

**Development Review Board, Town of Fayston, VT
Notice of Decision for Application No. 3225**

Applicant(s): Brooks Clark

Parcel ID: #08-005.001

Reason for Application: Variance, including Conditional Use

Public Hearing Attendees: DRB members: Jon Shea (Chair), Mike Quenneville, Chuck Martel, Kevin Wry, Leo Cohen; ZA: John Weir; Public: Gunner McCain, Beth Garvin, Brooks Clark, Tom Clark, Claudine Safar, Peggy Potter, David Olenick, Valerie Welter

Introduction and Procedural History:

1. The Development Review Board application was filed on June 19, 2013 requesting a variance under Section 9.6 of the Fayston Land Use Regulations, including conditional use approval under Section 3.4(D) Standard 2 of the Fayston Land Use Regulations, to construct a single-family residence with a driveway. A copy of the application and supporting paperwork are available at the Fayston, VT town offices.
2. Notice of the hearing was properly published. On August 22, 2013 the legal warning for a public hearing for review of this application was published in the Valley Reporter. This warning was also posted at the Fayston municipal offices, as well as at both the Moretown and Waitsfield post offices.
3. Abutters to the property were properly notified of the hearing.
4. The application and plans were considered by the Development Review Board at a public hearing which occurred on September 11, 2013. The Development Review Board reviewed the application and plans under the Town of Fayston, VT Land Use Regulations, as amended August 29, 2012.

The following exhibits were submitted to the Development Review Board:

Exhibit A. Development Review Board application #3225

Exhibit B. Letter to adjoining landowners with project description

Exhibit C. Warning placed in the Valley Reporter on August 22, 2013. This warning was also posted at the Fayston municipal offices, as well as at both the Moretown and Waitsfield post offices.

Findings:

1. The Board found the application to be complete at a public hearing held September 11, 2013.

2. The applicant seeks a variance, including conditional use approval, to construct a single-family residence with a driveway. The subject property is parcel 08-005.001, located off Clark Road, in the Town of Fayston, VT. Conditional use and variance approval is requested pursuant to review under the Town of Fayston, Vermont Land Use Regulations, as amended August 29, 2012, Articles 5 and 9.
3. The property is located in the Rural Residential District as described on the Town of Fayston Zoning Map on record at the Town of Fayston municipal office, also described under Article 2, Table 2.4 of the Town of Fayston, VT land use regulations.
4. The applicant's parcel is adjacent to land owned by Cheryll Patty, Thomas and Doroty Folger, as Trustees, Arthur Williams, Estelle and Robert Wilson, Frank Fulton, Fred and Susan Spencer, Tom Clark, and David Clark.
5. Pursuant to review under Section 9.6 (A) (1), the Board found that the parcel's steep slopes and large ravine constitute unique physical circumstances and conditions that create an unnecessary hardship.
6. Pursuant to review under Section 9.6 (A) (2), the Board found that because of such unique physical circumstances and conditions, a single-family residence was the only reasonable use of the property.
7. Pursuant to review under Section 9.6 (A) (3), the Board found that the unnecessary hardship was not created by the applicant.
8. Pursuant to review under Section 9.6 (A) (4), the Board found that granting of a variance in this instance would not alter the essential character of the neighborhood nor impair the appropriate use or development of adjacent property.
9. Pursuant to review under Section 9.6 (A) (5), the Board found that granting the variance for one single-family dwelling on the parcel constitutes the minimum that will afford relief.
10. The access site is concerning given the steep slope of the land where the driveway is proposed. The slope of the land in the proposed access point approaches 30% in grade, steeper than the maximum grade allowed for development in the land use regulations.
11. The steep slopes at the access and driveway sites present erosion and runoff concerns.
12. The recent logging and clearing of vegetation in the area of the proposed access presents further erosion and runoff concerns.
13. Stability of the land is a concern due to the fact that construction of the driveway will necessitate a vast amount of earthwork and ground disturbance.
14. Due to the steep slopes and other above-mentioned characteristics of the parcel, traffic thereupon is a concern.

Decision:

DRB members present voted unanimously to approve application #3225 for a variance for development on a steep slope with the following conditions:

Conditions:

1. Applicant must repair the state of the land in that area which had been cleared for the first logging road and proposed driveway, as well as any other area that is disturbed within the scope of the approved driveway plan. This includes, but is not limited to, reclaiming all disturbed areas (past, present and future) with vegetative cover (planting, reseeding, trees, etc).
2. Upon completion of construction, the slope of the driveway must not exceed 15% in grade.
3. No further subdivisions of this parcel are allowed, as granting of the variance requested constitutes the minimum relief that can be afforded (Section 9.6 (A) (5)), and the additional impact on these steep slopes that would be required to meet the standards of Section 6.4 Roads, Driveways, and Pedestrian Access .
4. Applicant must abide all applicable State permits, including but not limited to a general construction permit, stormwater runoff, and erosion control plans as set forth by the State of Vermont.

Dated at Fayston, Vermont, this 25th day of October, 2013.



Jon Shea Development Review Board Chair

NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) before the [Development Review Board]. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.