

**Development Review Board, Town of Fayston, VT
Notice of Decision for Application No. 3515-3516**

Applicant(s): Lisa Schermerhorn

Parcel ID: #06-014.004

Reason for Application: Minor Subdivision & Development on Steep Slopes

Public Hearing Attendees: Attending DRB Members: Jon Shea (Chair), Shane Mullen (Vice-Chair), Jared Alvord, Lindsay Browning, and Mike Quenneville; ZA: John Weir; Public: Jeff Dunham, Kip Dalury, Margo Wade, Maggie Burke, Gunner McCain, and Lisa Schermerhorn

Introduction and Procedural History:

1. The Development Review Board application was filed on February 19, 2019. Applicant Lisa Schermerhorn (parcel ID# 06-014.004, located off 73 High Country Road, Fayston) requests approval under Article 7 of the Fayston Land Use Regulations for a minor subdivision of 18.16 acres into two lots of 10.12 acres and 8.04 acres (#3515). Applicant also requests conditional use approval under Section 3.4 (C) (1) (d) of the Fayston Land Use Regulations for development on slopes between 15% - 25% in grade (#3516).
2. Notice of the hearing was properly published. On February 21, 2019 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 public hearing which occurred on March 12, 2019. The Development Review Board reviewed the application and plans under the Town of Fayston, VT Land Use Regulations, as amended June, 2018.

The following exhibits were submitted to the Development Review Board:

Exhibit A. Subdivision application #3515

Exhibit B. Conditional Use application #3516

Exhibit C. Letter to adjoining landowners with project description

Exhibit D. Warning placed in the Valley Reporter on February 21, 2019. This warning was also posted at the Fayston municipal offices, as well as at both the Moretown and Waitsfield post offices.

Exhibit E. Site Plan Lot 4B (McCain Consulting)

Exhibit F. Erosion Prevention and Sediment Control Plan (McCain Consulting)

Exhibit G. Erosion Prevention and Sediment Control Details (McCain Consulting)

Exhibit H. Lot 4A Septic Layout (McCain Consulting)

Exhibit I. Survey and Subdivision Plan (McCain Consulting)

Findings:

1. The Board found the application to be complete at a public hearing held March 12, 2019.
2. 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.
3. The applicant's parcel is adjacent to land owned by Katherine Westhelle, Michael and Karen Westhelle, Robert and Mary Westhelle, James Westhelle, and Michael Riva and Sarah Merrill.
4. Applicant proposed subdivision of an existing 18.16-acre lot (Westhelle subdivision) into two separate lots. Lot 4A will be 10.12 acres and contain the existing residence. Lot 4B will be 8.04 acres and is proposed to be improved with a single-family residence.
5. The proposed new lot will be served by a new drive off Rabbit Run Road.
6. Per applicant's request in writing, preliminary sketch plan review was waived.
7. The proposed building envelope is oddly shaped so as to meet the slope requirement. The slope at the proposed house site is just under 20% in grade.
8. Much of the proposed new lot is comprised of slopes between 15% - 25% in grade. Access at the bottom of the driveway is flat, and the grade steepens as driveway progresses. The driveway will be cut into the slope.
9. Utilities will run underground. Power will come down Rabbit Run and then up the drive.
10. Applicant proposes only the building envelope for the new lot, meaning eventual situation of the new house is up to the buyer. Depending on the orientation and location of the home within the proposed building envelope, the driveway grade may increase.
11. Applicant's proposed site plan included a stamp of "conceptual approval." This could create a situation where the end user could develop whatever he or she so desired, including a change to the approved access.

12. The Board will condition approval on the end user/developer having to return for conditional use approval for a house. Accordingly, in this decision the DRB considers the driveway up the building envelope only, and not the features within the building envelope.

13. There is an existing road approved in the original Westhelle subdivision, used mainly for the installation and access of septic systems for the various Westhelle lots. It is grassed over due to lack of use, but is in good shape, 20-feet wide. It will need gravel and grading. This existing road needs to be maintained whereas the driveway to the proposed house needs to be built.

14. There are locations on the uphill path of the proposed driveway that exceed 25% in grade. The driveway will cut across the slope gradually. After fill, the driveway grade will not exceed 15%. The length of the proposed driveway is approximately 300 feet.

15. Pursuant to Section 3.4 (E) (1) (B) (i), development on slopes exceeding 25% in grade is allowed if that development consists of "limited site improvements necessary to facilitate development on contiguous land with a slope of less than 25% gradient."

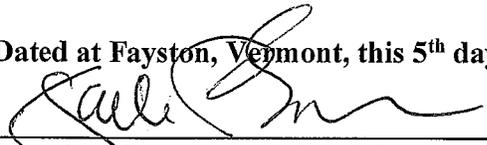
16. The proposed sediment and erosion control measures include stone line ditching, stone line check dams, erosion matting, and silt-fencing.

Decision:

DRB members voted unanimously to approve subdivision application #3515 and conditional use application #3516 with the following conditions:

1. File final mylar within 180 days of the date of this decision.
2. Obtain and follow all State and Federal permits.
3. Development of new house site and/or amendment to approved new driveway requires conditional use review by this Board.
4. Applicant's engineer must provide a revised set of plans that omits any reference to "conceptual" approval.

Dated at Fayston, Vermont, this 5th day of April, 2019.



Jon Shea, Development Review Board ~~Vice~~-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.