

**Development Review Board, Town of Fayston, VT  
Notice of Decision for Application No. 3265**

**Applicant(s): Frank Fulton**

**Parcel ID: #08-003.000**

**Reason for Application: Variance**

**Public Hearing Attendees:** DRB Members: Jon Shea (chair), Chuck Martel, Kevin Wry, Mike Quenneville, and Carol Chamberlin. ZA: John Weir. Public: Gunner McCain, Scott Higgins, Steve Berg, Nancy Berg, and Don Swain

**Introduction and Procedural History:**

1. The Development Review Board application was filed on November 1, 2013 requesting a variance under Section 9.6 of the Fayston Land Use Regulations to construct a sewerline on steep slopes, for purposes of replacing failed leachfield. 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 November 21, 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 December 10, 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 #3265

Exhibit B. Letter to adjoining landowners with project description

Exhibit C. Warning placed in the Valley Reporter on November 21, 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 December 10, 2013.

2. The applicant seeks a variance to construct a sewerline on steep slopes, for purposes of replacing failed leachfield. The subject property is parcel 08-003.000, located at 1826 Mill Brook Road, in the Town of Fayston, VT. Variance approval is requested pursuant to review under the Town of Fayston, Vermont Land Use Regulations, as amended August 29, 2012, Article 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 Brooks Clark, Thomas and Dorothy Folger, as Trustees, Estelle and Robert Wilson, and Thomas and Leigh Clark.
5. Pursuant to review under Section 9.6 (A) (1), the Board found that the steep slope between the applicant's home and the replacement leachfield site constitutes a unique physical circumstance and condition that creates an unnecessary hardship. The physical condition of the steep slope necessitates disturbing a limited area to install a sewer line.
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, rather it resulted from the property conditions which limit the available area for septic systems.
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, as this area contains single family homes on adjacent property.
9. Pursuant to review under Section 9.6 (A) (5), the Board found that granting the variance application and sewerline design constitutes the minimum that will afford relief.
10. Any other available option to fix the failed leachfield could exceed the fair market value of the home itself.
11. The length of the septic line is approximately 400 feet and there will be a 2-inch drain pumping uphill.
12. The applicant obtained a State permit for a 6 bedroom home.

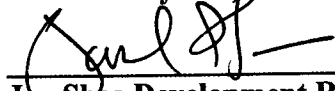
**Decision:**

DRB members present voted unanimously to approve application #3265 for a variance to construct a sewerline on steep slopes with the following conditions:

**Conditions:**

1. Applicant must follow the erosion control measures for steep slopes that were delineated in the site plan for Application #3265. These include but are not limited to:
  - a) Construction on steep slopes to be completed in one (1) day;
  - b) Seed and mulch steep slopes immediately upon completion of construction;
  - c) Place water bars across distribution trench in 25' intervals to divert runoff.
2. Follow all directives contained in required State permits with regard to erosion control, stormwater runoff and septic design.

Dated at Fayston, Vermont, this 13<sup>th</sup> day of January, 2013<sup>f</sup>



01/15/2014

**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.