

**Development Review Board, Town of Fayston, VT
Notice of Decision for Application No. 3524**

Applicant(s): Lisa Williams

Landowner(s): Agnes Dunbar Family Trust

Parcel ID: #01-063.002

Reason for Application: Driveway Development on Steep Slopes

Public Hearing Attendees: Attending DRB Members: Shane Mullen (Vice-Chair), Jared Alvord, Lindsay Browning, Mike Quenneville, and Ky Koitzsch; ZA: John Weir; Public: David Frothingham, Gunner McCain, Patrik Kasic, Charlotte Potter-Kasic, Peggy Potter, Lisa Williams, Todd Hill, Allison Johnson

Introduction and Procedural History:

1. The Development Review Board application was filed on April 23, 2019. Applicant Lisa Williams requests 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 April 25, 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 a public hearing which occurred on May 14, 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 #3524
- Exhibit B. Site plan C1.1 (Wilcox & Barton, dated 4/17/2019)
- Exhibit C. Driveway Profile Sheet C2.1 (Wilcox & Barton, dated 4/17/2019)
- Exhibit D. Details Sheet C5.1 (Wilcox & Barton, dated 4/17/2019)
- Exhibit E. Letter to adjoining landowners with project description

Exhibit F. Warning placed in the Valley Reporter on April 25, 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 May 14, 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 Bruce Dunbar, Paul Dudley, Kevin Ripley, Marie Saylor, Mary O'Leary, Bisbee Family Trust (c/o Liz Bisbee, Trustee), and Lisa Loomis.
4. Applicant is currently under contract to purchase the property from its current owner the Agnes Dunbar Family Trust. Applicant is only requesting conditional use approval for the driveway prior to purchase.
5. There is an existing right-of-way (ROW) that the Town of Fayston gave up prior. Access for the landlocked subject parcel is off the shared driveway of Bruce Dunbar and Kevin Ripley. Continuing straight between the Dunbar and Ripley properties is the former Town ROW.
6. After approximately 340 feet of the ROW, applicant wishes to cut into the property off the ROW and construct a drive up to the house site near the back of the property. This portion of the land is higher and dryer than the land encompassed by the continued ROW. It is also an old logging road. There is also a swath already cut in. Applicant prefers a house site in the rear of the property so as to preserve two larger, flatter areas for horse pasture.
7. There is an existing ditch line where applicant proposes to cut off the existing ROW and construct the drive up to her house. The logging road is cleared and wide enough. Construction would include stripping of the topsoil and then laying the drive down on the existing grade. The driveway will follow the natural contours and existing pitches of the woods road. No cutting or fill is necessary.
8. There is an existing 15-inch culvert at the Y, and applicant proposes adding another 15-inch culvert across the driveway. The Board would prefer to see an 18-inch culvert instead. The whole driveway will be mono-pitched to pitch everything to the west side. The existing channel will be stabilized.
9. The average grade of the proposed driveway is around 15%, with some segments approaching 20%.

10. The Board believes the project should include a small swale or a dip to help disperse the water into the ditch. Otherwise a swale could be placed farther up from the bottom of the driveway to avoid cutting.

11. Abutter Paul Dudley provided written testimony. Paul has a spring close to the project boundary and is worried about runoff and/or water disruption. Paul would like interested party status. The Board so affirmed Paul Dudley as Interested Party.

12. Applicant's engineer affirmed that the distances are more than adequate, as the worst case for the well shield is 500 feet from the spring downhill. Regarding Paul Dudley's spring, the distance is 500 feet uphill.

13. There is the potential for a future minor subdivision. Under the land use regulations, the addition of a second house on the driveway would turn the driveway into a private road. This has been contemplated by the applicant, as the drive would be 14 feet wide until the split to come up to her home, where the drive would diminish to 12 feet wide.

14. The Board noted a conflict in the regulations between Section 3.1 (B) (4) and Section 3.4 (E) (3) (d). The former states that driveways which, in any 50-foot section, exceed an average grade of 15% shall use best construction practices and submit an erosion control plan (Section 3.1 (B) (4)). The latter states that no driveway can exceed 15% in grade over any 50-foot section. (Section 3.4 (E) (3) (d)).

15. It is the Board's belief that Section 3.1 (B) (4)) applies and that the intent of the Planning was not to prohibit any drive over 15% in grade.

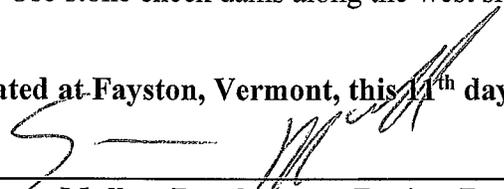
16. Two pull-offs are proposed: at station 450 and station 1000.

Decision:

DRB members voted unanimously to approve conditional use application #3524 with the following conditions:

1. Replace the 15-inch culvert at the Ripley driveway with an 18-inch culvert.
2. Show the two pull-offs on a revised set of plans.
3. Obtain and follow all State and Federal permits.
4. Use stone check dams along the west side of the road up to Station 350.

Dated at Fayston, Vermont, this 11th day of June, 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.