



Town of Bolton Development Review Board

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

Michael Thompson & Lisa Fuller
Conditional Use- Accessory Structure
Application #2015-11-CU & 2015-11-ZP
August 27, 2015

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Applicant(s)

Lisa Fuller & Michael Thompson
3251 Theodore Roosevelt Hwy
Bolton, VT 05676

Property: 3251 Theodore Roosevelt Hwy, Bolton, VT

Application

(Application materials on file at the Bolton Town Office, procedural history attached.)

The applicants, Lisa Fuller and Michael Thompson, request conditional use approval under Sections 5.2 and 5.5 of the Bolton Land Use and Development Regulations to construct a 20' x 20' accessory structure (small horse barn) in the Village (V) and Flood Hazard Overlay (FHO1) Districts.

The subject parcel (#02-036-002), located at 3251 Theodore Roosevelt Highway (RT 2) in the Village and FHO1 Districts, is approximately 4.23 acres and includes an existing single family dwelling and day care facility. The proposed accessory structure will be used to shelter the applicants' horse. As such it does not qualify as an agricultural structure that is exempt from municipal regulation. The application has been reviewed by the Bolton Development Review Board (DRB) under applicable standards of the Bolton Land Use and Development Regulations (BLUDRs) in effect as of January 26, 2005, as amended for the purposes of flood hazard area regulation through August 9, 2010.

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

Decision –Conditional Use Approval

- Denied
- Approved
- Approved with Conditions

The proposed 20' by 20' accessory structure (small barn), as described in the application dated 6-15-2015 and associated supporting materials, is hereby approved by the Development Review Board for construction on the applicants' property, located at 3251 Theodore Roosevelt Highway within the Village and Flood Hazard Overlay I Districts, subject to the following conditions of approval:

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.

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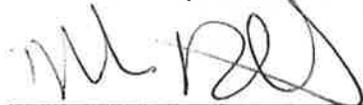
- 1 2. The site plan shall be filed with the Zoning Administrator prior to the issuance of a zoning permit
2 which shows the location and dimensions of the accessory structure as approved by the
3 Development Review Board.
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- 5 3. Prior to the issuance of a Certificate of Occupancy by the Bolton Zoning Administrator, the applicant
6 shall furnish as-built elevations and documentation that all required state and municipal approvals
7 have been obtained.
8
- 9 4. The building shall be constructed using only flood resistant materials below the Base Flood Elevation
10 (BFE) of 336 feet, as indicated on the elevation certificate and shown on building elevations, and
11 must be adequately anchored to resist floatation, collapse, and lateral movement. All building
12 utility equipment, including electrical and heating equipment, must be elevated above the BFE or
13 flood-proofed. Guidance regarding FEMA-accepted flood resistant materials is available from the
14 Zoning Administrator.
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- 16 5. The fully enclosed area of the accessory structure below the base flood elevation, shall be designed
17 to automatically equalize hydrostatic forces on exterior walls by allowing for the entry and exit of
18 flood waters, to include at least two openings with a total of 960 square inches of open space, based
19 on the total area of the structure below the BFE, represented as 400 sq. ft. The bottom of all
20 openings shall be no higher than one foot above grade. Openings may be equipped with screens,
21 louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit
22 of floodwaters.
23
- 24 6. The accessory structure shall be used solely for the purpose of housing animals, equipment, and
25 storage, excluding the storage of chemicals, explosives, flammable liquids or other hazardous or
26 toxic materials, which is prohibited. Use for human habitation, including residential or office space,
27 is also specifically prohibited.
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- 29 7. These conditions of approval shall run with the land and are binding upon and enforceable against
30 the permittee and his successors. By acceptance of this permit, the permittee agrees to allow
31 authorized representatives of the Town of Bolton to access the property subject to this approval, at
32 reasonable times, for purposed of ascertaining compliance with the conditions of approval.
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34 **Approved with conditions (4-0) by the Bolton Development Review Board:**
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Michael Rainville – Aye
John Devine – Aye
Stephen Diglio – Absent
Charmaine Godin – Aye
Sharon Murray – Aye

Dated at Bolton, Vermont this 27th day of August, 2015.

For the Development Review Board:



Michael Rainville, 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)

A zoning application to construct an accessory structure (small horse barn) in the Flood Hazard Overlay District was filed by Lisa Fuller and Michael Thompson on April 24, 2015. The application was referred to the Bolton Development Review Board for a public hearing by the Bolton Zoning Administrator Miron Malboeuf. A public hearing of the DRB was scheduled for July 23, 2015 and warned by the Zoning Administrator in accordance with Section 9.8(D)(1) of the regulations and 24 V.S.A. §4464. A copy of the application was also forwarded for review and comment to Rebecca Pfeifer, Vermont Floodplain Management, as required under Section 5.5(E) of the regulations.

The public hearing to consider the application was convened on July 23, 2015, 6:30 PM at the Bolton Town Office with a quorum of the DRB present. Ms. Murray noted that she had recused herself from Select Board consideration of the applicants request to waive permit fees in order to participate in the DRB hearing. No other 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:

- Lisa Fuller & Michael Thompson, Applicants
3251 Theodore Roosevelt Highway, Bolton, VT 05676

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

- Application (2015-11-CU) dated 6-15-2015 by applicant;
- Draft Selectboard minutes from 7-6-2015;
- Flood Insurance Rate Map (2 pages);
- Elevation Certificate for 3251 Theodore Roosevelt Hwy dated 5-30-2012;
- Site plan of proposed barn, no date;

- Sketch drawing/elevations of proposed barn, received 7-21-2015;
- Building/Zoning permit application 2015-11-ZP, dated 4-24-2015;
- Email Correspondence from Rebecca Pfeiffer, Re: Horse Barn (for one horse) in Village District (FHO1), dated 6-24-2015.

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:

- Table 2.1 Village District
- Table 2.8 Flood Hazard Area Overlay District
- Section 5.5 Flood Hazard Review

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

Zoning District Standards (Table 2.1 & 2.8)

The proposed accessory structure to be used to house the applicants' horses, is a permitted use in the underlying zoning district, and meets district dimensional requirements.

1. **Zoning Districts.** The 20' x 20' (400 sq. ft) proposed accessory structure to an existing, single family dwelling, is located on an existing 4.23 acre parcel with direct access to and frontage along the Theodore Roosevelt Highway (Rt. 2), in the Village and Flood Hazard Overlay I Districts.
2. **Lot Area, Frontage.** The lot is located in the Village District, and meets minimum district lot area (1 acre) and road frontage (100 feet) requirements.
3. **Setbacks.** Required minimum district setbacks are front (15'), side (25') and rear (25'). The proposed accessory structure, as shown on the site plan, is located outside of these setback areas.
4. **Building, Lot Coverage.** The building lot coverage for the underlying zoning district is a maximum of 40%. The applicant did not provide the existing and proposed lot coverage, however the existing dwelling footprint and proposed 400 sq. ft. accessory structure are clearly less than the district maximum (1.68 acres or 73,181 square feet).
5. **Use.** The proposed accessory structure is accessory to the existing single family dwelling and will be used to shelter the applicants' horse. As such, it is a permitted use within the Village District, but does not meet the definition of a farm structure subject to state review.

Village Flood Hazard Overlay District (FHO I) (Table 2.8)

The proposed accessory structure is located within Zone AE of a mapped flood hazard area (Map Number 50007C0432D, effective July 18, 2011) outside of the floodway. Accessory structures are allowed within the FHO I District, subject to flood hazard area review under Section 5.5.

6. **Location.** The lot, including the portion to be developed, is located within Flood Zone AE outside of the mapped floodway as shown on the DFIRM (Map Number 500070432D, effective July 18, 2011). It is therefore located in the FHO I District under the regulations as amended, effective August 9, 2010.
7. **BFE.** The current Base Flood Elevation (BFE) is 336 feet as indicated on the Elevation Certificate dated 5-30-12 as surveyed by Chris Haggerty VT LS #741.
8. **Building Elevation.** As indicated in the provided application materials, the proposed accessory structure will be constructed entirely below the Base Flood Elevation (BFE)

Flood Hazard Review (Section 5.5)

The 20' by 20' (400 sq. ft.) structure meets the regulatory definition of a "small accessory building" under 5.5(F)(12) that represents minimal investment, and as such can be built below the documented BFE of 336 feet, subject to restrictions regarding building siting, construction and use. If construction is completed as proposed, the structure will be reasonably safe from flooding, be constructed using methods and practices that minimize flood damage and provide adequate flow and drainage during and following a flood event.

9. **Required Review.** Since the accessory structure is a permitted use within the underlying Village District, the criteria for conditional use review are limited to applicable flood hazard area review criteria under Section 5.5. Separate review under Section 5.4 (Conditional Use Review) standards is not required.
10. **Small Accessory Structure.** The proposed 20' x 20' (400 sq. ft.) accessory structure meets the regulatory definition of "small accessory structure" (500 sq. ft. or less), representing a minimal investment which per 5.5(F)(12), may be built below the base flood elevation.
11. **Site Drainage.** The site of the proposed accessory structure is generally level with good drainage. No excavation or grading is proposed except as incidental to construction.
12. **Use.** According to the applicant, the accessory structure will be used as a small barn to store animals (horses) and equipment. No chemicals, explosives, flammable liquids or other hazardous or toxic materials, as prohibited in this district, will be stored on site. It will not be used for human habitation.
13. **Anchoring.** According to the applicant, the proposed barn will be constructed generally parallel to the flow of floodwater, and be firmly anchored to prevent flotation, collapse, release or lateral movement during a base flood event.
14. **Floodproofing.** Floodproofing is not required for small accessory structures having enclosed areas below the BFE that are to be used solely for parking, building access, or limited storage.

15. **Openings, Vents.** The fully enclosed area of the accessory structure below the base flood elevation, calculated at 400± sq. ft., will be designed to automatically equalize hydrostatic forces on exterior walls by allowing for the entry and exit of flood waters, to include a minimum of two openings having a minimum total of 960 square inches of open area. The bottom of all openings must be no higher than one foot above grade.
16. **Materials.** The applicant testified that the horse barn will be constructed using flood resistant materials including nine poles, and rough lumber siding.
17. **Equipment.** The applicant has not yet determined whether the accessory structure will have electrical utilities. All electrical and heating systems must be installed above the BFE or be flood-proofed as required under the regulations and related NFIP program standards.
18. **Required Permits.** The applicant has submitted an application for a zoning permit from the Town, subject to conditional use approval by the Development Review Board. A Certificate of Occupancy, issued by the Zoning Administrator, is also required following construction, but prior to use of the accessory structure. No other required permits or approvals have been identified by the applicant or DRB.