

**Development Review Board, Town of Fayston, VT
Notice of Decision for Application No. 3663 & 3664**

Applicant(s): Akhil Kaplan & Megan McDonough

Parcel ID: #07-024.000

Reason for Application: Building envelope adjustment (Minor Subdivision), development of a septic system on slopes in excess of 15% grade.

Public Hearing Attendees: Attending DRB Members: Shane Mullen (Chair), Jared Alvord, Pete Ludlow, Ky Koitzsch; ZA: JB Weir; Public: Peter Kuhlmann, Shirley Kuhlmann, Gunner McCain, Akhil Kaplan, Gary Brosnahan, Karen Smith, George McCain, Jesse Murphy, Michael Sullivan, Jon Kirson, Dan Young.

Introduction and Procedural History:

1. The Development Review Board application was filed on June 16, 2021. Applicants Akhil Kaplan & Megan McDonough request approval under Article 7 of the Fayston Land Use Regulations for a subdivision amendment to applications #1651 and #3618, issued 11/10/1998, at 502 Mikhail Drive. 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 17, 2021 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 July 6, 2021. 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. Subdivision application #3663 & conditional use application #3664

Exhibit B. "Site Plan – Akhil Kaplan (Sheet DC-1), dated June 15, 2021.

Exhibit C. Responses to the General and Specific Review Standards of Section 5.4 of the Fayston Land Use Regulations.

Exhibit D. Permit WW 5-7700 and corresponding materials

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

Exhibit F. Approved plat and Notice of Decision for application #3618 approving applicant's request to amend the driveway location for subdivided lot.

Exhibit G. Meeting minutes for the 1998 Kolitch subdivision

Exhibit I. Warning placed in the Valley Reporter on December 17, 2020. This warning was also posted at the Fayston municipal offices, as well as at both the Moretown and Waitsfield post offices.

Findings:

1. This property is located off 365 Mikhal Drive and consists of 10.37 acres of undeveloped land. The parcel is identified as #07-024.002 in the Rural Residential District.
2. Notice of the hearing was properly published. On June 17, 2021 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. The applicant's parcel is adjacent to land owned by Joel and Renee Epstein, Lauren Kolitch, John Gallagher, William Lee, Todd and Terri Drummey, and the State of Vermont.
4. The only permit issued for this subdivided parcel is for subdivision (amendment) application #3618, relocating the driveway as approved in Kolitch subdivision application #1651, dated 11/10/1998.
5. Per applicant's submittal, applicant is requesting no change to the approved building envelope other than moving it 100 feet in the east/southeastern direction. The adjustment is requested on account of a more optimal location for a solar roof array and in order to minimize light intrusion to/from both applicants' home and that of abutter Kolitch. The size and shape of the prior-approved envelope remain the same. Per Section 6.2 (E), the size and shape of the development envelope meet the requirements for the Rural Residential district in Table 2.4 (D).
6. Per Section 7.7 of the Fayston Land Use Regulations, "No changes, modifications, or other revisions that alter the plat or conditions attached to an approved subdivision plan shall be made unless the proposed revisions are first resubmitted to the DRB and the DRB approves such revisions after public hearing."
7. Applicant is also seeking conditional use approval on account of construction of the septic system, the piping of which will disturb slopes in excess of 15% in grade.

8. Pursuant to Section 3.4 (C) (1) (d), development on steep slopes equal to or in excess of 15%, or which results in such slopes, shall be subject to conditional use review in accordance with Article 5.
9. Pursuant to Section 3.4 (E) (1), applicability of development on steep and very steep slopes is described as: (Slopes 15 + %) development involving the site disturbance, excavation, filling, or regrading of 1000 or more square feet of land with a gradient of 15% or more, and private roads and driveways that exceed an average gradient of 15% over any 50-foot section, as determined from mapped contour intervals or site inspection, shall be subject to conditional use review and approval by the Development Review Board under Article 5 and the requirements of the other Subsections; and (Slopes 25 + %) no site disturbance of development shall take place on very steep slopes with natural gradients of 25% or more, with the exception of limited site improvements necessary to facilitate development on contiguous land with a slope of less than 25% gradient, which are subject to conditional use review and approval by the Development Review Board under Article 5, and the requirements of the other Subsections.
10. Pursuant to Section 3.4 (E) (2), in addition to the conditional use application requirements of Section 5.2, conditional use approval for development on steep and very steep slopes shall be contingent upon the submission and Board approval of a grading plan drawn at scale which indicates existing and proposed grades with contour lines at two (2) foot intervals within any area of proposed activity, site disturbance or construction, including access routes. The grading plan shall depict slope classes of 0-14.9%, 15-24.9% and 25% or more, based on two (2) foot contours.
11. Pursuant to Section 5.4, the project must meet the General Review Standards stated therein. Conditional use approval shall be granted by the DRB upon finding that the proposed development shall not result in an undue adverse effect on the 1) capacity of existing or planned community facilities and services, 2) character of the area affected, 3) traffic on roads and highways in the vicinity, 4) bylaws in effect, and 5) utilization of renewable energy sources. In addition to these general standards, the Board may also consider and attach specific conditions to conditional use approval as appropriate to avoid, minimize or mitigate the adverse impacts of a proposed development, including 1) siting and dimensional standards, 2) performance standards, 3) access and circulation standards, 4) landscaping and screening standards, and 5) stormwater management and erosion control standards

Decision:

DRB members voted unanimously to approve subdivision application #3663 with the following conditions:

1. File mylar within 180 days.
2. Obtain and follow all State and Federal permits.

Dated at Fayston, Vermont, this 2nd day of September, 2021.

A handwritten signature in black ink, appearing to read 'S M M', is written above a horizontal line.

Shane Mullen, Chair of 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.