



Town of Bolton Development Review Board

Bolton Town Office
3045 Theodore Roosevelt Highway
Waterbury, VT 05676
802-434-5075

VT Dept. Forests, Parks, and Recreation
Conditional Use Review-
Application #2017-23-DRB
August 7, 2017

Applicant

VT Dept. Forests, Parks, and Recreation
Jason Nerenberg
111 West Street
Essex Junction, VT 05452

Application

(Application materials on file at the Bolton Town Office)

In partnership with the Bolton Conservation Commission and the Friends of the Winooski River, the Vermont Department of Forests, Parks and Recreation (state), represented by Jason Nerenberg, ANR Stewardship Forester, has requested conditional use approval for pedestrian access and trail improvements to the Winooski River in Camel's Hump State Park. The Applicant proposes to install a new 150' long at-grade trail, public water access/pedestrian path down to the river. 100' of the 36" wide path will be at-grade and top dressed with 4" of gravel to allow for handicapped access. This section of path will extend from existing Long Trail Parking down to the mean high-water mark for the Winooski River. The final 50' section of the path will be stone steps and some minor stabilization to allow for public access, including canoe access, to the Winooski River. The path and stone steps are located at a section of river with existing surface bedrock at the waterline. The project area is located within Camel's Hump State Park in the Conservation zoning district.

The application has been reviewed by the Bolton Development Review Board (DRB) as a conditional use under the Bolton Land Use and Development Regulations (BLUDRs) as amended, effective August 9, 2010, applicable zoning district criteria (Table 2.7), surface water setback and riparian buffer criteria (Section 3.17), and conditional use review standards (Section 5.4).

The Development Review Board's procedural history and relevant findings are attached.

Decision –Conditional Use

- Denied**
- Approved**
- Approved with Conditions:**

1. 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.
2. The proposed trail and related improvements shall be located as shown on the provided site plan and described in the application.

3. Site disturbance, clearing and grading shall be limited to those areas identified as proposed trail improvements on the site plan and discussed during the hearing.
4. All other required state and municipal permits and approvals must be obtained prior to the start of construction.
5. Any future enlargement or alteration will require additional review and approval by the Bolton Development Review Board.
6. These conditions of approval shall run with the land and are binding upon and enforceable against the permittee and his successors. By acceptance of this permit, the permittee agrees to allow authorized representatives of the Town of Bolton to access the property subject to this approval, at reasonable times, for purpose of ascertaining compliance with the conditions of approval.

Approved with conditions (3-0) by the Bolton Development Review Board:

Michael Rainville – Yea
Robert Ricketson – Yea
John Devine – Yea

Dated at Bolton, Vermont this 7th day of August, 2017.

For the Development Review Board:



Michael Rainville, Acting Chair

NOTICES:

1. In accordance with 24 V.S.A. § 4449(e), applicants are hereby notified that state permits also may be required prior to land subdivision or construction. The applicant should contact the DEC Permit Specialist for District #4 (802-879-5676) to determine whether state permits are required.
2. The applicant or another interested person may request reconsideration of this decision by the Development Review Board, including associated findings and conditions, within 30 days of the date of this decision by filing a notice of appeal that specifies the basis for the request with the Secretary of the Development Board. Pursuant to 24 V.S.A. § 4470, the board may reject the request within 10 days of the date of filing if it determines that the issues raised on appeal have already been decided or involve substantially or materially the same facts by or on behalf of the appellant.
3. This decision may also be appealed to the Environmental Division of the Vermont Superior Court by the applicant or another interested person who participated in the proceeding before the Development Review Board. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Division Court Proceedings.
4. In accordance with 24 V.S.A. § 4455, on petition by the municipality and after notice and opportunity for hearing, the Environmental Division may revoke this permit based on a determination that the permittee violated the terms of the permit or obtained the permit based on misrepresentation of material fact.

Review Process

(Application materials, hearing notices, meeting minutes on file at the Bolton Town Office)

An application to construct a pedestrian trail and river access improvements was filed by Jason Nerenberg and Kenneth Brown on June 28, 2017. The application was accepted as complete by Bolton Zoning Administrator Sarah McShane and referred to the Bolton Development Review Board for a public hearing. A public hearing of the DRB was scheduled for July 27, 2017 and warned by the Zoning Administrator in accordance with Section 9.8(D)(1) of the regulations and 24 V.S.A. §4464.

The public hearing to consider the application convened on July 27, 2017, 6:45 PM at the Bolton Town Office with a quorum of the DRB present. No ex parte communications or conflicts of interests were reported. The following persons attended and participated in the hearing process, and may be afforded status as interested persons with rights to appeal:

- Kenneth Brown, ANR Regional Trails Coordinator, VT Dept. Forests, Parks, and Recreation, 11 West Street, Essex Junction, VT 05452

The following materials were submitted in support of the application and entered into the hearing record:

1. Application to the Development Review Board, dated 6/28/2017;
2. Project Description (1 page), no date;
3. Attachment A – Sketch of Graveled Trail Cross Section, no date;
4. Attachment B- Project Location Map, no date;
5. Attachment C- Site Overview, no date;
6. Attachment D- Site Topography, no date;
7. Building/Zoning Permit Application, dated 6/29/2017;
8. ANR Natural Resource Atlas showing special flood hazard area, dated 7/2/2017;

9. Copy of general permit application, received 7/13/2017;
10. Copy of permit #FP-1-0024-GP Flood Hazard Area & River Corridor General Permit, received 7/27/2017.

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 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:

- Conservation District (Table 2.7)
- Flood Hazard Overlay District (Table 2.8)
- Surface Waters and Wetlands (Article III, Section 3.17)
- Conditional Use Review (Section 5.4)

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

Zoning District Standards (Table 2.7 Conservation District) & Surface Waters & Wetlands (Section 3.17)

Conclusion: The DRB has determined the proposed development involves no change to the dimensional characteristics of the lot. The proposed development will meet the dimensional, use and supplemental standards of the Conservation District in which it is located.

1. **Lot Area.** The project area is located in Camel's Hump State Park. No changes to lot area are proposed. The existing lot meets the current minimum district lot area requirement of 25 acres.
2. **Frontage.** The existing lot contains frontage on the Winooski River and Duxbury Road. No changes to the lot frontage are proposed. The existing lot meets the current minimum district road frontage requirement.
3. **Setbacks.** The project area contains an existing signage/message board and a gravel parking area. The proposed realigned trail and related river access improvements will be located within the 150-foot riparian setback, as measured from the top of the Winooski River bank. For the purposes of preventing surface runoff and soil erosion, protecting water quality, and riparian wildlife habitat, the BLUDR's require under Section 3.17 a minimum setback of 150 feet from the Winooski River, and that a 75-foot undisturbed, vegetated riparian buffer be established or maintained along the river, as measured horizontally from the top of the streambank. The proposed trail and river access improvements will be located within the 75-foot riparian buffer. Unpaved pedestrian and recreational paths are allowed encroachments within the riparian buffer, subject to conditional use review by the Bolton Development Review Board.
4. **Use.** Recreational and Outdoor uses are allowed in the Conservation district as conditional uses.

Flood Hazard Review (Section 5.5)

Conclusion: The proposed project is located within the Flood Hazard Overlay District. Since the project is a “state or community-owned and operated facility” as defined under 24 VSA Section 4413, the Board relies on the Vermont Department of Environmental Conservation to determine compliance with the 2016 Flood Hazard Area & River Corridor General Permit and Flood Hazard Area & River Corridor Rule. During the hearing, the Applicant provided a copy of permit # FP-1-0024-GP dated 7/29/2017. No further information or documentation is required.

Conditional Use Review (Section 5.4)

Conclusion: Based on the following findings, the Board concludes that the proposed pedestrian trail realignment and river access improvements, as indicated on the provided application materials and discussed during the hearing, if constructed as approved, 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 Duxbury Road, bylaws currently in effect, or the use of renewable energy resources.

The capacity of existing or planned community services or facilities.

5. The proposed trail and river access improvements will be accessed from an existing gravel parking area and curb cut off Duxbury Road. No changes are proposed to the existing parking area or highway access. The proposed trail realignment will result in no additional impacts to existing or planned community facilities.

The character of the area affected.

6. The Applicant is proposing to realign an existing pedestrian trail and to improve river access to provide a safer outdoor recreational experience. The trail is proposed to be approximately 100 feet in length and connect to the Long Trail. The stated purpose of the Conservation District is to “protect Bolton’s generally remote and inaccessible mountainous areas—which include significant headwaters and aquifer recharge areas, unique and fragile natural areas, critical wildlife habitat, and mountainsides and ridges characterized by shallow soils and steep slopes – from fragmentation, development, and undue environmental disturbance, while allowing for the continuation of traditional uses such as forestry and outdoor recreation.”
7. The proposed trail realignment and river access improvements have been designed to minimize impacts on natural resources, including riparian buffer and setback areas.

Traffic on roads and highways in the vicinity.

8. The proposed trail realignment and river access improvements will be accessed from an existing gravel parking area off Duxbury Road. No changes to the parking area or existing access are proposed. The proposed trail realignment is not expected to generate additional vehicle trips that would negatively impact or result in any increase in traffic on the Duxbury Road.

Bylaws in effect.

9. Applicable bylaws include the Bolton Land Use & Development Regulations. No other municipal bylaws or ordinances apply to this project.

The utilization of renewable energy resources.

10. No change is proposed with regard to the use of, or access to, the utilization of renewable energy resources. The project will not interfere with the sustainable use of renewable energy resources, access to, direct use or future availability of such resources. Minor clearing of vegetation is proposed to accommodate the trail realignment and river access improvements.