

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

Development Review Board Public Meeting Minutes

October 19, 2005

Development Review Board members present: Jerry Chabot, Mike Hauser, Alternate, Rob Heimbuch, Alternate, Sharon Murray, Chair, Susan Vita

Development Review Board members absent: Margot Pender, Mike Rainville (applicant in this hearing)

Clerk: Amy Grover

ZAO: Dick Ward

Also present: Mike Rainville, applicant

Agenda

1. Mike and Holly Rainville – Variance Request
 2. Minutes – September 21, 2005
 3. Other business or communications
 4. Adjournment
-

Call to Order

Sharon Murray, Chair called the hearing to order at 7:07 p.m.

Agenda Item #1 – Rainville – Variance Request

Sharon noted that the hearing was convened to consider the appeal of a decision by the Bolton Zoning Administrator and variance request by Michael and Holly Rainville, under Sections 9.5 and 9.6 of the Bolton Land Use and Development Regulations. Request permission to construct a single family dwelling within six feet of the side property line, and a two car garage within thirteen feet of the side property line, where thirty-five feet is required. Property located within the Rural I District, Cemetery Road. Tax Map #1 – 0140080.

Sharon Murray noted that:

- A quorum of the DRB was present, 5 members.
- There was no conflict of interest, or ex parte communication of the members present. Rob Heimbuch stated that Mike Rainville was currently building a house for him, adding that if other members of the Board had objections and felt he needed to recuse himself, he would do so. The Board came to the consensus that Rob did not need to recuse himself.

- Adjoining/abutting landowners had been notified by mail of the variance application by the Rainvilles, the public hearing date and time, and information regarding “interested person” status. In addition, Amy noted that she had also spoken with Col. Pipes and Col. Gingras (Ethan Allen Firing Range – abutter) regarding the application.
- Mike Rainville met the criteria for interested person status.
- No other persons were present, or had contacted the DRB prior to the hearing seeking interested person status.
- The variance reflected an appeal of a decision by the Bolton Zoning Administrator, permit denied because of failure to meet the setback requirements in the RI District.
- The Rainvilles had the right to appeal the decision of the DRB to Environmental Court.

The DRB had received a packet from the Rainvilles, which included the DRB application and a preliminary site plan dated 9/29/05, showing the lands of Gokey and May.

Dick Ward noted that the Rainvilles had not yet purchased the land, but had an option to purchase the land in bankruptcy court, adding that the judge documented that the Rainvilles had full power to represent the court and the seller for the application to the DRB.

Mike Rainville noted that:

- He and Holly had an option to purchase the 1.8-acre parcel through bankruptcy court.
- The lot is a pre-existing, non-conforming lot (minimum lot size in RI currently 2 acres).
- The variance request is for a six-foot setback on the northerly (range side) property line, where 35 feet is required.
- The range is owned by the Corp of Army Engineers and leased to the VT National Guard and General Dynamics.
- Mill Brook formed the property line to the south, with a large, steep bank; thirty foot drop down to the brook.
- The back of the lot was unbuildable.
- He was the abutter on the brook side of the property.
- There currently were no structures on the land.
- There was an 18’ x 20’ concrete slab remaining from a camp, built in the 1960’s and torn down in the early 1980’s.
- The VT National Guard granted a 25’ easement for septic.
- The VT National Guard had refused to grant him an easement for the current road which accesses the property (on range land), which necessitated him reversing the placement of the house and garage, with the garage now first.
- A new curb cut would access the lot from Cemetery Road.
- The placement of the house is sited over the existing slab foundation, with an 8’ northerly side setback.

- The garage has a 15' setback.
- The plans were “fast track.”
- The land was being perk tested, and he was reluctant to invest more money in the plan without receiving DRB approval.
- The option for purchase expires in mid November.

Sharon Murray asked if there were any permits pending on the land. Mike Rainville replied no.

Sharon Murray asked if the old foundation was identified on the site plan as the “existing concrete slab.” Mike Rainville replied yes.

Sharon Murray asked what the frontage on Cemetery Road was. Mike Rainville replied 158.4 feet, which did not meet the current requirement of 200 feet. Mike added that the new driveway would be 8' wide and snake through the woods. Sharon noted that Cemetery Road was a Class III Town Road.

Sharon Murray asked what the distance to Mill Brook was, and if the 100' set back from the top of the bank was met. Mike Rainville replied no, it was less than 100', and that it would be impossible to build on the property and meet current setback requirements. Jerry Chabot asked what the top of the bank was defined as. Sharon replied that the State defined it as the break in slope.

Michael Hauser asked if the house would be built on a slab. Mike Rainville replied that he wanted a basement.

Rob Heimbuch asked how high Mill Brook ran when at high water. Mike Rainville presented pictures to the DRB, taken after several days of rain. Mike noted that his current house was on the low bank side of the brook, and that the water would never flood the other side, because of the high bank. Susan Vita asked if the bank on the other side was more gradual. Mike replied yes, and noted that there was a huge discrepancy in the bank heights, with his side about 20 – 30' below the higher side. Mike noted that on the ground it was probably 100' to the brook, but perhaps 80' from horizontal. Jerry Chabot noted that the bank dropped 30' over 100' down to the brook, and that it was probably about 80'.

Michael Hauser asked if the house could be moved out with a walk out basement, which would allow for less of a setback variance. Mike Rainville noted that the closer to the brook, the more boulders and ledge there were, adding that the proposed site was flat, stable gravel. Sharon Murray asked if the site could be moved back more away from the steep bank, toward the north. Mike noted that the Range property line was 6 feet to the north from the stonewall, and that the chain link fence which was approximately an additional 25 feet from the stone wall, was not the property line. Sharon asked if there had been any written comments from the range. Amy replied no.

Mike Rainville noted that there had been no zoning when the camp had been built, and the current owners were in CT, not available for public comment during the rewrite of the zoning regulations. Sharon noted that there was a 100' setback from the brook in the old regulations, and added that a variance was a way of bending the rules to allow for reasonable use of a property, and that reasonable use does not always meet highest and best use. Sharon stated that it was required that 50% of the setback be maintained as an undisturbed buffer.

Sharon Murray asked if the dimensions remained the same after reversing the placement of the house and the garage. Mike Rainville replied yes, the house would be 24' x 32', a modest size, and the garage a low profile garage, 20' x 20', and that he could be flexible with the garage. Sharon asked if the house could be built on the same footprint of the existing slab. Mike replied that was too small, though he was downsizing, and added that it would be a gable roof with a loft. Sharon asked if the garage was necessary. Mike replied yes, he currently did not have a garage, which was something that he needed; adding jokingly that it snowed 2 feet every night in West Bolton.

Mike Rainville added that under the variance criteria:

1. The steep bank and contours of the land made it impossible to meet current setback requirements. He added that the setbacks together were more than the width of the whole piece of property.
2. The lot is a pre-existing non-conforming lot that had a home on it in the past.
3. That the proposed structures are consistent with homes in that neighborhood.
4. The house and garage size are the minimum size to be in scale with the lot size.

Jerry Chabot noted that he had recently toured the area, and that it was a nice spot for a small house, which would meet the character of the neighborhood.

Dick Ward asked if there were other parties interested in the land. Mike Rainville replied yes. Dick noted that if there were not a variance request from Mike and Holly, there would be a request from someone else, even though it was a substandard lot it would be snapped up in bankruptcy court. Mike noted that many of the old West Bolton camps/camp lots now were homes.

Sharon Murray asked if there were any more questions or comments. There were none.

Sharon Murray made the motion to close the hearing at 7:41 p.m. Susan Vita seconded the motion. All were in favor, motion carried. Hearing closed, regular meeting opened.

Agenda Item #2 – Minutes September 21, 2005

Tabled due to a lack of a quorum from the September 21, 2005 hearing.

Agenda Item #3 - Other business or communications

Mike Rainville signed the amended notice of decision for the MODC Conditional Use.

Development Review Board Meeting
October 19, 2005
Rainville – Variance

Sharon Murray stated a motion would be entertained to enter deliberative session for the Rainville request. Rob Heimbuch made the motion to enter deliberative session. Jerry Chabot seconded the motion. All were in favor, motion carried. 7:50 p.m.

The DRB reached a consensus to continue the deliberative session at 9 a.m. Saturday at the site, which would allow for checking measurements.

Susan Vita noted that she would be away beginning 10/26 for 8 days.

Amy Grover noted that Bolton Valley was expected to come in with a subdivision request for November.

Agenda Item #4 – Adjournment

The meeting was adjourned at 9:12 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

_____, 2005

Sharon Murray, Chair
or
Mike Rainville, Vice Chair