

**FAYSTON DEVELOPMENT REVIEW BOARD
MINUTES
TUESDAY JANUARY 12, 2016**

Attending: DRB Members: Jon Shea (Chair), Mike Quenneville, Leo Cohen, and Kevin Wry.
ZA: John Weir. Public: Richard Petit, Bill Elliot, Lisle Gilbert, Carol Chamberlin

The meeting opened at 6:12 p.m.

Jon Shea opened the hearing for application #3350 (parcel ID #03-024.000, located off Rankin Road, Fayston). This hearing was continued from the prior date of December 8, 2015. Applicants Dale and Patricia King seek approval under Article 7 of the Fayston Land Use Regulations for a minor subdivision of one 53-acre lot into two lots of 14.2 acres and 38.8 acres.

The applicant proposes to divide his existing 53-acre parcel into two lots. Lot 1 will be 38.8 acres and will be retained by the applicant. Lot 2 will be 14.2 acres and will be sold to adjoiner Richard Petit. There are no plans for development on Lot 2, as Mr. Petit intends to buy it in order to protect his viewshed. This second lot is mostly wooded, with steep slopes and it only flat at the bottommost portion.

At the December 8, 2015 hearing, members found deficient the preliminary site plan as submitted by the applicant. It was agreed that both contours and wetland delineations are required to be mapped on the site plan. These requirements cannot be waived by the Board when reviewing *minor* subdivisions. As these required attributes are absent from applicant's preliminary site plan, members thought it best to continue the hearing to allow the applicant's engineer to include them.

For this hearing, the applicant filed additional materials for this application. A revised site plan was submitted which depicted the required contours. Applicant also submitted a Vermont Agency of Natural Resources (VANR) Wetland Inventory Map of the subject parcel. The map indicated that there are no mapped Class I or Class II wetlands on the property. The closest Class III wetland advisory site is located off the property to the north.

The applicant also stated (via letter) that a water/wastewater permit application is currently being prepared by Mark Bannon, engineer. The permit application will designate the parcel "development rights deferred." Applicant adds that "This application for subdivision meets all of the requirements for subdivision with no additional future development plans." The applicant is comfortable with a condition of approval that requires a deed restriction, in the sale of Lot 2 to adjoiner Richard Petit, prohibiting any development on said parcel without first seeking approval from this Board. This would necessitate a more detail-specific site plan that mapped any wetlands on or near to the parcel in question.

Richard Petit, on behalf of the applicant and as future owner of Lot 2, agrees that any such restriction on development of this parcel would be included in the deed.

Mike moved to close the hearing, and Leo seconded. All were in favor and the motion passed.

Chair Shea opened application #3351 (parcel ID# 08-014, located at 2354 Mill Brook Road, Fayston). Applicant Lisle Gilbert seeks approval under Article 7 of the Fayston Land Use Regulations for a minor subdivision of 4.4-acre parcel into two lots of 3.3 acres and 1.1 acres. The parcel as it exists now consists of the Garrison (10-bedroom lodge with apartments) as well as a house. The application proposes to siphon off a 1.1 acre parcel which would include the house, with a separate 3.3 acre parcel that would encompass the lodge. The existing stream that cuts through the property is the proposed boundary line between the two proposed parcels.

On July 14, 2015, the same application was presented as application #3323 to this Board. At that hearing, applicant's subdivision proposal was denied on account of the Board's interpretation of Section 3.7 (D) of the Fayston Land Use Regulations. That section prohibits the Board from approving any application that creates a non-conforming lot. In this instance, the house on one side of the stream (1.1 acre parcel) sits too close to the brook and does not meet the 50-foot riparian setback requirement. Subsequent to the denial of application #3323, Attorney Sheila Getzinger petitioned this Board to re-visit this subdivision, stating their decision was based upon an incorrect interpretation of Section 3.7 (D). The question was whether the lot was actually non-conforming or merely the *structure* was. If it is the structure that is non-conforming, and in fact it would be possible to set a structure on the 1.1-acre parcel that would meet all setbacks, then the lot could not be determined to be non-conforming. Rather, in this instance, it is the existing structure that is non-conforming.

Chair Shea asked about the preliminary sketch plan review requirement. Bill Elliot responded that he had requested in writing that the requirement be waived. John affirmed that. Mike moved to waive the preliminary sketch plan review requirement, and Kevin seconded. All were in favor and the motion passed.

Members then took a minute to further review the narrative provided by Attorney Getzinger on behalf of the applicant.

Kevin asked Bill Elliot whether the lot had its own septic system. Bill responded that it did. It failed and was replaced in 2003.

Members then stressed to the applicant that, upon proper surveying of the parcels, both parcels must amount to one acre or more. Members stated that any movement of the boundary line must satisfy the one acre minimum requirement.

Kevin moved to find the application complete, and Mike seconded. All were in favor and the motion passed.

Leo moved to declare the application one for a minor subdivision, and Kevin seconded. All were in favor and the motion passed.

Kevin moved to close the hearing, and Mike seconded. All were in favor and the motion passed.

The Board went into deliberative session to discuss the applications.

The meeting adjourned at 7:22 p.m.