



TOWN OF BOLTON

3045 Theodore Roosevelt Highway
Bolton, VT 05676

Bolton Development Review Board

Meeting Minutes

February 27, 2020

Bolton Town Office

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Present:

Members: Adam Beaudry, Adam Miller, John Devine.

Staff: Larry Lewack (Planning & Zoning Administrator), Amy Grover (acting clerk)

Others present: Sharon Murray, Robert Fett, Richard Weston, John Stuart, Julia Bunting, Nick Donowitz

12 **Posted Agenda:**

13 **6:30 PM Adjustments to Agenda & Public Comment** – Opportunity for public comment

14 **6:35 PM Warned Public Hearings: none**

15 **Application 2020-06-CU:** Applicant: Richard J. Weston, Property Owner: (same) – Request Conditional Use approval to build 1,290 sq.
16 ft. single family dwelling at 1811 Happy Hollow Road. The property is located in the Forest Zoning District. (Tax Map# 12-4101901)

17 **Application 2020-05-CU:** Applicants & Owners: Sharon Murray and Robert Fett. Request Conditional Use approval to remove hazardous
18 trees within Gleason Brook buffer and stabilize streambank at 3249 Duxbury /road. This property is located within the Rural I Zoning
19 District and Flood Hazard Overlay District. (Tax Map # 15-0013249)

20 **7:45 PM Meeting Minutes** – review & approve draft minutes of November 14, 2019 DRB mtg.

21 **7:50 PM Zoning Administrator's Report**

22 **8:00 PM Other business (if any)**

23 **8:05 PM Deliberative Session**

24 **8:20 PM Adjourn**

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26 **Call to Order:** With a quorum of 3 members present, the meeting was called to order by the Vice Chair at
27 6:45 p.m.

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29 **Public Comment & Changes to the Agenda:** Application 2020-05-CU was moved ahead in the agenda
30 while waiting for additional DRB members to arrive.

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32 **Public Hearings:**

33 **Application 2020-06-CU:** Applicant: Richard J. Weston, Property Owner: (same) – Request
34 Conditional Use approval to build a 1,290 sq. ft. single family dwelling at 1811 Happy Hollow Road.
35 The property is located in the Forest Zoning District. (Tax Map# 12-4101901)

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37 **Noted:** There was a lack of a quorum for the DRB to act upon this application tonight, because Adam Miller
38 would recuse himself from any decision. But we agreed the hearing could be opened as an informal
39 discussion with an opportunity for questions & answers, then continued to our next meeting.

- 40 • Larry Lewack noted that the DRB's denial of the original application was appealed by Mr. Weston.
41 That appeal is pending in Environmental Court & currently on hold, pending the outcome of DRB's
42 decision on this new application. Now Weston is proposing construction of a year-round, single

43 family dwelling (not a seasonal camp) in a different area of the applicant's property, on a plateau at
44 a lower elevation. The proposed approach utilizes part of the existing woods road to build an
45 improved driveway, with a new section which would access the new house site at elev. 1,825 ft.
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47 Access/Driveway

48 John Stuart stated that:

- 49 • The application does not propose building on slopes that exceed 25%.
- 50 • The proposed (finished, regraded) driveway will conform to the 15% grade standard or less. The
51 objective was to minimize cut and fill; several sections of the regraded driveway will be @ 14-15%.
- 52 • The driveway would have three emergency pull/turn outs, in addition to a turn-around area at the
53 house. (Turn-out design is not clearly indicated on site plan, currently.) Discussion:
 - 54 ➤ Adam Miller questioned construction of turn-outs on property not owned by the applicant.
55 John Stuart stated that the turnouts were sited in areas that could be constructed relatively
56 easily, without a lot of cut and fill.
 - 57 ➤ It was noted that existing woods road runs extensively through the Ford property, which is
58 now owned by the VA (in foreclosure). John Stuart stated that he contacted a representative
59 of the VA and had provided them with the plans and description, noting that improvements
60 to the road in that area are minimal, although some cut and fill would be required to meet
61 the 15% average grade standard.
 - 62 ➤ Adam Beaudry questioned the applicant's right to construct and maintain a road across four
63 other properties which the applicant does not own. Larry Lewack noted that deeds were
64 presented confirming a ROW to Weston. The question was if that deeded ROW allows that
65 level of regrading/cut and fill of the existing road, and perhaps a new road cut from the
66 existing roadway in Huntington, which may be an issue, and require a legal opinion. John
67 Stuart stated that Weston's 50' ROW extends to the top of the property, and that all of the
68 improvements would occur within that 50' ROW.
 - 69 ➤ Group discussion included current gated access to Happy Hollow Rd. above the cul-de-sac,
70 issues with mapped vs. actual location of Bolton and Huntington town boundary lines,
71 whether Happy Hollow Road is considered a Class 3 town highway in its Bolton section, and
72 where the Bolton Town Highway portion of Happy Hollow Rd. begins and ends. (Bolton
73 town property maps indicate Happy Hollow Rd. continues for several hundred feet above
74 the gate at the cul-de-sac, but it was noted that there are errors in the map.)
 - 75 ➤ Group discussion continued on the question of access across the lots.
 - 76 ○ John Stuart stated that there is deeded access across lots A, B, and C – the foreclosed lot
77 and the two Weston lots, and provided a previously unsubmitted document (to forward
78 a copy to PZA Larry Lewack), which he stated substantiated the right to use and
79 construct. Noted: a survey from 1976 is referenced in two deeds.
 - 80 ○ Brief group discussion on whether the construction referenced was the road which was
81 already constructed to access Weston's lots.
 - 82 ○ Adam Miller stated it would be advantageous for the applicant to follow up with his
83 attorney on the applicant's right to use land and to create a new access into his
84 property, as it is uncertain if the easement allows for that, and to provide a legal opinion
85 to the DRB that the applicant has the right to install this road and has the right to use
86 the neighbor's land in the way that is being proposed.

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Town Access Location – Huntington/Bolton

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- It was noted that the road access to the house site lies both in Huntington and Bolton, and it was questioned what jurisdiction Huntington has in this application process – that is unclear.
- Larry Lewack stated that he notified Huntington during the previous application process with no response. This time, he contacted the Town Clerk, Heidi Racht, to be sure that this new application is on their radar, and again noted we have invited Huntington to weigh in on the application, “bending over backwards to be certain that Huntington has that opportunity.”
- John Stuart stated that Huntington would be the town which responded to emergencies, and that the Huntington Fire Chief had visited the site.

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Maintenance Agreement

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- Larry Lewack noted that the proposed agreement for road maintenance does not appear adequate, adding that it would be easier if the other property owners were present and understood the proposed access. The first two paragraphs of the agreement seem OK, but the third paragraph (requiring property owners who did not sign the agreement to contribute to the cost of maintenance) is problematic. At issue is ownership by the VA; their unfamiliar with the property and the proposed conditions, and probable reluctance to agree to future responsibilities.
 - John Stuart stated that it’s their intention that all maintenance costs would be borne by the applicant, Richard Weston. He asked if the staff could provide an example from the land records of a shared maintenance agreement; Larry replied he would look for that.
 - Adam Miller stated that all parties using the improved woods road as their sole means to access their property need to have an agreement, that the maintenance language needs to be clarified and address whom is responsible for what parts, i.e. snowplowing, grading, and state what the parties are actually allowed to do, taking into account for differences in amounts/length of use and costs. In the current agreement, the applicant is responsible for maintaining the entire road and questioned going forward what would happen – adding that the DRB and PZA have to consider the next generation of property owners and their needs and issues.

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House/House Site

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John Stuart stated:

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- The house site is located on a plateau with a ridge behind it, not “visually offensive to anyone.”
- The group reviewed photos of the house site.
- The site plan gives the elevations; it’s at about 1,825 ft., about 200 feet lower than prior plan.
- The design of the house is very similar to what was proposed originally. It’s visually not aggressive, materials would blend with the environment.
 - Adam Miller asked what the plans were for electrical service and heating as it was a proposed year-round single-family home – there was infrastructure that required electrical consumption.
 - Richard Weston stated there would be a generator, gas furnace and woodstove, he was uncertain about utilizing a battery bank, and that solar consideration was on the table although siting/aspect was not optimal.
- The house would utilize the same sewage disposal area previously approved by the state, pumping uphill via a forcemain to that approved mound system.

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132 **Adam Miller made the motion to continue the hearing to the March 26, 2020 meeting. John Devine**
133 **seconded. There was no further discussion and the motion passed (3-0).**

134 John Stuart asked if all of the information would be disseminated to rest of the DRB members. Larry
135 Lewack stated yes, the meeting minutes would be available, and all application documents are available to
136 all DRB members. John Stuart is to forward any additional information to Larry Lewack.

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138 **Application 2020-05-CU:** Applicants & Owners: Sharon Murray and Robert Fett. Request Conditional
139 Use approval to remove hazardous trees within Gleason Brook buffer and stabilize streambank at
140 3249 Duxbury /road. This property is located within the Rural I Zoning District and Flood Hazard
141 Overlay District. (Tax Map # 15-0013249)

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143 Sharon Murray gave an overview of the project. She noted the application had two components:

144 1. Removal of 3 hazardous trees (a diseased cottonwood, a leaning pine tree, and a white pine which is
145 dropping limbs), ASAP while the ground is still frozen.

146 2. Stabilization of their portion of the stream bank along Gleason Brook.

147 Both components stem from damage sustained during the Oct. 31, 2019 Gleason Brook flood event.

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149 **Tree Removal within Gleason Brook buffer:**

- 150 • Two arborists & the County Forester inspected the trees and stated that they needed to come down.
- 151 • Smaller trees will need to be removed for tree removal equipment.
- 152 • They are trying to keep as many trees standing within the stream buffer as possible.
- 153 • The brook bank near the pine tree is being undercut by the brook.

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155 Adam Beaudry asked how far the trees were from the top of bank. Sharon Murray stated:

- 156 ○ Approximately 5', and that all of the trees were within the 50' stream setback buffer.
- 157 ○ Their property did not flood during Irene, but erosion had progressed since then with large boulders
158 being carried down the brook in storm events.
- 159 ○ There is available flood plain to the east on Scott Phillips' property.

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- 161 • The DRB members reviewed the Conditional Use/Flood Hazard area criteria with respect to the
162 tree removal, and determined there were no adverse effects/nonconformance issues other than
163 needing to move a crane and heavy equipment into place to remove the trees.

- 164 • Larry Lewack noted that, per Sec. 5.5, the application may need review by Rebecca Pfeiffer, SOV
165 CFM - Manager, River Corridor and Floodplain Protection Program / NFIP Coordinator. It wasn't
166 submitted prior to this hearing, but he believes that could be done after the fact, with any findings
167 included in the DRB's decision record.

168 **Adam Beaudry moved to approve the application for removal of the trees on the Murray/Fett**
169 **property as presented, and for the applicants to leave the tree stumps as part of stream**
170 **stabilization.** John Devine seconded. There was no further discussion, all were in favor, and the
171 motion passed (3-0).

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173 **Stabilization of Gleason Brook bank:**

- 174 • They are unsure of town's Gleason Brook stabilization plans, and will be meeting with the Selectboard
175 in March to discuss this. But they need to take action soon, due to the brook endangering their septic
176 system/leach field when in flood stage.

- 177 • Any stabilization of the stream bank will require a stream alteration permit from the state.
178 • Stabilization will require placing very large riprap in a small area to protect the leach field. Estimated
179 cost of \$20K – \$30K. Heavy equipment will have to be moved across their leach field.
180 • Group discussion of the Hazard Mitigation Plan, stream bank erosion in Bolton as a whole with respect
181 to climate change, the stabilization process, grant funding, property issues along all of Gleason Brook,
182 zoning regulation requirements, criteria for review of bank stabilization.
183 • DRB approval could be pending receipt of permits from the state, then submitted to the PZA for review
184 and approval (the town has secondary jurisdiction, just to ascertain that the state permit is in place).
185 • It was noted that no buildings were involved, no impervious surface, with no increase in risk to
186 property, once approved in concept.
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188 **Adam Beaudry made a motion to approve the application for stream bank stabilization along**
189 **the applicant's property on Gleason Brook, pending state permitting.** John Devine seconded.
190 There was no further discussion, all were in favor, and the motion passed (3-0).
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192 **Adam Beaudry made a motion to close the hearing.** John Devine seconded. There was brief discussion
193 on closing vs. continuance of a hearing and the approval process. All were in favor, and the motion passed
194 (3-0).
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196 Sharon Murray noted she would be happy to consider serving as a DRB alternate after July 2020.
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198 **November Meeting Minutes review:** John Devine made the motion to accept the November 14, 2019
199 minutes as presented. Adam Miller seconded. There was no further discussion and the motion passed
200 (3-0).

201 **Zoning Administrator Report:** provided to the board. Noted in the report:

- 202 • Permit applications & DRB applications have been sluggish year to date. He is hopeful that folks are not
203 waiting to secure permits for spring and summer construction. Bolton Valley Resort has a few projects
204 pending; they want to build an outdoor swimming pool behind the Sports Center; DRB review needed.
205 • The BLUDRs revision has moved through the Planning Commission hearing process, with the public
206 hearing held in January, PC wrapped up approving final drafts this week. Brief discussion of changes,
207 and the adoption process. *Noted:* this round of bylaw changes did not address any revision of 25%
208 slope standard, nor pending recommendations from Bolton Valley Village planning grant project re:
209 proposed zoning changes for Resort Village and Resort Residential district standards.

210 **Other business:** none.

211 **Deliberative Session:** none.

212 **Adjourn:** Adam Miller made a motion to adjourn the meeting. John Devine seconded. There was no
213 further discussion, all were in favor, and the motion passed (3-0). **The meeting adjourned at 8:20 p.m.**
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215 **Next scheduled DRB meeting:** Thursday, March 26th, 6:30 p.m. at the Town Office.

216 Respectfully submitted,

217 Amy Grover (acting DRB clerk) and Larry Lewack,
218 DRB Clerk, Planning & Zoning Administrator