

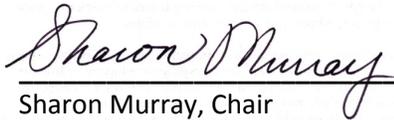
3. The garage shall be constructed in a manner that avoids disturbance to areas of steep slope on the property. Site clearing shall be limited to the area immediately adjacent to the north side of the existing dwelling. No site clearing or development shall occur on slopes in excess of 15% without approval from the Development Review Board.
4. Any outdoor garage lighting shall meet applicable requirements of Section 3.9 of the regulations. Lighting shall be the minimum required for safety, security and intended use. Lighting fixtures shall be cast downward or be designed to minimize glare, and shall not direct light upward or onto adjacent properties or roads. Lighting may include recessed, shielded or cutoff fixtures or low luminance lamps, and should include timers, dimmers or sensors.
5. The applicant shall 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.
6. The applicant shall obtain a certificate of occupancy from the Zoning Administrator immediately following construction, but prior to use of the garage, as necessary to conform that required setback distances, including the side setback distance as modified by this decision, have been maintained.
7. The conditions of this approval shall run with the land and are binding upon and enforceable against permittee and his successors. By acceptance of this permit, the permittee agrees to allow authorized representatives of the Town of Bolton to access the properties subject to this approval, at reasonable times, for purposes of ascertaining compliance with the conditions of approval.

**Approved with conditions (4-0) by the Bolton Development Review Board:**

Charmaine Godin (Alternate) – Yea  
Michael Hauser – Yea

Sharon Murray – Yea  
Susan Vita – Yea

**Dated at Bolton, Vermont this 14th day of April, 2012.**



Sharon Murray, Chair  
Bolton Development Review Board

**NOTICES:**

1. In accordance with 24 V.S.A. §4449(e), the applicants are hereby notified that state permits also may be required prior to land subdivision or construction. The applicants should contact the DEC Permit Specialist for District #4 (802-879-5676) to determine whether state permits are required.
2. This decision may be appealed to the Environmental Division of Superior Court by an interested person who participated in the proceeding before the Development Review Board. The 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 Court Proceedings.

additional 10 feet from the road edge. The existing dwelling meets the required setback from the road edge, if not the front property line. The proposed garage would be setback an additional 5 feet, or 40 feet from the road edge, generally conforming to the front setback requirement.

3. The minimum required setback distance from side and rear lot lines in the RII district is 50 feet. The existing dwelling, as shown on and measured from the site plan, is located 43 feet from the north lot line, within the required setback, and is therefore nonconforming. The proposed garage, as shown on the site plan, would be constructed within the side setback area, thereby increasing the degree of nonconformance.

### **Nonconforming Structures (Section 3.8)**

The existing lot and dwelling were legally established prior to January 26, 2005 when the current zoning district regulations went into effect, and are therefore defined as preexisting nonconformities. Because of development constraints (steep slopes) and the small lot area, there is no location on the parcel to site the proposed garage except within the side setback area. The proposed garage is sited and of a width (15 feet) intended to minimize the degree of noncompliance.

4. The lot and dwelling (previously a camp) predate district dimensional requirements in effect as of January 26, 2005, as testified to by the applicant, and by the Zoning Administrator Miron Malboeuf based on lister records. The dwelling is therefore a pre-existing nonconforming structure legally in existence at the time of application.
5. Under Section 3.8 of the regulations, the DRB may approve, subject to conditional use review, the structural expansion or extension of a nonconforming structure in a manner that increases the degree of noncompliance by no more than 50 percent, if no other reasonable alternative exists. As shown on the site plan, the attached garage would be sited 28 feet from the north property line, as scaled and re-measured from the nearest point, reducing the required setback distance by 44 percent. The garage, as shown, would be located at least 40 feet from the edge of the road, if not the front property line.
6. Areas of steep slope are generally shown on the septic site plan submitted with the application. Zoning Administrator Miron Malboeuf testified, based on a site visit, that the only suitable location on the site to construct a garage was the area immediately adjacent to and north of the existing dwelling, as shown on the site plan. This is the only level spot on the parcel—the septic system is located on the other side of the dwelling, and the rest of the lot behind the dwelling consists of steep slopes.
7. The garage width of 15 feet as shown on the site plan (reduced from 18 feet as specified on the application form) is intended to allow for functional vehicle storage space, while minimizing the degree of noncompliance.

### **Conditional Use Standards (Section 5.8)**

The proposed garage will not have an undue adverse impact to adjoining properties, roads and traffic in the vicinity, community services and facilities, or the character of the area, or under relevant site plan review criteria.

8. **Community Facilities & Services.** The garage, as an accessory structure to a single family dwelling, will have no impact of existing or planned community services and facilities. The lot is served by a private road, and private water and wastewater systems.