

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

**Development Review Board Public Hearing Minutes**

October 18, 2006

Development Review Board members present: Sharon Murray, Chair, Jerry Chabot, Mike Hauser, Alternate, Rob Heimbuch, Alternate, Margot Pender, Mike Rainville

Development Review Board members absent: Susan Vita

ZA: Dick Ward

Clerk: Amy Grover

Also present: Nicole Fitch & Nick Nowlan, McCain Consulting, Inc., Leigh Sykes, Brian Bluto

---

**Agenda**

1. Sykes conditional use and flood hazard review
  2. Proposed amendment to the DRB rules of procedure
  3. CC participation in DRB proceedings
  4. Procedural discussion RE Rainville variance
  5. DRB clerk duties review
  6. Minutes – July 19, 2006
  7. ZA monthly report
  8. Other business or communications
  9. Adjournment
- 

**Call to Order**

Sharon Murray, Chair, called the hearing to order at 7:02 p.m. Sharon reviewed the agenda items, and noted that there were no changes, and that there was a quorum of the DRB present. Sharon asked if there was any public comment. There was none. Sharon swore in all who would be giving testimony.

**Agenda Item #1 ~ Sykes ~ conditional use and flood hazard review**

Sharon Murray noted that the hearing was convened to consider the request of Leigh Sykes, applicant, seeking conditional use and flood hazard review under Sections 5.4 and 5.5 of the BLUDR for a proposed 7 bay garage (36' x 100'), existing structure 2693 square feet. Property is located in the Village District, 3504 Theodore Roosevelt highway, Tax Map Parcel ID # 2003504. Sharon noted that:

- A quorum of the DRB was present, 6 members.
- There was no conflict of interest, or ex parte communication of the members present.

- Adjoining/abutting landowners had been notified by mail of the application, the public hearing date and time, and information regarding “interested person” status.
- Public notice had appeared in the October 1, 2006 edition of the Burlington Free Press.
- No additional persons were present, or had contacted the DRB prior to the hearing seeking interested person status.
- Mr. Sykes had the right to appeal the decision of the DRB to Environmental Court.

Sharon noted the difficulty in classifying the use under the district use tables, adding that conditional use was applicable.

Nicole Fitch reviewed the application for the DRB, and noted that:

- The structure was a 7 bay garage to house existing vehicles.
- The garage would be stick built, 2 x 6 construction.
- The existing parking lot would remain.
- No traffic increase was anticipated.
- The structure met all setback requirements.
- The lot size was 2 acres.
- The base flood elevation is 331’.
- The slab would be at 332’ or higher, above the flood plain.
- The last time water reached there was in the flood of 1927.

Sharon Murray asked how McCain classified the use under the district tables, as an accessory or equipment sales and service. Nicole replied that they weren’t sure it was either as it was a parking garage. Dick Ward noted that Mr. Sykes had come before the DRB 5 years ago for the existing structure, which previously had been a gas station, and that Mr. Sykes had been permitted as multiple use at that time. Sharon noted that was multiple use under the old bylaws. Dick stated it was still multiple use under the current bylaws. Sharon noted the need for the PC to review the BLUDR uses in the Village District, adding that in this case, even if it is a non conforming use, it can still be utilized.

Sharon Murray noted that it was a requirement to refer the application to the State and asked if that had been done. Dick Ward stated that it had been referred to the state two weeks ago. Sharon stated that no DRB decision could be issued until there was a response from the state or 30 days had passed.

Sharon Murray asked if there had been an ACT 250 application, and if so, why. Leigh Sykes replied yes, there was an ACT 250 permit because the site had a permit from 2 previous owners. Mr. Sykes added that he had been told there would be no trouble with the permitting process, and that it had been nothing but trouble, and that he would now probably have to wait until spring to begin construction.

Sharon Murray asked if the intent was to move the vehicles into the garage. Leigh Sykes replied yes. Rob Heimbuch asked if the business was growing and how long the garage

would serve the business. Leigh Sykes replied that the garage would house three trucks and old vehicles, and that it would serve the business for the next 5 years. Mr. Sykes noted that some employees chose to drive their vehicles home, and that growing his business was limited by qualified employees.

Sharon Murray asked if the other use was residential. Dick Ward replied that it was an alarm monitoring business requiring employees to stay overnight.

Sharon Murray asked what a variance had been received for originally. Leigh Sykes replied for the building on the town garage side, noting that he had to cut 5' from the building.

Sharon Murray asked if the building would have floor drains. Leigh Sykes replied no. Sharon asked if elevating the building would affect the drainage or mound system. Nick Nowlan replied no. Sharon asked if the well only served this property. Mr. Sykes replied yes.

Sharon Murray asked if there would be an increase in number of trips per day, citing that currently 5 trips per day were noted. Leigh Sykes replied no there would be no increase in trips per day, adding that there were currently 12 per day. Sharon asked if Mr. Sykes could estimate the number of trips per day to be reflected in a not to exceed clause in the conditions of approval. Mr. Sykes stated that he would rather the DRB not restrict the number of trips per day, adding that there had been 150 trips per day when the property was a gas station. Mr. Sykes also noted that the area was a hot spot for turnaround traffic not associated with his business. Sharon noted that triggering a traffic study would not be desirable. Jerry Chabot asked what would trigger a traffic study. Sharon noted that the permit should have that information, and added that there was no change in the access so that VAOT would not have to be notified. Dick Ward stated that the original permit did not reference number of trips per day.

Sharon Murray noted that the existing propane tanks were considered a structure in the flood hazard area, and would need to be anchored. Leigh Sykes replied that he could move the tanks to a more convenient, appropriate location, put them on a raised area above the flood plain, and would anchor them if needed. Jerry Chabot asked what constituted anchoring. Sharon replied that there were technical specifications for anchoring in the flood plain.

Mike Rainville asked what the proposed lighting for the structure was. Sharon Murray noted that an adjacent residence could be affected by the lighting, which was a concern. Leigh Sykes replied that there would be 4 downcast lights across the building, and that a motion sensor would turn the lights off within 10 minutes. Brian Bluto noted that there would be no late night traffic. Mr. Sykes added that there was shielding by the tree line between the residence and the proposed structure, and that the residence was hard to see, adding that he didn't think the lights would be visible.

Sharon Murray asked if there was a landscaping plan for the front and side yards. Leigh Sykes replied he would landscape if needed. Tom Bluto noted that the town truck had run over their maple trees and left without saying anything. Sharon noted that again the residential side of the building was a concern. Mr. Sykes said he was amendable to reasonable landscaping. Sharon noted that the traffic and security lights were on that end of the building, and that the conditions of approval could require specific lighting and landscaping buffers.

Jerry Chabot asked what the height of the garage was. Leigh Sykes replied that it was two tiered at 10' and 16.'

Sharon Murray asked if there were any addition questions or comments. There were none. Sharon noted that the DRB was required to incorporate the state's recommendations into the DRB approval, and that they did not yet have the information from the state. Sharon stated that being the case, the hearing was recessed until Wednesday, November 1, 2006 at 6:30 p.m. Sharon added that the DRB would like to see additional information on landscaping, along with a review of landscaping standards. Dick Ward asked the McCain representatives to let him know when they receive the needed information from the state.

**Agenda Item #2 ~ Proposed Amendment to the DRB Rules of Procedure**

Tabled until the November hearing as not all members had read/received the proposed amendment 24 hours before the meeting.

**Agenda Item #3 ~ Conservation Commission Participation in Development Review**

Sharon Murray noted that Tony Barbagallo from the Conservation Commission was unable to attend the meeting, and that the CC was interested in its role with the DRB. Sharon added that thresholds needed to be set that would trigger a CC review, i.e. development in the Conservation or Forest Districts, and that applications could be referred to the CC as needed before the hearing. The CC would be acting in an advisory capacity to the DRB. Dick Ward noted that the CC would not get input from the applicant. Sharon stated they could get input by meeting with the applicant separately. Margot Pender noted that all development in all districts impacts the town and that triggers should not only reflect certain districts.

**Agenda Item #4 ~ Procedural Discussion regarding variance approval extension by Mike and Holly Rainville.**

Mike Rainville stated that he and Holly had not yet purchased the parcel of land for which they had received DRB variance approval on November 7, 2005 due to delays with the bankruptcy proceedings. Sharon Murray noted that there was no limit on the variance approval except as it is tied to the zoning permit, and if a zoning permit is issued the approval still stands, along with the a possible 1 year administrative extension through the ZA. Sharon added that variance approval expiration was another item for review by the PC. For the record, the DRB voted unanimously that the Rainville variance approval was valid as long as it was attached to a valid zoning permit. Dick Ward stated that

paperwork would need to be filed through the bankruptcy lawyer to afford the Rainvilles representation, and the zoning permit issued before 11/7/06.

**Agenda Item #5 ~ Review of DRB Clerk Duties**

Amy Grover noted that no-one had yet applied for the DRB clerk position, and that she would be willing to work through December 2006, but no longer. The group discussed the duties of the clerk. It was noted that in the past the duties have changed depending upon the make-up of the board, which could be an issue, as well as the timing to get hearings warned and information posted. Sharon noted that a procedural change with respect to applications would eliminate the time crunch potential. Amy noted that an advertisement outlining the duties had been placed in the Bolton and Mountain Gazettes. The DRB asked if the job should be posted in another publication. At issue for posting in the Burlington Free Press; potential to not work any hours for several months at a time. Dick Ward suggested that the DRB appoint a clerk from amongst the members to receive applications, write hearing warnings, and notices of decisions, essentially leaving the secretary the job of minutes, postings, and mailings, noting that Sharon would fill that position extremely effectively.

**Agenda Item #6 – Minutes July 19, 2006**

Rob Heimbuch made the motion to accept the minutes of July 19, 2006 as amended. All were in favor, with one abstain (Margot Pender). Motion carried. Amendment, p. 3: “Bernie Chenette noted that DDJG had a legal right of way to the parcel, a 16’ r.o.w. for 300’ through the Atwood’s property, *and that he would contact/follow up with Vermont Agency of Transportation as needed.*”

**Agenda Item #7 ~ Monthly Report From the ZA**

Dick Ward noted that to date he had issued permits for:

- 7 alterations
- 1 garage
- 1 barn
- 1 replacement house (burned)
- 1 single family residence
- 5 COOs.

Sharon Murray noted that the PC had expressed concerns regarding the apparent lack of follow up on conditions of approval, i.e. the mitigation/conservation of land by BV for the new lift approval, and that perhaps a system needed to be put into place for follow up on conditions of approval. The members discussed the duties of the ZA and the need for more hours to complete the duties as well as more hours for enforcement.

Dick Ward noted that the SB had appointed RJ Valley as an acting ZA while he was in FL, specifically to issue COOs.

**Agenda Item #8 - Other business or communications**

Amy Grover noted that Susan Vita had regretfully tendered her resignation from the DRB. The members noted that the longest standing alternate should be appointed to fill

Development Review Board Hearing  
October 18, 2006  
Sykes conditional use and flood hazard review

her seat, Rob Heimbuch. Amy will contact Deb to put that appointment on the SB agenda and to advertise for the second DRB alternate.

**Agenda Item #9 – Adjournment**

The meeting was adjourned at 8:55 p.m.

Amy Grover  
Clerk, Development Review Board  
*These minutes are unofficial until accepted.*

These minutes were read and accepted by the Development Review Board on

\_\_\_\_\_, 2006

\_\_\_\_\_  
Sharon Murray, Chair