



Town of Bolton Development Review Board

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

In re: **Appeal of Zoning Administrator Determination of Noncompliance**
Conditions of Final subdivision Approval for
Tiffany-Morrissey 5-lot subdivision, Stage Road (issued 12/30/03)
May 14, 2010

Appellants

James and Nancy Tiffany
230 Stone Hill Road
Jericho, VT 05465

Appeal

(See notice of appeal, hearing minutes, materials on file at the Bolton Town Office)

Jim and Nancy Tiffany, appellants, submitted a notice of appeal to the Development Review Board on April 2, 2010 regarding the written determination of Zoning Administrator Miron Malboeuf, issued on March 20, 2010 and sent to the appellants by certified mail, that the appellants had not yet complied with one of the conditions of final subdivision approval for a 5-lot subdivision approved by the DRB on December 20, 2003.

The DRB held public hearing, warned in accordance with the Bolton Land Use and Development Regulations (BLUDRs) and state statutes, on April 27, 2010, with appellant Jim Tiffany and Zoning Administrator Miron Malboeuf in attendance. The hearing was adjourned that evening.

The following materials were submitted at the hearing for DRB consideration:

- A-1: Transmittal letter from the Appellants, dated April 2, 2010
- A-2: Application (Notice of Appeal) dated April 2, 2010
- B-1: Letter of Determination from Zoning Administrator Miron Malboeuf, dated March 20, 2010
- B-2: Documentation that letter from the Zoning Administrator was sent by certified mail.
- C: Letter from Jim Tiffany to the Zoning Administrator, dated March 30, 2010, with a copy of a donation check issued to the Bolton Fire Department in the amount of \$2,500, as transmitted to the Zoning Administrator.
- D1: Letter from Zoning Administrator Miron Malboeuf to James Tiffany, dated March 9, 2010 regarding the quoted price for a fire hose as required to satisfy the condition of approval.
- D2: Copy of the quoted price of \$7,810 for ten 4"x100' lengths of fire hose and a distribution valve from Frontline, as forwarded to Jim Tiffany on March 9, 2010.
- E1: Copy of the DRB notice of decision for final subdivision approval issued on December 30, 2003 and hearing minutes.

Specifically the DRB, in its decision rendered on December 30, 2003, issued final subdivision approval to James Tiffany and Daniel Morrissey (Landowners and Applicants) for a 5-lot subdivision located off of Stage Road, with the condition:

1. That a fire pond will be constructed, to be approved by the Fire Chief, or a donation of a fire hose if the pond is not suitable.

In his letter of determination, Mr. Malboeuf indicated that:

- This decision, including conditions of approval, had not been appealed by the applicants within the 30-day appeal period (as at that time specified in statute).
- The applicants had not, as of the date of his determination, constructed a fire pond or donated a hose in fulfillment of condition one (1) of the DRB decision granting final subdivision approval.

- The applicants requested a hearing with the DRB, resulting in the Zoning Administrator's written determination of noncompliance.

He testified at the hearing that a formal notice of violation had not yet been issued.

The Tiffanys, in a letter to the DRB dated April 2, 2010 accompanying their notice of appeal, indicated that:

- They have made a good faith effort to meet with, discuss and comply with condition one (1) of the 2003 DRB decision, which simply stated that a "donation" would satisfy the condition, as confirmed in letters from the Zoning Administrator dated October 17, 2009 and December 7, 2009.
- A donation (check) has been submitted to the Zoning Administrator for use by the Fire Department and should satisfy the condition of approval, but has not been accepted by the Zoning Administrator.

In filing their appeal, the Tiffanys requested that the DRB consider giving the Bolton Fire Chief relief from the condition that the "donation" must go to purchase the fire hose. Mr. Tiffany also testified in hearing that they originally intended to build a fire pond, but were unable to get state approval because it would have been located in a regulated wetland.

Findings:

Based on the information presented at hearing, the DRB finds that:

1. The December 30, 2003 decision issued by the Development Review Board, and associated conditions of approval, were not appealed by the applicants and therefore remain in effect. As such, the applicants are required to either construct a fire pond or donate a fire hose to the Bolton Fire Department, to serve the subdivision.
2. The applicants are unable to construct a fire pond because a pond would violate state wetlands regulations. As such, in order to meet the conditions of approval, the applicant must donate a fire hose to the Bolton Fire Department.
3. The Bolton Fire Department offered no documentation or testimony regarding the minimum amount of hose and ancillary equipment needed to serve the subdivision. However, the quoted price for ten segments of 4" x 100' hose and a distributor valve – as obtained by the Bolton Fire Department from Frontline, an equipment provider – and as forwarded to the applicant is \$7,810.
4. The Fire Department has agreed to accept payment from the applicant, in lieu of the donation of a fire hose, to purchase a fire hose.
5. The payment received to date from the applicant, in the amount of \$2,500, is insufficient to purchase a fire hose and valve at the quoted price.

Decision:

Based on the above findings, the Development Review Board affirms the determination of noncompliance by the Zoning Administrator. The appellants, and any other subsequent parties and assigns, are required under the conditions of final subdivision approval to either purchase and donate a fire hose to serve the subdivision or to provide, in lieu of a fire hose, payment to the Bolton Fire Department sufficient to purchase a fire hose to serve the subdivision. A donation for a portion of the cost does not, in itself, comply with the conditions of final subdivision approval.

The applicant may request from the Bolton Fire Department equipment specifications as needed to obtain cost estimates from other equipment providers; but equipment providers, cost estimates, and/or any equipment to be purchased shall be subject to the final approval of the Bolton Fire Chief.

Approved with conditions (4-0) by the Bolton Development Review Board:

Jerry Chabot – Yea
Sharon Murray – Yea

Michael Hauser – Yea
Michael Rainville – Yea

Dated at Bolton, Vermont this 14th day of May 2010.



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.