



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

Development Review Board Meeting Minutes

March 27, 2012

Development Review Board members present: Sharon Murray, Chair, Susan Vita, Michael Hauser, Charmaine Godin, Alternate

Development Review Board members absent: Mike Rainville, Margot Pender

ZA: Miron Malboeuf

Acting Clerk: Amy Grover

Also present: Richard Blais, applicant, Kathy Touchette

Location: Bolton Town Office

Warned Agenda:

1. **Public Comment** – Opportunity for public comment.
 2. **Public Hearings** –
 - Richard Blais/Conditional Use Review (#2012-06-CU). Request for a dimensional waiver to construct a garage addition to a pre-existing, nonconforming cottage on a nonconforming, 0.46-acre lot (ID#14-4160423) located at 423 Sharkeyville Road in the Rural II (RII) District. The applicant has also requested site plan waivers (existing features, grading and drainage, and landscaping and screening).
 - Mark Bean, Beans Mobile Homes/Appeal (#2012-05.F-AP) continued from February 28, 2012. Appeal of AO determination that conditional use review is required, under regular and emergency flood hazard regulations, for substantial repairs to sales office, and to relocate new mobile home inventory on lot. The 4.6-acre parcel, including the existing office and outbuildings (ID# 15-2003608), is located at 3068 Theodore Roosevelt Highway (RT 2) in the Village (V) and the Flood Hazard Overlay I (FHOI) Districts.
 3. 2012 Organizational Meeting –
 - Confirm DRB membership (appointments, vacancies)
 - Elect Officers (Chair, Vice Chair, Secretary)
 - Review DRB Rules of Procedure and Ethics
 - DRB projects, coordination with Planning Commission (forms, bylaw updates)
 - Set regular meeting date, schedule
 4. ZA Report – Status of 3504 & 3422 Theodore Roosevelt Highway, 455 Duxbury Rd.
 5. Meeting Minutes – February 28, 2012
 6. Other Business
 7. Meeting Adjournment
 1. Deliberative Session – Bean Appeal, Blais Application
-

Call to Order

Ms. Murray, Chair, called the meeting to order at 6:33 p.m., with a quorum of DRB members present, including Ms. Godin participating as an alternate. The following changes were made to the agenda:

1. Agenda Item #3 –Ms. Vita made a motion to postpone the organizational meeting until May 8, 2012, 6:30 p.m. at the town office. Ms. Godin seconded. All were in favor (4 – 0), motion carried.

2. Additional information regarding prior applicants Filmore and Cornett, and information regarding LTS Homes, Inc. and the Green Mountain Club would be presented under Agenda Item #4, ZA Report.

Agenda Item #1 ~ Public Comment

No public comment received.

Agenda Item #2 ~ Public Hearings – 1.) Blais, Conditional Use Review and 2.) Bean, Appeal.

Ms. Murray reviewed the applications 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 applicant/appellant would have interested party status.
- The DRB could choose to either continue or adjourn the hearings, and had 45 days to issue its written findings and decision once the hearing was adjourned.

1.) Blais, Conditional Use Review

Mr. Malboeuf stated Mr. Blais had contacted him a year ago, and that:

- The structure and the lot were pre-existing and non-conforming.
- The structure was permitted and built in 2004, predating the current Bolton Land Use & Development Regulations, originally built as a hunting camp.
- The lot had been in existence for many years.
- The state had permitted the septic and water for year-round use.
- He had done a site visit; the house site is on a plateau off the road with steep slopes and ledge at the rear.
- At issue was the side set back requirement; minimum in the R II District is 50’.
- The garage setback as proposed is 28’.
- The DRB has the authority to waive up to 50% of the setback requirement under the bylaw’s wavier provisions for nonconforming structures.
- The garage cannot be built elsewhere on the lot; limited by topography.
- Neighbors all received written notification of the hearing.

Mr. Blais stated that:

- He had spoken with all of his neighbors, and no one had an issue with the garage siting.
- Sharkeyville Road was a private road, the bottom lies in Waterbury the upper portion in Bolton.
- There were now 3 year round residences on the road.
- Homeowners co-operatively share in the road maintenance.

The DRB noted that:

- The structure and lot did qualify as pre-existing non-conforming as both pre-date the current zoning regulations.
- Conversion of use from a camp to a single family dwelling was allowed and, as a permitted use, did not require DRB review.
- If Mr. Blais did not have a conversion permit in his file, the ZA could issue one retroactively.

The DRB reviewed the proposed garage under the Bolton Land Use and Development Regulations, Section 5.4, Conditional Use Review, General Standards, (C) 1 – 5, and found no issues.

Ms. Murray stated that the DRB had the authority to waive up to 50% of the required 50' setback; which would be a minimum 25' setback, and that the proposed 28' setback met that minimum; this was a straightforward case for granting a waiver.

As such, Ms. Vita made a motion to approve the dimensional waiver, with necessary conditions attached under the DRB's written decision, and to close the hearing. Mr. Hauser seconded. All were in favor (4 – 0), motion carried.

Mr. Blais asked if he could begin construction immediately. Ms. Murray noted that the ZA could not issue a permit for construction until the DRB had issued their written findings and decision. Mr. Blais stated he would then only complete site clean-up and preparation.

2.) Bean, Appeal Continuation

Mr. Malboeuf stated that this was a continuation from February 28, 2012, and that Mr. Bean was unable to attend.

Ms. Murray stated that Ms. Godin could participate in this proceeding, and the group reviewed Mr. Bean's appeal. It was noted that the issues of substantial damage relating to the office and mobile home inventory storage within the flood hazard area needed to be addressed in order to render a decision on whether conditional use review was required.

With reference to substantial damage, Mr. Malboeuf stated that:

- He had reviewed the appraisal based on the lister card.
- The total appraised value of the property, as listed, was \$180K.
- When the land, improvements and shed were separated from the mobile home office, the value of the structure (office) was \$30,500.
- Mr. Bean had submitted documentation for \$12,297 in repairs to the mobile home office.

Ms. Murray stated that:

- The DRB needed the common level of appraisal to adjust for fair market value, and asked the Zoning Administrator to contact the listers for that information.
- Under FEMA requirements, an independent assessment of the repair costs (the total cost of repairs including labor and materials, at fair market value) submitted is allowed, and it was hoped that Mike Rainville could verify that the documentation submitted was reasonable.
- There was not any reference to wallboard/sheetrock or the heating, water, or septic systems in the documentation submitted. Mr. Malboeuf stated that the water and septic systems were not damaged.

With reference to mobile home inventory storage Ms. Murray stated that:

- Ned Swanberg, ANR River Management, had looked into this, and suggested that the mobile home inventory stored in the flood hazard area at least had to be anchored according to FEMA's specific standards. This type of situation would be better addressed in future model bylaws.

The DRB noted that additional information regarding the mobile home office's fair market value, and verification of repair documentation was still needed.

As such, Ms. Vita made the motion to continue the hearing to a special meeting of the DRB on Tuesday, May 8, 2012, 6:30 p.m. at the town office. Ms. Godin seconded. All were in favor (4 – 0), motion carried.

Agenda Item #3 ~ ZA Report – Report of 3504 & 3422 Theodore Roosevelt Highway, 455 Duxbury Road

Mr. Malboeuf noted that:

1. 3504 Theodore Roosevelt Highway: Pending application for development into an office and apartment requiring FHA review.
2. 3422 Theodore Roosevelt Highway: Was awarded the hazard mitigation grant for which the town applied.
3. 455 Duxbury Road: Still working with the owner on permitting issues pertaining to a replacement shed and fill added.

In addition, Mr. Malboeuf noted that:

4. Mr. Filmore's 180 day period for plat filing will expire on 4/7/12. Noted: he expected that Mr. Filmore would be re-applying regarding the approved building envelope.
5. LTS Homes Inc. contacted him regarding a possible sale of their storage building as a contractor's yard. Noted: no provision for that use in that district.
6. The Green Mountain Club was still working on land acquisition on the south side of the Winooski River. Noted: the GMC's river crossing project has preliminary approval from the state, and will require local sketch plan (can be waived), subdivision, and FHA review.
7. Mr. Malboeuf noted that he had received a letter from James Cornett, dated March 25, 2012, stating that:
 - He felt the DRB decision dated 2/24/12 did not reflect discussion at the hearing.
 - He had issues with the decision, including the setting of iron pins on the building envelope and setbacks, and as such would appeal the conditions of the decision if the DRB and he were unable to come to an agreement on those issues.
 - He also requested a transcript of the hearing.

The DRB noted that:

- The 30 day appeal period had expired.
- Their effort to expedite the process by conditioning the plat to be filed based on the site plan, as submitted, may have caused confusion. In retrospect, this was not a good practice, and should not be followed in the future.
- The building envelope/s must exclude setbacks from the Bolton Valley Access Road and from Joiner Brook.
- The iron pins marking the building envelope/s do not have to be surveyed or shown on the plat, and could be placed by anyone.
- All town regulations must still be met; The Nature Conservancy's easements do not supersede town regulations.
- Options included sending a letter of clarification to Mr. Cornett, or re-opening and warning a hearing for reconsideration, and reviewing the draft plat with Mr. Cornett. Mr. Malboeuf agreed to follow up with Mr. Cornett.

Agenda Item #4 - Meeting Minutes February 28, 2012

Ms. Vita made a motion to accept the minutes of February 28, 2012, as amended. Ms. Godin seconded the motion. All were in favor (3 – 0), motion carried.

Agenda Item #5 - Other Business

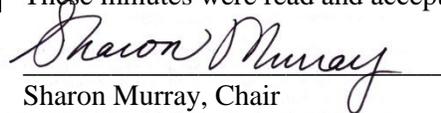
Agenda Item #6 -Meeting Adjournment

- Ms. Godin made a motion to close the meeting. Ms. Vita seconded the motion. All were in favor (4 – 0), motion carried, meeting closed at 8:32 p.m.
- The next special meeting of the DRB will be held Tuesday, May 8, 2012, 6:30 p.m. at the Bolton Town Office. The next regularly scheduled meeting of the DRB will be held Tuesday, May 22, 2012, 6:30 p.m. at the Bolton Town Office, as needed.

Following meeting adjournment, the DRB met in deliberative session to discuss the Blais appeal, and the Cornett decision as issued by the DRB.

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 May 8, 2012.


Sharon Murray, Chair