



Town of Bolton Development Review Board

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

Mike and Paula Gervia
Conditional Use- Flood Hazard Area Review
Application #2016-19-ZP/CU
August 1, 2016

Applicant(s)

Mike & Paula Gervia
3553 Theodore Roosevelt Hwy
Waterbury, VT 05676

Property: 3553 Theodore Roosevelt Hwy, Bolton, VT

Application

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

The applicants, Mike and Paula Gervia, request conditional use approval under Sections 5.2 and 5.5 of the Bolton Land Use and Development Regulations to elevate their existing 1,152 sq. ft. single-story single family dwelling above base flood elevation (BFE) in the Village (V) and Flood Hazard Overlay (FHO1) Districts. The dwelling will be elevated above a new garage, constructed on a new foundation. No change to the existing building footprint is proposed.

The subject parcel (Map 15 #2003553, located at 3553 Theodore Roosevelt Highway (RT 2) in the Village and FHO1 Districts, is approximately 0.8 acres and includes an existing single family dwelling and an attached garage. 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 elevation of the single family dwelling located at 3553 Theodore Roosevelt Highway above a new garage, so that the lowest floor is one foot above the established Base Flood Elevation (BFE) of 335.8 feet, as described in the application dated 7/5/2016 and associated supporting materials, is hereby approved by the Development Review Board 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.
2. The existing basement is to be filled with clean, compacted fill and capped as described in the application. The new foundation may not exceed or extend beyond the footprint of the existing foundation, except as necessary to accommodate approved construction.

3. The building below the BFE shall be constructed using only flood resistant materials, as specified in the application. All building utility equipment, including electrical and heating equipment, must be elevated above the BFE or flood-proofed. Additional guidance regarding FEMA-accepted flood resistant materials is available from the Zoning Administrator.
4. The fully enclosed area of the garage below the BFE, shall be designed to automatically equalize hydrostatic forces on exterior walls by allowing for the entry and exit of flood waters, to include sufficient number and sizing of flood vents to accommodate the new at-grade garage below the elevated home. At minimum, two vented openings shall be provided that have a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters. Prior to the issuance of a zoning permit, the permittee shall document the number, type, sizing and location of vents to be installed, as required under the regulations, including the submission of associated flood venting calculations. The Zoning Administrator shall confirm the accuracy of the flood venting calculations with the DRB Chair prior to the issuance of the permit.
5. The fully enclosed garage below the BFE shall be used solely for the purpose of parking, building access, and storage, excluding the storage of chemicals, explosives, flammable liquids or other hazardous or toxic materials, which is prohibited. This restriction shall also be incorporated under future deeds of conveyance.
6. Prior to the issuance of a Certificate of Occupancy by the Bolton Zoning Administrator, and occupancy of the elevated dwelling, the applicant shall furnish documentation that all required state and municipal approvals have been obtained and submit an as-built FEMA Elevation Certificate, documenting that the dwelling has been elevated at least one foot above the BFE, as approved. The Applicant shall also supply the manufacturer cut sheets for the flood vents.
7. 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:

Michael Rainville – Yea

John Devine – Yea

Stephen Diglio– Yea

Sharon Murray –Yea

Adam Miller (Alternate) – Yea

Dated at Bolton, Vermont this 1st day of August, 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)

A zoning application to elevate the existing single family dwelling in the Flood Hazard Overlay District was filed by Mike and Paula Gervia on July 5, 2016. The application was referred to the Bolton Development Review Board for a public hearing by the Bolton Zoning Administrator Sarah McShane. A public hearing of the DRB was scheduled for July 28, 2016 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 28, 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:

- Mike & Paula Gervia (Applicants), 3553 Theodore Roosevelt Hwy, Bolton, VT 05676
- Cara LaBounty, Representing Applicants, 2900 E. Main St., Richmond, VT 05477

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

- Cover sheet/project narrative addressed to DRB from Applicants, dated 7/5/2016;
- Application (2016-19-ZP/CU) dated 7/5/2016 by applicant;
- Flood Insurance Rate Map;
- Copy of Hazard Mitigation Grant Program Project Application (4 pages), dated 8/4/2014;
- Elevation Certificate for 3553 Theodore Roosevelt Hwy (4 pages), dated 8/4/2014;
- Photographs of subject dwelling (3 pages), no date;

- Town of Bolton Listers' Card, no date;
- Messier House Moving and Construction, Inc. Contractor Estimate & Application, dated 7/26/2014;
- Shawn Walker Construction, Project Estimate, dated 8/1/2104;
- Invoice from Button Professional Land Surveyors, PC, (1 page), dated 7/31/2014;
- Hazard Mitigation Grant Program Applicant Funding Certification (25% Match Certification), dated 8/2/2014;
- Department of Homeland Security FEMA Declaration and Release (2 pages), signed 8/2/2014;
- Description of proposed use of garage space and flood resistant construction materials, dated 7/6/2016;
- Hand drawn site plan, no date;
- Sketch drawing/elevations, no date;
- Email Correspondence from Rebecca Pfeiffer, Re: Town of Bolton Flood Hazard Area Review-Zoning Application- Request for Comments dated 7/7/2016;
- Email Correspondence from Rebecca Pfeiffer, Re: Town of Bolton Flood Hazard Area Review-Zoning Application- Request for Comments dated 7/28/2016.

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)

1. **Zoning Districts.** The existing single family dwelling, is located on an existing 0.8 acre parcel with direct access to and frontage along the Theodore Roosevelt Highway (US 2), in the Village and Flood Hazard Overlay I Districts.
2. **Lot Area, Frontage.** The 0.8 acre parcel is located in the Village District and does not meet the minimum district lot area of 1 acre. As such it is a pre-existing nonconforming lot, as defined under the regulations. The provided site plan indicates that the lot contains 140' of frontage along US 2, satisfying the 100' district requirement.
3. **Setbacks.** Required minimum district setbacks are front (15'), side (10') and rear (10') for residential uses. The existing single family dwelling, as shown on the site plan, is located outside of these setback areas.

4. **Building, Lot Coverage.** The applicant did not provide the existing lot coverage, however no change or increase in the existing footprint has been proposed.
5. **Use.** The existing residential structure is used as a single-family dwelling. No change of use is proposed. Single-family dwellings are a permitted use within the Village District.

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

The existing dwelling is located within Zone AE of a mapped flood hazard area (DFIRM Map Number 50007C0319, effective July 18, 2011) outside of the floodway. Single-family dwellings are allowed within the FHO I District, subject to flood hazard area review under Section 5.5.

6. **Location.** The lot is located within Flood Zone AE outside of the mapped floodway as shown on the DFIRM (Map Number 50007C0319, 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 335.8 feet as indicated on the Elevation Certificate dated 8/4/14 as surveyed by Chris Haggerty VT LS #741.
8. **Building Elevation.** As indicated in the provided application materials, the first floor of the existing single-family dwelling will be elevated one foot above the Base Flood Elevation (BFE).

Flood Hazard Review (Section 5.5)

The applicant proposes to elevate the first floor of the existing dwelling at minimum 1.0 feet above the BFE, as represented in the application materials. If construction is completed as proposed, the structure will be reasonably safe from flooding, and be constructed using methods and practices that minimize flood damage.

9. **Required Review.** Since the existing single-family dwelling 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. **Site Drainage.** The existing parcel is generally level with good drainage. No excavation or grading is proposed except as incidental to construction, to include the installation of a new foundation constructed on top of the existing basement, within the same footprint. The existing foundation will be removed, and the basement will be filled with clean, compacted fill and capped by a slab floor.
11. **Use.** The existing single-family dwelling will continue to be used for residential purposes. No change in use is proposed. No chemicals, explosives, flammable liquids or other hazardous or toxic materials, as prohibited in this district, will be stored on site.
12. **Anchoring.** The elevated single-family dwelling will be firmly anchored, as described in the application, to prevent flotation, collapse, release or lateral movement during a base flood event. This will include the installation of concrete footings, foundation walls and sill straps.
13. **Floodproofing.** The garage constructed below the BFE will be wet-proofed, to include venting sufficient to equalize hydrostatic forces on exterior walls during flood events, the use of flood

resistant materials in construction, and the elevation of all utilities, to be relocated to a new utility room above the BFE.

14. **Openings, Vents.** According to the applicant, the fully enclosed area of the garage below the base flood elevation, will be designed and vented to automatically equalize hydrostatic forces on exterior walls by allowing for the entry and exit of flood waters; however the information provided by the applicant was insufficient to determine the type, number location and size of vents to be installed. The applicant has agreed to submit this information, including related calculations, prior to the issuance of a zoning permit and the start of construction.
15. **Materials.** The applicant provided a list of proposed flood resistant materials for construction including 2 x 6 pressure treated framing, ½" pressure treated sheathing/plywood, vinyl siding, foam installation, and solid vinyl windows.
16. **Equipment.** 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. The applicant testified that all utilities will be elevated in a new utility room located above the BFE.
17. **Required Permits.** The applicant must submit an application for a Town of Bolton zoning permit prior to building elevation and construction. A Certificate of Occupancy, issued by the Zoning Administrator, is also required following construction, but prior to occupancy or use of the elevated structure. No other required permits or approvals have been identified by the applicant or DRB.