

Town of Bolton
Development Review
Board

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

In re: Leigh L. Sykes/Vermont Life Safety LLC
Conditional Use Approval
December 19, 2006

FINDINGS AND DECISION

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involved the review of an application by Leigh L. Sykes (dba Vermont Life Safety LLC) applicant, for approval of the construction of a detached, 36 ft. x 100 ft. 7-bay garage as an accessory structure to a previously approved mixed use development under Sections 5.4 (Conditional Use Review) and 5.5 (Flood Hazard Review) of the Bolton Land Use and Development Regulations (BLUDR).

The lot in question (Tax Map Parcel ID #2003504) is a 2-acre lot located in the Village and Flood Hazard Overlay Districts, and is accessed from Route 2 via a private driveway. The current use consists of a safety equipment sales, service and monitoring business (Vermont Life Safety) and a caretaker apartment for on-call employees, which received site plan approval by the Development Review Board on September 24, 2001 under Bolton's previous zoning regulations.

The lot and proposed garage are located within Zone A5, a Special Flood Hazard Area (SFHA) of the Winooski River, but outside of the regulatory floodway, as shown on federal Flood Hazard Area Boundary Maps for the Town of Bolton, Vermont.

2. An application for conditional use and flood hazard area approval was received at the Bolton Town Office on 8/16/2006 and referred by the Zoning Administrator, Dick Ward, to the Development Review Board (DRB) and the Vermont Water Quality Division/River Management Program for state review and comment. A copy of the application is available at the Bolton Town Office.
3. On 9/30/2006 a public hearing notice was posted at the following places:
 - a. Bolton Town Office,
 - b. The Vermont Life Safety property, within view of Route 2 – the public right-of-way most adjacent to the property for which the application was made,
 - c. Bolton Store,
 - d. Jonesville Post Office,
 - e. Smilie Memorial School.
4. On 9/30/2006 a copy of the public hearing notice was mailed to the applicant.
5. On 9/30/2006, a copy of the public hearing notice was mailed to adjoining property owners, based on names and addresses provided by the applicant (on file at the Bolton Town Office): Peter & Tess Kenny, Melissa Mills, Paul Allison, George & Joanne Champney, and the Town of Bolton, along with information regarding interested party status.
6. The notice of public hearing appeared in the Burlington Free Press on October 1, 2006.

7. The application was considered by the DRB at the warned public hearing, held on Wednesday, October 18, 2006 at the Bolton Town Office. The application was reviewed under the Bolton Land Use & Development Regulations, as adopted January 5, 2005 (effective date January 26, 2005).
8. Present at the hearing were the following members of the Development Review Board, representing a quorum of the board. No ex parte communications or conflicts of interest were identified.
 - Sharon Murray, Chair
 - Jerry Chabot
 - Michael Rainville
 - Margot Pender
 - Michael Hauser, Alternate
 - Rob Heimbuch, Alternate
9. At the outset of the hearing, the DRB afforded those persons wishing to achieve status as an interested person an opportunity under 24 V.S.A. §4465(b) to demonstrate that the statutory criteria for “interested persons” could be met. It was determined for the record that the following present at the hearing met the criteria for interested person status and retain the right to appeal any decision of the DRB under these proceedings:
 - Lee Sykes/Vermont Life Safety LLC (Applicant), 3504 Theodore Roosevelt Hwy, Waterbury, VT 05676.
10. All testimony was presented under oath as administered by the Chair. During the course of the hearing the following exhibits, on file at the Bolton Town Office, were submitted to the DRB by the applicant, and by Nicole Fitch and Nick Nowlan of McCain Consulting, Inc. on behalf of the applicant:
 - The application form, dated 8/18/06, including a project description, abutter list, GIS location map, building elevations (east and west) and copy of the Flood Insurance Rate Map for the Town of Bolton, VT (Panel 12 of 16) dated 4/1/1981.
 - A site plan prepared by McCain Consulting Inc., dated 7/20/06 (rev 8/11/06), including a location map (inset), and showing the location and height of the proposed garage in relation to adjoining properties and rights-of-way, lot lines, and existing and proposed site features, including elevation contours, structures, parking areas and driveways, utilities, and erosion control.
 - Building elevations (west and east).
 - A flood elevation certificate, prepared by Nicholas P. Nowlan, Professional Engineer (No. 3421), dated 8/21/2006, showing the height of the base of structure (332 ft. as elevated on fill) in relation to the base flood elevation (330.9 ft; NGVD 1929).
11. The hearing was recessed to November 15th, 2006, pending additional information requested from the applicant concerning proposed landscaping, and comments from the state regarding their review of proposed development within the Special Flood Hazard Area.
12. The hearing was reconvened on Wednesday, November 15th, 2006 at the Bolton Town Office to consider the following information, on file at the Bolton Town Office, as provided by Dick Ward and the applicant:
 - A letter from Rebecca J. Pfeiffer, Environmental Analyst for the state’s River Management Program, dated 10/20/06, with comments and recommendations for proposed development within the SFHA.
 - A revised site plan (dated 11/1/06), prepared by McCain Consulting, Inc., showing existing vegetation on the property, and relocated propane tanks.

13. The Board determined that the application, information and testimony submitted was sufficiently complete to make findings under applicable regulatory criteria, and adjourned the hearing on November 15th, 2006. It was announced prior to adjournment that the DRB's written decision would be issued on or before December 30th, 2006, as required to meet the 45-day statutory requirement for the issuance of decisions. The Board then voted to enter into deliberative session on November 15th, and December 13th, 2006 to consider findings and conditions of approval for the issuance of the written decision.

FINDINGS

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

Project Description

1. The applicant seeks conditional use approval from the DRB to construct a detached, 1-story (20 ft. high), 36 ft. x 100 ft. 7-bay garage as an accessory structure to a previously approved mixed use development located on a 2-acre lot in the Village District (Table 2.1). The total existing and proposed square footage of the mixed use exceeds 4,000 sq. ft., resulting in the need for conditional use approval from the DRB under Section 5.4 of the Bolton Land Use & Development Regulations.
2. The lot and proposed garage are also located in the Flood Hazard Area Overlay District (Table 2.8) which includes all federally designated Special Flood Hazard Areas as depicted on National Flood Insurance Maps for the Town of Bolton. The lot lies within Zone A5, outside of the regulatory floodway. As such, DRB approval is also required under Section 5.5 of the Bolton Land Use & Development Regulations.
3. The garage is intended to provide enclosed storage for existing vehicles, some of which are currently parked in front of the building. No additional equipment, employees or traffic generation are anticipated. It is expected that the proposed garage will provide sufficient storage space for at least the next five years

Conditional Use Review (Section 5.4)

4. As proposed, the garage will have no undue adverse effect on the capacity of existing or planned community services or facilities. The use is currently served by private, on-site water and wastewater systems as shown on the site plan. No additional need for municipal fire, road, educational or waste disposal services is anticipated.
5. The development as proposed will have no undue adverse effect on the character of the area. The parcel is located on Route 2 in the Village District, the town's historic commercial center, and is bordered to the west by the Bolton Town Garage, and to the east by a single family dwelling. The proposed garage is part of a previously approved mixed use development, and will be located to the rear of the existing structure, limiting its visibility from Route 2. Existing setbacks, and trees and other vegetation located along the eastern parcel boundary should provide sufficient screening to minimize any impacts to the adjoining residence.

6. The development as proposed will have no undue adverse effect on traffic on roads and highways in the vicinity. According to the applicant, the use currently generates 10 to 12 trips per day. No changes to the existing access (curb cut) on Route 2 as shown on the site plan or increases in trip generation rates are proposed.
7. The development will comply with all bylaws in effect at the time of application. The garage is to be located on a relatively level, existing, 2-acre parcel which meets minimum district lot size and road frontage requirements. The garage will be located to the rear of the existing structure, which is currently used to house equipment and employees. The proposed location, as shown on the site plan, will meet all district setback requirements. Maximum building and lot coverage requirements will also be met, given the total square footage of all existing and proposed building footprints of 6,293 sq. ft. (7.2%) and lot coverage of 18,086 sq. ft. (20.8%).
8. The development as proposed will have no undue adverse effect on the utilization of renewable energy resources. There are no known sources of renewable energy, other than passive solar energy, located on site. Given the height of the proposed structure, it will not interfere with solar access on adjoining parcels.
9. Findings under applicable site plan review criteria include the following:
 - a. Site layout and design, including the location and orientation of structures, is compatible with the setting and context described for the Village District. The proposed garage is to be located to the rear of the structure to minimize its visibility from Route 2.
 - b. Vehicular access meets all applicable town standards for commercial driveways. No changes in the location or width of the existing access (curb cut) are proposed.
 - c. No changes to the previously approved parking area in the front of the building are being proposed. The conditions of prior site plan approval, including the requirement to plant a mixed variety of trees (maples, lindens and evergreens with a minimum value of \$1,000) to screen the parking area from Route 2 remain in effect.
 - d. Adequate site circulation is provided through the proposed extension of the existing driveway along the length of the garage, as shown on the site plan.
 - e. The garage bay area will be lit by four downcast security lights on timers and motion sensors that will turn the lights off within 10 minutes of activation. Outdoor lighting, as proposed will meet the requirements of Section 3.9 of the BLUDR.
 - f. The proposed site is relatively level, minimizing the need for stormwater management and erosion control measures. Silt fencing will be installed during construction as necessary for erosion control, as specified on the site plan with accompanying construction notes.
10. The garage, as proposed garage complies with all Village zoning district and use standards (See #7).
11. The garage, as proposed, will comply with applicable performance standards under Section 3.12 of the BLUDR.

Flood Hazard Review (Section 5.5)

12. The proposed development is located outside of the regulatory floodway, as confirmed by the state.
13. The garage will be constructed on a slab which will be elevated on properly compacted fill above the base flood elevation of 330.9' (NGVD 1929), as shown on the flood elevation certificate and site plan. As such, no additional floodproofing is proposed or required. Relocated propane tanks also will be elevated above the base flood elevation, as indicated on the revised site plan (dated 11/1/06).
14. The garage shall be constructed or anchored in a manner that prevents flotation, collapse or lateral movement during the occurrence of a base flood and with materials that are resistant to and minimize flood damage. All equipment (i.e., electrical, heating, ventilation, plumbing, air conditioning) will be elevated above the base flood elevation as necessary to prevent flood water infiltration or accumulation within system components.

DECISION AND CONDITIONS

Based upon these findings, and subject to the conditions set forth below, the Development Review Board votes (5-0) to grant conditional use approval under Sections 5.4 and 5.5 of the Bolton Land Use & Development Regulations.

Members voting in favor of conditional use approval: Sharon Murray, Margot Pender, Michael Rainville, Michael Hauser (Alternate), Rob Heimbuch (Alternate)

The Development Review Board hereby approves the development of 7-bay garage as shown on the site plan, subject to the following conditions:

1. A zoning permit authorizing construction shall be obtained within one year of the date of issuance of this decision, or reapplication for conditional use approval will be required. No site work or construction shall take place prior to the issuance of a zoning permit.
2. The garage and driveway shall be located as shown on the site plan.
3. Trees and other vegetation along Route 2 and the eastern property boundary, as shown on the site plan, shall be retained and replaced as necessary to preserve existing buffers between the proposed garage and Route 2 and the adjoining residential property. All other landscaping requirements under prior site plan approval remain in effect.
4. The garage shall be constructed on a slab that is elevated on clean, uniform, compacted fill so that it is above the Base Flood Elevation (BFE) of 330.9 ft. (NGVD 1929), as depicted on the site plan and elevation certificate. All equipment and system components shall be elevated above the BFE to prevent flood water infiltration and accumulation.
5. New or relocated propane tanks shall be elevated above the base flood elevation, as shown on the site plan, or properly anchored to prevent flotation as described in Section 3.2 of FEMA-38 "Protecting Building Utilities from Flood Damage."

6. In accordance with Section 3.9 (Outdoor Lighting), outdoor lighting shall be kept to the minimum required for safety, security and intended use. Outdoor security lighting is limited to four cutoff or shielded fixtures on motion sensors that are mounted on the garage in locations shown on the site plan, and cast downward so that they do not direct light upward or onto adjoining properties or roads.
7. Stormwater management and erosion control measures shall be installed as shown on the site plan.
8. A certificate of occupancy for the dwelling shall not be issued by the Administrative Officer under Section 9.4 of the regulations until it has been confirmed that:
 - a. The applicant provides an *as-built* elevation certificate prepared by a professional engineer to ensure that the garage has been constructed as approved, along with written certification that all propane tanks have been/will be adequately protected from flood damage as outlined in FEMA-348.
 - b. All other applicable permits and approvals have been obtained.

Dated at Bolton Vermont, this 19th day of December, 2006.

Sharon Murray, Chair Bolton Development Review Board

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.