



Town of Bolton Development Review Board

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

Mr. Aaron Lawrence
Conditional Use/Steep Slopes
Application #2017-01-DRB
March 17, 2017

Applicant

Mr. Aaron Lawrence
PO Box 4417
Burlington, VT 05406

Property: 1518 Notch Road, Bolton, VT

Application

(Application materials on file at the Bolton Town Office)

The Applicant request conditional use approval to construct a single family dwelling on steep slopes (15% or more) under Sections 3.16 and 5.4 of the Bolton Land Use and Development Regulations. The dwelling and driveway are to be constructed within a designated building envelope on a pre-existing, forested, undeveloped 31.6 acre lot owned by the Applicant, Mr. Aaron Lawrence. The parcel is located at 1518 Notch Road (#5-0041518) in the Rural II district.

The application has been reviewed by the Bolton Development Review Board (DRB) as a conditional use under the Bolton Land Use and Development Regulations (BLUDRs) as amended, effective August 9, 2010, applicable zoning district criteria (Table 2.5), and conditional use review standards (Section 5.4).

The Development Review Board's procedural history and relevant findings are attached.

Decision –Conditional Use Approval

- Denied**
- Approved**
- Approved with Conditions:**

1. The Applicant must obtain a zoning permit from the Zoning Administrator prior to beginning site work and construction. In the event that a zoning permit has not been obtained within one year of the date of this decision, DRB approval shall expire and reapplication shall be required.
2. Prior to the issuance of a zoning permit, the Applicant shall file with the Zoning Administrator:
 - A revised driveway profile and cross section showing final grades, and surfacing, crowning, ditching and culvert details;
 - A revised site plan showing the approved building envelope and relocated ditch on the uphill side of the driveway; with notations that the ditch must be stone-lined, and that the single family dwelling and all accessory structures and parking areas must be located within the designated building envelope, as approved by the DRB.
 - A highway access (curb cut) permit approved by the Bolton Road Foreman and Bolton Fire Chief.

3. The single family dwelling, any accessory structures and the parking area must be located within the designated building envelope, as shown on the revised Site Plan and pinned on the ground. Future additions or accessory structures to the single family dwelling that are allowed under the regulations as permitted uses, are located within the designated building envelope, and conform to these conditions of approval shall require only the issuance of a zoning permit from the Zoning Administrator. Conditional use approval shall be required for any change in size or location of the designated building envelope as approved by the DRB.
4. Per Section 3.16 of the regulations (Steep Slopes), no site disturbance, clearing, or development, including building or driveway construction, shall occur on slopes in excess of 25% within or outside of the designated building envelope.
5. The DRB agreed to waive the requirement, per Section 3.16 of the regulations (Steep Slopes), for a stormwater management and erosion control plan prepared by a professional engineer; however all development on slopes of 25% or less shall be constructed, and all disturbed slopes stabilized as necessary to prevent surface runoff, erosion and downslope movement of material in accordance with accepted management practices for stormwater management and erosion control as specified in the "Low Risk Site Handbook for Erosion Prevention and Sediment Control" (VT Dept. of Environmental Conservation, 2006). In addition:
 - Site disturbance, clearing and grading shall be limited to those areas identified for construction and improvement within the designated building envelope, as described in the application and as shown on the revised Site Plan, as amended under Condition #2.
 - Site disturbance, clearing and development are prohibited outside of the designated building envelope, except as necessary to install and maintain the driveway, water supply and wastewater systems as indicated on the revised Site Plan, or for forest management conducted in accordance with the "Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont" (VT Dept. of Forests, Parks and Recreation) or a state-approved forest management plan.
 - All disturbed areas shall be temporarily stabilized during construction and permanently stabilized following construction as described in the application, to include re-vegetation with native, non-invasive species, and the installation of retaining walls, where deemed necessary.
6. The driveway serving the dwelling shall be sited and installed as show on the revised site plan, and constructed to B-71 standards for residential drives as amended by the town, and the requirements of Section 3.2 (Access) of the regulations:
 - The driveway shall not exceed an average finished grade of 15% within any 50-foot section; the approach area within 20 feet of the road right-of-way shall not exceed a 3% grade.
 - Driveway side slopes must be adequately stabilized and maintained to avoid slope failure and minimize erosion.

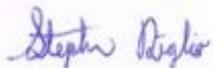
- Ditching along the driveway shall be relocated on the uphill side of the driveway as agreed to and shown on the revised Site Plan to be submitted under Condition #2. Ditches must be stone-lined.
 - An access (curb cut) permit must be obtained from the Town of Bolton prior to the issuance of a zoning permit. The driveway shall be installed and maintained as approved by the Bolton Road Foreman and Fire Chief, as necessary to allow year-round access by emergency vehicles. The culvert located within the town right-of-way shall be sized and located as required by the Road Foreman, to be installed and maintained by the permittee.
 - Any damage to the town highway due to driveway runoff and erosion, or failure to adequately maintain driveway culverts and ditching, shall be the responsibility of the permittee.
7. Outdoor lighting permanently installed on the site shall meet the requirements of Section 3.9 of the BLUDR, including the requirement that outdoor lighting shall be cast downward or be designed to minimize glare (e.g., through the use of recessed, shielded, cutoff or shaded fixtures), and shall not direct light upward or outward onto adjoining properties, public waters or public rights-of-way.
 8. All other required state and municipal permits and approvals must be obtained prior to the start of construction.
 9. A certificate of occupancy must be obtained from the Zoning Administrator following the construction but prior to occupancy and use to ensure that it has been constructed as approved by the Development Review Board, as required under Section 9.4 of the BLUDR.
 10. These conditions of approval shall run with the land and are binding upon and enforceable against the permittee and his successors. By acceptance of this permit, the permittee agrees to allow authorized representatives of the Town of Bolton to access the property subject to this approval, at reasonable times, for purpose of ascertaining compliance with the conditions of approval.

Approved with conditions (4-0) by the Bolton Development Review Board:

Stephen Diglio – Yea
Sharon Murray – Yea
John Devine – Yea
Rob Ricketson – Yea

Dated at Bolton, Vermont this 17th day of March, 2017.

For the Development Review Board:



Stephen Diglio, Chair

NOTICES:

1. In accordance with 24 V.S.A. § 4449(e), 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. The applicant or another interested person may request reconsideration of this decision by the Development Review Board, including associated findings and conditions, within 30 days of the date of this decision by filing a notice of appeal that specifies the basis for the request with the Secretary of the Development Board. Pursuant to 24 V.S.A. § 4470, the board may reject the request within 10 days of the date of filing if it determines that the issues raised on appeal have already been decided or involve substantially or materially the same facts by or on behalf of the appellant.
3. This decision may also be appealed to the Environmental Division of the Vermont Superior Court by the applicant or another 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.
4. In accordance with 24 V.S.A. § 4455, on petition by the municipality and after notice and opportunity for hearing, the Environmental Division may revoke this permit based on a determination that the permittee violated the terms of the permit or obtained the permit based on misrepresentation of material fact.

Review Process

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

An application for conditional use review was filed by Applicant Aaron Lawrence. The application was accepted as administratively complete by Bolton Zoning Administrator Sarah McShane and referred to the Bolton Development Review Board for a public hearing. A public hearing of the DRB was scheduled for January 26, 2017 and warned in accordance with Section 9.8(D)(1) of the regulations and 24 V.S.A. § 4464.

The public hearing to consider the application was convened on January 26, 2017, 6:30 PM at the Bolton Town Office with a quorum of the DRB present. No ex parte communications or conflicts of interests were reported. The following persons attended and participated in the hearing process, and may be afforded status as interested persons with rights to appeal:

- | | |
|-----------------------------|-----------------------------------|
| • Aaron Lawrence, Applicant | PO Box 4417, Burlington, VT 05406 |
| • Luke Ingraham, Abutter | 1530 Notch Rd., Bolton, VT 05465 |
| • Ali Kosiba, Abutter | 1530 Notch Rd., Bolton, VT 05465 |
| • Tony Barbagallo, Abutter | 1519 Notch Rd., Bolton, VT 05465 |

The following materials were submitted in support of the application and entered into the hearing record:

1. Project Narrative (3 pages), no date;
2. Application to the Development Review Board & Building/Zoning Permit Application (2017-01-DRB), no date;
3. Tax map with parcel and project location highlighted;
4. Copy of Warranty Deed (3 pages), no date;
5. Copy of survey 'Land of Transformations Inc.' dated August 1991;

6. Site plan titled 'Fogg, Notch Road, Bolton, Vermont' prepared by Vermont Contours Inc, Sheet 2 of 3, dated 2/25/2015;
7. Plot plan titled 'Fogg, Notch Road, Bolton, Vermont' prepared by Vermont Contours Inc, Sheet 1 of 3, dated 2/25/2015;
8. Details titled 'Fogg, Notch Road, Bolton, Vermont' prepared by Vermont Contours Inc, Sheet 2 of 3, dated 2/25/2015;
9. Copy of ANR Natural Resources Atlas showing approximate house site, existing road, and steep slopes, no date;
10. Copy of ANR Natural Resources Atlas showing approximate house site, existing road, and aerial image, no date;
11. Copy of 'Map of Land Enrolled in Current Use', 11/2/2016;
12. Copy of State of VT Wastewater System and Potable Water Supply Permit, WW-4-4418, dated 3/31/2015;
13. Photographs of proposed house site area and existing driveway (3 pages), no date.

The DRB continued the hearing to February 23, 2017 at 6:30 PM pending the submission of additional information from the Applicant. The Applicant subsequently submitted the following items in support of the application and entered into the February 23rd hearing record:

14. Revised Site Plan showing erosion control measures, no date;
15. Revised Site Plan showing Driveway Design, no date;
16. Revised Site Plan showing approximate driveway slopes, no date;
17. Average slope calculations, no date;
18. Google Earth image of existing curb cut with project notes, no date.

The DRB adjourned the hearing that evening, following the submission of testimony and evidence, marking the start of the 45-day period for the issuance of written findings and a decision.

Findings & Conclusions

The Applicant's request for conditional use approval was reviewed by the Bolton Development Review Board (DRB) for conformance with applicable requirements of the Bolton Land Use and Development Regulations (BLUDR) in effect as of January 5, 2005, and amended through August 9, 2010, including the following:

- Rural II District (Table 2.5)
- Steep Slopes (Section 3.16)
- Conditional Use Review (Section 5.4)

DRB findings and conclusions under each of these are presented as follows.

Zoning District Standards (Table 2.5 Rural II District)

Conclusion: Based on the following findings, the DRB has determined that the proposed development, as shown on initial and revised site plans submitted as part of the application, meet the dimensional, use and supplemental standards of the Residential II District in which they are located.

1. **Lot Area.** The existing lot 31.6-acre lot, created in 1991 prior to the effective date of the current regulations, meets the current minimum district lot area requirement of 10 acres.

2. **Frontage.** The existing lot, having 384 feet of frontage along the Notch Road as shown on the recorded subdivision plat and referenced in the application, meets the current minimum district road frontage requirement of 300 feet.
3. **Setbacks.** The proposed building site is shown on the revised Site Plan and is located outside of the required minimum 35-foot setback from the road-right-of-way, and required 50-foot setbacks from side and rear property lines.
4. **Use.** Single family dwellings are allowed in this district as permitted uses. The dwelling is to be served by the water and wastewater system as permitted by the state.
5. **Building Envelope.** A designated building envelope is not required for development within this district, but has been proposed as shown on the revised Site Plan, to limit development, site disturbance and clearing on steep slopes, per Section 3.16 of the BLUDR.

Steep Slopes (Section 3.16)

Based on the following findings, the DRB has determined that if developed as proposed, using construction, stormwater management and erosion control practices that minimize site disturbance, and runoff and erosion, the proposed development will conform to the BLUDR for development on steep slopes.

6. The lot, including portions to be developed, include steep (15+%) and very steep (>25%) slopes, as shown on the ANR Natural Resources Slope Map, submitted in support of the application.
7. Sections of the driveway, and the proposed site for the single family dwelling, are both located on slopes up to but not exceeding 25%. Development on steep slopes typically requires the submission of a stormwater management and erosion control plan prepared by a professional engineer licensed by the state.
8. Given the limited scope and extent of the proposed work, the applicant has instead provided a revised Site Plan, which identifies the location and specifications of existing and proposed culverts and ditches in the vicinity of proposed development. The revised Site Plan also includes information regarding slope stabilization measures to be used, including maintaining existing forest cover, re-vegetating disturbed areas, and the possible use of permanent retaining walls if needed.
9. As proposed, site clearing will be minimal and limited to the driveway, house site, well and septic areas. The Applicant has agreed to use the recommended management practices presented in "The Low Risk Site Handbook for Erosion Prevention and Sediment Control" (VT DEC, 2006 ed).
10. A building envelope, as shown on the revised Site Plan, has been designated to define and limit the extent of existing and future site clearing and development on steep slopes. This includes a proposed site for a single family dwelling and parking area, as generally required for building envelopes under Section 7.2 of the BLUDR.
11. A 260-foot gravel driveway and parking area are to be sited along contours to minimize the amount of grading and cut and fill required, as indicated on the revised Site Plan.

12. The driveway will be upgraded to meet B-71 standards for residential driveway design, drainage and ditching. It must also meet other applicable requirements pertaining to access and driveways under Section 3.2 (Access & Driveways) of the BLUDR, including the requirement that the finished grade not exceed 15% over any 50-foot section as necessary to allow for emergency vehicle access. A highway access permit from the town is also required for access onto the Notch Road.

Conditional Use Review (Section 5.4)

Conclusion: Based on the following findings, the Board concludes that the proposed single family dwelling and residential driveway, as indicated on the provided application materials and discussed during the hearing, if constructed as approved, will have no undue adverse effect on the capacity of existing and planned community services and facilities, the character of the area affected, traffic on Stage Road, bylaws currently in effect, or the use of renewable energy resources.

The capacity of existing or planned community services or facilities.

13. The dwelling will be served by a privately maintained onsite wastewater system approved by the state and a private water source.
14. The existing driveway will be upgraded, where necessary, to meet B-71 standards for residential drives, as required under the BLUDR. A highway access permit must also be obtained from the town for access onto the Notch Road.
15. The existing 260-foot gravel driveway will be upgraded to meet access standards under the BLUDR including the requirement that the finished grade not to exceed 15% over any 50-foot section, as necessary to allow for emergency vehicle access.

The character of the area affected.

16. The application is for the construction of a single-family dwelling, allowed as a permitted use in the Rural II District, the purpose of which is to “allow for limited, compatible, lower densities of development that maintains Bolton’s rural character, and protect significant natural resources, while discouraging subdivision and development in areas with limited access to public roads and facilities.”
17. The development has been designed to minimize impacts on natural resources, including steep slopes and forest cover.

Traffic on roads and highways in the vicinity.

18. The residential dwelling is expected to generate no more than ten trip ends per day (per ITE standards for single family dwellings), which will have no undue adverse effect on existing traffic on the Notch Road.

Bylaws in effect.

19. Applicable bylaws include the Bolton Land Use & Development Regulations and the Bolton Motor Vehicle Ordinance (11/01/93). Under the town’s vehicle ordinance no parking is

allowed within town highway rights-of-way. A highway access permit issued by the town is also required for this project.

The utilization of renewable energy resources.

20. No change is proposed with regard to the use of, or access to, the utilization of renewable energy resources. The project will not interfere with the sustainable use of renewable energy resources, access to, direct use or future availability of such resources. The parcel is currently forested. Limited clearing is proposed to accommodate the development.
21. The proposed dwelling will be required to follow current Residential Building Energy Standards (RBES). An RBES Certificate must be recorded in the Town Land Records prior to the issuance of a certificate of occupancy by the Zoning Administrator.

Legal Documentation.

22. The applicant has obtained a State of Vermont Potable Water and Wastewater permit. A town highway access permit is also required.