



Town of Bolton Development Review Board

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

John Choate (Applicant)
Conditional Use Review & Setback Waiver
Application #2021-10-DRB, #2021-11-DRB
April 1, 2021

Applicant

John Choate
PO Box 250
Jonesville, VT 05466

Property: 223 Thatcher Rd., Bolton, VT

Application

(Application materials on file at the Bolton Town Office)

The Applicant requests conditional use approval and a setback waiver to construct an approximately 720 sq. ft. garage accessory to an existing single-family dwelling. The proposed garage will have two vehicle bays and a workshop. The parcel is located at 223 Thatcher Rd. (Tax Map #4-0090223) in the Resort Residential district.

The proposed project has been reviewed by the Bolton Development Review Board (DRB) as a development on steep slopes (Sec. 3.16) and as a project requesting a setback waiver (Sec. 9.6), necessitating conditional use review (Sec. 5.4) under the Bolton Land Use and Development Regulations (BLUDRs) as amended, effective January 7, 2019. This review also included the following: applicable zoning district criteria (Table 2.3) and site plan review (Sec. 5.3).

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

Decision –Conditional Use Approval

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

The Bolton Development Review Board (DRB) hereby approves the construction of an approximately 720 sq. ft. garage on 223 Thatcher Rd., and grants a 50% reduction of the 25-foot rear minimum setback (resulting in a 12.5 foot setback), subject to the following conditions of approval:

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 two years of the date of this decision, DRB approval shall expire and reapplication shall be required.
2. Prior to obtaining a zoning permit, the Applicant must have a licensed surveyor delineate the northern property boundary (the property boundary subject to the setback waiver). Stakes must be placed on the portion of the property boundary closest to the proposed garage, and evidence of

the survey work must be provided to the Zoning Administrator prior to the issuance of a zoning permit.

3. The project must be developed according to the plans and applications submitted to the DRB, which includes site, erosion control, and stormwater management plans.
4. 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:

Adam Beaudry – yea Rob Ricketson – yea
John Devine – yea Spencer Nowak – yea

Dated at Bolton, Vermont this 1st day of April, 2021.

For the Development Review Board:



Adam Beaudry, Vice-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)

Applications for conditional use review and a setback waiver were filed by applicant John Choate on February 23, 2021. The applications were accepted as administratively complete by Bolton Zoning Administrator Jon Ignatowski, and referred to the Bolton Development Review Board for a public hearing. A public hearing of the DRB was scheduled for March 25, 2021 and warned in accordance with Section 9.8(D)(1) of the regulations and 24 V.S.A. § 4464.

No ex parte communications were reported by DRB members. Steve Diglio, as an abutting neighbor to the Applicant, claimed a conflict interest and recused himself from the review of these applications. The following persons attended and participated in the hearing process, and may be afforded status as interested persons with rights to appeal:

- John Choate, 223 Thatcher Rd., Bolton Valley, VT 05677
- Stephen Diglio, 183 Thatcher Rd., Bolton Valley, VT 05677

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

1. Applications to the Development Review Board (2021-10-DRB, 2021-11-DRB), received 2/23/2021;
2. Site Plan, received 3/3/2021;
3. Stormwater and erosion management plan, received 3/19/2021;
4. Profile plan, received 3/19/2021;
5. Building Elevations, received 2/23/2021;
6. Section 3.16 Waiver Request, received 3/24/2021;
7. Setback map, received 3/24/2021;
8. Waiver application; received 3/22/2021;
9. Approval from Lindsay DesLauriers, received 3/24/2021;
10. Photo of site; received 3/22/2021

The DRB adjourned the hearing that evening, following the submission of testimony and evidence.

Findings & Conclusions

The Applicant's request for conditional use approval and a setback waiver 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 January 7, 2019, including the following:

- Table 2.3 – Resort Residential District
- Section 3.16 – Steep Slopes
- Section 5.3 – Site Plan Review Standards
- Section 5.4 – Conditional Use Standards
- Section 9.6 – Waivers and Variances

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

Zoning District Standards (Table 2.3, Resort Residential District)

Conclusion: Based on the following findings, the DRB has determined that the proposed development, as shown on site plan submitted as part of the application, meets the use and supplemental standards of the Resort Residential District in which it is located. Regarding dimensional standards, the DRB has determined that the lot is an existing, legally established nonconforming lot and has granted the Applicant a setback waiver. The project will conform to all other dimensional standards.

1. **Lot Area.** The .55 acre lot in the Resort Residential District does not meet the minimum lot area of 2 acres. However, the lot is an existing, legally established nonconforming lot.
2. **Frontage.** The existing lot, having approximately 125 feet of road frontage, meets the current minimum district road frontage requirement of 100 feet.
3. **Setbacks.** The proposed garage conforms to the 15-foot minimum setback from the right-of-way and the 25-foot minimum setback from side lot lines. The proposed garage will not conform to the 25-foot minimum setback from the rear lot line, and the DRB has approved of a 50% reduction of the rear setback, resulting in a 12.5-foot minimum setback.
4. **Building and Lot Coverage.** Maximum building and lot coverages in this district are 40% and 65% respectively. The combination of existing and proposed structures will result in a building coverage of 14.1%. The combination of existing and proposed lot coverage will result in a coverage of 36.5%. Thus, this application conforms to district rules.
5. **Use.** The proposed garage will be an Accessory Structure to a Single-Family Dwelling. The proposed garage is compatible with the existing principal use of the lot.

Steep Slopes (Section 3.16)

Conclusion: Based on the following findings, the Board concludes that the proposed site development minimizes impacts to steep slopes.

6. The Applicant submitted engineered plans that satisfy the standards established in Section 3.16.
7. Stormwater management and erosion control plans presented by the Applicant conforms to best management practices.
8. The proposed development will not disturb slopes greater than 25%.

Site Plan Review (Section 5.3)

Conclusion: Based on the following findings, the Board concludes that the proposed site layout and design are functional, safe, attractive, and consistent with the purpose and character of the Resort Residential District.

9. The location and orientation of the garage and supporting infrastructure on the site is compatible with the proposed setting and context, as determined for zoning district objectives, existing site conditions and features, adjoining or facing structures in the vicinity, and other applicable provisions of Bolton's regulations, including density, setback, height and buffering requirements.

10. The proposed garage will not impact areas of very steep slopes, surface waters, wetlands, and associated buffers or other wildlife habitat areas. The project will affect areas of steep slopes, but engineered plans provided by the Applicant suggest the project will be constructed in accordance with best management practices.
11. The parcel is served by an existing residential curb cut. No changes to the curb cut have been proposed.
12. The existing parking spaces will serve the current and proposed uses on the property.
13. The proposed garage will not increase visual impact to nearby residents and other uses due to existing vegetative screening.
14. The Applicant stated that no outdoor lighting was proposed for the project.
15. The proposed stormwater management and erosion control methods described in the submitted plans conform to best management practices.

Conditional Use Review (Section 5.4)

Conclusion: Based on the following findings, the Board concludes that the proposed project, 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 Thatcher Rd., bylaws currently in effect, or the use of renewable energy resources.

The capacity of existing or planned community services or facilities.

16. The proposed garage will not be connected to water or sewer.
17. The project will be constructed in an area which allows adequate emergency vehicular access.

The character of the area affected.

18. The application is for the construction of an accessory structure, allowed as both a permitted and conditional use in the Resort Residential District, the purpose of which is to facilitate “moderate densities of coordinated, well-planned recreational, lodging and residential development in the immediate vicinity of the resort village, in an area that is served by centralized infrastructure and utilities, in a manner that reinforces the function of Bolton Valley as a compact resort village and protects significant natural features and environmentally sensitive areas.” (Table 2.3, Resort Residential purpose).
19. The project is compatible with the character of the area, with minimal impacts to neighboring properties.

Traffic on roads and highways in the vicinity.

20. The project is unlikely to generate any significant increase in unique visits and traffic.

Bylaws in effect.

21. Applicable bylaws include the Bolton Land Use & Development Regulations. No other applicable local ordinances were identified.

The utilization of renewable energy resources.

22. 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.

Waivers and Variances (Section 9.6)

Conclusion: Based on the following findings, the Board concludes that the Applicant has provided clear and convincing evidence that the standards for allowing a waiver have been met.

23. This setback waiver will allow for the reasonable development and use of a nonconforming lot.
24. Due to physical site and lot line constraints, no reasonable alternative exists for siting the garage outside of the required setback area.
25. The waiver will not alter the essential character of the neighborhood.
26. The waiver will not substantially or permanently impair or interfere with the use or development of, or access to, an adjacent property, right-of-way, surface water or wetland.
27. The waiver will not reduce access to renewable energy resources.
28. The waiver will not be detrimental to the public welfare.
29. The waiver represents the minimum setback reduction necessary to allow for the proposed development.
30. The waiver will not create adverse impacts to adjoining properties, rights-of-ways, surface waters or wetlands.