

**Development Review Board, Town of Fayston, VT**  
**Notice of Decision for Application No. 3586**

**Applicant(s): Joshua Bewlay**

**Parcel ID: #07-078.000**

**Reason for Application: Requesting approval under Section 2, Table 2.4 (C) (18), (E) (3) to construct a platform tennis court**

**Public Hearing Attendees:** Attending DRB Members: Shane Mullen (Chair), Lindsay Browning, Pete Ludlow, Mike Quenneville; ZA: JB Weir; Public: Andrew Lynds, Joshua Bewlay, Richard Ruback, Elaine Ruback, Adam Beard, Truxton Pratt

**Introduction and Procedural History:**

1. The Development Review Board application was filed on June 30, 2020. The subject parcel is parcel ID# 07-078.000, located at 73 Harris Hill Road. Applicant Joshua Bewlay requests conditional use approval pursuant to Section 2, Table 2.4 (C) (18), (E) (3) of the Fayston Land Use Regulations to construct a platform tennis court. 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 July 23, 2020 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 hearings which occurred on August 11, 2020 and September 8, 2020 via Zoom. 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 #3586

Exhibit B. Survey of the lands of Stuart and Robin Ray, Harris Hill Road (by Glenn Towne, dated November 2010)

Exhibit C. Court layout & Isometric design

Exhibit D. Certified receipts of abutter notice

Exhibit E. Responses to General and Specific Review Standards (dated July 7, 2020)

Exhibit F. Photometric Chart – Platform Tennis Court

Exhibit G. Photometric Chart (002) (Red Leonard Associates)

Exhibit H. 73 Harris Hill map with contours (ANR Atlas, dated August 13, 2020)

Exhibit I. 73 Harris Hill Contour Map with Setbacks/Utilities

Exhibit J. 73 Harris Hill Contour Map with Photometric Overlay

Exhibit K. Email from Interested Party Adam Beard (dated September 3, 2020)

Exhibit L. Warning placed in the Valley Reporter on July 23, 2020. 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 August 11, 2020.
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 Anne Strong, Trustee, Igor Altern, 65 Marble Hill, LLC, Richard and Elaine Ruback, Adam Beard 2006 Trust, and Erik Smith,
4. Applicant proposes to construct a platform tennis court at 73 Harris Hill Road. Pursuant to Section 2, Table 2.4 (C) (18), (E) (3), a platform tennis court constitutes an outdoor recreational facility which requires conditional use approval.
5. Richard and Elaine Ruback own property that abuts the applicant's parcel. The Rubacks were deemed Interested Parties to the application.
6. Applicant plans to tuck the proposed court behind a row of pine trees in order to hide it and shield the lighting as much as possible.
7. There are six downward-facing LED lights. The dispersion of light is measured in foot candles, or the amount of light that one candle would impart on a one square foot surface one foot away. At 30 feet away in all directions it is one foot candle or less. At 40 feet, it drops to less than one foot candle. At 60 feet from the court, the dispersion drops to about 0.2 foot candle.
8. There are four propane heaters that face under the court surface and blow warm air up to dry the court. Heaters would be installed underneath the court and would be used to dry the court for about 15 minutes after snow was pushed off.
9. The windows of the home of abutter Beard are directly opposite the court.

10. The court fencing extends 12 feet from the court surface, and the surface itself is about 3.5 feet above the ground.
11. The court will be lit only during use. Lighting will face either the road or the pond.
12. The court will be constructed with concrete footings embedded down below the frost line.
13. The court is proposed to be situated approximately 65 feet to the centerline of Harris Hill Road.
14. The court is proposed to be situated approximately 80 feet to the pond fed by a small stream.
15. Per Section 3.13 (A) of the Fayston LURs, there must be a 50-foot buffer to an instream-pond.
16. The nearest point of the court to the Ruback property line on Marble Hill Road is 165 feet. The minimum setback to a property line in the Rural Residential district is 25 feet.

**Decision:**

DRB members voted unanimously to approve conditional use application #3586 with the following conditions:

1. Use of the court, including lighting, must cease by 10:00 p.m.
2. All lighting must be downcast
3. The court must be constructed in the exact location as was staked out such that the front setback is maintained as proposed
4. Maintain the setback to the in-stream pond as proposed and do not encroach on the 50-foot stream buffer
5. Practice best construction practices - contractor must take housekeeping measures to keep site in good repair and to prevent erosion.
6. Obtain and follow all required State and Federal permits.

**Dated at Fayston, Vermont, this 27<sup>th</sup> day of September, 2020.**



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**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.