

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

**Development Review Board Public Hearing Minutes**

April 26, 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: David DuBrul, Jeff Garfield, DDJG Property Ventures LLC, Bernie Chenette, Chenette Associates, Chris Haggerty, Michael McKeown, John Wakefield, Catamount/Bolton Land LLC, Ron Stotz

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**Agenda**

1. Catamount/Bolton Lands LLC final subdivision
  2. Haggerty/McKeown, access
  3. DDJG Property Ventures LLC, sketch plan review
  4. Minutes – March 15, 2006
  5. Other business or communications
  6. Adjournment
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**Call to Order**

Sharon Murray, Chair, called the hearing to order at 7:05 p.m. Sharon reviewed the agenda items, and noted that there were no changes, and that there was a quorum of the DRB present.

**Agenda Item #1 ~ Catamount/Bolton Lands LLC, final subdivision**

Sharon Murray noted that the hearing was convened to consider the request of Catamount/Bolton Lands, LLC, John Wakefield, agent, for final approval of a major subdivision under Section 6.5 of the Bolton Land Use and Development Regulations. Property located in the RII and Forest Districts off of the lower west side of the Bolton Valley Access Road. Tax Map Parcel ID# 3003227. Sharon swore in John Wakefield, and it was 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 April 11, 2006 edition of the Burlington Free Press.
- No other persons were present, or had contacted the DRB prior to the hearing seeking interested person status.
- Catamount/Bolton Lands LLC had the right to appeal the decision of the DRB to Environmental Court.

John Wakefield reviewed the application for the DRB, and noted that:

- There was a small discrepancy after the final survey had been completed, the lot was 840 acres+/-, and not 831 acres as had been reported at the sketch plan review.
- The retained parcel would be 1517 +/- acres.
- Little River Survey Co. had completed the final survey, and had difficulty integrating the town zoning boundaries. An updated map was dispersed showing the parcel overlay on the town map.
- The lot will be sold to a private party, no development proposed at this time. The future owner expressed that he would use the acreage for a woodlot, as well as build 2 log cabin style homes, close to the BV Access Road. Water/wastewater would be on site, or if the Catamount Water and Sewer System expands, there would be potential to tie into that system.
- Catamount/Bolton Lands LLC is amending their state permit because of the water/wastewater system being on the retained portion, and therefore originally part of the 840 acre parcel.
- The major portion of the lot encompasses steep slopes, not conducive to development.
- As with much of Bolton, the parcel is virtually all productive bear habitat, with American Beech stands. As future development will occur near the road, it will not affect the bear habitat.
- Deer habitat comes close to the parcel border.
- Catamount/Bolton Lands LLC is working with forester Scott Moreau.
- With regard to ACT 250, initially there was concern regarding the subdivision, but there was no hearing called, and the ACT 250 Permit is expected next week.
- Research showed several subdivisions under ACT 250, which had never received town approval, which were rescinded.
- There are no written easements for the VAST, GMC, or Catamount trails, and the future owner plans to allow for continued use, but again, not in writing. It was noted that the GMC's Long Trail comes close to, but does not pass through the property.

Sharon Murray asked if it would be an issue to dedicate easements (for Catamount Trail, VAST, GMC) before the sale. John Wakefield replied that it might, as the future owner was eager to set a closing date for the sale. Sharon noted that the parcel encompassed an extensive part of the trail network. John noted that the trails were up high on the parcel, where development would not take place, and that the future owner intended to keep the verbal agreement for access. Rob Heimbuch noted that trails would not be protected in future sales or subdivisions.

Michael Hauser asked about the tree species identification, and the group reviewed the stand analysis included with the application.

Jerry Chabot asked if any of the ACT 250 approved subdivision were within the proposed 840-acre lot. John Wakefield replied no, that they were not recorded with the town, only through ACT 250, so technically were not subdivisions, and noted they had been rescinded.

Sharon Murray asked if the application had been submitted to VT Fish and Wildlife. John Wakefield replied yes, but that he had not received a report, adding that he hadn't pressed for a report, as there were no issues with the ACT 250 piece. Sharon noted that it would have been helpful to have that information to address as part of the application.

Sharon Murray noted that contour lines were not included on the plat survey as required, noting a concern that steep slopes were not depicted, and asked if there were areas that were less than 25%, noting that the BLUDR prohibit development on slopes of 25% and greater. John Wakefield noted that there were a few areas under 25%, around the sugarhouse area, and the gravel pit, and noted his difficulty with his requests to Little River Survey Co. in having the contour lines added to the plat, and having the Mylar ready for this evening. Sharon noted that the Mylar was required, and asked the board members if anyone had an issue with waiving that requirement, noting that the DRB was not waiving the Mylar recording requirement. There were no concerns from the board, the Mylar requirement was waived. Sharon noted that the DRB wanted to make it clear that the lot was being created for transfer, and she was concerned about allowing for the creation of a non-conforming (because of steep slopes) lot for development, noting a recent sketch plan review before the DRB in which steep slopes posed an issue. Jerry Chabot asked if the future owner was aware that he would not fall under the steep slopes exemption in Section 3.16 (B)(3) of the BLUDR. John Wakefield noted that he had tried to be honest in expressing the future owner's plans to the DRB, but that he really was there only for the subdivision of the land. Dick Ward noted that he had had a conversation with the future owner and that it was expressed that the owner's intention was not development, that he would leave the land as is for 10 years, but wanted to build a cabin, do low impact logging (horses vs. skidder), with a goal to "clean up" the land. Sharon reiterated that the DRB cannot allow for development over 25%, and that development would have to go through conditional use review. Dick stated that the future owner knew that, that he was in the financial position to purchase the land and does not need to develop it, he just wants to have the land.

Sharon Murray asked if the boundary line still crossed the stream. John Wakefield replied that no, the property line was bumped out to go around the stream, to protect it and Bolton Valley's access to the "Broadway" trail head.

Rob Heimbuch asked if the DRB could add easements to the conditions of approval. Sharon noted that the DRB could request easements, but that they could not require the easements, as there were no legal easements now.

Sharon Murray asked if there were any other questions or comments. There were none. Sharon noted that the DRB had 45 days to issue the findings and decision, and added that the DRB would try to expedite that process.

Margot Pender made a motion to close the hearing. Mike Rainville seconded. All were in favor, motion carried. (7:30 p.m.)

**Agenda Item #2 ~ Haggerty/McKeown Access**

Sharon Murray noted that the hearing was convened to consider the request of Chris Haggerty, agent/applicant, and Michael and Brenda McKeown, landowners, seeking approval for a twenty foot right of way to access a new dwelling on a pre-existing, non-conforming, non-frontage lot under Section 3.2 (B) of the Bolton Land Use and Development Regulations. Property located in the RI District, 191 Black Fly Hill, Tax Map Parcel ID# 4030191. Sharon swore in Chris Haggerty, and it was noted that:

- A quorum of the DRB was present, 6 members.
- There was no ex parte communication of the members present, but there was a conflict of interest noted by Mike Rainville and he was recused from the proceeding.
- 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 April 11, 2006 edition of the Burlington Free Press.
- No other persons were present, or had contacted the DRB prior to the hearing seeking interested person status.
- Chris Haggerty and the McKeowns had the right to appeal the decision of the DRB to Environmental Court.

Chris Haggerty reviewed the application for the DRB, and noted that:

- After the sketch pan review in March, the applicants decided to go through a boundary line adjustment rather than a subdivision.
- The two parcels were pre-existing, and with the boundary line adjustment approved by the ZA, the configuration presented in the sketch plan would remain the same: front parcel would be 17.5 acres and the rear 8 acres.
- Access (20’ r.o.w., 12’ gravel drive), water and wastewater would remain the same as noted in the sketch plan.
- A triangle shaped easement had been added on the Lawrence parcel to facilitate access to the lots.

Sharon Murray noted that under Section 3.2 (B), the town was not required to provide school busing beyond maintained public rights-of-way, the owner(s) of the property have the responsibility to maintain the right of way for year round access by emergency vehicles, public rights of way used for private access shall remain open to the public, and in addition, one principal use/structure is allowed. Sharon asked if there might be issues or concerns with any of these regulations. Chris Haggerty replied no, and that they were

planning to do a road maintenance agreement between the three land owners, that there currently is an agreement between the McKeowns and the Lawrences. Dick Ward noted the need for formalized easements and a road maintenance agreement.

Sharon Murray asked what percent the slopes were in the steeper area. Chris Haggerty replied there were no slopes over 9 %, and that the proposed turn around area was very flat.

Dick Ward asked if the DRB or Fire Chief would require a fire pond. Sharon Murray noted that the DRB could not require a fire pond, as they were reviewing the access. Chris Haggerty noted that a pond was in their future plans for the parcel. Sharon stated that the pond could be mentioned in the decision. Dick stated as long as it was reflected in the minutes, he did not have an issue with it.

Sharon Murray asked if there were any other questions or comments. There were none. Sharon noted that the DRB had 45 days to issue the findings and decision, and added that the DRB would try to expedite that process.

Rob Heimbuch made a motion to close the hearing. Jerry Chabot seconded. All were in favor, motion carried. (7:45 p.m.)

### **Agenda Item #3– DDJG Property Ventures, LLC, Sketch Plan Review**

Sharon Murray noted that the DDJG Property Ventures, LLC sketch plan under review was continuing from March 15, 2006, and that the sketch plan review was an informal process. David DuBrul, Jeff Garfield, and Bernie Chenette appeared on behalf of DDJG Property Ventures, LLC. Bernie Chenette reviewed the previous proposal to the DRB, and stated that:

- Jeff Garfield had met with Dick Ward in October 2005 and reviewed his proposed ideas for the 37-acre parcel.
- He (Bernie) had been hired, and based on the density calculation, had engineered a plan for a 7 lot subdivision with two access points, through Green Mountain Drive and Champ Lane.
- Two major issues had presented themselves within the sketch plan review process, access and steep slopes; slopes of 25 – 30+% would have to be traversed to access the house sites, the r.o.w. on Green Mountain Drive would be difficult to access (stream, neighbors against the proposal, and sheds within the r.o.w.) and the Atwoods were asking for 50K to purchase additional r.o.w. (3' x 100' strip) through their property on Champ Lane.

Bernie Chenette stated that he wanted to understand the possibilities of building one home under the pre-existing lot exemption under Section 3.16 (B)(3) of the BLUDR, which may or may not work financially for his clients. Bernie noted that the most desirable house site would be high, lot #7, the largest area under 25% slope, more than 1 acre in size and the most view advantageous. Sharon Murray asked if the house could be sited on lot #1. Jeff Garfield stated the view would be of the trailer park, and that it would be difficult to do a decent sized house down low on the smaller areas that were

less than 25%, it made more sense to access the larger area on top. Margot Pender asked if the house would still be modular. David Dubrul said no, it would be custom built, in the 3,000 square foot range.

Rob Heimbuch asked if a second access point would still be needed for one house. Sharon Murray replied no, and asked how many houses are currently accessed through Champ Lane. Bernie Chenette replied at least 8 or 9 units, houses and trailers. Sharon asked if there were physical constraints in widening the 16.5' r.o.w. portion of Champ Lane. Jeff replied no, that it was the 50k for 300' of land. Jerry Chabot stated that he could work around the 16' r.o.w. issue.

Mike Rainville asked if the sand/gravel pit on Champ Lane was active. Jeff replied yes, trucks were coming through occasionally.

Sharon Murray stated the access wasn't as much of a concern as the length of the driveway and the house site, and the amount of slope impacted. Jeff stated that the driveway length would be 1800 – 1900' from the end of Champ Lane, built to B71 standards, and that the road would no longer have to be built for 7 lots, or for vehicles to get the modular home pieces in. Sharon noted that the drive would still have to be maintained for emergency access, with a pull off or T at the end of the drive for turnaround. Sharon noted that there were two areas of impact; the access and the house site, and that the DRB would review the total disturbed area and look for the minimum amount of impact, noting that lot #7 was the one that would require the most driveway development. Sharon asked if the road would still require three switchbacks to reach lot #7. David Dubrul replied yes. Jerry noted it would still require much cut and fill to bring the grade down to 15%. David Dubrul noted that they were trying to work with zoning regulations that had just come into effect in January 2006. It was noted for the record that the BLUDR had come into effect in January of 2005, several months before DDJG had purchased the land. Dick Ward noted that was reason to purchase land with permits in hand.

Mike Rainville asked how visible the road would be. Bernie Chenette replied it would be difficult to see in the summer, and that the house site would not be seen from RT 2. David Dubrul reiterated that lot #7 had the most desirable view. Sharon Murray noted that even though there would be 6 less house sites, the road disturbance would remain the same. Jeff stated that the same amount of driveway would be needed to access lot #5, and reiterated that the lower sites would only have a view of the trailer park, and would actually impact more slopes than the upper site.

Michael Hauser noted that DDJG presented that the only reasonable use of the parcel was a house, adding that there were other reasonable uses such as recreation and forestry. Sharon Murray asked if any logging had taken place on the parcel. Jeff Garfield replied that it had, and they had only made 3K in 2 months.

David Dubrul asked if DDJG were to preserve the upper 20 acres, either through a conservation easement, or by donating it to the town or VLT, would that positively

impact on their proposal. Jerry Chabot noted that mitigating the impact might be a valid consideration.

Dick Ward asked if there was a possibility of a multi family unit. Sharon Murray noted that would be subject to conditional use review. Sharon asked DDJG what they wanted from the DRB. Bernie Chenette replied DDJG would like to build their allowed one unit, get out and move on. Sharon stated that DDJG would then need to come in for conditional use review, show the DRB how those criteria would be met, and go through the public hearing process. Sharon noted that the DRB could not approve a house site under sketch plan review, and reviewed the conditional use criteria under Section 5.4. Sharon added that DDJG should truly do an analysis of the site under the conditional use criteria. Rob Hiembuch noted it was up to DDJG to prove their case, to look carefully at the various impacts, and present their findings.

Sharon asked if there were any other questions or comments. Bernie Chenette replied that DDJG would come back for one house, under conditional use review. Sharon Murray stated that if this was actually the close of the sketch plan review, the DRB would issue a letter within 45 days as outlined under Section 6.3 (D) of the BLUDR.

Jerry Chabot made a motion to enter deliberative session at 8:35 p.m. Rob Heimbuch seconded the motion. All were in favor, deliberative session opened. Rob Heimbuch made a motion to close the deliberative session at 9:15 p.m. Jerry Chabot seconded the motion. All were in favor, motion carried, deliberative session closed.

**Agenda Item #4 – Minutes March 15, 2006**

Rob Heimbuch made the motion to accept the minutes of March 15, 2006, as amended. Margot Pender seconded the motion. All were in favor, motion carried.

**Agenda Item #5 - Other business or communications**

Sharon Murray noted that she met with the Select Board (two new members as of Town Meeting) on Monday, March 20, 2006 to review the duties/status of the DRB, and review a “to do” list for 2006 under consideration. Sharon noted the need for the DRB to meet with the Planning Commission regarding nominations for an acting ZA.

The DRB discussed a request by Margot Pender to review the current status of the Atchison property and a potential petition to address concerns associated with the property.

Sharon Murray suggested adding updates (i.e. permits, C.O.C. issued) from the ZA to monthly meeting agendas.

**Agenda Item #6 – Adjournment**

The meeting was adjourned at 9:25 p.m.

Amy Grover  
Clerk, Development Review Board

Development Review Board Meeting

April 26, 2006

Catamount/Bolton Land Final Subdivision, Haggerty/McKeown Access, DJG Property Ventures LLC ~ Sketch Plan

*These minutes are unofficial until accepted.*

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

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

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Sharon Murray, Chair