

**Development Review Board, Town of Fayston, VT  
Notice of Decision for Application No. 3312**

**Applicant(s): Mike Magoon (on behalf of Charlie Tipper)**

**Parcel ID: #10-068**

**Reason for Application: Subdivision**

**Public Hearing Attendees:** DRB Members: Jon Shea (chair), Chuck Martel, and Mike Quenneville. ZA: John Weir. Public: Steve Hicks (Interested Party), Charlie Tipper (applicant).

**Introduction and Procedural History:**

1. The Development Review Board application #3312 was filed on January 21, 2015 requesting a variance under Section 9.6 of the Fayston Land Use Regulations for a reduction to a six-foot side setback. This application is considered in conjunction with #3310, wherein applicant requested approval under Section 7 of the Fayston Land Use Regulations for a lot-line adjustment (minor subdivision) to reconfigure two adjoining parcels. 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 January 22, 2015 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 February 10, 2015. The Development Review Board reviewed the application and plans under the Town of Fayston, VT Land Use Regulations, as amended August 29, 2012.
5. Steve Hicks was present and declared to be the only interested party to the proceeding. No other adjoiners were present.
6. On January 13, 2015, the Board reviewed application #3310. That application sought approval for a lot-line adjustment to reconfigure two adjoining parcels, each 0.34 acres in size. Mr. Tipper has a residence at 5211 Millbrook Road. Abutter Elizabeth Hicks resides at 5207 Millbrook Road. Due to past error of a previous owner, the Hick's residence was constructed on the property line of the two parcels. However, should the property line be redrawn per subdivision application #3310, the existing structures would not meet the setback requirements. Under the proposed reconfiguration delineated in application #3310, the Hick's house would sit six (6) feet from the Tipper property line. Under the Fayston Zoning Regulations, as amended in August 2012, the setback for side and rear property lines in the Resort Development District is fifteen (15) feet. Under Section 3.6 (D) (1) of the regulations, the DRB may allow for a

reduction in the side and rear setbacks. However, the Board can only waive those setbacks down to ten (10) feet. Subsequently, Mr. Tipper applied for this variance to allow for a reduction of the side setback to six (6) feet.

**The following exhibits were submitted to the Development Review Board:**

Exhibit A. Subdivision application #3310

Exhibit B. Letter to adjoining landowners with project description

Exhibit C. Warning placed in the Valley Reporter on January 22, 2015. 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 February 10, 2015.
2. The applicant seeks approval for a variance in order to reconfigure two adjoining parcels, each approximately 0.34 acres in size. The subject property is parcel ID #10-068.000, located at 5211 Millbrook Road, in the Town of Fayston, VT. The adjoining land is parcel ID #10-069.000, located at 5207 Millbrook 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, Section 9.6.
3. The property is located in the Resort Development 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 2.6 of the Town of Fayston, VT land use regulations.
4. The applicant's parcel is adjacent to land owned by Elizabeth Hicks, Mad River Glen Cooperative, and Ken Mastrocola.
5. Through mutual agreement, the parties seek to reconfigure the two parcels such that the Hick's residence would sit entirely upon land belonging Hicks. Both parcels are 0.34 acres in size. The proposed reconfiguration would encompass 0.22 acres of each parcel. The parcels would remain 0.34 acres in size after adjusting the lot line. Applicant seeks to reconfigure that boundary line in such fashion as to be located six (6) feet north of, and parallel to, the north line of their dwelling.
6. Approval of a variance is the only remedy for this issue, as the Development Review Board cannot waive side or rear setbacks down to beyond ten (10) feet (pursuant to Section 3.6 (D) (1)).
7. Pursuant to the criteria set forth in Section 9.6, The Board found that: (1) the unique physical circumstances and conditions of the existing lots create the necessity for a variance; (2) the existing lot line configuration presents such unique physical circumstances that no other remedy exists in conformance with the regulations; (3) the unnecessary hardship was not created by the

appellant; (4) the variance, if authorized, would not alter the essential character of the neighborhood; and (5) the variance, if authorized, would be the minimum relief that could be afforded.

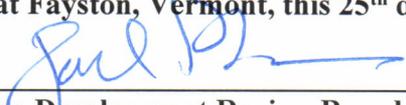
**Decision:**

DRB members voted unanimously to approve application #3312 for a variance with the following conditions:

**Conditions:**

1. Submit to the town clerk for recording within 180 days of the date of this decision, the required mylar plat reflecting the lot-line adjustment as presented and depicted in application #3310.

**Dated at Fayston, Vermont, this 25<sup>th</sup> day of February, 2015.**

  
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**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.