

**Development Review Board, Town of Fayston, VT
Notice of Decision for Application No. 3457**

Applicant(s): Richard & Mary Lou Atkinson

Parcel ID: #11-077.000

Reason for Application: Side Setback Waiver

Public Hearing Attendees: Attending: DRB Members: Jon Shea (Chair), Shane Mullen, Mike Quenneville, Lindsay Browning. ZA: John Weir. Public: Tim Harris, Steve Utter, Dick Atkinson, Peter Lazorchak

Introduction and Procedural History:

1. The Development Review Board application was filed on February 19, 2018 requesting approval under Article 3, Section 3.6 (D) (1) of the Fayston Land Use Regulations for a side setback waiver. 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 February 22, 2018 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 March 27, 2018. 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 application #3457

Exhibit B. Letter to adjoining landowners with project description

Exhibit C. Proof of notice to abutters via certified mail.

Exhibit D. Warning placed in the Valley Reporter on February 22, 2018. This warning was also posted at the Fayston municipal offices, as well as at both the Moretown and Waitsfield post offices.

Findings:

1. Applicant waived his right to be heard by a full board.
2. The Board found the application to be complete at a public hearing held March 27, 2018.
3. The applicant seeks a side setback waiver down to ten (10) feet to construct a single family residence and a garage. The subject property is parcel 11-077.000, located at Lot 6, off Village Road, 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 3.6 (D) (1).
3. The property is located in the Recreation 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 2.3 of the Town of Fayston, VT land use regulations.
4. The applicant's parcel is adjacent to land owned by Gary Thurston, Michael and Jeremy Perisho, Adam and Tracy Julius, the Larson Living Trust, Candice and Roger Porter, Trustees, and Douglas and Kathleen Keith.
5. The size of the lot is 0.56 acres. A ten foot side setback reduction is necessary in order to meet State requirements for 20-foot setbacks from leach fields. A 10-foot side setback on the north side of the property would allow the applicant to meet State requirements.
6. Applicant has applied for and received approval from this Board on two occasions. In May of 2015, applicant received approval from the Board to construct a residence and garage on slopes in excess of 15% in grade (Permit #3318). Subsequently, in July of 2016, applicant applied for and received a front setback waiver necessary on account of the need for fill and other materials on the slope (Permit #3381).
8. Per Article 3, Section 3.6 (D) (1), the Board may reduce a side setback in the Recreation district to not less than ten (10) feet, if (a) it accomplishes the preservation of a scenic feature(s) not otherwise protected by the required setback, or (b) is necessitated by building constraints caused by geologic, topographic or hydrologic conditions.
9. The Board found that the request meets the condition of subsection b, specifically the geologic constraints of the parcel with its steep slopes and small acreage.

Decision:

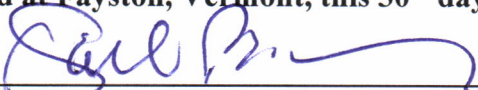
DRB members present voted unanimously to approve application #3457 for a side setback waiver down to ten (10) feet to construct a single family residence and a garage with the following conditions:

Conditions:

1. Obtain and follow all State of Vermont permits.

2. All other conditions set forth in the approvals of prior conditional use permits #3319 and #3381 remain in effect.

Dated at Fayston, Vermont, this 30th day of April, 2018.


_____,
Jon Shea (Chair 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.