



Town of Bolton
3045 Theodore Roosevelt Highway
Bolton VT 05676
802-434-5075

Development Review Board Meeting Minutes

January 24, 2012

Development Review Board members present: Sharon Murray, Chair, Michael Hauser, Margot Pender, Mike Rainville, Susan Vita

Development Review Board members absent: None

ZA: Miron Malboeuf

Acting Clerk: Amy Grover

Also present: None

Location: Bolton Town Office

Warned Agenda:

1. **Public Comment** – Opportunity for public comment.
 2. **Public Hearing – Application 2011-27-SD:** The request of James J. & Toria D. Cornett, for a Two Lot Minor subdivision.
 3. **ZA Report** –Report of *Irene* damage and pending applications, appeals
 4. **Meeting Minutes** – November 29, 2011
 5. **Other Business**
 6. **Meeting Adjournment**
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Call to Order

Ms. Murray, Chair, called the meeting to order at 6:34 p.m., with a quorum of DRB members present. She noted one addition to the agenda under Other Business (#5) – a requested follow-up on DRB appointments by the Select Board.

Agenda Item #1 ~ Public Comment

No public comment received.

Agenda Item #2 ~ Public Hearing –Cornett Subdivision

Ms. Murray reviewed the application before the board as warned:

Application 2011-27-SD: The request of James J. & Toria D. Cornett, for a two-lot minor subdivision. The applicants propose to subdivide their existing 285 +/- acre residential lot, located at 1400 Bolton Valley Access Road (Tax ID# 9-30010000), into two lots – including a 29+/- acre lot that includes the existing single-family dwelling, and a separate 256+/- acre lot that is to remain undeveloped. The current lot is located in the Residential 2 and Forest Districts and requires review under Article 6, (Section 6.5, Final Subdivision Review) and Article 7(Subdivision Standards) of the Bolton Land Use and Development Regulations, effective August 9, 2010.

It was noted for the record that:

- Ms. Vita stated that she was an adjacent landowner, but did not want to participate as an adjacent landowner, and did not feel she needed to recuse herself. Mr. Cornett stated that he had no concerns about Ms. Vita participating as a DRB member. The other members of the DRB stated they also had no concerns.
- There were no other reported conflicts of interest or ex parte communications.

Ms. Murray stated that verbal or written participation in the hearing process was required in order to appeal a decision of the DRB to the Environment Division of Superior Court. The DRB could choose to either continue or adjourn the hearing, and had 45 days to issue its written findings and decision once the hearing was adjourned.

Ms. Murray noted for the record that the DRB had held a nonbinding, pre-application sketch plan review of the proposed subdivision at its regular meeting in November 2011, and that Mr. Malboeuf had represented Mr. Cornett.

Mr. Cornett reviewed the application and stated that:

- He had purchased the 285.7 acre parcel from The Nature Conservancy, and built a bridge (state approved) across Joiner Brook and constructed a house on the parcel.
- The minor subdivision would create two parcels; one of 256 acres and one of 29+/- acres, which included the house.
- Both parcels will remain conserved land and will continue to be protected by a conservation easement that will remain in effect, and that has been and will continue to be monitored by The Nature Conservancy.
- The Nature Conservancy has approved the subdivision and pending sale; and that no further subdivision or residential or commercial development of either parcel will be allowed.
- The only approved development area on the property is the current 10 acre “development zone” previously approved by The Nature Conservancy, in the RII District.
- The 256-acre parcel contains portions of the co-located Catamount and Vast Trails. Easements for the Catamount Trail will remain in effect. VAST Trail use will continue on a year to year basis. The trails do not travel through the 29-acre lot.
- The 256-acre parcel will be sold to the adjoining land owner, Paul Growald. There is a purchase and sale agreement pending subdivision approval to allow for conserving a larger tract of land, which The Nature Conservancy has approved.
- Mr. Growald will manage the parcel under an approved forest plan to “restore the forest, habitat and brook.”
- He believes that Mr. Growald’s intent regarding the VAST Trails on his adjoining parcel is to allow for continued access through a use agreement, but not by easement. However, he did not want to speak for Mr. Growald.
- In order for The Nature Conservancy to approve the subdivision, Mr. Cornett had to show an “increased conservation benefit.” To accomplish this, he had made concessions and given up some rights he had worked hard to acquire. He had:
 1. Reduced The Nature Conservancy’s approved 10-acre development zone to a 4- acre zone, split among three areas.
 2. The three areas included 1) the house, septic and septic replacement area, 2) an area adjacent to the Bolton Valley Road, and 3) an area on the road side of Joiner Brook.
 3. Per The Nature Conservancy easement, only one residence was allowed on the parcel, so the sites cannot be used for additional residences, only for accessory structures such as a garage, barn, storage, etc., and that every building had to be approved by The Nature Conservancy.

Lot/Lot Size:

Ms. Murray asked, given that the minimum lot size in the district was 10 acres, why the proposed lot was 29 acres? MR. Cornett stated the whole parcel was in current use and that this was to allow the 29 acre lot to remain in current use – to include two acres for the homestead and 27 acres as enrolled, to allow for sugaring, logging, and to keep a functional parcel given the steep topography.

It was noted by DRB members that:

- The DRB had waived the requirement to survey the 256 acre lot; only the 29 acre lot needed to be surveyed.
- The two Growald lots did not need to be merged, as both met district minimum lot requirements.
- The parcel had not been previously subdivided, but had actually been created through the merger of several smaller parcels.
- No other wildlife habitat area or wetlands had been identified.
- The DRB could encourage new trail easements, but could not require them.

Building Envelope:

DRB members noted that:

- Typically only one building envelope was allowed, but was not specified as such in the BLUDRs. Mr. Cornett proposed three building envelopes.
- The three building envelopes might be more complicated than staying with the original 10 acre building/development envelope.
- This was an unusual case because The Nature Conservancy had already defined a development envelope.
- Building or development envelopes as defined by The Nature Conservancy and the town differed, as the town defines exclusions for protection. The BLUDRS require building envelopes to include septic and to exclude: steep slopes, rare species (as referenced in this application by a letter from the state), setbacks/buffers from roads, streams, and surface waters; 100' setback from Joiner Brook, 50' stream buffers, 35' from the road right-of-way, and 50' from boundary lines, which needed to be shown on the survey plat.
- The map provided did not give enough detail for the DRB to approve the three envelopes, i.e., it couldn't be determined if the envelope by the road met the required setbacks, or if the area of the uncommon plant species had been excluded.
- The advantage of an approved building envelope, once defined and approved, was that the applicant would only need to go to the ZA for a building permit, and not return to the DRB for additional development within the approved building envelope, i.e., a garage, deck, etc.
- The building envelope did not need to be surveyed, but should be iron pinned on the ground so the boundaries could be readily identified in the future.
- The map did not depict the 10-acre Nature Conservancy development envelope.

Mr. Cornett noted that:

- He had reduced The Nature Conservancy's approved 10-acre development envelope to a total of four acres to make the town process easier.
- He felt that The Nature Conservancy's requirements were more restrictive than the town's.
- He had created the three building envelopes to mitigate the setback and steep slope issues.
- Steep slopes were included within both the 10-acre and 4-acre building envelopes; the state had approved existing septic/replacement septic areas.
- He was not proposing additional development at this time.
- He did not have a map that showed the detail the DRB was asking for on the 29-acre lot.
- He questioned if GPS/tree blazes could be used to define the building envelope instead of iron pins. Ms. Murray noted that GPS co-ordinates could be used if identified on the plat.

After discussion regarding the building envelope options and requirements and to meet the intent of the BLUDRs the following consensus was reached:

The survey plat to be recorded in the land records of the town must show:

1. Assigned lot numbers #1 (smaller) and #2 (larger) and lot acreage, and may show the larger parcel as an insert, allowing for detail of the 29-acre lot. A survey of the larger parcel is not required.
2. The Nature Conservancy's 10 acre development zone, or the development zone as agreed to by Mr. Cornett and The Nature Conservancy, and the DRB will accept the TNC development zone as the "building envelope" specified under the town's land use regulations.
3. On the 29-acre lot, district standards and BLUDR requirements including: property line setbacks, road setbacks, all stream setbacks and buffers, including the Joiner Brook setback, very steep slopes (25+% on which all development is prohibited), as identified at minimum with a plat notation, or more helpfully by the contour line or shading at the break point in the slope contour (suggested at 25% by the ZA).
4. The locations of the bridge, the footprint of the house, the septic and replacement septic areas, the well and isolation distance.

In addition the DRB will note in the decision:

1. That any development on slopes of 15% or more will need to come to the DRB for approval.
2. That development on slopes over 25% is prohibited.
3. Reference to the documented occurrence of an uncommon plant community on Lot #1 (not to be shown on the survey plat).

Ms. Murray noted that the safest way to proceed was to continue the hearing and for Mr. Cornett to come back to the DRB with a draft plat, so that the DRB could review the draft plat and request changes as needed. Ms. Murray noted that the DRB could also close the hearing; approve the subdivision with conditions, which would not allow any negotiated changes or alterations. Changes would have to be made by requesting reconsideration of the decision. It was noted that in this case, the final plat would need to be carefully reviewed by the DRB before it could be signed off for recording in the land records. Mr. Cornett noted that he was anxious to move the process forward, and requested a decision.

As such, Ms. Pender made the motion to adjourn the hearing. Mr. Hauser seconded. All were in favor (5 – 0), motion carried.

Ms. Murray noted the DRB had 45 days to issue their decision, followed by a 30 day appeal period. The applicant would have 180 days to file the final plat.

Agenda Item #3 ~ ZA Report – Report of Irene damage and pending applications, appeals

Mr. Malboeuf noted that with regard to Irene Damage:

- He was still continuing to work with several residents and businesses on filing damage assessments and permitting.
- Permits were needed for repairs, fees waived.
- He was continuing to compile complete assessments of the flooding in Bolton.
- There was a possibility of a FEMA audit of the town's permit records.

He also reported that no applications or appeals were pending.

Agenda Item #4 - Meeting Minutes November 29, 2011

Mr. Hauser made a motion to accept the minutes of November 29, 2011, as amended. Ms. Vita seconded the motion. All were in favor (5 – 0), motion carried.

Agenda Item #5 - Other Business

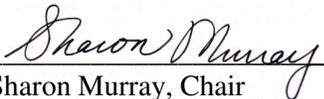
- The next regularly scheduled meeting of the DRB will be held, as needed, Tuesday, February 28, 2012, 6:30 p.m. at the Bolton Town Office.
- Deb Lariviere had indicated that the Select Board had appointed Susan Vita from alternate to regular member and Jerry Chabot from regular member to alternate.

Agenda Item #6 -Meeting Adjournment

The meeting was adjourned at 8:05 p.m. The DRB will meet in deliberative session to discuss the Cornett subdivision in advance of issuing a written decision.

Amy Grover
Acting Clerk, Development Review Board
These minutes are unofficial until accepted.

These minutes were read and accepted as amended by the Development Review Board on February 28, 2012.



Sharon Murray, Chair