

**FAYSTON DEVELOPMENT REVIEW BOARD**  
**MINUTES**  
**TUESDAY, JUNE 12, 2018**  
**Unapproved**

Attending DRB Members: Jon Shea (Chair), Shane Mullen, Lindsay Browning, Mike Quenneville, and Jared Alvord; ZA: John Weir; Public: Gunner McCain, Kevin Powers, Jeff Halpin, Raymond Schenk, and Heidi Schenk

The meeting opened at 6:02 p.m.

Jon Shea opened the hearing for application #3475 (parcel ID #03-020.001, located off 1461 Airport Road, Fayston). Applicant Bob Grandfield requests approval under Section 7 of the Fayston Land Use Regulations for a lot-line adjustment (minor subdivision) of 2.80 acres.

Applicant Jeff Halpin currently lives on a 48-acre parcel owned by Robert Grandfield, which includes a garage structure with an apartment above. Grandfield also owns one abutting 1-acre parcel bought at tax sale from the Town of Fayston. Applicant is currently under contract to purchase the 1.8 acres from the larger parcel, in addition to the abutting 1-acre parcel purchased at tax sale by Grandfield. Pending approval of this application, Mr. Halpin would purchase 2.8 acres as a new lot.

Mr. Halpin stated that the septic system for the garage apartment sits on the separate 1-acre parcel. The system is designed large enough to encompass another house on the 1-acre parcel. The applicant stated that, although no further development is proposed at this time, a separate single-family dwelling is a possibility in the future. The dwelling would be just west of the existing garage with apartment. There are steeper slopes on the proposed new parcel, which may trigger conditional use review for either or both a future dwelling and driveway access.

Chair Shea asked whether abutters had been properly notified of the application. John stated that proof of mailing is on file. Mike moved to find the application complete, and Lindsay seconded. All were in favor and the motion passed.

Applicant requested waiver of preliminary sketch plan review. Jared moved to waive preliminary sketch plan review for this lot-line adjustment, and Shane seconded. All were in favor and the motion passed. Shane moved to declare the application one for a minor subdivision, and Mike seconded. All were in favor and the motion passed. Shane moved to close the hearing and Mike seconded. All were in favor and the motion passed.

Jon Shea opened the hearing for application #3479 (parcel ID #07-044.001, located off 1664 Tucker Hill Road, Fayston). Applicants Kevin and Deb Powers request approval under Section 3.6 (D) (1) of the Fayston Land Use Regulations for a front setback waiver from 65 feet down to 45 feet.

Chair Shea let the applicant know that he had a right to a full board, as Lindsay had to step away to the Selectboard meeting. Applicant wished to proceed without a full board.

Chair Shea asked whether abutters had been properly notified of the application. John stated that proof of mailing is on file. Shane moved to find the application complete, and Mike seconded. All were in favor and the motion passed.

Gunner McCain presented the application. The applicant is requesting a front setback waiver to accommodate proposed improvements to the existing residence. The buildable area on the project site is limited due to septic and hydrologic/topographic conditions, which has constrained the development ability of the site to the southeast portion of the property. Accordingly, a setback waiver is necessary to accommodate the proposed additions. Applicant requests a 20-foot front setback reduction from the centerline of Tucker Hill Road. Furthermore, there is a 50-foot right-of-way at the southern edge of the property. Gunner stated that, per the Fayston Land Use Regulations, a shared right-of-way is a road and, in this instance, could be considered such with regard to the front setback. Applicant is also requesting relief from the ROW should the ROW be determined as the measure for the front setback. Gunner added that the proposed building envelope for the site has been sited to avoid natural features. The project proposes various additions, including a garage and porches.

Pursuant to Section 5.2 (A), conditional use application requirements were met. Jared moved to find the application complete and Lindsay seconded. All were in favor and the motion passed.

Shane noted that some of the slopes in the build area seemed to exceed 25% in grade. Gunner stated that was correct, as the area has been disturbed over the years (i.e. grading, excavating). Gunner stated that it is basically manufactured lawn. The applicants have manicured the lawn over the years and done contour work to achieve better drainage.

Char Shea then proceeded to Section 5.4 (A) for review. The Board found the residential addition via proposed setback waiver would have no effect on the capacity of existing or planned community facilities or services (Section 5.4 (A) (1)). The Board found the proposed addition would have no effect on the existing rural character of the area (Section 5.4 (A) (2)). The Board found the proposed addition would have no effect on traffic on the roads in the vicinity (Section 5.4 (A) (3)). The Board found that the proposed addition is otherwise in conformance with all other existing bylaws in effect, including Section 3.6 (D) (1), (Section 5.4 (A) (4)). The Board found that the proposed addition would not interfere with the sustainable use of renewable energy resources (Section 5.4 (A) (5)).

Members then proceeded with Undue Adverse Effect analysis pursuant to Table 5.1.

Accordingly, the DRB shall determine if the proposed addition with setback waiver would create an adverse effect upon the resource, issue and/or facility in question. The Board shall determine such by responding to the following question: Does the project have an unfavorable impact upon the resource, issue and/or facility in question? Shane moved to find that the proposed project will have no adverse impacts on any of the criteria set forth in Section 5.4 (A) (1-5). Mike seconded. All were in favor and the motion passed.

Mike moved to approve the application as presented for a front setback reduction down to 45 feet for proposed additions, with the following condition: 1) obtain and follow all necessary State permits. Lindsay seconded. All were in favor and the motion passed.

Jon Shea opened the hearing for applications #3476-77 (parcel ID #03-088.000, located off 2789 Center Fayston Road, Fayston). Applicants Bruce Depper and Jane Goldstein request conditional use approval under Section 4.11 (E) of the Fayston Land Use Regulations for a pond.

Gunner McCain again presented the application. Gunner stated that the residential pond requires conditional use approval due to the proposed pond having a berm approximately 12 feet in height, as measured from the lowest elevation of the downstream toe to the crest. Gunner added that the pond would be constructed on slopes less than 25% in grade.

Chair Shea inquired whether portions of the pond as proposed exceed slopes of 15% in grade. Gunner said it does just exceed 15% in grade in some places. Shane asked whether the proposed pond would impound more than 100,000 cubic feet of water. Gunner responded that it would be less.

Gunner stated that, although the pond would hold less than the prescribed 100,000 cubic feet of water, the proposed berm exceeds the 10-foot requirement of Section 4.11. Gunner added that there is nothing downstream of the pond other than the road. Chair Shea asked if there was a stream that would feed the pond. Gunner stated that there is a small stream in the vicinity, however it is expected that the area is wet enough for the pond to fill itself. Mike asked about property lines in relation to the proposed pond. Gunner stated that the pond would be 200-300 feet from any property line, as it would be situated well within the parcel bounds. Mike asked about the width of the berm and fill. Gunner responded that the berm would extend another 22 feet out. Shane asked whether the applicants would use the materials they excavate and Gunner replied that the intent would be such so long as the soils are adequate. Chair Shea asked about the total cubic feet of water the pond would impound. Gunner stated that it would be about 25,000 cubic feet. Chair Shea asked whether the applicants would need any other approval. Gunner responded in the negative. Jared asked whether there is an expectation that there will be water flowing. Gunner stated that there is. Gunner stated that there is an overflow pipe that would drain to a splash pad and then disperse down the hill. Jared asked what would feed the pond and Gunner said groundwater seeps coming in. Gunner added that there is a spring which could be tied into the pond should it be needed. Jared asked whether the site plan was depicting the pond as 75 feet from the closest edge of the stream. Gunner said that was correct.

Chair Shea asked whether the application was complete. John said that it was, as abutter notifications were on file. Lindsay moved to find the application complete and Mike seconded. All were in favor and the motion passed.

Chair Shea then proceeded with review under Section 4.11. Pursuant to Section 4.11, any pond that impounds more than 100,000 cubic feet of water or includes a structural element greater than ten (10) feet high measured from the lowest elevation of the downstream toe to the crest shall be subject to conditional use review pursuant to Article 5. In granting approval, the DRB shall find that: 1) The proposed pond is designed and certified by a Vermont licensed professional engineer with experience in pond design; 2) The proposed pond poses no danger to neighboring properties, roads, bridges and culverts; and 3) The project has received a permit from the

Vermont Department of Environmental Conservation in accordance with 10 VSA Chapter 43 if the proposed pond will impound or be capable of impounding more than 500,000 cubic feet of water.

Chair Shea inquired whether a Vermont-licensed engineer would design and certify the pond pursuant to Section 4.11 (E) (1). Gunner stated in the affirmative, as George McCain holds such licensure.

Shane inquired as to Section 4.11 (E) (2), whether the proposed pond poses any danger to neighboring properties, roads, bridges, and culverts. Shane asked whether the applicants could provide a letter from the engineer attesting to such. Gunner responded that was fine. Chair Shea stated that the Board usually asks for an engineer certification that the pond was constructed according to the approved certified plans and specifications. Gunner said that would not be a problem. Chair Shea and Shane reiterated that this would be a condition to approval. Shane added he was concerned about the pond discharging into an open field without a proper conveyance way to the road. Shane is concerned that the path may be chewed out over time, leading to potential ditching problems along the road. Shane would like to add a condition that protects against this possibility. Chair Shea asked again about the overflow. Gunner stated that, directly downhill of the pond, he would redirect the pipe to come down more towards the middle, and rather than a stone splash pad he would use a 30-foot level spreader. Gunner reiterated that there should not be raging waters coming from the pond as there is no water source feeding it and that precipitation events shouldn't create too much of an issue, and there is an emergency spillway should some large event occur. Chair Shea inquired as to what happens when a pond such as this does not have too much turnover, do you have to aerate it. Gunner stated that the site plans depicts an electrical line coming down to the pond because applicants are contemplating a fountain which is not only aesthetic but aerates the water. Chair Shea asked about lighting. Gunner responded that, per the narrative submitted with the application, lighting will be downcast and shielded, a maximum of 5 fixtures, 3 near the pond and 2 on the path to the pond. Gunner added that there will be a walking path along the electrical line. Chair Shea asked how long the path was from the driveway to the pond. Gunner said about 400 feet. Shane asked whether the path would be within the stream buffer. Gunner said it would be outside of the stream buffer.

Chair Shea then reviewed the application requirements for conditional use applications as set forth under Section 5.2 (A). Finding no need for additional information, Lindsay moved to find the application complete and Jared seconded. All were in favor and the motion passed.

Chair Shea then proceeded to Section 5.4 (A) for review. The Board found the pond would have a potential impact on the capacity of existing or planned community facilities or services (Section 5.4 (A) (1)). Specifically, the Board believed there would be a possible impact on the road below in case of pond breach. However, given that the Board would condition approval of the application upon receipt of a statement from a licensed engineer that the pond was constructed according to the approved plans and specifications, this impact is mitigated. The

Board found the proposed pond would have no effect on the existing rural character of the area (Section 5.4 (A) (2)). The Board found the proposed pond would have no effect on traffic on the roads in the vicinity (Section 5.4 (A) (3)). The Board found that the proposed pond is otherwise in conformance with all other existing bylaws in effect, specifically Section 4.11 (E). The Board found that the proposed addition could impact the sustainable use of renewable energy resources (Section 5.4 (A) (5)). However, although the pond would require power, aerating a pond would be a minimal use.

Members then proceeded with Undue Adverse Effect analysis pursuant to Table 5.1.

Accordingly, the DRB shall determine if the proposed pond would create an adverse effect upon the resource, issue and/or facility in question. The Board shall determine such by responding to the following question: Does the project have an unfavorable impact upon the resource, issue and/or facility in question? Having found that the proposed pond may have an adverse impact on the capacity of existing or planned community facilities or services (Section 5.4 (A) (1)) in case of breach, members proceeded to the next parts of the test: (A) whether the project conflicted with a clear, written standard in the regulations or municipal plan applicable to the resource, issue or facility in question (Figure 5.1 (2) (A)); and (B) can the unfavorable impact be avoided through site or design modifications, on mitigation, or other conditions of approval (Figure 5.1 (2) (B))? Members agreed that the answer to (2) (A) was “no” and the answer to (2) (B) was “yes.” Shane moved to find that the project meets the general review standards as outlined in Figure 5.1’s test on undue adverse effects. Mike seconded. All were in favor and the motion passed.

Shane moved to approve applications #3476-77 for a pond with the following conditions: 1) design and implement a splash pad or above-mentioned 30-foot spreader; 2) the pond is certified by a Vermont licensed engineer with experience in pond design; 3) statement from licensed engineer certifying pond construction was done according to approved plans and specifications; and 4) signed statement that the pond poses no danger to neighboring properties or infrastructure. Lindsay seconded. All were in favor and the motion passed.

Jon Shea opened the hearing for application #3478 (parcel ID #06-112.004, located off Phen Basin Road, Fayston). Applicants Matty and Megan Wishnow request approval under Article 7 of the Fayston Land Use Regulations for a building envelope amendment to a previously approved four-lot subdivision.

Gunner again presented the application. This application proposes to adjust building envelope A on Lot 3 of the Hunt subdivision. The building envelope will be extended approximately 25 feet in a northeasterly direction in order to accommodate the proposed house. The revised building envelope will meet the required 25 foot setback for the Rural Residential District in which it is located, as the original project was permitted with a 50-foot setback at the request of the subdividers Steven and Kate Hunt. The Hunts have submitted written approval of the building envelope revision, and still own the other remaining lots.

In the previously-approved Hunt subdivision, Lot 3 has two different building envelope options. The original approval provided the option for a buyer/developer to choose which building envelope, each with different access points. The Wishnows have chosen the upper envelope and as a result access will be from Mad River View Road. When seeking subdivision approval, the Hunts asked for and received expanded setback distances of 50-feet. The reason for this application is to adjust that expanded setback distance back down to 25 feet.

Chair Shea inquired whether proof of abutter notice was on file. John said it was. Lindsay moved to find the application complete and Shane seconded. All were in favor and the motion passed.

Per Section 7.7 of the Fayston Land Use Regulations, revisions to an approved subdivision plat must receive DRB approval at a public hearing. No specific criteria need be met aside from such revisions meeting all other applicable regulations (i.e. setbacks, slopes etc.).

Lindsay moved to approve application #3478 for a subdivision amendment with the conditions 1) that a mylar of the approved plat be submitted within 180 days of the date of decision and 2) that building envelope B be removed from the site plan/final mylar. Mike seconded. All were in favor and the motion passed.

Chair Shea wanted to make sure new members had received the Board bylaws and rules of procedure. John had sent them out after last meeting. Members should review them if they haven't already, and be familiar with the rules going forward.

Members entered deliberative session at 7:45 p.m. to make a decision on the Grandfield application. Members exited deliberation at 7:48.

Members reviewed the Minutes of June 12, 2018. Shane moved to accept the Minutes and Lindsay seconded. All were in favor and the motion passed.

The meeting adjourned at 8:05 p.m.