Town of Bolton
Development Review Board

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

Joseph Grossman & Katherine Kain
Subdivision/Conditional Use Review-Amendment
Application #2014-30-SD/CU (Amendment)
November 8, 2016

Applicant/Property Owner:

Joseph Grossman & Katherine Kain
17 Myers Court
South Burlington, VT 05403

Property: 14 Honey Hollow Rd, Bolton, VT

Application

(Application materials on file at the Bolton Town Office)

The Applicants, Joseph Grossman and Katherine Kain, have requested approval to amend a previously approved DRB decision (#2014-30-SD/CU) issued on December 11, 2014. The Applicants have requested to amend Condition 10 to allow overhead utility lines, rather than the previously required below ground utility lines.

The application has been reviewed by the Bolton Development Review Board (DRB) as an amendment to a previously approved subdivision/conditional use under the Bolton Land Use and Development Regulations (BLUDRs) as amended, effective August 9, 2010, and applicable zoning district criteria (Tables 2.7), subdivision standards (Article VIII) and conditional use review standards (Section 5.4). The Development Review Board's procedural history and relevant findings are attached.

Decision –Subdivision/Conditional Use Amendment

☐ **Denied**
☐ **Approved**
☒ **Approved with Conditions:**

The DRB hereby approves the amendments requested by the Applicants as listed in the application and supporting materials, subject to the following conditions of approval:

1. The DRB approves revising Condition #10 to allow overhead utilities to serve the subdivided lot located at 14 Honey Hollow Road. The overhead utility lines shall run from the existing service pole as indicated in the provide application materials.
2. All conditions of previous subdivision and conditional use approval, except as amended herein, remain in full force and effect.
3. 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 purposed of ascertaining compliance with the conditions of approval.

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

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

Dated at Bolton, Vermont this 8th day of November, 2016.

For the Development Review Board:

_____
Stephen Diglio, 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 amend a condition of a previously approved DRB decision (#2014-30-SD/CU) was filed by Joseph Grossman & Katherine Kain on October 4, 2016. 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 October 27, 2016 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 October 27, 2016, 6:30 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:

- Joseph Grossman & Katherine Kain, 17 Myers Court, South Burlington, VT 05403

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

1) Application to the DRB, dated 9/28/2016;
2) Project Description and Overview of Request, no date;
3) Proposed Residential Wastewater System details and site plan, dated 9/24/2014;
4) Photograph of property and existing service pole, no date;
5) DRB Decision [Subdivision/Conditional Use Review-Amendment] dated 7/2/2015;
6) DRB Decision [2014-30-SD/CU] dated 12/11/2014.

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 subdivision/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, and specifically under the following relevant prior conditions of approval #2014-30-SD/CU:

Condition #10.

> "*New utility lines serving the subdivided lot shall be buried, unless otherwise approved by the Development Review Board.*"

Findings:

1. Section 7.7(E)(1) requires all utilities within the subdivision to be located underground, unless the Development Review Board determines that burial is not necessary to preserve the scenic character of the area, or that it is prohibitively expensive.

2. The subject parcel contains portions of the historic Preston-Lafreniere Farm and is located entirely within the Conservation zoning district, as shown on the Bolton Zoning Map and regulated under Table 2.7.

3. The Conservation District is characterized by high elevation forest, environmentally sensitive upland areas, traditional land uses including forestry and outdoor recreation, and permanently conserved lands in public ownership.

4. Although the farmhouse is located within the Conservation District, which generally precludes residential development, the farmhouse received conditional use approval by the DRB for adaptive

reuse as a single family residence, consistent with its historic use, and therefore associated utility line service extensions may also be allowed, consistent with this use. Previous subdivision approval included a standard provision for utility line burial as required under Section 7.7(E)(1).

5. The Preston-Lafreniere Farmstead is listed on the National Register of Historic Places and is protected by deeded historic restrictions. Alterations to the farmstead are required to follow the Secretary of the Interior's Standards for the Treatment of Historic Properties (37 CFR Part 70), as previously required by the DRB under Condition #11.

6. During the hearing the Applicants provided testimony indicating that the location of the proposed septic system interferes with running below ground utility lines and that the cost of below ground utilities exceeds three times the cost of overhead utilities.

7. The Applicants are proposing to run overhead utilities from an existing service pole as indicated in a provided photograph. The farmstead, including the farmhouse, was served by above ground utility lines at the time of its designation as a historic property. The Applicants provided testimony that it is their intent to re-establish existing service connections and bring them up to code.

Conclusion: Based on the above findings, the proposed line extension and connection will not alter features of the setting, site, or structure which are important in defining the historic character of the property and is consistent with these standards.