



Town of Bolton Development Review Board

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

Rick Weston
Conditional Use Application
Application #2020-06-CU
August 6, 2020

Applicant

Rick Weston
Weston Properties of Bolton, LLC
205 Browns River Rd.
Essex, VT 05452

Property: 1811 Happy Hollow Rd., Bolton

Application

(Application materials on file at the Bolton Town Office)

The applicant, Rick Weston, requests conditional use approval to construct a 1,290 sq. ft. two-story single family dwelling over a 3-bay garage on a previously undeveloped 58.5 acre lot (parcel ID 410191) and a 3.5 acre lot (parcel ID 4101801) in the town’s Forest District. Applicant proposes to utilize a portion of an existing .58 mile woods road that traverses his property, partly extending into the town of Huntington, to access the project site from Happy Hollow Road. At time of application, Mr. Weston presented an approved state water supply and wastewater design permit (# WW-4-6154), with rated capacity for a 3-bedroom home.

This application has been reviewed by the Bolton Development Review Board (DRB) under the Bolton Land Use and Development Regulations (BLUDRs) as amended, in effect as of January 5, 2005, amended through January 7, 2019, including applicable zoning district criteria (Table 2.6), Access & Driveways (Sec. 3.2), Steep Slopes (Sec. 3.16), Site Plan and Conditional Use reviews (Sec. 5.3 and 5.4). The Development Review Board’s procedural history and relevant findings to support this decision appear on pages 3-7 below.

Decision – Conditional Use

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

The DRB approves the conditional use approval requested by the applicant, Rick Weston, as listed in the application and shown on various Site Plans prepared by engineer John Stuart, pursuant to the following applicable provisions of the Bolton Land Use and Development Regulations, as amended:

1. The proposed project driveway, single family dwelling, well and wastewater system, must be located and constructed as shown on the most recent versions of Site Plans submitted with this application.

2. 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, this DRB approval shall expire, and reapplication shall be required.
3. Future additions or accessory structures to the single family dwelling which are allowed under the regulations as permitted uses, are located within the designated building envelope, are within the designed capacity of the wastewater system, and conform to these conditions of approval, shall require only the issuance of a zoning permit from the Zoning Administrator.
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% outside of the designated building envelope.
5. All development on disturbed slopes will be stabilized as necessary to prevent surface runoff, erosion and downslope movement of material, and to minimize associated risks to surface and groundwater, roads and neighboring properties as described in the application, and in accordance with state-accepted management practices for stormwater management and erosion control (e.g., *Low Risk Site Handbook for Erosion Prevention and Sediment Control*, VT Dept. of Environmental Conservation, 2006). Accordingly:
 - 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 most recent versions of project Site Plans, or for forest management under state-accepted forest management practices.
 - All disturbed areas shall be temporarily stabilized during construction, and permanently stabilized following construction as described in the application.
6. The driveway serving the dwelling shall be improved by grading, ditching, and installation of culverts and other runoff controls as indicated on the most recent versions of submitted site plans. The entire driveway shall be constructed to VT Agency of Transportation B-71 standards for residential drives, and in compliance with the requirements of BLUDRs Section 3.2, including:
 - The driveway shall not exceed an average finished grade of 15% within any 50-foot section; the approach area within 20 feet of the Happy Hollow Rd. right-of-way shall not exceed a 3% grade.
7. Applicant agrees to record the signed Driveway Maintenance Agreement of June 25, 2020 with the deed for this lot, and for the 3.5 acre adjoining lot purchased in June 2020. The driveway must be maintained by the owner at the applicant's sole expense for year-round access as provided in that document, and for any period during which either property is occupied by a resident or renter.
8. 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 BLUDRS.
9. 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 approval, the Applicant 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 (4-0) by the Bolton Development Review Board:

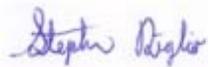
Stephen Diglio – yes
Rob Ricketson – yes

John Devine – yes
Adam Beaudry – yes

Note: Board member Adam Miller was recused from this decision.

Dated at Bolton, Vermont this ____ day of August, 2020.

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, and meeting minutes on file at the Bolton Town Office)

The original application for conditional use approval, and supporting information, was filed by applicant Rick Weston on February 10, 2020. The application was accepted by Zoning Administrator Larry Lewack and referred to the Bolton Development Review Board (DRB) for a public hearing. Following receipt of additional required materials requested by staff, a public hearing of the DRB was warned for February 27, 2020 by the DRB Clerk and Zoning Administrator, in accordance with Section 9.8(D)(1) of the Bolton Land Use & Development Regulations (BLUDRs) and 24 V.S.A. § 4464.

The first public hearing to consider the application was convened on February 27, 2020 at 6:30 PM at the Bolton Town Office, with a quorum of the DRB present. The hearing was continued to several

additional DRB meetings, with the applicant's consent, to allow for the applicant to provide requested additional materials and details. No ex parte communications or conflicts of interests with DRB members were reported. (However, DRB member Adam Miller recused himself from this DRB decision, due to his status as an interested party [abutting property owner].) In addition to the applicant and engineer John Stuart, the following persons attended and participated in the hearing process, or submitted written testimony prior to closing the hearing, and thus have status as interested persons with rights to appeal:

- Adam Miller - 1617 Happy Hollow Rd., Huntington, VT 05676
- Tate Jeffrey, Fire Chief (on behalf of Town of Huntington), 4930 Main Rd., Huntington, VT 05462

The following materials were submitted by the applicant, Mr. Stuart, abutting property owners and Huntington town officials in support of the application, and entered into the hearing record:

- Weston overall site plan, v. 1 – 2.10.2020
- Weston site plan detail, v. 1 – 2.10.2020
- Road section, runoff controls and well design details, v1 - 2.10.2020
- Driveway elevation profile detail, v1 – 2.10.2020
- Draft road maintenance agreement – 2.10.2020
- Weston-Fitzpatrick subdivision map and deeds – 3.2.2020
- Weston overall site plan, v. 2 with pull-outs – 3.2.2020
- Driveway elevation profile detail, v2 – 3.2.2020
- Road section, runoff controls and well design details, v2 – 3.2.2020
- Comments from Tate Jeffrey, Huntington Fire Chief, on roadway design for emergency vehicle access and fire safety considerations in house and project design – 4.20.20
- Weston site plan detail, v. 2 – 4.21.2020
- Comments from Adam Miller, abutting property owner, on road access & design – 5.11.2020
- 1977 Easement Deed and property map from original Fayette subdivision - 5.11.2020
- Stuart memo re: DRB scope of review – 5.28.2020
- Stuart slope analysis and map - 5.28.2020
- Road section, runoff controls and well design details, v3 – 5.28.2020
- Driveway elevation profile detail, v3 – 5.28.2020
- 50 scale road elevation and detail - 5.28.2020
- Stuart letter to Weston neighbors re: ROW - 5.28.2020
- Comments from Adam Miller on DRB conditional use jurisdiction - 5.28.2020
- Stuart letter to ZA summarizing project changes & updates – 6.18.2020
- Weston site plan detail, v. 3 – 6.18.2020
- Weston overall site plan, v. 3 – 6.18.2020
- Road section, runoff controls and well design details, v4 – 6.18.2020
- Weston deed for purchase of Ford property – 6.22.2020
- Revised road maintenance agreement – 6.25.2020

The DRB hearing was continued to several additional DRB meetings, with the applicant's consent, to allow for the applicant to provide requested additional materials and details. A site visit was held by the DRB on the property with the applicant present on May 14, 2020. The DRB closed the hearing on June 25, 2020, following the submission of additional testimony and evidence. (Note: the DRB's decision was

delayed due to imposition of Gov. Scott's emergency order re: the Covid-19 pandemic. This order, and Act 92 as signed into law, suspended normal municipal procedures and permitting deadlines to allow towns sufficient time to process applications and decisions remotely.)

Findings & Conclusions

This application 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, amended through January 7, 2019, including the following:

- Forest District (Table 2.6)
- Access & Driveway Standards (Sec. 3.2)
- Steep Slopes (Sec. 3.16)
- Site Plan Review (Sec. 5.3)
- Conditional Use Review (Sec. 5.4)

Zoning District Standards (Table 2.6, Forest District)

Conclusion: Based on the following findings, the DRB has determined that the proposed Single Family Dwelling is a conditional use in this district (per Sec. E.2, ref. steep slopes requirements for conditional use review for building with access across slopes above 15% grade at Sec. 3.16), and will meet district standards, if constructed as proposed. Project fits within the purposes of the Forest District, which are "... to protect Bolton's more remote and inaccessible forested upland areas from fragmentation, development, and undue environmental disturbance, while allowing for the continuation of traditional uses such as forestry, outdoor recreation and compatible low density residential development." As proposed, this project will meet the dimensional, frontage and other standards of the Forest District:

1. The subject lot of 58.5 acres, with the addition of the purchased 3.5 acre additional lot, exceeds the minimum district lot size of 25 acres.
2. The lot width of the subject parcel is $\pm 2,000$ ft. in the vicinity of the proposed project, which exceeds the minimum district lot width of 1000 ft.
3. The proposed building envelope is $\pm .3$ acre, which is within the maximum building envelope of 1 acre for this district.

Driveway Standards (Sec. 3.2)

Conclusion: Based on the following findings, the DRB has determined that the applicant's design for improvements to existing driveway will meet BLUDRs requirements at Sec. 3.2 as follows:

4. **Grade:** The driveway elevation and road profile plans show the average driveway finished grade will be 4.9%, with a maximum finished grade of 11.9% at any point.
5. **Emergency Vehicle Access:** Site plan design provides required emergency vehicle pull-outs, adequate turning radii at driveway switchbacks and a turn-around of sufficient size at the house site to accommodate the passage of emergency vehicles, in conformance with recommendations of the Huntington Fire Chief. (*Noted:* Given location, Huntington VFD would be the first responder, in an emergency call to this location. Also, year-round driveway maintenance will be required to assure all-season access for emergency vehicles.)

6. **Steep Slopes:** *(see Grade, above)*
7. **Easements for shared use:** Applicant has documented right-of-way easements of other landowners utilizing portion of Happy Hollow Road above turn-around at Huntington town line.
8. **AOT B-71 standard:** road design appears to fully meet this standard (subsection 3.2.F)
9. **Responsibility for improvements and maintenance:** applicant has provided sole responsibility driveway maintenance agreement to document how this standard will be met (subsection 3.2.H)

Steep Slopes (Sec. 3.16):

Conclusion: Based on the following findings, the DRB has determined that the applicant's site plan will meet the BLUDRs requirements at Sec. 3.16 re:

10. **Minimize erosion risk:** With installation of reinforced ditches, culverts, check dams and other structures to minimize potential damage from runoff and erosion, the proposed driveway design will be in compliance with Sec. 3.2 standards and AOT B-71 standards.
11. **Visual impact:** Proposed single family dwelling would not be visible from public vantage points, including roads and properties in the vicinity, per the DRB's 5.14.2020 site visit. Proposed exterior building materials will further minimize the visual impact of this structure from nearby properties, with modest downcast exterior lighting design mounted on the dwelling.

Site Plan Review (Sec. 5.3):

Conclusion: Under BLUDRs Conditional Use Review criteria, the DRB is required to apply site plan review standards per Sec. 5.3. Based on the following findings, the DRB has determined that the project meets (or has minimal impact) on site plan review standards for:

12. **Vehicular access:** no added curb cuts needed. See Sec 3.2, above.
13. **Parking:** applicant proposes a 2-bay garage incorporated into ground floor of house; parking area for 2 cars is provided in front of house, with sufficient room to turn around small emergency vehicles on cleared area.
14. **Site circulation:** Vehicle access only via driveway; no paths or other non-vehicular access are proposed.
15. **Landscaping & screening:** not specified in current plan. Roof ridge line will be less than 30 ft. above grade, with the house site surrounded by 40-45' mature trees to be left standing, except for some trees on the west side. Thus, landscaping plan & screening not required, if accurate.
16. **Protection of site resources in Forest District:** including critical wildlife habitat areas and travel corridors; scenic resources including prominent hillsides and ridgelines.

Conditional Use Review (Sec. 5.4):

Conclusion: Based on the following findings, the DRB has determined that the project as designed will meet (or has minimal impact) on the following specific use standards under Sec. 5.4.E, as follows:

17. **Character of the area; Conformance with Town Plan:** the DRB finds the project design (single family dwelling on a large lot) is consistent with prevalent land uses in this part of town,, and with purposes of the Forest District (per 2017 Municipal Plan and Table 2.6, above). As designed, project would have a minimal adverse impact upon significant natural, cultural or

scenic features identified in the town plan, including natural areas, wildlife habitat, and scenic views in the vicinity of the proposed development.

- 18. Capacity of community services or facilities:** Given the project's location, there would be minimal impact on Bolton's schools and community services. (Utilities, road access and availability of other municipal services would likely be provided via Huntington resources.)
- 19. Traffic on nearby roads and highways:** Proposed addition of a single family dwelling would not add significant traffic impacts to Honey Hollow Road and connecting town roads in Huntington.
- 20. Bylaws in effect:** Per above, project as proposed is in compliance with BLUDRs.
- 21. Utilization of renewable energy resources:** As proposed, project will not affect the use of, or access to, renewable energy resources in the vicinity, or impact the future availability of such resources in Bolton.
- 22. Legal Documentation:** The applicant has provided a road maintenance agreement (to be recorded with deeds for both lots) that all road improvements, associated rights-of-way and easements, will be installed and adequately maintained by the applicant on a year-round basis.