



Town of Bolton
3045 Theodore Roosevelt Highway
Bolton, VT 05676

Bolton Development Review Board
Meeting Minutes
June 24, 2014
Bolton Town Office

DRB Members Present: Charmaine Godin, Sharon Murray, Michael Rainville (Chair); John Devine (Alternate), Stephen Diglio (Alternate)

DRB Members Absent: Jen Andrews, Margot Pender; Michael Hauser (Alternate)

Staff Present: Miron Malboeuf, Zoning Administrator

Staff Absent: David Punia, DRB Clerk

Others Present: Phillip Harrington (Applicant); Chris Haggerty, representing Mark and Jenifer Andrews (Applicants), Anne Finlayson (Applicant); Michael Frasier and Jason Nerenberg, VT Forests, Parks and Recreation, Ron Lafeniére, Jr.

Posted Agenda:

1. Public Comment
 2. Public Hearings: Application 2014-07-CU | Phillip Harrington—single family dwelling, access approval
Application 2014-17-SD | Mark and Jenifer Andrews—amendment, boundary adjustment
 3. Sketch Plan Review: Vermont Dept. Forest, Parks and Recreation—Preston-Lafreniere Homestead subdivision
 4. ZA Report
 5. Meeting Minutes
 6. Other Business
 7. Meeting Adjournment
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Call to Order

Mr. Rainville, Chair, called the meeting to order at 6:35 p.m. with three members of the board and two alternates present. There were no requested changes to the posted agenda.

1. Public Comment

No public comments were received.

2. Public Hearings

Mr. Rainville noted that participation in the DRB hearing process was required in order to appeal a decision of the DRB.

a. Phillip Harrington – Conditional Use Review, Single Family Dwelling, Access (2014-05-CU)

Mr. Rainville called the hearing to order at 6:40 pm, referencing the hearing notice. DRB members reported no conflicts of interest or ex parte communications. Others participating included Phillip Harrington, applicant, and Mr. Malboeuf, Zoning Administrator. The following application materials, forwarded to the DRB in advance of the hearing, were entered into the hearing record:

- A completed application for conditional use review, dated June 6, 2014, as referred by the Zoning Administrator to the DRB on June 10, 2014.

- Copy of the hearing notice as posted and published.
- Exhibit 1: Project outline/description referencing sections of the regulations, as submitted with the application.
- Exhibit 2: Written request, dated June 6, 2014 to waive as inapplicable: site grading and drainage requirements; landscaping, screening, outdoor lighting requirements; flood regulation; traffic and trip generation; draft legal documentation and construction schedule.
- Exhibit 3: "Topographic Worksheet" (site plan) prepared by Little River Survey Company, LLC dated July 2013, as revised to include test pit locations January 2014.
- Exhibit 4: Enlarged aerial photo showing the location of the access driveway from the Bolton Valley Access Road to the proposed house site, and associated dimensions (length=1,600 feet, minimum width=15 feet, average slope = 12.5%), and pull-off locations at the Bolton Valley gravel extraction area.

Ms. Murray noted that the application as submitted referenced "site plan review" but, given that single family dwellings are exempt by statute from site plan review, asked if conditional use review was intended as noted in the assigned application number. Mr. Malboeuf noted that conditional use review should have been checked on the application form.

Mr. Harrington presented his request for access to construct a single family dwelling on a pre-existing 3.7-acre lot (ID# 04-010.000) located off the Bolton Valley Access Road near the "S-Curve." The lot is located entirely within the Rural II District, and is bordered by Joiner Brook and a tributary of the brook. The property also includes steep (15+%) and very steep (>25%) slopes down to Joiner Brook. Mr. Harrington noted that the terraced, upper portion of the lot had been surveyed at 2-foot contour intervals, and had been tested for a septic system, as shown on the site plan submitted with the application (Exhibit 3). The lot is accessed via a shared right-of-way over Broadway (trail/maintenance road owned by Bolton Valley and the state), identified as "the Old Access Road" in the recorded deed to the parcel. According to Mr. Harrington, it is about 1,400 feet to the property from the Bolton Valley Access Road. Mr. Harrington intends to upgrade the access to meet B-71 (driveway) standards, and to maintain it for year-round use.

In response to a question from Ms. Murray regarding existing use of the parcel, Mr. Harrington noted that he had done some clearing in association with site testing for the septic system, and had erected two yurts on the property – one as temporary living quarters, and one for use as storage. Mr. Malboeuf reported that Mr. Harrington had since applied for a zoning permit for the yurts, as required under the regulations. Mr. Harrington indicated that he had also applied for, but had not yet received a wastewater system permit from the state.

Ms. Murray asked whether it was his intent to remove the yurts once the dwelling was completed. Mr. Harrington indicated that he may keep at least one for storage. Mr. Malboeuf suggested that this could potentially be allowed under the regulations as an accessory structure or dwelling. Ms. Murray noted that in the past the DRB had approved use of a yurt as temporary living quarters during the construction of a dwelling, but had conditioned its approval to require that it be removed once the dwelling was completed and ready for occupancy.

With regard to the proposed driveway, Mr. Harrington indicated its general location along Broadway (Old Access Road) in relation to the Bolton Valley Access Road, as shown on the aerial photo provided with the application (Exhibit 4); and also provided an elevation profile based on available contour

elevations (Exhibit 5). According to Mr. Harrington the driveway would meet B-71 standards for residential driveways, with a finished grade of less than 15% as required – little grading would be needed to upgrade Broadway (Old Access Road) to driveway standards. He noted that the existing culvert is owned and maintained by Bolton Valley Resort; he anticipates that one small seasonal brook will need to be crossed to access to the lower portion of the lot, as indicated in the application. Mr. Harrington would plow the 1400 to 1600 feet of driveway in winter as necessary for vehicle access. It was noted by DRB members that the Catamount Trail Association also has a right-of-way along Broadway for the Catamount Trail – along with the state, the town, and the Green Mountain Club. Mr. Harrington reported that he had been in contact with the association and believed shared use of the right-of-way could be arranged, or the trail could be relocated.

Mr. Harrington indicated that no development was proposed on steep slopes – the house would be confined to the existing level, terraced area – and that required setbacks and buffers would be maintained along Joiner Brook and other streams. Ms. Murray noted that, given the steepness of the slope down to Joiner Brook, as indicated on the site plan, it wasn't clear whether the stream setback should be measured from the "top of bank" or, in this case, from the "top of slope" given that no stream bank was clearly evident. Mr. Diglio expressed concern about potential hazards resulting from slope failure, given other landslide areas along Joiner Brook. Mr. Harrington noted that the proposed house site was located away from the top of the slope, as indicated on the site plan.

The DRB requested the following information from Mr. Harrington, as necessary for its review of his application:

- The location of Joiner Brook, other streams, required setback distances from each and existing and proposed permanent and intermittent stream crossings on and in the vicinity of the property, to be indicated on the site plan.
- The location of either the "top of bank" (stream bank) or "top of slope" (if no stream bank or break in slope is evident) from Joiner Brook, to be indicated on the site plan, as determined from a scaled contour elevation profile, to be used to determine the required setback distance from Joiner Brook.
- Required setback distances from property boundaries, to be indicated on the site plan.
- The delineation of a building envelope, to be indicated on the site plan and pinned on the ground, which is configured to avoid required setbacks from property boundaries and streams, and excludes areas of steep (15+%) and very steep (>25%) slope. The building envelope is to include the proposed house site, any existing and future accessory structures, and parking area.
- A letter from the Bolton Road Foreman regarding the status of the existing access to Broadway (Old Access Road) from the Bolton Valley Access Road, and whether a highway access (curb cut) permit will be needed from the town for the proposed driveway.
- A letter from the Bolton Fire Chief regarding the suitability of the proposed access and driveway for emergency vehicle access.
- A letter of understanding signed by the applicant and other easement holders, including the Catamount Trail Association, regarding year-round use and maintenance of that portion of Broadway (Old Access Road) to be used as a residential driveway.

Pending receipt of additional information from the applicant, Sharon Murray moved to "continue this hearing to the next regular meeting of the Development Review Board, scheduled for July 22, 2014, 6:30 pm at the Bolton Town Office." Seconded by Charmaine Godin; motion passed unanimously.

b. Mark and Jenifer Andrews, Ann Finlayson – Subdivision Amendment, Boundary Adjustment (2014-17-SD)

Mr. Rainville called the hearing to order at 7:15 pm, referencing the hearing notice. DRB members reported no conflicts of interest or ex parte communications. Others participating included Ann Finlayson, applicant, and Chris Haggerty, representing Mark and Jenifer Andrews, applicants. Ms. Andrews, who currently serves on the DRB, was absent from the meeting. The following application materials, forwarded to the DRB in advance of the hearing, were entered into the hearing record:

- Completed application form for final subdivision review, dated June 5, 2014, as referred by the Zoning Administrator to the DRB on June 5, 2014.
- Copy of the hearing notice as posted and published.
- Exhibit 1: Copy of the Bolton Tax Map showing the locations of the Andrews and Finlayson parcels in relation to adjoining properties and R1 and R2 Zoning District boundaries.
- Exhibit 2: Original survey plat, "Land of Mark and Jenifer Andrews and Virginia Reeves, York Road, Bolton Vermont" prepared by Tammy Bass, Licensed Surveyor, dated June 1995, as recorded in the land records of the town on July 25, 1995.
- Exhibit 3: "Plat of Boundary Line Adjustment Survey between Lands of Mark and Jenifer Andrews and Anne Finlayson," prepared by Christopher Haggerty, Licensed Surveyor (No. 741), Button Professional Land Surveyors, PC, dated May 25, 2014.

The Andrews currently own an existing 18.86-acre parcel (ID# 1-70108), bordered to the south by a 24.43-acre parcel owned by Ms. Finlayson (ID# 1-70107). Both parcels are located mainly in the Rural I District and are accessed via a shared 50-footwide gravel driveway from the York Road (Exhibit 1).

Mr. Haggerty noted that the Andrews, in preparing to sell their property, discovered that the understood boundary between their property and Ms. Finlayson's property was dramatically different than that shown on the original subdivision plat recorded in the land records in 1995 (Exhibit 2). As shown on the 1995 plat, the boundary excludes a meadow in front of the Andrews' house, reducing the setback distance from the property line to the existing deck on the front of the house.

According to Mr. Haggerty, the Andrews, in association with Ms. Finlayson, request a boundary adjustment between the two properties based on a resurvey, as shown on the draft subdivision plat (Exhibit 3) – to move the property line to increase the setback distance to the Andrews' house and deck, and to provide additional yard area in front of the house. Under the proposed adjustment, 0.25 acres of land (10,787 sq. ft.) would be conveyed from the Finlayson property to the Andrews property, to include a portion of the driveway serving the Andrews property. A small shed located on the new line would be relocated. As surveyed, the acreage of the Andrews property would increase from 18.86 acres to 19.11 acres, while the acreage of the Finlayson property would decrease from 24.43 acres to 24.18 acres, as shown on the draft plat.

Ms. Finlayson testified that she had agreed to the boundary adjustment as shown, but noted that her name had been misspelled where noted on the plat. Mr. Haggerty also observed that the acreage in the "Boundary Line Adjustment Statement" (box) also needed to be corrected – to reference 0.25 acres rather than 0.21 acres.

Ms. Murray asked whether the boundary adjustment would require an amended state water and wastewater system permit. Mr. Haggerty noted that the lots created in 1995 exceeded 10 acres, and therefore did not require state permits under the old rules. He indicated that the state would be issuing a “letter of negligible impact” for the boundary adjustment.

Ms. Murray asked if there were any wetlands, steep slopes or other natural features in the area to be conveyed. Ms. Finlayson indicated that there are steep slopes along the rear half of both properties, as indicated on the plat, but not in the vicinity of the boundary adjustment. Mr. Haggerty noted that, apart from moving the existing shed, no additional development was proposed.

Mr. Rainville observed that required setback distances from existing and proposed property boundaries were not indicated on the draft plat. Mr. Haggerty agreed to add these to the final plat as submitted for recording.

Ms. Murray made the motion to adjourn the hearing, seconded by John Devine. Motion carried unanimously, starting the 45-day period in which to issue a written decision. Mr. Haggerty asked, on behalf of the Andrews, that this be expedited by the DRB.

3. Sketch Plan Review: VT Dept. of Fish and Wildlife –Preston-Lafreniere Homestead Subdivision

Michael Fraysier from the Vermont Department of Forests, Parks and Recreation noted that a pre-application sketch plan review was requested to discuss proposed revisions to the subdivision plat submitted by the department, for the subdivision and conveyance of the Preston-Lafreniere Farmstead – one of two properties in Bolton listed on the National Register of Historic Places. Participants also included Jason Nerenberg from VT Forests, Parks and Recreation, and Ron Lafreniere, Jr. representing the Lafreniere family. Information provided by the state for DRB review and discussion included the following:

- A completed application for sketch plan review, dated June 2, 2014, as referred by the Zoning Administrator to the DRB on June 4, 2014.
- A letter from Mike Fraysier, ANR Lands Director, dated May 27, 2014, providing a detailed description of the department’s revised proposal to subdivide the “Lafreniere Homestead Sale Parcel” at Camel’s Hump State Park.
- An orthophoto-based location map entitled “Lafreniere Homestead Sale Parcel,” dated April 24, 2014, showing the location of the parcel to be subdivided and conveyed, in relation to Duxbury and Honey Hollow Roads.
- A preliminary survey plat entitled “State of Vermont Agency of Natural Resources, Dept. of Forests, Parks and Recreation Map of Lafreniere Subdivision” prepared by B. Lavery, Licensed Surveyor, dated January 2013.

Mr. Fraysier reiterated that subdivision approval from the DRB was necessary to subdivide and convey the Lafreniere Homestead, now included in Camels Hump State Park, as authorized by the state legislature in 2009. He noted that the proposed subdivision has been reconfigured to address issues raised by the DRB in its April 15, 2013 decision to deny the department’s original application; and that the department had also discussed proposed revisions with the Vermont Housing Conservation Board and the Vermont Advisory Board for Historic Preservation, as well as the Bolton Select Board and Planning Commission.

According to Mr. Fraysier, the state currently proposes to:

- Subdivide a 30-acre parcel on the south side of the Duxbury Road, to include the farmhouse and 5 acres of open land for gardens and pasture, and a 25-acre woodlot that qualifies for enrollment in the state's Use Value Appraisal Program;
- Retain the barn complex and agricultural land associated with the original farmstead in state ownership, to be incorporated, managed and maintained under future agricultural lease agreements;
- Use the proceeds from the sale of the lot to complete priority stabilization work on the barns, focusing this time on the west barn; and to
- Sell the homestead subject to covenants required by the Vermont Division for Historic Preservation to protect the historic integrity of the site – associated restrictions will prohibit further subdivision or additional development, except for the repair or replacement of existing structures, incidental accessory structures and infrastructure improvements.

Given that the subdivision would be classified as minor under the regulations, Mr. Fraysier asked that the DRB waive preliminary subdivision review. The DRB agreed that, as a minor subdivision, only final subdivision review would be required under the regulations.

DRB members noted their concern that, if sold simply as a woodlot with no option for residential use, there would be no reason for the buyer to restore the farmhouse which, given its current condition, would require substantial investment. Currently residential uses are not allowed within the Conservation District.

Mr. Fraysier noted that the property would be sold through a competitive bidding process; potential buyers would have to submit a plan that recognizes the historic character and value of the property – this will be included as one of the bidding criteria. He also supplied a copy of the Division for Historic Preservation's standard deed restriction language.

He noted that the state was also open to applying for approval under the regulations for adaptive reuse of the homestead as previously suggested, but that they weren't sure what this would require, given the list of allowed uses. Ms. Murray indicated that conditional use review for this could run concurrently with subdivision review – to be warned for a joint hearing. DRB members suggested that it should at least be considered for renewed use as a single family dwelling, which would otherwise not be allowed – and that any adaptive reuse would require functioning water and wastewater systems. There was some discussion of related criteria under Section 4.3 of the regulations – including the interpretation of “adequate water supply capacity, wastewater capacity and off-street parking exist to accommodate the proposed use.” Mr. Fraysier noted that soil testing had been completed as part of the original assessment of the property. Mr. Diglio, in reviewing test results, observed that they predated the current regulations, and new testing would be required. He recommended that the state submit a system design as necessary to demonstrate system capacity, and to support the sale as a residential property.

Mr. Fraysier noted that the parcel was accessed from the Honey Hollow Road and that adequate parking existed on that side of the lot. The existing public parking area at the bottom of Honey Hollow Road will be retained by the state for public use. Ms. Murray noted that the building envelope shown on the draft plat exceeded the one acre maximum in the Conservation District.

Mr. Lafreniere expressed his concern that, as proposed, continued state ownership of the barns would not guarantee their protection, given the lack of maintenance they've received by the state to date. It would also not return the property to town tax rolls, if sold as a wood lot. The state should subdivide the farmstead to retain its value for agricultural use.

Mr. Fraysier indicated that they would consider input received from sketch plan review in preparing their subdivision application – possibly in time for the board's regular July meeting. The DRB agreed that, because the subdivision met the definition of a minor subdivision, it would require only final subdivision review under the regulations.

4. Zoning Administrator Report

Mr. Malboeuf reported that:

- He had sent a letter to the 4x4 Center, penned with the assistance of the town attorney, regarding the need for a subdivision amendment and DRB approval to for the proposed access to Lot 5, especially given that this is also being considered under the court appeal filed by Bolton Valley Resort. To date no response or application has been received from the 4x4 Center, though the town had been contracted regarding the list of property abutters.
- A notice of violation had also been sent by certified mail to the property owner regarding VTrans' storage of construction material within the floodplain, but that no response had been received to date.

5. Meeting Minutes

Approval of the minutes was tabled by consensus until the next regular meeting of the DRB. Draft meeting minutes that had been sent out via e-mail to everyone in May were unavailable for review. Others pending from last year had not yet been received from DRB Clerk, David Punia.

According to Ms. Murray, the Town Clerk had contacted Mr. Punia regarding his continued employment with the town, but he had not yet submitted a formal resignation. She will raise the need to advertise this position with the Town Clerk and Select Board. New requirements for the posting of meeting minutes will go into effect on July 1st under the new open meeting laws that were forwarded from the Town Clerk.

6. Other Business

No other business was brought to the attention of the DRB.

7. Meeting Adjournment

Ms. Murray made the motion adjourn the public meeting, seconded by John Devine. Motion carried unanimously. The meeting adjourned at 7:40 pm.

DRB Meeting Minutes
June 24, 2014

Harrington – Conditional Use Review (2014-07-CU)
Andrews/Finlayson – Final Subdivision Review (2014-17-SD)
VT Forest, Parks and Recreation–Preston-Lafreniere Farm Sketch Plan

The DRB then met briefly in deliberative session to discuss findings and conclusions to be included in its written decision regarding the Barkyoumb–Carpenter request for reconsideration.

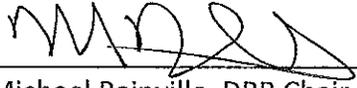
The next regular meeting of the DRB is scheduled for Tuesday, July 22nd, 2014, 6:30 pm at the Bolton Town Office.

Respectfully submitted,

Sharon Murray, Acting Clerk
Bolton Development Review Board

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

These minutes were read and accepted by the Development Review Board on July 22, 2014.



Michael Rainville, DRB Chair