

Town of Bolton
Development Review Board

3045 Theodore Roosevelt Highway
Bolton VT 05676
802-434-5075

Findings and Decision

**In re: Samuel Dimascola, applicant/landowner, Site Plan Approval for a Permitted Use
January 25, 2006**

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves the review of an application submitted by Samuel Dimascola, applicant/landowner, for Site Plan approval for a permitted use, Table 2.1 Village District (E) (2), under Section 5.3 of the Bolton Land Use & Development Regulations.
2. The application was received by Amy Grover, DRB clerk on January 4, 2006. A copy of the application is available at the Bolton Town Office.
3. On Sunday, January 8, 2006, notice of a public hearing for final subdivision review was published in the Burlington Free Press.
4. On Friday, January 6, 2006, notice of a public hearing was posted at the following places:
 - a. The Bolton Town Office.
 - b. Samuel Dimascola's property, which is within view of Theodore Roosevelt Highway, the public-right-of-way most nearly adjacent to the property for which the application was made.
 - c. Smilie Memorial School
 - d. The Jonesville Post Office
5. On Friday, January 6, 2006 a copy of the notice of a public hearing was mailed to the applicant. On Saturday, July 30, 2005, a copy of the notice of public hearing was mailed to the following owners of properties adjoining the property subject to the application:
 - Cathy and David Fuller
 - Patti and Ken Robert
6. The application was considered by the Development Review Board at a public hearing on Wednesday, January 25, 2006. The Development Review Board reviewed the application under the Bolton Land Use & Development Regulations, as adopted January 5, 2005 (effective date January 26, 2005).

7. Present at the hearing were the following members of the Development Review Board, representing a quorum of the board:
 - Mike Rainville, Vice Chair
 - Margot Pender
 - Jerry Chabot
 - Michael Hauser, Alternate
8. At the outset of the hearing, Development Review Board afforded those persons wishing to achieve status as an interested person an opportunity under 24 V.S.A. § 4465(b) to demonstrate that the criteria set forth in that statute could be met. It was determined for the record that Samuel Dimascola as applicant met the criteria for interested person status and retained the right to appeal any decision of the DRB under these proceedings. No other person requested interested person status or otherwise participated in these proceedings.
9. During the course of the hearing the following exhibits were submitted to the Development Review Board, which are available at the Bolton Town Office:
 - The DRB application form, site plan map, septic system plans, and a letter from Ben Gordesky, VT ANR Site Technician, Earthbound Services.

FINDINGS

Based on the application, testimony, exhibits, and other evidence the Development Review Board makes the following findings:

Property

1. The subject property is a .53-acre parcel located at 3064 Theodore Roosevelt Highway, Tax Map #15, Block #2003064.
2. The property is located in the Village District as depicted on the Town of Bolton Zoning Map on record at the Bolton Town Office and as described in Table 2.1 of the Bolton Land Use & Development Regulations.
3. The applicant seeks site plan approval for a permitted use to convert a pre-existing pub area into a two-bedroom apartment, creating a three unit multi-family dwelling.
4. The minimum required lot in this district is one acre. The subject property is a .53 acre pre-existing, nonconforming lot that predates the adoption of zoning regulations, and as such may be developed even though it does not conform to the minimum lot size requirement under the current Bolton Land Use & Development Regulations as long as other applicable requirements are met.

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5. The conversion of the pre-existing pub area into a two-bedroom apartment will not alter the current footprint of the existing building.
6. No new curb cut will be requested.
7. Subdivision approval is requested for the project pursuant to review under the following sections of the Bolton Land Use & Development Regulations:
 - Article VI, Section 6.5
 - Article VII, Sections 7.1 - 7.3
 - Article II, Section 2.3, Tables 2.6 and 2.7
8. At the June 15, 2005 sketch plan review, the Development Review Board classified the subdivision application as a minor subdivision application.
9. At the June 15, 2005 sketch plan review, the Development Review Board determined that the subdivision as proposed would be in conflict with the Land Use & Development Regulations for the Town of Bolton, under which the application was being reviewed, Article II, Section 2.3, Table 2.6, Forest District (D), and Table 2.7, Conservation District (D), Dimensional Standards, minimum lot size 25 acres. The subdivision as proposed would create two non-conforming lots of 8-acres and 17-acres.
10. At the June 15, 2005 sketch plan review, the Development Review Board determined that Mr. Stevens and the State of Vermont owned adjoining parcels of land and, as such, zoning district minimum lot requirements could be met through subsequent lot mergers and/or boundary (lot line) adjustments, and that this issue must be addressed and resolved in the final plan and proposed plat.
11. At the August 17, 2005 public hearing, Misters Moore and Stevens verified under oath that this issue was addressed in the final plan and proposed plat through a conveyance:
 - The Green Mountain Club was committed to conveying the 8 acre parcel within thirty days from purchase from Larry Stevens to the State of Vermont, per the letter from Kate Willard, ANR, dated July 20, 2005, adding acreage to a conforming (more than 25 acres) lot owned by the State of Vermont.

And through a boundary (lot line) adjustment:

 - Mr. Stevens would keep his retained 17 acres as a separate parcel from his adjoining land, and make a boundary line adjustment to increase that lot size to a conforming size from 17 to 25 acres. Mr. Stevens' two lots would subsequently both be conforming at 25 and eighty-two 82 acres.

DECISION AND CONDITIONS

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Based upon these findings, and subject to the conditions set forth below, the Development Review Board votes (5 – 0) to grant the application for final approval of a minor subdivision.

Members voting in favor: Ken Richardson, Jerry Chabot Margot Pender, Mike Rainville, Susan Vita

As conditioned, the proposed subdivision meets the requirements of Article VI, Section 6.5, Article VII, Sections 7.1 – 7.3, and Article II, Section 2.3, Tables 2.6 and 2.7 of the Bolton Land Use & Development Regulations.

- Article VI, Section 6.5 ~ the final plan and proposed plat conform to applicable review standards under Article VII, 7.1 – 7.3, and the Town Plan.
- Article II, Section 2.3, Tables 2.6 and 2.7 ~ the final plan and proposed plat meet the dimensional standards, minimum lot size 25 acres.

The Development Review Board approves the application and plat subject to the following conditions:

1. Within 180 days of receipt of final subdivision approval under Section 6.5, the subdivider shall file a Mylar plat in the Bolton land records in accordance with the requirements of 27 V.S.A. Chapter 17, and the Bolton Land Use & Development Regulations. The Mylar plat shall show the merged lot and the boundary (lot line) adjustment.
2. Within 180 days of final subdivision approval the 8-acre parcel purchased by the Green Mountain Club shall be conveyed to the State of Vermont, and merged with adjoining State lands.
3. Within 180 days of final subdivision approval the 17-acre parcel retained by Larry Stevens shall be subject to a boundary (lot line) adjustment, creating a conforming 25-acre parcel, in accordance with the requirements of 27 V.S.A. Chapter 117 and the Bolton Land Use & Development Regulations, with a quitclaim deed on file at the Bolton Town Office.

The approval of the Development Review Board shall expire 180 days from the date of this decision, unless the approved plat is duly filed or recorded in the Bolton Town Office.

Dated at Bolton Vermont, this 21st day of September 2005.

_____, Chair

_____, Vice Chair

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NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceedings 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 Court Proceedings.