

Town of Bolton

Development Review Board

Bolton Town Office
3045 Theodore Roosevelt Highway
Waterbury, VT 05676
802-434-5075

Richard Blais, Application #2012-06-CU
Conditional Use Approval/ Reduced Setback
April 14, 2012

Applicant

Richard Blais
435 Sharkeyville Road
Waterbury, VT 05676

Application

(Application materials on file at the Bolton Town Office, procedural history attached.)

The applicant requests conditional use approval to add an attached 15' by 25' garage to a pre-existing camp that was converted into a single family dwelling in 2004. The dwelling is located on a pre-existing, nonconforming 0.46 acre lot (ID#03-006.000), with 136+/- feet of frontage along Sharkeyville Road, a private road off of RT 2, in the in the Rural II District.

The lot is characterized by steep slopes, except for a small, level area on which the existing dwelling is sited. Steep slopes limit the area in which a garage can be built to that immediately adjacent to the north side of the dwelling. The applicant requests that the DRB approve, subject to conditional use review, a reduction in the required 50-ft side setback from the property line in order to accommodate the garage, as shown on the site plan. He also proposes to limit the width of the garage to 15 feet in order to minimize encroachment within the setback area.

This application has been reviewed by the Bolton Development Review Board (DRB) under applicable zoning district and conditional use criteria of the Bolton Land Use and Development Regulations (BLUDR) in effect as of January 26, 2005, and as amended effective August 9, 2010, including:

- Rural II District dimensional requirements (Table 2.5),
- Nonconforming Uses & Structures (Section 3.8(B)(4)), and
- Conditional Use Review (Section 5.4).

The procedural history for this application and relevant DRB findings are attached.

Decision

- Denied
- Approved
- Approved with Conditions:

1. The garage shall be constructed as shown on the site plan submitted with the application (2012-06-ZP/CU, no date), based on the septic system site plan prepared by Grenier Engineering PC, dated 3/8/11, which shall be retained on file in the permit records of the town.
2. The reduction in the required setback from the north property line from 50 feet to 29 feet, as shown on the site plan, is approved as the minimum necessary to allow for a 15-foot wide attached garage on this site. No further structural extension or encroachment within the required setback area shall be permitted without a variance granted by the Development Review Board.

3. The garage shall be constructed in a manner that avoids disturbance to areas of steep slope on the property. Site clearing shall be limited to the area immediately adjacent to the north side of the existing dwelling. No site clearing or development shall occur on slopes in excess of 15% without approval from the Development Review Board.
4. Any outdoor garage lighting shall meet applicable requirements of Section 3.9 of the regulations. Lighting shall be the minimum required for safety, security and intended use. Lighting fixtures shall be cast downward or be designed to minimize glare, and shall not direct light upward or onto adjacent properties or roads. Lighting may include recessed, shielded or cutoff fixtures or low luminance lamps, and should include timers, dimmers or sensors.
5. The applicant shall obtain a zoning permit from the Zoning Administrator prior to beginning site work and construction. In the event that a zoning permit has not been obtained within one year of the date of this decision, DRB approval shall expire and reapplication shall be required.
6. The applicant shall obtain a certificate of occupancy from the Zoning Administrator immediately following construction, but prior to use of the garage, as necessary to conform that required setback distances, including the side setback distance as modified by this decision, have been maintained.
7. The conditions of this approval shall run with the land and are binding upon and enforceable against permittee and his successors. By acceptance of this permit, the permittee agrees to allow authorized representatives of the Town of Bolton to access the properties subject to this approval, at reasonable times, for purposes of ascertaining compliance with the conditions of approval.

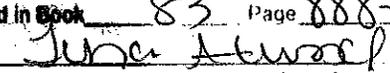
Approved with conditions (4-0) by the Bolton Development Review Board:

Charmaine Godin (Alternate) – Yea
Michael Hauser – Yea

Sharon Murray – Yea
Susan Vita – Yea

Dated at Bolton, Vermont this 14th day of April, 2012.


 Sharon Murray, Chair
 Bolton Development Review Board

Bolton Town Clerk's Office
Received For Record
 may 29 2012 A.D.
 at 8 o'clock 00 minutes A.M.
 Recorded in Book 83 Page 888-892
 Attest: 

NOTICES:

1. In accordance with 24 V.S.A. §4449(e), the applicants are hereby notified that state permits also may be required prior to land subdivision or construction. The applicants should contact the DEC Permit Specialist for District #4 (802-879-5676) to determine whether state permits are required.
2. This decision may be appealed to the Environmental Division of Superior Court by an interested person who participated in the proceeding before the Development Review Board. The appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.

Review Process

(Application materials, hearing notices, minutes on file at the Bolton Town Office.)

An application from Richard Blais for conditional use review, dated February 29, 2012, was received by the Bolton Zoning Administrator on February 29, 2012 and referred to the Bolton Development Review Board (DRB) that same day. A public hearing of the DRB was scheduled for March 27, 2012 and warned in accordance with Section 9.8(D)(1) of the Bolton Land Use & Development Regulations and 24 V.S.A. § 4464.

The public hearing to consider the application was convened on March 27, 2012, 6:30 p.m. at the Bolton Town Office with a quorum of the DRB present, and one alternate also participating. No ex parte communications or conflicts of interest concerning this application were identified or reported. The following persons attended and participated in the hearing process, and may be afforded status as interested persons with rights to appeal:

- Richard Blais, Applicant 435 Sharkeyville Road, Waterbury, VT 05676

The following materials were submitted in support of the application and entered into the hearing record:

- Application forms, signed by Richard Blais, dated 2/19/2012 and required application fees.
- Site plan showing the existing dwelling and location of the proposed 15' x 25' attached garage, as submitted with the application (#2012-06-ZP-CU, no date).
- Septic system site plan, prepared by Grenier Engineering, PC, dated 3/8/2011, used as the base for the site plan as submitted with the application.

The DRB adjourned the hearing that evening, starting the 45-day period for the issuance of a written decision.

Findings

The applicant's request for conditional use approval to reduce district setback requirements was reviewed by the Bolton DRB for conformance with relevant sections of the Bolton Land Use and Development Regulations (BLUDR) as amended, effective August 9, 2010, including applicable zoning district standards (Table 2.5, Rural II), nonconforming structure and use provisions (Section 3.8) and conditional use criteria (Section 5.4). DRB findings and conclusions under each of these are presented as follows.

Rural II Zoning District Standards (Table 2.5)

The existing lot and dwelling and proposed garage, as shown on the site plan, do not meet minimum district lot area, frontage and side setback requirements for the Rural II District.

1. The minimum lot area for the RII district is 10 acres, with a minimum road frontage of 300 feet. The lot area shown on the site plan is 0.46 acres, with 135 +/- feet of frontage along the Sharkeyville Road (a private road). The lot does not conform to district minimum lot area and frontage requirements.
2. The minimum setback from the road right-of-way in the RII district is 35 feet. There is some discrepancy in the exact location of the private road right-of-way in relation to the front lot line as shown on the site plan, but the existing dwelling is located 25 feet from the front lot line, and an

additional 10 feet from the road edge. The existing dwelling meets the required setback from the road edge, if not the front property line. The proposed garage would be setback an additional 5 feet, or 40 feet from the road edge, generally conforming to the front setback requirement.

3. The minimum required setback distance from side and rear lot lines in the RII district is 50 feet. The existing dwelling, as shown on and measured from the site plan, is located 43 feet from the north lot line, within the required setback, and is therefore nonconforming. The proposed garage, as shown on the site plan, would be constructed within the side setback area, thereby increasing the degree of nonconformance.

Nonconforming Structures (Section 3.8)

The existing lot and dwelling were legally established prior to January 26, 2005 when the current zoning district regulations went into effect, and are therefore defined as preexisting nonconformities. Because of development constraints (steep slopes) and the small lot area, there is no location on the parcel to site the proposed garage except within the side setback area. The proposed garage is sited and of a width (15 feet) intended to minimize the degree of noncompliance.

4. The lot and dwelling (previously a camp) predate district dimensional requirements in effect as of January 26, 2005, as testified to by the applicant, and by the Zoning Administrator Miron Malboeuf based on lister records. The dwelling is therefore a pre-existing nonconforming structure legally in existence at the time of application.
5. Under Section 3.8 of the regulations, the DRB may approve, subject to conditional use review, the structural expansion or extension of a nonconforming structure in a manner that increases the degree of noncompliance by no more than 50 percent, if no other reasonable alternative exists. As shown on the site plan, the attached garage would be sited 28 feet from the north property line, as scaled and re-measured from the nearest point, reducing the required setback distance by 44 percent. The garage, as shown, would be located at least 40 feet from the edge of the road, if not the front property line.
6. Areas of steep slope are generally shown on the septic site plan submitted with the application. Zoning Administrator Miron Malboeuf testified, based on a site visit, that the only suitable location on the site to construct a garage was the area immediately adjacent to and north of the existing dwelling, as shown on the site plan. This is the only level spot on the parcel—the septic system is located on the other side of the dwelling, and the rest of the lot behind the dwelling consists of steep slopes.
7. The garage width of 15 feet as shown on the site plan (reduced from 18 feet as specified on the application form) is intended to allow for functional vehicle storage space, while minimizing the degree of noncompliance.

Conditional Use Standards (Section 5.8)

The proposed garage will not have an undue adverse impact to adjoining properties, roads and traffic in the vicinity, community services and facilities, or the character of the area, or under relevant site plan review criteria.

8. **Community Facilities & Services.** The garage, as an accessory structure to a single family dwelling, will have no impact of existing or planned community services and facilities. The lot is served by a private road, and private water and wastewater systems.

9. **Character of the Area.** The garage, as an attached accessory structure to a single family dwelling will have no impact on the character of the area, which is characterized as a rural, wooded, low density residential area served by a private road and utilities. Adjoining property owners did not participate in the hearing process, and expressed no concerns in writing regarding the proposed reduction in setback distance from the property line.
10. **Traffic.** The attached garage, as accessory to an existing single family dwelling, will generate no additional traffic on Sharkeyville Road or Route 2.
11. **Bylaws.** The proposed garage meets all bylaws in effect, except for the RII minimum setback distance from side property lines under the Rural II District. The DRB, however, may modify and reduce the required setback distance for the expansion of a pre-existing, nonconforming structure under Section 3.8 of the regulations.
12. **Renewable Energy.** The proposed attached garage, as accessory to the single family dwelling, will not affect access to or use of renewable energy resources on the existing or adjoining properties. There are no known renewable energy installations on the existing or adjoining properties.
13. **Zoning District Uses & Standards.** An attached garage is an allowed accessory structure to a single family dwelling in the RII District. See finding #11 regarding zoning district dimensional standards.
14. **Site Plan Standards (Section 5.3).** The garage is sited to avoid areas of steep and very steep slope, as identified on the site plan and through field investigation (site visit), and to minimize encroachment into required setback areas. There is no proposed change in the driveway access onto Sharkeyville Road (a private road). As an attached accessory structure to a single family dwelling, the DRB has agreed to waive landscaping and screening and stormwater management requirements. Outdoor lighting requirements under Section 5.3(7) shall apply to any outdoor garage lighting.
15. **Legal Documentation.** The applicant applied for and received a potable water supply and wastewater system permit from the state for conversion of the camp to a single family dwelling. The applicant is also responsible for obtaining any other required state and municipal permits, as noticed in the DRB decision.

