

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

Development Review Board Meeting Minutes

December 17, 2008

Development Review Board Members present: Sharon Murray, chair, Jerry Chabot, Michael Hauser, Michael Rainville, Margot Pender, Jenifer Andrews, alternate

Development Review Board members absent: none

ZA: Miron Malboeuf

Also Present: Chris McKown, applicant, Bolton Woods, LLC, John Pitrowski, Trudell Consulting on behalf of Bolton Woods, LLC, Scott Morrow, Greenleaf Forestry, on behalf of Bolton Woods, LLC, Travis Peckham, on behalf of CRAG VT, Warren Kirschbaum, resident

Location: Bolton Town Office

Agenda

1. Public Comment
2. Public Hearing: Conditional Use Review –Bolton Woods, LLC, Camp in the Forest District
3. Public Hearing: CRAG VT – Final Subdivision Review
4. Public Hearing: MODC– Appeal, ZA Determination re 4x4 School
5. Other business
6. Meeting Adjournment

Call to Order

Ms. Murray, Chair, called the hearing to order at 6:05 pm, with a quorum of the DRB present, and proposed changes to the agenda:

- The appeal of Bolton Valley would be heard last.
- The Bolton Woods application would be heard first.
- The CRAG VT subdivision application would be heard second.

Ms. Murray asked if there were any objections to the agenda changes – there were not.

Agenda Item #1 ~ Public Comment

There were no public comments.

Agenda Item #2 ~ Public Hearing: Bolton Woods (Camp) Application

Ms. Murray stated that the DRB was convened to review the request of Bolton Woods, LLC for construction of a camp in the Forest District on 998.4 acres. The application proposes the construction of a one story camp with sleeping loft, and is subject to the Finding & Conditions of Final Subdivision Review (Development Review Board Application, Catamount/Bolton Land, LLC), approved May 18, 2006, and requires review under Article II, Table 2.6 Forest District, Permitted Uses, Camp (C) &

Conditional Uses under Supplemental District Standards (5, E), and Article V § 5.4, *Conditional Use Review*. The property is identified as Tax Map #9, ID #30022101, located off the Bolton Valley Access Road.

Board members present indicated no conflicts of interest or ex parte communications with regard to the application. Ms. Murray noted that interested persons had rights to participate and to appeal, including appeals to environmental court, dependent on participation in the process.

Ms. Murray asked the applicant to provide the board with a review of the application.

Mr. McKown stated that he wanted to build a one story cabin with a sleeping loft for family overnights and that the cabin would:

- Be accessed by foot.
- Be built just over the 1500' elevation level, on a knob halfway up the ridge.
- Be set back, and under the canopy, not visible from any house, and would only visible from two spots on the road, and you would have to know what you were looking for to see it.
- Not have electricity, and would have propane fueled interior lights.
- Have non-reflective surfaces on the walls and roof.
- Have screens on the windows to minimize glare.
- Simple, with a bump out for an entry and a bedroom.
- Utilize an outhouse on recommendation from the state as less complicated.
- Not be near VAST trail.
- Not be sited near the Nordic Trail "Jake's."
- Be purposefully sited to not draw attention to it.
- Remain beneath the canopy, branches would be trimmed, and trees left.

Mr. Malboeuf stated that:

- He had made a site visit to the area.
- The area was a sizeable plateau.
- The cabin would be a small structure set back in a heavily wooded area, hardly visible.
- There would be no visible trail corridor.

The applicants presented photos showing the visibility of the proposed cabin site (identified by a high intensity light) from the Bolton Valley Access Road –indicating that it may be visible only for a brief period from one location on the road.

Mr. Rainville asked if the cabin would have a metal roof to facilitate snow sliding off the roof. Mr. Rainville noted that there were Long Trail structures in Stowe that were highly visible in the winter due to accumulated snow on roofs. Mr. McKown noted he did not want the cabin to attract attention, and that an earth tone metal roof might work. Ms. Murray noted that the BLUDR do not have building requirements.

Ms. Murray asked how construction materials would be hauled. Mr. McKown noted in winter by Polaris ranger with a sled, or after mud season, with Dave Fuller, who logs with horses, via horse and wagon. Mr. McKown noted he did not want to generate traffic or erosion. Ms. Murray asked if he had considered helicopter. Mr. McKown noted that that was a possible option, but he was sensitive to the amount of clearance the helicopter required on land.

Ms. Murray asked if the parcel was currently enrolled in a forest use plan. Mr. McKown stated it was, and that he would remove two acres from the plan.

Mr. Pitrowski noted that:

- This would not impact steep slopes greater than 25%.
- There was no major earthwork proposed.
- No major site work or clearing of trees was proposed.
- If some earthwork took place, there were no adjacent streams.
- The cabin would be built on pillars/concrete.

Ms. Murray asked if the slope at the footprint of the cabin was less than 15%. Mr. Malboeuf stated that ground inspection indicated it was less than 15%, confirmed by Mr. Morrow.

Ms. Murray noted there was no building envelope, just a footprint. The group reviewed the map. Mr. Morrow noted that markers were set around the area where the slopes get steeper, and although it was not labeled as such, the white area on the map could serve as and be verified as the building envelope. Ms. Murray asked about the back of the envelope. The group discussed the slopes in the back, and it was determined that the 1580' contour line would serve as the back edge of the building envelope.

The group discussed the property lines between the Bolton Woods parcel and Bolton Valley land. It was noted that Bolton Woods, LLC owns the sugar house and parking lot, that the sugar house has no equipment inside, and that Mr. McKown removed the tubing from the sugar bush.

Ms. Murray asked if there were any easements on any trails. Mr. McKown replied no, there were no easements for Bolton Valley's Nordic Trails, and it was a year to year access for the VAST trail, and although he had discussions with the GMC regarding the relocation of Long Trail, there were no easements for that. Mr. McKown noted that he appreciated that the "Old Goats" had contacted him for permission to maintain the Nordic Trails.

Ms. Murray asked if Fish and Wildlife had been contacted regarding bear habitat. Mr. McKown noted that he had met with John Gobeille from the state of VT to walk the property before he purchased it. Mr. McKown stated that he was happy to defer to Mr. Gobeille's recommendations, and that Mr. Gobeille:

- Determined that the property was all bear habitat.
- Observed bear trees everywhere.

- Had sent a letter approving a specific preliminary cabin site.
- Had sent an email approving the current site, about ¼ of a mile away from the original site, which was noted in ACT 250.
- Determined area #8 had the highest percentage of bear habitat, and that the cabin would be located in area #9.

Ms. Murray noted that ACT 250 was not part of the local review, but the application could be submitted as part of the local application.

Ms. Murray asked where parking was located. Mr. McKown stated at the sugar shack. Ms. Murray noted that two parking spaces were required even without access. Mr. McKown noted that was not an issue, that Bolton Valley plows and mows the parking lot at the sugar house in exchange for use as parking and staging areas, as a handshake agreement.

Ms. Murray stated as there would be no motor vehicle access to the cabin, Mr. McKown would need to be willing to waive emergency access and services in writing. Mr. McKown noted that he did not expect emergency services, and had formalized that in a letter to the town, and would resend that letter. Ms. Murray noted that due to the slopes, she wanted to be certain Mr. McKown understood the access issue.

Mr. Rainville asked what the timeframe was for building the cabin. Mr. McKown stated he wanted to complete the cabin as a fun family project, but there was no urgency, he would build when he was allowed, and in the meantime enjoy the land.

Ms. Murray asked if there were any other questions or comments. There were none. Ms. Murray noted that the DRB had enough information to make a decision, that the DRB would deliberate and issue a decision within 45 days.

Ms. Pender made a motion to close the hearing. Mr. Rainville seconded. All were in favor, motion carried.

Agenda Item # 3 – Public Hearing: CRAG VT – Final Subdivision Review

Ms. Murray stated that the DRB was convened to review the request for final subdivision review of Travis Peckham, CRAG VT, Kenneth and Nancy Remsen and Michael Ringuette for a 3-lot subdivision; consisting of the subdivision merger of an 11± acre parcel from the Remsen property (Tax Map #11, ID # 0043055) and a 7± acre parcel from the adjoining Ringuette property (Tax Map #11, ID # 0043161), to be merged to create an 18 ± acre parcel to protect and conserve the Resin Ridge cliff and hilltop. This application requires review under Article VI (§ 6.2 and 6.5), and Article VII of the Bolton Land Use & Development Regulations. The properties are located in the R II District, at 3055 and 3161 Notch Road, respectively.

Ms. Murray noted that she had a conversation with Mr. Peckham, but did not feel it represented ex parte communication, as it was relative to helping Mr. Peckham understand the hearing process. No other ex parte communications or conflicts of interest were

noted. Ms. Murray noted for the record that a letter had been received by Lars Botzjoorns, an abutter to one of the properties in question, who stated that he had no objections to and supported the subdivision.

Mr. Peckham stated that:

- The subdivision would merge lots to create an 18 acre parcel to protect and conserve the Resin Ridge cliff and hilltop, also known as Upper West, under ownership and management of CRAG VT.
- CRAG VT is a 501c3 non-profit with a mission statement to identify and protect the natural environment and recreational opportunities for the future.
- The project received wonderful support from the climbing community and the landowners, the Remsens and Ringuettes.
- Folks had been climbing there for 40 years, and it was a fantastic community recreation opportunity.
- The top had great views of Bolton Mountain, Mount Mansfield, Camel's Hump and all the beaver ponds.
- CRAG VT wanted to include the cliff and steep hillside below the cliff into the 18 acre parcel.
- Draft deed language stated that the intended use of the land was not to develop it anyway.
- The survey plat was completed.
- Funds would be used to purchase the property, to support a conservation easement for VT Land Trust, and a stewardship endowment to protect the area.
- The parcel was adjoining to Preston Pond which has similar protections and would be an extension of the Preston Pond parcel
- There is potential to connect with the Preston Pond trail network.
- Current access is typically from the Long Trail which has no easements or permit protections in that particular section.
- Access is also through the Preston Pond trailheads on Stage Road.
- Parking would be at the Long Trail access or Preston Pond access.

Ms. Murray asked if there were any easements on the property. Mr. Peckham noted that there were power line easements on one of the properties they were purchasing from, by the road, not on the subdivided portion, and that research revealed no other easements.

Ms. Murray asked about the wastewater permits for the property. Mr. Peckham stated that:

- They were in the process of finalizing approval from the state.
- The wastewater permitting process was triggered automatically with the subdivision process.
- It had to be certified that that the properties they were buying from had fully functioning septic systems and potable drinking water.
- The parcel was not a suitable candidate for a replacement wastewater system.
- The deed would state there would be no development on the property.
- He was confident that they would receive state approval.

- He questioned if that would be a condition for approval; pending final letter of approval from the state.

Ms. Murray stated that as he was not proposing development, the wastewater approval letter from the state was not an issue for the DRB.

The group reviewed the signing block requirements of the final plat. It was noted that it was required for the plat to be filed, signed, and recorded within 180 days, with the notation that the land was to be permanently protected as permanent open space, not to be subdivided or developed.

Ms. Murray noted that language within the land use restriction allowed organized activities/classes which could trigger the need for conditional use review by the DRB with respect to parking. Mr. Peckham noted that particular language had been included from a previous partner, and that it would be deleted. Ms. Murray noted that striking that language would not preclude the use by small groups and would allow for more flexibility, and that the DRB was currently reviewing the subdivision and not the use.

Ms. Murray stated that signs and bulletin boards would likely need approval from the Bolton ZA, though this was not relevant to the subdivision, but intended to provide the applicant with additional information.

Ms. Murray noted that the DRB could waive the frontage requirement, noting the parcel would have pedestrian access on existing trails. Ms. Pender questioned if the lack of frontage precluded future development, and that information/language (lack of frontage precluded development) should be added to the deed for clarity. Ms. Murray noted that a condition was that the parcel was permanently protected open space.

Ms. Murray asked if there were any other comments or questions. There were none. Ms. Murray noted that the DRB had enough information to make a decision, that the DRB would deliberate and issue a decision within 45 days.

Mr. Rainville made a motion to close the hearing. Mr. Chabot seconded. All were in favor, motion carried.

Agenda Item #4 – Public Hearing: MODC Appeal – Off-Road Driving School

Ms. Murray stated that the DRB was convened to review the appeal filed by Mountain Operations and Development (MODC), LLC (dba Bolton Valley Resort) of a determination of the Administrative Officer that conditional use approval by the DRB and a zoning permit are required for the expansion of an off-road vehicle course on existing alpine ski trails at the resort. This hearing was continued from October 22, 2008. The property is located in the Resort Village, Resort Residential, and Forest Districts accessed from the Bolton Valley Access Road, Tax Map #4, ID # 3004250, Map #7, ID# 3003227.

Bolton Valley disagrees with the Zoning Administrators determination that conditional use approval and a zoning permit are required for the expansion of an off-road vehicle course on existing alpine ski trails at the resort. Ms. Murray noted there were no representatives from Bolton Valley present. In response to a previous DRB request for information Larry Williams, representing Bolton Valley Resort, submitted an email on December 10, 2008 to Miron Malboeuf which stated that the off-road driving school physically commenced operation in June of 2006, which was entered into the hearing record. A letter from Bolton Valley's attorney, Liam Murphy, Murphy, also dated December the 10th, requesting continuation of the appeal hearing pending the filing and outcome of an application for the 4 x 4 school was also entered into the hearing record. questing

The group reviewed the status of the appeal and the timeframe of the start of the 4 x 4 Center, and it was noted that the pre-existing non-conforming use status of the 4 x 4 Center had come into question.

It was noted that the concurrent appeals and application were complicated, and that the town determined it would be more efficient to continue the appeal process and consolidate the appeals while allowing for an application process to move forward.

Mr. Kirschbaum, an abutting resident of Bolton Valley, stated that:

- He felt that the winter use could be unsafe and asked that it be restricted to areas with no houses.
- He had not given permission to access the trails via Snowdrift Lane.

Ms. Murray noted that there was no formal application on winter use before the DRB, and that when there was an application that would be the time to submit that testimony. Mr. Malboeuf noted that Bolton Valley had submitted an ACT 250 application for winter use, and that at the local level, winter use was another expansion requiring conditional use review.

Ms. Murray noted that the DRB would not be making a decision that evening, and that the hearing would be continued. Mr. Chabot made the motion to continue the hearing with the provision that Bolton Valley/4 x 4 Center agrees to waive the 45 day requirement pending the outcome of their application, if the application is filed within 90 days. Mr. Hauser seconded the motion. All were in favor, motion carried.

Agenda Item #5 – Other business

There was no other business.

Development Review Board
December 17, 2008
Bolton Woods/Conditional Use Review, Camp in Forest District
CRAG VT ~ Final Subdivision Review
MODC/Bolton Valley (4x4 School) ~ Appeal of ZA Decision - Permits Required

Agenda Item #6 – Adjournment

Motion to adjourn, all were in favor, motion carried.

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

These minutes were read and accepted by the Development Review Board on April 29,
2009


Sharon Murray, Chair