

Town of Bolton
3045 Theodore Roosevelt Highway
Bolton, VT 05676

Bolton Development Review Board

Meeting Minutes

September 23, 2014

Bolton Town Office

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

DRB Members Absent: Charmaine Godin, John Devine (Alternate), Michael Hauser (Alternate)

Staff Present: Miron Malboeuf, Zoning Administrator

Acting DRB Clerk: Sharon Murray

Others Present: Joji Fillmore (Applicant), Tom Yager and Benjamin W. Putnam, A Johnson Company (Abutter), Maureen Matthews (Abutter), Bill O'Brien (Abutter)

Posted Agenda:

1. Public Comment
 2. Public Hearing: Application 2014-24-SD | Joji Fillmore – Rehearing, Expired Subdivision #2011-19-SD
 3. ZA Report
 4. Meeting Minutes
 5. Applications, DRB Position
 6. Other Business
 7. Public Meeting Adjournment
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Call to Order

Mr. Rainville, Chair, called the meeting to order at 6:30 pm with a quorum of members present. No changes were requested to the posted agenda.

1. Public Comment

None.

- 2. Public Hearing: Joji Fillmore–Final Subdivision Review (2014-24-SD)** –request for final subdivision approval of a subdivision amendment (#2011-19-SD, amending #2010-23-SD) that was previously approved by the DRB on September 9, 2011, but for which no subdivision plat was ever recorded. The application is to establish a building envelope for the construction of a single family dwelling on a previously approved 16.5-acre woodlot (Lot #2, ID# 07-0007.200), to be accessed from the Stage Road via an existing, shared “woods road” that is also used by abutters for land access and logging. The parcel to be developed also includes an intermittently used clearing (log landing area), and a 16'x16' equipment shed that is scheduled to be removed. The property is located at 3246 Stage Road in the Rural II District.

Mr. Rainville, Chair, convened the public hearing at 6:35 pm, noting that participation in the hearing was required in order to appeal a decision of the Development Review Board. No conflicts of interest or ex parte communications since the last meeting were reported. In addition to the applicant, Joji Fillmore, the following abutters were present and participated in the hearing:

- Maureen Matthews, 2878 Stage Rd., Jericho, VT 5465
- Bill O'Brien, 26 W Allen St, Winooski, VT 05404

- A Johnson Company, LLC represented by Tom Yager, Robert Fields and Benjamin W. Putnam, 995 South 116 RD, Bristol, VT 05443
- Ben Putnam, Neuse, Duprey & Putnam, P.C., One Cross Street, Middlebury, VT 05753

Mr. Fillmore indicated that DRB approval was necessary in order to record his subdivision plat as previously approved, in order to obtain a zoning permit and establish allowed residential use of the property. The following information was submitted by the applicant in support of his application:

- Application for final subdivision approval, dated 2/27/14, as referred by the ZA to the DRB on 9/5/2014.
- Tax Map showing location of parcel in relation to adjoining parcels.
- Site Plan, dated 8/25/11, prepared by David Tudhope, Certified Site Technician (No. 230).
- Site Plan, enlarged, showing "Draft Building Envelope for Lot #2"
- Survey plat for Lot #2, dated 8/20/10, as previously approved by the DRB on 10/13/2010 and recorded in the land records of the town on 4/11/2011.
- Wastewater System and Potable Water Supply Permit (#WW-4-3579-1), issued by the Vermont Department of Environmental Conservation, dated 9/14/2011.

Mr. Malboeuf also supplied copies of both DRB subdivision approvals applying to the parcel. Ms. Murray noted that the town's regulations had not changed since DRB approval was issued in 2011 – as such there should be no change in the DRB's findings, decision or conditions of approval, unless the underlying facts had changed. Ms. Murray also noted that the building envelope was not shown on the draft subdivision plat, as resubmitted.

Mr. Fillmore noted that the delay in plat filing was due in part to the DRB requirement, stated in the DRB's conditions of subdivision approval (condition #7), that a maintenance agreement signed by all users with access rights to the shared right-of-way be submitted prior to or in association with the subdivision plat. He noted that he had sent a letter to the A Johnson Company on April 7th and also spoke with Bill Sayer regarding a draft agreement, and no response had been received to date.

Mr. Putnam and Mr. Yager, representing the A Johnson Company, indicated that they were present to protect their access across the property and use of the cleared area for logging, as recognized under the DRB's previous decisions. They noted that the A Johnson Company was granted deeded access by a former landowner, as shown on old Prelco maps. They constructed the woods road, which was then maintained by Mr. Streeter, the most recent owner prior to Mr. Fillmore. The woods road was then relocated during the Streeter subdivision process, as approved by the DRB and shown on the subdivision plat.

Ms. Matthews noted that she was concerned that the conditions of approval would not be met, and asked if there were any consequences. DRB members reviewed the condition of approval in question, noting that it clearly states that a maintenance agreement was required before the plat could be recorded. If the plat was not recorded, no zoning permit could be issued. A violation of the conditions of subdivision approval could also result in a formal notice of violation.

Mr. Fillmore questioned the condition and process if they could not reach an agreement regarding right-of-way maintenance, noting again that the A Johnson Company had been unresponsive. Mr. Yager, representing the A. Johnson Company, indicated that they should be able to work out an agreement with the applicant. Ms. Matthews also requested assurance that the shed would be removed. Mr.

Fillmore stated that he intended to remove the shed as stated – that he had cleaned out a lot of material that had been stored onsite, but had not yet had time to remove the shed.

Mr. O'Brien noted that he was also an abutting property owner, as indicated on the draft subdivision plat, but had not received notice of previous hearings – possibly because their land extends into and is recorded in the Town of Richmond. His property consists of a 30-acre wood lot that is also accessed via a deeded right-of-way across both properties, following the old woods road. The relocated right-of-way would not provide access to his property, but an alternate route bordering the clearing could be worked out. Both Mr. Fillmore and Ms. Matthews asked for documentation regarding his access rights. DRB members concurred that this would be necessary, to also be shown on the subdivision plat. Ms. Murray made the motion to "recess the hearing to the next regular meeting of the Bolton Development Review Board, scheduled for October 28, 2014, 6:30 pm at the town office, pending the submission of:

- Documentation of deeded access to the O'Brien property, to be provided by Mr. O'Brien with copies to all parties, and
- A road maintenance agreement, signed by all parties, to be submitted by Mr. Fillmore."

Motion seconded by Ms. Pender, and passed 4-0. The DRB asked that the draft subdivision plat submitted by the applicant be updated to show the building envelope and required buffer zone, as specified in previous conditions of approval, and the location of all deeded accesses, including the O'Brien access, as documented and agreed to.

3. Zoning Administrator Report

Mr. Malboeuf reported that:

4x4 School – The stipulation agreement regarding the appeal had been signed by the court and, per the recommendation of the town attorney, their application for a curb cut permit had been forwarded to the Road Foreman and the Select Board in advance of DRB approval of the driveway. Mr. Rainville noted that the DRB had not received copies of the signed agreement, and asked that this be forwarded to all members. Ms. Murray noted that under the agreement, Bolton Valley would not be required to seek a subdivision amendment for a second access, but the driveway would still require DRB site plan approval. The proposed building and parking area shown on the site plan would also require conditional use review. She noted that it had been the intent of the Select Board to follow the regulations, and require DRB review prior to the issuance of a curb cut permit but, per the letter from our attorney, they will be warning a hearing regarding the application for their next meeting. Any approval will be conditioned to require new curb cut permit if changes are made in the access location based on DRB review of the driveway. Mr. Malboeuf noted that he had forwarded application forms to their attorney, and information to their engineer.

Trailer – A local resident on Stage Road had applied for a permit to build a house and then remove a trailer on the property. It was agreed that no DRB review was required for this.

GMC Bridge Project – In consultation with Mr. Rainville and Ms. Murray, Mr. Malboeuf made the determination that the change in pedestrian crossing equipment at the Notch Road underpass did not represent a substantive change that would require DRB approval. This was forwarded to VTrans, which has since issued a state access permit.

Mallow Subdivision – Mr. Mallow asked to meet with the DRB regarding the regulations pertaining to road rights-of-way establishing a subdivision – but Mr. Malboeuf suggested that he instead meet with the Planning Commission regarding any requested changes to the regulations.

Harrington – Hearing continued to next meeting. Ms. Murray asked whether any information on utility (power) lines had been submitted. Other DRB members recalled that house would be off-grid.

Preston-Lafreniere Farm – no subdivision application has been filed. Ms. Murray noted that it looked like they had conducted soils tests for septic suitability, as recommended by the DRB in sketch plan review.

HMPG Building Elevations – Cara Labounty has been in contact with Mr. Malboeuf regarding the town's hazard mitigation planning grant to elevate up to eight buildings in the floodplain above the base flood elevation, which will require DRB review and approval under the flood regulations. It was agreed that individual applications would have to be filed for each property – given that the specifics pertaining to each may differ – but that the DRB could schedule a joint hearing to consider them concurrently.

Route 2 Staging Area – Mr. Malboeuf noted that equipment and material storage at the staging area had extended beyond the project completion date, in part because of broken processing equipment. Ms. Murray asked whether the town had received any notice regarding the length of extension, given that a notice of violation had been issued for use of this site. Mr. Malboeuf indicated that he had received nothing to date.

4. Meeting Minutes

Ms. Pender made the motion to “accept the minutes of the August 26, 2014 meeting as presented.”
Seconded by Ms. Murray. Motion passed 4-0.

5. DRB Staff Position

Mr. Rainville reported that the town had received six inquiries and four resumes in response to the Town Clerk's ad for DRB assistance. The DRB discussed whether a staff or contract position was more appropriate given requested duties and qualifications. Ms. Murray noted that the intent, given the town's budget, was to contract for services from a qualified contractor, rather than create a new staff position – in part because there would be no staff support for training or supervision. The person hired would need to be able to work independently, on an as needed basis. She contacted the Chittenden Regional Planning Commission who has been providing contracted DRB staff support for other communities, and they charge \$50 per hour.

DRB members estimated it would take at around 10 hours per month to review applications, prepare staff reports, attend meetings, and draft decisions – but this would necessarily vary based on the number and type of applications.

DRB members then reviewed and discussed each of the resumes submitted and agreed that one of the four clearly stood out as most qualified for the type of work requested, having done this for two other towns in the region. Mr. Rainville will contact her to determine her availability and hourly rate, if hired on a contract basis. Ms. Murray also agreed to follow up with the regional planning commission to see if

they could provide 10 hours of assistance per month, through the end of the fiscal year. Mr. Rainville and Ms. Murray will also follow up with the Select Board.

6. Other Business

No other business.

7. Meeting Adjournment

Ms. Pender made the motion to adjourn the meeting, seconded by Mr. Diglio. Motion carried unanimously, 4-0. The meeting adjourned at 7:55 pm.

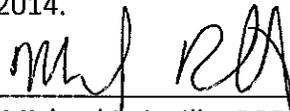
The next regular meeting of the DRB will be held on Tuesday, October 28th, 2014, 6:30 pm at the Bolton Town Office. Ms. Pender noted she will not be able to attend the meeting.

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 October 28, 2014.



Michael Rainville, DRB Chair

