



Town of Bolton
3045 Theodore Roosevelt Highway
Bolton, VT 05676

Bolton Development Review Board
Meeting Minutes
September 24, 2015
Bolton Town Office

DRB Members Present: Michael Rainville (Chair), Sharon Murray, John Devine
DRB Members Absent: Charmaine Godin, Steve Diglio, Margot Pender (Alternate)
Staff Present: Miron Malboeuf, Zoning Administrator, Sarah McShane, DRB Assistant
Others Present: Maureen Mathews, Benjamin Putnam, Rob Ricketson

Posted Agenda:

1. Public Comment
2. Public Hearing: 2014-07-CU: Phillip N Harrington, Request for Conditional Use Review: Requests review for the conversion of an existing ROW over the Broadway Trail to his lot for the purpose of residential development (Continued from August 27, 2015)
3. Public Hearing: 2014-24-SD: Joji Filmore, Re-hearing of 2011-19-SD, approved in September 2011. (Subdivision plat was never filed and decision expired). (Continued from March 24, 2015)
4. ZA Report
5. Prospective DRB Alternate- Rob Ricketson
6. Meeting Minutes
7. Other Business
8. Meeting Adjournment

Call to Order

Mr. Rainville, Chair, called the meeting to order at 6:35pm with a quorum present.

1. Public Comment

Rob Ricketson, a resident potentially interested in serving on the DRB, was in attendance. Mr. Ricketson told the board that he is a builder by profession and lives in West Bolton. Ms. Murray also told board members that Adam Miller has also shown an interest in serving on the DRB and that there are two vacant alternate positions. Board members recommended that Mr. Ricketson make a written request to the Selectboard if he is still interested in serving after observing the DRB meeting.

2. Public Hearing: 2014-07-CU: Phillip N Harrington, Request for Conditional Use Review: Requests review for the conversion of an existing ROW over the Broadway Trail to his lot for the purpose of residential development (Continued from August 27, 2015).

Mr. Rainville opened the hearing and stated that the application was continued pending the receipt of a revised site plan. No ex parte communications or conflicts of interest were reported.

Mr. Harrington provided an overview of the revised site plan. He stated that the stream setback is indicated on the revised site plan, the parking area is located within the building envelope, the 10' x 30' pull-off areas are noted, as well as the location of the right-of-way (33' on each side of the driveway).

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Mr. Harrington mentioned that there will be no utility lines since he is proposing to use solar power. Ms. Murray mentioned that the regulations require two parking spaces per single family dwelling -each to measure approximately 9' x 18'.

Mr. Harrington said that the proposed structure is to measure 24' x 24'. He showed the board the location of the turn-around and noted it has a radius of 30 feet for emergency vehicles and fire trucks. He showed the board the location of the proposed drilled well and septic area. He stated that he has deeded spring rights and that he may possibly use the spring for water. The board reminded him that obtaining a state issued wastewater permit will be required prior to the issuance of a zoning permit. Mr. Harrington asked if obtaining the septic permit could be required before the issuance of a Certificate of Occupancy. Ms. Murray noted that a standard condition of approval is for the applicant to obtain all of required state permits before the issuance of a zoning permit.

Mr. Rainville asked if there were any additional details on the turn-around and pull-off areas.

Mr. Rainville asked for an update on the shared maintenance agreement. Mr. Harrington said that there is currently no shared maintenance agreement with any of the parties. They noted that Bolton Valley is removing sand and gravel out of the area and VT Forest, Parks, and Recreation uses the road for logging activities. Ms. Murray noted that it is in the applicant's best interest to have a shared maintenance agreement. Mr. Harrington said that the state is not willing to maintain land that they do not own. Ms. Murray noted that the Applicant and any future property owner will be required to maintain the road to driveway standards for emergency access.

Board members discussed the long-term impacts of not having a shared maintenance agreement and that if the road were to wash out it would be the sole responsibility of the applicant/property owner. Mr. Harrington felt he could obtain a written statement from the other road users stating that if the state or Bolton Valley were to damage the road that they would be responsible for fixing it. Ms. Murray mentioned that the DRB could approve the application without the shared maintenance agreement, however the board's approval would be conditioned requiring the property owner, and future property owners, to upgrade and maintain the road. Mr. Devine mentioned that Bolton Valley has an interest in the road and ensuring that it's properly maintained.

Ms. Murray noted that the site plan should note the dimensions of the pull-offs and be renamed 'site plan' rather than 'topographic' plan. Mr. Harrington said that the riparian setback is indicated as being 100 feet as measured from top of bank. He also pointed out the existing easement with Bolton Valley for possible future ski trails. Ms. Murray recommended that the easement be identified as such on the site plan or be listed as a notation so that it is clear what and who the easement is with.

Mr. Rainville asked for additional comments. Ms. Murray reviewed the standard notations required to be listed on the site plan- no development (including accessory structures) are allowed outside of the building envelope; the turn-offs are required to be marked on the ground; and no development is permitted within the Joiner Brook setback or on steep slopes. Ms. Murray noted that a site plan is not recorded in the land records; however it will be kept in the zoning files.

Mr. Rainville stated that the next DRB meeting is October 22nd. Mr. Harrington said he is more likely to have the required information ready for the January 28, 2016 meeting. The board noted that the shared maintenance agreement is a pivotal to moving forward and protecting the applicant's best interest.

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The board discussed options for moving forward. They noted that a condition of approval could be for the applicant to obtain a shared maintenance agreement with all parties involved prior to obtaining a zoning permit, if not the applicant will be solely responsible for maintaining the road to driveway standards. The applicant will also have to submit state permits and the revised site plan with the items mentioned. Ms. Murray also noted that the Board usually requires the applicant to obtain a zoning permit within one year or the site plan approval will expire.

Ms. Murray inquired about the yurts on the property and noted that their location is not indicated on the site plan. She reminded everyone that the applicant originally came before the board because of a violation. The board and the applicant noted that the existing yurts are not within the designated building envelope. Mr. Harrington said that there are currently two yurts on the property. Mr. Malbeouf mentioned that the yurts have a separate access via a foot path. The board reviewed Section 4.4 of the zoning regulations. Ms. Murray noted that Section 4.4 defines yurts as a temporary structure and that the regulations state that temporary structures cannot be occupied for more than 180 days a year. She stated that if the yurts are occupied for more than 180 days, the regulations would consider them a single family dwelling or an accessory dwelling.

Ms. Murray noted that another condition of approval would limit logging unless under a management plan.

At 7:35 PM, Ms. Murray motioned to close the hearing, Mr. Devine seconded. The motion passed unanimously, 3-0. The DRB will issue a written decision within 45 days.

3. Public Hearing: 2014-24-SD: Joji Fillmore, Re-hearing of 2011-19-SD, approved in September 2011. (Subdivision plat was never filed and decision expired)- (Continued from March 24, 2015).

Mr. Rainville re-opened the hearing continued from March 24, 2015. No conflict of interest or ex parte communications were reported. The board reviewed a letter addressed to the DRB from Joji Fillmore dated September 15, 2015. Ms. Murray reviewed the conditions of approval from the Streeter DRB decision.

Maureen Mathews (abutter) and Benjamin Putnam, representing A.Johnson Co., were in attendance.

Maureen Matthews reviewed the Streeter plat and showed the board the relocated right-of-way. She mentioned that the right-of-way was not correctly indicated on the plat. Ms. Murray noted that the board approved the plat back in 2010. Ms. Mathews was concerned with the number of right-of-ways and told the board that she would not sign a shared maintenance agreement that expands the rights of A.Johnson or provides a 50' right-of-way through her property. Ms. Mathews was concerned that a 50' right-of-way could be used to build a road and allow further subdivision. Ms. Matthews said that the board's approval differs from what was recorded and the two extended right-of-ways were never approved. She also stated that the wording of the shared maintenance agreement was vague and that A.Johnson should not be allowed to expand their use beyond forestry or have a 50' access right-of-way. She said that on item 5A on page 3 of the shared maintenance agreement is unclear and the right-of-way should simply be used for logging, not other activities. Ms. Mathews told the board that A.Johnson's access should be limited to what was in the original deed.

1 Ms. Murray asked what the width is of the current woods road. Ms. Matthews said she has not
2 measured it. Ms. Murray noted that the original subdivision plat shows an 8' wide woods road.

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4 Mr. Benjamin Putnam, representing A.Johnson Company, stated that it is not the board's responsibility
5 to settle the shared maintenance dispute and the board cannot force the parties to sign the
6 maintenance agreement. He also noted that the board cannot assign a right-of-way width unless all of
7 the parties agree to it. Ms. Murray noted that in order for the board to approve the right-of-way for
8 residential purposes it will need to meet the B-71 standards for residential driveways. Ms. Murray asked
9 why A.Johnson needs such a large (50') right-of-way. Mr. Putnam said that sometimes there are wet
10 spots that the logging trucks need to avoid and when a skidder is dragging logs out the logs fan out
11 behind the skidder. He also stated that a 50' right-of-way is needed to keep structures from being
12 placed near the road. He told the board that the actual road may only be 15' wide but the right-of-way
13 is intended to be a buffer for safety. He stated that it's a process of negotiation and that is why the
14 agreement has not been signed. He stated that the Applicant is making the other parties incur
15 significant time and cost, however he has not attended the recent hearings.

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17 Mr. Rainville asked how the board would like to move forward. The board discussed the right-of-way
18 requirements. Ms. Murray noted that technically the town does not regulate logging roads since they
19 fall under the accepted agricultural practices (AAP's). Mr. Putnam reminded the board that currently
20 there is no maintenance agreement and the deed simply refers to a right-of-way for logging and forestry
21 purposes. The board discussed how to define the width of the right-of-way. Mr. Putnam recommended
22 that a condition of approval prohibit structures from being constructed within 25 feet of the logging
23 road. The board mentioned that Mr. Fillmore should either attend the hearing or send a representative.
24 The board noted that the plat was amended in order to define a building envelope and to clarify the
25 setbacks and rights-of-way. Ms. Murray felt the board could either wait till the issues are resolved or
26 close the hearing and deny the application since the board has not received the needed information.
27 The Board discussed its options moving forward.

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29 At 8:00 PM, Mr. Devine made a motion to close the hearing, Ms. Murray seconded. Mr. Rainville asked
30 for discussion. The board discussed the status of the application. Ms. Murray stated that the applicant
31 is applying for an amended subdivision. Mr. Rainville suggested that the parties discuss relocating the
32 existing right-of-ways. The board continued to review the recorded Streeter plat. The plat simply refers
33 to an 8' wide woods road. Mr. Malboeuf said that the board had previously approved the application,
34 however the applicant failed to record the plat in the required timeframe and his approval subsequently
35 expired.

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37 Ms. Matthews stated her concern regarding future subdivision of the property. Mr. Putnam mentioned
38 that A.Johnson's right-of-way only has rights for logging and forestry uses. Ms. Mathews stated that Mr.
39 Fillmore has requested for the board to remove the condition requiring a shared maintenance
40 agreement. Ms. Murray stated that the right-of-ways need to be shown and documented on a plat. Mr.
41 Devine withdrew his motion to close the hearing. Mr. Devine subsequently made a motion, seconded
42 by Ms. Murray, to continue the hearing to the regular meeting held on January 28, 2016 pending
43 additional information [draft plat] from the applicant and to conduct a site visit on the property on
44 October 31st at 10 AM. The motion passed unanimously, 3-0. The board will conduct a site visit on
45 October 31 and continue the hearing on January 28, 2016. Staff will draft a letter on behalf of the board
46 to the applicant stating the board's intent to close the hearing at the January meeting. The letter will
47 outline the outstanding issues and encourage the applicant to either attend the hearing or have a
48 representative attend on his behalf. The hearing concluded at 8:25 PM.

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4. Zoning Administrator's Report

Mr. Malboeuf provided a zoning update. The property owner at 428 Bolton Valley Access Road will be requesting a waiver to expand a non-conforming structure (construct a deck). The proposed deck is to be constructed within the riparian setback but outside of the buffer. Ms. Murray noted that the applicant will be required to restore the riparian buffer. Mr. Malboeuf stated that he has already restored portions of the buffer on one side of Joiner Brook. Mr. Malboeuf stated that the application will be warned for the next meeting.

Mr. Malboeuf also stated that a pre-existing lot on Gardiner Lane has requested a zoning determination. Mr. Malboeuf stated that the riparian buffer encompasses the entire lot and that he plans on drafting a determination that there is no available buildable space on the lot. The property owner will have the right to appeal to the DRB. Mr. Malboeuf stated that the property owner would like to sell the parcel as a buildable lot.

Mr. Malboeuf and the board discussed the Black Bear Inn. The board noted that if the use is not changing it will not require site plan approval.

5. Prospective DRB Alternate- Rob Ricketson

The board reserved time to answer questions from Rob Ricketson. Mr. Ricketson said that he has some general familiarity of zoning regulations. He stated that many of his projects are in Burlington and mostly involve renovation rather than construction.

6. Meeting Minutes

The minutes from August 27, 2015 were tabled until the next regular meeting.

7. Other Business

None

8. Meeting Adjournment

Mr. Devine motioned to close the meeting, Mr. Rainville seconded. Motion passed unanimously. Adjourned at 9:15 PM.

The next regular DRB meeting will be held on October 22, 2015 at the Bolton Town Office at 6:30 PM.

Respectfully submitted,

Sarah McShane
Bolton DRB Assistant

These minutes are unofficial until formally accepted by the DRB.

DRB Meeting Minutes
September 24, 2015

1 These minutes were read and accepted by the Development Review Board on October 22,
2 2015.

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A rectangular box containing a handwritten signature in black ink that reads "Michael Rainville".

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5 Michael Rainville, DRB Chair

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