



Town of Bolton Development Review Board

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

In re: **Dolores Barton**
Final Subdivision Approval/2-Lot Subdivision
December 3, 2009

Applicant

Dolores S. Barton
950 Bert White Road
Huntington, VT 05462

Application

(Application materials on file at the Bolton Town Office, procedural history attached.)

The applicant has requested final subdivision approval to subdivide an existing 10.77 acre parcel with two single family dwellings and an accessory structure into two lots – an 8.72-acre lot with a single family dwelling to be retained by the owner (parent lot), and a 2.04-acre lot with an existing mobile home and accessory structures to be subdivided for conveyance. The existing parcel (Tax Map ID# 11-0034379) is located at 4379 Stage Road in the RI District, and has 541+/- feet of road frontage. Subdivided lots will have 201 feet and 340 feet of frontage respectively. Due to site and access constraints, a waiver has been requested to locate the side lot line for the 2.04-acre lot within the required 35 foot setback from the existing shed on the property. No further development is proposed.

The dwellings are served by existing accesses onto Stage Road, and individual water and wastewater systems; however the water supply for the smaller lot to be conveyed is located on the parent lot. Access easements will be provided as shown on the subdivision plat. There are also Class II and III wetland areas on existing and subdivided parcels, the approximate boundaries of which are shown the final plat, which are proposed for protection as designated open space. The property to be subdivided is also crossed by powerline easements, as shown on the final plat.

This application has been reviewed by the Bolton Development Review Board under applicable zoning district and subdivision review criteria in the Bolton Land Use and Development Regulations (BLUDR) in effect as of January 26, 2005. The Development Review Board's procedural history and relevant findings are attached.

Decision – Final Subdivision Approval:

- Denied**
 Approved
 Approved with Conditions:

1. The final subdivision plat dated May 14, 2009 and supporting legal documents, as here approved by the Development Review Board, shall be submitted for recording in the land records of the Town of Bolton within 180 days of the date of this approval, or the approval shall expire and reapplication for final subdivision approval shall be required. The applicant shall file the Mylar plat, signed by the Chair of the Development Review Board, with the Bolton Town Clerk in accordance with the requirements of 27 V.S.A. Chapter 17, and provide two paper copies and one digital copy of the recorded plat, and one copy of all supporting documentation to the Zoning Administrator (BLUDR, Section 6.6).

2. The final subdivision plat shall carry the following endorsement (Section 6.6) :

Approved by the Development Review Board of the Town of Bolton, Vermont, on the 3rd day of December, 2009, subject to all requirements and conditions of subdivision approval. Signed this ____ day of ____, 2010, by _____, DRB Chair.

3. The requested waiver to locate the side-lot line for the 2.04-acre parcel within 35 feet of the existing shed is granted due to site and access constraints. This waiver applies only to existing structures on the lot to be conveyed (Finding #3). New structures shall meet required district setback distances.
4. All lots, survey monuments and corner markers shown on the final plat, as submitted for recording, shall conform to the final plat dated May 14, 2009, as approved by the Development Review Board (Findings # 2, 3, 7, 8).
5. The approximate boundaries of wetland areas and required 50-foot wetland buffers shall be identified as "Protected Open Space" on the final plat as submitted for recording, with the notation that no further subdivision or development shall be allowed within these areas, on either subdivided lot, without approval of the Development Review Board (Findings #9-#11).
6. The applicant (subdivider) may elect to define a building envelope on the 8.72-acre parent lot as shown on the final plat, to limit the location of future clearing and development on the lot to this area in accordance with the Bolton Land Use and Development Regulations, and thereby also protect the red pine plantation shown on the plat. The boundaries of any building envelope to be enforced under the BLUDR shall be shown on the final plat as recorded in the land records of the town, and marked on the ground (Finding #9).
7. Easements providing physical and water supply access to the subdivided 2.04-acre lot shall be included in deeds of conveyance and recorded in the land records of the town (Finding #14).
8. No changes, modifications or other revisions that alter the approved plat, including the location of subdivision boundaries, lot lines, or conditions of plat approval, with the exception of trail or conservation easements established after the date of plat recording, shall be made without prior approval from the DRB. Any changes, modifications or revisions recorded without DRB approval shall be considered null and void (BLUDR, Section 6.7).
9. The conditions of subdivision approval shall run with the land and shall be binding upon and enforceable against the landowner and all assigns and successors in interest. By acceptance of this permit, the landowner agrees to allow authorized representatives of the town to access properties subject to this approval, at reasonable times, only for purposes of ascertaining compliance with the conditions of subdivision approval.

Approved with conditions (5-0) by the Bolton Development Review Board:

Jerry Chabot – Yea
Sharon Murray – Yea
Michael Hauser – Yea

Margot Pender – Yea
Michael Rainville – Yea

Dated at Bolton, Vermont this 3rd day of December, 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.

Review Process:

(Application materials, hearing notices, minutes on file at the Bolton Town Office)

An request for pre-application sketch plan review, dated May 12, 2009, was received by the Bolton Zoning Administrator and referred to the Bolton Development Review Board (DRB) for consideration at its next regular meeting, held on May 27, 2009 at the Bolton Town Office. Dolores Barton, applicant and owner of the property to be subdivided, attended this meeting.

Following the meeting, the DRB issued a letter, dated June 11, 2009, agreeing that the 2-lot subdivision as proposed would be reviewed as a minor subdivision, requiring only final subdivision approval under the Bolton Land Use and Development Regulations; and that a waiver from the side setback requirement would be required for the new side lot line as proposed. The applicant was also asked to show the location of all access, water supply and wastewater areas, and the approximate location of wetlands and 50-foot wetland buffers on the final subdivision plat, and to provide supporting documentation, including easement language and state permits, as part of the application for DRB review.

An application for final subdivision approval, dated August 4, 2009, was received by the Zoning Administrator and referred to the DRB. A public hearing was scheduled and warned for August 26, 2009 in accordance with Section 9.8(D)(1) of the BLUDR and 24 V.S.A. §4464.

The public hearing to consider the application was convened on August 26, 2009 at the Bolton Town Office with a quorum of the DRB present. The hearing was then continued, at the request of the applicant, until October 21, 2009. The public hearing was reconvened on that day, with a quorum of the DRB present. There were no reported ex parte communications, conflicts of interest or recusals. The following persons attended and participated in the hearing process, or submitted written comments prior to the hearing date, and may be afforded status as interested persons with rights to appeal this decision:

- Dolores Barton, applicant

The following materials were submitted in support of the application:

- Application form, dated 8/4/2009, including a project description, and required application fees.
- Final subdivision plat, dated 5/14/09, prepared by David A Tudhope, Land Surveyor (State Registration #538).
- State wastewater and potable water supply systems permit #WW-4-3356, dated 10/5/2009.
- Proposed deed language, as transmitted on 10/15/2009.

Following the submission of testimony and evidence, the hearing was adjourned on the same day.

Findings

The applicant's request for final subdivision approval for a minor, 2-lot subdivision was reviewed by the Bolton DRB for conformance with applicable zoning district requirements (Table 2.4, Rural I District) and applicable subdivision standards (Sections 7.2-7.8) of the Bolton Land Use and Development Regulations (BLUDR) in effect at the time of application. Board findings and conclusions under each of these standards are presented as follows.

Zoning District Standards (Table 2.5)

1. The parcel to be subdivided is located within the Rural I District (Table 2.4), which has a minimum lot area requirement of 2 acres, a minimum road frontage requirement of 200 feet, and minimum front, side and rear setback requirements of 35 feet.
2. The parcel to be subdivided is a 10.8+/- parcel with 541+/- feet of road frontage along Stage Road. The parcel to be retained is 8.72 acres, with 201.07 feet of road frontage. The parcel to be conveyed is 2.04 acres with 340.15 feet of road frontage. Both parcels, as shown on the subdivision plat, will meet minimum district lot area and frontage requirements.

3. The retained lot includes one existing single family dwelling which is located outside of all required setback areas. The lot to be conveyed includes an existing dwelling and accessory structures, of which one (shed) lies within 35 feet of the proposed side lot line and would therefore not conform to side setback requirements. The DRB finds that because of existing site conditions (sloped banks) that make it difficult to relocate the existing access driveway and lot line, a waiver from setback requirements is warranted only for the existing structure on this lot.
4. The lots are currently in residential use, as allowed within the district. No further development is proposed at this time – the purpose of the subdivision is solely to convey ownership of the subdivided lot, second dwelling and associated accessory structures.

General Subdivision Standards (Section 7.2)

5. The land to be subdivided, consisting of forested land (red pine plantation), wetlands, and two existing dwellings and accessory structures, is suited for its existing and intended residential use.
6. Residential uses are allowed within and are consistent with the stated purpose of the RI District, and the rural residential character of this district, characterized by forested land, open fields, and moderate to low densities of residential development.
7. Lot layout is generally consistent with site topography, existing and proposed uses, zoning district requirements, and the stated intent to protect Class II and Class III wetlands on subdivided lots from further subdivision or development.
8. Permanent survey monuments and corner markers are to be located as shown on the plat.

Protection of Natural & Cultural Resources (Section 7.3)

9. Natural resources identified on site, and on the plat, include the approximate location of Class II and III wetlands and associated 50-foot buffers as required under the BLUDR (Section 3.17), as well as a red pine plantation identified by the applicant that is not specifically noted for protection in the Bolton Town Plan or the BLUDR. Red pine stands in town identified by the Vermont Natural Heritage Program have been protected as a rare ecosystem under prior subdivision approvals (2009 CRAG-VT); however it is not know if this status also applies to pine plantations at lower elevations – it is not included in “Significant Biological Natural Areas” on the town’s natural resource maps.
10. The proposed subdivision will not impact surface waters and wetlands in the area. Lot lines have been drawn to avoid, to the extent feasible, subdividing or fragmenting wetland areas – the majority of these areas will be located on the larger, retained parcel. Wetland and associated buffer areas extending across both lots are shown on the subdivision plat as protected open space.

Open Space & Common Land (Section 7.4)

11. As noted under #9, wetland and associated buffers are to be shown on the subdivision plat, as recorded in the town records, as protected open space.

Transportation Facilities & Infrastructure (Section 7.6)

12. Subdivided parcels will be served by existing accesses and driveways onto Stage Road, as shown on the subdivision plat. No new accesses or driveways are proposed.

Facilities & Utilities (Section 7.7)

13. Existing power line easements cross both lots, as shown on the subdivision plat. No new development is proposed that would encroach upon or interfere with existing utility easements.
14. Subdivided parcels will be served by individual water supply and wastewater systems as shown on the plat, and as approved by the state (#WW-4-3356, dated 10/5/2009). Access rights to off-site water supply and wastewater systems serving the parcel to be conveyed, as shown on the plat, will be granted under easement language provided.