

**FAYSTON DEVELOPMENT REVIEW BOARD**  
**MINUTES**  
**TUESDAY, MAY 14, 2019**  
**Unapproved**

Attending DRB Members: Shane Mullen (Vice-Chair), Jared Alvord, Lindsay Browning, Mike Quenneville, and Ky Koitzsch; ZA: John Weir; Public: David Frothingham, Gunner McCain, Patrik Kasic, Charlotte Potter-Kasic, Peggy Potter, Lisa Williams, Todd Hill, Allison Johnson

The meeting opened at 6:05 p.m.

Vice-Chair Mullen opened the continued hearing for applications #3518-3519 (parcel ID #04-020.000, located off Mad Ellen Road, Fayston). This hearing is continued from the April 9 meeting. Applicants Patrik Kasic and Charlotte Potter-Kasic request approval under Article 7 of the Fayston Land Use Regulations for a lot-line adjustment (minor subdivision) (#3518). Applicants also request conditional use approval under Section 3.4 (C) (1) (d) of the Fayston Land Use Regulations for development on slopes between 15% - 25% in grade (house site) and slopes greater than 25% in grade (driveway) (#3519).

This application is for the proposed reconfiguration of existing parcels 04-20-c & 04-20-e which are adjoining lots owned by Sparky and Peggy Potter. The 04-20-c parcel will be reconfigured from 41.3 acres to 17.5 acres. The 04-20-e parcel will be reconfigured from 3.7 acres to 27 acres and will be improved with a single-family residence. The project site contains land in both the Rural Residential District and the Soil & Water Conservation District. The proposed lots will meet the dimensional requirements for both Districts, with the exception of frontage requirements. A lot served by a permanent right-of-way may be approved by the DRB under Section 3.1. The applicant requests a sketch plan waiver as the proposed project meets the definition of a “minor subdivision” and is only affecting two lots. Conditional use approval is sought for the driveway, house/accessory structure location, and other associated infrastructure. The project has two building envelopes, one will contain the house, and the other will contain the proposed accessory structure. The proposed apartment is approximately 24% the size of the proposed primary dwelling.

Gunner McCain presented the updated plans as requested by the Board after the April 9 hearing and April 24 site visit. Gunner discussed the site visit where it was evident that the road had some ditching but needed more. Upgrading the existing woods road would be much more than just grading. Gunner noted the significant changes to the plans, as requested by the Board. These included: modification of the ditch detail such that it is now a trapezoidal two-foot bottom; additional contour mapping of the entire road/driveway; ditch detailing to 2-on-1; and removal of “preliminary” stamp from plans. Gunner added that the CGP analysis for the project comes out at low-risk. Gunner noted that the plans as submitted state the project will follow the Low-Risk site handbook. Mike still would like to see a depression at the first culvert past Judy Dimario’s house so that water does not flow down the wheel tracks. Gunner would be amenable to this.

Shane questioned the 1-on-1 side slopes shown on the plans. Section 3.4 (E) (3) (g) states: “Cut and fill slopes will be rounded off to eliminate any sharp angles at the tops, bottoms and sides of regarded slopes, and shall not exceed a slope of one vertical to two horizontal (1:2), except where retaining walls, structural stabilization or other accepted engineering methods are proposed. Structures will be set back from the tops and bottoms of such slopes an adequate distance (generally six (6) feet plus one-half the height of the cut or fill) to ensure structural safety in the event of slope collapse.” Gunner stated the he believed armoring would be an acceptable alternative. Gunner added that he went with structural stabilization on the 1-on-1 slopes with riprap, noting the contractor can go to a 2-on-1 with jute netting if so desired. Shane okayed.

Shane asked about parking. Gunner stated three spaces, two for the home and one for the accessory dwelling. There is a turnaround too.

Shane noted the cut-off swale for erosion control had been added to the plans per request.

Mike asked about power. Gunner stated that they’d like to go over head until at least the last stream crossing, and then power will run underground to the house. Gunner would like the permit to allow for both.

Shane inquired as to how Gunner would keep tabs that the erosion control devices were working properly during construction, especially should there be a heavy rain event or a need to repair/replace. Gunner stated that the CGP requires that an onsite coordinator do inspections weekly as well as after a heavy rain event. Gunner added that he too could be available to visit the site and ensure the erosion control techniques were operating properly and in accord with the plans as approved. Shane reiterated the concerns of abutter and interested party Peter Terraciano, whose spring is downhill of the project. It would be good to check on the site during the construction to ensure that the proposed erosion control devices are ensuring no harm to the Terraciano spring.

Lindsay moved to declare application #3518 (for a lot-line adjustment) a minor subdivision. Mike seconded. All were in favor and the motion passed.

Lindsay moved to close the hearing and Jared seconded. All were in favor and the motion passed.

Vice-Chair Mullen opened the hearing for application #3522 (parcel ID# 14-047.001, located off Slide Brook Road, Fayston, lot 2 of the Crean subdivision). Applicants Allison Johnson and Jeffrey Dreker request approval under Article 7 of the Fayston Land Use Regulations for a building envelope amendment to a previously approved four-lot subdivision.

Todd Hill presented the application. Applicants hired Todd to visit the site and stake out the building envelope, well and septic locations. Todd found the original location of the building envelope to make little sense in relation to the septic and well locations. The original well location was downhill on a slope of 20% in grade. This would necessitate creating a road down the slope to the originally-proposed well location, as well as cutting a swath of conifer trees. Todd noted that the issues pertaining to the Crean subdivision centered on deeryard and bear

habitat. Todd stated that none of the habitats touched this subject parcel, and in fact the proposed house envelope is even farther away from the mandated habitat buffers than the original. Most of the existing building envelope sits on the north-facing 20% slope. Applicants wish to utilize the already-cleared portion of land adjacent to the existing building envelope for their home. This would provide a southern-facing direction with mountain views as opposed to a viewshed of neighboring houses. Todd has relocated the well to a location more feasible without putting in a road for access. Todd has also rearranged the septic fields and design. He will be seeking a wastewater amendment subsequent to this local proceeding. Todd noted that there were errors and inconsistencies in the locations of the well and septic fields in the original site plans. These have all been cleaned up for purposes of this application.

ZA Weir brought to attention the court-approved settlement agreement for the original Crean subdivision. Specifically, Condition #10 states that "Single-Family homes may be constructed only within the approved building envelopes..." ZA Weir noted that legal agreements, including covenants, restrictions etc. have no bearing on DRB proceedings, as those are conducted solely pursuant to the land use regulations. Applicant Johnson stated that the only other purchaser/developer of a Crean lot, Jean Towne, prefers the adjustment as it will move the house farther away from her property.

Vice-Chair Mullen asked if proof of abutter notifications were on file. ZA Weir stated proof was on file. Jared moved to find the application complete, and Mike seconded. All were in favor and the motion passed. Lindsay moved to close the hearing, and Jared seconded. All were in favor and the motion passed.

Vice-Chair Mullen opened the hearing for application #3524 (parcel ID# 01-063.002, located off Dunbar Hill Road, Fayston). Applicant Lisa Williams requests conditional use approval under Section 3.4 (C) (1) (d) of the Fayston Land Use Regulations for development of a driveway on slopes between 15% - 25% in grade. Applicant is currently under contract to purchase the property from its current owner the Agnes Dunbar Family Trust.

Lindsay asked whether the application was complete. Site plans are on file in addition to the proof of abutter notifications. Jared moved to find the application complete, and Lindsay seconded. All were in favor and the motion passed.

Applicant Lisa Williams and engineer David Frothingham presented the application. There is an existing right-of-way (ROW) that the Town gave up some years back. To access the landlocked subject parcel, one must come up Dunbar Hill Road and turn into the shared driveway of Bruce Dunbar and Kevin Ripley. Continuing straight between the Dunbar and Ripley properties is the former Town ROW. After approximately 340 feet of the ROW, applicant wishes to cut into the property off the ROW and construct a drive up to the house site near the back of the property. This portion of the land is higher and dryer than the land encompassed by the continued ROW. It is also an old logging road. There is also a swath cut in as well. Applicant chose a house site near the back of the property in order to preserve two larger and flatter areas for horse pasture.

Applicant provided pictures to aid the Board in understanding the proposal and the existing lands. Where applicant proposes to cut off the existing ROW and construct the drive up to her

house, there is already a ditch line. David added that construction would be simply to strip the topsoil and lay the drive down on the existing grade. There would be no need to cut anything. The logging road is wide enough and already cleared. The logging road continues to be used as there are tire tracks. There is an existing 15-inch culvert at the Y, and applicant proposes adding another 15-inch culvert across the driveway. The whole driveway will be mono-pitched to pitch everything to the west side. The existing channel will be stabilized.

Shane asked about the driveway grade. David reiterated that the driveway was designed to be at existing grade. There is no need for excessive cut or fill. The driveway will follow the natural contours and existing pitches of the woods road. David stated that there are segments that approximate 20% in grade. For the most part, however, it is around 15% in grade or less.

Shane asked Mike whether he'd like to see anything different on the driveway plan. Mike believes adding a small swale or a dip to help disperse the water into the ditch would be a good idea. Otherwise the runoff could follow the wheel tracks. David said he could add one in, although he prefers not to cut into the slope at all if not necessary. Mike stated that the swale could be placed farther up from the bottom of the driveway if that would avoid cutting.

Applicant noted that she may pursue a minor subdivision should she get approved and close on the property.

At this point, ZA Weir brought to attention an email from abutter Paul Dudley. Paul could not attend the meeting, but provided written concerns to ZA Weir. Paul has a spring close to the project boundary and is worried about runoff and/or water disruption. Paul would like interested party status. The Board so affirmed. David affirmed that the distances are more than adequate, as the worst case for the well shield is 500 feet from the spring downhill. Regarding Paul Dudley's spring, the distance is 500 feet uphill. The applicant asked about spring rights and access, specifically whether she had a duty to maintain an abutter's spring or just allow access to it on her property. Her duty is to allow for access to the spring, not to maintain it. Shane mentioned that the applicant should think about some sort of water runoff diversion from her horse pastures away from the spring shields. This could be a cutoff swale or some other dispersion method. David stated that this will have to be worked out when they apply for a wastewater permit, as the spring shields and septic fields will have to be delineated. Shane asked David what the isolation distances were for a spring. David stated 250 feet. Shane asked about isolation distance from a well. David stated it was 100 feet.

Shane inquired about the potential for a future minor subdivision. Shane asked whether if the addition of a second house on the driveway would turn the driveway into a private road. Applicant stated that this has been contemplated, as the drive would be 14 feet wide until the split to come up to her home, where the drive would diminish to 12 feet wide.

Shane brought up erosion control practices for driveways. Shane noted a conflict in the regulations between Section 3.1 (B) (4) and Section 3.4 (E) (3) (d). The former states that driveways which, in any 50-foot section, exceed an average grade of 15% shall use best construction practices and submit an erosion control plan (Section 3.1 (B) (4)). The latter states that no driveway can exceed 15% in grade over any 50-foot section. (Section 3.4 (E) (3) (d)).

David asked whether the intention could really be to prohibit any drive over 15% in grade. Members agreed. It was also noted that the Planning Commission address this inconsistency as soon as possible.

Shane asked about pull-offs. David stated that two pull-offs are proposed: at station 450 and station 1000.

Mike asked whether the existing 15-inch culvert at the Ripley driveway could be changed to an 18-inch culvert instead. David said it would be more difficult to fit in a larger culvert but affirmed he would do as the Board wished. David stated that he chose a 15-inch culvert at the Y because the next culvert down was that size. Mike would like to see both culverts be 18-inch.

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

The Board went into deliberative session at 7:40 p.m. The Board came out of deliberative session at 8:05 p.m.

The Board had its annual organizational meeting. Lindsay moved to elect Shane as the new Chair of the Board. Jared seconded. All were in favor and the motion passed.

Mike moved to elect Lindsay as Vice-Chair of the Board. Shane seconded. All were in favor and the motion passed.

Members reaffirmed the date and time of meetings as the second Tuesday of the month at 6:00 p.m.

Members reaffirmed the places of publication of notice as the town office, the Waitsfield and Moretown post offices, the Valley Reporter, and Fayston town website.

The meeting adjourned at 8:35 p.m.