

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

DATE: MAY 15, 2013

CASE NO.: 5/15/2013-3

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

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

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

REQUEST: VARIANCE TO ALLOW PHASING OF A WORKFORCE HOUSING
DEVELOPMENT UP TO 45 DWELLING UNITS AND UP TO 7 BUILDINGS PER
YEAR WHERE A MAXIMUM OF 3 BUILDINGS PER YEAR IS ALLOWED BY
SECTION 1.3.3.3.

PRESENTATION: At the opening of the meeting, the Chair announced to all applicants on the evening's
agenda that with only four Board members in attendance, they have the opportunity to
request a continuance to the June 19, 2013 meeting when there could be an opportunity to
present to a five member Board.

CASE NO. 5/15/2013-3 WAS READ INTO THE RECORD WITH NO PREVIOUS CASES LISTED.

JAMES SMITH: Who will be presenting?

SUSAN MANCHESTER: I will start. My name is Susan Manchester. I'm an attorney at Sheehan Phinney in
Manchester. I represent NeighborWorks Southern New Hampshire and this Robert Tourigny who is the
Executive Director. I guess where I want to start is, having sat through this and seeing people here who I think
are seeing this for the first time, this is the first public hearing that has to do with this particular project, but
this issue is pretty narrow. We do know that they're going to go to the Heritage Commission, I think it's this
month. They're going to the Conservation Commission. They need to go to the Planning Board to get
Conditional Use Permits, site plan approvals, subdivision approvals. What we are here tonight for is the
following: Section 1.3.3. says that you can have 48 units per year, that's your phasing ordinance, and then it
says in three buildings. We do not intend to go beyond the 48 units per year. But we don't want to do it
in three big buildings. We want to do it in five or seven smaller buildings, townhouse style. That is the style that
they have developed in Goffstown and in Hooksett and I think they've included some pictures in the

46 application. They find it to be more appealing aesthetically. The tenants seem to think it's more homey. It
47 just has a better overall ambiance. And if you look at the map and the road that's in there, and the wetlands
48 that are around it, it really is conducive to developing the same number of units, but in smaller buildings. And
49 that's the sole reason we're here tonight. We're not here...there will be plenty of good discussion. I'm glad
50 people came out tonight to start that discussion about some of the other issues, questions they might have
51 about the project. NeighborWorks is a 501(c)(3) nonprofit organization. Its mission is to promote affordable
52 workforce housing. It started in the inner cities of Manchester. It has extended beyond to the outlying
53 communities of Goffstown, of Hooksett. Currently they have a project under construction in Amherst. The
54 projects are extremely well perceived. They're well maintained. These projects are funded by public and
55 private sources. The owners of the project are limited partnerships, private limited partnerships, for-profit,
56 which means the tax [sic] will get real estate tax revenue, even though the sponsor is a non-profit. These
57 projects, because of their public nature, they're a little c=complicated from a financing standpoint and they do
58 go through a lot of financing hoops and they have to get funding from New Hampshire Housing Finance
59 Authority and that's a competitive process. I know that Robert has some numbers about people who actually
60 live in this town who live in some of his units in other towns.

61
62 ROBERT TOURIGNY: Work.

63
64 SUSAN MANCHESTER: Work. Work, I'm sorry, work in this...yes. Did you want to share those?

65
66 ROBERT TOURIGNY: Certainly. My name is Robert Tourigny and I'm the Executive Director of NeighborWorks
67 Southern New Hampshire and we've been communicating with folks in the Town of Londonderry for several
68 years now about the need for affordable workforce housing. We were actually involved early on when the
69 Town created an affordable housing taskforce to ultimately develop the ordinance that you have in place
70 today. We were involved in those discussions with the Planning staff and the committee that was appointed
71 at that point in time to help draft the ordinance. And so we've been looking at various sites in town where we
72 thought the development of affordable workforce housing would make a lot of sense and meet a need in the
73 town, but also fit into the community as well. And so our organization has been around since 1992. As our
74 attorney mentioned, we've done a lot of residential development in the City of Manchester. We have about
75 350 affordable units in our portfolio. Over the last few years, we've developed in the towns in Hooksett and
76 Goffstown and we recently have a project under construction in Amherst. We have folks who work in
77 Londonderry but don't live in Londonderry. They live in Manchester and so we have folks that work at Harvey,
78 we have folks that work at Insight, we have folks that work at the Airport, and it's important for us to be able
79 to provide a housing opportunity for them in the community that they work in. And so we have been trying
80 to, I think two years now, maybe longer, work around this site which was initially approved in 2003 as an age
81 restricted property and work with the existing owner, which is a lending institution that foreclosed on the
82 property to figure out a way to redevelop the site. To work with some of the existing constraints, the
83 infrastructure that's there, the road outline that's there, to provide something that is affordable. And so
84 that's the plan that we've presented and are coming forth with tonight.

85
86 LARRY O'SULLIVAN: Who have you presented the plan to?

87
88 ROBERT TOURIGNY: We came to the Planning Board in December with a conceptual and based on the
89 feedback that we got from the Planning Board, which was very responsive, based on the feedback that we got
90 from the Planning staff which was very helpful, went forward with our site plan and as a developer of

91 affordable housing, it's not often that I come and ask for you to reduce the size of our buildings...or to reduce
92 the number of out buildings. It would usually be the other way around. But in this particular instance, given
93 the configuration of the site, sort of the narrowness of the site, and our preference to do smaller buildings, to
94 be more appealing and marketable and attractive in the community, we've come up with the clusters of
95 townhouses that have five to seven units per building, as opposed to the way the ordinance is crafted, which
96 is...I guess by default, it assumes a 16-unit building, that all workforce housing units are 16-unit buildings, is
97 essentially our reading the ordinance.

98
99 SUSAN MANCHESTER: Which, some projects...

100
101 JAMES SMITH: Are these units for sale?

102
103 ROBERT TOURIGNY: No, this would...the units would be owned by us, but it would be built over a two phase
104 process. Thirty eight units in one phase and 40 units in another phase and we would continue to own and
105 manage those properties like the rest of our portfolio.

106
107 LARRY O'SULLIVAN: So they're all rentals.

108
109 ROBERT TOURIGNY: They're all rentals.

110
111 JAMES SMITH: Okay.

112
113 ROBERT TOURIGNY: But they're townhouses, two and three bedroom townhouses, and...do they have
114 pictures? Oh, I'm sorry, this is Jennifer Vadney with our office and information on NeighborWorks is in there
115 [see Exhibit "A"]. Our annual report is in there. Some sample photographs of a very similar project that we
116 developed in Goffstown so you can see some of the elevations and the townhouse configuration. Some of the
117 streetscape as well.

118
119 LARRY O'SULLIVAN: So we don't have any question about density, then? You're covering the density?

120
121 SUSAN MANCHESTER: Correct.

122
123 ROBERT TOURIGNY: Correct. We...

124
125 LARRY O'SULLIVAN: Size of the lot, number of residences that are allowed, units that are allowed?

126
127 ROBERT TOURIGNY: Everything conforms. The sort of the awkward piece was that when we got into the
128 ordinance, we caught, literally caught that can't exceed 48 units, which we weren't trying to do, but it says you
129 can't exceed three buildings. Well, if you do the math, then that means you have to have a 16-unit building in
130 order to build 48 units and we only want to build 38 units, but it would force us to do bigger buildings than our
131 small townhouse clusters which is what we prefer to do and which really does fit on the site better. I mean, if
132 we had to do bigger buildings, then we'd probably be back asking for variances because of encroachments and
133 other things that we don't want to do. We didn't want to open that can or worms. And I think the original
134 proposal from 2003 was a mix of garden style and townhouses, and so...But the difference is they did parking
135 below the buildings, which is a significant cost, so in our instance, we have our parking in back of the

136 townhouses. They're smaller units than the ones that were originally proposed, but still, it would make it
137 really challenging to get 16-unit buildings on that site configuration, given the existing infrastructure. I think
138 it's the sewer main that serves this area of the town and there's a gas line that runs through the property as
139 well.

140
141 SUSAN MANCHESTER: I laid out the criteria. Do you want me to quickly go through them?

142
143 JAMES SMITH: Unless you have any other background material you want...

144
145 SUSAN MANCHESTER: No, again, it's a simple, simple thing. It's 'can we have the same number of units in
146 smaller but more buildings'? That's what it is. No other relief is sought.

147
148 JAMES SMITH: It's almost scary to hear a lawyer say "simple, simple thing."

149
150 SUSAN MANCHESTER: Well, sometimes it is. But that's really it. That, in the nutshell, is the application.

151
152 JAMES SMITH: Okay, why don't you then go through the five points.

153
154 SUSAN MANCHESTER: You have what I wrote, so I'm not going to reread it. I'm just going to like do the high
155 points, okay?

156
157 JAMES SMITH: Good.

158
159 SUSAN MANCHESTER: The public interest test and the spirit of the ordinance test are related. And that
160 usually is found in the purpose section of the ordinance. Here we're talking about phasing. And the purpose
161 of phasing is to make sure that the Town can orderly plan for residential growth. If it needs to worry about
162 schools or infrastructure. And that's why you have phasing. Here, because we're not changing the number of
163 units, the fact that we're having more, smaller buildings is entirely consistent with this spirit of the ordinance
164 and is consistent with the public interest. And also, of course, bringing a more homey style, if you will, project,
165 I think is also consistent with the public interest to develop a nice community for Londonderry. The smaller
166 style buildings tend to be more attractive than just...I don't want to be disrespectful to anybody, but...than a
167 row kind of building and they would likely, perhaps, enhance property values. They certainly won't decrease
168 them. And again, the issue is not whether there can be affordable housing here and the effect that might
169 have on the property values, although we don't think it will because they're very attractive. The question is
170 the number of buildings. The substantial justice test is whether the loss to the individual is greater than the
171 gain to the public in denying the variance. There is no gain, that I can perceive, to the public in sticking to the
172 three large buildings. But there is a loss to the developer because it's style of development and, you know, in
173 addition to developing affordable housing projects, NeighborWorks also has outreach in the community, it has
174 a strong education component to help ready people for homeownership if they want to make that step. So
175 the sense of community within a project is very important to it. It's not just providing a place for people to
176 sleep and eat. And it really believes that its model of this style community works better for that. The
177 hardship, the special condition of the property is that if you look at where the infrastructure, existing road
178 infrastructure is, and if you look at the wetlands, and you see how they're kind of spattered around, it's really
179 hard, as Robert said, to put these row type buildings in there without asking for other relief. And given that
180 the purpose of phasing is to moderate, if you will, development, there is no real substantial relationship

181 between the purpose of that ordinance and denying this variance. And this is reasonable. This is a reasonable
182 alternative to the row type housing. So that's kind of it in a nutshell. I know I put more detail in my written
183 materials and I'm happy to answer questions, but...

184
185 JAMES SMITH: Okay, I just want to go over this one point. I know you were here. You're aware of the
186 implication of the four members?

187
188 SUSAN MANCHESTER: Yes, I am. Thank you for reminding me.

189
190 JAMES SMITH: Okay. Just to have that on the record.

191
192 NEIL DUNN: Mr. Chairman, if I may?

193
194 JAMES SMITH: Sure.

195
196 NEIL DUNN: So Whittemore Estates was an 83-unit age restricted condominium project. They got six units in,
197 were foreclosed. I'm trying to understand this line in that "the applicant is not proposing to convert the
198 previously approved and un-built unit from elderly to workforce."

199
200 SUSAN MANCHESTER: Yeah, you know what? I read that again today. What I meant to say was we're not
201 proposing to take the site plan, the footprint of the buildings that were approved, and just convert them to
202 workforce. So we actually do have to...that's why we have to go back to the Planning Board. It will be a new
203 site plan, it will look like that. It won't look like the site plan for what was approved. That's what I meant.

204
205 NEIL DUNN: So the existing building, where is that on this drawing?

206
207 LARRY O'SULLIVAN: First yellow one on the left?

208
209 SUSAN MANCHESTER: I don't think it is.

210
211 ROBERT TOURIGNY: It's not.

212
213 JENNIFER VADNEY: It's there on Trail Haven.

214
215 SUSAN MANCHESTER: Oh, the existing building?

216
217 JAY HOOLEY: To the right.

218
219 SUSAN MANCHESTER: Where is it, Jennifer?

220
221 JENNIFER VADNEY: The existing buildings are up here on Trail Haven and Trail Haven is not on your site plan.
222 Your site plan is the...

223
224 JAY HOOLEY: Which led to my question, are you subdividing this or...?
225

226 ROBERT TOURIGNY: It's a subdivision.
227
228 SUSAN MANCHESTER: Yes. Yes, we need to subdivide it off.
229
230 ROBERT TOURIGNY: It's a subdivision plan.
231
232 JAY HOOLEY: So you're taking that prior project, lopping the built piece off and starting something completely
233 new...
234
235 SUSAN MANCHESTER: Yes.
236
237 JAY HOOLEY: ...to the north.
238
239 ROBERT TOURIGNY: Right. Yup. On the other side of the conservation area and the wetlands and everything
240 else.
241
242 JAY HOOLEY: Yeah.
243
244 ROBERT TOURIGNY: So it really does create two separate...it's subdivisions...
245
246 JAY HOOLEY: And the ownership changes and you would have no further input or anything on the Trail
247 Haven...
248
249 SUSAN MANCHESTER: That's correct.
250
251 ROBERT TOURIGNY: Correct.
252
253 JAY HOOLEY: ...piece of this puzzle. You're just buying off and proposing something...
254
255 ROBERT TOURIGNY: Correct.
256
257 JAY HOOLEY: ...on what was a part of that project.
258
259 SUSAN MANCHESTER: Correct.
260
261 JAY HOOLEY: Okay.
262
263 ROBERT TOURIGNY: That is correct. Yeah. Sorry that we didn't make that clear. That it does involve a
264 subdivision process.
265
266 JAY HOOLEY: And a change of ownership.
267
268 SUSAN MANCHESTER: Yes.
269

270 NEIL DUNN: Well it kind of mentioned that but that's where I was getting lost, so are there still 83 of the
271 workforce housing's approved and available...excuse me, of the elderly or age restricted? Sounds like those
272 could be still there or no?
273
274 RICHARD CANUEL: No, that would go away.
275
276 ROBERT TOURIGNY: Yeah.
277
278 NEIL DUNN: Even though...
279
280 JAY HOOLEY: Because your [indistinct] plan used all this land, correct?
281
282 SUSAN MANCHESTER: I think, and I can't speak for the owner, but I was in meetings with Planning staff and
283 what we talked about what that he would need to go back to the Planning Board as well to get a modification
284 of his existing approvals. Because he can't...get got a specific site plan approved. I don't know how many
285 units. I do have somebody here from Hayner/Swanson who may know how many units are on the remaining
286 land.
287
288 NEIL DUNN: So maybe Richard, you can help me. So the original 83 were going to encompass this area. This
289 area's just being reassigned.
290
291 RICHARD CANUEL: That's right. That's right.
292
293 NEIL DUNN: And that's where I was having trouble. It's not like it was going to be the 83 units and these...
294
295 JAY HOOLEY: Plus.
296
297 SUSAN MANCHESTER: No.
298
299 NEIL DUNN: ...which it still could be, but probably not because you took away half their land or something.
300 Alright. Thank you.
301
302 ROBERT TOURIGNY: There's a 50-some acre site. We're subdividing out 20 acres for this 78-unit
303 development. The remaining 30 acres stays with the Trail Haven residence and folks on that street. There's a
304 conservation easement that's already been approved and put in place. That stays with the Trail Haven. We
305 aren't changing that, we aren't entering that, we aren't subdividing that. And the existing configuration on
306 Trail Haven doesn't change. As part of our...
307
308 SUSAN MANCHESTER: We are not changing it.
309
310 ROBERT TOURIGNY: Actually, the Planning staff asked us as we prepare our site plan, to prepare an as-built
311 plan for the Trail Haven portion of the subdivision so that they will have that on record.
312
313 NEIL DUNN: Mm-hmm.
314

315 ROBERT TOURIGNY: So that if the owner wants to ever finish developing the Trail Haven side, they would
316 have that plan on record and in place at Town Hall. So that's part of our Planning approval process as well.
317
318 LARRY O'SULLIVAN: One of the things that...you're finished?
319
320 NEIL DUNN: Yes, I am.
321
322 LARRY O'SULLIVAN: Can I jump in for a second?
323
324 NEIL DUNN: Go ahead.
325
326 LARRY O'SULLIVAN: Footprint is one of the things that we are concerned about as well. If you had one three-
327 story, 16-unit apartment building, how big would the footprint be versus, say, number of five and seven-unit
328 buildings? For ground...you know, the...what is it, permeation? Water dissolution or whatever it's called
329 there. So that you have the things that flow into the water in the wetlands. What would be the comparable
330 sizes if we allowed 16...what did we just allow? How big were those? Those were...
331
332 NEIL DUNN: Twenty.
333
334 PAULINE CARON: Twenty four.
335
336 RICHARD CANUEL: Twenty four units.
337
338 LARRY O'SULLIVAN: No, I'm talking about the footprint that they made and the size of the buildings.
339
340 JAMES SMITH: They were around 10,000, I believe.
341
342 LARRY O'SULLIVAN: Ten thousand square feet each.
343
344 JAMES SMITH: Yeah.
345
346 LARRY O'SULLIVAN: So, that's what 16 would encompass. How many square feet do you propose or are you
347 proposing for these five to seven-unit buildings?
348
349 ROBERT TOURIGNY: Sure. The units are about 1,000 to 1,200 square feet per unit, but they're two-story
350 units, so they would be about 500 to 600 square feet per unit, so 40 units...
351
352 LARRY O'SULLIVAN: As opposed to 10,000, right?
353
354 ROBERT TOURIGNY: ...would be, total, would be about 20,000 square feet, give or take? Is that 40 times...?
355
356 LARRY O'SULLIVAN: Okay.
357
358 ROBERT TOURIGNY: I don't think we need any...I mean, we've met all of the...
359

360 SUSAN MANCHESTER: Yeah, we don't have any...
361
362 ROBERT TOURIGNY: ...soils and square footage requirements. I think all of that has been handled on the
363 Planning side so that we don't need any variances or anything associated with those regulations.
364
365 LARRY O'SULLIVAN: Well, the association that I make is with phasing. How you put that stuff in, how you
366 mitigate as you construct, as you go along, as you make progress doing the additions. So it's something I am
367 sure, because you've already through the Planning process, you're aware that...we all know it doesn't happen
368 overnight and it takes time to do, so...
369
370 ROBERT TOURIGNY: Sure.
371
372 LARRY O'SULLIVAN: ...we want to make sure that all the circumstances that you're providing to us are what
373 we're expecting.
374
375 ROBERT TOURIGNY: Certainly.
376
377 LARRY O'SULLIVAN: Okay, so you said that there was also a sense of community that you're trying to build in
378 that area. A couple of questions on that. Do you have common gardens? Will you have common gardens? Is
379 there common play areas or areas for congregation?
380
381 ROBERT TOURIGNY: There are both. We do allow the tenants and encourage the tenants to have a
382 community garden. I don't know that that's shown on the site plan that you have, but it is on the Planning set
383 that was submitted to the Planning Board. And there's also a community building because there will be a total
384 of 78 units, we wanted a place in the community, in the neighborhood, to have a resident manager, to have a
385 room that tenants can use for parties or events or neighborhood meetings and that sort of thing, so...A play
386 area for the children, gardens for the residents and a community building to service the residents as well.
387
388 JAY HOOLEY: Pool and tennis courts?
389
390 ROBERT TOURIGNY: I'm afraid not.
391
392 JAY HOOLEY: Okay. You're not interested, Larry.
393
394 ROBERT TOURIGNY: No pools. No pools. After the first two [cases heard this evening], no pools.
395
396 [Laughter]
397
398 JAY HOOLEY: Mr. Chairman, if I could?
399
400 JAMES SMITH: Sure.
401
402 JAY HOOLEY: We did go...I think we kind of danced around this a lot with a prior case; all our restrictions...we
403 don't actually restrict the square feet. Number of units, number of buildings...
404

405 LARRY O'SULLIVAN: Size of the buildings, correct.
406
407 JAY HOOLEY: Yeah. We don't, you know, you could put 16-10,000 square foot...
408
409 NEIL DUNN: Units.
410
411 JAY HOOLEY: ...units if you had some inclination to do so.
412
413 LARRY O'SULLIVAN: I needed that information as a perspective.
414
415 JAY HOOLEY: Yeah, yeah. But I...all they're looking to do is put a similar, slightly lesser number of units in in
416 small...
417
418 ROBERT TOURIGNY: Clusters.
419
420 JAY HOOLEY: Yeah, small clusters, I guess is the...as opposed to big...So aesthetically, it...there's an upside to
421 it. We'll leave it at that. And were you to do it in 16-unit buildings, you could phase it in within two years
422 under the...
423
424 ROBERT TOURIGNY: Correct. If our townhouse...our strip of townhouses were 16 units long...
425
426 JAY HOOLEY: Then you could put three strips of 16 and you're building less than two years' worth. Okay.
427
428 ROBERT TOURIGNY: But it's a little, well, it's very challenging, given the...
429
430 JAY HOOLEY: I'm not suggesting that you do it, I'm simply...
431
432 ROBERT TOURIGNY: Yeah.
433
434 JAY HOOLEY: ...you know, without having to put more units in per year than you would be allowed, should you
435 have chosen big buildings.
436
437 ROBERT TOURIGNY: Sure. Yup.
438
439 JAY HOOLEY: That was the only...
440
441 ROBERT TOURIGNY: The challenge is that we're trying to follow that existing sewer line that's already in place.
442 It doesn't align itself to allow a strip of 16 townhouses. And it's just visually more appealing to have them
443 broken up and have green space between the buildings.
444
445 JAMES SMITH: Any other questions? Comments? I'll open it up to the audience. Is anybody in favor?
446 Anyone in opposition or have questions? Okay, there's several different people. Do you want to approach a
447 microphone and state your name and then go from there?
448

449 AL LAMPSON: My name is Al Lampson, I'm the president of the condo association of Parrish Hills. We're on
450 the other side of the swamp. I've heard the talk about wetlands and conservation lands. That's pure swamp
451 in between there. There's deer and beaver and fox and turkeys running through there. It's a very precarious
452 area. Put workforce housing, I'm thinking of people of childbearing ages. We're all senior citizens over at
453 Parrish Hills, but childbearing age, you've got kinds going in there, risk of tick bites, which we've had, the
454 seniors. The drowning, I mean that's not a bridge swamp through there. Disturbing that wetland, going in,
455 putting a bunch of units in all at once I think would be a problem. I think phasing in and watching and going
456 slowly makes a lot of sense because the ground is...They mentioned parking behind the buildings instead of
457 underneath the buildings. If you put them underneath, you would be in water. I think it's that wet and I think
458 other neighbors in that area are probably in tune to the same thing. Any questions or...?

459
460 JAMES SMITH: Well, just to make sure you understand. What they're asking for is to change the number of
461 buildings, not the number of units which would be allowed under the phasing.

462
463 AL LAMPSON: I'm reading seven buildings per year versus three buildings a year.

464
465 JAMES SMITH: But the same number of units.

466
467 JAY HOOLEY: They would be allowed to put three 16-unit buildings in without a variance.

468
469 AL LAMPSON: But they don't want to put 16-foot [sic] buildings.

470
471 LARRY O'SULLIVAN: Sixteen units.

472
473 AL LAMPSON: The buildings they put in, I'm suggesting to stay to the three. Makes a lot of sense because of
474 the precarious situation of that ground over there. It's very soft. There's total swamp behind there.

475
476 JAMES SMITH: Okay. Anyone else? Questions or...?

477
478 PAULINE CARON: Pauline Caron, 369 Mammoth Road. I live a ways south of this proposed development. I
479 live at 369. Where is that road going to come out onto Mammoth Road? What's it near?

480
481 ROBERT TOURIGNY: There's an existing cut on Mammoth Road now and it's actually in the tax map, it says...I
482 think this is called Whittemore Avenue. Or Whittemore Street. This is Trail Haven.

483
484 PAULINE CARON: That's Trail Haven?

485
486 ROBERT TOURIGNY: This is Trail Haven over here. That's existing, where there's six townhouses.

487
488 JAMES SMITH: Sir? You need to stay on a mic.

489
490 ROBERT TOURIGNY: Alright.

491
492 JAMES SMITH: So we can get the...
493

494 ROBERT TOURIGNY: Sure.
495
496 PAULINE CARON: Sorry. Trail Haven is next to the old Whittemore house.
497
498 JAMES SMITH: Okay, ma'am, we don't want...you can ask a question and then he can answer the...in
499 rebuttal...
500
501 PAULINE CARON: Okay, sorry.
502
503 JAMES SMITH: But we can't get into a cross...
504
505 PAULINE CARON: Sorry.
506
507 JAMES SMITH: Just for your own information, that's a State highway, so the State would have a lot of input
508 onto the curb cut and that issue anyways.
509
510 PAULINE CARON: No, I just wondering how far down it was from where I live because I'm not that far from
511 Trail Haven.
512
513 NEIL DUNN: It would be north.
514
515 JAY HOOLEY: Several hundred yards north of Trail Haven.
516
517 PAULINE CARON: Okay.
518
519 JAY HOOLEY: And, you know, that's my ballpark, but it's probably not way off.
520
521 PAULINE CARON: Well, you're the Postmaster. And I think it's better to have smaller buildings than bigger
522 buildings because I wouldn't want any more 24-unit buildings coming into town. You've opened a Pandora's
523 Box when you allowed those variances. And I just want to remind you of that. Thank you.
524
525 JAMES SMITH: Anyone else?
526
527 NOREEN VILLALONA: My name is Noreen Villalona. I'm at 72 Trail Haven Drive. And to my knowledge, when
528 we purchased and the plans were written in 2003, it had always been a workforce, it was always planned to be
529 a workforce, but we were lead to believe that it would be home owned. The renting is not an issue for me.
530 It's just the amount of people that will be in and out of there might be a problem. And I know initially, when it
531 all came out, it was very confusing because you kept mentioning Trail Haven Drive and the thought of that
532 with 381 being approved and Fieldstone, it's just way too much traffic. But I do understand that your entrance
533 is, in fact, down Mammoth Road and it's past a farmhouse and then a smaller house and actually, it
534 goes...when you're going north on Mammoth, the entrance is before you get to the house that has all the
535 tractors for sale out in front of it. So it's not close to Trail Haven. It's several plots down. And I think my
536 concern is also the same as the gentleman who spoke about the water. We purchased in 2007. The past
537 three years, we have seen a pool that is really severe during certain seasons and particularly during the winter
538 and we've never had that before. So we're seeing a lot more pooling than there was when we first purchased.

539 I grew up in Long Island as a child and in our town we had had...they called it a stream. It was a very fast
540 moving stream. They filled it in and they built developments on it. My fear for my own house after I
541 purchased it was 'Oh my God, these are wetlands,' because after these people had purchased, within ten
542 years, the houses were sinking. So I'm not against it, honest to God. The workforce is a great idea. I had
543 looked up NeighborWorks. I really liked your professionalism, the fact that you're actually training and
544 teaching people how to take care of their own place and how to plan forward for purchasing. It's all very
545 positive. But my fear, like the gentleman said, there seems to be an awful lot of more water than there was
546 when it was planned. That's the only negative thing I can think of. Everything else looks good.
547

548 JAMES SMITH: Okay. Any other comments or questions? Observations? The other thing I would point out;
549 this is just a hearing and a variance on this one issue, the issue of how many buildings to build that number of
550 units. The Planning Board and their process and everything else would be looking at a lot of the issues which
551 you have brought up and that's way beyond what we're trying to do tonight.
552

553 NEIL DUNN: And then you might want to reach out for...we're always looking for members for the Zoning
554 Board if anyone wants to step up.
555

556 JAMES SMITH: Yeah, we're looking for volunteers.
557

558 LARRY O'SULLIVAN: If I can get back to the case, though, at hand, you didn't mention anything about the
559 builder's...what is it called? The builder's choice or the builder's option that a prior workforce housing case
560 brought forward to us, saying that if you don't allow this variance...what was it called?
561

562 JAMES SMITH: Builder's remedy, I believe.
563

564 LARRY O'SULLIVAN: Builder's remedy. Right. See, the RSAs state that if we don't have...or if we have what we
565 feel is a good reason to deny a variance, that the builder, the people who are going to be putting this up have
566 the option to go to your legislatures and use that to get approval in the courts. Use that approval. Because
567 it's already there. It's on the books. Now, my understanding is that the Town of Londonderry would be paying
568 in the \$40,000 range to represent ourselves. When push comes to shove, people who scream about the
569 budget are going to be the ones who are also screaming about allowing workforce housing in because things
570 have been static over these last few years. And since I'm in the sundown of my career on the Zoning Board, I
571 feel as if people have to understand, we look at every possible option. We don't take anything with a grain of
572 salt. We go through...the last case we had, I think, close to 11 pounds of paper that we went through. A good
573 portion of that was from our own attorneys. Our own attorneys told us that we have yet to look at our own
574 restrictions or our own ordinances because they're not up to date. That they have lots of holes. Now until we
575 get the budget to do this kind of a thing, I suspect we're going to have the same scenarios. I would suggest
576 that we get our act together as a town and start putting together what we actually see being requested and
577 respond to it legally, as opposed to "I think," "I think," because we can't go based on an opinion. We can't go
578 ahead and make a determination that way. So we have to go by the five criteria and what the RSAs allow us to
579 do. Our ordinances and the things that are what we feel are in the best interests, best public interests of the
580 town. So, Miss Caron, to respond to your point, we didn't open up anything. We left it open. Our town left
581 open opportunities that people are going to take advantage of where we don't have a legal standing. So, with
582 that said, I don't have any issues whatsoever with this program, this presentation.

583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627

JAMES SMITH: Okay. Neil?

NEIL DUNN: I'm good.

JAMES SMITH: You're good. Jay?

JAY HOOLEY: Nope.

JAMES SMITH: Okay. If there is anybody else from the audience who have any comments or...? Okay, seeing none, do you have any further comments?

SUSAN MANCHESTER: I do not.

JAMES SMITH: No lengthy summation?

SUSAN MANCHESTER: No. I think you'll find, as an aside, you know, I'm privileged to be able to represent these guys. And they have plenty more hearings to go through, but they...we've not had to use the hammer that you mentioned because usually the towns look at their other projects, talk to other towns and they do a great job. This will be a great project.

JAMES SMITH: Okay. Having given everybody an opportunity, we'll close the hearing at this point and we'll go into deliberations.

DELIBERATIONS:

JAMES SMITH: Is this simple or not?

LARRY O'SULLIVAN: It is fairly simple.

JAY HOOLEY: I think the ordinance just assumed...

LARRY O'SULLIVAN: Mm-hmm.

JAY HOOLEY: ...that you would...

LARRY O'SULLIVAN: We made assumptions...

JAY HOOLEY: ...[indistinct] into...

LARRY O'SULLIVAN: We made assumptions in our ordinances and...the worst thing that we can do. You have to measure by the finest method that you can and we weren't. We were measuring with a big stick and approximating, so what our expectations and our ordinances were different than what's being proposed and you've got to keep up. That's the whole point.

628 JAMES SMITH: Yeah.
629
630 LARRY O'SULLIVAN: We're not...
631
632 JAY HOOLEY: [Indistinct] running briefly through the five points, I don't think it's contrary to have what would
633 be an allowed number of units in a slightly different format in smaller, more, as presented at least, potentially
634 aesthetically pleasing buildings. Spirit of the ordinance, if it is to restrict, and I assume that overall
635 development, which is limited to the same or lesser number of units per year...
636
637 JAMES SMITH: [Indistinct].
638
639 JAY HOOLEY: ...the development will not have a greater number of units per year than would have been
640 allowed in the bigger building. So, in that respect, the spirit is not restricted.
641
642 JAMES SMITH: Yeah.
643
644 JAY HOOLEY: Total number of incoming residents, it does do substantial justice by allowing an additional, and
645 if it gets off the ground, the first workforce housing development actually to get a shovel in the ground. I
646 don't see that diminishing property values because if it were developed in bigger buildings, I think a number of
647 folks mentioned that might be less pleasing and if it were developed as the age restricted housing, quite
648 frankly, I don't know that those were all that dissimilar from what this is proposing. I think those were...
649
650 JAMES SMITH: No, they were long buildings.
651
652 JAY HOOLEY: Six units, I think.
653
654 JAMES SMITH: Yeah, the one building was built. I believe it was six.
655
656 JAY HOOLEY: So...
657
658 JAMES SMITH: There was only one building built right, Richard?
659
660 JAY HOOLEY: On Trail Haven, yeah. One.
661
662 RICHARD CANUEL: Yes. Yeah.
663
664 JAMES SMITH: Yeah. So, I'll entertain a motion.
665
666 JAY HOOLEY: Motion...
667
668 LARRY O'SULLIVAN: No input, Neil?
669
670 NEIL DUNN: My only input is that they hit the five points and they would be allowed to do 48 units a year if
671 they wanted to configure it differently. They're asking for 45. The smaller buildings, I think work better with

672 the concerns about the wetlands and the ability to work in that environment, so I believe they hit all five
673 points of law and that's a very nice solution.

674
675 LARRY O'SULLIVAN: I felt that the size of the building and the footprint of the buildings and the comparisons
676 would be what most people would be concerned about because of the runoff and the ability for the water to
677 be absorbed into the ground. And the soils and what have you. Therefore, this being lesser of what we would
678 allow, I don't see any point in having any objection to it.

679
680 JAMES SMITH: Okay, who wants to make a motion?

681
682 JAY HOOLEY: Motion to approve case 5/15/2013-3 as presented.

683
684 JAMES SMITH: Okay.

685
686 NEIL DUNN: I'll second it.

687
688 JAMES SMITH: All those in favor?

689
690 NEIL DUNN: Aye.

691
692 JAY HOOLEY: Aye.

693
694 JAMES SMITH: Aye.

695
696 LARRY O'SULLIVAN: Aye.

697
698 SUSAN MANCHESTER: Thank you.

699
700 ROBERT TOURIGNY: Thank you very much.

701
702 RESULT: THE MOTION TO GRANT CASE NO. 5/15/2013-3 AS PRESENTED WAS APPROVED, 4-0-0.

703
704 RESPECTFULLY SUBMITTED.

705
706 

707
708
709 NEIL DUNN, CLERK

710 TYPED AND TRANSCRIBED BY JAYE A TROTTIER, SECRETARY

711
712 **APPROVED JUNE 19, 2013** WITH A MOTION MADE BY LARRY O'SULLIVAN SECONDED BY JAY HOOLEY AND
713 APPROVED 5-0-0.