



Town of Bolton  
3045 Theodore Roosevelt Highway  
Bolton, VT 05676

**Bolton Development Review Board**  
**Meeting Minutes**  
**October 28, 2014**  
**Bolton Town Office**

DRB Members Present: Michael Rainville (Chair), Stephen Diglio, Sharon Murray, Margot Pender, John Devine (Alternate)

DRB Members Absent: Charmaine Godin

Staff Present: Miron Malboeuf, Zoning Administrator

Acting DRB Clerk: Sharon Murray

Others Present: Maureen Matthews, Ben Putman, A Johnson Company, Bill O'Brien; Mike Fraysier, Vermont Dept. Forests, Parks and Recreation (applicant), Leon Lafreniere, Martha Wooden, Harvey Lawrence; Patrick Mallow

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**Posted Agenda:**

1. Public Comment
  2. Public Hearings:
    - Application 2014-30-SD/CU|VT Dept. Forests, Parks, Recreation – Lafreniere Parcel Subdivision, Adaptive Reuse
    - Application 2014-24-SD|Joji Fillmore – continued from September 23, 2014
    - Application 2014-07-CU|Phillip Harrington – continued from August 26, 2014
  3. Sketch Plan Review – Patrick Mallow for Barbara Mallow, 2-lot subdivision, 1376 Leary Road
  4. Applications, DRB Position
  5. ZA Report
  6. Meeting Minutes
  7. Other Business
  8. Public Meeting Adjournment
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**Call to Order**

Michael Rainville, Chair, called the meeting to order at 6:35 pm with a quorum of members present. Mr. Malboeuf reported that applicants Phillip Harrington and Joji Fillmore had both requested hearing continuances. Given those present, the Chair agreed to move the Fillmore hearing up on the agenda.

**1. Public Comment**

None.

- 2. Public Hearings:** Mr. Rainville reminded those present that participation in the hearing process was required in order to appeal a decision of the DRB.

- a. Joji Fillmore–Final Subdivision Review (2014-24-SD) – The Chair reconvened the hearing, continued from September 23, 2014, pending receipt of plat revisions, abutter easement information and a proposed road maintenance agreement from the applicant and abutters. No DRB conflicts of interest or ex parte communications were reported. In the absence of the applicant, the DRB agreed to continue the hearing at his request. Interested parties present, including Maureen Matthews, Ben Putnam representing the A Johnson Company, and Bill O'Brien noted that a draft maintenance agreement had been circulated for comment, but not yet finalized. Ms. Matthews asked that the DRB schedule a site visit in order to evaluate the location of the proposed right-of-

way in relation to the stream buffer, and the proposed building envelope in relation to steep slopes. The Chair, supported by other DRB members present, indicated that they'd consider this request once a revised plat is submitted by the applicant. Margot Pender made the motion to "continue the hearing on Fillmore application 2014-24-SD to the next regular meeting of the DRB, scheduled for November 25, 2014, 6:30 pm, at the Bolton Town Office," seconded by Steve Diglio. Motion passed unanimously (5-0).

- b. Vermont Dept. Forests, Parks and Recreation – "Lafreniere Sale Parcel" (Preston-Lafreniere Farm) Subdivision Review, Adaptive Reuse (2014-30-SD/CU). Mike Rainville, Chair, read the hearing notice as warned. No DRB conflicts of interest or ex parte communications were reported. Hearing participants included:

Mike Fraysier, VDFPR (State), Applicant	1 National Life Drive, Montpelier, VT 05602
Leon Lafreniere, Resident	[No address provided]
Martha Wooden, Owner, Honey Hollow Rd.	5166 Shelburne Rd., Shelburne, VT 05482
Harvey Lawrence, Resident	87 Boulder Wood Lane, Waterbury, VT 05676

Mike Fraysier provided an overview and update of the department's application for the subdivision of the "Lafreniere Sale Parcel" following the sketch plan review meeting on June 24<sup>th</sup>. The current application is to subdivide a 30-acre parcel located on the south side of the Duxbury Road, west of the Honey Hollow Road, for sale – to include the Preston-Lafreniere homestead, as listed on the National Register of Historic Places, and adjoining upland forest. The parcel is located in the Conservation District. At 30 acres, the parcel will meet the minimum lot size of 25 acres for the district, and also qualify for forestland enrollment in the state's Use Value Appraisal (Current Use) Program. The state will retain the barns and farmland along the Winooski River north of the Duxbury Road. As recommended in sketch plan review, the department is also applying for adaptive reuse of the house as an historic structure, to allow for the re-establishment of its residential use, which would otherwise be prohibited in the Conservation District.

The following information was provided in support of the state's application:

- A. Application form, dated October 2, 2014.
- B. Application transmittal letter and project description from Mike Fraysier, ANR Lands Director, dated September 29, 2014 (7 pp.).
- C. Location Map, "Lafreniere Homestead Sale Parcel, VT Agency of Natural Resources, dated April 24, 2014, prepared using ANR Natural Resource Atlas.
- D. Preliminary Subdivision Plat: "Map of Lafreniere Subdivision (Preliminary)," prepared by B. Lavery, LS #720, dated January 2013, revised September 2014.
- E. Site Plan: "Map of Building Envelope, Lafreniere Subdivision" prepared by B. Lavery, LS # 720, dated January 2013, revised September 2014.
- F. "Lafreniere Sale Parcel: Open Space Deed Restrictions," no date (1 p).
- G. Vermont Division for Historic Preservation Deed Restriction Language, no date (3 pp).
- H. Lafreniere Homestead Sale Parcel: Bid Information and Requirements, no date (5 pp).
- I. Wastewater System Application, dated October 10, 2014 and system design "Lafreniere Subdivision Proposed Residential Wastewater System for Subdivision" prepared by David Webb, PE (# 7797), dated September 14, 2014.

Mr. Fraysier noted that the state, in response to the DRB's previous subdivision denial, met with the Select Board and Planning Commission, and reconfigured the proposed subdivision to better address local concerns and conserve the property's historic and open space values. It is their hope that the

house will be transferred to an owner who can be a good steward. Since sketch plan review the Department had:

- Completed a revised survey of the property and had it reappraised, at \$126,000 for the house and land, to be sold “as is” for potential residential use, pending DRB approval.
- Worked with the Dept. of Environmental Conservation to update soil testing, develop the design for a conventional onsite septic system, and apply for a state wastewater system permit (pending).
- Received approval from the Vermont Housing Conservation Board (VHCB) who holds easements on the property to use proceeds from the sale, less administrative costs, to further stabilize the historic barns, including the west barn.
- Began their solicitation for potential buyers, and held an open house last week. Bidders are required to submit a plan for the property that will recognize and protect its historic features. Bids are due on December 1<sup>st</sup>. Cited web site for full property and bid information:  
<http://bgs.vermont.gov/Preston-LafreniereProperty>.

Ms. Wooden noted the importance of maintaining the property’s historic character but expressed concern that related stipulations under the sale would not be enforced, given its past neglect while in state ownership. Mr. Fraysier noted that the property would fare better under private ownership – that the department’s resources are very limited – but stipulations would be enforced by the department in coordination with the Division for Historic Preservation. The property, under the deed transferred to the state, must be used for forestry, agricultural, open space, recreation and historic preservation.

Mr. Lawrence asked whether the state would retain rights of first refusal in the event that the new owner decided to sell the property – it was his understanding that this had been done for other inholdings on Honey Hollow Road. Mr. Fraysier indicated that this was not their intent, and that he was not aware of this provision for other holdings; however easements and deed restrictions would run with the land and apply to new owners. The restrictions would be legally enforceable, regardless of future ownership.

Mr. Lafreniere expressed his opposition to the proposed subdivision given that, under the deed granted by his family, the property was never to be sold or subdivided. Ms. Pender asked whether it was better to let it fall down under state ownership. Mr. Fraysier explained that the department had not been able to find a suitable public use for the property despite having tried to lease it several years ago, in consultation with the town. Given the department’s other mandated priorities for managing public land, and limited resources, they were given permission by the Vermont Housing Conservation Board and the legislature to sell the homestead, with restrictions intended to preserve its historic character and open space, consistent with the original deed. As noted, VHCB also agreed to allow use of the proceeds from the sale to stabilize the barns, in keeping with the board goal to preserve historic structures. The barns and the land will be maintained in agricultural use, as intended and the property could not be further subdivided. Ms. Murray noted that these restrictions should be specifically noted on the subdivision plat.

Ms. Murray asked whether the department had considered requesting rezoning from the Planning Commission, in order to minimize limit the amount of land to be transferred out of state ownership, and to allow for residential use of the property. Mr. Fraysier reported that, following discussions with the Planning Commission and Select Board, they decided not to go that route – but to instead apply for adaptive reuse to allow them to advertise it for residential use. The town’s regulations

also allow for other uses, for example a bed and breakfast, but the new owner would have to come back to the town to change the use.

Mr. Fraysier asked whether the owners would have to come back to the DRB for accessory structures. Ms. Murray noted that the intent of designating a building envelope was to identify the buildable area on the lot to accommodate accessory structures and parking areas. That said, under the town's adaptive reuse new accessory structures and additions would have to comply with the US Secretary of the Interior's *Standards for Rehabilitation and Guidelines for the Rehabilitating Historic Buildings*, as referenced in the regulations.

Mr. Lawrence, noting that the farmstead was an important feature of the local landscape, town history, and local family stories, asked that the department consider options that will help resolve bad feelings. It would be great if it could be developed by a nonprofit, for example as an educational center. He also suggested that the department conduct a photographic inventory of the property so that, in the event it collapses or must be torn down, a replica can be built to historic specifications.

In response to a question regarding septic capacity, Mr. Fraysier noted that the soils support a conventional system, which he expects will be permitted, but it would be the responsibility of the owner to install the system.

Mr. Diglio asked whether the ability of the bidder to restore or rehabilitate the house was a consideration in awarding the bid. Mr. Fraysier indicated that it was – that they had ask for bidder qualifications. Ms. Wooden reiterated that it would be wonderful to find someone who could restore the house.

Ms. Murray noted that the application materials included findings under all of the town's regulations except for Section 4.3 (Adaptive Reuse of Historic Structures). In reviewing applicable criteria under this section Mr. Fraysier noted that:

- The house and barns, listed on national and state registers of historic sites and structures, qualify as historic structures – and clearly have historical and architectural significance to the town.
- The house has a habitable floor area of 2,400 SF – more than the minimum 600 SF required under the regulations.
- The department has consulted with the Division for Historic Preservation, and provided independent evaluations prepared by architectural historians and engineers, of needed improvements. Mr. Diglio asked that the Department submit these evaluations for the record. Mr. Fraysier noted they were available on the state's website. Mr. Malboeuf noted that they were also on file at the town office and he would forward copies to the DRB.
- Residential use (single family dwelling) is one of the listed uses allowed for an adaptive reuse.
- The department has demonstrated that there is adequate water supply and wastewater capacity to support residential use.

With regard to historic preservation requirements, Ms. Murray noted that the DRB would have to review proposed state stipulations in relation to Secretary of the Interior standards and guidelines, to make sure these were covered. She noted that the town would also have the ability to enforce any related conditions of approval.

Ms. Pender made the motion to “close the hearing on the department’s Lafreniere Sale Parcel subdivision and adaptive reuse application,” seconded by Mr. Diglio. Motion passed unanimously (5-0). A written decision will be issued within 45 days.

- c. Phillip Harrington – Conditional Use Review (2014-07-CU) – The Chair reconvened the hearing, continued from August 26, 2014 pending receipt of site plan revisions and additional information from the applicant. No DRB conflicts of interest or ex parte communications were reported. In the absence of the applicant, the DRB agreed to continue the hearing at the applicant’s request. Ms. Murray made the motion to “continue the Harrington hearing to the next regular meeting of the DRB, scheduled for November 25, 6:30 pm, at the Bolton Town Office, pending additional information and a revised site plan from the applicant.” Motion seconded by Ms. Pender; passed unanimously (5-0).

### **3. Sketch Plan Review – Patrick Mallow, 2-lot subdivision**

Mr. Rainville noted that this was a pre-application review of the Mallows’ proposed 2-lot subdivision of a 4+ acre parcel, located on both sides of the Leary Road, also with frontage on Stage Road, in the Rural I District. Mr. Mallow noted that he was there representing his mother, Barbara Mallow. Mr. Malboeuf noted that, though the town road bisected the property, DRB subdivision approval was required because the portion of the lot to the west of Leary Road was less than the 2-acre minimum lot size required for the R1 District. Mr. Rainville, Mr. Devine and Ms. Murray all noted that they had discussed or otherwise corresponded with Mr. Mallow and his surveyor regarding the proposed subdivision in advance of the meeting, specifically with regard to applicable definitions and requirements under the regulations.

Mr. Mallow presented a preliminary subdivision plat that would create a new 2+ acre “dog-leg” parcel on the east side of the road, for a new single family dwelling, leaving the remaining portion of the land on the east side, including a wetland area, with the land on the west side of the road, to bring it into conformance with the regulations.

There was then general discussion regarding whether the subdivision as proposed could meet the regulations as configured, under the definition of “contiguous land” and the fact that the subdivision regulations do not allow for the creation of irregularly shaped lots. It was recommended that Mr. Mallow:

- Apply for the subdivision as a Planned Residential Development (PRD) which would let the DRB to modify minimum lot size and setback requirements to allow for more regularly shaped lots separated by the road right-of-way – as long as each could meet state water and wastewater system requirements.
- Configure the PRD to protect the wetland area as conserved open space – either through the delineation of the wetland area and buffer on the plat, or through the designation of a building envelope that clearly excludes the wetland and buffer.

### **4. DRB Staff Support Position – review of applications and budget.**

Mr. Rainville noted that he had responded to several inquiries and applications received after the last DRB meeting. Ms. Murray reported that the Chittenden County Regional Planning Commission did not have the staff for 10+ hours per month – and that at the \$50/hr quoted, would come in over the \$4,800 budgeted for the position. The rate of \$50/hr, though intended for contracted services without benefits, had also caused some hard feelings among office staff. She also noted that some of the

applicants didn't have the expertise or experience to qualify as independent contractors, and would require some supervision and oversight. Mr. Rainville noted that the hourly rates for one of the DRB's preferred candidates would fall within the budget, and agreed to schedule an interview. All DRB members will be invited to attend. DRB recommendations will then be forwarded to the Select Board for consideration.

Ms. Murray noted that the Town Treasurer and Select Board had asked for the DRB's budget request for the coming year. To date, the DRB has not had a separate budget. Following discussion regarding staffing and incurred legal costs, largely associated with the recent appeal, the DRB agreed to request \$6,000 for staff support and \$10,000 for zoning and DRB legal costs, to be offset in part through permitting fees.

**5. Zoning Administrator Report.**

4x4 Center – Mr. Malboeuf reported that the 4x4 Center had submitted their application for a driveway and building under the terms of the court-ordered stipulation agreement with Bolton Valley. Ms. Murray noted that the Select Board had issued a curb cut permit, with the condition that it may need to be amended pending the outcome of DRB review. She also noted that town attorneys recommended that all applications from the center be deemed administratively complete before hearings are warned to help avoid permitting delays. The Zoning Administrator will coordinate with the Chair regarding hearing schedules.

**6. Meeting Minutes – September 23, 2014.**

Margot Pender made the motion to "approve the minutes of the DRB's September 23 meeting as presented." Seconded by Steve Diglio. Motion carried 4-0 with Mr. Devine abstaining.

**7. Other Business**

No other business.

**8. Meeting Adjournment**

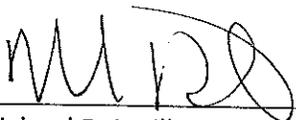
Ms. Pender made the motion to adjourn the meeting, seconded by Mr. Devine. Motion carried unanimously, 5-0. The meeting adjourned at 7:45 pm. The next regular meeting of the DRB is scheduled for Tuesday, November 25th, 2014, 6:30 pm at the Bolton Town Office.  
Respectfully submitted,

Sharon Murray, Acting Clerk  
Bolton Development Review Board

*\*\*These minutes are unofficial until formally accepted by the DRB.*

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These minutes were read and accepted as amended by the Development Review Board on November 25, 2014.



Michael Rainville, DRB Chair