



Town of Bolton Development Review Board

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

In re: **Lafreniere Estate, Green Mountain Club
Final Subdivision Approval, March 6, 2013
Application #2012-19-SD**

Applicants

Estate of Ronald Lafreniere, Sr.
Ronald Lafreniere Jr., Executor
761 Duxbury Road
Waterbury, VT 05676

The Green Mountain Club
c/o Will Wiquist III, Executive Director
4711 Waterbury-Stowe Road
Waterbury Center, VT 05677

Application

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

The applicants have requested approval to subdivide a 2-acre lot from an existing, previously approved 164+/- acre lot (Lot #1) located at 895 Duxbury Road (Tax Map #8-0010895), to be conveyed to the Green Mountain Club (GMC). This lot is currently in agricultural use and is enrolled in the Vermont Use Value Appraisal Program. The 2-acre lot to be subdivided (Lot #2, as shown on the draft subdivision plat), is located between the Duxbury Road and the Winooski River to the north, with 229 feet of frontage along the Duxbury Road, in the Rural I (RI) and Flood Hazard Overlay II (FHO II) Districts. The GMC proposes to construct a footbridge across the Winooski River on the eastern portion of the lot, which will require separate approval from the Development Review Board. No additional development on either lot is proposed.

The lot to be subdivided (Lot#1) is included in a 3-lot subdivision as initially approved by the Bolton Development Review Board on May 26, 2002, amended on August 12, 2010 (with an extension granted on August 28, 2012), and recorded in the land records of the Town of Bolton. This application has been reviewed by the Bolton Development Review Board as a minor subdivision amendment under previous conditions of subdivision approval and the Bolton Land Use and Development Regulations (BLUDRs) as amended, effective August 9, 2010, including applicable zoning district criteria (Tables 2.4 and 2.8), flood hazard area regulations (Section 5.5) and subdivision standards (Article 7). The Development Review Board's procedural history and relevant findings are attached.

Decision – Final Subdivision Approval

(Supporting findings and conclusions attached.)

- Denied
 Approved
 Approved with Conditions:

1. The final survey plat, as herein approved by the DRB, shall be submitted for recording in the land records of the Town of Bolton within 180 days of the date of this approval, or the approval shall expire and reapplication for final subdivision approval shall be required. The applicants shall file the Mylar plat, signed by the Chair or other authorized representative of the Development Review Board, with the Town Clerk in accordance with the requirements of 27 V.S.A. Chapter 17, and

provide two paper copies and one digital copy of the recorded plat, and one copy of all supporting documentation to the Zoning Administrator.

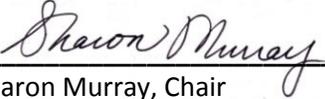
2. The survey plat shall carry the following endorsement:
Approved by the Development Review Board of the Town of Bolton, Vermont, on the 7th day of March, 2013, subject to all requirements and conditions of subdivision approval. Signed this ___ day of ___, 2013, by _____, for the Bolton Development Review Board.
3. The DRB has agreed to waive the requirement that Lot #1 (retained lot) be surveyed. As such, the final plat as recorded shall show lot lines, surveyed acreage and road frontage for the 2-acre parcel to be subdivided (Lot #2 as shown on the draft survey plat, dated January 6, 2012). Lot #2 on the draft plat is to be renumbered as Lot #4 on the final subdivision plat, to avoid confusion with lots previously subdivided from this parcel and recorded in the land records of the town.
4. All survey monuments and corner markers shown on the final plat, as submitted for recording, shall conform to the draft survey plat dated January 6, 2012.
5. The following, as required under the Bolton Land Use and Development Regulations, shall also be shown on the subdivision plat as submitted for recording:
 - 35-foot minimum setback distances from all property lines (Table 2.4).
 - 35-foot minimum setback distance from the Duxbury Road right-of-way (Table 2.4).
 - 150-foot minimum setback distance from the top of bank of the Winooski River (Section 3.17).
 - The location and extent of the mapped Special Flood Hazard Area (Base Flood Elevation), with a plat notation that this has been identified by the town as "Protected Open Space" (as required under Section 7.3)
6. No changes, modifications or other revisions that alter the approved plat, including the location of subdivision boundaries, lot lines, or conditions of plat approval shall be made without prior approval from the DRB. Any changes, modifications or revisions recorded without DRB approval shall be considered null and void.
7. Subsequent development on approved lots is subject to all applicable requirements of the Bolton Land Use and Development Regulations in effect at the time of application. Any additional development on the 2-acre lot to be subdivided and conveyed, including proposed bridge construction, shall require separate approval from the Bolton Development Review Board.
8. Except as amended herein, all conditions of prior subdivision approval as issued by the Development Review Board on May 22, 2002 and August 12, 2010 shall remain in full force and effect.
9. All other required state and municipal permits and approvals specific to the subdivision of land must be obtained prior to recording the subdivision plat in the land records of the Town of Bolton.
10. The conditions of this subdivision approval are binding upon and enforceable against the applicants as permittee and their successors. By acceptance of this approval, the permittees agree to allow authorized representatives of the Town of Bolton to access the property subject to this approval, at reasonable times, for purposes of ascertaining compliance with the conditions of approval.

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

Michael Hauser – Yea
Sharon Murray – Yea
Margot Pender – Yea

Michael Rainville – Yea
Susan Vita – Yea

Dated at Bolton, Vermont this 6th day of March, 2013.



Sharon Murray, Chair
Bolton Development Review Board

NOTICE:

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 applicant 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 the Vermont Superior Court by an 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.

Review Process:

(Application materials, hearing notices, minutes on file at the Bolton Town Office)

Sketch Plan Review. An initial application for subdivision approval, dated June 14, 2012, was filed by Ronald Lafreniere Jr., Executor of the Estate of Ronald Lafreniere Sr., landowner, and the Green Mountain Club as part of a larger application for the proposed development of a footbridge across the Winooski River in the Town of Bolton. The application and supporting documents were received by the Bolton Zoning Administrator on June 16, 2012 and forwarded to the Bolton Development Review Board (DRB) for sketch plan review, which was conducted at a regular meeting on the DRB, held on June 26, 2012. At this meeting, it was determined that the proposed development would require subdivision approval for the conveyance of land to the Green Mountain Club, conditional use approval for bridge and trail construction within a designated flood hazard area and required setbacks from the Winooski River, and for the construction of a proposed parking area along Route 2. The DRB agreed to concurrently hear and consider applications for subdivision and conditional use review in order to expedite the review process. The DRB also agreed to treat the proposed subdivision amendment as minor, and waive preliminary subdivision review, hearing and approval.

Subdivision Review. A formal application for final subdivision review, including additional application information and a letter from the applicants dated July 2, 2012 requesting that the DRB waive survey requirements for the larger parcel to be retained by the Lafreniere estate, was received by the Zoning Administrator on July 7, 2012 and forwarded to the DRB for hearing. The public hearing was scheduled for July 24, 2012, and warned in accordance with Section 9.8 of the Bolton Land Use & Development Regulations (BLUDRs), and 24 V.S.A. § 4464. A copy of the application was also referred to Flood Plain Management, Vermont Department of Environmental Conservation, for review and comment.

The public hearing to consider the application was convened on July 24, 2012, 6:30 pm at the Bolton Town Office with a quorum of the DRB present. There were no reported ex parte communications, conflicts of interest, or recusals. The hearing was continued, pending additional information from the state and the applicant, including information regarding final bridge design, through January 22, 2013. At the request of the applicants, the hearing on the subdivision portion of the application was adjourned that evening.

The following persons attended and participated in the hearing process, or submitted written comments prior to the hearing date, and may be afforded status as interested persons with rights to appeal this decision:

- Estate of Ronald Lafreniere, Sr., landowner and applicant, represented by Ronald Lafreniere, Jr., Executor.
- Green Mountain Club, applicant, represented by Will Wiquist, Executive Director, David Hardy, Director of Trail Programs and Susan Shea, Director of Conservation.
- Georgianna Bagby, property owner, located at 645 Duxbury Road.
- Vermont Floodplain Management, represented by Rebecca Pfeiffer.

The following materials in support of the application were submitted during the hearing process:

1. Completed application form, dated June 6, 2012 and required application fees.
2. Location Map (Application Exhibit A), dated 5/12/2012.
3. Project Narrative (Application Exhibit B)
4. Aerial photo of Lafreniere parcel (Application Exhibit H)

5. Draft Subdivision Plat (Plan Sheet #1), dated January 6, 2012, prepared by Christopher Haggerty, Vermont Licensed Surveyor (No. 741) (Application Exhibit H).
6. Survey waiver request, GMC letter dated July 2, 2012 (Application Exhibit H).
7. Letter from Francis W. Robinson IV and John G. Crock, UVM Consulting Archaeology Program, dated January 4, 2012, regarding their initial archaeological evaluation of the proposed bridge site (Application Exhibit J).

The following additional materials pertaining to the subdivision application were also received and reviewed by the DRB:

8. Federal Emergency Management Agency, Flood Insurance Rate Map Number 50007C0318D, effective July 18, 2011.

Findings and Conclusions

The applicants' request to subdivide a 2-acre lot from a previously approved 164+/- acre lot, as recorded in the land records of the town, was reviewed by the Bolton DRB for conformance with previous conditions of subdivision approval and applicable zoning district requirements (Rural I and Flood Hazard Overlay II Districts), flood hazard regulations (Section 5.5) and subdivision standards (Sections 7.2–7.4) of the Bolton Land Use and Development Regulations (BLU&DR) as amended, effective August 9, 2010. Board findings and conclusions under applicable standards under each of these standards are presented as follows.

Zoning District Standards (Tables 2.4, 2.8)

Proposed parcels conform to minimum zoning district dimensional requirements for the Rural I District in which they are located; however portions of each lot are also located within the Flood Hazard Overlay District, and are therefore subject to flood hazard review and approval under Section 5.5.

1. The subdivision of the previously approved 164-acre Lafreniere estate parcel will result in the creation of a 162+/- acre parcel, to be retained by the Lafreniere estate, and a 2-acre parcel to be conveyed to the Green Mountain Club, as shown on the proposed subdivision plat dated January 6, 2012.
2. The minimum lot size for the Rural I District is 2 acres (Table 2.4). Both lots meet or exceed the minimum district lot size requirement.
3. The minimum road frontage requirement for the Rural I District is 200 feet. Lot #1 has frontage in excess of 500 feet, as previously approved by the DRB. The new 2-acre lot has 229.23 feet of frontage along the Duxbury Road, as surveyed and indicated on the proposed subdivision plat dated January 6, 2012. Both lots meet or exceed the minimum district frontage requirements.
4. Future development, including proposed bridge construction, must meet minimum required setbacks from lot lines and the Duxbury road right-of-way (35 feet), or will require a separate variance from the Development Review Board. Required setbacks are not indicated on the survey plat.
5. Proposed bridge construction within the 150-foot setback from the Winooski River, under Section 3.17 (Surface Waters and Wetlands) as referenced in Table 2.4, will require separate conditional use

approval from the Development Review Board. The required setback is not indicated on the survey plat.

6. Because the proposed subdivision involves a lot totaling more than five acres, a portion of which lies within the Flood Hazard Area Overlay II District (Table 2.8), the proposed subdivision is subject to flood hazard area review under Section 5.5 as amended, effective August 9, 2010.

Flood Hazard Area Standards (Sections 5.5, 7.3)

The proposed subdivision meets requirements for subdivisions of land within designated flood hazard areas; however any future development within the Special Flood Hazard Area (Zone AE, Floodway) on either the retained parcel, or the 2-acre parcel to be conveyed, will require separate approval from the Development Review Board under Section 5.5 of the BLUDRs.

7. The northern portion of Lot #1, bordered by the Winooski River, lies within the Flood Hazard Area Overlay II District (Table 2.8) which includes designated Special Flood Hazard Areas (SFHAs) as shown on Flood Insurance Rate Map (FIRM) Number 50007C0318D, effective July 18, 2011. The mapped Special Flood Hazard Area (or Base Flood Elevation) is not indicated on the proposed subdivision plat, dated January 6, 2012.
8. Proposed lot lines, as shown on the proposed subdivision plat, are configured to limit the fragmentation of land within the mapped Special Flood Hazard Area.
9. Lot #1, to be retained, is currently in agricultural use. Existing structures and septic systems on Lot #1 are located outside of the mapped Special Flood Hazard Area as shown on the Flood Insurance Rate Map. No additional development on this lot is proposed.
10. The 2-acre lot to be subdivided and conveyed, except for a small area of land where the proposed bridge is to be located, lies almost entirely within the AE Zone, including a portion within the mapped floodway. The proposed footbridge across the Winooski represents a use that "functionally requires stream access," as allowed within Special Flood Hazard Areas (including floodways) under Section 5.5(F)(3), subject to flood hazard review and approval by the Development Review Board. The applicants have submitted a separate application for the bridge which is currently being reviewed by the DRB and Vermont Floodplain Management. No other development is proposed on this lot.

General Subdivision Standards (Section 7.2)

The proposed subdivision, intended to support the development of a footbridge across the Winooski River, conforms to applicable general subdivision standards.

11. The 2-acre lot to be conveyed to the GMC, though potentially subject to flooding, is specifically suited for the construction of a proposed footbridge across the Winooski River, because of its location and elevation in relation to the river channel and the opposite riverbank. It is not suitable for other forms of development, including buildings and other structures that do not functionally require river access.
12. Existing and proposed development (agriculture, outdoor recreation) is consistent the types and densities of development specified for the R I District in the Bolton Town Plan and in the district purpose statement (Table 2.4).

13. The proposed lot layout as shown on the subdivision plat dated January 6, 2012 has been configured to meet the minimum district lot size requirement, is consistent with site topography, and is generally suited to the intended use, for the construction of a proposed footbridge across the Winooski River.
14. The existing vegetative buffer area along the Winooski River, as indicated on the draft subdivision plat, will be preserved intact, except for clearing associated with the proposed bridge crossing which is subject to separate review and approval by the Development Review Board.
15. The location of existing and proposed permanent survey monuments are to be located as shown on the draft subdivision plat, dated January 6, 2012.

Protection of Natural & Cultural Resources (Section 7.3)

The proposed subdivision generally supports the ongoing protection of identified natural and cultural resources, including productive farmland, the Winooski River, mapped floodplains and riparian buffers.

16. Natural and cultural resources identified on or in the vicinity of 164-acre parcel to be subdivided, including the 2-acre parcel to be conveyed to the Green Mountain Club, include productive farmland, the Winooski River, mapped floodplains, ledge and rock outcrops and riparian buffers. There are no known historic structures on that portion of the land to be subdivided, however this area along the Winooski is considered archaeologically sensitive.
17. The two-acre parcel to be conveyed, which is located almost entirely within a mapped floodplain (Special Flood Hazard Area), is intended for the construction of a footbridge across the Winooski River, which represents a functionally dependent use allowed within the floodplain, subject to separate review and approval by the Development Review Board. The majority of the floodplain on this parcel will remain undeveloped, as conserved open space.
18. The existing riparian buffer area on the 2-acre lot to be subdivided and conveyed, as indicated on the proposed subdivision plat dated January 6, 2012, will remain intact, except for limited clearing associated with the proposed bridge crossing. Development within the buffer area is subject to separate review and approval by the Development Review Board. No other development in this area is proposed.
19. This area, because of its proximity to the Winooski River and of known sites in the vicinity of the subdivision, is considered archaeologically sensitive, however no known archaeological sites exist on the 2-acre parcel to be subdivided in the area proposed for bridge construction, as documented by the UVM Consulting Archaeology Program (letter dated January 4, 2012).
20. The current 164-acre parcel is in agricultural use, and is enrolled in the Use Value Appraisal Program. The two-acre parcel to be conveyed includes the minimum amount of acreage needed to meet district lot size requirements. As such, the proposed subdivision minimizes the amount of land removed from agricultural use, and includes land mostly within the existing riparian buffer area. It should not affect enrollment of the retained parcel in the Use Value Appraisal Program.

Section 7.4 Open Space

The proposed subdivision will result in the conveyance of a 2-acre lot to the Green Mountain Club to be used to provide public access across the Winooski River and a link to town-owned land on the other side of the river, for passive outdoor recreational use.

21. Apart from the proposed footbridge, no other development is proposed on the 2-acre lot to be conveyed to the Green Mountain Club. This lot will be maintained by the GMC as conserved open space, for passive outdoor recreational use that provides public access to the Winooski River and town-owned land on the other side of the river (Sarah Holbrook land).