

**Development Review Board, Town of Fayston, VT
Notice of Decision for Applications No. 3295, 3296**

Applicant(s): Scott Johnson

Parcel ID: #08-016.002

Reason for Application: development within stream buffer zone and construction on slopes between 15-25%

Public Hearing Attendees: DRB Members: Chair: Jon Shea, Chuck Martel, Kevin Wry, Mike Quenneville, and Leo Cohen. ZA: John Weir. Public: Scott Johnson, Ray Munn, Paul Fitzgerald

Introduction and Procedural History:

1. The Development Review Board application was filed on June 18, 2014 requesting conditional use approval under Section 3.4(D) Standard (2) and Section 3.13 (A) of the Fayston Land Use Regulations to construct a single family residence and garage. Conditional use is required due to both construction on slopes between 15-25% and to build the driveway within the 50 foot stream buffer zone. 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 June 19, 2014 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 July 8, 2014. 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 applications #3295, 3296

Exhibit B. Letter to adjoining landowners with project description

Exhibit C. Warning placed in the Valley Reporter on June 19, 2014. This warning was also posted at the Fayston municipal offices, as well as at both the Moretown and Waitsfield post offices.

Exhibit D. Letter from adjoining landowner Robin Stone.

Findings:

1. The Board found the application to be complete at a public hearing held July 8, 2014.
2. The applicant seeks conditional use approval to construct a single family residence and garage. The subject property is parcel 08-016.002, located at Lot 2, Pleasant Lane, in the Town of Fayston, VT. Conditional use approval is requested pursuant to review under the Town of Fayston, Vermont Land Use Regulations, as amended August 29, 2012, Section 3.4(D) and Section 3.13.
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 Robin Stone, Michael Marino, Cheryll Patty, Walter Haviland and Ave Haviland (as Trustees), and Howard and Linda Levin.
5. Lots 1 and 2 were created via approval of Subdivision application #89-7 on November 7, 1989. That approval specifically provided that the driveway/road access to Lots 1 and 2 was approved. There is a common right-of-way leading from Route 17, crossing a 3.1 acre lot commonly owned by the owners of Lots 1 and 2, and terminating at the common boundary between the two lots. The right-of-way then crosses a stream and currently serves the house on Lot 1.
6. Applicant's proposed driveway slightly differs from that prior approval. Applicant proposes to construct a driveway that branches off before the current terminus of the common right-of-way.
7. Applicant proposes to build a one-story house built into the slope of the land, with a three-car garage and a wrap-around driveway.
8. There are slopes of 15% - 25% grade on the lot. The existing slope of land rises to 21.3% in grade at its highest point.
9. Pursuant to Section 3.4 (D) Standard (2) Guideline (a), the Board found that the house site and subsurface sewage system to be located on the flattest portion of the site.
10. Pursuant to Section 3.4 (D) Standard (2) Guideline (b), the Board found that the plans minimized crossing steeper slopes with the driveway and that the drive was laid out in a satisfactory manner, following topographic contours, thereby minimizing soil and vegetation disturbance.
11. The Board also found that, because the driveway does not extend close to 500 feet in length, an emergency pull off as required under Section 3.1 (B) (5) is not necessary.

12. Despite the fact that the proposed driveway would be moved farther away from the stream than the existing road which had been approved in Ray Munn's 1989 subdivision hearing, the Board still must review the plans under Section 3.13 (A) as that location is still within a stream buffer zone.

13. The Board found that the proposed drive satisfies that exception set forth in Section 3.13 (A) (1), allowing for clearing and associated site development within the 50-foot buffer strip if necessary to accommodate stream crossings by roads and driveways.

14. The Board also found satisfactory the runoff and erosion control measures as depicted on page three of the proposed plans. Those measures include four 18-inch culverts, as well as "permanent diversion" measures and "energy dissipators." Applicant's engineer Mark Bannon subsequently clarified that a "permanent diversion" means "a permanent channel with a ridge on the lower side constructed across a slope to reduce slope length and intercept and divert stormwater runoff to a stabilized outlet at non-erosive velocities." Similarly, Mr. Bannon clarified that an "energy dissipator" means "a structure designed to dissipate energy of runoff and control erosion at the outlet of a channel or conduit." Mr. Bannon stated that the proposed erosion control plan was developed following erosion and sediment control stormwater Best Management Practices.

Decision:

DRB members present voted unanimously to approve applications #3295 and #3296 to construct a single family residence and garage with the following conditions:

Conditions:

1. Provide suitable screening within the stream setback area.
2. Obtain and follow all State of Vermont permits.

Dated at Fayston, Vermont, this 23rd day of July, 2014.



Jon Shea, Chair of Development Review Board

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.