Development Review Board, Town of Fayston, VT
Notice of Decision for Application No. 3887 & 3902

Property Owner/Applicant(s): Joshua and Danielle Livingston

Parcel ID: #06-057d

Reason for Application: Subdivision Amendment and Conditional Use (Development on Steep Slopes)

Application Number(s): 3887 and 3902

Public Hearing Attendees: Attending DRB Members: Daniel Young (Chair), Jim Donkersloot (Vice Chair). Mike Quenneville, Pete Ludlow, Ky Koitzsch **ZA**: Jason Wilson; **Minutes Taker:** Eve Silverman **Public:** Joshua Livingston, Danielle Livingston, Eliza Graves and Matthew Campbell (Zoom)

Introduction and Procedural History:

1. The Subdivision application #3887 was filed on June 10th, 2024. The subject parcel is parcel ID # 06-057d, located at Bragg Hill Road. Applicants Joshua Livingston and Danielle Livingston requests approval under Articles 6 and 7 of the Fayston Land Use Regulations Subdivision Amendment to Subdivision #3750. A copy of the application and supporting paperwork are available at the Fayston, VT town offices.

2. The Conditional Use Application #3902 was filed on August 12th, 2024. Applicants Joshua Livingston and Danielle Livingston requests approval under Article 5 of the Fayston Land Use Regulations for development of steep slopes for Single Family Residence at Moulton Road. A copy of the application and supporting paperwork are available at the Fayston, VT town offices.

3. On July 2nd, 2024 the DRB conducted a Sketch Plan Review for application #3887 and the applicants were informed this project would require conditional use approval.

4. Notice of the hearing was properly published. On August 15th, 2024 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.

5. Abutters to the property were properly notified of the hearing.

6. The application #3887 and plans were considered by the Development Review Board at public hearing which occurred on August 6th, 2024 and September 3rd, 2024. The

Development Review Board reviewed the application and plans under the Town of Fayston, VT Land Use Regulations, as amended May, 2023.

7. The application #3902 and plans were considered by the Development Review Board at public hearing which occurred on August 6th, 2024 and September 3rd, 2024. The Development Review Board reviewed the application and plans under the Town of Fayston, VT Land Use Regulations, as amended May, 2023.

The following exhibits were submitted to the Development Review Board:

1. Subdivision Application (#3887) and Development Review Board Application (#3902) for Conditional Use approval of development on slopes greater than 15%.

2. Project Narrative, abutting property owner list, sample notification letter and list of abutters.

3. A site plan titled "Josh & Danielle Livingston" by American Consulting Engineers and Surveyors, dated August 1, 2023

4. Erosion Control Measures titled "Josh and Danielle Livingston" by, American Consulting Engineers and Surveyors, dated August 1, 2023 and responses to review standards in Section 5.4.

5. Proof of notification of adjoining land owners.

Findings of Fact:

1. The property is located on Bragg Hill Road and consists of 2.7 acres. The property is owned by Joshua and Danielle Livingston. The parcel is identified as 06-057d in the Rural Residential District.

2. This parcel has the following permits:
   a. #3750 Subdivision (2022)

3. The Property is adjacent to land owned by Breucher Investments LLC, Tina & James Darrow and Rudolph & Anna Skalka.

4. The applicant was issued a Water/Wastewater Permit WW-5-8946-1 for 06-057d (Lot 3) from Vermont Agency of Natural Resources on September 19th, 2023.

5. There is no change to lot lay out established in Subdivision # 3750. They are seeking to establish 06-057d (Lot #3) as developable per Section 6.2 of the Fayston Land Use Regualtions which they deferred/waived in Subdivision # 3750.

6. 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.

7. 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.

8. 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

9. 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.

10. Pursuant to Section 7.1(B)(1), **Minor Subdivisions** shall include lot line or boundary adjustments between existing lots that do not result in new or nonconforming lots; 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; and amendments to an approved subdivision plan that will not substantially change the nature of any previous subdivision or conditions of approval.

11. Pursuant to Section 6.1(A) The DRB shall evaluate any minor or major subdivision of land as defined in Section 7.1 in accordance with the standards set forth in this Article. Where these standards conflict with other provisions of these regulations, the more stringent shall apply.

Decision:

DRB members voted as follows to approve subdivision application #3887 and Conditional Use Application #3902 with the following conditions:

1. Submit to the Town Clerk the required mylar plat for recording within 180 days of the date of this decision.
2. Obtain and follow all necessary State and Federal permits. Copies of these permits shall be submitted to the Town of Fayston. Copies of any drawings that supersede the design shown on the materials presented to the DRB shall be submitted to the Town of Fayston.
3. An Access Permit will need to be permitted by the Selectboard after the proper approvals are granted by the Development Review Board per Section 3.1(A) of the Fayston Land Use Regulations.
4. Submit an updated site plan showing a defined limits of disturbance that would include the building envelope, components of the Wate/Wastewater System, and general area of the driveway.
5. Submit an updated site plan showing proposed site grading (Cut & Fill) in accordance with Section 3.4 of the Fayson Land use Regulations.
6. Site work shall be conducted in accordance with the State of Vermont Low Risk Site Handbook for Erosion Prevention and Sediment Control.

Jim Donkersloot: **YES**/no/abstain/absent/recuse
Peter Ludlow: **YES**/no/abstain/absent/recuse
Ky Koitzsch: **YES**/no/abstain/absent/recuse
Michael Quenneville: **YES**/no/abstain/absent/recuse
Daniel Young: **YES**/no/abstain/absent/recuse

Dated at Fayston, Vermont, this 15th day of October, 2024.

_____,
Daniel 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.