

Development Review Board, Town of Fayston, VT
Notice of Decision for Application No. 3662

Applicant(s): Peter & Shirley Kuhlmann

Parcel ID: #03-086.010

Reason for Application: Requesting approval under Section 3.4 (C) (1) (d) and 3.4 (E) for development of a driveway, single-family home and accessory structures 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. The subject parcel is parcel ID# 03-086.010, located at 3682 Center Fayston Road. Applicants Peter & Shirley Kuhlmann request conditional use approval pursuant to Section 3.4 (C) (1) (d) and 3.4 (E) for development of a driveway, single-family home and accessory structures on slopes in excess of 15% 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 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. Conditional Use application #3662

Exhibit B. "Site Plan – Water/Sewer – Peter and Shirley Kuhlmann" – Sheet C-1, dated 5/27/2021.

Exhibit C. "Details – Water/Sewer – Peter and Shirley Kuhlmann" – Sheet C-2, dated 5/27/2021.

Exhibit D. “Driveway and EPSC Plan – Peter and Shirley Kuhlmann” – Sheet C-3, dated 5/27/2021.

Exhibit E. “Driveway and EPSC Details – Peter and Shirley Kuhlmann” – Sheet C-4, dated 5/27/2021.

Exhibit F. “Slope Analysis Plan – Peter and Shirley Kuhlmann” – Sheet C-5, dated 5/27/2021.

Exhibit G. Scans of certified receipts of abutter notice

Findings:

1. This property is located off 3682 Center Fayston Road and consists of 45 acres of undeveloped land. The parcel is identified as #03-086.010 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 Claire Ewald & Walter Gaylord, Fernande Viens Trust, Adrian Ferris, Priscilla & Reza Kalantari, Karen Winhold, Langford Davidson & Mary Eisenhower, Thomas & Celeste Emler, Eric & Justina Boyden, John & Heather Hammond, Jesse Murphy & Heidi Witschi, Dana Roberts & Lou Gemunden Spitta.
4. There are two permits which have been issued for this property – one health permit and a building permit. Neither were ever acted upon and have expired.
5. Per applicant’s narrative, the project consists of a single-family residence and associated infrastructure such as a driveway, water/wastewater systems, and a future accessory barn structure. On-site water and wastewater design are currently in the permitting process with the State.
6. Per applicant’s narrative, the building envelope and limits of disturbance for the driveway will include disturbance to slopes in excess of 15% in grade. The building envelope has been defined such that there are no areas steeper than 25% within its boundaries, and driveway has been sited to minimize impacts to steep slopes and meet the Fayston driveway standards. All grading for the building shall be constrained within the building envelope; the house design as shown on the plan set may require adjustment in order to ensure no grading outside the building envelope and avoiding steep slopes.

7. Pursuant to Section 3.1 (B) (4), driveways that, in any 50 foot section, exceed an average grade of 15% shall use best construction practices and submit an erosion control plan in accordance with Section 3.4.
5. 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.
6. 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.
7. 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.
8. 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 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 conditional use application #3662 with the following conditions:

1. Per 3.4 (E) (1) (b), building envelope as defined shall encompass the extent of grading for the structures within it to avoid impacts of slopes in excess of 25%,
2. Move diversion swale on south side of building envelope out of the 25% slope area and into building envelope,
3. Remove “preliminary” stamp from plans,
4. Construction shall conform to the provisions of the Low Risk Site Handbook for Erosion & Sediment Control.
5. Provide a set of revised drawings with changes noted above to the Zoning Administrator for review
6. Obtain and follow all required State and Federal permits.

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



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.