

Development Review Board Meeting
March 25, 2009
Bolton Valley ~ 4 x 4 School ~ 2 Appeals, 1 Application

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

Development Review Board Meeting Minutes

March 25, 2009

Development Review Board members present: Sharon Murray, Chair, Michael Hauser (6:12 p.m.), Michael Rainville, Jerry Chabot (6:17 p.m.), 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, Mike Hopwood, applicant 4 x 4 Center, Tom Walsh, on behalf of 4 x 4 Center, Linda Baker, Planning Commission, Brett Lister, resident, Wynne Kirschbaum, resident, Jamie Cavvell

Location: Bolton Town Office

Agenda

1. Public Comment – Opportunity for public comment.
 2. Public Hearings:
 - The appeal of Mountain Operations and Development, LLC (d/b/a Bolton Valley Resort), continued (by agreement) from December 17, 2008, of the August 20, 2008 determination of the Zoning Administrator that conditional use approval and zoning permits are required for the expansion of an off road vehicle course on existing alpine ski trails at the resort. This appeal is being re-warned to insure adequate public notice of the reconvened hearing.
 - The appeal of Mountain Operations and Development LLC (d/b/a Bolton Valley Resort) and Automotive Services International, Inc. (d/b/a 4x4 Center Off Road Driver Training School) of the February 18, 2009 determination of the Zoning Administrator regarding the application fee and the incomplete status of the application, previously submitted, for an expansion and winter time use of the off-road vehicle driving school at the resort.
 - The 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 School 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 School 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. Kokell Subdivision – review Mylar for signature
 4. ZA Report – Permits, pending applications, appeals
 5. Meeting Minutes – 6/25/08, 9/24/08, 10/22/08, 12/17/08, 02/25/09
 6. Other Business
 7. Deliberative Session – Applications, appeals
 8. Meeting Adjournment
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Call to Order

Ms. Murray Chair, called the meeting to order at 6:04 p.m, with a quorum present (five members present by 6:17 p.m.). Ms. Murray reviewed the agenda items, and noted that a deliberative session would follow meeting adjournment.

Board members introduced themselves.

Agenda Item #1 ~ Public Comment

Ms. Murray opened the floor for public comment.

Ms. Baker noted that the Planning Commission wanted to inform the group that (reading from a memo):

“The Bolton Planning Commission intends to draft language for a specific use standard under Article IV, Alpine Ski Facilities, to expand allowed winter and summer uses subject to DRB review as a priority project.

This decision is a result of several months of discussion and review, and was unanimously made at the Tuesday, March 24, 2009 Planning Commission meeting”.

Ms. Baker noted that the BLUDR was a living document and should reflect current realities; adding that when the document was first drafted additional winter and summer uses at the ski area were not being explored. She added that the Planning Commission understood the need of Bolton Valley to remain a viable year round business, and felt that the Planning Commission’s stated intent to draft additional language pertaining to additional uses reflected that understanding.

It was noted that there was not a specified time frame, as there was not yet a consultant hired to assist with drafting language, and that the process would include 2 hearings (one by the Planning Commission and one by the Select Board) each requiring 30 day warning periods.

Mr. Williams noted his desire to change conditional use to permitted use. Mr. Murphy volunteered his expertise and offered to obtain/provide draft language samples.

Agenda Item #2 ~ Public Hearings

Ms. Murray stated that the DRB had three matters before them:

1. The appeal of Mountain Operations and Development, LLC (d/b/a Bolton Valley Resort), continued (by agreement) from December 17, 2008, of the August 20, 2008 determination of the Zoning Administrator that conditional use approval and zoning permits are required for the expansion of an off road vehicle course on existing alpine ski trails at the resort. This appeal is being re-warned to insure adequate public notice of the reconvened hearing.
2. The appeal of Mountain Operations and Development LLC (d/b/a Bolton Valley Resort) and Automotive Services International, Inc. (d/b/a 4x4 Center Off Road Driver Training School) of the February 18, 2009 determination of the Zoning Administrator regarding the application fee and the incomplete status of the

application, previously submitted, for an expansion and winter time use of the off-road vehicle driving school at the resort.

3. The 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 School 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 School 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 hearing record that:

- There were no conflicts of interest reported by DRB members present.
- Ms. Pender noted two occasions of ex parte communication with Select Board Chair John Devine. Ms. Pender stated that Mr. Devine had asked her about the current status of the appeals twice, that she had related a narrative of events that were public record, and suggested Mr. Devine contact the town attorney if he had additional questions.
- Ms. Murray noted one occasion of ex parte communication. She stated she was called by Dr. Edmonds, resident of Gardner Lane regarding the hearing. She told Mr. Edmonds that she could not discuss the issue outside of the hearing process. Mr. Williams noted that Dr. Edmonds had emailed Bolton Valley, noting his concern of the use of Gardner Lane as access for the 4 x 4 Center. Mr. Williams stated that they were not using Gardner Lane for access.
- No one present indicated any concerns regarding ex parte communications.
- No one had contacted the DRB prior to the meeting 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 asked to sign in.
- Interested parties had rights to participate and to appeal, including appeals to environmental court, given participation in the process.

Ms. Murray asked if the appellants had any concerns if the DRB combined the two appeals into one hearing and issued one decision. The appellants indicated they had no concerns. Mr. Rainville made the motion to combine the two appeals of MODC/Bolton Valley/4 x 4 Center into one hearing and issue one decision. Mr. Hauser seconded the motion. All were in favor, motion carried.

Ms. Murray noted the first appeal was by Mountain Operations and Development, LLC (d/b/a Bolton Valley Resort), continued (by agreement) from December 17, 2008, of the August 20, 2008 determination of the Zoning Administrator (that conditional use approval and zoning permits are required for the expansion of an off road vehicle course on existing alpine ski trails at the resort) was convened, and asked Mr. Malboeuf for information. Mr. Malboeuf, ZA stated that in his determination, conditional use approval

was required for the 4 x 4 Center and for the expansion of the 4 x 4 Center, and noted that in general, conditional use approval was needed for any development/use at the ski area.

Ms. Murray asked the appellants or their representatives for testimony. Mr. Murphy stated that:

- He appreciated that the Panning Commission's memo reflected the fact that his clients were trying to make the resort a year round viable entity.
- The resort was an important element for the town and for the town economics.
- The resort encompasses 3,000 acres, 150 of which are developed (2%).
- The 4 x 4 Center was a critical part in creating year round viability for the resort.
- The problem his clients face is representative in the appeal process – the manner in which the whole resort is approached; he had heard it said that if the resort even wants to sneeze, they need to go to the town for a permit.
- Ability to change use or to capture markets, i.e., striping a parking lot or a horse riding stable should all be encompassed within in a land use scheme that makes sense – town approval should not be required for every single change.
- Focus on what are values that are affected.
- In the past the resort has been forced to shut down, and a possible outcome of this appeal process could be for the resort to close again.
- He and his clients would rather work with the town to move forward, rather than move backward, and do not want to be adversarial.
- He and his clients have run into issues of technical matters, and matters that they thought they had resolved.
- The town needed to decide if they want to be expansive or restrictive in interpreting definitions.
- He did not feel that the intent of the town was that the use was no longer recreational because a parking lot was being used by folks coming to the resort and parking.
- He and his client did come back with an amended application because they now were using a parking lot as part of the recreational use.
- The original 4 x 4 school chose not to use the parking lot.
- He and his clients felt that the new application was thorough; they were willing to work with the town and have applied for expansion of use.
- The issue of fees was a side issue, something they could agree with the town on.
- ACT 250 permits were thorough and detailed.
- The DRB had several different options/ways to “say yes” to this project;
 1. By choosing that this was not development.
 2. By choosing that this was not a change of use.
 3. By choosing that Dick Ward made a decision in 2004.
 4. By choosing that Miron Malboeuf made a correct decision in August 2008.
 5. By choosing that this was an exemption under both the old regulations and the new regulations under recreational use.
- Any one of the options to say yes was reasonable and realistic; the 4 x 4 Center is in existence and operating and that is OK.

Mr. Walsh stated that:

- There is little information about what happened in 2004 when the 4 x 4 Center was first contemplated and Larry William's predecessor, Bob Fries came to the town.
- The letter written by Dick Ward in 2004 notes that the 4 x 4 Center was reviewed in relation to both the Town Plan and the zoning regulations; it was an outdoor recreation area, in conformance with the town regulations.
- The 4 x 4 school started at the local level and worked its way up through the system.
- Never did the town say the 4 x 4 Center needed a permit.
- The 4 x 4 Center went through the process for state approval.
- It is impossible to prove the negative.
- Had an appeal been filed in 2004 it would have vested rights.
- He and his client are trying to be practical, and applied for an expansion permit.
- The application fee issue had been resolved.

Mr. Malboeuf agreed that the application fee issue was resolved, and that the town still needed the service list on record. Mr. Walsh noted he would file the service list. Ms. Murray noted that the fees are set by the Select Board and the DRB had no authority over the fee schedule.

Ms. Murray noted the second appeal was the appeal of Mountain Operations and Development LLC (d/b/a Bolton Valley Resort) and Automotive Services International, Inc. (d/b/a 4x4 Center Off Road Driver Training School) of the February 18, 2009 determination of the Zoning Administrator regarding the application fee and the incomplete status of the application, previously submitted, for an expansion and winter time use of the off-road vehicle driving school at the resort.

Mr. Malboeuf noted that with respect to this appeal that:

- He reviewed the use, information, and brochures because of a complaint filed by abutter David Parot.
- There was no town permit on file for the 4 x 4 Center, and it was not a permitted use.
- Mr. Williams forwarded him the 2004 Dick Ward letter.
- On the basis of Mr. Ward's letter, he made a determination that the 4 x 4 Center was a pre-existing non-conforming use.
- A hearing for the 4 x 4 Center expansion was held in May 2008.
- Doug Nedde represented the 4 x 4 Center and stated he had come to the hearing but the 4 x 4 Center did not need a permit,
- The hearings continued from that point.
- It was questioned what zoning regulations were in effect when the 4 x 4 Center physically started.
- Mr. Williams stated that the 4 x 4 Center started in 2006.

- In 2006, the 4 x 4 Center would fall under jurisdiction of the current 2005 BLUDR.
- He communicated that in that case, a whole new application would need to be submitted for the entire use, as the 4 x 4 Center was no longer a pre-existing non-conforming use, and that determination was appealed.

Mr. Murphy stated that:

- The original decision by ZA Ward was to allow the 4 x 4 Center, and that it did not need a permit.
- An issue was timing and whether the use was a pre-existing non-conforming use or not.
- The current regulations have the identical exemptions for recreational use as the prior regulations.
- Dick Ward's letter is an interpretation of recreational use.
- Dick Ward interpreted the exemption; that exemption has not changed in the ordinance.
- The town can not go backward and change the interpretation because the starting date of the school changed, the use it has, has the same exemption under both ordinances.
- 2004 was the beginning of the process, followed by 2 years of time and money spent to complete the ACT 250 process and start the business.
- The decision in August 2008 made by the current ZA, Miron Malboeuf, was a correct one (that the 4 x 4 Center was a pre-existing non-conforming use).

Ms. Murray asked how the appellant would address the new definition of an Alpine Ski Facility, how that relates. Mr. Murphy replied that it does not relate, as Section 9.2 4 still provides an exemption for use.

Mr. Walsh stated that there were two easy ways for the town to say yes:

1. The town made the intent of exemption in 2004, rely on that decision.
2. Dick Ward made a decision, Miron Malboeuf made a decision – right or wrong, the decisions were made, and to avoid the more complicated definitional issue.

Mr. Walsh added that the Alpine Ski Facility did not apply to the original 4 x 4 Center, and noted that the use of the parking lot might take it out of exemption, which is why they were coming forward with an expansion application.

Ms. Baker asked for clarification of de minimus, and if waterbars and wash stations came into play under structure. Mr. Walsh stated that none of the 4 x 4 Center features were defined as features of a structure.

Mr. Murphy stated that when a party makes a major economic decision on the basis of an interpretation by the town, it is difficult when the town changes its mind about the interpretation. He added that the VT Supreme Court is supportive of decisions made if they are not appealed.

Ms. Murray noted that the DRB had held a sketch plan review for a master plan, and noted that once approved as a PUD, there would be more flexibility which could address some of the issues and concerns regarding permitting that the appellants were raising. Mr. Murphy noted that the master plan objective was an overall plan in 10 and 20 year increments, which would provide a big picture and the ability to move forward with financing and their goals. Mr. Williams stated that he had not been attending Planning Commission meetings asking for changes, that the right time to come back was with a more detailed master plan which was taking longer than expected, but had nothing significant in terms of development.

Mr. Rainville noted that he felt the town and resort were heading in the right direction, and that the regulations allowed for the resort to come to the DRB and for the DRB to have flexibility and to make approvals. He noted that it was important to allow Bolton Valley's neighbors to continue to be part of the process, and that he hoped that Bolton Valley and the town could resolve the current appeals within the town process without going to environmental court – that neither group had any control there.

Mr. Murphy stated that clearly uses were an issues and he hoped to solve the issues as a group. He added that it would be important for the resort to be able to implement different and creative uses, and minor changes without town approval. Mr. Murphy referenced a Winooski project; how the big picture was created, and how every time details were filled in, the big picture did not have to be revisited again and again.

Mr. Lister stated that:

- He lived on Thacher Road.
- He had attended a meeting where no neighbors seemed to have concerns about the 4 x 4 Center, but were concerned about the water system.
- He hoped the DRB and the 4 x 4 Center could be on the same side of the fence, that the town should automatically be on their side and not be trying to interfere.
- The town should be asking how they could help.
- The 4 x 4 Center was environmentally sound.

Ms. Murray noted that the meeting he had referenced was held about the water system, not about the 4 x 4 Center, and that the May 2008 DRB meeting that was held on 4 x 4 Center had so many attendees that it had to be moved to the school. Ms. Murray noted that the meeting had seen testimony from concerned citizens about the 4 x 4 Center. Ms. Murray added that for the record, Mr. Lister's comments would be considered under both the appeals and the application.

Ms. Murray asked if there were any other comments or questions. There were none. Mr. Hauser made the motion to adjourn the hearing. Mr. Chabot seconded. All were in favor, motion carried, 7:10 p.m. Ms. Murray noted that the DRB would issue a decision within 45 days.

Ms. Murray noted that the third matter before the DRB was the 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 School located on roads and trails at the Bolton Valley Ski Resort off the Bolton Valley Access Road in Bolton, Vermont, that the applicants seek conditional use approval for: (1) expanded use of the trail network for the 4x4 Center off Road Driver Training School 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.

There was no conflict of interest or ex parte communications reported by members present. Ms. Murray noted that:

- Participation in the hearing process was required (written or verbal) to appeal a decision of the Development Review Board.
- Hearing notices were sent by the applicant, and requested that the applicant forward a service list to the ZA for the town’s files.
- Consideration of the application directly depended on the outcome of appeals – however the hearing had been warned for this evening to keep the process moving.
- Documentation filed with the original application should be re-filed, since the original application had been withdrawn.

Ms. Murray asked for an overview of the application. Mr. Walsh stated that:

- Exhibit A (map) represented the original trails of the 4 x 4 Center.
- Yellow lines represent the trail expansion, lime green the summer use, and lavender the winter use.
- The warm up area was part of the original school, to the west of Timberline Lodge, they were asking or expanded winter use of that area.
- Purpose of the expansion was to allow for flexibility, for the use of trails that were in the most stable, environmentally friendly condition to avoid environmental harm, to avoid certain “conflict areas” as requested by residents, and to improve their use of the resort.

Mike Hopwood added that:

- Portions of the original trails were identified as protected bird habitat (Bicknell Thrush), and they had effectively lost a portion of their course, and that the expansion made up for that lost portion and added more options.
- Summer use of the warm up area was expanded.

Mr. Rainville asked what “trails with icing” meant. Mr. Hopwood stated that meant water on the trails, and it was noted for ACT 250 purposes.

Ms. Pender asked if there were new trails for the winter usage. Mr. Murphy stated that the new trails were originally logging roads, they already existed, and were slightly supplemented, and re-iterated that the warm up area had been there since the start.

Ms. Murray asked how the Timberline parking lot was used for a staging area. Mr. Hopwood stated that attendees arrive at the school and park there, or that the school's vehicles park there, and they enter the trail system from there.

Ms. Baker asked if the winter use involved plowing or rolling of trails, and the dates of winter use. Mr. Hopwood noted the trails were plowed, but not down to ground level, that ideally, trails would have about one foot of snow on them. Mr. Walsh stated the dates for winter use were 12/15 – 3/15.

Ms. Murray asked for driving school information. Mr. Hopwood noted that:

- Generally 2 – 6 vehicles were used at a time, all road-going stock vehicles, and occasionally military vehicles.
- All vehicles were staffed by an instructor at all times.
- No vehicle moved without an instructor.
- The school involves 1 – 2 hours of class time followed by driving time, and generally runs from 8 a.m. to 4 – 5:30 p.m.
- Attendees number 4 – 18 at a time.
- The focus is educational, not recreational.
- Attendees are generally sales people from across the country, learning about Michelin tire products.
- Attendees are also military personal receiving off-road driving instruction.
- Each group stays 2 – 3 nights, and the 4 x 4 Center provided great business for Bolton Valley with multiple nights lodging and meals.
- The ACT 250 permit run dates are May 1 – October 31.

Ms. Murray asked if the school ran at night. Mr. Hopwood replied that military attendees would occasionally run at night with night vision goggles and no headlights. Ms. Murray noted previous complaints from residents about usage/headlights at night. Mr. Williams noted that it had been an issue with unauthorized people driving on the mountain at night.

Ms. Murray asked if the school ran on weekends. Mr. Hopwood replied no, not typically on weekends, and that Michelin never ran on weekends.

Mr. Rainville noted that previously residents had complained about the school driving on public roads; Snowdrift Lane, Gardner Lane, and Wentworth Road. He asked if the school still intended to use those roads. Mr. Hopwood stated that weather permitting, they would drive around. Mr. Williams stated that in their view, it still was their right to use those roads.

Wynne Kirschbaum stated that:

- She and her husband Warren were pro for the school.
- They lived on Snowdrift Lane, and per their deed, access was only for the water system.
- The school no longer used Snowdrift Lane for access.

- They were backing Mr. Williams and Mr. Hopwood.
- It was a great idea to support the mountain.

Ms. Baker asked what restrictions were imposed, and who would be policing the school, especially during winter thaws. Mr. Walsh stated that the winter start date is not until 12/15. Mr. Hopwood added that they reviewed this issue thoroughly with ACT 250 and targeted an operating window at a time when the ground would be frozen. He added that if they were environmentally negligent, they would make big ruts that would destroy vehicles and cause issues with both Mr. Williams and ACT 250, and that it would be a benefit to their business as well as cost effective to preserve the trails. Mr. Chabot noted that effectively, ACT 250 would be policing the school.

Ms. Baker noted that Mike Hopwood had invited the Planning Commission to a demonstration, and that CCRPC staff planner, Samantha Tilton had very positive comments about the 4 x 4 Center and its management.

Ms. Murray asked if the ACT 250 application had been filed with the town – they were referencing documents that had not been filed with the application. They may have been filed with the original application, but that application had been withdrawn. Ms. Murray asked if they wanted to include the ACT 250 application and findings with their application to the DRB. Misters Walsh and Murphy both noted that they would file the ACT 250 application and findings with the town so that it was on file for DRB use. There was brief discussion regarding ACT 250 violations and ski areas. Ms. Murray noted that the DRB would be reviewing the application under Bolton regulations and not ACT 250 criteria.

Ms. Murray stated that the staging area in the Timberline parking lot was a use that was not identified in a parking study under another application. Mr. Williams stated that the mountain carefully co-ordinates their uses, and that Mr. Hopwood and Mr. Potter (President) meet weekly to review use. Mr. Hopwood stated that they do not schedule schools during holiday weeks, or the identified times when parking is an issue. Mr. Murphy noted that the staging area/parking lot is not used in the winter; they are using the trails and testing snow tires.

Ms. Murray asked where vehicles were washed and fueled. Mr. Hopwood stated they were fueled off mountain, and washed in the parking lot. Mr. Walsh added that was all part of the original school, not part of the expansion application. Mr. Murphy stated those issues were all dealt with by ACT 250, that water was directed across the parking lot. Ms. Murray asked about erosion control, water bars, check dams, spreaders, and channeled flow off the property. Mr. Walsh stated that:

- Existing water bars were augmented.
- Some new water bars were added.
- Settling areas were located at the end of the water bars.
- Exiting drainage ways were used.
- No new major drainage ways were created.

- Flows go into intermittent streams.
- It was noted in map notes if water bars were reinforced or installed.
- They went through all of these areas with ANR.
- There is not a lot of stormwater treatment on the mountain.
- A master plan will allow for more action with stormwater.
- The trails were in better condition than ever.

Mr. Hopwood added that:

- Water bars are inspected and redefined with a tractor; silt is removed, gravel added.
- The end of the season sees a concentrated effort to check and redefine all water bars.

Ms. Murray asked if drainage was directed onto neighboring property. Mr. Williams stated that neighbors did complain, and the drainage was not from the 4 x 4 school, and that he suspected it might have been a result of the Vista Quad project. Mr. Williams added that it was not their problem, but to preserve relations with the neighbors, they ditched their (Bolton Valley's) property to take the drainage. Mr. Hauser questioned why it was not Bolton Valley's problem. Mr. Williams noted that deeds stated Bolton Valley has the right to run water over land. Ms. Murray asked Mr. Williams to provide a copy of the deed language with respect to drainage rights to cross properties, and noted that erosion needed to be addressed under the steep slope provision.

Ms. Murray asked if Scott Morrow had done the drainage work – soil erosion work needed to be certified by a professional engineer. Mr. Walsh stated that Mr. Morrow had worked with Bernie Chenette, whose name was on Exhibit D. Mr. Walsh noted that he would work on getting Mr. Chenette's signature.

Mr. Chabot asked if new trails were cut, or ancient roads or new access used. Mr. Hopwood stated no to all; trails were existing ski trails and work roads, and access was the same approved access. Ms. Murray asked if there were specifically approved points of access. Mr. Hopwood stated there were several access points, but that generally access occurred at Timberline, and the base area driveway.

Ms. Murray asked if there were SPAs or public wells in the expansion area. Mr. Williams stated there were three wells; one in the warmup area, and two under the Wilderness Lift and they had designated SPAs. Mr. Williams noted he was not clear where the wells were relative to the trails, and that they were hoping to drill more wells. Ms. Murray noted that the SPA provisions of the regulations may then apply.

Mr. Chabot asked about the use of the paved parking lot. Mr. Hopwood stated that paved lot at Timberline was used for testing of braking on wet and dry pavement. Mr. Walsh noted they were waiting for the ACT 250 jurisdictional letter, and this area was part of the original warm up area. Mr. Williams noted the parking lot was paved in May or June of 2008.

Ms. Murray asked when the applicants felt the expansion took effect, making an analogy to a moving target, and asked how the applicants differentiate between the existing, expansion and winter use. Mr. Walsh directed the group to Exhibits A and C, and stated that:

- On Exhibit A, the 2008 trail expansion was delineated by dashed yellow lines.
- Everything else was the original 4 x 4 school, including the parking, staging area, and warm up area.
- On Exhibit C, the winter use is delineated by lavender lines.
- The winter use area is the warm up area, slightly expanded.
- The expansion of the winter area was because of the time of year, not what was there.

Ms. Murray asked if there were further comments or questions. Mr. Murphy asked if the DRB would close the hearing, subject to the applicants submitting requested further information. Ms. Murray stated that the DRB would recess the hearing, pending additional information and the outcome of the appeals, and that the DRB would send a letter indicating the requested additional information, which would include the ACT 250 application and decisions, and a profile for some of the trails as the current information is an average over sections. Mr. Murphy asked if the hearing could be closed. Ms. Murray stated the DRB generally did not function that way, and they preferred not to close the hearing until all information was submitted. Misters Murphy and Walsh noted their concern that May 1st was approaching quickly (ACT 250 permitted start date). Mr. Malboeuf noted that until the DRB issues a decision, they have an application under consideration for a use that they are currently using, and that with respect to violations, one of the remedies is to file an application, which they have done. Mr. Malboeuf noted the recess would avoid having to rewarn another hearing should something necessitate that. Ms. Murray noted the DRB would do their best to expedite the process when the hearing was closed.

Ms. Pender made a motion to recess the hearing until the fifth Wednesday in April (due to unavailability of both board members and applicants on the 4th Wednesday), April 29, 2009, 6 p.m. at the town office. Mr. Hauser seconded the motion. All were in favor, motion carried.

Agenda Item #3 - Kokell Subdivision – review Mylar for signature

The group reviewed the Kokell subdivision Mylar that was submitted, noting that DRB requested changes had been made. The Mylar was signed by Sharon Murray, chair. Mr. Malboeuf will check on the status of the curb cut, and noted that Mr. Kokell was appealing his ACT 250 conditions of approval.

Agenda Item #4 - ZA Report – Permits, pending applications, appeals

Mr. Malboeuf noted that:

- There was a possible minor subdivision application pending for a parcel on Stage Road; ten acres with two structures, a house and a mobile home, to subdivide into 2 parcels of 8 and 2 acres.

- The owner of the communication tower on Robbins Mountain noted that cell phone companies would be changing antennas on the tower—a permitted use under the regulations.

Agenda Item #5 - Meeting Minutes – 6/25/08, 9/24/08, 10/22/08, 12/17/08, 02/25/09

Tabled until the April meeting due to time constraints and lack of time for review by the board. Ms. Grover noted that she was still working on compiling the minutes for 10/08 and 12/08.

Agenda Item #6 - Other Business

Ms. Murray noted the need to hold an organizational meeting, technically occurring yearly as the first meeting after town meeting. Ms. Murray suggested the DRB schedule an interim meeting to address the organizational piece and the minutes due to extensive hearing agendas.

Agenda Item #7 -Meeting Adjournment

Mr. Hauser made the motion to adjourn the meeting at 8:35 p.m. Mr. Chabot seconded the motion, all were in favor, motion carried.

Agenda Item #8 - Deliberative Session – Applications, appeals

Ms. Murray noted before the DRB entered the deliberative session that deliberations would also be scheduled with the town attorney. The DRB entered deliberative session.

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