



Town of Bolton
3045 Theodore Roosevelt Highway
Bolton, VT 05676

Bolton Development Review Board
Meeting Minutes
February 25, 2016
Bolton Town Office

DRB Members Present: Michael Rainville (Chair), Sharon Murray, John Devine, Adam Miller (Alternate), Steve Diglio

DRB Members Absent: Charmaine Godin, Rob Ricketson (Alternate)

Staff Present: Sarah McShane, DRB Assistant, Miron Malbeouf, Zoning Administrator

Others Present: Bob Provost, Bill Greene, David Sunshine, Joss Besse, Victoria Congdon, Quinn Keating.

Posted Agenda:

1. Public Comment
2. Warned Public Hearings
 - a. Appeal of Zoning Administrator's Decision dated October 6, 2015- Applicant David Sunshine for Property Owners Randy & Misty Couch. 81 Gardiner Lane, Tax ID 4-4040081. Resort Residential Zoning District.
 - b. Conditional Use Review- Enlargement of Existing Nonconforming Barn in the Riparian Setback of Mill Brook. Applicant/Property Owner: Quinn & Christina Keating. 177 Mill Brook Road, Tax ID 01-0060177. Rural I Zoning District.
 - c. Sketch Plan Review- Boundary Line Adjustment. Applicants Jonathan & Hillary Besse and Victoria Congdon. 5458 Stage Road (Tax Map 07-081.000) & 3699 Stage Road (Tax Map 07-093.000). Rural I Zoning District.3. ZA Report
3. Zoning Administrator's Report
4. Meeting Minutes
5. Other Business
6. Meeting Adjournment

Call to Order

Mr. Rainville, Chair, called the meeting to order at 6:35pm with a quorum present.

1. Public Comment

Bob Provost & Bill Greene provided public comments. Mr. Provost stated that he is interested in the Latham mobile home sales parcel and that he understands that the parcel is within the floodplain. He also stated that he is aware that residential development on the parcel would need on-site water and septic. He asked the board to clarify the residential density that could be achieved on the parcel if the project was submitted as a PUD. Ms. Murray stated that in order to do a PUD the project would also need subdivision approval since the town's regulations link subdivision and PUD. He stated that he would like to achieve the mobile home density by subdividing the property into four lots and constructing four units on each lot. If possible he would like to have 2-bedroom detached units but it will depend on the soil capacity for septic. He described the project as a pocket neighborhood or pocket community. Ideally he would cluster the housing and create an open community space to create the

1 feeling of a neighborhood. He stated that he recently completed a similar project in Waterbury. Board
2 members discussed the site constraints being in the floodplain and needing on-site water and septic, but
3 encouraged Mr. Provost to research the soil capacity and base flood elevation. Mr. Provost will do
4 additional research. Depending on the results of his research, he may file an application for sketch plan
5 review in the near future.
6

7 **2. Public Hearing: Appeal of Zoning Administrator's Decision dated October 6, 2015- Applicant**
8 **David Sunshine for Property Owners Randy & Misty Couch. 81 Gardiner Lane, Tax ID 4-4040081.**
9 **Resort Residential Zoning District.**

10 Mr. Rainville opened the hearing and provided an overview of the application. No ex parte
11 communications or conflicts of interest were reported. He stated that appeals of the Zoning
12 Administrator are subject to review under Section 9.5 and 9.6 of the Bolton Land Use and Development
13 Regulations. Attorney David Sunshine was present at the hearing to represent the property owners
14 Randy and Misty Couch. The applicants are appealing the written determination from Bolton Zoning
15 Administrator, Miron Malboeuf, dated October 6, 2015 regarding the possibility of future development
16 on the parcel located at 81 Gardiner Lane. The property contains a stream and is currently is
17 undeveloped. Zoning Administrator Miron Malboeuf determined in writing that given the location of
18 the stream, the lot was not suited for development. The Applicants have not submitted a building or
19 zoning application for any development.
20

21 Mr. Sunshine provided an overview of his clients request and provided hand-outs to board members.
22 He stated that the lot was subdivided in 1992 and received a state subdivision permit. He stated that
23 the property owners asked the Zoning Administrator if they could build on the lot and Mr. Malboeuf
24 denied the request in writing. He provided an overview of Section 1.3 of the Bolton zoning regulations
25 regarding development on pre-existing lots. Mr. Diglio stated that at one point a primitive structure was
26 erected on the lot but it was no longer present. Mr. Sunshine stated that there is evidence of footings.
27 Ms. Murray stated that the town did not have subdivision regulations in 1992 but did have zoning
28 regulations. She stated that the Planning Commission was in charge of reviewing subdivisions at the
29 time. Ms. Murray noted that at the time the town did have stream setback requirements and the Board
30 would need to research whether or not the lot ever received local town approval and whether or not
31 the lot could be considered grandfathered.
32

33 Mr. Malboeuf stated that he never viewed anything in the town land records that indicated it received
34 any approvals from the town. Ms. Murray asked whether or not it received an Act 250 permit. Mr.
35 Sunshine stated that he has not found any evidence that it received Act 250 permit. Mr. Diglio asked if
36 the lot next door received a zoning permit for the construction of the dwelling on the lot. Mr. Malboeuf
37 stated that he did not issue the permit and the dwelling constructed before he was the Zoning
38 Administrator.
39

40 Ms. Murray stated that the Board needed to consider whether or not the lot was legally in existence and
41 pre-date the town's zoning regulations. Mr. Sunshine stated that the state subdivision permit is for
42 eight lots and is listed under Bolton Valley Corp. Mr. Sunshine stated that there is reference to an Act
43 250 permit amendment.
44

45 Mr. Rainville asked how the board should proceed. Mr. Malboeuf stated that only one of the lots has
46 been developed with a residential dwelling. Ms. Murray asked whether or not the Board could consider

1 it a pre-existing nonconforming lot. If so, the lot could be grandfathered. She also stated that even if
2 the lot was considered grandfathered, it would still need to meet setbacks. If the lot was considered
3 nonconforming and pre-existing it would be easier to obtain a variance. Ms. Murray noted that the
4 Board would need to have a zoning application and a variance application in order to approve
5 development on the lot. Mr. Malboeuf noted that a zoning application was never submitted and that he
6 made his determination based on the regulations.

7
8 Ms. Murray stated her concern that if the Board granted grandfathered status to the lot, it would be
9 effectively grandfathering all of the other lots. She also stated that it would be helpful to figure out
10 whether or not the town ever reviewed and approved the subdivision. She stated that at the time of
11 subdivision, the Planning Commission reviewed subdivision proposals. The board discussed the lack of
12 town records and the difficulty in making a determination based on incomplete records. Ms. Murray
13 stated that the Board should speak to the town attorney for legal counsel. She also told Mr. Sunshine
14 that the board would need a zoning permit application in order to know the amount of setback
15 reductions being requested.

16
17 The board also discussed whether or not some of the lots should be considered merged if they are in
18 common ownership. Ms. Murray stated that the board has a copy of the variance application but was
19 not provided a site plan. Mr. Sunshine stated that his client would be requesting a variance from the
20 stream setback and that the board should consider the setbacks of the footings as indicated on the
21 recorded plat. Mr. Rainville asked if Mr. Sunshine's client simply wanted to know whether or not the lot
22 was buildable. Mr. Rainville stated that the lot is potentially buildable with a variance.

23
24 Mr. Sunshine stated that there is no evidence one way or another if the project ever received local town
25 approval for the subdivision. The board reiterated the need to know where the footprint would be
26 located and the setbacks from the stream would need to be maximized in order to approve the variance.
27 Ms. Murray noted that the Board would need both a zoning permit application and an associated site
28 plan to act on. The board suggested for the site plan to show both the proposed structure and all
29 proposed site improvements. At this point, the only thing the board can confirm is that there are
30 physical constraints on the property that would require a variance. There was agreement that the board
31 should try to research whether or not the lot ever received town zoning and subdivision approval. The
32 board also recommended that Mr. Sunshine submit a site plan showing the distances from the property
33 lines, streams, and the proposed structure. The outstanding question is whether or not the lot is a
34 legally pre-existing non-conforming lot.

35 At 8:25 PM, Ms. Murray made a motion, seconded by Mr. Devine to continue the hearing to March 24,
36 2016 at 6:30 PM at the Bolton Town Hall. The motion passed unanimously, 5-0. The hearing is
37 continued to March 24, 2016. Ms. McShane will work with Mr. Sunshine and the Town Clerk to do the
38 background research.

39
40 **Public Hearing: Conditional Use Review- Enlargement of Existing Nonconforming Barn in the Riparian**
41 **Setback of Mill Brook. Applicant/Property Owner: Quinn & Christina Keating. 177 Mill Brook Road,**
42 **Tax ID 01-0060177. Rural I Zoning District.**

43 Mr. Rainville opened the hearing and provided an overview of the application. No ex parte
44 communications or conflicts of interest were reported. He stated that the Applicant and property

1 owner, Quinn Keating, submitted an application for conditional use approval to enlarge a
2 nonconforming structure [accessory barn] within the Mill Brook riparian setback [portions also within
3 the front setback as measured from Mill Brook Road right-of-way.] The subject property is approximately
4 0.72 acres and is located at 177 Mill Brook Road, which is located in Rural I zoning district. The property
5 contains a stream (Mill Brook), a single family dwelling, and an accessory structure (barn). The existing
6 barn (795 SF) is entirely (100%) within the riparian setback and is 100% nonconforming as defined under
7 Section 3.8.

8
9 Mr. Keating stated his project will keep the same footprint, but will add an additional story; increasing
10 the degree of nonconformance as measured in volume. Mr. Keating showed the board the location of
11 the barn and stated that his project is out of the riparian buffer, but within the setback. He stated that
12 the footprint is expanding two feet on either side, but will not be expanding closer to the stream or to
13 the road. He reviewed the existing and proposed square footage. The board calculated the existing
14 degree of nonconformance to be 6360 cubic feet. The Board calculated the degree of nonconformance
15 to be under the 50%; approximately 27.16%.

16
17 Mr. Keating stated that the closest portion of the barn to the Mill Brook (top of bank) is 67 ft as
18 measured in the field and the project is entirely within the riparian setback but will not impact or disturb
19 the riparian buffer. Ms. Murray noted that the board would need to review the conditional use criteria.
20 Ms. Murray noted that previously the board has required as a condition of approval that the buffer be
21 re-established or remain intact. Mr. Keating stated that he has no plans for development activities
22 within the buffer. The Board asked if there were any natural resources on the property that would be
23 impacted. Mr. Keating noted that the project would not impact any natural resources.

24
25 The Board reviewed the conditional use criteria. Ms. Murray noted that the area is rural residential in
26 character and that the project would not increase the traffic on the road. The Board asked if Mr.
27 Keating knew when the barn was constructed. Mr. Besse, neighboring property owner present at the
28 hearing, stated that the barn existed pre-1978.

29
30 Mr. Diglio made a motion, seconded by Ms. Murray close the hearing. The motion passed unanimously,
31 5-0. The DRB will issue a written decision within 45 days. Ms. McShane will issue the zoning permit
32 upon the issuance of the DRB decision.

33
34 **Sketch Plan Review- Boundary Line Adjustment. Applicants Jonathan & Hillary Besse and Victoria**
35 **Congdon. 5458 Stage Road (Tax Map 07-081.000) & 3699 Stage Road (Tax Map 07-093.000). Rural I**
36 **Zoning District.**

37 Mr. Rainville opened the sketch plan meeting and provided an overview of the application. No ex parte
38 communications or conflicts of interest were reported. He stated that sketch plan review is an informal,
39 pre-application review process intended to acquaint the DRB with a proposed project during the
40 beginning stages of the process and helps identify the requirements of the regulations and whether or
41 not an application will be classified as major or minor.

42
43 The Applicants, Jonathan & Hillary Besse and Victoria Congdon were present at the meeting to provide an
44 overview of the request. The applicants have requested sketch plan review under Section 6.3 for a

1 boundary line adjustment of a co-owned 0.66 acre lot (07-081.000) located off from Mill Brook Road.
2 The parcel is currently undeveloped. The Applicants are requesting approval to split (dissolve) the
3 existing co-owned 0.66 acre lot. Under the proposal the southern half of the lot would merge with an
4 existing lot owned by Jonathan & Hilary Besse (parcel 07-074.000) and the northern half of the lot would
5 be merged with the lot owned by Victoria Congdon (parcel 07-093.000).

6
7 Mr. Besse stated that he would like the board to review the application and to consider whether or not
8 the proposal is exempt from subdivision review. If the proposal is exempt from subdivision review, the
9 boundary line adjustment could be administratively approved. Ms. Congdon stated that she would like
10 to have the land across the street in the event that her septic system failed. In the unfortunate event,
11 the land across the street could be used for replacement septic system.

12
13 The Board reviewed the application and discussed whether or not it could qualify as an administrative
14 boundary line adjustment. The applicants stated that there are no plans to develop the parcel other
15 than with the possible septic replacement system. The board voiced concerns regarding the proposed
16 parcel being divided by the road and that if it was administratively approved there wouldn't be any
17 conditions attached to the permit.

18
19 Ms. Murray stated that the parcels would need to be kept in common ownership and could not be
20 subdivided or separately conveyed in the future, and that a plat would need to be recorded within 180
21 days of receiving administrative zoning approval.

22
23 The Board discussed their requirements following sketch plan review. Ms. Murray stated that the DRB
24 will issue in writing a follow-up letter stating its conclusion that the proposal is exempt from subdivision
25 review and is eligible for administrative review and approval. The Board discussed including
26 recommending conditions of approval to be incorporated within the zoning permit approval. The Board
27 noted that the boundary line adjustment would need to receive a zoning permit and a plat be recorded
28 in the town land records. They also noted that Ms. Congdon's parcel would not be eligible for future
29 subdivision and that the parcels on either side of Mill Brook Road could not be separately transferred.

30 At 8:25 PM, Mr. Diglio made a motion, seconded by Ms. Murray, to exempt the proposed boundary line
31 adjustment from subdivision review subject to the Boards recommendations and conditions. The Board
32 will issue a follow-up letter stipulating the conditions. All in favor (5-0). The Board will issue a letter
33 with recommended conditions to be attached to the administrative zoning permit. The Applicant will be
34 responsible for submitting the revised deeds and survey plat.

35
36 **3. Zoning Administrator's Report**

37
38 None

39
40 **4. Meeting Minutes**

41
42 Members reviewed the minutes from January 28, 2016. Ms. Murray made a motion, seconded by Mr.
43 Diglio to accept the minutes of January 28, 2016 with minor revisions. The motion passed unanimously,
44 5-0.

45 **5. Other Business**

1
2 None

3
4 **6. Meeting Adjournment**

5
6 Ms. Murray made a motion, seconded by Mr. Devine, to adjourn the meeting. Motion passed
7 unanimously, 5-0. The meeting adjourned at 8:35 PM.

8
9 The next DRB meeting will include the organizational meeting. The board will also discuss the meeting
10 schedule for the coming year.

11
12 The next DRB meeting will be held on March 24, 2016 at the Bolton Town Office at 6:30 PM.

13
14 Respectfully submitted,

15
16 Sarah McShane
17 Bolton DRB Assistant

18
19 ***These minutes are unofficial until formally accepted by the DRB.***

20
21 These minutes were read and accepted by the Development Review Board on March 24, 2016.



22
23
24 _____
Michael Rainville, DRB Chair