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

DATE: FEBRUARY 20, 2013

CASE NOS.: 10/17/2012-2, 3, AND 4 (REHEARING)

APPLICANT: ALFRED WALLACE, HENRY WALLACE, AND HAROLD WALLACE
62 PERKINS ROAD
LONDONDERRY, NH 03053-2416

VAN STEENSBURG ONE FAMILY TRUST,
LEO AND MELANIE VAN STEENSBURG, TRUSTEES
48 PERKINS ROAD
LONDONDERRY, NH 03053-2416

LOCATION: 62 PERKINS ROAD; 16-3; AR-I (WALLACE) AND
48 PERKINS ROAD; 16-1; AR-I (VAN STEENSBURG)

BOARD MEMBERS PRESENT: JIM SMITH, CHAIR
LARRY O'SULLIVAN, VOTING MEMBER
JAY HOOLEY, VOTING MEMBER
NEIL DUNN, CLERK

REQUESTS: CASE NO. 10/17/2012-2: VARIANCE TO ALLOW PROJECT PHASING TO EXCEED THE MAXIMUM NUMBER OF DWELLING UNITS LIMITED BY SECTION 1.3.3.3, AND TO PROVIDE RELIEF FROM BUILDING PERMIT RESTRICTIONS UNDER SECTION 1.4.7.2.

CASE NO. 10/17/2012-3: VARIANCE TO ALLOW A REDUCTION IN THE NUMBER OF WORKFORCE HOUSING UNITS FROM 75% AS REQUIRED BY SECTION 2.3.3.7.1.1.4 TO 50%.

CASE NO. 10/17/2012-4: VARIANCE TO ALLOW 24 DWELLING UNITS IN A MULTI-FAMILY BUILDING WHERE A MAXIMUM OF 16 UNITS IS PERMITTED BY SECTION 2.3.3.7.3.1.2, AND A VARIANCE FROM THE DIMENSIONAL RELIEF CRITERIA OF SECTION 2.3.3.7.4.5 AND THE ADDITIONAL CRITERIA OF SECTION 2.3.3.7.4.6.

PRESENTATION: Chair J. Smith announced to the applicant their ability , since only four out of the five Board members were present, to postpone their case until the following month or until a full complement of the Board was available. The applicant chose to proceed with their case.

JAMES SMITH: First of all, are we going to hear the first case? I know Larry suggested we do that. Or are we gonna hear the general presentation of all three cases and then go to each one? Which…?

JAY HOOLEY: My druthers would be to hear the three separate cases just that way, separately.

JAMES SMITH: Okay.

JAY HOOLEY: But to hear them in reverse order. As explained before, I think some of the…the first ones are contingent upon what you decide in the last one. So, quite frankly, to hear case number four, then three, then two singularly, since each decision would impact the following decision. Does that make sense for everybody? Because it's tough to say…Well, I guess the reduction in the percentage of workforce housing not so much, but the phasing issue, depending on how may units, if we decided theoretically to change per building, then the phasing is impacted by that.

NEIL DUNN: So if we were to hear them separately, does it…

JAY HOOLEY: Does the order…?

NEIL DUNN: …mean we would have to deliberate after each hearing?

JAMES SMITH: I think that's the big difference.

NEIL DUNN: Whereas before, everything was grouped. I did think the point we're getting at, everything was grouped together and then was presented as one conglomerate case. But my thought is to hear them individually but not necessarily rule on them after each one and deliberate jointly. Or no? Or aren't you covered with…?

RICHARD CANUEL: Well, just as a point of a procedure, you would have to vote on them separately because they're separate variance requests, but you can certainly hear them as a whole.

NEIL DUNN: But have them addressed specifically individually.

JAY HOOLEY: Okay.

NEIL DUNN: Comma, semi-colon, period. I think I had issues where because we…we took the five points of law and we kind of pushed them all into one argument, then when we denied, we were accused of not considering all the points of law. So to address each point of law for each case separately I'm fine with. But to handle them in a bigger picture I'm also fine with, too. Because they do play together and I think if we're gonna come to some modifications on one that might allow something, I'd hate to isolate it because we heard it individually, if you follow that rationale. Anybody? No? Whatever are your thoughts, Jim. It doesn't really matter.

JAMES SMITH: I think what I would like to see would be the information, which is the general in nature, presented, then at that point, it's kind of like an overview, then go to each individual case and have the five points of law presented for each of the individual cases as a separate entity at that point, then I think after each of the…

NEIL DUNN: Then we vote after each one.

JAMES SMITH: …each of the three presentations are presented, then we would go into deliberation and would deliberate each separate case by itself. Does that sound acceptable?

NEIL DUNN: It's fine with me. How did it sound to you, Richard?

[Laughter]

RICHARD CANUEL: As long as you make a distinct vote separately for each one of those variance requests.

JAMES SMITH: Yeah.

NEIL DUNN: Right. Yeah, okay.

JAMES SMITH: Yeah. But I think part of what we were running into; we want the five points of law presented individual for each case. So if you want to give us an overview, then go to each of the cases. And how we deliberate, we could deliberate them in any order we want to as far as that goes.

JAY HOOLEY: Okay.

JAMES SMITH: You have the floor, sir.

THOMAS LEONARD: That's fine by me. The only other thing I would say is that there is kind of an accumulation of information that is common to everyone, so I'd ask the Board to consider the record of all of it for each variance. I think that's the same thing you're saying, but…

JAMES SMITH: Yeah, but we still want an individual argument for each of the five points.

THOMAS LEONARD: Yes, I will go through each point for each variance.

JAMES SMITH: Okay.

THOMAS LEONARD: Yes.

NEIL DUNN: So do you want me to read these in and how would you like that done?

JAMES SMITH: Yes.

NEIL DUNN: And no particular order or do we care?

JAMES SMITH: In the order that they're presented in the…

NEIL DUNN: And Mr. Chairman, if I may, just the point where it's getting late, a legal notice has been published in the Derry News that the Perkins Road may be tentatively continued until March 7th and seven P.M. if we decide to call it a night.

LARRY O'SULLIVAN: The offer was made about four of five, right?

JAMES SMITH: Oh, yeah. You are aware of the…?

THOMAS LEONARD: Yes.

JAMES SMITH: He was. I talked with both parties before we even started and just…

LARRY O'SULLIVAN: Okay. Good.

JAMES SMITH: So everybody had a feeling.

Case Nos. 10/17/2012-2, 3, and 4 were read into the record with no previous cases listed.

JAMES SMITH: You have the floor.

THOMAS LEONARD: Okay.

JAMES SMITH: You want to identify yourself for the record?

THOMAS LEONARD: Yes. Good evening, my name is Thomas J. Leonard. I'm a lawyer in Nashua with the firm of Welts, White and Fontaine. I'm here representing Mr. Tom Monahan. Mr. Tom Monahan has an agreement with the Wallaces regarding 62 Perkins Road, which is approximately 24 acres and his agreement is to purchase the property. He has an agreement with the Van Steensburg Trust regarding the property at 48 Perkins Road, which consists of 17 acres. And we are here, as you know, on a rehearing. The general proposal is a workforce housing proposal where there are ten buildings proposed for 25 units in each building. The use is a permitted use, that is multi-family workforce housing is a permitted use in the zone. The zoning is AR-I. The density that we are talking about is a permitted density. And the scale of the buildings are…the buildings are to a scale that is permitted. The only issue is the internal configuration and the number of units in the building and then there's the issue of phasing, as was raised. And the issue of the percentage of workforce housing units in the project overall. We have submitted quite a bit of information at the earlier hearings and I'm asking the Board to include that as part of the record for all of these three items. I will make a presentation on the points of law for each of three variances separately and answer questions specifically, but I do think there's a lot of common information and I provided a letter to Secretary Trottier asking that all of the information be a part of the record for all of the different applications. Just by way of summary, we provided, of course, the applications, which had the concept plan. Then we provided a memo in support of those applications we provided some information in mid-October. After our October of 2012 hearing, we provided some additional information there. And then we provided additional information at a request for a rehearing. All of that has been submitted to you electronically for today, but I just want to have it a part of all the records. I'd also just like to, as a preliminary matter, indicate that I have present with me Mr. Thomas Monahan. He's available for any questions. I also have…there is a report. Part of the information includes a report from Mr. Russell Thibeault who is an economist and at the last set of hearings, there were some questions. He is here personally to talk about the report that is included in your October letter and the supporting letter, which was included in the December letter. So you have two written documents from Mr. Thibeault and he is here today to provide some information on those two reports and also to answer questions. I also have Mr. Mark Fougere. Mr. Fougere provided a report in October of 2012. He provided an update in December of 2012. You have copies of both of those. But again, he's here today to answer whatever questions you may have on that. You may remember that Mr. Fougere is a certified expert Planner. Very familiar with workforce housing but also did some research on municipal services and infrastructure here in Londonderry as well as some information on growth controls and all. And then in addition, I have Mr. Karl Dubay. Mr. Dubay was here at the last hearing, answered some questions on some wetlands, but through the course of the hearings that we have had, some questions regarding traffic had come up. I provided in the December of 2012 letter that I wrote to the Board, I provided additional information on the traffic. Should the Board have any question on that particular report, Mr. Dubay is here to answer questions on that. He can also answer some questions on the concept plan which he has done. What I would like to do is just for the record and to kind of remind everybody and get us in the frame of reference here, go over what the project is and then because I think perhaps the most important testimony here today will be Mr. Russ Thibeault, I will call on him after I go through just to getting it all on the table here, if you will. And I'm also gonna try not to include all of the details. We've talked about this at some length. The details are in the memos, in the reports, so I'm not going to hit every detail. So as you probably remember, this site involves two tracts of land. The proposal is for ten-24 unit buildings. The first variance that we are requesting relates to phasing. Our request is to phase the construction of all of those buildings over three years instead of the five years that is required by the present zoning. What that means is our proposal, we would build three buildings in year one, three buildings in year two, and four buildings in year three. The site is located at Perkins Road. You have a concept plan in your packet. Basically, it's at Perkins Road and there are two lots and the reason we have two lots is that Mr. Monahan did go to the Planning Board to discuss the concept. The Planning Board had a couple of comments. The primary comments were that they wanted to see as many or as much of the development to the rear of the lot in the forested area as possible. So Mr. Monahan entered into an agreement with the Van Steensburg to consolidate the lots and that allowed him to put two more buildings to the rear of the lot in the forested area. You may remember from the last presentation that the two lots together are basically…the front half is open, the back half is forested, so by having eight of the ten buildings in the rear, they are less visible from the road, more protected by the forested land and that's consistent with a recommendation of the Planning Board at the earlier meetings. I have also included in the packet as part of the memo that I provided in October of 2012, you will find the minutes of the meeting for that Planning Board where some of the details were discussed. The property is a total of 41 acres. Our proposal is only for 26 acres. The other 15+/- acres will be part of the…mostly Van Steensburg property and that will eventually be developed. The present intention is that it would be developed as an elderly housing plan. But that is not before the Board here today. The only request we have before the Board relates to the specific workforce housing proposal. The site is serviced by…public sewer, public water are available. All are available. It's on Perkins Road, roughly at the intersection of Perkins Road and Route 28. As you know, the rear boundary of the property, both along the Wallace and Van Steensburg property, the rear boundary is Route 93 and the southbound entrance ramp to Route 93. The bottom of the page, or that would be the west, is Perkins Road. You will see in the information provided and in December of 2012, we included a sewer memo and we included updates to earlier memos. So basically, Mr. Fougere has documented that the infrastructure in the sense of sewer, water is all in place or available and within the Capital Improvements Plan for the Town of Londonderry. He has also looked at the schools and municipal services and there are no unexpected or unusual demands on any of the municipal services and in fact, there's no reason for expenditure caused by this development. As I said, the zone is AR-I. In the vicinity, you may remember there is Vista Ridge, which is nine or ten buildings. They are three story, 24 unit buildings. And that is to the northwest of this site. Basically across the street but north and west. Directly north of this site is the hotel and I forget the name, but it's…I think it's the Sleep Inn. And those two are abutting properties, basically. And to get a sense of scale, you have a picture in the information that I've given you. There's a picture of the hotel and there's also a picture of the Vista Ridge condominium buildings. The hotel is approximately 15,000 square foot footprint. Substantially larger than any building we propose on this site. The Vista Ridge buildings are three stories, 24 units, with approximately 9-10,000 square foot footprint. The last time we presented to you, we expected our footprint would be of a similar size. Since that time, and I submitted some new information in December of 2012. We have reduced our footprint and the design is now smaller than the Vista Ridge footprint. The scale of the building is also smaller. Our building is three stories and compliant with all height and scale regulations with Town zoning. I think I mentioned the proposed density is also consistent with the requirements in Town zoning. The Londonderry Housing Task Force has looked at workforce housing and has identified areas that are especially appropriate. This is one of those areas. It is zoned for multi-family and has been identified for high density rental properties because of its location and the infrastructure that supports it. You can see in a letter that I wrote in October 19, 2012, there is particular reference to the housing findings. They found a specific demand for affordable housing and a particular demand and need for affordable rental units. So we also presented, for your information, as part of the December, 2012 letter and information associated with the rehearing request, there are three renderings, architectural renderings of the buildings to give you a sense of the scale and all. And you can see that it's…you can see how they are from those pictures. So that brings us to our request and I think what I'd like to do is right now call on Mr. Russell Thibeault to give you some information on the economics. Actually, one last comment before…while he's getting set up. As you know, we're here for three variances and that's one path to approval, but this is an unusual circumstance in that we are also here, having put the Board on notice that we are a workforce housing project and therefore have that second path that always needs to be considered. I will treat that as a separate discussion, but it is kind of that umbrella, as Mr. O'Sullivan had talked about with regard to the Daniels case. So with that, let me call on Russ Thibeault, and I think he will be able to explain his report and let me say that should you have any questions, please ask. We're very interested in having everybody understand the details of the report.

RUSSELL THIBEAULT: Thank you very much. Mr. Chairman, members of the Board, my name is Russ Thibeault. I'm the President of Applied Economic Research, an economic and real estate and consulting firm based in Laconia. By way of background, I founded the firm in 1976 and prior to that, I worked out of Washington, D.C. The same kind of work, in about 35 different states. Now most of my work is in New Hampshire. The kind of services that the firm provides include real estate market analysis, financial feasibility analysis, fiscal impact studies and economic development studies, housing market studies. We've worked for most of the agencies in the state. Many of the municipalities of the state, including Londonderry on several occasions, so that's my background. I grew up in Manchester. I'm kind of familiar with the area. And as I understand it, you all have copies of a PowerPoint slides, is that correct? It should like this on the first page [See exhibit "P"]. Am I right?

THOMAS LEONARD: [Indistinct] is right there.

RUSSELL THIBEAULT: Oh, okay. I thought they already had them. They're on the chair, please. I'll walk you through it anyway. I think it would be most helpful if we just take this and as I go through the important points, which I've highlighted in this PowerPoint, if you have any questions during the presentation, something that you don'…you're not sure of the background for it or what it means, by all means ask. I hope that my presentation won't be terribly long, but the most important thing is to make sure that all of you understand how these numbers work. It's not something that a lay person would normally have a lot of exposure to, or someone that does the kind of work that I do. It's quite common. So…

THOMAS LEONARD: If I could just interrupt, Russ, real quickly. This PowerPoint that you have is the exact information that you have in the report and the summary letter that was provided in December. So it's no new information. It's just a different presentation.

RUSSELL THIBEAULT: Right. The October 15th letter and the December 10th letter. So, if I may, the scope of my analysis [p. 2 of Exhibit "P"]…I really tried to evaluate the financial feasibility of your workforce housing provisions. And that means 75 % of the units workforce housing and then that workforce housing is defined as being affordable to renters with incomes that are 60% or less of the area median income and pay no more than 30% of their income on rent, including utilities. That's what workforce housing is, so…And your ordinance requires that 75% of the units meet that criteria. Really, the two scenarios that you're all very familiar with; scenario one is 15 buildings with 16 units each, 74 [sic] % workforce housing. There's been an independent cost estimate of that prepared. It was provided to me that that configuration would cost $37.3 million to build. Okay? Next, the alternative, which the applicant would like you to consider and is the basis for the variance request, is ten buildings with 24 units each, 50 % for workforce housing and the cost there because there are fewer buildings being built is $33 million. Yes.

JAY HOOLEY: May I, Mr. Chairman? And please, dumb it down for me.

RUSSELL THIBEAULT: Yes.

JAY HOOLEY: The 75 % workforce housing versus the 50…

RUSSELL THIBEAULT: Mm-hmm.

JAY HOOLEY: Does that play into the construction cost?

RUSSELL THIBEAULT: That's a good question.

JAY HOOLEY: It's kind of lumped in there but really…

RUSSELL THIBEAULT: They are.

JAY HOOLEY: …you build the same building.

RUSSELL THIBEAULT: Mm-hmm.

JAY HOOLEY: What percentage of it you're gonna reserve for what rental value, how does that impact the cost of constructing that building?

RUSSELL THIBEAULT: I think the primary cost difference is the difference between 15 buildings and ten buildings. But I didn't do the cost estimate, so.

JAY HOOLEY: Okay, but do you…?

RUSSELL THIBEAULT: But my experience would be that the primary difference is going from 15 to ten buildings and not so much the 75 to 50 %. On the cost.

JAY HOOLEY: Right, but the way it's lumped into the presentation, it makes it look as if that's somehow impacting that bottom line cost and it's not, then?

THOMAS LEONARD: I can probably help on that. Included in your information is a report from Shutter Construction and there is also a comment from the Planner Thompson, former Planner from Londonderry, in a separate memo that he did back in May of 2012 [sic] and between those two pieces of information, you can probably get the answer to your question. Mr. Thompson sought out the cost for a 24 unit building as compared to a 16 unit building and he specifically only included the cost adjustment for the construction of the building. And he estimated it to be about ten percent. Mr. Shutter, who included all of the costs associated with this, came up with the roughly 13 % difference that Mr. Thibeault has assumed. And the 13 % includes not only the cost of the building but also the additional costs associated with site work. So, as Mr. Shutter calls it, the cost above the ground is roughly ten percent added to the cost. Site costs are roughly three percent if you take those two memos together and understand them as complimentary.

JAY HOOLEY: Okay. But as such then, the percentage of workforce housing does not impact that.

THOMAS LEONARD: The percentage of workforce housing, as Mr. Thibeault explain, relates more to the other side of the project in a sense that it changes the revenues…

JAY HOOLEY: That part I get.

THOMAS LEONARD: …and that you're gonna hear about.

LARRY O'SULLIVAN: Okay, so what you're saying then is half of them as workforce housing aren't going to have granite counter tops and oak cabinetry and…

JAMES SMITH: Larry, you want to get on a mic?

LARRY O'SULLIVAN: Right? And the other ones will.

THOMAS LEONARD: Well…

JAY HOOLEY: Looks like Mr. Monahan wanted to speak.

LARRY O'SULLIVAN: The same specs.

THOMAS LEONARD: They're all built to the same specs, so to the extent…they're gonna be the same units.

JAY HOOLEY: Okay.

JAMES SMITH: So essentially what you're saying, the 75 % and the 50 % probably should be stricken from this.

THOMAS LEONARD: Well, it has to be a part of the…

JAMES SMITH: At this point.

THOMAS LEONARD: It has to be a part of the economic analysis because it changes the revenue.

JAMES SMITH: Yeah, I understand that. But as far as the cost of the building…

JAY HOOLEY: But not the construction costs.

JAMES SMITH: …it really adds no cost.

THOMAS LEONARD: But it does not…it doesn't…right. That's correct.

JAMES SMITH: Okay.

THOMAS LEONARD: But to be fair to Mr. Thibeault, I asked him to look at the economic impact of our proposal, which of course, involves both components. So that's why you're seeing it presented as it is.

RUSSELL THIBEAULT: In short, most if not all of the differences related to the number of the buildings. The cost differences related to the number of buildings. Most, if not all. If Mr. Shutter were here, there might be some subtleties that…and if you go back to the reference where your Planning Director did some research with the neighborhood housing in Manchester, found a ten percent difference, it's in the ballpark here. There's a little bit more of a difference here, in Mr. Schutter's work. But most of the difference is related to the number of buildings and the units per building. Other questions on that? Okay. So the first question…now I'm moving…the cost is a big element. It's about half of the issue in financial feasibility. What's it gonna cost? The next big element is what can the units rent for? And the first aspect of that is what can the market units rent for? The market rate units [p. 3]. Which would be between 25 and 50 %, depending on which scenario you're looking at. One measure of that is the rental survey that the New Hampshire Housing Finance Authority does. They do this once a year. The rental survey for metropolitan Manchester is shown in this graph. And the current median rent for a two bedroom apartment in metropolitan Manchester is approximately $1,100 a month for a two bedroom unit with utilities. With utilities. And that's all units, including the units close in urban Manchester and units in garden apartment complexes. It's a general indication, obviously. Interestingly, as an anecdote, you can see that although housing prices have dropped dramatically, rents have actually increased a little bit during this downturn. More and more people are interested in renting, which I think probably explains the market rationale for this proposal at this time. So let's get a little more fine grained. That's all units in metropolitan Manchester and then I looked at what are comparable units renting for [p.4]? And I looked at four projects. The average monthly rent ranges from $1,150 a month to $1,600 a month for two bedroom units. And I ended up concluding that the average of these with no adjustments is about $1,300 a month without utilities. These units rent without utilities. Since I did my original work, and this is a little modification to the original work, is that there's a new project in the Amoskeag Millyard, 300 Bedford Street, which will be coming on the market soon and they are looking at rents of $1,400 a month without utilities. So based on both the general indication and the specific comparables, I concluded that the two bedroom units in Londonderry can rent for $1,375 a month without utilities. Any questions on that?

JAY HOOLEY: And that's what the market will bear?

RUSSELL THIBEAULT: That's what the market will bear for market rate units, not the workforce housing units. Because the rental structure for workforce units is determined according to that criteria of median income no more than 60 % of the area's median income and no more than 30 % of the household's income spent on rent. So it's the rental rate for workforce housing is, in effect, statutorily limited. So let's look at that next [p. 5]. These rents are set…the maximum rent allowable is set by the United States Department of Housing and Urban Development and the New Hampshire Housing Finance Authority. On this graph, you are considered to be the Western Rockingham County section of the state. Londonderry is in that section of the state. And the maximum rent for those units is $1,360 a month including utilities. Okay? And the other that I just showed you that was about the same number was without utilities. So I need to adjust this maximum to make them comparable, to take out the utilities, which I've done using the adjustments that the Housing Finance Authority allows. Okay? So we know have two measures of achievable income. One for the market rate units in this project, one for the workforce housing units in this project. And once you back out the average utilities based on the allowances offered by the New Hampshire Housing Finance Authority, you get $1,100 a month for the workforce housing units without utilities. So on the one hand, we've got a little under $1,400 for market rate and $1,100 a month for workforce housing. Any questions there? Yes, sir.

NEIL DUNN: A two bedroom unit?

RUSSELL THIBEAULT: Two bedroom units, yeah.

NEIL DUNN: I think the first one said that but I wasn't sure about the [indistinct].

RUSSELL THIBEAULT: Yeah, they're both for two bedroom units. Yes. Any other questions on this? So now we've got cost estimate, we've got the rental income you can get from the two types of units. So let's multiply that out [p. 6]. The gross rental income, if you do the math, under workforce housing, 75 % workforce housing, you will have a gross rental income of $3,265,000 for 75 % workforce housing. Now since the market rate units get more rent, if you drop down to 50 % workforce, meaning you go up to 50 % market rate, you get more income. Makes sense. And this is calculated at those two monthly rental levels. The next thing is to get at what support…and this whole thing is driven to get at what's supportable? What's the supportable investment? We know the cost and basically at this point, trying to figure out, okay, with the two cost figures that I have, do both of these work? Does one work and not the other? Or do neither of them work in terms of supporting the costs? There are operating expenses that need to be subtracted. And the operating expenses include things such as property takes, you know, this property workforce and market rate will pay full taxes at the standard rates. You have maintenance, you have insurance, snow plowing, trash removal. Those are the operating expenses that I factored in and because I'm not including utilities in the rent, you take them out as an operating expense. Those operating expenses are the same for both types of units because I believe they are both the same units, as Attorney Leonard just mentioned. You take the operating expenses out, and the numbers are a lot bigger, but this is no different analysis than if you bought a house to rent out, you're gonna have some expenses. You take out the expenses and what's left over is what you can pay yourself and pay the bank for the mortgage. And the net income then for 75 % workforce housing units is $1,089, 200. For 50 % workforce, it's a little bit higher because the rents are higher on average. It's $2,181,300. And these are the same numbers that were in my October report. Any questions here? Okay.

LARRY O'SULLIVAN: You've got annual costs and the difference between 50 and 75 is roughly $200,000.

RUSSELL THIBEAULT: That's right.

LARRY O'SULLIVAN: Annually.

RUSSELL THIBEAULT: Pardon?

LARRY O'SULLIVAN: Annual.

RUSSELL THIBEAULT: Annual. Annual. Yup.

LARRY O'SULLIVAN: And it becomes unprofitable for this project to work at 50 versus 75.

RUSSELL THIBEAULT: We'll see. We'll get to that, if I may.

THOMAS LEONARD: And one other thing that I want to add…

RUSSELL THIBEAULT: It's true, but I…on a year, yes.

LARRY O'SULLIVAN: Okay.

THOMAS LEONARD: But don't forget that under the 50 % workforce housing, the other variable that Mr. Thibeault has adjusted for is he is building buildings that are 24 unit buildings. So the 75 % workforce assumes a 16 unit building. The 50 % workforce assumes the 24 unit building as proposed by us. So there…

RUSSELL THIBEAULT: I'll get to that calculation. It's coming right up.

LARRY O'SULLIVAN: But it still isn't equal to equal here, though.

RUSSELL THIBEAULT: I'm sorry?

LARRY O'SULLIVAN: So we're not talking equals.

JAY HOOLEY: If I might, Mr. Chairman. Those are two separate variances, either one or both of which might be granted and on your next slide is where you're gonna get to the piece where I get hung up, because then we're looking at the cost to build being completely different, based on the percentage of workforce housing, which you just indicated, that's not the variable. It's the number of units that's the variable in the cost of construction. If you go to the…and I know I'm getting ahead, but…

RUSSELL THIBEAULT: You're all getting ahead of me.

JAY HOOLEY: Okay.

RUSSELL THIBEAULT: I think it would be better if I go to the next slide.

JAY HOOLEY: Yup.

LARRY O'SULLIVAN: Mr. Thibeault, just for clarification.

RUSSELL THIBEAULT: Yes.

LARRY O'SULLIVAN: The number that was on the left, 75 % workforce…

RUSSELL THIBEAULT: Yeah.

LARRY O'SULLIVAN: …that's 16 units per building.

NEIL DUNN: Yes.

RUSSELL THIBEAULT: Actually, this slide is just looking at income and expenses. This slide doesn't look at anything about costs. It's just how much would you have to support the two?

LARRY O'SULLIVAN: Okay.

RUSSELL THIBEAULT: When we get to the next slide…

LARRY O'SULLIVAN: How did we get rent from 16 versus 24? Call out either, whatever you'd like.

RUSSELL THIBEAULT: It's not six…

LARRY O'SULLIVAN: Whatever the number is.

RUSSELL THIBEAULT: Okay…

LARRY O'SULLIVAN: How do you get 3.2 million dollars gross income off of how many units?

NEIL DUNN: Two forty's the same number, right?

RUSSELL THIBEAULT: It's the same number of total units.

JAMES SMITH: Same number of units.

RUSSELL THIBEAULT: Back up the slides then. Let's go back and let's…I wanna make sure…

LARRY O'SULLIVAN: If you wouldn't mind. Please.

RUSSELL THIBEAULT: Yeah. I wanna make sure you understand. The rents…for the first indication of rent, I'm trying to estimate the…

LARRY O'SULLIVAN: This isn't any help for me.

RUSSELL THIBEAULT: Okay, what would you like to know? What's your question? I'll be glad to answer it.

LARRY O'SULLIVAN: I'm trying to do comparables. You had two numbers, side by side.

RUSSELL THIBEAULT: Yes.

LARRY O'SULLIVAN: I wanted to see if they were equally based.

RUSSELL THIBEAULT: Both of these are on 240 units. Both columns.

LARRY O'SULLIVAN: Okay, so my expenses to build…

JAMES SMITH: No. This is not the expense to build. This is operating.

LARRY O'SULLIVAN: This is just operating income?

JAMES SMITH: Right.

RUSSELL THIBEAULT: It's just income.

LARRY O'SULLIVAN: Gotcha. Thank you.

RUSSELL THIBEAULT: The next slide gets into…

LARRY O'SULLIVAN: Well, you have operating expenses there, and mortgage included one, but that's okay.

RUSSELL THIBEAULT: Mortgage is not included as an operating expense.

LARRY O'SULLIVAN: Oh it is not? Okay.

RUSSELL THIBEAULT: No. This includes if you were renting the house…let's put it in smaller terms and maybe I can explain it easier. You're renting a house. You start out with your monthly rent. You're gonna get, say $1,200 a month. You multiply that times twelve months. That's that first line; gross rental income.

LARRY O'SULLIVAN: Mm-hmm.

RUSSELL THIBEAULT: And in this case, you're gonna pay for insurance on it. You're gonna pay for maintenance. You're going to pay for a heating system, let's say, needs to be replaced. Occasionally the roof needs to be replaced. Those are, in effect, would fall into the operating expense category. Haven't paid the mortgage yet. Before you can pay a dollar to the bank or yourself, you have to pay for snow plowing, taxes, all of that. So that's what that $1.27 million is, is the operating expenses. And when you get to that $1,989,200, and the $2,181,300, that's what you have to pay the bank and yourself.

LARRY O'SULLIVAN: Gotcha.

RUSSELL THIBEAULT: Does that clarify it?

LARRY O'SULLIVAN: Yes. Yes it does. Thank you.

RUSSELL THIBEAULT: So we haven't gotten to the point…the question is do we have enough here to support the different costs? That's the real question. Do we have enough? Is that enough money for the two alternatives? And there are two things going on that distinguish the two alternatives. One is different income. As you see in this chart. Okay? Because the workforce housing has limits on how much rent you can get. So as you have higher workforce housing, you get lower rent because of those limits. Okay? But the operating expenses are the same for both. The second distinguishing thing between these two columns, or these two scenarios, is the cost. And now we get to the point where we want to mesh these together to answer the question. Are you clear? Am I…Did…?

LARRY O'SULLIVAN: I'm much better knowing that it was just strictly income.

RUSSELL THIBEAULT: Yup. And please ask any questions. That's what I'm here for. So now the questions becomes how much investment can be supported [p. 7]? If we go to the house example, it's how much can you pay for this house? Now that you know the rent, now that you know your annual operating expenses, how much can you afford to pay? Okay, so we start with the cost to build, which was the first slide. As was noted, much of the difference in the cost to build is related to the number of units per building. Much of the…

JAY HOOLEY: Okay. And that's where I got lost on this slide because suddenly it looks like it's the percentage of workforce housing that impacts my cost to construct.

RUSSELL THIBEAULT: I'm with you. Yeah. It probably could…I agree, it could be clearer. Most of the cost difference is related to the number of buildings. Most of the revenue difference, however, is related to the workforce housing percentage. And this relates to the comprehensive variances that the applicant is requesting, okay? I didn't distinguish them. They're asking for the three variances and so you have both things at play here.

JAY HOOLEY: So the cost to build is really 24 versus…

RUSSELL THIBEAULT: The cost to build, right.

JAY HOOLEY: ….16…

RUSSELL THIBEAULT: That relates to that particular variance request, I think is one way to look at it.

JAY HOOLEY: And then the estimated net income is relative to 75 versus 50.

RUSSELL THIBEAULT: Correct.

JAY HOOLEY: Okay.

RUSSELL THIBEAULT: Did all of you get that?

JAY HOOLEY: Am I accurate, or…?

RUSSELL THIBEAULT: Yes you are.

JAY HOOLEY: Okay.

RUSSELL THIBEAULT: Yup. So I have an estimate of the cost. What connects the cost and that income is the required rate of return in the market. If somebody needs a high rate of return, it's gonna take a lot of income to support that investment. So that 6.5 % that you see on both of those…I read the minutes of your meeting and I think there was some confusion in my letter…or my letter lead to some confusion. The 6.5 % is not the rate of return the project can get. But rather what the market requires to support this kind of investment at this point in time. The source of that is a national service called Realty Rates and it looks at projects that have been funded, what did the investor need in terms of a rate of return? And in the third quarter of 2012, which was when my October analysis was done, the required rate of return was 6.5%. Okay? So if it costs…let's look at the first column. If it costs @37.3 million to build a project and the required rate of return is 6.5%, if you multiply $37.3 million times 6.5%, what you get is I need $2,424,500 in income to support that investment. The estimated net income came from the slide we just looked at or 75 % workforce housing and we only have $1,989,200 to support that investment, meaning there's a deficit of $435,300 a year in net income. The project is not feasible. It doesn't have enough income to support the cost, given the rent structure that you have 75 % workforce housing. It cannot be built. If you look at the 50 %, you have lower costs and higher income. Are you with me on that?

LARRY O'SULLIVAN: Mm-hmm.

RUSSELL THIBEAULT: Do you understand where both of those numbers come from? Lower cost, because we're looking at fewer building…

JAMES SMITH: The 24 versus the 16.

RUSSELL THIBEAULT: Right. Fewer buildings. So our costs are lower and our income is higher because more of our units can get market rent rather than the restricted rent of workforce housing. That project would need $2,145,000 a year in net income. The actual income is a little bit higher than that, therefore the 50 % workforce housing with the number of units that the applicant is requesting is feasible. So you have…now, what you have, given this test, you have a situation where the Town's ordinance is not financially feasible. It cannot be done. And that's measuring both factors of the variance request. If you measure both factors of the variance request, meaning drop it down to 50 % workforce housing and allow more units per building, there will be fewer buildings, it is feasible. Yes, sir. Is it okay if I call out who…or should the Chairman?

JAY HOOLEY: Well, he can't…he's got his back to me…

RUSSELL THIBEAULT: I don't want to usurp the Chairman's role.

JAY HOOLEY: He doesn't [indistinct]. When I had my hand up.

JAMES SMITH: Well, okay.

JAY HOOLEY: So what we're not seeing, or I'm not seeing is six or seven other possible blends of what might be granted, including 75 % workforce housing and/or 50 % workforce housing and 20 units.

RUSSELL THIBEAULT: Oh, okay. Yeah, there are…

JAY HOOLEY: Because that's…

RUSSELL THIBEAULT: It would be something in the middle. Yeah.

JAY HOOLEY: Right. So, in other words, we've got one end, another end, and there might be something financially viable somewhere in between without one or at least one portion of one if the variance is requested. Does that…? In other words…

RUSSELL THIBEAULT: I hear what you're saying, but …

JAY HOOLEY: Can you make it work at 50 % with 20 units?

RUSSELL THIBEAULT: Okay.

JAY HOOLEY: What's that number?

RUSSELL THIBEAULT: If you look at the $36,000 bottom line…

JAY HOOLEY: Mm-hmm.

RUSSELL THIBEAULT: It's very, very thin, even with 50 % workforce housing and the reduced, so my supposition is you couldn't move very far from the proposal and keep it financially feasible. Do you see that? Do you see why? That's very little…at an income required of $2.1 million, this project is razor thin with the 50 % and the more units per building. It's razor thin. So I don't think you could move very far at all. I don't think you could go halfway between the two. Because you'd have a $200,000 deficit then.

THOMAS LEONARD: Well, the other think I'd like to…

JAMES SMITH: I think one thing that would probably illustrate that point a little better; if you added the $36,300, what would be the percentage, versus the 6.5 that you are projecting?

RUSSELL THIBEAULT: I'm not sure I get the question.

JAMES SMITH: In other words…

JAY HOOLEY: What's your rate of return?

JAMES SMITH: What would the rate of return if this [indistinct].

RUSSELL THIBEAULT: Oh, okay. I think that might be the next slide. If I'm not mistaken. Let's look at the next slide briefly [p. 8] and we can come back to that one, Mr. Chairman. There's your rates of return. Its 6.61 % with the variance request, versus a required 6.5 %. It's 5.33 % under your ordinance. Does that answer it, Mr. Chairman?

JAMES SMITH: Yeah, that's what I was trying to get to.

RUSSELL THIBEAULT: Okay.

JAMES SMITH: So in other words, you're saying .11 % above that 6.5?

RUSSELL THIBEAULT: Correct. Razor thin.

THOMAS LEONARD: And to Mr. Hooley's question earlier, if I may, you can't assume a straight line savings when you move from 16 units in a building to 24. It kind of goes in steps. So I guess that's another way of saying that if you have 20 units in a building, it isn't necessarily half as much savings.

JAY HOOLEY: Oh, I understand. It's just that we don't have that data point…

THOMAS LEONARD: Right.

JAY HOOLEY: …so I don't know what the number is.

THOMAS LEONARD: That's right.

RUSSELL THIBEAULT: But if we could go back to the slide before, I think in actual numbers, that $36,000 is a very, very thin margin. So you couldn't move much off the variance requests and have it stay viable. Like, going halfway wouldn't do it. There's not enough to play with on the right hand column.

JAY HOOLEY: Are both or neither of these assuming the variance request in phasing?

RUSSELL THIBEAULT: They really are expressed in today's dollars.   Today's costs and today dollars. So they don't factor in the phasing.

JAY HOOLEY: The request for phasing, whether it be done in three or five years.

RUSSELL THIBEAULT: Right. My letter of October 15th addressed that narratively, saying that right now, interest rates are very favorable. Right now costs are actually…they're moving upward. Construction costs are moving upward kind of quickly. So I suggested that the best phasing is, and as an economist, phase with the market. Let the market…but I don't know…I don't think the Town wants to do that. But the five year phasing is more risk and I mention in my letter of October 15th that more risk means that required return of 6.5 % could climb upward, which then starts jeopardizing the 50 %. You offset risk with higher rate of return required. I want you to feel comfortable with this analysis, at least understanding the understanding of it. And I'm very pleased to answer any questions. Please don't be shy.

JAMES SMITH: What would it take to do an analysis like Jay is suggesting? Where you would throw in a 20 unit building?

RUSSELL THIBEAULT: It would require, first, the cost and then my part would be relatively easy. I have spreadsheets that work these numbers, so it would just vary…it would change the cost and I would run those through. But I could tell you that I am 99.99 % sure that if there's a material increase in cost, the viability of the second column goes down. Of course, the first column would stay the same.

NEIL DUNN: Are you pretty much at the end of this? A couple questions that we don't have addressed here and I don't know if you're going there later is I believe the State or HUD or some of these people say rate of return on an investment like this, 6 % right now is considered accurate. So if you were to look at a 6 % return, and I think that's what they allow if you go to some of their low interest financing programs through the State, through the workforce housing with the State program or through the Federal tax incentives for low income or whatever. So you look a little bit high on that. And then we don't know what your costs are based on. Are you overpaying for the property? All we have is a number that says $33 million is the number and we don't know if you're paying too much for your initial investment. And after all, it's really these people now who own the land that you want to finish your deal with or maybe you bought it, but if you've overpaid, does it mean we have to let you make more money because you overpaid? So when you talk costs, I still don't see anything about costs that tells me I'm comfortable with your numbers. I mean, I understand what you just did here, that makes sense…

RUSSELL THIBEAULT: Okay, good.

LARRY O'SULLIVAN: That's from the letter? I think the Shutter letter might have something [indistinct].

THOMAS LEONARD: Let me try to answer that. In the Shutter letter, we actually assumed a cost of the land that's less than what we're paying. The land is assumed at $1,620,000, which is…that is only one parcel. So it does not include the second parcel. Even though the project involves both parcels.

NEIL DUNN: And the assessed value of those two properties is…right now, we're on $530,000?

THOMAS LEONARD: I'm not sure what the assessed value has anything to do…

LARRY O'SULLIVAN: But that doesn't really have a lot to do with this.

NEIL DUNN: Well, no, it does. If they're over…

LARRY O'SULLIVAN: It's gonna be all the construction costs that are the $35 million, so…

THOMAS LEONARD: But to answer your question, it's a fair market arm's length rate. To answer your question on the land, it's fair market at arm's length.

RUSSELL THIBEAULT: I may be able to comment a bit on that acquisition cost because we also do appraisals and we're doing a major project in Nashua that we've appraised multi-family. And the cost per unit here is actually a little bit lower than some of the other projects that I've looked at. It's around…I'm trying to remember exactly. But I know it was lower. I think it was like $9,000 versus $12,000 a unit. Raw land acquisition cost. It's actually a little lower and I think the reason why is probably because there's 250 units there and some of the other projects were smaller.

NEIL DUNN: And there's no talk about any kind of tax credits, incentives, anything of that nature. And I know before, you said you weren't using any of those.

RUSSELL THIBEAULT: Right. I don't believe…

NEIL DUNN: But I do believe you can get some pretty low…I think the New Hampshire Housing Authority has some near zero percent loans and there's strings attached with the 6 % and not overpaying on the asset value as the value is right now of the property.

RUSSELL THIBEAULT: Mm-hmm.

NEIL DUNN: You can't…so I understand there's constraints and so I guess what I'm looking for is you're thinking the Shutter thing is gonna have a better breakdown so that we can say that those costs are more accurate? I guess that's what we were talking about when we were saying let's get a third party in here and verify the numbers because I mean, anybody can throw numbers on a piece of paper.

THOMAS LEONARD: The Shutter spreadsheet has a detailed statement of how we arrived at the cost of the two different cost analyses. That is the 16 unit building with 75 % workforce housing and the 24 unit building with 50 % workforce housing.

NEIL DUNN: Was that the original submittal?

THOMAS LEONARD: Yes, that was.

RUSSELL THIBEAULT: The other thing I'd point out is this project is…I'm familiar with the low income housing tax credit project. We've done work on those. And this project is not proposed to go into that program at all. There are no State or Federal subsidies involved in this project. It's pure market rate. But the workforce housing is the density incentive. So this is not a low income housing tax credit project under that program that I think you're referencing. As far as I know, and Mr. Monahan can correct me if I'm wrong, it's a pure market rate venture with market rate financing at the required rates of return, which he has just confirmed.

THOMAS LEONARD: No subsidies of any sort.

RUSSELL THIBEAULT: No subsidy of any sort, full property taxes paid to the Town of Londonderry. No subsidy on the debt interest rates. And no limits on the rate of return. It's just pure market rate. Which the 6.5 % is reflecting.

NEIL DUNN: And I guess I say that's when it gets harder for us to make the determination why…if we're arguing that it's economically not feasible by going from 50 to 75, then we're saying based on the economics, that you don't want to take the credits and all that? I mean, we don't know. We're not…so if you're looking to go market rate, why don't you just stay in market rate the whole way instead of trying to pull in the workforce housing that gives you better…gives you some better cost advantages? But you're not looking to play the other end of the cost advantages and comply with some other requirements. The six percent, the not over inflating the price of the acquisition and some of that stuff.

RUSSELL THIBEAULT: I don't think the acquisition is over inflated. And I don't…I mean, by my…

NEIL DUNN: Well, we sit here on the Board and I look at the assessed value of $530,000 and then someone comes in and wants to buy property and they pay $2 million and now we're supposed to let you make some kind of return on that. Well just because you overpaid for something doesn't mean the Town is obligated to let you make a return on your investment on a piece of land.

RUSSELL THIBEAULT: But I do think that, and maybe I'm overstepping my bounds here a bit, but workforce housing does become a special element under State statute and…

NEIL DUNN: Right. Yup.

RUSSELL THIBEAULT: The provision of the Town's ordinance, in my opinion, does not allow somebody to construct workforce housing.

NEIL DUNN: Based on your financials? Which I am saying maybe or maybe not might…

RUSSELL THIBEAULT: That's my opinion. Yes.

NEIL DUNN: Alright, so I'll have to look through the Shutter…okay.

THOMAS LEONARD: Is everybody comfortable with Mr. Thibeault's report and information?

RUSSELL THIBEAULT: Therefore there's two conclusions [p. 9]. It would cost more to build the proposal with 75 % workforce housing than with 50 % workforce housing.   And I would add into that, thank you for the clarification, the difference in building…units per building as well.

JAY HOOLEY: Not…

RUSSELL THIBEAULT: I'm sorry?

JAY HOOLEY: Not the percentage that you…

RUSSELL THIBEAULT: I would put both in there. Because this affects the feasibility of the income side…

JAY HOOLEY: Yeah, but just taking this bullet point at face value, it would cost more to build with 75 % workforce housing…

RUSSELL THIBEAULT: No. No, I'm not saying that. I'm saying…Oh, I see. That's correct. You're right. You're correct. I should have said here that under the Town's workforce housing ordinance, it is not feasible to construct this project. And the reason for that is a combination of the 75 % requirement. Workforce housing requirement. And the additional costs related to the number of units per building.

JAY HOOLEY: Okay.

RUSSELL THIBEAULT: That's a correction I should have…I wanna make now.

JAY HOOLEY: Because I think in the last…

RUSSELL THIBEAULT: You're right. You brought out a…This…

JAY HOOLEY: …presentation, I look at this and I can't get my head around that.

RUSSELL THIBEAULT: Right. You brought out a distinction…

JAY HOOLEY: If you're telling me they're identical units, then the cost should be identical.

RUSSELL THIBEAULT: Right. Okay, the next point.

JAY HOOLEY: To construct.

RUSSELL THIBEAULT: The 75 % workforce housing scenario, with the difference in buildings, would generate less income than the 50 % workforce housing scenario. The 75 % workforce housing scenario…and I think that in my mind, I was using that generically to reflect both the difference in income and the cost related to the number of building units. I wasn't as sensitive as I should have been to the fact that you have three different variance requests here and I was lumping them together. Which I apologize to the Board for.

JAY HOOLEY: Okay. But that…I think in the last presentation it was one of the difficulties I had.

RUSSELL THIBEAULT: Okay.

JAY HOOLEY: And what would have be even more helpful, is if we could break all three pieces of that puzzle down…you know, the size of the unit, be it 16, 20, or 24. Each of those at 50, 75, and pick a number, you know, 60. Somewhere in between. And just so that we could see it laid out better. Delineated…

RUSSELL THIBEAULT: It would be clear.

JAY HOOLEY: …if you want to call it, here's the point I need to be at.

RUSSELL THIBEAULT: Yes. I took the variance requests, particularly 75 % versus 50 % and the two different sized buildings together. I lumped them together. And this slide is not clear on that.

JAY HOOLEY: Right. Okay.

RUSSELL THIBEAULT: So these points relate to the combination of those two. As for the third variance, as to phasing, I addressed that narratively in the letter and didn't do any math on it. If I did math on it, it would be adjusting the rate of return upward. And it would probably make, given these numbers, with the 16 and 24 units per building, it would probably make even the 24 units per building might not be feasible if you have to phase it over five years. If you raise the rate of return, because it's so thin financially. Okay, last bullet point.

LARRY O'SULLIVAN: Can I refer you, before we get too far away from that one, one your 10-16-2012, page seven. Your pro forma 75 % workforce housing numbers, including revenues, units, monthly rent, annual rent. Page seven.

RUSSELL THIBEAULT: Page seven of my letter of October 15th.

LARRY O'SULLIVAN: October 16, right?

RUSSELL THIBEAULT: Yes. Those are the revenues that you saw in the first…the second slide. Same. This is how they're calculated. More detail here. Same numbers.

LARRY O'SULLIVAN: We have 180 units of workforce housing in this example.

RUSSELL THIBEAULT: Well, there are two examples here.

LARRY O'SULLIVAN: Well…

RUSSELL THIBEAULT: Go ahead.

LARRY O'SULLIVAN: I'm talking about the first one.

RUSSELL THIBEAULT: Okay.

LARRY O'SULLIVAN: And it says 'pro forma 75 % workforce housing…'

RUSSELL THIBEAULT: Yes.

LARRY O'SULLIVAN: You have 60 units at market and 180 units at workforce housing.

RUSSELL THIBEAULT: Correct.

LARRY O'SULLIVAN: Okay.

RUSSELL THIBEAULT: And then down below, I do the other scenario, which is 50 % workforce. Right.

LARRY O'SULLIVAN: On the top one?

RUSSELL THIBEAULT: One hundred and twenty units and 120 units.

LARRY O'SULLIVAN: Okay. The top one?

RUSSELL THIBEAULT: And this table is the source of the numbers that you looked at tonight on the slides.

LARRY O'SULLIVAN: Right. On the top one. Pro forma 75 % workforce housing.

RUSSELL THIBEAULT: Mm-hmm.

LARRY O'SULLIVAN: You have revenues, then you have effective gross income, then you have operating expenses…

RUSSELL THIBEAULT: Yes.

LARRY O'SULLIVAN: …then you have annual expenses and you have net operating income.

RUSSELL THIBEAULT: Correct.

LARRY O'SULLIVAN: Right. For that 75 % workforce housing, 60 units, $1.989200.

RUSSELL THIBEAULT: Correct.

LARRY O'SULLIVAN: Okay. So you have a net operating income that's profitable if you use the 75 %.

RUSSELL THIBEAULT: No mortgage payment. Could we go back to the roughly the second slide? There's that $1,989,200 [p. 6]. Do you see it at the bottom of the first column?

LARRY O'SULLIVAN: Yup. Yeah.

RUSSELL THIBEAULT: Remember I said that operating expenses…

LARRY O'SULLIVAN: That's without mortgage.

RUSSELL THIBEAULT: That's before the mortgage, right?

LARRY O'SULLIVAN: Gotcha.

RUSSELL THIBEAULT: Yup. You gotta pay the mortgage and the investor at that point. And then the next slide looks at the…there's that $1,989,200 again. Good question. I want you to make sure…You can disagree with my assumptions and what not but I wanted to make sure you understand the way these numbers work.

LARRY O'SULLIVAN: What I call net operating income, to me, isn't the same thing before a mortgage on this type of an investment. So…

RUSSELL THIBEAULT: Yeah. It's a term within the field. Net operating income is after operating expenses, but before debt service.

LARRY O'SULLIVAN: Thank you.

RUSSELL THIBEAULT: Gross income is before net. So you start with gross income, then you take out operating expenses to get to net income.

LARRY O'SULLIVAN: Mm-hmm.

RUSSELL THIBEAULT: Then you pay the mortgage and what would be left over would be called cash flow. Pre-tax cash flow. So the labeling of it is not necessarily clear, but it's standardized.

LARRY O'SULLIVAN: It's not something I'm used to. That's all.

RUSSELL THIBEAULT: That's correct. Yup. For good reason. Luckily, you don't have to do this.

JAMES SMITH: Okay. Is everyone satisfied with the presentation to this point?

LARRY O'SULLIVAN: I haven't been able to find yet the Shutter letter.

THOMAS LEONARD: The Shutter letter is in…and I'm not sure how you have the most recently scanned information , but I sent it in a second email. Would that be how it is, Jaye? It would have been the second email and it would have been part of the memo that was filed in October of last year and you'll find a section that talks about reports and it's in that section.

JAMES SMITH: Which one was it?

THOMAS LEONARD: And it looks like a spreadsheet. It is a spreadsheet.

LARRY O'SULLIVAN: Do we have a date on it?

JAMES SMITH: Is the memo dated October 17, 2012?

THOMAS LEONARD: Yes.

JAMES SMITH: Okay. So that's the one.

LARRY O'SULLIVAN: This one?

JAMES SMITH: Yeah.

THOMAS LEONARD: It looks like this.

JAMES SMITH: Okay. Somewhere down in there.

JAYE TROTTIER: Yeah, page 66 of…

LARRY O'SULLIVAN: Page 66. No wonder I couldn't find it. All I'm looking at is the first 50 of that document.

THOMAS LEONARD: So just to put that in context, those are figures that Mr. Thibeault assumed in his calculations. And Mr. Shutter is in the construction business.

LARRY O'SULLIVAN: He expects us to be in the computer business because it's turned. I'm gonna have to either lay down or pick up my monitor in order to see this thing, right?

THOMAS LEONARD: Here, I have one you can look at if you'd like.

JAY HOOLEY: There's "rotate" on here somewhere.

THOMAS LEONARD: I like hard copies myself.

LARRY O'SULLIVAN: Thank you.

[Long pause]

LARRY O'SULLIVAN: Okay, so it's clearly a $4 million savings based on this. Right? $4,300,000?

RUSSELL THIBEAULT: Oh, right. Yes. That's the difference.

JAMES SMITH: For 16 versus the 24?

LARRY O'SULLIVAN: Sixteen versus 24. Also 50 versus 75, right? So…

JAY HOOLEY: And each of these assumes a three year phase?

THOMAS LEONARD: Yes. But the cost savings, as Mr. Hooley has identified, are primarily associated with the change in the building and it's roughly ten percent for the building and an additional three percent for the saved site cost. And that's confirmed by the Town Planner's memo to the Planning Board back in May of 2010. So in terms of the expenses and the cost of this project, that's the information. And if I may, just while we have Mr. Thibeault here, you may want to ask…you may have questions about the Colliers letter and the narrative in there and I think he's going to be able to…So, the Colliers letter specifically says that uncertainties associated with phasing the development and with the restrictions on price and occupancy cause problems with the viability of the project. And it then goes on to say that those problems find their way into a higher interest rate, basically. Or a higher rate of return. That's essentially what Mr. Thibeault was saying also in his report when he described the impact of phasing from…instead of three years to five years, it's the same analysis. And he could probably answer specific questions on that if you have any.

LARRY O'SULLIVAN: Well he's also saying in his letter that he wants it all at once.

NEIL DUNN: In one phase, yeah.

THOMAS LEONARD: So if there is something that you would like Mr. Thibeault to do, we're open to discussing that as well.

RUSSELL THIBEAULT: Additional scenarios along the lines you spoke of.

JAY HOOLEY: Again, with three variances requested and I think at least two of them multi-part, I just thought it would have been helpful to see where that break is. Is this viable with four year phasing at…

THOMAS LEONARD: Well…so I think what we have done is we have showed you the difference in revenues…

JAY HOOLEY: Yeah.

THOMAS LEONARD: …based on the different percentages of workforce housing. So that's done. We have showed you the difference in construction costs based on a 16 versus a 24. So that's done. I think Mr. Thibeault has told me that it's very difficult to put a number on the three year phasing versus five year phasing other than how we have discussed it. That's confirmed by Colliers' letter. And it really relates to that rate of return, which is already so close that we can't increase it and have a viable project. But it's awful difficult to put a number on that phasing. But the other two questions I think we've answered in terms of numbers. The only one that perhaps is outstanding is the…

JAY HOOLEY: The 20 units?

THOMAS LEONARD: …the question of 20.

JAY HOOLEY: Twenty unit scenario, we know it's not linear, but…

THOMAS LEONARD: That's right.

JAY HOOLEY: …we don't know where it lies.

THOMAS LEONARD: That's right. And if that was interesting, I think we do know that it's not gonna be enough to justify or make that scenario viable but that's a good guess rather than a calculation. We can certainly calculate that if that would be helpful.

JAY HOOLEY: That was only my thought. I have no idea how anybody else is…

JAMES SMITH: The 6.5 % rate of return; what's the logic behind that?

RUSSELL THIBEAULT: It has to pay two parties, basically. To tell you what that rate of return is, it has to pay debt service, the bank, the lender, which, on a project of this size, might be a pension fund or insurance company. It has to pay that. It has to pay the mortgage, okay? Thinking of it, going back to that single family home scenario that you buy to rent out. You gotta pay the mortgage. And that mortgage has an interest rate on it, okay? So the lion's share of that 6.5 % is the debt service part of it. In effect, the interest rate. The monthly mortgage payment. Okay? The other thing that it has to do is pay the developer, the investor, a reasonable rate of return. There's a firm called Realty Rates and if you look on page eight of my letter of October 16…it's labeled 15th on the first page, the rate of return for the third quarter for a garden apartment complexes in suburban settings was 6.75 %, was the required rate of return. That's highlighted here from their exact survey. They go out and survey projects that have been built and have sold and they do the math backwards. They say the net income there was this much, they paid this much for it, therefore the rate of return on average was 6.5 %. That's the way that that works. So it's really paying the two things that you need to pay after you've paid your property taxes, the utilities and all of that. The mortgage and the equity part. And the actual number, the 6.5 % is derived from that national survey and RealtyRates.com is a very, very standardized resource in appraising projects. This is what we use when we're doing an appraisal. If we were doing this at appraisal, that's the rate we would use. And that's the source we would get it from. Is that…?

NEIL DUNN: What was the time period for that…?

RUSSELL THIBEAULT: It was third quarter. The data was…

NEIL DUNN: 2012?

RUSSELL THIBEAULT: The applicable rate is for the third quarter of 2012. If you look on that page, you'll see that that's where it came from. Now, I dropped it to 6.5 %. This is the rate you would use during the third quarter, but it's based on data from the second quarter because the third quarter wasn't completely over by then. So I dropped it to 6.5, which means the lower the rate, the more you can support. If anything, it's saying, you know, in effect, unfavorably to the investor.

NEIL DUNN: I guess the only scenario we don't see here is what would it work out at as non-workforce housing [see page 29]?

[The Board took a five minute break]

THOMAS LEONARD: Any other questions of Mr. Thibeault? Do you have any kind of summary here?

RUSSELL THIBEAULT: I would like to summarize. The conclusion of my analysis is that the combination of the Town's requirement for 75 % workforce housing, in conjunction with the restriction to 16 units per building renders it financially unfeasible to construct workforce housing. The five year phasing requirement adds yet more difficulty to project financing and feasibility. That's the conclusion in a nutshell of my analysis.

JAMES SMITH: Okay, before we let you go, would you want to see an analysis based upon the 20 units?

JAY HOOLEY: It would have been nice to see. I don't know if that's…

THOMAS LEONARD: Toward that question, Mr. Dubay…while we don't actually have numbers, he can explain that basically it's gonna cost about the same as a 24 unit building, if that would be helpful. He can tell you why that is.

JAMES SMITH: The cost of construction would be…?

THOMAS LEONARD: The cost of construction of a 20 unit building…

RUSSELL THIBEAULT: No, that would be the same as the 16.

THOMAS LEONARD: …is about the same as a…

JAMES SMITH: You want to identify yourself?

KARL DUBAY: Yes, Karl Dubay. The most efficient part of putting this type of building together is, number one, site costs. Obviously we talked about that. But in terms of the building itself, the most efficient building we can put here on this site is a slab on grade building. So we would not want to be stepping the foundations of the building. That just costs more everything; site, utilities, concrete, steel. We really need a slab on grade building to make this efficient. So we start with a slab on grade. We're not gonna do walkouts and stepped levels, that type of thing. And then if we assume that we're gonna have eight units per floor, which is very, very efficient because it's four along one side and four on the other side, that makes it very efficient for framing of any type. It makes it very efficient for emergency egress and the overall ratio of dimensions of the units and the square footages. It just makes for a very, very efficient, small, compact building. So we have a slab on grade. We have eight units per floor. And granted, I think we even talked about some of these units being one bedrooms so that we could actually fit in some pour space, fit in stairs, elevators, utility cores to get up. That's one option. So we have slab on grade, we have eight units per floor and we wanted to do three story buildings here. Now, the ordinance allows us four story buildings. But when you get to that fourth story, it gets very expensive as well and I don't think you really want to see a four story building out here on this particular site. The dimensions of a four story building at 16 units is, you know, pretty awkward looking. Very inefficient to build. At 20, it's even more inefficient to build because we can't get…20 divided by four stories is five units. How do you put five units on a floor and have an efficient scale of length and width? So when you get to a 24 unit building that's slab on grade, eight units per floor times three floors instead of four, we think that fits the site appropriately. It ends up being 24 units. Now if we were gonna take that type of construction and take our four units. 'Well, you know, we gotta get down to 20 units.' Well, then there's equivalent space of four units there that is unutilized or underutilized and we have to spend the money to do it so we can have an efficient roof over the building, so it would be very easy to actually demonstrate this with blocks. You know, just building blocks for the kid. You know, I mentioned Legos before and if you do that in an architectural class or a constructability class and you try to actually put a very efficient pitched roof over these buildings, there's jogs and vertical and horizontal elements that make it very, very inefficient to build. The 24 unit building is a sweet spot for a lot of reasons; geometry being one of them, scale, ratio, how it sits on a site, how it fits on the site. So all these things come into play and we could actually demonstrate that with blocks. I mean, it's tactile, but when you end up with a simple roof and simple slabs and simple units that work very, very well together and the framing is good and the utilities and the plumbing, everything else is good, the code is good, it works out very, very well. And that ends up being a much lower cost per unit to build than it does anything else. Especially when you drop down to a 20. Especially when you drop down to a 16. So I know in years past, when the Boards have talked about his, and they even talked…your own former Planner talked about a 24 unit, builders talk about 24. I've done some with Mr. Monahan back in the '90's that worked very, very well. And the 24 is…it's not just a number we pulled out of the air. It really does work well.

THOMAS LEONARD: Thank you. Any other information you need from Mr. Thibeault?

NEIL DUNN: Did you evaluate without any workforce housing, with a straight market?

THOMAS LEONARD: Well, I think I can address that because that's more a question of 'why this project,' and I wanna make sure we got Mr. Thibeault's questions…

NEIL DUNN: Well, I thought he was the numbers guy on the…

THOMAS LEONARD: Well, as a practical matter, the Town has permitted workforce housing and has a policy statement that they encourage and want to seek workforce housing.

NEIL DUNN: Mm-hmm.

THOMAS LEONARD: So we are under that. A non-workforce housing project is completely different. We, of course, don't have to go through the economics and that's not one of the considerations. But your question does raise and point out a very important thing that I think might have been lost in the shuffle here that I'll bring up. And that is that this particular project is a multi-family workforce rental project. And that makes the economics especially difficult and the reason it does is there are projects in the area that are owner occupied and you can sell each unit and make a little bit of a profit, but it changes the whole economics. When you rent, it's much more of a complete analysis, as Mr. Thibeault has done, but there's another very interesting thing that happens. The definition of workforce housing, which is the encouraged product here, we're trying to get workforce housing which is defined by State statute and local ordinance. In owner occupied, workforce housing means it is affordable to the median income for a four person household. And it's affordable by the full median income. One hundred percent of the median income of a four person household. For a rental project, the definition is affordable at 60 % of the median income of a three person household. So it's a much different calculation. It's a lower number and it is the difficulty that every community faces and the reason why you don't have any rental projects. The economics are very much more difficult. They're more difficult from the revenue side and then of course the cost side we're in the middle of talking about. But I think that's an important consideration. We are here asking for a rental workforce housing project and we are asking for it because the Town of Londonderry says they want to encourage it and they have specifically identified rental projects as a major need. So it doesn't really…the question about can we do a project that's not workforce housing? Yes, we can. But we're trying to do something that the Town has asked would be done and we're trying to do something that the State has suggested must be done.

NEIL DUNN: And the State also addressed in a report that apparently, Mr. Mahoney [sic] worked with the workforce housing task force or some of the regulation, that things be longer term than 30. That that was a big concern of the State and the Town. That the 30 years maybe isn't long enough. Maybe we wanna look at a longer period. So all I'm looking at is if you tell me it's not feasible, then I'm figuring you're gaining something over a market plan and so, for me to weigh it all and to say what's a reasonable return, a reasonable opportunity for someone to use this property and buy it, which is what we seem to be mandated with every time we turn around, is that everybody's gotta make a buck if they pay at too high or not, so I'm just saying there's a tradeoff here and so without knowing what the market rate would be for this project, then we don't know where the feasi…you're obviously gaining something or you wouldn't be here in front of us. So…or else you'd be going market rates and making a good return on your investment and…

THOMAS LEONARD: It's a different project, yeah.

NEIL DUNN: So then if we wanna keep going down this road, then that's when we start looking at, okay, is Rockingham County or western Rockingham County carrying its fair share? And according to my records, it looks like Rockingham County has the highest percentage of workforce housing or housing and rentals that fall into that 100 % and that 60 %. So, we could…there's still a lot more of pathway to go, so just trying to work out the numbers and justify, okay, the feasibility of the workforce housing makes this possible for you over the other method…

THOMAS LEONARD: Yeah, but you're forgetting, with all due respect, you are forgetting that the State has said each town must have diverse workforce housing and the Town of Londonderry has said as a matter of policy the Town wants diverse workforce housing. And yes, you may be right, there may be other projects on this property that will work. But that's not the question.

NEIL DUNN: Yeah, okay, you're saying that the State says that they want it and all that, but also in 674:60, paragraph III, which you nicely provided, 'A municipality's existing housing stock shall be taken in consideration in determining its compliance' with this section. So…

THOMAS LEONARD: Yes. And your Task Force did just that.

NEIL DUNN: And the task force, I think, was looking at growth going forward. Our growth has decreased in the last four years in Londonderry. I think if we did an evaluation right now, if we looked at the State's own numbers, Rockingham County as a higher percentage than any county in the State, it's up near 30 %, than any other county. Nobody even comes close to that in meeting those parameters, the 100 % to 60 %.

THOMAS LEONARD: Well, I think…

NEIL DUNN: So if we look at a .3, 'A municipality's existing housing stock shall be taken in consideration,' I'm not sure that we don't already comply. And yes, the Housing Task Force might have said it's a great goal and they did want longer than 30 years, but…so we're looking at the big picture. You're asking us to take all this stuff from three different…all kinds of variances and put it in a big picture. So I'm just looking for help with that.

THOMAS LEONARD: Well, okay. And let's do that. Let's take step by step. If I may, Mr. Chairman?

JAMES SMITH: Go ahead.

THOMAS LEONARD: Well, first off, we're going each variance at a time, but you mentioned, we've got all kinds of variances. I think it's an important thing to note that none of the variances, none of them, are a use variance, nor are any of them an area variance. They are all variances for unusual restrictions in the sense of zoning. In particular, the phasing, which is…it is what it is, but it has nothing to do with what you're discussing. It doesn't relate to whether it's workforce or not workforce. It's a phasing ordinance.

NEIL DUNN: Well, you, if I may…

THOMAS LEONARD: Yes.

NEIL DUNN: Just as we go point by point, we're using the phasing as part of the return on investment and the interest, so it does impact the overall financials.

THOMAS LEONARD: It has an impact in the overall discussion, but you're gonna hear a lot more about phasing from me and why we are entitled to a variance. Mr. Thibeault's economic discussion relates to variance but it also relates to workforce housing entitlements. Or discussions. So one variance is on phasing. A second variance is just the percentage of workforce housing. If we talk about that just in a very general sense, what the local ordinance does is it gives you more density for workforce housing. But it actually…the very best it can do is it doubles the density. So in other words, in this particular site, let's just use rough numbers. This is an example, not the actual facts, but we could have 120 non-workforce housing units or by going workforce housing, we can have 240. The interesting thing is that if you don't make money on these workforce housing units, we actually lose money because we had 120 that you made money on and if you come out even on the next 120, you didn't make any more money if they actually cost you money. And by the formula, as soon as we go into workforce housing, we have to take half of that initial 120 units and make them workforce housing. Well, mathematically that doesn't make sense. So that's why we're asking for relief from that. Mr. Thibeault's numbers bear that out. Okay? But again, that isn't a use variance. This is a permitted use. It isn't any kind of variance on wetlands or on setbacks or anything. This is just about workforce housing. And what our argument is is that with that requirement, in effect, you've provided an incentive, inadvertently I'll say, but you have provided an incentive that is, in fact, a disincentive to provide workforce housing. It just happens to work that way from a practical standpoint when applied to rental properties. Don't forget, this is a rental project and that makes all the difference in the world. With regard to the third variance, that is the number of units in a building, we're gonna talk more about that also, but again, it's not…this is a building that is permitted in scale. The height is permitted, the footprint is permitted, the size of the building is permitted and in fact, they're in the surrounding properties. What we're talking about is the configuration in the building and we're simply asking, again, because of the problems associated with a workforce rental property, we need to be able to build a 24. And that's all it is. But that's not…I would suggest to you that those variance requests are not major in any sense, under any project.

NEIL DUNN: But they're all…we were speaking to the cost savings of them all.

THOMAS LEONARD: And we've measured that.

NEIL DUNN: We just keep going over stuff we've already gone through, I'm just…

THOMAS LEONARD: Yeah. Alright, so maybe we are not going to agree, but I hear you. And thank you for your comment. Alright, well I think, if the Board is ready, I can probably wrap up these items on at least one of these variances, if you would like.

JAMES SMITH: Do you want to continue tonight or not?

LARRY O'SULLIVAN: What do we have, March 7th, was it? The backup date?

JAMES SMITH: Yeah. The hour is approaching 11.

THOMAS LEONARD: I'm happy to…I think I can go over the points…

JAMES SMITH: We have a backup date of March 7.

THOMAS LEONARD: Okay.

JAMES SMITH: I think to do everybody justice, I think I would rather continue to that date.

THOMAS LEONARD: Alright.

JAMES SMITH: Is there's any objections from the other Board members? Because I don't think we're gonna get through all three cases.

LARRY O'SULLIVAN: No objection from me.

JAY HOOLEY: Mr. Chairman…

NEIL DUNN: Before we…we were talking about doing a third party consultant to run the numbers…I'm sorry, is that where you're going James?

JAY HOOLEY: Yeah, we do have in tonight's file a letter dated January 16 from Mr. Leonard indicating that… "confirmation that the applicant is prepared to reimburse the Board for expenses reasonably incurred obtaining a third party review and consultation." I don't know if you want to take a survey, Mr. Chairman. The mood of the Board. Is that something we think we'd want to see? If so, obviously we would need to continue in order to make that happen at this point. Or is that something we…?

LARRY O'SULLIVAN: Can we get assistance from staff on the choice of how that would work?

RICHARD CANUEL: Yeah, in requesting a third party, it's a little more involved than simply just picking up the phone and contacting someone to do that work for you. You would have to do the same was as the Planning Board does when they look to get a third party review. You get an RFP that needs to go out…

LARRY O'SULLIVAN: Oh…

RICHARD CANUEL: I mean, it becomes a more time consuming…If the Board had someone on retainer that could refer to, it would make it such a quicker process. Also, part of that requirement in the statute, although it gives the Board the authority to obtain a third party review, it also states that it's not necessarily duplicating the efforts that the applicant has already provided. So if you're looking to get a third party review to do the same calculation that the applicant has already provided, it's detrimental to the process.

LARRY O'SULLIVAN: I think that would be detrimental, too. What I thought we'd be able to get out of it is a typical appraisal for a commercial use would be able to give you a cost. So I think what our questions were is we had a $33,000,000 cost and we had a $31,000,000 cost of the buildings completed and so forth and all the other numbers, the 6.5 % and all the rest of that stuff, they would flow from out of that. And that's really what I'm concerned about is we started with a peg in the ground at $33,000,000 or whatever it was and we worked backwards from there. Okay? Is it a reasonable assumption to make that in order to two ten buildings at 24, it was gonna cost us $33,000,000, given the price of the land at whatever they're paying for the price of the land, so I would think that a commercial appraiser should be able to bang something like that out in a matter of, oh, a month. But still, I mean, comparables and so forth from cost so that we get our opinion because again, in my opinion, if you ask for a particular picture to be painted, it's gonna be painted that way. However, if we ask for it the way we expect it to be painted on this side of the…the Town's side of this, as opposed to the developer's side of this, we might wind up with something different. If we wind up with the same thing, I would say great, that was perfect, that's exactly what we wanted to hear. Maybe we've got the basis for all of these approvals right in our hands. I just don't want to avoid looking and doing due diligence.

RICHARD CANUEL: Understood. This is what I would suggest, being that the Board is considering recessing, is in the interim, as we're waiting for the next hearing date, is to seek advice from Counsel. Contact our Town Attorney and get advice from him if we need to go through the RFP process or if we can just simply contact an appraiser and get those figures.

LARRY O'SULLIVAN: Why don't you go out on a limb and do that for us, will you?

RICHARD CANUEL: I can't do that for you.

[Laughter]

JAMES SMITH: Do you have a comment, sir?

MARK FOUGERE: Yeah, Mark Fougere for the record, from Milford. I've been a planner in the state for over 20 years and although this ZBA ability to send out for a peer review is rather new, I've never heard of going out for an RFP for a peer review. I was in the Town of Hudson last week to submit a report and the Planner is sending our my report for a peer review and he's making some calls and selecting a consultant to do that. There's no RFP involved and obviously, you can…

LARRY O'SULLIVAN: Who's doing it? What was the title of the person doing it in Hudson?

MARK FOUGERE: Who's gonna do the review?

LARRY O'SULLIVAN: No, who sent it out?

MARK FOUGERE: The Planning Board. I was in front of the Planning Board.

LARRY O'SULLIVAN: Oh, the Planning Board sent it out.

MARK FOUGERE: Yeah.

LARRY O'SULLIVAN: Okay.

MARK FOUGERE: And…

LARRY O'SULLIVAN: Send it out, Mr. ZBA.

MARK FOUGERE: And the Planner was given the task of finding someone to review my report.

LARRY O'SULLIVAN: Oh, okay.

MARK FOUGERE: So, I mean if you're taking bids to do the Town engineering work for a community, that's going to go out to bid.

LARRY O'SULLIVAN: Right.

MARK FOUGERE: Actually, I think you're out to bid now on that type if analysis. But for peer review, I don't think you need an RFP. What I think you need is obviously, you need to lay out all your questions of what you want this person to do and what you want answered, obviously. And you went over some of those.

LARRY O'SULLIVAN: Mm-hmm. Mm-hmm.

MARK FOUGERE: You just outlined some of those, but I don't think you need an RFP. An RFP is gonna take a long time. That's obviously our concern. So, I mean, if…

LARRY O'SULLIVAN: When were you looking to get a shovel in the ground on this, by the way? Is this like a summertime deal or…?

THOMAS LEONARD: Well, it all depends on approval process.

LARRY O'SULLIVAN: So…

THOMAS LEONARD: We're…

JAMES SMITH: They'd still have to go the Planning Board.

LARRY O'SULLIVAN: Yeah, but if we put a restriction on it that your variance disappears in 18 months if you haven't put a shovel in the ground…

MARK FOUGERE: It’s a problem.

THOMAS LEONARD: Eighteen months after Planning Board approval is fine.

LARRY O'SULLIVAN: After Planning Board appr…right.

THOMAS LEONARD: Yeah. We’re gonna do this as fast as we can because interest rates and all the risk associated with time and delays.

MARK FOUGERE: So, we don't have any problem with the review. We invite it. We encourage it and the sooner it gets reviewed the better.

THOMAS LEONARD: Part of the reason we picked Mr. Thibeault is he is kind of known and recognized as an objective economist working…he does a lot of work for municipalities. But again, as Mark just said, we’re happy to have a review.

RUSSELL THIBEAULT: If I may add my two cents worth, I am a New Hampshire certified appraiser, commercial appraiser number 004. I got the license early on and I do think you’re right that a good commercial appraiser could do a cost estimate if you’ve got halfway decent building configurations. So if your questions is about the costs…

LARRY O'SULLIVAN: Sure.

RUSSELL THIBEAULT: …I think it’s something that appraisers often use. As you know, there’s three approaches to value; cost, income and sales. So if you’re concerned about, you know, are these cost estimates accurate?

LARRY O'SULLIVAN: Mm-hmm.

RUSSELL THIBEAULT: Then I think you could probably get an appraiser to look at them. Maybe some construction people. I don't know. Did you want to add anything?

TOM MONAHAN: The timing is just really…Tom Monahan. It’s so time sensitive and the letter that was written by Attorney Leonard from Colliers is my institutional lender and it’s just so interest rate sensitive and so the timing is critical and that's one of the reasons, of course, for the phasing, too, but ASAP, to answer your question, Chairman Smith, about when do I want to be in the ground. I’d like to be there now, but needless to say.

LARRY O'SULLIVAN: I think we ought to get that taken care of, as soon as we…

JAMES SMITH: I think my problem is, what exactly are we looking for? Are we looking for an estimate on the cost of the buildings? Is that what we’re really looking for?

LARRY O'SULLIVAN: We have a…

JAMES SMITH: To construct the buildings?

LARRY O'SULLIVAN: We've been given a number and all the factors are against that number, right?

JAMES SMITH: Okay, so that's the key thing you're looking for. The cost to construct 24 unit buildings. Do you want it versus 16 unit buildings?

LARRY O'SULLIVAN: Yeah. Wouldn't that make sense? I mean, that's what our ordinance allows is 16…

JAMES SMITH: Right.

LARRY O'SULLIVAN: And they're proposing 24.

JAMES SMITH: Right.

LARRY O'SULLIVAN: So, using their numbers…

JAMES SMITH: Those are the two things we're looking for.

LARRY O'SULLIVAN: …to start…I mean, that's what I want to work from. I want to say can you confirm that these are accurate numbers? That if we were gonna build 9,500 square foot buildings, three stories, slab, what have you, is this an accurate assumption per building?

JAMES SMITH: Well, okay, just to go one step further. Do you have something in writing of what these proposed buildings would be, basically?

LARRY O'SULLIVAN: Size-wise you mean, or…

JAMES SMITH: Yeah.

LARRY O'SULLIVAN: …description?

THOMAS LEONARD: Yeah.

JAMES SMITH: A description of what you're gonna build.

THOMAS LEONARD: Yes, I think they are 8,200 square feet is the footprint and I believe you have… not a design, but a concept design that shows the layout and the…I know you have architectural renderings of the exterior. So, we can certainly supply you with…

JAMES SMITH: Do we have it in this…?

THOMAS LEONARD: Yes. We can supply the footprint and the interior layout in a conceptual sense.

TOM MONAHAN: And you probably want a list of specs. You know, what…

LARRY O'SULLIVAN: General, anyway.

JAMES SMITH: Yeah. Just so we have something concrete we're talking about. We're not picking something out of thin air.

THOMAS LEONARD: Mr. Thibeault just mentioned, we're also very happy to have your reviewer meet with our estimator and discuss the details of it. If that's helpful. Either way.

LARRY O'SULLIVAN: Does that make it any quicker?

THOMAS LEONARD: Probably.

JAMES SMITH: Probably, yes.

NEIL DUNN: Well, I think to be…

RUSSELL THIBEAULT: I agree, it would probably…it may make it quick but it probably would also make it more accurate for your reviewer's estimate. You know, to get the 'What were you thinking of here, what were you thinking of there.'

LARRY O'SULLIVAN: Makes sense then.

JAY HOOLEY: Mr. Chairman, I may be the only one thinking this, but do we wanna have him validate that point of 20, because that's what the ordinance says is the option to the 16.

LARRY O'SULLIVAN: If the circumstances were right.

JAY HOOLEY: These aren't the only folks who are gonna raise that issue, I assume, over time. Do we want to validate that moving from 16 to 20 versus moving from 16 to 24, what the delta is there?

LARRY O'SULLIVAN: I wouldn't see that being the point of what is in front of us.

JAY HOOLEY: Okay.

JAMES SMITH: Well…

NEIL DUNN: Well…

JAMES SMITH: What are you saying on that? Saying 20…?

LARRY O'SULLIVAN: I wouldn't even consider the 20. They're asking for 24.

JAMES SMITH: No, I don't think the 20…

JAY HOOLEY: Okay.

JAMES SMITH: I think from a logical standpoint, the 20 units doesn't make any sense to me. I'm not sure how it makes sense to anybody else because in my mind, I can't picture a building with 20 units. I don't know how you'd build it.

NEIL DUNN: Well, what was your configuration in Bedford where you have 83 units?

TOM MONAHAN: It's…the configuration, I'm not sure…

NEIL DUNN: Well, when you're saying 24 is the magic number…

TOM MONAHAN: Well, 20…

NEIL DUNN: When I see the ad, it says your Bedford Green one has 83 units.

TOM MONAHAN: Correct.

NEIL DUNN: So I was curious how that one came out.

TOM MONAHAN: It's one building, 83 units, four stories high.

JAMES SMITH: A much bigger building.

NEIL DUNN: Well, okay, that was an odd number, so it just wasn't…

TOM MONAHAN: Yeah. But across the street from Bedford Green is Hawthorne on the Merrimack which I did which is ten-24 units buildings, back as Karl mentioned in the…

KARL DUBAY: 1997.

TOM MONAHAN: '97.

KARL DUBAY: We're dating ourselves, but…

TOM MONAHAN: Yeah. And the folks that gave me the number are the same people that just built the 83 unit building for me. So they would have the list of specs and probably could expedite the whole process with…

LARRY O'SULLIVAN: So the estimate that they gave you.

TOM MONAHAN: Correct.

LARRY O'SULLIVAN: Alright.

TOM MONAHAN: Correct.

NEIL DUNN: Jim, my only thought with the 20, to Jay's point, is our ordinance is stating that the Planning Board can do the 16 and the 20 and that we can't even rule over 20, but we're being asked to, so if there's a feasibility thing when we're talking economics, I don't see why it's not pertinent or germane to this discussion.

LARRY O'SULLIVAN: So economics is definitely germane. Okay.

NEIL DUNN: Well, plus, we're also stepping over the ordinance that says we're not supposed to step over 20.. It's only supposed to go elsewhere.

LARRY O'SULLIVAN: That's what we're here for.

NEIL DUNN: Right, I know, but that…it's pretty black and white in the things. Right, that's what we're here for, but…

LARRY O'SULLIVAN: Can we get some other stuff on the record here? We got a letter…I had requested to see…get an idea of what was being built in town, regardless of the 24/75-50 %, is the three versus five. We have Lorden Commons with 51 units. Mill Pond with 16. Whittemore Estates with 77. Then we have an unnamed development behind Mountain Home with 19. We have Nevins with five, maybe nine. There were 21 different sites in Londonderry in 2012 that were applied for and granted. How many of those sites were approved in prior years? I'm working on that number, trying to get that. So we have 168 units on the books, that are in the process right now, which, if we have a triggering mechanism in place to trigger, and we do, it is not active, but if that trigger happens, it can affect all construction on new permits in town, including our big boy Woodmont.

THOMAS LEONARD: Well, we're gonna talk about all of that. I agree. We've got to talk about it…

LARRY O'SULLIVAN: Okay.

THOMAS LEONARD: …but I believe I have a very clear answer to that.

LARRY O'SULLIVAN: I hope so.

JAMES SMITH: I want to throw a question I've been thinking about. On the growth control ordinance, if you look in the record, it sunsets in 2014, right? Is that correct, Richard?

RICHARD CANUEL: That's a good question. Let me take a look.

LARRY O'SULLIVAN: Okay, so we're at least a year away from it, you mean?

JAMES SMITH: No, that isn't the question.

JAY HOOLEY: January 1, 2015.

JAMES SMITH: Fifteen or 14?

JAY HOOLEY: Fifteen.

JAMES SMITH: Okay, the question is can we grant a variance beyond that date?

LARRY O'SULLIVAN: Why wouldn't we? Couldn't we? What would be the limitation that we would have?

JAMES SMITH: In other words, they're asking for a variance on…

LARRY O'SULLIVAN: For something that may happen or may not happen in three years. Right? Potentially three years out. And we wouldn't have a GMO in place because we may sunset it?

JAY HOOLEY: "Unless re-adopted," according to…

LARRY O'SULLIVAN: We always have to work on the rules that we have today.

JAMES SMITH: Well, we don't know if it's…

LARRY O'SULLIVAN: We always have to work on the rules that we have today. We can't work on next year's…

JAY HOOLEY: But if we granted it and it did sunset, it becomes academic.

LARRY O'SULLIVAN: We can't work on the new Master Plan if we wind up rolling out a new Master Plan.

JAMES SMITH: No, no, the point I'm…

LARRY O'SULLIVAN: None of those things are…

JAMES SMITH: …is that the thing is due to sunset on that particular date, which is, what? Two years actually? Two years. So at that point, there would be new ordinance if they re-adopted, which I…

LARRY O'SULLIVAN: They'd be in the same boat any other time…

JAMES SMITH: Okay.

LARRY O'SULLIVAN: …you know? With any other…

JAMES SMITH: But anyways, I just want to bring that point up.

THOMAS LEONARD: Yeah.

JAMES SMITH: Okay, so just to review what we're looking at. We're looking for the ability to review the cost to construct 16 unit buildings and 24 unit buildings on this site.

LARRY O'SULLIVAN: Five years versus three?

JAMES SMITH: What?

LARRY O'SULLIVAN: And five years versus three.

NEIL DUNN: Phasing…

LARRY O'SULLIVAN: Building them over five years versus three. No?

JAMES SMITH: I think that would…Well, now you're talking about inflation rates and all those other things. I'm not sure how…

LARRY O'SULLIVAN: That's what they got computers for.

JAMES SMITH: Yeah.

LARRY O'SULLIVAN: They were just saying they got a spreadsheet, so…

JAMES SMITH: Okay, I'm just trying to make sure we got this pinned down to what we…

LARRY O'SULLIVAN: I'd like an independent project cost review with a revenue apprais…I'm sorry, revenue review and appraisal. Five year versus three year and frankly, right now, I totally buy in on their thought that the 75 versus 50 is uneconomical to do it. So…

NEIL DUNN: Can we get the percentage that is? Instead of…

LARRY O'SULLIVAN: What's gonna make it economical?

JAMES SMITH: Well…

NEIL DUNN: I mean, that should be any easy to do. You know? I mean, you're just…

LARRY O'SULLIVAN: How do you make economical? They wouldn't want to do it for less than a million a year profit, versus you would do it for half a million I bet.

[Laughter]

NEIL DUNN: Well, maybe…

JAMES SMITH: No, I think if we accept that the rate of return that they're supposed to get should be 6.5 % to make this thing work and the numbers worked out if they had $36,000, which represented a .11 % over that. So the difference is so close…

NEIL DUNN: Well, yeah, but I think I would want to verify that 6.5 is a fair rate of return in this market, when we know the State is saying six and HUD is saying six on projects like this where they're giving…and they're allowing developers to get a six percent fair rate of return. So is that high by half a percent which skews it by $400,000 or $300,000, whatever the number is?

JAMES SMITH: Well, when you say six percent, are you talking total profit?

NEIL DUNN: No, rate of return on the investment.

JAMES SMITH: Is that the same number that you're talking…?

LARRY O'SULLIVAN: Well, I don't think that's all that material, frankly.

NEIL DUNN: Well, rate of return on our little spread…on our little PowerPoint right here, we're using 6.5 % rate of return…

LARRY O'SULLIVAN: I don't understand how that's pertinent to what we're requesting from the appraiser.

NEIL DUNN: We want to verify that…

JAMES SMITH: I think if we want to get something done within the time frame we're talking about, we have to keep this relatively…

LARRY O'SULLIVAN: Simple and quick.

JAMES SMITH: …small scope.

NEIL DUNN: The rate of return's a very easy number to do. It's coming up with the spec and all the apples to apples.

LARRY O'SULLIVAN: Right.

NEIL DUNN: So one's not specing out Taj Mahal with marble and one's specing out, you know, my house with cardboard. I don't think…I just wanna verify that that's the rate of return is what's standard now when we know that the Federal and State programs are saying six percent and when you're talking millions of dollars, a half a percent's a little bit of money.

THOMAS LEONARD: I think you're mixing up the different rates.

JAMES SMITH: Yeah.

RUSSELL THIBEAULT: If I may make a suggestion to the Board? I think you could ask to have a review of the cost of construction in consultation with the gentleman that prepared the cost estimate to make sure that you're measuring the same building, that you're costing the same building, for 16 units and 24 units per building. You can do that. And you could also ask an appraiser to verify that as of the time I did the analysis, that the 6.5 % rate of return is an appropriate figure to use. You could do those two things and an appraiser could do that expeditiously, I believe.

LARRY O'SULLIVAN: There you go. It covers every…

RUSSELL THIBEAULT: Those are you're…I think you could just say that the Board would like independent confirmation of the relative construction costs for 16 and 24 unit building, part one, and part B, and confirmation that a 6.5 % rate of return is a reasonable rate of return in…

JAMES SMITH: For this type of….

RUSSELL THIBEAULT: …the market environment. You could do both of those.

JAMES SMITH: Okay. Would that satisfy what you're trying to say?

NEIL DUNN: That's what I said, basically, yeah.

JAMES SMITH: Well, I thought, it's just…

NEIL DUNN: Yeah, that's fine. 'Cause we're only talking $400,000 and when you start talking a half a percent of $37 or $40,000,000, you're not too far out.

RUSSELL THIBEAULT: Mm-hmm.

LARRY O'SULLIVAN: I want to make sure we have in our request that…

JAMES SMITH: Jaye…

LARRY O'SULLIVAN: …that we're asking for the three versus five year…

JAMES SMITH: …you got that down? Okay.

LARRY O'SULLIVAN: …as well for the financing purposes.

RUSSELL THIBEAULT: If I may comment on that, that gets a little bit more judgmental. These two points are very, you know, they're kind of mathematical questions. The impact of phasing, I will tell you now, you can ask someone to review that, but it's not something that is…I mean, as an appraiser, and I do appraisals, you can look up costs in a book and adjust them.

LARRY O'SULLIVAN: Mm-hmm.

RUSSELL THIBEAULT: You can look up rates of return that are required from different sources. I used one that's very common. There are other sources.

LARRY O'SULLIVAN: Or you can call your banker and say how much would it cost for a five year loan…

RUSSELL THIBEAULT: You can…exactly right.

LARRY O'SULLIVAN: …to do this or a three year loan to do this?

RUSSELL THIBEAULT: Right. Exactly right. So there's independent sources there. As far as the impact of phasing, that's more judgmental. If you go to a lender and say I've got five year phasing versus three year phasing, you're likely to get responses in two arenas. And I'm not trying to discourage you from asking what you want. This is your town and your Board, but I think it's just…speaking as someone that very frequently does peer review, I would have a really hard time saying 'Okay, well, five years versus three years means the rate goes from 6.5 % to 6.7 or 6.9. If you look at the numbers, I think you've hit the nail on the head as to the two biggest variables here, which is the cost and the rate of return. Those are the two big variables. The impact of phasing is more judgmental. I will tell you. It would discourage a lot of people from investing at all, as far as financing the project, and some, it might result in a higher capitalization rate, rate of return, because of the extra risk of delay. It just is a…it's a hard question to quantify.

LARRY O'SULLIVAN: Imagine if you had to sit on this side of the desk…

RUSSELL THIBEAULT: I know…

LARRY O'SULLIVAN: …and live here and have people for the next 25 years saying 'You S.O.B., you approved this thing and all it would have taken is giving us an idea because I couldn't build my complex that I wanted to build because they used up all my permits.'

RUSSELL THIBEAULT: Mmm.

LARRY O'SULLIVAN: That's what I'm dealing with.

RUSSELL THIBEAULT: Right. I understand.

LARRY O'SULLIVAN: Supermarket people, you know?

RUSSELL THIBEAULT: But the review you're asking for is legitimate, you know? A second opinion on the cost and the rate of return. I think those can be quantified independently. If the individual says the cost is different, I can run him through the spreadsheet that way and come back to you. Very straightforward. So I'm just trying to help the Board get through this issue tonight if I can.

LARRY O'SULLIVAN: Well, part of my issue is gonna be, you know, we have the three variances. I'd like to see if we can have each one of them addressed because I want to stay here, I'm gonna be living here, I don't want to go into the supermarket for the rest of my life and hear people tell me…or a developer come in here and say 'You used all of my permits for these guys. You gave them a variance, how come I can't get one?

RUSSELL THIBEAULT: It's a tough job being on the ZBA. I know that. I do know that. It's not an easy job.

JAMES SMITH: Okay.

NEIL DUNN: So we'll reach out and hopefully by March 7th or shortly thereafter we should have something.

JAMES SMITH: Yeah.

NEIL DUNN: That's why I think Jay and I were both…

JAMES SMITH: I'll get together with Jaye tomorrow and see what we can work out and try to come up with…I would imagine that our Town Assessor can probably point us in…

JAYE TROTTIER: The Town Assessor, is that what you said?

JAMES SMITH: No, I mean, point us toward some people who we could contact.

JAYE TROTTIER: Oh.

JAMES SMITH: Okay? Is there anything else?

LARRY O'SULLIVAN: Before we get into any of the five points or any one of the cases, right?

JAMES SMITH: No, we're not gonna do it now.

JAYE TROTTIER: Are you continuing to March 7th?

LARRY O'SULLIVAN: I'd like to make a motion to continue.

JAMES SMITH: Do I have a second?

JAY HOOLEY: Second.

LARRY O'SULLIVAN: Are we gonna go to March 7th?

JAMES SMITH: Yes. Yeah, they're agreeing. Okay, all those in favor?

NEIL DUNN: Aye.

JAY HOOLEY: Aye.

LARRY O'SULLIVAN: Aye.

JAMES SMITH: Aye. We're adjourned.

RESULT: CASE NOS. 10/17/2012-2, 2 AND 4 WERE CONTINUED TO MARCH 7, 2013.

RESPECTFULLY SUBMITTED.

NEIL DUNN, CLERK
TYPED AND TRANSCRIBED BY JAYE A TROTTIER, SECRETARY

APPROVED MARCH 20, 2013 WITH A MOTION MADE BY LARRY O'SULLIVAN SECONDED BY JAY HOOLEY AND APPROVED 5-0-0.