



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

Development Review Board Meeting Minutes

February 28, 2012

Development Review Board members present: Sharon Murray, Chair, Mike Rainville, Susan Vita

Development Review Board members absent: Michael Hauser, Margot Pender

ZA: Miron Malboeuf

Acting Clerk: Amy Grover

Also present: Mark Bean, appellant, Rodney & Kathie Pingree, adjoiners

Location: Bolton Town Office

Warned Agenda:

1. **Public Comment** – Opportunity for public comment.
 2. **Public Hearing** – A notice of appeal filed by Bean's Mobile Homes, Inc. of a determination by the Administrative Officer that the relocation of new mobile home inventory and the reopening of a sales office at 3608 Theodore Roosevelt Highway will require Conditional Use Review under Article V, §§ 5.1 and 5.5. The parcel is located in the Village District, Table 2.1 and the Flood Hazard Area Overlay I District, Table 2.8. The appeal will be reviewed under Article IX, § 9.5, Appeals, of the Bolton Land Use and Development Regulations, effective August 9, 2010. The property is described as a 4.6-acre parcel with an office and outbuildings, located at 3068 Theodore Roosevelt Highway, Tax Map 15, ID #: 2003608.
 3. **ZA Report** – Report of *Irene* damage and pending applications, appeals
 4. **Meeting Minutes** – January 24, 2012
 5. **Other Business**
 6. **Meeting Adjournment**
 7. **DRB Deliberative Session**
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Call to Order

Ms. Murray, Chair, called the meeting to order at 6:44 p.m., with a quorum of DRB members present, and no noted changes to the agenda.

Agenda Item #1 ~ Public Comment

No public comment received.

Agenda Item #2 ~ Public Hearing – Appeal Filed by Bean's Mobile Homes, Inc.

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

DRB members reported no conflicts of interest or ex parte communications.

It was noted by Ms. Murray for the record 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 appellant and adjoiners, as participants, would have interested party status.

- 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.

Rodney and Kathie Pingree stated they were present as adjainers to find out more about the issues involved.

Ms. Murray stated that the DRB:

- Would only be addressing on appeal whether conditional use review was required.
- Would hear the appeal under the two sets of regulations currently in effect: the Bolton Land Use and Development Regulations, and the Town's Emergency Flood Hazard Area Regulations.

Mr. Malboeuf stated that there were two issues which necessitated conditional use review: to determine if the mobile home sales office had been substantially damaged, and to address the storage of mobile home inventory on the lot. Mr. Malboeuf noted that:

- He and Mr. Bean had been in contact regarding the damage estimate to determine if the mobile home sales office had been substantially damaged, per FEMA's definition of more than 50% of market value of a structure, not land.
- It was his understanding, from a FEMA workshop, that a mobile home is substantially damaged if there is 1" of water on the first floor.
- His understanding was that there was water on the first floor necessitating drying of the flooring and heating system.
- Structures substantially damaged trigger FEMA anchoring and elevation requirements.
- He had been in contact with Rebecca Pfeiffer at the state on how to address the mobile home inventory on the lot, with no clear answers.
- Another property on Route 2 had been substantially damaged triggering an elevation requirement of 8' above the current level, and that there was a possibility that Mr. Bean's property, if deemed substantially damaged, would require similar elevation.

Mr. Bean stated/questioned:

- Who determines substantial damage?
- In his opinion, damage to the mobile home sales office was not 50% of the value, and not substantially damaged.
- His lot was higher than the other RT 2 lot with the home that had been substantially damaged.
- He had used blowers to dry the mobile home sales office.
- After the flooding, he had temporarily closed the site and moved the damaged mobile home inventory to Lyndonville VT for repair.
- His business was a seasonal business, and he fully intended to bring back the inventory in the spring and reopen, the business was not closed.
- He took down the sign so people would not be stopping in.
- If he has to elevate the sales office by 8' it does not make economic sense to reopen.
- He did not have photos.
- He did not have flood insurance.

Ms. Murray stated that:

- As Bolton participates in the National Flood Insurance program, the town is charged with following FEMA regulations, and may be subject to a FEMA audit of town permitting records.
- There is a specific definition and calculations for determining substantial damage: damage is “substantial” if the cost of required repairs, including the value of labor, exceeds 50% of the structure’s fair market value prior to flood damage. Mr. Bean was given a “Costs for Substantial Improvements and Repair of Substantial Damage” FEMA information sheet.
- It is unclear if the damaged mobile home inventory factors into the substantially damaged calculations; the DRB understands those homes are not occupied, or intended to be occupied.
- Mr. Bean’s mobile home sales office, not including land or accessory structures, appears to have been assessed by the town at 31K, from lister information on file. An estimate of fair market value could be calculated from this using the state’s common level of appraisal (listed value as a percentage of fair market value).

The group discussed the appeal:

- DRB members noted that a large amount of fill (to meet the new BFE) might cause obstruction of flood waters.
- DRB members noted that the issue of inventory storage would have to be addressed – further clarification was needed from the state. At minimum anchoring per FEMA regulations would likely be required. Mr. Bean noted that he would not have a problem with anchoring, that he uses anchoring systems all the time to set up mobile homes, and would use the same system. He also noted that the inventory of homes were not previously anchored, and they did not move during the flood.
- It was questioned whether a variance from the flood regulations would be needed to avoid elevation requirements..
- Rodney and Kathie Pingree noted that based on their experience the flood waters of *Irene* had no current due to the positioning of the railroad tracks, and that a variance might be useful to Mr. Bean.
- According to Mr. Bean, it would not be possible to use a mobile home transport plate to register the inventory as “road-ready.”

The DRB indicated that additional information was needed from both the state and Mr. Bean to decide the appeal:

- Documentation of the cost Mr. Bean’s repairs and the fair market value of the sales office, to determine if the mobile home sales office was substantially damaged according to the FEMA definition. It was noted that Mr. Rainville, as a contractor, could help the DRB determine if the cost estimates were reasonable.
- Specifics, clarification, and determination from the state flood plain manager on unoccupied mobile homes in a flood hazard area (the inventory).

As such, Mr. Rainville made a motion to continue the hearing pending submission of additional information until Tuesday, March 27, 2012, 6:30 p.m. at the Bolton town office. Ms. Vita

seconded. All were in favor (3 – 0), motion carried. Ms. Murray agreed to contact the state regarding applicable inventory storage requirements under NFIP program requirements.

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

Mr. Malboeuf noted, with regard to *Irene* damage that he continued to work with affected property owners, including Mr. Fisher. The town had applied for a hazard mitigation grant to buy the Fisher property, but had not received notification if the grant was awarded.

Pending Applications:

- He was still working with a resident on Duxbury Road with permitting issues pertaining to a replacement shed and fill added.
- He would contact GMC on their application status (Winooski River bridge project) for scheduling purposes.
- He would remind Joji Filmore that the 180 days for his plat filing were almost up. Noted: there was a possibility Mr. Filmore would be re-applying.
- An application is expected for a conversion/change of use of a seasonal camp to year around residence on Sharkeyville Road, and a garage. Noted: wastewater permit from the state issued.

Appeals:

- Only Mr. Bean's currently.

Agenda Item #4 - Meeting Minutes January 24, 2012

Mr. Rainville made a motion to accept the minutes of January 24, 2012, as amended. Ms. Vita seconded the motion. All were in favor (3 – 0), motion carried.

Agenda Item #5 - Other Business

- Ms. Murray noted that the Cornett decision had been issued as approved by the DRB based on the initial site plan, and that the DRB will need to review the subdivision plat carefully before it's recorded in the land records.

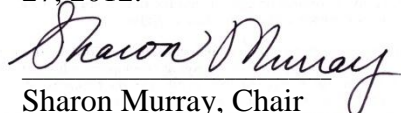
Agenda Item #6 -Meeting Adjournment

- The meeting was adjourned at 7:50 p.m.
- The next regularly scheduled meeting of the DRB will be held Tuesday, March 27, 2012, 6:30 p.m. at the Bolton Town Office.

The DRB opened deliberative session to discuss Mr. Bean's appeal.

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

These minutes were read and accepted by the Development Review Board as amended on March 27, 2012.


Sharon Murray, Chair

