

**Development Review Board, Town of Fayston, VT
Notice of Decision for Application No. 3530**

Applicant(s): Jon & Heather Kirson

Landowner(s): Michael Marino

Parcel ID: #08-056.000

Reason for Application: Driveway Development on Steep Slopes

Public Hearing Attendees: Attending DRB Members: Shane Mullen (Chair), Lindsay Browning (Vice-Chair), Mike Quenneville, Ky Koitzsch, and Pete Ludlow (alternate); ZA: John Weir; Public: Jon Kirson (applicant), Mark Bannon (engineer), Ray Munn, Wayne Foster, and Lorraine Foster

Introduction and Procedural History:

1. The Development Review Board application was filed on May 9, 2019. Applicants Jon and Heather Kirson request conditional use approval under Section 3.4 (C) (1) (d) of the Fayston Land Use Regulations for development of a driveway on slopes between 15% - 25% in grade. 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 May 23, 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. A site visit was conducted on June 10, 2019.
5. The application and plans were considered by the Development Review Board at a public hearing which occurred on June 11, 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. Conditional Use application #3530
- Exhibit B. Slope Analysis (Bannon Engineering, dated 5/17/2019)
- Exhibit C. Topography (Bannon Engineering, dated 5/17/2019)
- Exhibit D. Proposed Driveway (Bannon Engineering, dated 5/17/2019)

Exhibit E. Driveway Cross-section and Profile (Bannon Engineering, dated 5/17/2019)

Exhibit F. Erosion Control Plan (Bannon Engineering, dated 5/17/2019)

Exhibit G. Erosion Control Details (Bannon Engineering, dated 5/17/2019)

Exhibit H. Vermont ANR site map

Exhibit I. Soil Map (dated 5/20/2019)

Exhibit J. Web Soil Survey (dated 5/20/2019)

Exhibit K. Proposed Driveway - revised (Bannon Engineering, dated 6/11/2019)

Exhibit L. Driveway Culvert Sizing – revised (Bannon Engineering, dated 6/11/2019)

Exhibit M. Letter to adjoining landowners with project description

Exhibit N. Warning placed in the Valley Reporter on May 23, 2019. 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 June 11, 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 Shawn and Elizabeth Fuschetto, Scott Pike and Ellen Mahoney, Joanne M. Peacock Trust, Carrina Callahan, Scott Johnson, Cheryl Patty Revocable Trust, Wayne and Lorraine Foster, and Joseph Gaeta.
4. Applicant is currently under contract to purchase the property from its current owner the Michael Marino. Applicant is only requesting conditional use approval for the driveway prior to purchase.
5. Wayne and Lorraine Foster, abutting landowners, were given Interested Party status.
6. There is an existing and well-used logging road out to the subject parcel that will be utilized as the drive to the single-family residence.
7. Per the submitted slope analysis, there are three segments of the proposed driveway that exceed 15% in grade.

8. Per the submitted spreadsheets on the existing culverts along the logging road, delineating size and flow data, the first culvert is 48 inches. The drainage area for this culvert is 0.002 square miles. The second culvert is a circular 15-inch, filling up around 40% in a 25-year storm, with a drainage area of 0.001 square miles. The size and health of the third culvert is not known.
9. Power will run along the uphill side of the road. Power is proposed to run from the existing pole up stream, without crossing through the Foster land. Engineer Bannon confirmed power placement will not affect the Foster land.
10. The proposed driveway is a 14-foot traveled way, plowed to 16-feet, with a one-foot shoulder. The proposed driveway is about 750 feet long.
11. There are two pull-offs: one at 500 feet, and then the other at the house itself – another 250 feet beyond the first. The proposed driveway apron is 12 x 30, meeting the requirements of Section 3.1 (B) (5).
12. Applicant stated there were no plans for future subdivision.
13. Engineer Bannon affirmed that the seep area around Station 625 is not under State jurisdiction because it is not a delineated vernal pool or wetland. Engineer Bannon does not believe the project falls under the jurisdiction of the Army Corps of Engineers, stating there will be under 3,000 square feet of disturbance, requiring no permitting being considered a non-reporting activity with little impact on wetland.
14. The plans call for road ditching as necessary, stone-lining where slopes are steeper than 10%. Engineer Bannon stated that it would be greater than 3-inch stone on the steeper slopes.
15. The proposed driveway crosses a perennial stream. No one from Vermont's Agency of Natural Resources has visited the site to see if a stream alteration permit would be required.
16. Engineer Bannon stated that a Construction General Permit is not required due to disturbance of less than one acre.
17. For steeper slopes, the erosion control plan call for straw, hay or synthetic fabric for slopes greater than 3-on-1.

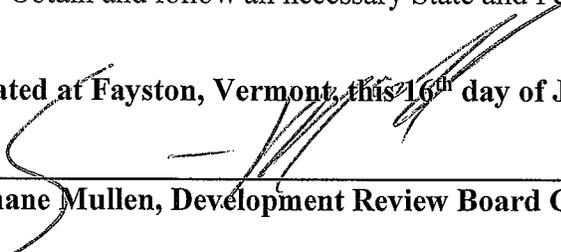
Decision:

DRB members voted unanimously to approve conditional use application #3530 with the following conditions:

1. A State stream alteration engineer shall be contacted to determine whether a stream alteration permit is necessary for the driveway to cross the perennial stream.
2. Provide additional engineering detail for stone-lined swale, including material size in a revised drawing to be submitted to the Zoning Administrator.

3. For finished slopes steeper than 3-on-1, use double-net straw biodegradable erosion control blanket.
4. If utilizing existing culverts, those culverts must be checked and *certified* by the engineer to be in satisfactory condition for the proposed driveway prior to construction.
5. Prior to driveway construction, the entire route must be clearly staked out for a site visit by the Zoning Administrator with the engineer.
6. Any other dwelling unit other than applicant's single-family residence, or any additional extension of the driveway beyond that which is shown on the Exhibits presented, must go through conditional use review by this Development Review Board.
7. Upon completion of the proposed driveway, the engineer must certify that the driveway was constructed in accordance with the approved plans or prepare a record drawing of the "as-built" layout.
8. Obtain and follow all necessary State and Federal permits.

Dated at Fayston, Vermont, this 16th day of July, 2019.



Shane Mullen, 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.