

**Development Review Board, Town of Fayston, VT
Notice of Decision for Application Nos. 3641 & 3642**

Applicant and Land Owner: Leigh Williams

Parcel ID: #01-063.000

Reason for Application: Minor subdivision of three proposed lots and Conditional Use review for development on steep slopes

Public Hearing Attendees: Attending DRB Members: Shane Mullen (Chair), Mike Quenneville, Pete Ludlow, Ky Koitzsch, Dan Young (Vice Chair); ZA: Hanna Neill; Public: George McCain, Leigh Williams, Tom Clark (Zoom), David Frank, Siri Fiske, Ariel Brumbaugh, Barclay Rapoport, Kellee Mazer, Meg Hourihan, Deb Steines (Zoom), Kathy Haskell, Amanda Siegel (Zoom).

Introduction and Procedural History:

1. The Subdivision and Condition Use applications were filed on August 11, 2021. The subject parcel is parcel ID# 01-063.000, located at 360 Dunbar Hill Road. Applicant Leigh Williams requests approval under Section 7 of the Fayston Land Use Regulations. 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 October 21, 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 May 11, 2021, June 8, 2021 and November 4, 2021. A site visit was conducted by the Development Review Board on May 25, 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 (#3641)

Exhibit B. Conditional Use Application (#3642)

Exhibit C. Memorandum from McCain Consulting dated August 11, 2021 describing the proposed project and providing responses to Section 5 (Conditional Use Standards).

Exhibit D. A site plan titled “Site Plan Leigh Williams 3-Lot Subdivision” Sheet C-1 by McCain Consulting, Inc., last revised May 28, 2021.

Exhibit E. A site plan titled “Slope Plan Leigh Williams 3-Lot Subdivision” Sheet C-2 by McCain Consulting, Inc., last revised May 28, 2021.

Exhibit F. A site plan titled “EPSC Details Site Plan Leigh Williams 3-Lot Subdivision” Sheet C-3 by McCain Consulting Inc., last revised May 28, 2021.

Exhibit G. A site plan titled “Subdivision Overview Plan Leigh Williams 3-Lot Subdivision” Sheet C-4 by McCain Consulting Inc., last revised May 28, 2021.

Exhibit H. Survey plat titled “Survey and Subdivision of the Lands of Leigh Williams” by McCain Consulting Inc., dated August 10, 2021.

Exhibit I. Scans of certified receipts of abutter notice

Findings:

1. This property is located off 360 Dunbar Hill Road and consists of 10.4 acres of with a single-family residence. The parcel is identified as #01-063.000 in the Rural Residential District.
2. The property is subject to the following permits:
 - Permit #3229 to replace the abandoned house with a new SFR
 - Permit #3201 for a sugarhouse
 - Subdivision permit #1465 and State deferral permit DE-5-3188
 - Subdivision permits #90-1 and 90-2 and State permit EC-5-1900
3. The applicant’s parcel is adjacent to land owned by Dale Manning and Kristen Maxfield, Chad Stanclift, Paul Dudley, Agnes Dunbar Family Trust, Brooke Spaulding, Kevin Ripley, Bruce Dunbar, Douglas Hoffman, Mary O’Leary, Eric Verdon, Anna Stegemoeller, Jeffrey Cory and Maryann Wilson, Charles and Karen Derrick, Thomas and Joyce Rogan, Trustees, and the Richard Lesage Revocable Living Trust
4. At a public hearing on May 11, 2021, the following individuals requested interested party status under 24 V.S.A. Section 4465(b):
 - Doug & Heather Hoffman- 469 Dunbar Hill Road Fayston, Vt 05660
 - Ginny Lesage for the Richard E. Lesage Revocable Trust- 1172 E Lakeshore Drive Colchester, Vt 05446
 - Maryann Willson & Jeff Coy- 129 Schoolhouse Brook Lane Fayston, Vt 05660
 - Joyce & Tom Rogan- 2750 No Fayston Rd Fayston, Vt 05660
 - Chuck & Karen Derrick- 176 Schoolhouse Brook Lane Fayston, Vt 05660
 - Anna Stegemoeller- PO Box 1537 Waitsfield, Vt 05673

5. A sketch plan review for this application was held on May 11, 2021.
6. A preliminary plat review of this application was held on June 8, 2021.
7. A final plat review of this application was held on November 4, 2021.
8. Applicant seeks approval for a minor subdivision of a 10.4 acre lot into three lots: Lot 1 (6.0 acres), Lot 2 (1.5 acres), Lot 3 (2.9 acres). A three-lot subdivision constitutes a minor subdivision.
9. Lot 1 would consist of the existing single family residence, and Lots 2 and 3 would consist of new single family residences with new wastewater disposal systems, all located on Lot 1. Potable water for Lot 2 will be provided by the existing Lot 1 well. Lot 3 would be served by a separate well. Individual driveways serving each lot will be built to Vermont Agency of Transportation (VTrans) B-71 standards and Section 3.1(B) of the Fayston Land Use Regulations.
10. Pursuant to Section 7.1(B)(1), a minor subdivision, "shall include...the subdivision of land, or the re-subdivision of a previously subdivided parcel, that results in the creation of five or fewer lots, regardless of any change in ownership..."
11. Applicant has stated that no further subdivision of this parcel shall occur.
12. The proposed lots meet the applicable lot size (1 acre) and setback (65 feet to centerline and 25 feet to property lines) minimums for the Rural Residential District.
13. Building envelopes for each proposed lot have been located to avoid steep slopes in excess of 25%. The driveway for Lot 3 is located on slopes in excess of 25%, however, the driveway minimizes the impact to the extent practicable and serves a building envelope that is less than 25% in slope.
14. 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.
15. Applicant's consultant has provided a site-specific erosion prevention and sediment control plan and details to mitigate impacts due to construction-phase stormwater runoff.
16. 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.
17. 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.

18. As described in item 13 above, proposed developed areas in excess of 25% have been minimized to the extent practicable in order to facilitate access to the Lot 3 building envelope.
19. Pursuant to Section 3.13(C) Development Outside Buffer Strip, any development within 100 feet from the banks of streams and rivers, and the shores of ponds formed by in-stream impoundments in streams and rivers must go through Conditional Use Review. The width of the buffer strip shall be measured from the top of the streambank or stream slope, or, where no streambank is discernable, from the regular high water mark.
20. Proposed project provides a 50-foot setback from the top of the stream bank, within which no development, earthwork, or tree clearing is allowed.
21. 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.
22. Stormwater runoff from the proposed houses will either discharge via sheet flow or if gutters and downspouts are used, the discharge shall not be directed towards the stream bank to the east, and a splash pad shall be used to dissipate the runoff's energy.
23. All construction-phase stormwater mitigation measures will be directed away from the stream bank.
24. The applicant stated that the current sugarhouse; located at the southern boundary of Lot 3 will be relocated.

Decision:

DRB members voted as follows to approve Subdivision application #3641 & Conditional Use application #3642 with the following conditions:

1. Additional tree clearing beyond the current tree line on south side of Lot 3 and the eastern sides of Lots 1-3 is prohibited.
2. All exterior lighting for structures in this subdivision shall be downcast.
3. Submit to the Town Clerk the required mylar plat for recording within 180 days of the date of this decision.
4. Applicant to furnish revised site plan accurately depicting the driveway easement location for Lot 3.

Ky Koitzch: **YES**/no/abstain/absent/recuse

Peter Ludlow: **YES**/no/abstain/absent/recuse

Shane Mullen: **YES**/no/abstain/absent/recuse

Michael Quenneville: **YES**/no/abstain/absent/recuse

Daniel Young: **YES**/no/abstain/absent/recuse

Dated at Fayston, Vermont, this 24th day of November, 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.