



TOWN OF BOLTON

3045 Theodore Roosevelt Highway
Bolton, VT 05676

Bolton Development Review Board

Meeting Minutes

May 28, 2020

Virtual Meeting (online)

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Approved by vote of the DRB – June 25, 2020

Present:

Members: All via remote - Adam Miller, Adam Beaudry, John Devine, Rob Ricketson, Steve Diglio (joined at 6:40 p.m.)

Staff: All via remote - Larry Lewack (Planning & Zoning Administrator) and Connie Beliveau (DRB clerk)

Others present: John Stuart (representing applicant, remote)

Posted Agenda:

6:30 PM Introductions and Public Comment

6:35PM Warned Public Hearings: (continued from March 26, 2020)

Application 2020-06-CU: Applicant: Richard J. Weston, Property Owner: (same) –Request Conditional Use approval to build 1,290 sq. ft. single family dwelling at 1811 Happy Hollow Rd. The property is located in the Forest Zoning District. (Tax Map # 12-4101901)

7:20PM Meeting Minutes – review & approve draft minutes of April 23, 2020 DRB mtg.

7:25PM Zoning Administrator’s Report

7:35PM Other business–Steep slopes regulation; last call for FY 20 budget draw-down

7:45PM Deliberative Session

8:20PM Adjourn

Call to Order: With a quorum of 4 members present, the meeting was called to order by Adam Beaudry, Vice Chair, at 6:35 p.m., and roll call was taken. (The quorum increased to 5 when Steve Diglio joined the meeting at 6:38 p.m.)

Public Comment: No public comment.

Public Hearings:

The Board continued the hearing of Application 2020-06-CU from March 26, 2020.

Per Adam Beaudry’s request, Larry Lewack presented a summary of outstanding issues:

- 48 • The burden is on the applicant to show that the proposed driveway will not be in violation of
49 property rights and easements near Happy Hollow Road as well as further into the property and in
50 Huntington.
- 51 • The driveway maintenance agreement draft is not yet sufficient to meet the town's requirements.
- 52 • Driveway standards for emergency vehicle access, as detailed in the Huntington fire chief's
53 recommendations, have been addressed by John Stuart's submissions last week.
- 54 • Regarding utilities to support the operation of proposed infrastructure, i.e. electric service to pump
55 for drilled well, and pump station for force main to the leach field, no additional information has
56 been received since the May 14 site visit.
- 57 • The current version of the site plan stipulates the building envelope, as requested.
- 58 • Additional details have been requested regarding exterior finishes. Exterior lighting is specified in
59 the application, but other details are lacking.

60

61 Larry Lewack added that none of these items are new requests. He has routinely advised the applicant and
62 Mr. Stuart about the DRB's interest in obtaining these details in the interests of resolving their concerns
63 and having sufficient evidence to facilitate a final decision.

64

65 John Stuart appeared on behalf of the applicant, who did not participate. Stuart stated that his May 19
66 letter raises the issue that a single-family dwelling is a permitted use in the Forest District. He
67 acknowledged that the structure must be located in a designated building envelope, and asserted that the
68 site plan review applies to permitted use with the exception of single-family and two-family dwellings. He
69 stated that he did not want to be confrontational, but expressed the opinion that the extent of the review
70 process is much more limited than what the DRB is indicating.

71

72 Steve Diglio suggested that we defer a discussion on the issue of DRB scope and jurisdiction to a
73 deliberative session, at another time. He does not want to take time during tonight's hearing to revisit
74 these issues, which have already been addressed with the applicant & Mr. Stuart offline.

75

76 The Chair stated he believes most of the technical issues have been resolved. However, he suggests we keep
77 the hearing open after tonight until the Ford property acquisition is complete. He asked other members for
78 questions & comments on the new drafts submitted by Mr. Stuart since our last discussion. The DRB
79 reviewed the latest drafts of the road elevation profile and site plans.

80

81 Adam Beaudry stated that it appears the applicant has made the adjustment to the two hairpin curves as
82 recommended by the Huntington fire chief, based on the DRB's May 14 site visit. It appears everything is
83 within range, less than 25% slope. All culverts appear to be shown on the site plan. He commented he
84 believes that the applicant is trying to meet all DRB recommendations.

85

86 Adam Beaudry stated that he would like to see a hammerhead at the first hairpin turn, to ensure access for
87 the Wilson and Van Horn properties. He stated that if Weston bought the Ford property, other Right of Way
88 issues would be resolved, but not these.

89

90 John Stuart stated that there is a place at the hairpin turn where neighbors can park. He commented that it
91 is questionable whether the driveway will cross Koloski's land. He stated that the applicant will not impede
92 access to neighbors' lands.

93

94 Steve Diglio asked if the property ownership has transferred to Rick Weston yet. John Stuart stated no,
95 because the attorneys still need to do the title search and are waiting for the town office to reopen. Larry
96 Lewack noted that the town office will reopen for title searches on June 1, 2020.

97

98 Steve Diglio asked if Rick Weston's lawyer is required by professional standards to make sure the
99 purchaser has access to the lands when a property is purchased. Adam Miller commented that it's possible
100 to purchase landlocked property and create access later; but he stated that this parcel is not on the Koloski
101 property.

102
103 Steve Diglio stated that if the property purchase goes through, only the stretch of driveway up to the first
104 hairpin turn will have access issues. Adam Miller stated that Ford has access along the shared private road,
105 therefore if Rick Weston buys the Ford parcel, he will have access.

106
107 Rob Ricketson stated that Rick Weston did not own all the properties when the application was submitted,
108 therefore the DRB has been discussing the access issues. Rob agreed that many of the access issues will go
109 away when and if the property transfers ownership. Rob commented that although John Stuart has stated
110 that Weston is willing to take on responsibility for the road maintenance, the current application does not
111 adequately document that to the DRB's satisfaction.

112
113 The group discussed the driveway maintenance agreement. Adam Miller stated that there are 8 properties
114 with some level of deeded ROW access to various portions of Happy Hollow Rd. above the turn-around.
115 Different properties are used in different ways (e.g. a camp, a year-round home, woodlots), therefore
116 different kinds of vehicles will be traveling on the road. Other property owners will need an agreement on
117 who will maintain the road, as required in our development regs.

118
119 John Stuart stated that he will send information to Larry Lewack regarding the building exterior. Similar to
120 the original application, a log-cabin-style exterior with a dark roof will apply to this building as well. He
121 asked if any other topics are outstanding, other than legal issues.

122
123 Rob Ricketson asked Larry Lewack to describe what other information has been requested besides
124 materials and material choices. Larry presented the outstanding items (numbered as listed above):

125
126 (1) Regarding property rights and easements, John Stuart has provided a letter that he sent to
127 several of the neighbors describing the proposed driveway improvements and potential impacts on
128 their properties. Larry noted that this is a good first step, but it's not the same as having received
129 permission to make the improvements. If the neighbors have heard and have not objected, this is
130 not the same as giving permission. If the Ford land purchase goes through, it will address this issue.
131 Otherwise the DRB will be within our rights to say we cannot render a decision without a legal
132 opinion.

133
134 (2) Regarding the driveway maintenance agreement: even assuming the Ford land purchase is
135 completed, it's still not adequate; it needs to address usage by the owner of a seasonal home vs.
136 year-round use as proposed by Mr. Weston and future owners.

137
138 (4) Regarding utilities to support the infrastructure, consistent electricity supply to operate a
139 sprinkler system would impact the owner's ability to buy fire insurance.

140
141 John Stuart asked if a legal opinion is required if the land transaction does not occur. Larry Lewack replied
142 that a legal opinion might be needed even if the land transaction does occur. Access and easement issues up
143 to the first hairpin turn would still need to be reviewed by the DRB.

144
145 Adam Miller stated that if Rick Weston closes on the Ford property, then he has the right to alter his road
146 any way he wants to; there would be no need for a legal opinion on that. If he doesn't close on the Ford

147 property, he would have two sections of road that he does not have the right to alter. He suggested the
148 applicant contact a land-use attorney.

149
150 John Devine asked if the Ford parcels will be joined into one parcel with Mr. Weston's other parcels, or
151 remain as 3 separate parcels. He commented that otherwise, the Ford property or other parcels could be
152 sold again individually without subdivision review. It would be better for the town & provide clarity for
153 subsequent owners' rights if Mr. Weston consolidates them. Stuart stated that he believes Mr. Weston is
154 amenable to that. Steve Diglio asked about a camp on the Ford property. John Stuart explained that Weston
155 is buying Lot A, but the camp is on one of the other parcels.

156
157 Steve Diglio stated that the DRB is ready to move forward on the application once Rick Weston has
158 ownership of the Ford property. He suggested the DRB could continue the hearing until then; if Weston
159 doesn't acquire the land, the DRB will need to receive a legal opinion.

160
161 Adam Miller asked John Stuart to pass along the following additional requests to Rick Weston: (a) To clarify
162 details about the exterior design and non-reflective roofing; (b) To specify whether he plans to consolidate
163 the lots; (c) To limit clearing to the building envelope and road.

164
165 Steve Diglio commented that in the original application, the house site was at a higher elevation and very
166 visible. He asked if exterior materials are significant in the current application because the site is in the
167 Forest District. Rob Ricketson explained that in Forest District standards enumerated in Table 2.6, section
168 E.6.C, a lighting plan may be required by the DRB, with screening to minimize the visual impact of the
169 project. The intent of this language is to limit and minimize the environmental and visual impact of
170 development in the Forest district.

171
172 **Rob Ricketson made the motion to continue the hearing to the next regularly scheduled DRB**
173 **meeting: June 25, 2020 at 6:30 p.m., or until such time as the Board has received proof of the**
174 **applicant's purchase of the Ford property and satisfactory responses to the remaining concerns**
175 **discussed above. Adam Miller and Steve Diglio seconded. There was no further discussion and the**
176 **motion passed (5-0) with all five members voting in favor.**

177
178 John Stuart left the meeting.

179
180 **Draft April 23, 2020 Meeting Minutes:**

181
182 Members reviewed the draft. Larry clarified that Application 2020-08-CU (Bolton Valley Resort pool) was
183 approved in concept, but the decision has not been finalized yet; the draft decision will be sent to the
184 members for review & a vote. The deadline has been extended by the State of Vermont to 30 days past the
185 expiration of the governor's emergency order, which is still in force.

186
187 Adam Beaudry made the motion to accept the April 23, 2020 minutes as presented. Adam Miller seconded.
188 All were in favor.

189
190 **Zoning Administrator's Report:**

- 191
192 ○ There have been 12 zoning permits issued thus far this year, and 11 zoning certifications. There are 4
193 zoning permits in process.
194
195 ○ Bolton Valley Resort will need conditional use approval for a proposed expansion of the Timberline
196 lodge. This application is still under development.

197

198 ○ The owners of E&S Transport want to return to the DRB for some amendments to their approval, to add
199 more impound lot capacity.

200

201 ○ The burned building at 588 Bolton Valley Access Rd. was demolished and removed in May.

202

203 The group discussed a burned property on Thacher Road that is in similar condition to the property on
204 Bolton Valley Access Road which recently received a Notice of Violation. Larry Lewack stated that he has
205 not sent a Notice of Violation to the Thacher Road owners yet, but the town could declare it an abandoned
206 building because more than a year has passed since the building burned in 2018.

207

208 Adam Beaudry asked what options might exist for addressing future zoning violations of differing
209 severities, beyond sending a Notice of Violation letter. Larry Lewack stated that the Select Board recently
210 discussed different approaches to enforcement, such as adopting an ordinance that gives the Zoning
211 Administrator the authority to issue tickets and fines. Currently the town must escalate zoning violations to
212 sue the property owner in Environmental Court, which is very expensive for the town, and takes months to
213 resolve. The Selectboard gave Larry the go-ahead to research and present model ordinance language to
214 authorize the Zoning Administrator to issue tickets and fines for zoning violations.

215

216 **Other Business:**

217

218 The group discussed whether it's possible to amend conditions of prior DRB approvals. Adam Miller stated
219 that the town's regulations do not define any process for amending permits, so this is currently not an
220 option. Rob Ricketson suggested the property owner can file a new application for a new permit, if there's a
221 condition they wish to revisit, or just appeal the DRB's approval (if within 30 days of the original decision).
222 Adam Miller explained that if a prior permit specifies limits in its conditions (e.g. house size), then those
223 conditions cannot be amended; but if there are no limits, a new application can be submitted. Larry Lewack
224 stated that he will contact the Vermont League of Cities and Towns for guidance, since most other towns
225 have a provision for site plan amendments. Larry suggested a new application could be submitted to
226 propose changes in the nature and scope of a business, for review by the DRB.

227

228 The group discussed the Conditional Certificate of Compliance that's pending for the Kilpeck subdivision,
229 application 2020-15-CC. The culvert emerges from a retaining wall approximately 6 feet above ground
230 level, perpendicular to Duxbury Road. The members discussed the details of the construction and
231 recommended remedial action (installation of an elbow or T-pipe at the end of the culvert to direct
232 rainwater downward to a stone-lined gully) to reduce erosion and avoid a dangerous washout on Duxbury
233 Road. The group reviewed the engineer's letter which was submitted with the application and suggested
234 Larry Lewack should contact the engineer and ask him to revisit the culvert site. Steve Diglio will assist
235 Larry with the letter.

236

237 The group agreed to postpone the discussion of steep slopes regulation to a future DRB meeting.

238

239 Larry Lewack announced that June 12, 2020 is the deadline for the current fiscal year, for any expenses that
240 need to be invoiced under this year's DRB budget line item. Steve Diglio indicated there would be no
241 further need this fiscal year.

242

243 **Deliberative Session:** None.

244

245 **Adjourn: Adam Beaudry moved to adjourn the meeting.** Adam Miller seconded. There was no further
246 discussion and the motion passed (5-0) with all five members voting in favor. **The meeting was**
247 **adjourned at 8:12 p.m.**

248

249 Next scheduled DRB meeting:

250 **Thursday, June 25, 6:30 p.m.** (Virtual/online meeting only, unless otherwise noticed in posted agenda.)

251

252 Respectfully submitted,

253

254 Connie Beliveau (DRB clerk), and

255 Larry Lewack, Planning & Zoning Administrator