

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

## **Development Review Board Meeting Minutes**

June 20, 2007

Development Review Board members present: Sharon Murray, Chair; Mike Rainville, Margot Pender, Mike Hauser

Development Review Board members absent: Jerry Chabot

Clerk: Lawrence Peterson

Also present:   **Regarding Al Duffy**   **Regarding Town of Bolton**  
                  Marion Sequin           Deborah LaRivere  
                  Irene Lamell             John Devine  
                  Al Duffy                 Patrick Mallow  
                                          Gordon Rowe  
                                          Don Morin

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Warned Agenda:

1. Public Comments
2. Request of Chris May for final approval of a minor subdivision
3. Request of Al Duffy for conditional use approval
4. Request of Town of Bolton on appeal for variance approval
5. Request of Town of Bolton for site plan approval
6. Election of officers (Vice Chair)
7. Minutes – March, April meetings (no meeting held in May)
8. Any other business or communications
9. Adjournment

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### **Call to Order**

Quorum present, meeting called to order by the Chair, Sharon Murray, at 7:10 p.m. Agenda changes:

1. Lawrence Peterson reported that the May application (Item #2) was formally withdrawn by the applicant. Written note of the May's request was entered into records.
2. It was decided to delay consideration of Al Duffy's request, to follow after the Town of Bolton, because applicant had not yet appeared.

### **Agenda Item #1 ~ Public Comment**

No public comment.

### **Agenda Items #4 and #5 ~ Request of Town of Bolton for Variance & Site Plan Review for New Town Office**

The Chair read the public hearing notice, as warned for both the variance request (Item #4) and application for site plan review (Item #5), indicating that the variance request would be heard by the DRB first, followed by review of the town's site plan application.

There were no declared conflicts of interest. Ms. Murray reported there had been nominal ex parte communications regarding this application prior to the hearing – in the absence of a Zoning Administrator, she had discussed application requirements and variance criteria with John Devine, as Acting Zoning Administrator, and Deb LaRiviere, Town Clerk.

Lawrence Peterson reported that the warning had been properly published, posted, and the appellant and all abutters had been notified in writing. It was noted that participation in the hearing was required for anyone seeking interested party status, in order to retain their right to appeal a decision of the Development Review Board.

Ms. Murray read the list of contents of the application, including the Notice of Appeal, which was entered into evidence for the hearing record, and is on file at the town office. Ms. Murray indicated that much of the information needed for making determinations – e.g., lot area and dimensions, existing and proposed setbacks, and building and lot coverage – was included on application forms, but not depicted on the submitted site plan as required under the regulations. She noted that this information would be needed prior to the issuance of any permit or approval. Mr. Morin agreed to provide requested information.

**Item#4 –Town of Bolton, Variance Request.** Ms. Murray distributed copies of the statutory criteria for granting variances, noting that the Board would have to find that all variance criteria have been met in order to grant a variance.

John Devine (Select Board Chair) and Don Morin and Gordon Rowe (DG Morin Construction, LLC) provided a description of the project, to include the demolition of the existing town office and construction of a new, larger (1674 sq. ft.) town office on the same site. The office is located on a town-owned 0.64 acre parcel located in the Village I District, which fronts Route 2 but is accessed from “Harley Lane” (later identified as TH #18). The railroad right-of-way forms the southern boundary. The cemetery is located to the west. The fire station, town and fire station parking areas, septic system and leach fields, and a memorial, freestanding sign and flagpole are also located on the parcel. The project also includes relocation of the sign, flag pole and existing radio tower, which will be remounted on the roof of the new structure. The request is to vary the 25-foot rear setback requirement for the new town office building.

Noting that this is new construction, Ms. Murray asked why the town did not design the office to meet its adopted setback requirements for the Village I District. Messrs. Devine and Morin generally outlined the hardships in meeting the zoning regulations because of the size of the lot and space needs for the town office, including handicapped accessibility under ADA requirements. The lot is a pre-existing nonconforming lot that does not meet the district minimum lot size of 1.0 acre. Given that Route 2 is a three rod road (50' ROW) where it passes the lot in question (to be verified by the engineers), the building can be sited to meet front, but not rear, district setback requirements. If both setback requirements were met, the building would only be about 18 to 20 feet wide, and the resulting length needed to accommodate space needs would eliminate existing parking. The possibility to go to two stories as a way of reducing the footprint to conform to the lot was cost prohibitive under the town’s adopted project budget, since an elevator would be required.

Ms. Murray asked the appellants to specifically address the five criteria which would allow the DRB to grant a variance. Messrs. Morin and Devine indicated that:

- (1) With regard to unique physical circumstances, the lot was long and narrow, confined by Route 2 and the train tracks. The fire station, septic field and replacement areas limit any relocation of the office to the west side of the property.
- (2) With regard to development in conformity to the regulations, in order to meet space needs and ADA requirements, as noted the office would have to be 20’ wide and 85’ to 100’ long, given the need for additional corridor space, which would eliminate on-site parking. As also noted, a two-

story design was deemed cost prohibitive under the town's adopted budget, because of the need to install an elevator.

- (3) The hardship is due to existing site conditions and limitations; it has not been created by the town. Growth has resulted in the need for additional office space. The town owns no other land in the village that could be developed for a new town office.
- (4) With regard to maintaining the character of the area (as defined for the Village I District), the town relocated the office to meet front setback requirements, in order to maintain the building line along Route 2. The new town office should be an improvement over the existing office. The only drawback, with regard to future development of adjacent property, may be limitations on the ability of the Fire Department to expand, since some of the parking for the new building will be in the fire station parking area.
- (5) If the Route 2 ROW width is 50 feet along the property line (to be verified by the engineers prior to the issuance of a variance), and front setback requirements can be met, then the request for a 10-foot variance from the rear setback requirement of 25 feet would represent the least deviation possible from the regulations and the plan. A 15-foot setback from the railroad ROW would be maintained.

In order to proceed with town's site plan review application, Ms. Murray requested a preliminary indication from DRB members present as to how they might vote on granting the variance, based on the information provided. All indicated favorable status for granting a variance. Ms. Murray noted that, pending verification of the information provided, the Town can anticipate that the variance will be granted, with conditions, but must wait for the issuance of written findings and decision following hearing adjournment.

**Item #5 ~ Town of Bolton, Site Plan Review:** Ms. Murray distributed information regarding sections of the Bolton Land Use & Development Regulations that were applicable to site plan review of this project, and again noted that some information was not depicted on the site plan, as required for review under the regulations. She requested that the applicant provide all available information in testimony before the board, pending submission of a revised site plan. The request was made to have the Mr. Morin present the proposed building plans on behalf of the town. He noted (amidst some discussion) that:

- Project costs are being reduced by working with Jim Ferrington (UVM architect) on required design elements to save the cost of a full architectural design.
- The primary entrance will be located on the side of the building facing the existing parking area. A back entrance, intended primarily for employee use, will be located in the rear of the building.
- The basement will be filled in and the building floor will be lowered to improve access per ADA requirements, but the slab will remain at about the same elevation. Historically there have been no flooding or drainage problems – it was confirmed that the lot lies outside the Flood Hazard District.
- An asphalt ramp will provide ADA accessibility. The shorter ramp limits the amount of encroachment into the parking area, but two parking spaces will be lost. It was calculated that the regulations require nine parking spaces (1 space/200 SF of floor space). One van-accessible handicapped parking space will be provided near the entrance, as shown on the site plan. Employee parking spaces will be located in the fire station parking lot. Ms. Murray noted that the regulations also require the installation of a bike rack.

- Planting beds will be placed in "unusable" areas adjoining the entrance ramp. A dead tree in the rear of the property will be removed. Lilac bushes will be relocated. Ms. Murray noted that a 15-foot strip of green space is required along Route 2, and landscaping is required in the front and sides of the building and to screen parking areas.
- Sign location and specifications are still to be determined, but a two-sided lit sign visible from both directions on Route 2 is preferred. Underground conduit will be installed for possible future lighting. Ms. Murray noted that an unlit sign, not exceeding 16 sq. ft. per face, would be exempt from permit requirements, though the location should be shown on the site plan. Square footage does not include the supporting structure.
- There will be a sidewalk for employees only from the rear building exit to employee parking spaces located in the fire station parking area. This area will also include an area for trash collection, not shown on the current site plan.
- Access to the building will continue to be from Harley Lane, and the access (curb cut) will not change. It was noted that, with proposed parking area reconfiguration, the access (curb cut) must meet applicable B-71 standards, as adopted by the town.
- Three outdoor lighting fixtures are shown on the plans – two mounted at the side entrance, and one at mounted at the rear entrance. The fixtures have not yet been selected, but will meet local regulations – any timers or motion detectors will also be able to be overridden with a switch.
- The existing monument will not be moved.
- According Mr. Morin, the radio tower, when affixed to the new building, will not extend more than 12' in height above the building. As noted by Ms. Murray, it would therefore not be subject to local review under recently passed state statutes.
- A copy of the state application for the potable water supply and on-site wastewater systems was entered into evidence. The existing well will be used. Wastewater will be piped from the office into a new in-ground septic tank and distribution box, and then to the fire station's existing leach field, which has sufficient capacity.
- Drainage and grading will be more positive than existing building. A small drainage swale, not shown on the current sketch plan, will be located along Route 2. The parking lot will not be repaved – no drainage improvements are anticipated. Snow guards/diverters will be installed on the roof.

It was pointed out that, as currently designed, what would normally be considered the "rear" of the building faces Route 2. As a result, there are no entrances facing Route 2, and no windows along that portion of the wall where the vault is to be located. Ms. Murray asked if the interior layout could be "flipped" so that the entrance and windows would face Route 2, to better define the front façade and streetscape, as required for the Village I district. Deborah LaRiviere, Town Clerk, indicated her strong preference for retaining the current layout, so that the town office space would benefit from a southern exposure and reduced road noise. This was followed by some discussion of whether landscaping and the placement of a 'fake' window, as suggested by Mr. Morin, could improve the building façade along Route 2.

Ms. Murray asked whether the proposed sidewalk in the rear of the building could be extended to the front parking area, to improve pedestrian access across the lot, and to connect through to the fire station

and eventually the cemetery. It was the opinion of Mr. Morin and Ms. LaRiviere that this would be inappropriate, since the back of the building will have rubbish containers and recycling. The rear entrance was intended only for employee, not general public, access.

Mr. Morin indicated that no increase in trip generation rates is anticipated. The building will accommodate a maximum of 35 people, the conference room 20.

Ms. Murray asked whether the town preferred to submit additional information regarding façade improvements, landscaping, etc. and extend the hearing into July, or have the DRB issue a decision based on the information presented, with conditions, which could then only be appealed to court. The applicants requested a timely decision in order to start construction in mid-July. Construction was anticipated to take three months. They indicated that they would accept any findings and recommendations of the DRB as needed to move the project forward on schedule. Ms. Murray indicated that the applicants will need to verify undocumented information, including but not limited to dimensions, setbacks, lot and building coverage, antenna height, and the widths of road rights-of-way, and will need to submit a revised site plan for recording in the town land records that shows all requested information as specified as in any conditions of DRB approval, prior to the issuance of zoning permit for the project. The sign and other minor improvements would be subject to subsequent administrative review and approval by the Zoning Administrator, in accordance with any conditions of site plan approval.

**Motion:** Michael Rainville moved to adjourn the hearings for the town's variance request and site plan review. Seconded by Margot Pender. Motion passed unanimously. It was noted that the DRB has 45 days from the date of hearing adjournment to issue its findings and decision but, given the town's schedule, they will try to issue a decision within the next two weeks, after deliberation, as volunteer time permits. The Zoning Administrator will make sure that information is verified, and a copy of the application for state water and wastewater system approval is included in the application file.

### **Agenda Item #3 ~ Request of Al Duffy for a Waiver to Replace & Expand a Nonconforming Structure**

The Chair read the public hearing notice as warned, for the application of Al Duffy of 93 Curtis Lane for a waiver to replace and enlarge a pre-existing, nonconforming structure (attached shed) within required setback areas, under Sections 3.8 (Nonconforming Structures) and 5.4 (Conditional Use Review) of the Bolton Land Use & Development Regulations. There were no declared conflicts of interest or reported ex parte communications for this application. Mr. Peterson reported that the warning had been properly published, posted, and the applicant and all abutters had been notified in writing.

It was clarified that participation in the hearing was required for anyone seeking interested party status, in order to retain their right to appeal a decision of the Development Review Board, and that adjoining landowners Marion Soquin and Irene Lamell were in attendance.

Application information, and letters from adjoining landowners, the Bakers and Grovers, indicating that they had no concerns over the project as proposed were entered into evidence.

Mr. Duffy explained that the existing storage shed on the back of his house had been damaged, and he wanted to replace it with a larger attached, open shed, consisting of a roof supported by posts, to store his equipment. Both the existing and proposed structures encroach into required side and rear setback areas. There are no other structures on the adjoining lot behind the house – only a fairly steep bank.

Ms. Murray noted that waivers could be granted for the enlargement of nonconforming structures if they did not increase the degree of noncompliance by more than 50% under Section 3.8 of the regulations, and handed out a copy of the relevant page. Otherwise, a variance would be required.

Adjoining landowners, Mss. Marion Soquin and Irene Lamell, requested clarification regarding the location of Duffy property and shed in relation to their adjoining property.

Following DRB discussion of how the 50% rule pertaining to the degree of noncompliance applied, it was determined from calculations of existing encroachments that the applicant could expand the shed (including roof over hang) no more than 13 feet and 4 inches from the side of the existing building into the setback area (less than requested in the application), otherwise a variance would be required – and would be difficult under the regulations to obtain.

Mss. Soquin and Lamell testified that they were fine with the proposed setback. Mr. Duffy noted that is was less than he wanted, but acceptable.

Motion: Margot Pender moved to adjourn the hearing. Seconded by Michael Hauser. Motion passed unanimously. Ms. Murray indicated that the DRB had 45 days from the date of adjournment to issue written findings and a decision, which would be mailed out to everyone who participated, but they would try to get it out as soon as possible.

**Agenda Item #6~ Election of Officers (Vice Chair)**

Postponed until the next regular meeting of the DRB.

**Agenda Item #7~ March, April Meeting Minutes**

Postponed until the next regular meeting of the DRB.

**Agenda Item #8 ~ Other Business**

It was noted that a clarification was needed from the Selectboard as to whether Michael Hauser was a full time member of the board or an alternate.

**Agenda Item #9 – Meeting Adjournment**

The regular meeting of the Board was adjourned at 8:45 p.m. The Board then voted to enter deliberative session in order to review application materials and discuss findings for the Town of Bolton and Duffy applications, pending issuance of written decisions.

Lawrence Peterson  
Clerk, Development Review Board

*These minutes are unofficial until accepted.*

These minutes were read and accepted by the Development Review Board on July 18, 2007.

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Sharon Murray, DRB Chair