

FAYSTON DEVELOPMENT REVIEW BOARD
MINUTES
TUESDAY, JANUARY 14, 2020
Unapproved

Attending DRB Members: Shane Mullen (Chair), Mike Quenneville, Pete Ludlow, Lindsay Browning, and Jared Alvord (alternate); ZA: John Weir; Public: Gunner McCain, Ryan Diehl, Matt Lillard, Megan Nedzinski, Kevin Russell

The meeting opened at 6:00 p.m.

Chair Mullen opened the hearing for application #3558 (parcel ID# 07-057.000, located at 755 Mill Brook Road, Fayston). Applicant Downstream Enterprises, LLC requests to construct two double-occupancy auxiliary cabins on existing inn property. Conditional use review is required pursuant to Article 2, Table 2.4 (C) (2), (14) of the Fayston Land Use Regulations as accessory structures to a conditional use (inn).

Gunner McCain presented the application. Applicants are proposing to construct two 9' x 24' auxiliary cabins to be rented out as inn suites at the former Weathertop Mountain Inn. No additional occupancy is proposed. One double occupancy room in the primary structure will be removed, leaving a total of eight double occupancy rooms inside the inn and two double occupancy cabins for a total of 20 guests. Applicant proposes to construct the two cabins to the north side of the inn. Since the cabins would be hooked up to the existing wastewater disposal system, no changes to the wastewater permit are necessary as the occupancy remains the same. Access would be off the existing drive with an extension to the north of the inn.

The site is mapped as within the Special Flood Hazard Overlay District (SFHO). Applicant has located the cabins to be above what Mr. McCain believes is base flood elevation. Applicant is currently pursuing approval from the Federal Emergency Management Agency (FEMA) to have the cabin site removed from the Special Flood Hazard Area (SFHA). Mr. McCain did get a LOMA for the inn structure some years back.

Discussion was had as to the flood maps being erroneous along this section of Route 17. Gunner stated that the FEMA maps have the floodway coming up past the inn. A LOMA was obtained for the inn a few years ago. Gunner has submitted the paperwork to get the cabin sites removed from the SFHA and floodway, but FEMA has yet to approve this request. FEMA prefers a more comprehensive study because FEMA would not like to create another hole in the flood map. When Gunner applies the elevational data contained within the studies FEMA used to generate the maps, it appears that the floodplain limits end on the north side of Route 17. Gunner noted that during Tropical Storm Irene the Applicant's structures did not flood. The current FEMA map illustrates two paths for flood waters, one along Mill Brook and the other through the Applicant's parking area and inn structure. Should the Applicant's property be removed from the floodway there would be a "hole" in the floodway that Gunner indicates FEMA does not want. Gunner said that FEMA would like to see the dots connected on both sides of the map rather than have this hole in the floodway exist. In order to achieve this, Gunner indicated the

study would be large in scope and expensive. Accordingly, Gunner is looking at other options, including individual LOMAs for the two cabins as opposed to the whole site.

Gunner is hoping the Board could condition approval on receipt of the LOMA(s). Another option Gunner proffered was the allowance of temporary structures such as campers and trailers, for occupancy up to 90 days. Applicant could use tiny houses on wheels such that they could be moved and considered temporary. This would allow applicant to bridge the gap until the FEMA amendment process is complete.

Mike asked whether the cabins would be used in the winter should they be permitted as temporary structures. Gunner said yes, as they'd be fully-insulated. Lindsay asked about the proximity of the proposed cabins to the delineated wetlands. Gunner stated about 30 feet from the Class 3 wetlands.

Jared asked how long the applicant would like to have the temporary cabins in place and whether the applicant would come back for the permanent cabins once the LOMA was received. Gunner stated that the preference may be to get approval for both at the same time. Gunner added that there is the possibility that the studies necessary for what FEMA wants would be too expensive for the applicant to undertake. That being said, the Applicant's wife specializes in fluvial geomorphology and her expertise could alleviate some of the cost burden.

Gunner said that he has met with State Floodplain Coordinator Ned Swanberg. Ned stated to Gunner that in order to satisfy FEMA in this particular situation, Gunner would need to start with the original study done by FEMA when the maps were created. Receiving that original map not only costs the requester money, but can take a long time to receive. John asked about where in the regulations Gunner finds it permissible to place a temporary living structure in the SFHO district. Gunner stated that it was his understanding from working in other towns that a trailer, camper or other movable structure was permissible in a floodplain. Pursuant to Table 2.7 (E) (6) (g), recreational vehicles in the SFHO must be fully licensed and ready for highway use; and under subsection (h) a small accessory structure of up to 500 square feet may be permissible in certain instances. Gunner noted that the cabins would be approximately 300 square feet.

Shane reviewed Article 2, Section 2.1 (B), which reads in part: "The location and boundaries of each zoning district are depicted on the official Fayston Zoning Map and include the Special Flood Hazard Area in and on the most current flood insurance studies and maps published by the Department of Homeland Security, FEMA, National Flood Insurance Program ..."

Shane then added that this site is located within the Flood Hazard Overlay District and, until the site is removed from SFHA, the Board is bound to abide by the standards set forth in the regulations. Shane added that there is neither a permitted use nor a conditional use for structures temporary or permanent. Gunner mentioned that this could be considered a permissible non-substantial improvement pursuant to Table 2.7 (B) (1) because the additions of the cabins would not exceed 50% of the value of the inn. Shane then read the definition of "substantial improvement" from Article 10 of the LURs. That definition reads in part: "Any repair, reconstruction, or improvement of a structure after the date of adoption of these regulations..." Shane interprets this as pertaining to modifications of existing structures as opposed to

referencing new structures. Shane stated that the Board is bound by the definitions and uses set forth in the LURs and that the only path would be to have the development area removed from the SHFA, and therefore the SFHO district. Gunner stated that there may be another process with FEMA aside from getting the cabin sites removed from the flood map via a LOMA. That second avenue would be to get a LOMA for the cabins themselves. Removing only the cabins from the flood zone may be a simpler solution than the site as the prior would not result in the hole in the mapped floodway that FEMA wants to avoid.

Gunner would like the Board to approve the application with the condition that a LOMA is received. Shane does not believe the Board has the ability to do that given the current flood map's inclusion of the site in the floodway. The regulations expressly prohibit new structures in the floodway. Until the site is removed from the floodway by FEMA, the cabins cannot be approved.

The Board discussed various options on how to proceed given the FEMA process ahead. Members agreed that there were no other concerns with the project aside from the SFHO/SFHA issue. John asked why the Board couldn't just continue the hearing each meeting until the applicant has obtained the LOMA necessary to remove the cabin site from the floodway. This would require no new application or abutter notice. Board members were amenable to this option as was the applicant. The minutes of this meeting will reflect that the Board believes the project conforms to the Land Use Regulations apart from the structures being located in the SFHA/SFHO district. Once a revised plan is submitted that illustrates the FEMA-approved revised floodplain and floodway boundaries located outside the development area, it could then be reviewed and approved. Mike moved to continue the hearing until the February date. Jared seconded. All in favor and the motion carried.

Chair Mullen opened the hearing for application #3559 - 3560 (parcel ID# 10-043.000, located at 62 Mad River Resort Road, Fayston). Applicant Vermont Integrated Architecture requests to renovate the existing basebox building at Mad River Glen and to replace existing ski patrol building on the same footprint. Conditional use review is required pursuant to Article 2, Table 2.6 (C) (2), (21) of the Fayston Land Use Regulations as accessory structures to a conditional use (ski lift/area operations).

Applicant-architect Megan Nedzinski presented the application. The proposed renovations to the basebox building are largely driven by life-safety and egress concerns. The basebox renovation consists of removing a portion of the Northeast corner of the building in poor repair and replacing it with an elevator and egress stair. The basebox improvements will add approximately 160 square feet to the footprint and approximately 440 square feet over three levels. The replacement patrol building will be on the same footprint as the existing ski patrol building. The new building will serve the same functions for the ski patrol and ski school, including gear rooms, ski instructor space, storage, ski aid room, and support spaces. No change to use, occupancy, user capacity, or parking is requested.

Megan stated that an Act 250 amendment is in process. The Vermont Division for Historic Preservation has also reviewed the project and provided comments with regard to one window.

With regard to the ski patrol building, the project proposes to utilize the same footprint but with a new foundation. There will be a slight adjustment to the roof line. The project has also triggered the need for a minor amendment to the existing wastewater permit due to the addition of an external 1,500 gallon grease trap. Shane asked where the leachfield was. Megan stated it was in the parking lot. Shane asked what the setback is for a propane tank from a building. Megan believes it is 10 feet for a certain amount of gallons. The new tank will hold about 1,990 gallons, keeping under the 2,000 gallon threshold. There is a buried fuel tank next to the retaining wall that will be removed and replaced by the new propane tank. Pete questioned where the venting would be for the tank. Megan said she would find out exactly but in any event that would be something to be addressed by the Department of Public Safety. Discussion was had as to the proximity of the propane tank to the ambulance access point. Megan stated that nothing was changing, as the propane tank will be in the same underground location as the fuel tank. Shane asked whether there was any concern that the ambulance may strike the head portion of the underground propane tank, which does rise above the ground. Megan did not have concerns of this occurring as the door the ambulance would use for access is on the opposite side from the proposed propane tank.

Shane noticed that the plans did not include the 50-foot stream buffer. The LURs do provide leeway within the buffer for life safety and efficiency. Megan stated that although the building remains within the buffer, all work proposed is outside the buffer zone. Shane asked about the double silt fence shown on the plans to control erosion, and whether the fencing will be able to be installed given the gravel. Shane requested the applicant keep a close eye on the fencing during construction, ensuring the perimeter controls get installed well. Shane added that the applicant should consider straw wattles if the silt fencing can't go in. Megan stated in the affirmative.

Jared asked whether the applicant would be amenable to the Waitsfield-Fayston Fire Department coming to do a training with regard to the elevator. Applicant stated he would, and that the department has already been there once.

Shane noticed that there had been some revisions to the plans as submitted. Megan affirmed there were a couple minor changes.

Lindsay moved to close the hearing. Pete seconded, all in favor, the motion carried.

The Board entered into deliberative session at 7:05 p.m. The Board exited deliberative session at 7:30.

Pete moved to approve the minutes of December 10, 2019. Mike seconded, all in favor, the motion carried.