



Town of Bolton Development Review Board

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Mr. Steven Utter
Amended Conditional Use Review
Application #2016-02-ZP/CU
April 12, 2016

Applicant 9

Mr. Steven Utter 10
364 CVU Road 11
Hinesburg, VT 05461 12

Property: 378 Sharkyville Road 13
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Application

(Application materials on file at the Bolton Town Office)

The applicant, Steven Utter, has requested approval to amend a previously approved DRB decision [2014-27-CU] issued on April 30, 2015 for a setback reduction to replace a pre-existing nonconforming structure. The applicant requested to amend Condition #1, allowing for a 6' x 24' covered porch, extending the footprint of the previously approved 24' x 28' dwelling. The requested 6' x 24' porch will extend ±3' into the side setback and an additional ±1' into the front setback, increasing the degree of noncompliance by an additional 84 square feet beyond the previous approval (totaling a 15% increase in the degree of nonconformance). The revised project will reduce the overall degree of noncompliance by ±65.5 square feet (8.5%). The previously approved dwelling and proposed 6' x 24' porch are located on an existing 1.0-acre nonconforming lot located on the Sharkyville Road in the Rural II District.

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:**

The DRB hereby approves the amendments requested by the applicant Steven Utter as listed in the application and shown on site plan titled 'Steven & Deanna Utter Sharkyville Road Bolton', Sheet No. 1 of 1, prepared by Grenier Engineering PC, last revised February 26, 2016, subject to the following conditions of approval:

1. The DRB approves revising Condition # 1 in order to allow for a 6' x 24' covered porch attached to the north wall of the previously approved 24' x 28' dwelling. The porch and the previously approved dwelling shall be sited as indicated in the site plan prepared by Grenier Engineering, last revised February 26, 2016.

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- 1 2. At the Applicant's discretion, the Board allows relocation of the primary dwelling and attached
2 porch farther away from the rear slope, with documentation submitted to the Zoning
3 Administrator that it does not increase the degree of noncompliance by more than 50% as
4 allowed under the regulations.
- 5 3. The Applicant must obtain a zoning permit from the Zoning Administrator prior to beginning site
6 work and construction. In the event that a zoning permit has not been obtained within one year
7 of the date of this decision, DRB approval shall expire and reapplication shall be required.
- 8 4. The approved revised site plan shall be filed with the Zoning Administrator prior to the issuance
9 of a zoning permit which shows the location and dimensions of the approved 6' x 24' covered
10 porch and previously approved dwelling.
- 11 5. All conditions of previous conditional use approval dated April 30, 2015, except as amended
12 herein, remain in full force and effect.
- 13 6. These conditions of approval shall run with the land and are binding upon and enforceable
14 against the permittee and his successors. By acceptance of this permit, the permittee agrees to
15 allow authorized representatives of the Town of Bolton to access the property subject to this
16 approval, at reasonable times, for purposes of ascertaining compliance with the conditions of
17 approval.

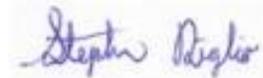
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Approved with conditions (5-0) by the Bolton Development Review Board:

Stephen Diglio—Yea
Michael Rainville – Yea
Sharon Murray – Yea
Adam Miller, Alternate –Yea
Rob Ricketson, Alternate – Yea
John Devine – absent
Charmaine Godin – absent

Dated at Bolton, Vermont this 12th day of April, 2016.

For the Development Review Board:



Stephen Diglio, Chair

The DRB adjourned the hearing that evening, following the submission of testimony and evidence, marking the start of the 45-day period for the issuance of written findings and a decision.

Findings & Conclusions

The applicant's request for amended 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 are presented as follows.

Condition #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."

Conclusion: Based on the following findings, the request to amend Condition #1 to allow a 6' x 24' covered porch on the previously approved dwelling, is consistent with and will not substantively alter prior conditions of approval. 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 is 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. The DRB approved replacement of this structure in a decision dated April 30, 2015, allowing for a 24' x 28' single family dwelling.

5. The previously approved dwelling is located within required front setback as shown on the site plan prepared by Grenier Engineering, last revised February 26, 2016. Portions of the proposed 6' x 24' covered porch are located within both the required front and side setbacks.
6. The rear of the property contains steep slopes as indicated on the provided site plan.
7. The proposed 6' x 24' covered porch attached to the previously approved dwelling will be sited to meet the required rear setback; however it cannot meet the required side setback distance of 50 feet or the front setback distance of 35 feet (as measured from the edge of the road right-of-way) due to the nonconforming lot size and 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 6' x 24' covered porch and previously approved dwelling will reduce the overall 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 proposed 6' x 24' covered porch will increase the degree of noncompliance within the front and side yard setbacks by an additional ±84 square feet but will decrease the overall square footage of noncompliance from ±769.5 square feet to ±704 square feet (±65.5 square feet or 8.5%).
11. Given the lots small size and location of steep slopes, no other reasonable alternative location exists for the proposed 6' x 24' porch.

Conditional Use Review (Section 5.4)

Conclusion: Based on the following findings, the DRB concludes that the proposed porch, as indicated on the provided site plan prepared by Grenier Engineering PC (last revised February 26, 2016), 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.

12. **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.

13. **Character of the Area.** This area of the Sharkyville Road includes a limited amount of existing rural residential development. The proposed 6' x 24' porch and previously approved 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.
14. **Traffic and Highways.** Approval of a 6' x 24' covered porch on the previously approved 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 setback area are located outside of the road right-of-way and therefore will not interfere with road maintenance.
15. **Bylaws.** No other municipal bylaws or ordinances apply to this project.
16. **Energy Efficiency, Renewable Energy Resources.** The proposed 6' x 24' porch and previously approved 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.