

**TOWN OF BARNARD**  
 Development Review Board  
 Application for Conditional Use Review  
 Findings and Decision

**Jay & Linda Caruso**  
**Permit Application No. ZP22-23**

**Conditional Use Hearing:**  
 ZP22-23

For Parcel 01-0123, 71 Garnet Hill in the Town of Barnard, VT. The proposed project is described as follows: A sound reducing stockade fence 9 FT +/- tall, 400 FT +/- long with setback waiver requested.

**INTRODUCTION AND PROCEDURAL HISTORY**

1. This proceeding involves review of an application for Conditional Use submitted by Jay & Linda Caruso under the Town of Barnard Zoning Regulations on file at the Barnard Town Hall offices.
2. The application was received by Town of Barnard Administrative Officer Rob Ramrath and considered complete on October 31, 2022. A copy of the application is available at the Barnard Town Hall offices.
3. On November 3, 2022, a public hearing notice was published in the Vermont Standard and physically posted at the Barnard Town Hall offices, inside & outside and at the Barnard General Store on October 31, 2022.
4. On October 31, 2022, a copy of the notice of a public hearing was emailed to the applicant. The notice of public hearing was sent via U.S. Post on October 31, 2022 to the following owners of properties adjoining the property subject to the application:

Owner Name	Co-Owner Name	Owner Address	Owner Address 2	Owner City	Owner State	Owner Zip
FULLER LAURANCE	FULLER NANCY ET AL	C/O RICHARD & LAURA BEVIER	PO BOX 186	BARNARD	VT	05031
GRAY CAMP		PO BOX 51		TAFTSVILLE	VT	05073
LAWLER HEATHER		PO BOX 54		BARNARD	VT	05031
TWIN FARMS LLC		PO BOX 115		BARNARD	VT	05031
WEBER JESSICA	GALAROWICZ DEAN	PO BOX 275		BARNARD	VT	05031

5. The application was considered by the Development Review Board at a public hearing on December 5, 2022 following a site visit. The Development Review Board reviewed the application under the Town of Barnard Zoning Regulations, as adopted November 6, 2012.
6. Present at the hearing were the following members of the Development Review Board:
  - a. Teo Zagar
  - b. Doreen Hurley
  - c. Ellen Miles
  - d. Kurt Lessard

e. Greg Boulbol

7. At the outset of the hearing, the Development Review Board afforded those persons wishing to achieve status as an interested person an opportunity under 24 V.S.A. § 4465(b) to demonstrate that the criteria set forth in that statute could be met. A record of the name and address of persons wishing status as an interested person is indicated below. All persons on the list were present and actively participated in the hearing.

<u>NAME</u>	<u>MAILING ADDRESS</u>	<u>BARNARD PROPERTY ADDRESS</u>
Heather Lawler	PO Box 54 Barnard, VT 05031	84 Garnet Hill
Doug VanDalinda	PO Box 54 Barnard, VT 05031	84 Garnet Hill

8. During the hearing the following exhibits were submitted to the Development Review Board:
- a. Board Review Package including:
    - i. Hearing Agenda.
    - ii. Logistical Checklist.
    - iii. Zoning Permit Application.
    - iv. Certified Abutter's List.
    - v. Abutter and Public Warning.
    - vi. Easement Deed
    - vii. Applicable excerpts from the Barnard Zoning Regulations.
    - viii. Sketch of conforming setbacks in the area of the intended fence installation.

## **FINDINGS**

Based on the application, testimony, site visit, exhibits, and other evidence the Development Review Board makes the following findings:

1. The applicant seeks Conditional Use approval for a sound reducing stockade fence 9 FT +/- tall, 400 FT +/- long with setback waiver in the RFF district. The application states the planned location of the fence is along the property boundary. During testimony, the applicant stated the fence location would conform to the stipulations of the easement deed in the pond area. The subject property is a 4.5 acre parcel located at 71 Garnet Hill in the Town of Barnard (tax map parcel no. 01-0123).
2. The property is located in the Rural, Forest, and Farmlands (RFF) District as described on the Town of Barnard Zoning Map on record at the Town of Barnard municipal office and section 2.2.3 of the Barnard Zoning Regulations.

3. The fence as specified in the application is higher than 5 feet, therefore requiring Conditional Approval and subject to setback requirements of the Barnard Zoning Regulations unless granted a setback waiver.
4. The conforming setback requirements are 30 feet to property boundaries and 50 feet from centerline of shared driveway right-of-way.
5. According to Barnard Zoning Regulations: a) Granting the waiver will be consistent with the purposes of this Bylaw; and b) That granting the waiver will not create an undue adverse affect on: 1. natural resources, rural character or aesthetics; 2. public safety; and 3. the ability of an abutter to use their property.
6. The applicant addressed many questions by the DRB regarding use, future intentions, and details of property. The applicant was unable to define the intended fence location due to potential issues with ledge and soft ground that may be encountered at the time of installation.
7. With a stream, soft ground and pond in the area, there may be an adverse effect on natural resources. No formal report of a wetlands specialist was presented.
8. Locating the fence at the property boundary of parcel 01-0745, 84 Garnet Hill, results in the fence being placed at the edge of the driveway for this parcel. This compromises the ability of the owner to remove snow efficiently and effectively.
9. Locating the fence at the property boundary of parcel 01-0745, 84 Garnet Hill, results in the fence being placed at the edge of the driveway for this parcel. This compromises visibility for the owner to safely negotiate the driveway.
10. The height of the fence, directly on the property boundary of parcel 01-0745, 84 Garnet Hill, negatively impacts the aesthetics for the owner. The height of the fence negatively impacts the aesthetics of the general area

During the Deliberative Session a motion was made to deny the application based on the above findings. The vote was unanimous to deny the application.

## DECISION

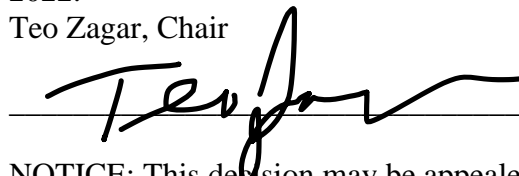
Based upon these findings the Development Review Board denies the application for a sound reducing stockade fence 9 FT +/- tall, 400 FT +/- long with setback waiver in the RFF district, ZP-22-23.

This document authored by Rob Ramrath, Clerk, Barnard Development Review Board. Dated at Barnard, Vermont, this 8th day of December, 2022.

  
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Development Review Board Denial, Dated at Barnard, Vermont, this 8th day of December, 2022.

Teo Zagar, Chair

  
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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.