property values...nor do we see how connecting the buildings with the hallways shorter than sixty  
330 feet or allowing the...the units to be more connecting and efficiently designed which is the basic premise of  
331 smart growth...or the...and it also allows the unity of the open space would diminish the surrounding property  
332 values. A one and two bedroom mix best services the area and it is surely not apparent from the exterior of the  
333 building which would be the most likely way it could impact the surrounding property values. Overall we don't  
334 feel the impact of this use is anywhere near what it could be with some of the other uses permitted in the C-1  
335 zone. We feel this proposal and what we have requested in consistent with the spirit of the ordinance. As  
336 George previously mentioned section 3.6.1 of the elderly housing ordinance expressly states its subject is to  
337 allow the increased density for the senior housing to help meet the population's unique needs. When I first  
338 read that I first thought to myself of how would increase density for seniors being allowed meet the unique  
339 needs and the only thing that came to mind is if it's denser you can have more people together and any cost  
340 savings can be reinvested in the project to meet their unique needs, which is exactly what calamari has  
341 described in the previous hearings. There are a number of accommodations associated with serving an elderly  
342 population. We have mentioned the elevators. Those are not in substantial even though I understand now  
343 that they are required by code, but there is barrier free design and there is other amenities, community  
344 spaces, there is more than ten thousand square feet of community space here and other services provided is  
345 part of a community like this that don't come for free. So when you talk about a cost savings because you have  
346 a denser project and of course the need to make it economically viable...reinvesting that to make it more  
347 narrowly tailored to service that population I think is indeed what the ordinance language means. It is also  
348 hard for me to see how it would be inconsistent with the ordinance to see a mix of one and two bedroom.  
349 Allowing, as I mentioned before, shorter conditioned hallways between the building, the increased units  
350 efficiently constructed in a larger span of open space it...it appears on the plans and any cost savings  
351 associated with that, to be reinvested to accommodate the needs to the future occupants. Substantial



justice...requires that the loss to the applicant should be outweighed by the gain to the public. In other words if you are going to restrict private land there should be a corresponding and greater benefit to the public served by those restrictions...it's a basic premise of zoning. Excluding tenants from one bedroom units...I am not sure the town would benefit from that in particular. I...I am not sure I understand why it has to be one or the other but we feel the mix serves a greater...number of p...people and their needs. Requiring the sixty foot building separations...I am not sure who that would serve, those would be long tunnels and the shorter condition space definitely serves the tenants better and...I am not sure what the longer connecting area or the separation between the buildings would do for the public at large. An additional two acres of land in this case if there were two acres of land for us to acquire to meet the fifteen acres we would have done that already. We heard the board's message loud and clear...but there is no more land to acquire. All of the lots owned by the developer...this was being discussed before we knew about it...it's all spoken for and the other project will fulfill another need within the town. More parking spaces per bedroom...we have talked about that and we have one per bedroom, as opposed to one point two. We have compared that to four and five bedroom homes. They only require two parking spaces...before any single family home, regardless of the number of bedrooms...so we think that we have that covered...covered with one per bedroom. Strict application of the density requirements will come at the expense of the accommodations that need to be provided in this development...and it will also risk the chances that it could move forward for reasons previously explained as far as the financing. So...this literal enforcement of these restrictions that are in the elderly housing ordinance, we don't feel...we provide the public in Londonderry a lot more benefit, at least not compared to the loss suffered by the applicant because it...denial would mean that the project would not move forward. Now as to...the hardship standing. Requires us to identify how the literal enforcement of the provisions in the ordinance are an unnecessary hardship for the applicant. It looks to the unique characteristics of the property and there is several. The first one I have previously mentioned. We have nowhere else to come up with any more land and if we could we would but it is just not there. We are surrounded by roads. In addition to that, and this is something we have had to take into consideration since day one, there are some issues with the configuration and the intersection of Meadow Drive. We have known that all along. We have to factor that which is a real hardship and it is a costly item to address. That is a real hardship for us though because quite frankly we don't know what that is at this point in time. We know it is something but we haven't dared to step one foot beyond this board to explore that anymore but nonetheless it needs to be addressed and it is not going to be at no charge. The additional hardship...in at least in this particular context for us...has been the fact that this land is very valuable because of the services that are available here and that may sound silly that water and sewer lots are a hardship because they are not, but the value they bring is the hardship for us to make the economics work at the end of the day, for the project to move forward. So...the point being is...this land is not nearly as affordable as the land out in the country where there is plenty of it where we can meet all of the ordinance requirements easily but unfortunately the land in those areas is not near the conveniences that are so asked for by this population...or conveniences that are easy to drive to that are not along this distance. So we feel like this particular property is very unique in its surroundings and although...like I said it sounds silly to say that having all of these services available is a hardship...it is when it comes to the economics of the project. So...we don't feel that there is a fair substantial relationship between the purpose of the ordinance and the specific application of the property. As to the acreage because of where the property is located, fifteen acres originally contemplated when the ordinance was written was not...benefitted by the services that are now within reach for this particular property. That makes it difficult to work within the parameters of this particular ordinance...but the proposed use is reasonable and it serves an unmet need in the town. As to the density limitations, that is strictly a situation that bears on the feasibility on the project

396 and the numbers are there for the board to look at. If the numbers don't work it cannot be financed...even if it  
397 were financed by someone who was so inclined, it would be a big white elephant if we could make the  
398 numbers work. If we don't have the density that we have requested, you cannot sustain the project and keep  
399 it alive and occupied and keep the rents affordable to the extent that you are able to within a reasonable  
400 means. And the project won't be occupied and be fulfilled. We don't see how the...density is...the density is an  
401 issue in this situation because the requirements in the ordinance for the allowable number of units were again  
402 for a different set of circumstances that existed when the ordinance was written. As to the one and two  
403 bedroom again we feel that would be a hardship because we would like to appeal to a broader group if at all  
404 possible. We feel that would be a hardship because it would exclude the occupants but that would also  
405 impose a hardship on the public who may wish to reside in the property. As to the parking, we have met one  
406 parking space per bedroom as I have explained to you before. Single family homes required two parking  
407 spaced if you have two bedrooms. That is four parking spaces. We think we are in pretty good shape  
408 there...one point two per bedroom would be a hardship, it would compromise the open space, us meeting  
409 that and we don't feel as though there is any fair and substantial relationship between one point two per  
410 bedroom and the project and this property. Now...one question I have George...on the open space...if we did  
411 the one point two per bedroom...it was a nominal amount that of the open space that would be lost...wasn't it  
412 like...

413  
414 GEORGE CHADWICK: Yeah...just under two percent...

415  
416 PAT PANCIOTTO: So it is not a lot. We would rather meet it. And we also feel to that perhaps you know there  
417 is a way that if we have area where we can work within, there are other things that we may be able to  
418 encounter and deal with at the Planning Board...like the size of the cul de sac behind the building that we may  
419 be able to elevate that...other accommodations that could be made that we would not be offending the open  
420 space being that if we were to put additional parking in the future but that is for another day. As it is now, we  
421 have the one per bedroom. So I think I have tried to boil that down. If anyone has any questions for me or for  
422 George...ask away...thank you.

423  
424 NEIL DUNN: While you're thinking...I...I thought I heard you say that you are not connecting to Reed Street?

425  
426 GEORGE CHADWICK: That is correct...

427  
428 NEIL DUNN: And then you show the cul de sac there that is connecting to Reed Street...so I am not quite sure  
429 how that fits in there.

430  
431 GEORGE CHADWICK: Yeah the cul de sac is for the purposes of terminating the existing street and so people  
432 who are on Reed Street have a means of turning around. A plow...and so on and so forth. The residents...the  
433 occupants of the development will not be able to connect or will not be able to drive directly onto Reed  
434 Street.

435  
436 NEIL DUNN: Ok thank you...

437  
438 PAT PANCIOTTO: There is not pavement to go from this community into the cul de sac.  
439

440 NEIL DUNN: So that is an existing road in town and it is there by...  
441  
442 GEORGE CHADWICK: That is correct...  
443  
444 PAT PANCIOCCO: Yes...it....it...  
445  
446 NEIL DUNN: It was showing there and I...now that you mentioned it, it doesn't continue through so thank you  
447 for clarifying...  
448  
449 PAT PANCIOCCO:...we actually made that change Mr. Chairman to address some of the concerns raised by  
450 some of the abutters about some of the traffic traveling through the neighborhood and you know after...the  
451 process works...we heard that and we made that you know...agreement that we would do that as long as the  
452 Planning Board doesn't object it will remain that way.  
453  
454 NEIL DUNN:...One thing...I know you keep referencing the multifamily...[pause]...ordinance or Section 2.3.2  
455 and the multifamily if you go through the rationale or the objectives and characteristics they talk about the  
456 development of affordable housing a multi-family is usually looking at...I think we have already had a  
457 discussion that this is not being considered as affordable housing...  
458  
459 PAT PANCIOCCO: No...  
460  
461 NEIL DUNN: So...while I understand what you are doing...comparing some of the numbers and the parking  
462 spaces and all of that and sometimes I don't have issues with that...I do have ideas with talking about the  
463 densities and different things along with that as compared to the elderly when there is...a...we are talking to  
464 affordable housing or...  
465  
466 PAT PANCIOCCO: I...I Mr. Chairman...I am not sure that the multifamily is exclusively for affordable housing. I  
467 do believe there is a work force housing provision that speaks more towards you know working families but  
468 multifamily...I think in Richard you can correct me if I am wrong...I think it is fairly generic...it's multifamily.  
469  
470 NEIL DUNN: And...and before Richard...if I may...just...objectives and this is multifamily housing section 2.3.2  
471 and if you go to objectives and characteristics it is 2.3.2.1 objectives and characteristics multifamily are three,  
472 district is designed permitting increased density, residential density in areas where municipal services make it  
473 appropriate and promote flexibility in the design of residential projects with various housing types. Reduce lot  
474 size and modify dimensional requirements while maintaining maximum...a fixed maximum dens...density.  
475 Flexible design can provide for the appropriate use of land, facilitate economic and efficient provision of public  
476 service, promote open space, protect natural and scenic contributes of land, expend opportunities for the  
477 development of affordable housing. No...and then there is a whole...  
478  
479 PAT PANCIOCCO: Ok...  
480  
481 NEIL DUNN: Separate one for affordable housing and different requirements and different densities...so at  
482 least we have talked to that...typically multifamily housing is more affordable than a single house...or even if  
483 you did these as standalone single family or duplex dwellings, which you can do and call it a multifamily

484 development...that those are typically more affordable than the typical standard residential lot...or...in...in this  
485 case I...I don't see you elderly housing being...it's not affordable elderly housing so...I don't know...we...you are  
486 using a lot of references to other standards and I agree with some of your points but sometimes I think we  
487 throw the whole bucket out there and...I...I don't know...I am bringing that up only because of...of...the elderly  
488 housing objectives and characteristics in 3.6 and one thing I don't think I have ever asked anyone on the  
489 anyone and the board has asked according to 3.6 the elderly housing development under the section must be  
490 established and contain with the compliance of the Fair Housing Act. So are you guys in compliance with that?

491  
492 PAT PANCIOCCO: As far as the elderly restrictions we will be.

493  
494 NEIL DUNN: I...I don't know...I am a volunteer....this is not my day job...

495  
496 PAT PANCIOCCO: No, we will...yes....

497  
498 GEORGE CHADWICK: We will be....

499  
500 NEIL DUNN: All I am reading is there is a Fair Housing Act, do you guys comply with it...[chuckling]...

501  
502 GEORGE CHADWICK: Yes

503  
504 PAT PANCIOCCO: Yes

505  
506 NEIL DUNN: [Chuckling]...thank you

507  
508 PAT PANCIOCCO:...Yes...one thing I would just want to mention thought...and...and I agree with you...you  
509 usually...multifamily is more affordable for somebody to own...than a free standing single family home...but  
510 likewise I think it would be more affordable for a senior or a senior couple or whomever to...rent a unit here  
511 than it would be perhaps to buy a three hundred thousand dollar free standing elderly unit within the town of  
512 which there are many. I am really surprised at some of them and they are really on top of each other so...

513  
514 NEIL DUNN: No and I appreciate that though...

515  
516 PAT PANCIOCCO: Yeah...

517  
518 NEIL DUNN: I do understand that

519  
520 PAT PANCIOCCO: they come in all shapes and sizes...[chuckling]...

521  
522 NEIL DUNN: And the other thing is...in a C1 elderly housing is permitted whereas a multifamily in a C1...and  
523 that is the area we are talking about...would be a conditional use.

524  
525 PAT PANCIOCCO: Yes...

527 NEIL DUNN: So there would be some different characteristics going through that process too. So again I  
528 understand a lot of your points and I agree with some of them...  
529  
530 PAT PANCIOCCO: Mm-hmm.  
531  
532 NEIL DUNN: Most of them maybe....but it's...you know just to throw out multiple housing...multifamily housing  
533 allows this and there are some other strings that go with saying to...the conditional use.  
534  
535 PAT PANCIOCCO: I think the multifamily ordinance is a little more current...isn't it Richard? It...  
536  
537 RICHARD CANUEL: That is correct...  
538  
539 PAT PANCIOCCO: Yeah...it...than the elderly housing ordinance as it is today.  
540  
541 NEIL DUNN: No...and that...  
542  
543 PAT PANCIOCCO: Yeah  
544  
545 NEIL DUNN: That is where...  
546  
547 PAT PANCIOCCO: And that's why...  
548  
549 NEIL DUNN: That's where there is a lot of agreement between some people but I am also saying that elderly is  
550 permitted in a C1 and the multifamily is not without conditional use. Anybody else has any questions...I...I still  
551 have a couple...Richard...is the...is the...increasing the dwelling...number of units...dwelling is that a conditional  
552 use? I mean typically it isn't any...if you look at multifamily or if you look at...some of the...nomenclatures...if  
553 we look at elderly housing and we go to 3.6.4.7.3, the one we are talking to, the maximum number of dwelling  
554 units in a single building may be increased from sixteen to no more than twenty if the applicant is granted a  
555 conditional use permit.  
556  
557 RICHARD CANUEL: Yeah but that is not applicable when it comes to elderly housing...  
558  
559 NEIL DUNN: Not that's where I am reading it from...  
560  
561 RICHARD CANUEL What section are you in?  
562  
563 NEIL DUNN: 3.6.4.7.3...  
564  
565 RICHARD CANUEL: Let me get to the right section.  
566  
567 [Long pause]  
568  
569 RICHARD CANUEL: Yeah that is...see, here is the Planning Board the flexibility to increase density in a  
570 multifamily dwellings like that from sixteen to twenty. Anything more than that would require a variance.

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NEIL DUNN: ok and that is what I am looking for clarification on because you know a lot of the time...we are here to try to follow the ordinance written and let everyone else figure out where they stand and...other ways...so...[chuckling]...because to me it looks like it is a conditional use. But because it is beyond that, that is why it is a variance.

RICHARD CANUEL: Yeah once a variance is granted if it were to be granted the whole condition use permit requirement would go away.

NEIL DUNN: And then...if I may Pat...5.4 which is the general zoning administration the head of our rules...says the board of adjustment shall have the authority to allow slight variation from specific turns of the ordinance when it can be shown unnecessary hardship otherwise. Help me with the slight part on the...particularly the number of units.

PAT PANCIOCCO: Well I...I have got to tell you I...never looked at slight. I mean to me a variance is a safety valve on the zoning ordinance. That is what it is. This board can grant what it deems is appropriate in a particular zone. Now...I would say slight...its...I don't know where that word came from...but...at the end of the day this board has the control over the ordinance and can grant relief as you see appropriate. I understand that...the density that is being requested...seems to be more than slight. And it is but we have tried to explain to the board during the times that we have been here that the ordinance when written was written at a very very different time and Londonderry was not than what it is now, nor was route 102. There was no water and sewer. Those lots have been sitting there for forty three years. They have been sitting there for a reason. It...it just hasn't worked with whatever has come along. So...slight I would say is...is...other than that I don't really have any other explanation...[chuckling]...

NEIL DUNN: No I get it and I look at it here as a volunteer not being a lawyer. My responsibility is to the Town and the Towns people...and what is codified. What is written...so...I am looking...I was looking for help with that because they are telling us this is what we set up and we are here for slight variances...I...I was looking for a little help on that.

PAT PANCIOCCO: Well and I can give you this. The test that set out in statute...give the board guidance...the five point test and it is right on the application that we fill out when we come to the board and ask for relief. So that I would say is controlling, not a choice of words in the ordinance.

NEIL DUNN: No but by the same token and...and again...me myself I am speaking for obviously...is...contrary to the public interest...maybe that is the spirit of the ordinance and that is where the spirit is written. I am good with that I...you know the spirit of the ordinance as it is written with sixteen and twenty, was for the character not just of the area but of the whole town. So...this and it kind of leads to my next question...the forty two unit building...how many square feet of living space is there?

PAT PANCIOCCO: Hmm...

[Pause]

615  
616 ANNETTE STOLLER: Mr. Chair may I just ask a question relevant to what you are saying...  
617  
618 NEIL DUNN: Mm-hmm.  
619  
620 ANNETTE STOLLER: What is the designated square footage of each unit...each dwelling unit.  
621  
622 PAT PANCIOCCO:...We have that in our little handout...let's see the average from one thousand and seventy  
623 five square feet...slightly larger than nine fifty...and ok...that's the ones that are here...yeah...the units at these  
624 complex's...eight sixty five to one thousand and sixty.  
625  
626 GEORGE CHADWICK: Correct  
627  
628 PAT PANCIOCCO: Right...so they a...much the same as an apartment compared to a single family home.  
629  
630 NEIL DUNN: So if we did forty two times...  
631  
632 ANNETTE STOLLER: A thousand...  
633  
634 PAT PANCIOCCO: Got it...  
635  
636 GEORGE CHADWICK: I had to recall what building A was sorry...  
637  
638 PAT PANCIOCCO: Chuckling  
639  
640 GEORGE CHADWICK: Sorry...so building A is fifteen thousand nine hundred and eighty square feet.  
641  
642 NEIL DUNN: Times three?  
643  
644 GEORGE CHADWICK: Times three.  
645  
646 NEIL DUNN: So one more time.  
647  
648 GEORGE CHADWICK: Fifteen thousand, nine hundred and eighty...times three.  
649  
650 NEIL DUNN: [Inaudible]...and Richard would the over...the...where is the...we really have talked about it is in  
651 the 102 overlay but nothing in the 102 overlay has really been kicked in or asked for here.  
652  
653 PAT PANCIOCCO: No  
654  
655 RICHARD CANUEL: Yeah there are no variances required as far as the overlay is concerned.  
656  
657 PAT PANCIOCCO: Most of that I believe is within the Planning Boards prevue...isn't it?  
658

659 RICHARD CANUEL That is correct...yup  
660  
661 NEIL DUNN: Ok...I was helping clarify the layers on the layers and where we are at with that.  
662  
663 PAT PANCIOTTO: Yes.  
664  
665 NEIL DUNN: Anything else from the board? Alright I guess at this time we would like to go out to the audience  
666 and anyone wishing to speak in favor of this application. You can come forward. Seeing no one...anyone who  
667 would like to speak against or has questions and please use the microphone and address the board...please.  
668  
669 BRENDA KISS: I came in late...but I have been following this...you know despite all the changes it still doesn't  
670 affect or it still affects 102 and in our neighborhood...  
671  
672 NEIL DUNN: I'm sorry your name?  
673  
674 BRENDA KISS: Oh I am sorry...Brenda Kiss and I live at 9 Button Drive.  
675  
676 NEIL DUNN: Ok thank you.  
677  
678 BRENDA KISS: And within the neighborhood you know I don't know about anybody else but I know I will take  
679 the back road out because 102 is horrific as it is. Putting in one hundred more dwellings...I just couldn't  
680 imagine what that would do to route 102 you know because it is brutal as it is and...that is my opinion on  
681 it...and...thank you.  
682  
683 NEIL DUNN: Anyone else wishing to speak against or having any questions? Did the...did the applicant want to  
684 speak to that point at all?  
685  
686 PAT PANCIOTTO: Well yes I just want to mention...we understand there will be some traffic added...but I guess  
687 what I would like to suggest to the board is I think this is going to create a whole lot less traffic than you would  
688 see if this was a mall or a large commercial development. I think it is far less intense from that perspective  
689 than many other uses that would be proposed on this site...all of which are expressly permitted and I would  
690 agree that route 102 is pretty heavily traveled but at the end of the day this project as you see it on the boards  
691 will act as a little bit of insulation from 102 to the homes that are located down closed to Meadow Drive.  
692  
693 GEORGE CHADWICK: And if I may Mr. Chairman, we do know that there will be some traffic improvements  
694 required at that intersection and we will be addressing those with the Planning Board to help elevate our  
695 recent impact.  
696  
697 NEIL DUNN: Anyone else in the crowd...[chuckling]...out in the audience with any questions of concern...I will  
698 bring it back to the board...any questions or thoughts?  
699  
700 DAVID PAQUETTE: Just to touch on the...[clearing of throat]...excuse me...haven't spoken in a  
701 while...[chuckling]...to touch on the intersection of Meadow Drive and 102 is what will be addressed right? I  
702 think you guys...



703  
704 PAT PANCIOCCO: Right...  
705  
706 DAVID PAQUETTE: Have spoken to that...  
707  
708 GEORGE CHADWICK: That is correct.  
709  
710 DAVID PAQUETTE: Ok...I think that's...that's....like...like it was said that is a pretty terrible intersection.  
711  
712 PAT PANCIOCCO: That has been made clear to us since we first started looking into the project, that Meadow  
713 Drive has to be addressed one way or another.  
714  
715 DAVID PAQUETTE: Ok...thank you.  
716  
717 NEIL DUNN: Um...  
718  
719 ANNETTE STOLLER: Mr. Chair I just...may be inappropriate at this time...you mentioned an additional assisted  
720 living project...  
721  
722 PAT PANCIOCCO: Yes...  
723  
724 ANNETTE STOLLER: And...that would be where...adjacent to this one?  
725  
726 PAT PANCIOCCO: Yes...do you want to show her George, she may not have seen that plan. This is fairly new...  
727  
728 ANNETTE STOLLER: Yeah I wasn't at the last meeting...  
729  
730 PAT PANCIOCCO: yeah  
731  
732 GEORGE CHADWICK: Yeah this is...the area of the Calamar site...  
733  
734 ANNETTE STOLLER: Correct  
735  
736 GEORGE CHADWICK: This is the area that the assisted living would be placed. This is Button Drive and  
737 Meadow...so it's...the lot or the area closest to Meadow Drive and 102 intersections.  
738  
739 ANNETTE STOLLER: And are you...you planning or have you not got the far to market these as a continuum of  
740 living property.  
741  
742 PAT PANCIOCCO: We are not the same company as this...the other applicant...we feel as though they...they  
743 very compatible and there is definitely a Cinery between the two and the...there is a...the fact that we are  
744 going to be bringing the sewer to our project is defiantly a plus for them because we about the property  
745 where there is sewer available...I don't know whether or not they would still be moving forward if we weren't

746 moving forward. I have not spoken with them but there is defiantly...it...we have been kind of calling it senior  
747 village because it is all there in one place.  
748  
749 ANNETTE STOLLER: Thank you.  
750  
751 NEIL DUNN: If I may...what are the height...heights of the building? I...I know that is probably a Planning Board  
752 prevue Richard but if we allow...  
753  
754 DAVID PAQUETTE: It is listed right there...if you zoon into it...  
755  
756 NEIL DUNN: Zoon  
757  
758 DAVID PAQUETTE: If you zoon in.  
759  
760 GEORGE CHADWICK: It looks like the main structures are thirty five feet tall and the garages are fifteen. Well  
761 below what the...  
762  
763 NEIL DUNN: And the reason I brought that up is because if we allow so many increased units and your height is  
764 too high and you...  
765  
766 GEORGE CHADWICK: Sure  
767  
768 NEIL DUNN: I guess you wouldn't be able to go anymore because you would start impacting parking and green  
769 space but...  
770  
771 PAT PANCIOCCO: Right...right...  
772  
773 NEIL DUNN: I just again am trying to get a handle on things...anything else from the board?  
774  
775 DAVID PAQUETTE: No...  
776  
777 NEIL DUNN: Ok...I guess we will go into deliberation. Thank you.  
778  
779 GEORGE CHADWICK: Thank you very much.  
780  
781 **DELIBERATIONS; CASE NO. 3/19/2014-4:**  
782  
783 DAVID PAQUETTE: This is a lot.  
784  
785 NEIL DUNN: A lot to deliberate...[chuckling]...  
786  
787 DAVID PAQUETTE: How do you want to handle it? Do you want to kind of go point by point?  
788  
789 NEIL DUNN: Yeah well I think we need to take each case individually?

790  
791 JACKIE BERNARD: ok...yeah...  
792  
793 NEIL DUNN: Go point by point and some of these are more than one.  
794  
795 ANNETTE STOLLER: You should separate them as well.  
796  
797 JACKIE BERNARD: Yeah.  
798  
799 NEIL DUNN: And for voting because they are separate variances we do need to hit the...the points and discuss  
800 them all. So...I guess if we get our paperwork in place...  
801  
802 [Shuffling of paper]  
803  
804 JACKIE BERNARD: Kirby do you have some variance worksheets.  
805  
806 KIRBY WADE: Yes...  
807  
808 [Talking among one another]  
809  
810 JACKIE BERNARD: Do you want to variance worksheets?  
811  
812 ANNETTE STOLLER: I think I've got enough.  
813  
814 NEIL DUNN: Alrighty yeah let's get the first case here...  
815  
816 DAVID PAQUETTE: the first one was amended so...  
817  
818 JACKIE BERNARD: Ok...  
819  
820 DAVID PAQUETTE: We are down to just deliberating what the acre...acreage would be.  
821  
822 NEIL DUNN: Alright so...case 3/19...2014-4...Alright anyone want to start?  
823  
824 DAVID PAQUETTE: Well from the original date...the...original variance request was much more than what it is  
825 now based on the redesign of the property. If you remember it was...I think they were looking to build this on  
826 eight acres rather than...  
827  
828 JACKIE BERNARD: Correct  
829  
830 DAVID PAQUETTE: We are looking at twelve point seven two...  
831  
832 JACKIE BERNARD: Yup...yup  
833

834 DAVID PAQUETTE: So...rather than being a seven acre variance we are now talking a less than five acre  
835 variance. I think that is...better...

836  
837 [Chuckling]

838  
839 NEIL DUNN: So going through the five points of law...I think if we look at the overall argument that was  
840 because the...the density back when the ordinance was written...didn't maybe consider the sewer and water  
841 that is available and some other sections of the...referencing the multi housing and stuff there are some other  
842 area or maybe that kind of a density would be allowed or...or that excuse me that acreage is not called out  
843 so...

844  
845 DAVID PAQUETTE: I think based on the...the...availability of the water and sewer...contrary to the public...

846  
847 NEIL DUNN: Well and also that...that some of the other...the multi family doesn't put the fifteen acre minimum  
848 in there for open development...so...granting the variance would or would not be contrary to public interest  
849 because of...I guess I am looking for everyone's thought on that.

850  
851 ANNETTE STOLLER: My thought is that there is a need in the town and it is a greater need than may have  
852 existed at the time of the ordinance if you look at demographic figures. So we might want to consider  
853 that...although that is not our charge to consider I understand that...but it...we can't help but put that into  
854 consideration.

855  
856 NEIL DUNN: So I guess in that part nobody disagrees with that...

857  
858 JACKIE BERNARD: No

859  
860 NEIL DUNN: And the spirit of the ordinance would or would not be observed because...

861  
862 DAVID PAQUETTE: Well I think the spirit of the ordinance was written towards not having services there...so...I  
863 think the...spirit is...if it were to be rewritten today have a different spirit...

864  
865 [Laughing]

866  
867 DAVID PAQUETTE: I think the...I think...I think the numbers would be different with today's services that are  
868 available there...

869  
870 NEIL DUNN: Alright so...if we look at that elderly housing objective...the...3.6.1 the objective the elderly  
871 housing and elderly affordable housing are designed to prevent an increased residential density...so I guess it  
872 is a loan for the densities and without the consideration of water and sewer...I think I am good with number  
873 two on the...the acreage.

874  
875 JACKIE BERNARD: I am as well...

876  
877 NEIL DUNN: Anybody who is not and would like to talk to the point.

878

879 DAVID PAQUETTE: I...I am good with the acreage as well.

880

881 NEIL DUNN: And again we are talking about the difference in the possible acreage. Does anyone have any  
882 issues with that?

883

884 JACKIE BERNARD: Nope

885

886 NEIL DUNN: Based on the way it was presented...[long pause]...for the following reasons the values of the  
887 surrounding properties would or would not be diminished. We have seen some studies that talk to elderly  
888 housing being better neighbors than a lot of the other...

889

890 DAVID PAQUETTE: Multifamily. ..

891

892 NEIL DUNN: Well...the other uses that could be allowed for that and...and the transition to the residential.  
893 Theoretically you could put gravel plant there I guess....not sure if I would...

894

895 JACKIE BERNARD: Go ahead...

896

897 NEIL DUINN: So nobody...

898

899 ANNETTE STOLLER: And also roads you might want to note that the improvement in roads would perhaps  
900 increase some of the housing values.

901

902 NEIL DUNN: And number five under special conditions is a property distinguished from the other properties in  
903 the area. Denial of the variance would result in an unnecessary hardship...I think they should...the applicant  
904 spoke to the...substantial relationship between the general public purpose and the specific  
905 provisions...[chuckling]...I am having a little issue on this one...

906

907 ANNETTE STOLLER: Would the hardship actually be towards the applicant.

908

909 NEIL DUNN: Right...

910

911 ANNETTE STOLLER: That's the question.

912

913 NEIL DUNN: Well and typically its...its...special conditions of a property and I...I think it was well stated that had  
914 he argued because it has sewer and water that it is a special condition other than it makes the land more  
915 valuable and therefore in order to make a project like this feasible they would need you know to get denser  
916 and have smaller lots...have a smaller lot size...I guess...I personally because we are looking at just the lot size  
917 now we are talking about the fifteen acres versus a twelve seven...I...I think the prevailing thought that the  
918 maybe fifteen acres is an overstatement with sewer and water on the property...that I...I can kind of get a little  
919 understand that that condition relative to the acreage so you know...they are looking to reduce the acreage  
920 size because a special conditions being that there is sewer and water there and it is not required in a

921 multifamily and maybe we were outdated so...but it is the conditions of the property so on the acreage size I  
922 guess I could...I could see the argument that sewer and water is a condition that would require less land.

923  
924 ANNETTE STOLLER: Yes...I agree with that.

925  
926 NEIL DUNN: Does anyone disagree.

927  
928 DAVID PAQUETTE: The applicant stated that if they were to build this into a piece of land that would cover all  
929 of these ordinance they would be away from all of the services that this project is...is entailing right so...close  
930 to stores and...town and the such...so I think this particular project...

931  
932 NEIL DUNN: Well I...I am speaking more to the fifteen acre requirement because I think we...we do have to go  
933 through this I mean...

934  
935 DAVID PAQUETTE: Sure...sure...

936  
937 NEIL DUNN: There are some other areas where there might be some different aspects but I think the special  
938 condition of the property or...or...special conditions of the properties that distinguish it from other sites is  
939 because of the water and sewer...that fifteen acres is perhaps not needed I guess.

940  
941 DAVID PAQUETTE: I agree.

942  
943 [Long pause]

944  
945 NEIL DUNN: So any more thoughts or comments of 3/19/2014-4 relating to the parcel size.

946  
947 ANNETTE: STOLLER: Actually the subtopic here is going into the use not just the...you see in 8.2...

948  
949 NEIL DUNN: Yeah but it's a...it's a...yeah and the reason I guess the argument that was put there it is an allowed  
950 use in that zone.

951  
952 ANNETTE STOLLER: Right so there is no...

953  
954 [Pause]

955  
956 NEIL DUNN: Would anyone like to make a motion?

957  
958 DAVID PAQUETTE: Putting this all together is the hard part.

959  
960 NEIL DUNN: Well there is really...[chuckling]...

961  
962 JACKIE BERNARD: Mr. Chairman I would like to make a motion to approve case 3/19/2014-4...and I don't have  
963 any conditions associated with that to approve the twelve point seven two acre parcel where fifteen acres is  
964 required by section three dot six dot four dot one.

965  
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NEIL DUNN: Do I have a second?

DAVID PAQUETTE: I second that motion.

NEIL DUNN: All in favor...

JACKIE BERNARD: Aye

ANNETTE STOLLER Aye

DAVID PAQUETTE: Aye

JIM TIRABASSI: Aye

NEIL DUNN: Opposed...

[Long pause and shuffling of papers]

NEIL DUNN: Make sure everyone signs and checks the papers.

[Talking among one another]

ANNETTE STOLLER: Pass that down please...

NEIL DUNN: Let's not get them mixed up here.

DAVID PAQUETTE: Check...signed...yeah...Mr. Chairman in the...in regards to case 3/19/2014-4 the board has voted to grant the variance of...building on a twelve...on a twelve point seven two parcel where fifteen acres is required by section 3.6.4.1. The board has voted to approve on a vote of 5-0-0.

**DELIBERATIONS; CASE NO. 3/19/2014-5:**

NEIL DUNN: Ok...case 3/19/2014-5...to increase the number of dwelling units in the elderly housing development, thirty two. Thirty six and forty two where sixteen is allowed...to allow increased density...in an elderly housing...so we have one, two...so basically...we have two...two sections to consider while we are going through the points.

DAVID PAQUETTE: Well as you brought up in the...the...presentation...the...ok that's number two, the spirit...if we are talking about the spirit and defining the spirit...

NEIL DUNN: [Chuckling]

008 DAVID PAQUETTE: This one is a bit more egregiously going against the spirit but there is in the Town's Master  
009 Plan there was a call for this type of...of...dwelling...that the elderly population could use more housing options  
010 and more communication about the services that are available for them...so...it seems like there is a need for  
011 this type of housing...and...that...the issue is that the...the density in it...with the number of units and the  
012 actual density per acre...the variance is relatively large with the number of units where sixteen is the  
013 maximum number. So...that's...I'm following your same thought that...that...that is a pretty big stretch of the  
014 ordinance the way it is written...but...it is still a pretty big stretch to go from sixteen to thirty two and thirty six  
015 and forty two.

016  
017 NEIL DUNN: SO I guess they kind of do go hand in hand in such that...the density per acre I guess that is  
018 averaged out so you can't say the forty two building on this many acres or the thirty two on this many acres  
019 and the thirty six on that many. So they are actually averaging it over so the...I guess the density per acre isn't  
020 quite as egregious as...

021  
022 DAVID PAQUETTE: Right...right...as the units...

023  
024 NEIL DUNN: As the units per dwelling...

025 JIM TIRABASSI: Yeah the density is going to be the density no matter what configuration of building it is.

026  
027 NEIL DUNN: Exactly...that stays the same and...and it has come down to fifteen point eight to...eight point six...

028  
029 JIM TIRABASSI: Right

030  
031 NEIL DUNN: It's the size of the buildings...

032  
033 JIM TIRABASSI: It's dependent upon how many units are in each building.

034  
035 ANNETTE STOLLER: Mr. Chair I guess I am still thinking like a planner which is what I have been...has this been  
036 through any screening for fire safety and other are or am I jumping the gun?

037  
038 NEIL DUNN: That's the Planning Board and the Building Department. I guess we could ask for Richard for any  
039 kind of clarification if we want anything on that. At this point there is nothing that is going in front of the  
040 Planning Board.

041  
042 RICHARD CANUEL: What is your question?

043  
044 NEIL DUNN: There has been no consideration or concern to fire safety or anything the size or...

045  
046 RICHARD CANUEL: Yeah those are issues that would be addressed during site plan review process. The fire  
047 department will look at that as well as my office...you know for building separation access to the buildings for  
048 fire apparatuses.

049  
050 DAVID PAQUETTE: That's...that's beyond us.



052 NEIL DUNN: Well I mean if...  
053  
054 ANNETTE STOLLER: It really isn't...  
055  
056 NEIL DUNN: Well if we allow it and then how...how do they build around it I guess...I guess if they...if they  
057 needed bigger access for the spacing between them if they were not happy for fire access...than the density  
058 doesn't change because they are just spreading the same amount of units across the property. It is more of  
059 the size of unit, the number in the buildings...  
060  
061 DAVID PAUQTTE: Right...  
062  
063 RICHARD CANUEL Not to exceed a certain number of units per building...that way if the density is reduced  
064 because of the size of the buildings that is allowed because of increased access by the Planning Board...they  
065 can reduce that size...but you are not tying the variance to specifically forty two units per bedroom or thirty six  
066 units per building. You can say a maximum of or not to exceed that number.  
067  
068 DAVID PAQUETTE: Not to exceed...  
069  
070 RICHARD CANUEL: Some flexibility...  
071  
072 NEIL DUNN: Thank you...so I guess Annette to your point we can prove one hundred...  
073  
074 ANNETTE STOLLER: Right...  
075  
076 NEIL DUNN: But if the Planning Board and the Fire Department aren't good with it, it is not going to fly  
077 anyways.  
078  
079 DAVID PAQUETTE: Right...so that...you're still waiting on the next step of approval with the...the Planning  
080 Board...so even though we are granting this variance it is going to the Planning Board to make sure that  
081 everything...  
082  
083 NEIL DUNN: It's in compliance with the regulations.  
084  
085 DAVID PAQUETTE: Right...  
086  
087 ANNETTE STOLLER: I told you I still think like a planner so I am sorry.  
088  
089 NEIL DUNN: So looking at it point by point I guess looking at the...would not be contrary to the public  
090 interest...I'm...I am not so bad on the density per acre...the size of the buildings...  
091  
092 DAVID PAQUETTE: The size of the buildings are still within the...within the requirements of the...  
093  
094 NEIL DUNN: Well...  
095

096 DAVID PAQUETTE: Elderly housing...  
097  
098 NEIL DUNN: Well no because sixteen or twenty units per building I mean where we are talking about thirty  
099 two or thirty six or forty.  
100  
101 DAVID PAQUETTE: Well the actual footprint of that building because...  
102  
103 NEIL DUNN: Well that is why I was double checking but that doesn't matter t is really...and I...almost to  
104 Annette's point...is that when you get to forty two units are there other things that we have to worry about do  
105 we have apparatus...do we have that stuff to handle that.  
106  
107 DAVID PAQUETTE: Mm-hmm.  
108  
109 JACKIE BERNARD: I would like to make a point when the zoning ordinance was originally written, we all agree  
110 that it was some time ago and that it should be looked at...the reference to sixteen is the maximum. What  
111 size was sixteen in today's building standards? A bedroom size at the time that the original zoning ordinance  
112 was written and what a unit size was as in comparison to today's bedroom sizes they are smaller. Maybe it is  
113 almost the same in actual square footage size because we are not looking at is because of a size perspective  
114 we are looking at it form a...unit sixteen maximum units but we don't know what the original unit size was...  
115  
116 ANNETTE STOLLER: I don't think the size matters.  
117  
118 JIM TIRABASSI: The...the height is...  
119  
120 NEIL DUNN: thirty five feet is in the...the spec and the Planning Board would cover that anyways. The size of  
121 the building as far as maybe fire equipment and stuff and that's what we unfortunately don't know.  
122  
123 JIM TIRABASSI: Right...we don't have any control over that it becomes an issue above and beyond the concept  
124 scope of this.  
125  
126 NEIL DUNN: Well...  
127  
128 ANNETTE STOLLER: I am not sure it does.  
129  
130 NEIL DUNN: Not totally unrelated but...I...I guess I am looking at it if we look at...at contrary to the public  
131 interest and the spirit of the ordinance, I think today's fire codes are much more aggressive and...and there is  
132 a little less to worry about...we do have some larger buildings. The other thing is the...the ordinance in 3.6.1  
133 does talk to a project for the elderly will address their needs of the elderly as opposed to other residential  
134 uses. You know it does make more...the point was brought up speaking to this it makes more for a community  
135 to feel what you probably wanted in an elderly environment. It is large thought so I...I still have some back and  
136 forth on that but...  
137

138 ANNETTE SOLLER: Well it is large for...it is not large for an urban community and it is not large for a highly  
139 suburban community. This one becomes a rural suburban community so...you have as it is defined...although  
140 we are part of the forced Boston zoning area so...I just defeated my...  
141  
142 NEIL DUNN: To the point...granting the variance would or would not be contrary to the public interest...  
143  
144 DAVID PAQUETTE: I think that it would...would not be contrary to the public interest because there is a need  
145 for this.  
146  
147 NEIL DUNN: Well there is a need for it in the...objective and characteristics...say it needs to address the needs  
148 of the elderly community so the public interest...I...I am good with that...the spirit is where I start...when we go  
149 to forty two...although the spirit again talks about...you know a lot of these overlap or the...you know  
150 addresses the needs and the more community feeling and...and how are we to know that a thirty two unit or a  
151 thirty six is less of a community than a forty two or vice versa...I mean I don't know...does anyone else have  
152 any thoughts on this?  
153  
154 DAVID PAQUETTE: Either for or against...  
155  
156 JACKIE BERNARD: Well because some of these units are one bedroom and some are two bedrooms so...you  
157 know...  
158  
159 ANNETTE STOLLER: They are mostly two bedrooms though.  
160  
161 JACKIE BERNARD: but we have a mixture so...again it comes back to how it is interpreted when it was originally  
162 written and now today's standards...Richard is there a clarification on...what a unit for square footage actually  
163 was?  
164  
165 RICHARD CANUEL: As far as a zoning ordinance goes...no...  
166  
167 JACKIE BERNARD: Ok  
168  
169 RICHARD CANUEL: the size of the unit would be dictated by the minimum living space requirements by the  
170 building code.  
171  
172 JACKIE BERNARD: Ok  
173  
174 ANNETTE STOLLER: When was the elderly...ordinance passed here?  
175  
176 RICHARD CANUEL: That I would have to research...I don't know that off the top of my head.  
177  
178 DAVID PAQUETTE: I want to say it was last...I think it was the early ninety's I believe.  
179  
180 RICHARD CANUEL: Yeah...for what it is worth I understand that the applicant did meet with our fire  
181 department and I guess their feedback was positive on what the concept plans are.

182  
183 JACKIE BERNARD: Ok  
184  
185 ANNETTE STOLLER: Ok that helps.  
186  
187 RICHARD CANUEL: Yeah give me one moment I will see...  
188  
189 [Talking among one another]  
190  
191 NEIL DUNN: That being said, anyone have any issues with the spirit of the ordinance than?  
192  
193 DAVID PAQUETTE: I think it would be observed.  
194  
195 JACKIE BERNARD: I think the spirit of the ordinance would be observed.  
196  
197 [Long pause]  
198  
199 NEIL DUNN: And therefor granting the variance would or would not do substantial justice.  
200  
201 DAVID PAQUETTE: It would do substantial justice for the Town. When...when this first started I was struggling  
202 with looking at...at the numbers...and I think the presentation helped me understand and I think the Town's  
203 need is...plays...is a huge part in this.  
204  
205 JACKIE BERNARD: And I...and I have to say that from the first presentation to where we are now, the  
206 presentation has really done a three sixty and evolved...  
207  
208 DAVID PAQUETTE: I agree.  
209  
210 JACKIE BERNARD: Fitting...more towards what the Master Plan talks about.  
211  
212 DAVID PAQUETTE: Right  
213  
214 [Talking among one another]  
215  
216 NEIL DUNN: So...glasses on glasses off...[chuckling]...  
217  
218 DAVID PAQUETTE: The values of the surrounding properties.  
219  
220 NEIL DUNN: Number four the values of the surrounding properties would or would not be diminished.  
221  
222 ANNETTE STOLLER; it would not be...  
223

224 NEIL DUNN: Kind of sticks back to the original thing it is a better transition for the residential neighbors and it  
225 should not impact any commercial neighbors than a true strait out mall with traffic or...or...gravel pit  
226 or...[chuckling]...whatever...

227  
228 DAVID PAQUETTE: It may even bring an increase...

229  
230 NEIL DUNN: Yeah...

231  
232 DAVID PAQUETTE: Just because of the type of...

233  
234 NEIL DUNN: That was an argument that was presented...so now number five...on a special condition is a  
235 property distinguished from other properties...this one is where we start getting in to from my perspective is  
236 the...the need for the units is...there was more of a justification as...you know they have to be able to...the  
237 good of the town has to be...or the...in order for the project to proceed they need to have this kind of density  
238 to make them...the numbers work and...you know just because someone wants to build somewhere doesn't  
239 mean that we have to make the numbers work.

240  
241 ANNETTE STOLLER: Right.

242  
243 NEIL DUNN: And so I hate it when...because to be honest with you I guess...the argument as well the sewer is  
244 there so the land is more valuable so therefore they have to get better density to make it work...you  
245 know...anyone can come in and say I overpaid for that lot you have to let me develop it so...

246  
247 DAVID PAQUETTE: Right

248  
249 ANNETTE STOLLER: And they do...

250  
251 NEIL DUNN: And they do say that so I kind of have trouble when that argument comes up because you might  
252 be paid too much or you may be...you know I don't know I...I guess if we look at the...the first items...I guess it  
253 should be A1 and A2 as opposed to B...the special conditions of the property as opposed to the hardship case  
254 which is section B further down...talks to more...different types of hardships...if we go with A1 and A...2...only  
255 to special conditions of the property that distinguish it from other properties...there is or is not a substantial  
256 relationship between the general public purpose and the specific application so...I...I guess because of the  
257 sewer and water and because of the need for a...a...better location as they mentioned you wouldn't build a  
258 development down the other end of Litchfield Road or something where there is nothing around although  
259 there is some elderly housing down there. So I guess...I don't like the monetary argument but I...I understand  
260 kind of what she is saying with the general purpose of the ordinance and the specific application. A1; I don't  
261 know any thoughts on that I...

262  
263 DAVID PAQUETTE: It is fair and substantial because it is an allowed usage in a commercial zone...

264  
265 NEIL DUNN: Well the argument here is they need the density...

266  
267 DAVID PAQUETTE: Yeah...

268  
269 NEIL DUNN: And again we have to go back to what is this one for and the density was based so much on the  
270 financial because the land was valuable...[chuckling]...  
271  
272 DAVID PAQUETTE: Yeah...  
273  
274 NEIL DUNN: I don't know I...have trouble when it...it gets put that way as opposed to you know it is the  
275 relationship between the general public purpose and the specific application...  
276  
277 DAVID PAQUETTE; Right...  
278  
279 NEIL DUNN: I...I guess I am good...it does meet the general public purpose...  
280  
281 DAVID PAQUETTE: Mm-hmm.  
282  
283 NEL DUNN: I...I don't know...I...I just was throwing that out there because sometimes these arguments...  
284  
285 DAVID PAQUETTE Yeah...  
286  
287 NEIL DUNN: Anyone have any issues with number A1  
288  
289 JIM TIRABASSI: Yeah because if you take the depth part and the cost part out of it, it is like saying...I need...I  
290 built this and now I need dept. relief because I created the burden...but...the community...it is a value to the  
291 community...  
292  
293 NEIL DUNN: And the proposed use is reasonable because it is allowed...  
294  
295 JIM TIRABASSI: Right.  
296  
297 NEIL DUNN: Ok...so than the only other thing is a...always on our forms here we do have thoughts for our  
298 restrictions or...or limits...so I think to the point if anyone is going to make a motion...we don't...don't  
299  
300 DAVID PAQUETTE: Exceed the forty two units.  
301  
302 NEIL DUNN: Well I guess that's...the only thing I would like to think about is they are asking for specifically  
303 thirty two, thirty six and forty two to get to their magic numbers...I guess if we say not to exceed...one  
304 hundred and seventy eight units...how many seventy seven units...  
305  
306 DAVID PAQUETTE: One eighty eight...  
307  
308 ANNETTE STOLLER: One hundred and ten units.  
309  
310 DAVID PAQUETTE: Right...one hundred and ten units...  
311

312 NEIL DUNN: Ok I was talking bedrooms and units...thank you...  
313  
314 DAVID PAQUETTE: So not to exceed one hundred and ten units...  
315  
316 NEIL DUNN: Is that the accurate number though?  
317  
318 DAVID PAQUETTE: Yeah...they have seventy seven two bedroom units and thirty three one bedroom units...  
319  
320 [Talking out loud doing math]  
321  
322 NEIL DUNN: And...and then also not to exceed more than forty two units in any one building.  
323  
324 DAVID PAQUETTE: Ok  
325  
326 NEIL DUNN: Is that...that kind of what...  
327  
328 ANNETTE STOLLER: That would be good.  
329 JACKIE BERNARD: Ok so than that would...  
330  
331 NEIL DUNN: Total number of units...well I mean the density kind of limits that but...I guess for clarity and  
332 helping make everyone double check the numbers..  
333  
334 JACKIE BERNARD: That would be fine because we want...  
335  
336 DAVID PAQUETTE: Not to exceed forty two units...  
337  
338 JACKIE BERNARD: Units per building...  
339  
340 DAVID PAQUETTE: Units per building...  
341  
342 JACKIE BERNARD: With a maximum total...  
343  
344 NEIL DUNN: Well...  
345  
346 ANNETTE STOLLER: We have...we can just put...  
347  
348 NEIL DUNN: Would that allow them to put...  
349  
350 DAVID PAQUETTE: Three...no it wouldn't...allow them to do three, forty two unit buildings because that would  
351 exceed the maximum of one hundred...  
352  
353 ANNETTE STOLLER: They can shift the numbers within the total numbers per building but they cannot exceed  
354 one ten.  
355

356 NEIL DUNN: Yeah I just wanted to make sure however we put that in there we don't necessarily box them or  
357 us so to speak...  
358  
359 DAVID PAQUETTE: Not to exceed one hundred and ten units total...not to exceed forty two units per building.  
360  
361 NEIL DUNN: Everybody good with that?  
362  
363 JACKIE BERNARD: Yeah  
364  
365 ANNETTE STOLLER: Yes...  
366  
367 JIM TIRABASSI: Yeah.  
368  
369 DAVID PAQUETTE: Alright...I think that does it so...  
370  
371 NEIL DUNN: Let me think about that first...one hundred and ten total and that...that's right...and...  
372  
373 JACKIE BERNARD: Mm-hmm.  
374  
375 NEIL DUNN: Go ahead...and not to exceed...ok I guess that covers what was written there and gives them a  
376 little bit of flexibility for the Planning Board or whatever...does anybody want to make a motion.  
377  
378 DAVID PAQUETTE: I would love to...Mr. Chairman I would like to make a motion to approve case number  
379 3/19/2014-5...granting the variance would not be contrary to the public interest because there is a need for  
380 this type of...this type of...dwelling...the spirit of the ordinance would be observed...granting the variance  
381 would do substantial justice because the Town's need as stated in the Master Plan...due to the following  
382 reasons the values of the surrounding properties would not be dis...diminished...based on the...based on what  
383 is being built in this commercial property versus what could be built in this commercial property...there is a fair  
384 and substantial relationship between the general purpose...the general public purpose of the ordinance  
385 provision and the specific application of that provision to the property because...again the Town's need for  
386 this...this...type of dwelling and proposed use is a reasonable one because it is an allowed usage. Restrictions;  
387 not to exceed a total of one hundred and ten units and not to exceed forty two units per building.  
388  
389 NEIL DUNN: Do I have a second?  
390  
391 JACKIE BERNARD: Second.  
392  
393 NEIL DUNN: Those in favor...  
394  
395 ANNETTE STOLLER: Aye  
396  
397 NEIL DUNN: Aye  
398  
399 DAVID PAQUETTE: Aye



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JACKIE BERNARD: Aye

JIM TIRABASSI: Aye

NEIL DUNN: Those opposed...

[Papers shuffling and talking among one another]

DAVID PAQUETTE: Check, check, sign.

NEL DUN: [Chuckling]

Do you have any more of those voting sheets Jackie?

JACKIE BERNARD: I do...

DAVID PAQUETTE: Alright...Mr. Chairman in regards to case 3/19/2014-5 the board has voted to approve in a vote of 5-0-0.

**DELIBERATIONS; CASE NO. 3/19/2014-6:**

NEIL DUNN: So we are on to case number 3/19.2014-6.

DAVID PAQUETTE: What are we talking this time?

NEIL DUNN: We are talking...this one is to...

DAVID PAQUETTE: Building separation...

NEIL DUNN: Separation between buildings of twenty six and thirty feet where sixty feet is required...to allow the development a mix of one and two bedrooms...

DAVID PAQUETTE: And that's it. Well their point towards the multifamily ordinance is...having a restriction of thirty feet between buildings rather than sixty foot. I think was a compelling argument...and that these buildings are almost one building being that they are connected by enclosed and...you know...climate controlled walkways.

NEIL DUNN: Well I guess that would really be up to the Planning Board right...

DAVID PAQUETTE: Right...so if the fire department has already seen these plans and have given it their smile of approval...

443 NEIL DUNN: And it's closer to the multifamily so you are speaking out to the public interest or the spirit...why  
444 don't we do them one by one if we may...  
445  
446 DAVID PAQUETTE: I don't think it would be...it would not be contrary to the public interest because there is no  
447 real impact to the...you know the...it won't alter the character or...or...cause any safety issues.  
448  
449 NEIL DUNN: Ok...  
450  
451 DAVID PAQUETTE: As long as the Planning Board and Fire Department were happy with...the...  
452  
453 NEIL DUNN: Any anybody with a spirit where the multifamily allows thirty feet between them unless it is much  
454 closer to that and it will still be regulated by the Planning Board to a degree...  
455  
456 DAVID PAQUETTE: Yeah  
457  
458 NEIL DUNN: Anybody have issues with the spirit of the ordinance?  
459  
460 DAVID PAQUETTE: Nope...  
461  
462 NEIL DUNN: Any comments or thoughts? Number three granting the variance would do substantial justice and  
463 we are still on the...a...also remember we are doing one bedroom and two bedroom...  
464  
465 DAVID PAQUETTE: Yeah...  
466  
467 NEIL DUNN: Mixes in here so if you have any thoughts on that...or if you want to limit one or another we can  
468 always do that at the end...so that granting the variance would or would not do substantial justice in regards  
469 to the separation...  
470  
471 DAVID PAQUETTE: Or the bedrooms.  
472  
473 NEIL DUNN: Or the bedroom counts...  
474  
475 DAVID PAQUETTE: I think the bedrooms would do substantial justice against what the town needs I  
476 think...providing a mix of...  
477  
478 NEIL DUNN: A better mix...  
479  
480 DAVID PAQUETTE: Yeah  
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482 NEIL DUNN: Although...not classified affordable...  
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484 DAVID PAQUETTE: Right...  
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486 NEIL DUNN: Defiantly less than a...two would be or whatever...

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DAVID PAQUETTE: And as far as the building separation I don't see...any...I don't see it not doing substantial justice...and there is no real impact on...

NEIL DUNN: I guess the only thing is...they are saying buildings of twenty six and thirty...thirty is the hard number I guess...and the multifamily according to what we were told...

DAVID PAQUETTE: Yup

NEIL DUNN:...And...and twenty six is not that bad and talking back to the objective and characteristics of elderly housing being to address the needs...specifically of the elderly but...I don't know...I don't know if we have to but...the caveat...I guess it has to go to Planning Board anyways. I guess if we say twenty six and the Planning Board says it's not safe for the fire department than...than it will die there...

DAVID PAQUETTE: Right...

NEIL DUNN: I don't know I guess we are allowing them to go for that and the Planning Board can sort it out. So that...the values would not be diminished?

ANNETTE STOLLER: Would not...no

NEIL DUNN: And that's again, based on the number of units for the spacing between them...

DAVID PAQUETTE: I don't think that is going to change...

NEIL DUNN: Again, and it's...the saving I think is addressed more in the objectives and characteristics of the ordinance saying that they want it to be contiguous to the elderly people so...

ANNETTE STOLLER: Mr. Chair do you feel comfortable allowing the if statement there...if twenty six and thirty feet rather than stating thirty feet or...just a...I didn't hear twenty six feet expressed when the presentation was made...

DAVID PAQUETTE: their...their plan shows that two buildings are separated by twenty six and thirty feet.

ANNETTE STOLLER: Yeah I can see...

NEIL DUNN:...You know again I...I don't have such of an issue because of the way we spoke...the applicant spoke to the multifamily and the fact that if...if they are allowed to cover it in order to house and better serve the elderly community populations, which is the whole objective and characteristics of the ordinance is to serve that particular population. I guess my nigger concern is that because we say it...the Planning Board still has room...I mean you know if there was a fire and safety objection...

ANNETTE STOLLER: Well...is there any mention as to whether there will be an entrance or an exit into those porticoes or...

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NEIL DUNN: That would be really up to the...

ANNETTE STOLLER: It would be a site plan.

NEIL DUNN: The site plan and safety and building codes and all that stuff. We don't really have a prevue over that.

ANNETTE STOLLER: It is taking me a while to get out of that mode...[chuckling]...

NEIL DUNN:...So anyways I was just bringing that up I guess we are good there...so number five...only to special conditions a property is distinguished form others...I think in regards to this the applicant was referring to the particular needs of the elderly and having the buildings closer together...and although they are not talking about connected here we are not saying that still goes back to the Planning Board here but I mean that is the thought and if they are going to be closer and allowed to connect them and it better meet is so...again...with the site and size we have already accepted and...and the...spacing to hit it I think they brought up a good point...the special conditions of the property again with the water and sewer allowing a tighter density and allowing the buildings to maybe be closer together than they originally were in the old ordinance...I am pretty good with number five A1 and A2...I mean we know it is a reasonable one because it is allowed...

DAVID PAQUETTE: Agreed.

NEIL DUNN: So I guess the only...any...any thoughts on limitations or...restrictions or suggestions or whatever...comments...time frames...

DAVID PAQUETTE: I don't think there is anything...towards these two variances anyway.

JACKIE BERNARD: Yeah I don't have any comment or concerns.

JIM TIRABASSI: Yeah...

NEIL DUNN: Ok...anybody want to make a motion? Anyone else want to...[chuckling]...?

JACKIE BERNARD: alright Mr. Chairman I would like to make a motion to approve...case number 3/19/2014-6...with the separation between buildings of twenty six and thirty feet where sixty feet is required by section 3.6.4.2 and where the...with a mxix of one or two bedroom units where the standard two bedroom unit is required by section 3.6.4.7.1. Granting the variance would not be contrary to the public interest because no impact to the community...the spirit of the ordinance would be observed because it would provide for the elderly population...granting the variance would do substantial justice because it would meet the needs of the elderly population of the Town of Londonderry. For the following reasons the values of the surrounding properties would not be diminished base on the current surrounding properties and...to special conditions of the property that distinguish it from other properties in the area. Denial of the variance would result in unnecessary hardship...one...there is a fair and substantial relationship between the general public purpose of

574 the ordinance provision and the specific application of that provision to the property because of the elderly  
575 needs of the Town of Londonderry...and...the proposed use...is allowed...and I have no conditions.

576  
577 NEIL DUNN: Anyone want to second that?

578  
579 DAVID PAQUETTE: That's seconded.

580  
581 [Chuckling]

582  
583 NEIL DUNN: Those in favor...

584  
585 ANNETTE STOLLER: Aye

586  
587 NEIL DUNN: Aye

588  
589 DAVID PAQUETTE: Aye

590  
591 JACKIE BERNARD: Aye

592  
593 JIM TIRABASSI: Aye

594  
595 NEIL DUNN: Opposed?

596  
597 [Shuffling of papers]

598  
599 DAVID PAQUETTE: After months...Mr. Chairman regarding case number 3/19/2014-6 the board has voted to  
600 approve in a vote of 5-0-0.

601  
602 RESULTS: Case No. 3/19/2014-4: The motion to grant Case No. 3/19/2014-4 was approved, 5-0-0.

603  
604 Case No. 3/19/2014-5: The motion to grant Case No. 3/19/2014-5 with restrictions (i.e. the  
605 number of units cannot exceed a total of 110, and cannot exceed 42 units per building) was  
606 approved, 5-0-0.

607  
608 Case No. 3/19/2014-6: The motion to grant Case No. 3/19/2014-6 was approved, 5-0-0.

609  
610 Case No. 5/21/2014-2: The motion to grant Case No. 5/21/2014-2 was approved, 5-0-0.

611  
612 RESPECTFULLY SUBMITTED,

613 

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615  
616 DAVID PAQUETTE, CLERK

617

618 TYPED AND TRANSCRIBED BY KIRBY WADE, EXECUTIVE ASSISTANT

619

620 **APPROVED AUGUST 20, 2014** WITH A MOTION MADE BY DAVID PAQUETTE, SECONDED BY JIM TIRABASSI  
621 AND APPROVED 4-0-1 WITH JIM SMITH ABSTAINING AS HE HAD NOT ATTENDED THE MEETING.