

**Development Review Board, Town of Fayston, VT
Notice of Decision for Application No. 3537**

Applicant(s): Paul and Ellen Beard

Parcel ID: #05-038

Reason for Application: Construction of a replacement leachfield within the 50-foot stream buffer

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: Bob Holden, Doug Hall, Sheila Getzinger, Bruce Isaacson, Gunner McCain, Michael Clendenin, Karen Sauther

Introduction and Procedural History:

1. The Development Review Board application was filed on June 24, 2019. The subject parcel is parcel ID# 05-038.000, located at 312 Glen View Road. Applicants Paul and Ellen Beard request conditional use approval under Section 3.13 (E) of the Fayston Land Use Regulations for construction of a replacement leachfield within the 50-foot stream buffer. 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 June 27, 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 July 16, 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 #3537

Exhibit B. Site Plan – Replacement Wastewater Design – Sheet C-1 (McCain Consulting, dated June 24, 2019)

Exhibit C. Letter to adjoining landowners with project description

Exhibit D. Narrative addressing General and Specific Review Standards

Exhibit D. Warning placed in the Valley Reporter on June 27, 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 July 16, 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 Bernard Clendenin and Li Wen Lin, Karen Sauther and Shane Mullen, Paul and Charlotte Bashforth, Thomas and Judith Harris, Robert and Carolyn Desley, and Augusta Graves, Trustee.
4. Bernard "Michael" Clendenin was deemed an Interested Party to this application.
5. Karen Sauther was deemed an Interested Party to this application.
6. Chair Mullen disclosed a potential conflict of interest. Shane is an abutting landowner along with Karen Sauther. They share a particularized interest in that their well is in close proximity to the proposed leachfield. Chair Mullen offered to recuse himself from hearing this application. Applicants' agent/engineer did not opt for recusal, believing Chair Mullen would act in an impartial manner.
7. The subject parcel is non-conforming in size at 0.47 acres and is bounded by a stream.
8. The wastewater system failed, backing up sewage in the house. The failed system does not conform to current standards and is too close to the stream and slope. There is an old drywell just down slope of the failed system. Next to the drywell, an old leachfield exists at three and half feet below. In another location, a second abandoned leachfield was discovered at a depth of about five feet.
9. The project proposes taking an archaic system that provides little to no treatment to effluent prior to that effluent being discharged into the water table and sent downhill into the stream, and converting it into a modern system which includes a pre-treatment unit with a leachfield that will be close to the surface so that the effluent that will be properly treated by both the pre-treatment unit and the flow through the soil before it meets the water table.
10. The proposed system would be placed in approximately the same location as the old, at most one foot farther away from the stream.

11. The closest point of the proposed leachfield to the Mullen/Sauther well is approximately 70-72 feet. Accordingly, a portion of the proposed leachfield does fall within the State-required 100-foot wellshield.

12. Pre-treatment includes a bio filter with pump station. The unit is a 3,000 gallon concrete tank with chambers in the bottom for collection and a pump vault with 2-2.5 feet of peat moss on top. There are dispersion trays on top of the peat moss. This type of pre-treatment unit has no electrical components aside from the discharge pump, and therefore is less likely to malfunction. It is passive treatment via gravity flow through peat moss. Treatment to effluent occurs via bacterial action, and the purpose of the peat moss is to provide a large amount of surface area for the bacteria to grow. With the new pre-treatment system, the effluent will be much higher quality and the leachfield should last indefinitely.

13. The existing drywell will be pumped out and crushed in place. Applicant proffers that this process would not result in any added contamination, as all the liquids and sludge will be pumped out and, after the drywell is crushed in place, there will be no void left in the ground.

14. Per State regulations, the pre-treatment system must have a maintenance contract in place at all times. Accordingly, the unit will be maintained by a certified maintenance provider twice a year for the first year, and then once in a year thereafter.

15. The pump to discharge into the leachfield is alarmed. Should the pump fail, there is one day worth of flow emergency storage (likely closer to three days of storage).

16. The new leachfield is a shallow, in-ground placement, built on top of the old leachfield.

17. Erosion control measures will be taken at the slope break, and include a silt fence that wraps around the whole disturbance area.

Decision:

DRB members voted unanimously to approve conditional use application #3537 with the following conditions:

1. A Vermont licensed engineer must certify that the wastewater system was constructed according to the State-approved plans.
2. Obtain and follow all State and Federal permits.

Dated at Fayston, Vermont, this 30th day of July, 2019.

A handwritten signature in black ink, appearing to read 'S Mullen', with a stylized flourish at the end.

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.