

Development Review Board, Town of Fayston, VT
Notice of Decision for Application No. 3744

Applicant & Landowner: Town of Fayston

Parcel ID: 01-124

Reason for Application: Conditional use, request for setback waivers.

Application Number(s): 3744

Type of Hearing: Requesting conditional use approval for a proposed Mad River Ridge Runners storage shed on the Fayston Town Garage property under Section 3.13(C) for location of a building envelope within 100' of a stream.

Public Hearing Attendees: July 5, 2022 – Attending DRB Members: Pete Ludlow, Mike Quenneville, Ky Koitzsch, Jim Donkersloot, Dan Young (Chair), Minute-Taker: Betsy Carter, Public: George McCain, Kim Laidlaw, Leigh Williams, Eric Bauer, Chris Anne Bauer, Steve Lindsay and Alexandra Urbanowski.

I. Introduction and Procedural History:

- a. The Development Review Board application was filed on May 23, 2022. Applicant requests approval for a proposed Mad River Ridge Runners storage shed on the Fayston Town Garage property under Section 3.13(C) for location of a building envelope within 100' of a stream. A copy of the application and supporting paperwork are available at the Fayston, VT town offices.
- b. Notice of the hearing was properly published. On June 16, 2022 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.
- c. Abutters to the property were properly notified of the hearing.
- d. The application and plans were considered by the Development Review Board at a public hearing which occurred on July 5, 2022. The Development Review Board reviewed the application and plans under the Town of Fayston, Vermont Land Use Regulations, as amended June 2018.

II. The following Exhibits were submitted to the Development Review Board

Exhibit A. **Conditional Use Application #3744**

Exhibit B. **Project Narrative Mad River Ridge Runners c/o Steve Lindsay**, including responses to the Conditional Use Review Standards (Section 5.4).

Exhibit C. **Abutter Notice Letters** to adjoining landowners with project description, list of abutting landowners and proof of notice via certified mail receipts of abutting landowners.

Exhibit D. **Public Meeting Warning** placed in the Valley Reporter on June 16, 2022. This warning was also posted at the Fayston municipal offices, as well as at both the Moretown and Waitsfield post offices.

Exhibit E. **“Site Plan- Fayston Town Garage – Fayston Town Garage Site – Trail Maintenance Shed”** dated May 4, 2022. (C-1)

III. Findings

1. The Board found the application to be complete at a public hearing held on July 5, 2022.
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 Misa and Megumi Dikengil, Claire Ewald, Brian & Cora Treacy, Viens Trust - Francis and Nicole Viens, Trustees, Michel Gaboriau and Robert Newton, and Shawn and Jane Keating.
4. The applicant’s 7.2-acre parcel is the site of the Town of Fayston Garage.
5. The applicant’s parcel’s western and eastern property lines are abutted by streams.
6. The applicant’s proposed structure would be a 40’ x 40’ storage shed utilized for the storage of snowmobile equipment and access from the existing road by the Mad River Ridge Runners.
7. The structure consists of two 40’ shipping containers, sited parallel, lengthwise to each other, with approximately 20’ space between the two containers. A roof with a 5’ overhang will span the space between the structures, creating a 50’x50’ roof footprint covering the shipping containers. The shed will have an entrance on east side of the structure with access via the proposed driveway. There will be no entrance or exit for vehicles and machinery on the west side of the structure. The structure is to be placed on a crushed stone foundation.
8. The Section 5.4(B)[1] of the Fayston Land Use Regulations specify that all conditional uses shall meet minimum applicable dimensional and density standards as specified for the district in which the use is located. The district standards for the Rural Residential district provides setbacks for structures, and thus the proposed building envelope will meet the 65’ front and 25’ side setbacks.

9. Section 3.4(C) states that the purpose of the Land Use Regulations' Sediment and Erosion Control Standards are to ensure "that existing site features that naturally aid in stormwater management are protected to the maximum extent practicable." The forested land cover on the parcel proposed for development constitutes those features that naturally aid in stormwater management.
10. The proposed structure and building envelope do not impact the 50' stream buffer.
11. The project will use existing an existing driveway on the Town Garage site with access to North Fayston Road via Town Garage Road.
12. Section 3.4(C)(2)(c) states "forested lands located on stream and wetland buffers and steep slopes are priority areas and are subject to regulation in Section 3.13."
13. Based on the foregoing, the DRB determines that the project, considering the nature of the stream setback waiver requested and intuitive location of the structure on the Town Garage site, would not create an undue adverse impact on the streams under Section 3.4(C)(2). The proposed development does not unfavorably impact on that resource as structures are located not located within the 50-foot buffer of the proximate stream.
14. Section 3.13(C) states, "Any development within 100' from the banks of streams and rivers, and the shores of ponds, must go through Conditional Use Review. The width shall be measured from the top of the stream bank or stream slope. The DRB may approve such development after a determination that the proposed modification meets the following standards: "1) Reasonable measures are undertaken to protect water quality, such as, but not limited to, the planting of shade trees adjacent to stream banks, the protection of existing or establishment of new vegetated buffer areas along stream banks, and/or stormwater management provisions to collect and disperse stormwater away from the stream or river;" "2) The development will not result in degradation of adjacent surface waters. Specifically, the Board shall find the proposed development will not adversely affect: the ability of the stream to carry floodwaters, stream channel stability, the water quality of the stream due to potential erosion and runoff or, the natural beauty of the stream."
15. The area of disturbance necessary for construction does not impact the 50' stream buffer.
16. The proposed building envelope and area of disturbance necessary to complete construction is greater than 50' from the top of the stream bank. Due to the location of Town Garage Road, an existing driveway, and existing structures on the site, the shed cannot be located 100' from the top of the proximate stream bank. Furthermore, the chosen building site is the most practical location for the structure on the parcel in light of existing buildings, road and driveway access, and other natural resources on or abutting the parcel.
17. Section 5.4(A), General Review Standards, states that "conditional use approval shall be granted by the DRB upon finding that the proposed development shall not result in an undue adverse effect" on items including Bylaws in effect, siting and dimensional

standards, access & circulation standards and stormwater management & erosion control standards. This evaluation is conducted using Figure 5.1, a test used by the DRB whether or not an undue adverse effect is being created.

1. Does the project have an unfavorable impact upon the resource, issue and/or facility in question?
 - **3.4(C)(2) Preserve Natural Areas:** *No. The proposed limit of earth disturbance for this project maintains the 50' stream buffer and the intuitive location of the structure on the Town Garage site, utilizing an existing driveway and Town Garage Road, is the best and practical location for such a structure on the site, while preserving natural areas to the maximum extent possible.*
 - **3.13(C) Development Outside the Buffer Strip:** *No, due to Town Garage Road, an existing driveway, and other buildings on the site, the shed cannot be located 100' from the top of the proximate stream bank. However, the chosen building site is the most practical location for the structure on the parcel in light of existing buildings, road and driveway access, and other natural resources on or abutting the parcel. The building envelop and area of disturbance do not encroach upon the 50' stream buffer and require limited clearing and earthwork to complete construction of the structure.*
2. As it has been determined by the DRB that no adverse effect is being created by a project, the DRB further review of the impact is not required.

Decision:

DRB members voted unanimously to **approve** Conditional Use application #3744.

1. Submit to the Town Clerk the required mylar plat for recording within 180 days of the date of this decision.
2. Applicant must follow all sediment and erosion control practices in the Vermont Low Risk Site Handbook for Erosion Prevention and Sediment Control, including but not limited to the use of biodegradable erosion mats on slopes in excess of 3H:1V and silt fencing downgradient from the construction area as provided by the Handbook.
3. 50' Stream Buffer Protection:
 - a. Equipment, supplies and other materials associated with construction and normal operation of the shed shall not be placed, stored, or otherwise encroach upon the 50' stream buffer.
 - b. Vehicles and other machinery shall not be placed, stored, or otherwise encroach upon the 50' stream buffer.
4. Obtain and follow all necessary State and Federal permits.

Ky Koitzsch: YES/ no/abstain/absent/recusal

Michael Quenneville: YES/ no/abstain/absent/recusal

Peter Ludlow: YES/ no/abstain/absent/recusal

Daniel Young: YES/ no/abstain/absent/recusal

Dated at Fayston, Vermont, this 18th day of August 2022.



Daniel N. Young, 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.