

Town of Bolton
Development Review
Board

3045 Theodore Roosevelt Highway
Waterbury, VT 05676
(802) 434-5075

In re: **Bolton Town Office/ Variance Approval**
July 18, 2007

Findings & Decision

INTRODUCTION & PROCEDURAL HISTORY

1. This proceeding involves an appeal and variance request submitted by the Town of Bolton under Sections 9.5 (Appeals) and 9.6 (Variances) of the Town of Bolton Land Use & Development Regulations. The request is to vary, subject to approval by the Bolton Development Review Board (DRB), the district rear setback requirement of 25 feet in order to construct a new town office on the site of the current town office, which is scheduled to be demolished. The town office property is located at 3045 Theodore Roosevelt Highway (RT 2), in the Village I (V1) Zoning District (Tax Map Parcel ID #15-2003045). All materials regarding these proceedings are on file for review at the Bolton Town Office.
2. The application for a zoning permit was received and denied by Zoning Administrator Lawrence Peterson on May 30, 2007 because the proposed office did not meet district setback requirements.
3. A notice of appeal, variance request, and required fees were subsequently filed by the Town on June 4, 2007.
4. On Monday, June 4, 2007, a copy of the notice of public hearing was filed with the appellant, the Town of Bolton.
5. On Monday, June 4, 2007, a copy of the notice of public hearing and information regarding interested person status was mailed to all owners of properties adjoining the property subject to the application, on file at Town Office.
6. On Monday, June 4, 2007, notice of a public hearing was posted at the following places:
 - a. Bolton Town Office.
 - b. Bolton Store.
 - c. Smilie School.
 - d. The Bolton town parcel, within view of Route 2, the public-right-of-way most nearly adjacent to the property for which the application was made.
7. On Tuesday, June 5, 2007, the notice of public hearing was published in the *Burlington Free Press*.
8. The appeal and variance requests were considered by the Development Review Board at a warned public hearing held at the Bolton Town Office on Wednesday, June 20, 2007. The Development Review Board reviewed the application under the Bolton Land Use & Development Regulations (BLU&DR), as adopted January 5, 2005 (effective January 26, 2005).
9. Present at the hearing were the following members of the Development Review Board, representing a quorum of the Board:
 - Sharon Murray, Chair
 - Margot Pender
 - Michael Rainville
 - Michael Hauser

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No conflicts of interest were disclosed by members of the board. Sharon Murray indicated that, in the absence of a Zoning Administrator, she had responded to questions and discussed basic permitting and procedural requirements with John Devine and Deborah LaRiviere prior to the hearing.

10. At the outset of the hearing, the Chair 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 has been determined for the record that the Town of Bolton, as the appellant, meets the criteria for interested person status and retains the right to appeal any decision of the DRB under these proceedings. The following appeared and presented testimony on behalf of the town, as reported in the minutes of the meeting on file at the Bolton Town Office:

- John Devine, Bolton Select Board
- Patrick Mallow, Bolton Select Board
- Deborah LaRiviere, Bolton Town Clerk
- Dan Morin and Gordon Rowe, DG Morin Construction LLC

No other persons requested interested person status or otherwise participated in these proceedings.

11. During the course of the hearing the following exhibits were submitted to the Development Review Board for consideration, which are on file at the Bolton Town Office:

- Application for a zoning permit, signed, dated and denied on 5/30/07.
- Notice of appeal and application for a variance request, signed and dated 6/4/07.
- List of adjoining landowners.
- Copy of Bolton Tax Map #15 showing the location of the town parcel in relation to adjoining properties, rights-of-way, the Winooski River and the Flood Hazard Area Overlay District (FEMA designated 100-yr flood plain).
- "Bolton Town Clerk Meeting Agenda," dated May 29, 2007, prepared by DG Morin Construction, LLC, listing "Items to Discuss," with attachments including "Specifications for Bolton New Town Offices," "Bolton New Town Offices Code Analysis," and window, door and finish schedules.
- Two site maps (no date), prepared by DG Morin Construction (from survey information prepared by Walter Urie, dated October 1977) showing the general location of the existing and proposed town office, parking area and related improvements in relation to adjoining road rights-of-way (RT 2, Harley Lane/TH #18) and the New England Central Railway right-of-way to the rear of the property.
- "New Town Office Building" construction specifications prepared by DG Morin Construction, LLC, dated 6/4/07, including a foundation plan, floor plans, building elevations (north, south, east, west) wall sections and truss design.
- The town's state wastewater system and potable water supply system permit application, signed and dated 6/12/07, including a Sanitary Plan (SP1) and Details (D1), dated 5/21/07, prepared by John T. Pitrowsiski, PE of Trudell Consulting Engineers, a certification of system design by John P. Pitrowsiski, PE, dated 6/7/06, and a copy of the fire station's current wastewater system permit (PB-4-0279) dated 1/12/78.

12. The public hearing was adjourned on June 20, 2007 at the request of the Town for an expedited review process, with the stipulation that additional written verification would be provided regarding information provided in testimony, including specific lot and building coverage and setback distances. Transmittals from Gordon Rowe of DG Morin Construction, dated 6/25/07 and 7/9/07, were received by the DRB on 6/26/07 and 7/10/07 respectively, which are on file at the town office. Remaining information discrepancies in application

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materials were clarified in a phone call from Sharon Murray, DRB Chair, to Gordon Rowe of DG Morin LLC on 7/19/07 (see File notes: DRB calculations).

13. Following hearing adjournment, the Development Review Board considered this application in deliberative session, pending issuance of a written decision within 45 days of the date of hearing adjournment.

FINDINGS

Based on the application, testimony, exhibits, and other evidence submitted for review, on file at the Bolton Town Office, the Development Review Board makes the following findings:

Property Description:

1. The subject property is located at 3045 Theodore Roosevelt Highway (RT 2) in the Town of Bolton, Vermont (Tax Map #15, Parcel ID #2003045). The existing town office, office parking area, fire station, fire station parking area, on-site water and wastewater systems, and a memorial are located on the property. The town also owns a second, noncontiguous 1.3 acre lot on the north side of Route 2 that includes the Bolton Town Garage and a storage shed.
2. The subject property is bounded to the north by Route 2, to the east by Harley Lane (TH #18), to the south by the New England Central Railroad right-of-way, and to the west by the cemetery lot.
3. The town lot frontage along RT 2, as calculated by DG Morin Construction, LLC from survey data, is 409.75 feet. RT 2, along this stretch, has a 50-foot right-of-way. The town office portion of the lot and parking area are accessed from Harley Lane (TH #18) to the east. The fire station and station parking area are accessed directly from RT 2.
4. The property is located entirely within the Village I (VI) Zoning District as depicted on the Town of Bolton Zoning Map on record at the Bolton Town Office, and described in Table 2.1 of the Bolton Land Use & Development Regulations. It is not located within the Flood Hazard Overlay District (designated 100-year floodplain).
5. The town lot is a pre-existing, nonconforming small lot of 0.64 acres (27, 878.4 SFT), as calculated from survey data, which does not meet the current district minimum lot area requirement of one (1) acre. The lot meets the minimum district frontage requirement of 150 feet.
6. Lot depth varies from a minimum of 76.6 feet to a maximum of 89.3 feet. The new office building, as proposed, will meet minimum district front (15 feet) and side yard (25 feet) setbacks, but will not meet the minimum required rear yard setback (25 feet), as determined by the Zoning Administrator.
7. The town office to be constructed is 31' x 54' with a 7' x 6' entry (1,716 SFT). The town office is a public facility, listed in Table 2.1 as a permitted use within the V1 District, subject to site plan review and approval. The town has also submitted an application for site plan approval.
8. As proposed, the calculated total building coverage of 23.7% and lot coverage of 59.1%, do not exceed maximum district building (40%) and lot coverage (60%) requirements.

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Variance Criteria (Section 9.6):

9. As outlined in the Notice of Appeal, the Town of Bolton seeks a variance under Section 9.6 to construct a new, expanded town office on the site of the existing town office, which is scheduled for demolition. As proposed, the new town office will be sited to meet the district front setback requirement of 15 feet, as measured from the edge of the RT 2 right-of-way, but will not meet the rear setback requirement of 25 feet, as measured from the rear property line. As proposed, the building will be sited a minimum of 15 feet from the rear property line, and thereby encroach 10 feet into the required rear setback area.
10. Under Section 9.6 of the Bolton Land Use & Development Regulations, and 24 V.S.A. §4496(a), the Development Review Board may grant a variance and render a decision in favor of the appellant only if positive findings can be made under each of the statutory variance criteria.
11. The DRB finds (4-0) that there are unique physical circumstances or conditions, including narrowness of the lot, and that the hardship in meeting district setback requirements is due to these conditions and not the circumstances generally created by the provisions of V1 district regulations. As noted above, the lot is a long, narrow pre-existing nonconforming lot, confined by Route 2 and the railroad right-of-way. The fire station, station parking area, and existing and replacement septic system fields limit any relocation or expansion of the office to the west side of the property. There is also no other town land in the V1 district that could accommodate a new town office – there is no space available on the town garage property. Redevelopment of the existing office site is the only available option identified by the town.
12. The DRB finds (4-0) that because of such physical circumstances and conditions, there is no possibility that the property can be developed in strict conformity with the zoning regulations, and a variance is necessary to allow for reasonable redevelopment of the property. The new office has been designed to meet town space needs and federal and state (ADA) accessibility requirements. According to testimony from the project engineer, if both front and rear setback requirements were met, the office would be only 20-feet wide and 85 to 100 feet long, given the need for additional corridor space, which would eliminate any on-site parking. A two-story design that could narrow the footprint was deemed cost prohibitive under the town's approved project budget, given the need to install an elevator to meet ADA accessibility requirements.
13. The DRB finds (4-0) that the unnecessary hardship has not been created by the appellant. According to town testimony, local growth and development have resulted in a critical need for additional office space. The hardship is due to existing site conditions and limitations. As noted, the town owns no other land in the V1 District that could accommodate a new town office.
14. The DRB finds (4-0) that the variance, if authorized, will not alter the essential character of the V1 District, as defined in the district purpose statement under Table 2.1(A). This district along Route 2 is intended to serve as the town's historic governmental, civic and commercial center, to allow for the continuation of public uses, and to encourage future development that is compatible with and promotes a compact, historic village settlement pattern. The new town office will be sited to meet front setback requirements in order to maintain the RT 2 streetscape – including the district requirement to maintain a vegetated, landscaped area at least 15 feet in depth along the extent of RT 2 road frontage.
15. The DRB finds (4-0) that the variance of 10 feet in the rear setback requirement, as requested by the town, represents the minimum variance that affords relief and represents the least deviation possible from district setback requirements.

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DECISION & CONDITIONS

Based upon these findings, the Development Review Board **APPROVES** (4-0) the request by the Town of Bolton for a variance to construct a new town office on the site of the existing town office, subject to the following conditions:

1. The proposed building footprint will meet applicable district front and side setback requirements, and encroach no more than 10 feet into the rear setback area – a minimum setback of 15 feet from the rear property line shall be maintained.
2. The Town shall obtain a zoning permit from the Zoning Administrator prior to construction of the new office. In the event that a zoning permit has not been obtained within one year of the date of this decision, DRB approval shall expire and reapplication will be required.
3. Prior to the issuance of a zoning permit, the Town of Bolton shall:
 - a. Obtain site plan approval from the Development Review Board, and
 - b. Submit a revised site plan, drawn to scale, for recording in the town land records that shows all lot lines and dimensions, building (footprint) lines and dimensions, approved front, side and rear setback distances, and any other site features as required in association with site plan approval.
4. Prior to the issuance of a temporary or final certificate of occupancy, the Zoning Administrator shall verify that the office building has sited and constructed as approved by the Development Review Board.

Members voting in favor: Michael Hauser, Sharon Murray, Margot Pender, Michael Rainville.
Member absent and not voting: Jerry Chabot.

Dated at Bolton Vermont, this 18th day of July, 2007.

Sharon Murray, Chair

NOTICE: This decision may be appealed to the Vermont Environmental Court by an 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 Court Proceedings.