



# Town of Bolton Development Review Board

Bolton Town Office  
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Steven Utter  
Conditional Use/Replacement of Nonconforming Dwelling  
Application #2014-27-CU  
April 30, 2015

## Applicant

Steven Utter  
364 CVU Road  
Hinesburg, VT 05461

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**Property:** 378 Sharkyville Rd.

## Application

(Application materials on file at the Bolton Town Office)

The applicant has requested a setback reduction to replace a pre-existing, nonconforming dwelling with a new seasonal dwelling on an existing 1.0-acre nonconforming lot located on the Sharkyville Road in the Rural II District. The proposed dwelling will increase the degree of noncompliance within the required front yard setback by an additional 32 square feet (4%); but will reduce the overall degree of noncompliance by 209.5 square feet (27%).

The application has been reviewed by the Bolton Development Review Board (DRB) as a conditional use under Section 3.8 (B)(4) pertaining to the replacement and enlargement of a nonconforming structure under the Bolton Land Use and Development Regulations (BLUDRs) as amended, effective August 9, 2010, and applicable zoning district criteria (Table 2.5) and conditional use review standards (Section 5.4). The Development Review Board's procedural history and relevant findings are attached.

## Decision – Conditional Use Approval

- Denied
- Approved
- Approved with Conditions:**

1. The proposed 3-bedroom dwelling shall not exceed 24' x 28' and shall be sited as indicated on the site plan provided by Grenier Engineering, last revised 10-14-14.
2. The applicant must 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.
3. The site plan shall be filed with the Zoning Administrator prior to the issuance of a zoning permit which shows the location and dimensions of the new dwelling as approved by the Development Review Board.
4. All other required state and municipal permit and approvals, including a state potable water supply and wastewater system permit, must be obtained prior to the start of construction.

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- 1 5. The driveway shall accommodate two parking spaces, as required by Section 3.11 (Parking, Loading,  
2 and Service Areas).  
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4 6. A certificate of occupancy must be obtained from the Zoning Administrator following the  
5 construction but prior to occupancy and use to ensure that is has been constructed as approved by  
6 the Development Review Board, as required under Section 9.4 of the BLUDR.  
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8 7. Certification that the replacement dwelling meets applicable state Residential Building Energy  
9 Standards (RBES) must be recorded in the land records of the town prior to the issuance of a  
10 certificate of occupancy.  
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12 8. These conditions of approval shall run with the land and are binding upon and enforceable against  
13 the permittee and his successors. By acceptance of this permit, the permittee agrees to allow  
14 authorized representatives of the Town of Bolton to access the property subject to this approval, at  
15 reasonable times, for purposed of ascertaining compliance with the conditions of approval.  
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17 **Approved with conditions (4-0) by the Bolton Development Review Board:**  
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Michael Rainville – Yea  
John Devine – Yea  
Stephen Diglio– Yea  
Charmaine Godin – absent  
Sharon Murray – Yea

**Dated at Bolton, Vermont this 30th day of April, 2015.**

**For the Development Review Board:**



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Michael Rainville, Chair



## **Findings & Conclusions**

The applicant's request for conditional use approval was reviewed by the Bolton Development Review Board (DRB) for conformance with applicable requirements of the Bolton Land Use and Development Regulations (BLUDR) in effect as of January 5, 2005, and amended through August 9, 2010, including the following:

- Rural II District (Table 2.5)
- Section 3.6 Lot, Yard, & Setback Regulations
- Section 3.7 Nonconforming Lots
- Section 3.8 Nonconforming Uses and Structures
- Section 3.16 Steep Slopes
- Section 3.18 Water Supply and Wastewater Systems
- Section 5.4 Conditional Use Review
- Section 5.3 Site Plan Review (as incorporated and considered under Section 5.4)

DRB findings and conclusions under each of these are presented as follows.

### **Zoning District Standards (Table 2.5 Rural II District)**

**Conclusion:** Based on the following findings, the DRB has determined that the existing lot and dwelling are legally established, pre-existing nonconformities that do not meet current zoning district standards as required in Table 2.5 and are therefore subject to nonconforming lot and nonconforming structure standards under Sections 3.7 and 3.8 of the regulations.

1. The existing lot and dwelling are located on Sharkyville Road, a privately owned and maintained road, in the Rural II District, as shown on the Bolton Zoning Map and Bolton Tax Map.
2. The minimum lot area for the Rural II District is 10 acres. The minimum front setback distance in the Rural II District, as measured horizontally from the edge of the road right-of-way to the nearest point on the structure is 35 feet.
3. The existing lot, consisting of 1.0 acres, was established prior to the current zoning regulations. As such it is a legally established, pre-existing nonconforming lot.
4. The existing mobile home, sited on the property in 1950, also predates the current zoning regulations and as such is a legally established, pre-existing nonconforming structure.
5. The current dwelling is located within required front and side setbacks as shown on the site plan.
6. The rear of the property contains steep slopes as indicated on the site plan.
7. The proposed dwelling will be sited to meet the required side setbacks; however it cannot meet the required front setback distance of 35 feet from the edge of the road right-of-way, because of the steep slope located along the rear of the property.

**Nonconforming Lots (Section 3.7) and Nonconforming Uses and Structures (Section 3.8)**

**Conclusion:** Based on the following findings, the DRB has determined that the proposed dwelling will reduce the degree of noncompliance, based on the total square footage located within required setback areas.

8. Under Section 3.8(B) of the current regulations, in the event that no reasonable alternative exists, the Development Review Board may allow a nonconforming structure to be structurally enlarged, expanded, extended, modified or located in a manner that increases the degree of noncompliance up to 50% as a conditional use subject to conditional use review under Section 5.4.
9. Degree of noncompliance is defined as any enlargement or structural alteration which extends the footprint, height, or volume of a structure within a required setback distance.
10. The replacement dwelling will increase the degree of noncompliance within the front yard setback by 32 square feet (4%) but eliminate existing encroachments within side setbacks, decreasing the overall square footage of noncompliance from 769.5 square feet to 560 square feet (209.5 square feet or 27%).
11. Given the location steep slopes and septic system replacement areas on the lot, as shown on the site plan dated 10-14-14 last revised, no other reasonable alternative location exists for the proposed dwelling.

**Steep Slopes (Section 3.16)**

**Conclusion:** Based on the information provided by the applicant, the DRB finds that the proposed project will not impact areas defined as Steep Slopes under Section 3.16 of the BLUDR. The proposed dwelling has been sited to avoid areas of steep (15+%) and very steep slope (>25%).

12. The rear of the lot on which the existing and proposed dwelling includes a very steep slope (drop off), as indicated on the site plan dated 10-14-14, last revised.
13. The new dwelling will be sited to avoid this slope, resulting in its encroachment into the required front setback area.

**Water Supply and Wastewater Systems (Section 3.18)**

**Conclusion:** The new dwelling will be served by a relocated wastewater system as shown on the site plan provided by Grenier Engineering PC. State permits must be secured prior to the issuance of a zoning permit by the Zoning Administrator.

14. The wastewater system will be relocated as shown on the site plan provided by Grenier Engineering PC dated 10-14-14, last revised.
15. The replacement system has been designed by a qualified professional, licensed by the state.
16. The relocated system must be approved by the Vermont Department of Environmental Conservation in accordance with the Environmental Protection Rules as most recently amended.

**Conditional Use Review (Section 5.4)**

**Conclusion:** Based on the following findings, the DRB concludes that the proposed dwelling, as indicated on the provided site plan prepared by Grenier Engineering PC (dated 10-14-14, last revised), will have no undue adverse effect on the capacity of existing and planned community services and facilities, the character of the area affected, traffic on Sharkyville Road, bylaws currently in effect, or the use of renewable energy resources.

17. **Community Facilities and Services.** The lot is served by onsite wastewater system, a private water source, and local emergency services. The replacement dwelling will result in no additional demand for existing community facilities and services.
18. **Character of the Area.** This area of the Sharkyville Road includes a limited amount of existing rural residential development. The proposed dwelling replaces an existing dwelling and as such will result in no change to the existing, rural residential character of the area, as defined for the Rural II District under Table 2.5, to allow for limited, compatible, lower densities of development that maintain Bolton's rural character.
19. **Traffic and Highways.** The replacement dwelling will not result in any increase in traffic on the Sharkyville Road. No change to the existing access has been proposed. Encroachments within the front setback area are located outside of the road right-of-way and therefore will not interfere with road maintenance.
20. **Bylaws.** No other municipal bylaws or ordinances apply to this project.
21. **Energy Efficiency, Renewable Energy Resources.** The proposed dwelling will replace a pre-existing non-conforming mobile home on the property. The proposed dwelling will be required to follow current Residential Building Energy Standards (RBES). An RBES Certificate must be recorded in the Town Land Records prior to the issuance of a certificate of occupancy by the Zoning Administrator.

**Site Plan Review (Section 5.3)**

**Conclusion:** Based on the following findings, the DRB concludes that the proposed dwelling will meet the applicable general site plan review standards.

22. **Parking, Loading & Service Areas.** Site plan review standards regarding parking are applicable to this project. As specified under Section 3.11 (Parking, Loading, and Service Areas) single family dwellings are required to have two parking spaces per dwelling unit. The driveway accommodates two cars. No change to the existing driveway or number of parking spaces is proposed.