



Town of Bolton Development Review Board

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

**In re: Request for Reconsideration –Conditions of Approval
Bolton Valley Resort Events Pavilion (The Ponds),
Amended Conditional Use Approval/Year-Round Operation**

Applicant

Mountain Operations and Development, LLC (dba Bolton Valley Resort)
Larry Williams, President
4302 Bolton Valley Access Road
Bolton Valley, VT 05477

Request for Reconsideration

(See Notice of Appeal, other materials on file at the Bolton Town Office)

The Bolton Development Review Board (DRB) issued amended conditional use approval for year-round use of The Ponds events facility on November 6, 2009, with several conditions attached based on stated findings under applicable standards of the Bolton Land Use & Development Regulations (BLU&DR).

The applicant, Mountain Operations & Development, LLC (dba Bolton Valley Resort), represented by Larry Williams, filed a notice of appeal with the town on 12/2/08 requesting DRB reconsideration under Section 9.5 of the regulations of the following conditions of approval (highlighted in italics):

1. Traffic circulation, access to and pedestrian crossings on the Bolton Valley Access Road between the Ponds and the Timberline Base Area parking area shall be managed and maintained by the resort for safe year-round use by both pedestrian and motorists. Accordingly, the applicant shall implement site circulation and safety recommendations as specified under initial conditions of approval, and as confirmed by Patricia Coburn, PE, Lamoreaux & Dickinson Consulting Engineers for winter operation of the facility (7/28/08 letter), including:
...
 - *Lowering of the speed limit on the Bolton Valley Access Road from 45 mph to 35 mph in the vicinity of the project, due to limited sight distance, with approval of the Bolton Select Board; or, in the interim, maintaining sign assemblies to be located 175 feet south of the facility exit crosswalk, and 175 feet north of the facility entrance crosswalk. These assemblies shall include pedestrian signs (W11-2), an advisory 35 mph placard and a flashing beacon light to be operated during scheduled events.*

2. Parking at the Timber Line Base Area shall be managed and maintained year-round by the resort to accommodate existing and anticipated shared parking demand resulting from skiers and other guests using the Timberline Base Lodge, events at the Ponds, and employees, as described in the "Bolton Valley Resort Parking Analysis and Management Plan," dated 8/27/08. This includes:
...
 - *In the event the parking area is paved, individual parking spaces and pedestrian walkways shall be clearly lined.*

In response to a request from the DRB for more information, Mr. Williams submitted a letter, dated 1/7/09, withdrawing his request for DRB reconsideration of the signage condition under #2 as an acknowledged requirement of the original conditions of approval; and specifying his reasons for requesting reconsideration of the requirement under #3 to line the parking area, summarized as follows:

1. The DRB received no testimony recommending that existing parking areas be striped.
2. The DRB never indicated during the hearing process that striping would be a required condition of approval, and therefore no opportunity was given for the applicant to refute the need for this requirement.
3. There is no reference in the findings, under general conditional use criteria, that striping is required in order to meet the general standards of conditional use review, which can be met without lining; and the bylaws do not specifically require that parking areas be striped.

Hearing

(See meeting/hearing minutes on file at the Bolton Town Office.)

A public hearing regarding the applicant's request for reconsideration, duly warned for 01/28/09, was postponed and rewarned for 2/25/09 due to inclement weather, with the applicant's permission. The hearing was held on 2/25/09, 6:00 pm, at the Bolton Town Office with a quorum of the DRB present including: Michael Hauser, Sharon Murray and Michael Rainville. No conflicts of interest or ex parte communications were reported. Also present were Miron Malboeuf, Zoning Administrator, Amy Grover, DRB Clerk and:

- Larry Williams representing Bolton Valley Resort (Applicant)
- Chris Doyle, 150 Thatcher Road, Bolton Valley, Vermont 05477 (Abutter)

Mr. Williams and Mr. Doyle both offered testimony during the hearing as reflected in the minutes of the meeting. The hearing was adjourned that same evening.

Findings

1. In addition to general (statutory) conditional use criteria noted by the applicants in their filing, parking and site circulation requirements also are applicable to all conditional uses under Section 5.4 (Conditional Use Review) of the BLU&DR, as referenced in the findings issued by the DRB. This section of the regulations specifically incorporates Section 5.3 (Site Plan Review) standards under Section 5.4(D), in lieu of requiring a separate site plan review application and hearing process. Parking standards under Section 3.11 as general standards apply to all uses, including uses subject to site plan and conditional use review, and are specifically incorporated by reference under Section 5.3(C)(4).
2. The lining of parking areas to locate and identify the required number of spaces on the lot (including handicapped spaces), and to manage parking more efficiently, is a standard DRB requirement for all paved, nonresidential parking areas intended for public parking. Site circulation requirements under (Section 5.3(C)(5) of the regulations also specify that:

Clearly marked travel lanes, pedestrian crossings, and pedestrian paths or sidewalks connecting buildings, parking areas, and pedestrian paths or sidewalks, and adjoining properties are encouraged, and may be required by the Board as appropriate to ensure pedestrian and vehicular safety and convenience.
3. Parking capacity at the Timberline Base Area for shared use is documented in the "Bolton Valley Resort Parking Analysis and Management Plan" dated 8/7/08, submitted as part of the application for year-round use of the Ponds in support of meeting off-site parking requirements for this facility, and as referenced in relevant findings and conditions of DRB approval. This study documents the total number of parking spaces available at Timberline, and the number of spaces required for each use identified in the study – including ski area parking, employee parking, and events facility (The Ponds) parking.

4. According to the parking study a maximum of 124 parking spaces at the Timberline Base area has been allocated for events at The Ponds, based on a maximum capacity of 400 attendees, at 0.31 spaces per person.
5. The parking area, at the time of application and as presented in the parking study, was not paved.
6. The applicant testified during the hearing for reconsideration that the center portion of the parking area was paved in the fall of 2008 to accommodate special events (e.g., recreational vehicle rallies) and uses other than parking.
7. According to the parking study (Exhibit 1) the center lot area includes 152 of the 295 parking spaces available at Timberline, representing 52% of the total shared parking capacity of the lot.
8. The applicant also testified that the resort is managing parking during peak periods as required under other conditions of approval, through event scheduling and the use of on-site parking personnel.

Discussion

The Timberline parking area provides shared parking for those uses identified in the parking study, including ski area, employee and off-site parking for year-round use of The Ponds events facility, as approved by the DRB. The conditions of approval reflect relevant findings related to parking and site circulation under Section 5.3 of the regulations, and are intended to ensure that, because the parking area is located off-site and used for other purposes, there is sufficient parking available for all intended uses including The Ponds, and that the safety of both pedestrians and vehicles using the parking area is adequately addressed by the applicant.

Based on a review of the regulations adopted by the town, as summarized in the above findings, the DRB clearly has the authority to require the lining of paved parking areas, and to require clearly marked travel lanes and pedestrian paths as necessary to ensure adequate parking capacity, and public safety and convenience. Since the parking area was not paved at the time of application, or as presented in the parking study and hearing on the application, lining was made a condition of approval only in the event that the parking area was subsequently paved.

We acknowledge, however, that Bolton Valley Resort is using other methods to manage shared parking –including events scheduling and the use of on-site parking personnel during peak periods of use – as also required as a condition of approval in the absence of other parking controls. This form of parking management is not generally required of other uses and should be as, if not more, effective than simply lining the lot.

At the same time, the overall capacity of parking at the site remains a concern, especially during peak periods, given that Bolton Valley apparently intends to use more than 50% of the parking capacity of the lot for uses other than those identified in the parking study. This should not preclude temporary use of the lot for special events that can be scheduled in relation to other uses identified in the study. It does, however, call into question use of the lot for other permanent uses or activities – for parking or other purposes – which would increase parking demand or reduce the overall parking capacity of the lot, as established in the parking study.

Decision

Based on the above findings and discussion, the DRB concludes that the standard requirement to line the Timberline parking area as a condition of approval for year-round use of The Ponds, given other parking management activities employed by Bolton Valley, is not necessary in this particular case, and agrees to waive this condition of approval as requested by the applicant. All other conditions of approval remain in full force and effect.

This includes the condition, not appealed by the applicant, that Bolton Valley Resort will maintain and manage the parking area year-round to accommodate shared parking demand for uses described in the "Bolton Valley Resort Parking Analysis and Management Plan" dated 8/27/08. This is not intended to preclude or prohibit occasional use of the parking area for special events at the resort that are scheduled around uses identified in the parking study; however an amended parking study will be required for the review and approval of other permanent, regulated uses or activities requiring use of the lot, for parking or other purposes, to ensure that adequate parking capacity exists to support all existing and intended use of the lot, and that pedestrians, vehicles and other uses can be safely accommodated.

As approved by the Development Review Board (3-0):

Michael Hauser - Yea
Sharon Murray - Yea
Michael Rainville - Yea

Dated at Bolton Vermont this 9th day of April, 2009.



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 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.