

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

Development Review Board Meeting Minutes

April 29, 2009

Development Review Board members present: Sharon Murray, Chair, Michael Hauser,

Michael Rainville, Jerry Chabot, Margot Pender

Development Review Board members absent: none

ZA: Miron Malboeuf

Clerk: Amy Grover, Acting

Also present: Larry Williams, applicant, Liam Murphy, on behalf of MODC/Bolton Valley, Tom Walsh, on behalf of 4 x 4 Center

Location: Bolton Town Office

Posted Agenda:

1. Public Comment – Opportunity for public comment.
2. Public Hearings
 - Automobile Services International/Bolton Valley Resort – Conditional Use Review (Continued from Bolton Development Review Board hearing of March 25th, 2009) – An application filed by Automobile Services International, d/b/a 4x4 Center and Mountain Operations and Development, d/b/a Bolton Valley Resort (collectively “Applicants”), for Conditional Use approval of expansions to the 4x4 Center Off Road Driver Training Center located on roads and trails at the Bolton Valley Ski Resort off the Bolton Valley Access Road in Bolton, Vermont. Applicants seek conditional use approval for: (1) expanded use of the trail network for the 4x4 Center off Road Driver Training Center on pre-existing roads and trails and (2) limited wintertime use of the Warm-up Area from December 15 to March 15 of each year.
3. Annual Election of Officers – Chair, Vice Chair, Secretary
4. Meeting Schedule – 2009-10
5. ZA Report – Permits, pending applications, appeals
6. Meeting Minutes – 6/25/08, 9/24/08, 10/22/08, 12/17/08, 02/25/09, 3/25/09
7. Other Business
8. Meeting Adjournment

Call to Order

Ms. Murray, Chair, called the meeting to order at 6:20 p.m., and apologized for the late start time. DRB members noted the difficulty of a 6 p.m. start time. Ms. Murray reviewed the agenda items. No changes to the agenda were requested.

Agenda Item #1 ~ Public Comment

Ms. Murray opened the floor for public comment. There was none.

Agenda Item #2 ~ Public Hearing

Ms. Murray stated that the DRB had one application before them:

- Automobile Services International/Bolton Valley Resort – Conditional Use Review (Continued from Bolton Development Review Board hearing of March 25th, 2009) – An application filed by Automobile Services International, d/b/a 4x4 Center and Mountain Operations and Development, d/b/a Bolton Valley Resort (collectively “Applicants”), for Conditional Use approval of expansions to the 4x4 Center Off Road Driver Training Center located on roads and trails at the Bolton Valley Ski Resort off the Bolton Valley Access Road in Bolton, Vermont. Applicants seek conditional use approval for: (1) expanded use of the trail network for the 4x4 Center off Road Driver Training Center on pre-existing roads and trails and (2) limited wintertime use of the Warm-up Area from December 15 to March 15 of each year.

It was noted for the record that:

- A quorum of the DRB was present, 5 members
- There was no reported conflict of interest for members present.
- There was no ex parte communication regarding the proposed application.
- No one had contacted the DRB prior to the hearing seeking interested person status.
- Participation in the hearing process was required (written or verbal) to appeal a decision of the Development Review Board.
- Attendees were required to sign in.
- Interested parties had rights to participate and to appeal, including appeals to environmental court, given participation in the process.

Ms. Murray stated she wanted to provide an update on the two appeals filed by Automobile Services International/Bolton Valley:

- The DRB did deliberate and drafted a written decision.
- The written decision was sent to the town attorney for review prior to issuing to the appellants.
- The town attorney had not yet responded to that review request.
- The DRB could verbally notify the applicant that the DRB had:
 1. Affirmed the need for the permits for the expansion of the 4 x 4 Center.
 2. Reversed the need for a permit for the original 4 x 4 Center.

Ms. Murray noted that with respect to the application being heard that evening, the DRB minutes from the previous meeting reflected that the following information had been requested, and had not yet been received:

- A signature from Bernie Chenette, with respect to the erosion control plans ~ it was noted that a signature of a P.E. was required under the BLUDRs.
- Information regarding the SPAs.

- The deed language regarding Bolton Valley's drainage rights to cross properties.

Mr. Williams stated that he had a copy of the deed language for the DRB and that the deed language applied to deeds on Thacher and Wentworth Roads. Mr. Williams noted that Blackberry, Gardner and Snowdrift Lanes were subdivisions with different covenants, and that the deed language did not apply to those areas.

Ms. Murray noted that when Bolton Valley received the original permit for the Vista Quad chairlift, cutting restrictions were put in place and wetlands were identified and protected under conditions of approval and under Act 250, and queried if the 4 x 4 Center impacted those conditions of approval. The DRB noted they would like to see the map of the wetland area. Mr. Williams stated that:

- Wetlands at the top of Lift #2 were mapped.
- Act 250 had reviewed the wetlands and had no concerns.
- The road at the top of lift #2 through the wetland area was pre-existing.
- Proposed trails do not disturb any wetland.

Mr. Williams added with respect to the Bicknell Thrush habitat:

- The information was filed and recorded with the town.
- The state was satisfied that the preserved habitat area was outside the area of the 4 x 4 Center, as the map had been reviewed by ACT 250.
- Trails do not go through the preserved habitat.
- The area was a legal easement; an 8 acre circle arbitrarily mapped by Bob Fries.
- There were no newly cut trails in the area for the 4 x 4 Center, they all were pre-existing ski trails.

Ms. Murray stated there was a discrepancy in the elevation line for the Bicknell Thrush habitat between maps. Mr. Malboeuf noted that the map was not readily available in the town office and asked Mr. Williams to send in a copy of the preserved habitat map. Ms. Murray noted that the DRB needed to make findings as referenced in previous conditions of approval.

Ms. Murray asked for the general location and isolation distances of SPAs, noting that wells were indicated but not SPAs and that SPAs generally isolate a well area by a 200'. Mr. Walsh stated he could provide that information. Mr. Murphy noted that development that was allowed within a SPA seemed puzzling. Mr. Williams queried if the use of a pre-existing trail for driving was development. Ms. Murray stated that it had already been determined that driving was development, but given the proposed use (driving), the conditions of approval/findings could determine that there was no effect on the SPAs.

The group reviewed the application maps, and Ms. Murray questioned what the proposed right of way was. Larry Williams stated that:

- Bolton Valley had sold 1,000 acres to the south of Timberline on the other side of Joiner Brook, to Paul Growald, "Joiner Brook, LLC."
- Mr. Growald had existing deeded access to his land through the right of way.
- When Mr. Growald purchased the land, access had not been determined.
- After purchase, both parties agreed access to be on the logging road which the 4 x 4 Center also uses.
- Mr. Growald uses this access as an easier access for the upper portion of his land.
- Mr. Growald also could have access through frontage on the Bolton Valley Access Road.
- Act 250 reviewed the access to be sure there was not a conflicting use of a trail.
- Mr. Growald controls the existing VAST bridge.
- The VAST trail travels briefly on the same logging road, crosses the bridge, then veers to the right and up to Timberline.
- There was no current proposal for other uses other than the 4 x 4 Center.

Ms. Murray questioned the slope on the access area and noted that:

- This was good information to have.
- If Mr. Growald's parcel of land was landlocked, he would need to have that particular access approved by the DRB.
- Access for other uses is regulated.
- If the access is deeded, it should be reflected as such on the map.

The group reviewed the maps, and reviewed the areas of summer and winter use. It was noted that regulations required 100' setback from the top of bank/top of slope from Joiner Brook and 50' from tributaries.

Mr. Chabot questioned the context of "proposed" trails indicated on the maps, and questioned if this meant the trails were not completed. Mr. Williams stated that what was proposed was the use of the pre-existing logging trails, not that the trails were going to be constructed. It was noted that if trails were labeled as "proposed" they were a part of the expansion application, that there were some confusing discrepancies on the labeling between the maps ("proposed trails" on one map labeled as a "trail" on another map) and that the maps needed to be reconciled.

Ms. Murray asked if the slope information for trails was included on the map. Mr. Williams stated it was highlighted in yellow and that:

- Mapping was not done on the ground and utilized topo maps.
- The flyover for the topo map had been done 3 or 4 years ago and was very accurate.
- Anytime the slope changed significantly was identified with an "X" on the map.
- An on the ground mapping exercise might have been more accurate, but would have been much more expensive to complete.

- The town had an opportunity 4 or 5 years ago to participate in an ortho project at CCRPC. When the town did not participate, Bolton Valley paid the town's share of expenses to participate, hence the more updated orthos of the Bolton Valley area in comparison to rest of the town.

Ms. Murray asked what the slopes of the proposed trails outside of the summer warm up area were, noting that on the maps, some trails were lacking slope information. Mr. Williams replied it ranged between 5% and 30%, and queried if a proposed trail needed a slope analysis. Ms. Murray replied yes. Mr. Williams stated as a point a discussion that trails proposed as part of the expansion included slopes over 25%, and questioned if allowing or not allowing the 4 x 4 Center to include those trails was the issue, not individual sections, as slopes over 25% occur in many places. Ms. Murray noted that under the steep slopes provision of the BLUDRs, all of the erosion control measures were subject to review, and the slope triggers the need for erosion control and management plans in relation to the hydrology in those areas. Mr. Hauser noted that it also was a matter of identifying the trails grandfathered under the old regulations vs. the new trails that will need to be reviewed under the current regulations. Mr. Rainville asked if it was possible for the 4 x 4 Center to avoid those slopes/areas in excess of 25%. Mr. Walsh stated the Center likes those kinds of slopes (laughter). Mr. Rainville noted it would be the Planning Commission that would be responsible for any change to the steep slope provisions. Ms. Murray reiterated that the DRB needed the slope information.

Mr. Murphy queried if the DRB had made the fundamental decision that summer driving on pre-existing trails was development. Ms. Murray stated that the DRB had already made that decision and that the issue was that the DRB had to make findings under the steep slope provisions; even if they were existing trails, the use would have to document that it was not going to create erosion hazards. Mr. Murphy stated that the erosion control plans were made with the steep slopes in mind. Ms. Murray stated that the BLUDRs require conditional use review for anything over 15%. Mr. Chabot questioned if the DRB was trying to evaluate the erosion control measures, adding that was the project engineer's job. Mr. Chabot asked if the DRB could get past the documentation of the steep slope analysis, adding that the documentation showed that steep trails have erosion control measures, the slopes have been identified, erosion control measures are in place, and even though a section was missed (slopes not identified on the map) the hearing should move forward. Ms. Murray noted that the DRB does not have a sign off on the erosion control measures by a P.E; Bernie Chenette. Mr. Walsh stated that they could obtain that signature.

Ms. Murray asked for the locations of stream crossings. Mr. Williams noted that stream crossings were indicated on Exhibit A ~ Erosion Control Plan, and that all were waterbars, there were no culverts based on the state's recommendation to use water bars and not install culverts. Mr. Chabot noted that 4 stream crossings were indicated on the map as numbers 126, 136, 144, 145. Ms. Murray asked if there was any hydrological analysis done for ACT 250 to show if there was increased stormwater runoff from hardening of the trail. Ms. Murray added that water bars drain and harden the trail to

allow for heavier vehicles to drive on the trail. Mr. Williams replied no, there was no hydrological study, and no request for a study. Mr. Williams added there was an on site inspection with various agencies, and noted that the 4 x 4 Center was using ski trails that already had some level of a work road on them, and that the number of new water bar crossings were low. Mr. Chabot noted that there were 10 new waterbars out of 64.

Ms. Murray asked if there was any other information or questions. There were none.

The DRB noted that they required the following information from the applicant:

1. The Bicknell Thrush map which identifies the easement/preserved habitat area and clarifies the time/use issue.
2. The SPA locations for both surface collection and drilled wells.
3. The slope information for proposed trails outside of the warm up area.
4. Clarification of the proposed trails on map E2.
5. Clarification of the summer use area on map E2.
6. A letter from Bernie Chenette, P.E., stating he had reviewed and certified that the erosion control plans were sufficient.

Mr. Murphy asked if the DRB could close the hearing pending the receipt of the requested information. Ms. Murray said yes, but the DRB did need the information to make their findings. Mr. Walsh stated the DRB would have the information within a week. Ms. Murray noted that closing the hearing triggered the start of the 45 day decision period.

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

Agenda Item #3 – Annual election of Officers: Chair, Vice Chair, Secretary

The group discussed the officer positions, and noted that two alternate positions were still open. Ms. Pender made the motion to accept the slate of officers as proposed; Sharon Murray, Chair, Michael Hauser, Vice Chair, Margot Pender, Secretary. Mr. Rainville seconded the motion. All were in favor, motion carried.

Agenda Item #4 – 2009-2010 Meeting Schedule

The DRB will convene, as needed, on the 4th Wednesday of the month at 6:30 p.m. at the town office. DRB meetings are not to exceed approximately two hours in length, and will recess, as needed, to an interim meeting. Interim meetings will be held, as needed, on the 2nd Wednesday of the month for deliberations and recessed meetings.

Agenda Item #5 - ZA Report – Permits, pending applications, appeals

Mr. Malboeuf noted that:

- The Bolton Volunteer Fire Department would like to purchase a metal “smoke house” training unit and install it between the fire station and the railroad tracks. They already have permission for the installation from the railroad, and will need to submit to the DRB:

1. A site plan
2. A request for a variance from setback requirement/s

Agenda Item #6 - Meeting Minutes – 6/25/08, 9/24/08, 10/22/08, 12/17/08, 02/25/09, 3/25/09

Ms. Murray noted that the 6/5/08 meeting minutes currently reflected a tape malfunction and that she would review her notes from that date and see if she could add additional information to the minutes, and resend them.

Ms. Murray noted that she could not find the 10/22/08 minutes. Ms. Grover stated she would resend them to the DRB.

Mr. Chabot made the motion to accept the minutes of 9/24/08, 12/17/08, 02/25/09, 3/25/09 as amended by Ms. Murray. Mr. Hauser seconded. All were in favor, motion carried

Agenda Item #7 - Other Business


There was none.

Agenda Item #8 - Meeting Adjournment

Mr. Chabot made the motion to adjourn the meeting at 7:55 p.m. Mr. Hauser seconded the motion, 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 May 27, 2009



Sharon Murray, Chair