

**FAYSTON DEVELOPMENT REVIEW BOARD
MINUTES**

TUESDAY, AUGUST 11, 2020

Unapproved

Via ZOOM and Fayston Town Office

Attending DRB Members: Shane Mullen (Chair), Lindsay Browning, Pete Ludlow, Mike Quenneville; ZA: JB Weir; Public: Andrew Lynds, Joshua Bewlay, Richard Ruback, Elaine Ruback, Adam Beard, Truxton Pratt

The meeting opened at 6:02 p.m.

Chair Mullen opened the hearing for application #3586 (parcel ID# 07-078.000, located at 73 Harris Hill Road, Fayston). Applicant Joshua Bewlay requests approval under Section 2, Table 2.4 (C) (18), (E) (3) to construct a platform tennis court. Conditional use approval is required under Section 5 of the Fayston Land Use Regulations.

Chair Mullen asked members of the public present on Zoom if they wish to become Interested Parties to the Bewlay application. Adam Beard lives at 187 Harris Hill Road. Adam is present for information purposes as his property abuts the Bewlay property on the same side of the road. Adam is curious as to the exact location of the court and is concerned about the lighting of the court at night.

Richard and Elaine Ruback are present for information purposes and may wish to become Interested Parties to the Bewlay application. The Rubacks reside at 485 Harris Hill Road and also own property off of Marble Hill. The Rubacks also have concerns over the lighting and noise.

Mike moved to find Richard and Elaine Ruback as Interested Parties to the application. Lindsay seconded. All were in favor and the motion passed.

Reviewing the file, Chair Mullen noted the applicant provided the application form, narrative, site plan, details pertaining to the court itself, responses to the General and Specific Review Standards, and proof of abutter notification. Mike moved to find the application complete. Lindsay seconded. All were in favor and the motion passed.

Joshua Bewlay presented the application. Joshua stated that he understands that the Beard property may be affected by the court. Joshua wants to tuck the proposed court behind a row of pine trees in order to hide it and the lighting as much as possible. The court would be approximately 65 feet from the centerline of Harris Hill. Joshua noted the submitted report from Total Platform Tennis pertaining to the dispersion of the court's LED lighting. There are six downward-facing LED lights. The dispersion of light is measured in foot candles, or the amount of light that one candle would impart on a one square foot surface one foot away. At 30 feet away in all directions it is one foot candle or less. At 40 feet, it drops to less than one foot candle. At 60 feet from the court, the dispersion drops to about 0.2 foot candle.

Joshua discussed the noise emission from use of the platform tennis court. Joshua could not find any studies as to the decibel levels and noise generated from playing on a platform tennis court. He noted that the racquets are solid composite and the balls are rubber and that the game is much quieter than, for instance, tennis. Joshua noted that the game is often played in the fall and winter months. Joshua would like to meet Adam at the site in order to address his concerns.

Adam is quite familiar with the game. He is familiar with the LED lighting used. From a noise standpoint, Adam noted that there is the noise generated by communication by players on the court as well as from the ball hitting the chicken wire. Adam asked whether Joshua planned to install a heater underneath the court. Joshua stated yes, that the heaters would be used to dry the court for about 15 minutes after any snow was pushed off. Joshua offered to find any decibel reports pertaining to the heaters.

Adam is planning on being up at his house in the next couple weeks and would like to meet with Joshua to discuss the location of the court. Adam remains concerned with the lighting of the court given his windows directly face the court's proposed location.

Lindsay wanted clarification as to the front setback for the court. Joshua stated that it is proposed to be 65 feet from the centerline of Harris Hill Road. Shane had scaled off the court as delineated on the site plan, and had found it to be about 38 feet from the centerline. ZA Weir noted that he had contacted Joshua after the accompanying zoning application listed the front setback to be 40 feet. Joshua was not aware of the minimum 65-foot front setback but would revise the proposal to situate the court at least 65 feet from the centerline.

Lindsay asked about the height of the court fencing. Joshua stated that the fence extends 12 feet from the court surface, and the surface itself is about 3.5 feet above the ground. Lindsay inquired about the row of pines. Joshua noted that situating the court there would best address any potential sighting issues from the Beard property.

Shane asked about the type of heating system and how often it would be used. Joshua noted that the heaters are just used to melt off the remaining snow (or rain) after shoveling. There are four propane heaters that face under the court surface and blow warm air up to dry the court. Joshua believes that the heaters are on for about 15 minutes.

Shane asked about the lighting and time of play. Joshua stated that play would not extend beyond 9 or 10 o'clock. Shane asked about the duration of the lighting, and whether they would be turned on all day or just before play. Joshua responded the latter, that the lights would be turned on only before play.

Adam noted that one of the bedrooms that faces the court is his daughters and she goes to bed before 10 o'clock. Joshua wished to address this and hopes Adam can visit to see any lighting issues.

Pete asked whether there are curtains that can be put up to abate any lighting issues. Joshua said that there are windscreens that can be used to block the lighting although that is not the screens usual purpose.

Pete asked about the construction of the court. Joshua stated that there would be concrete footings embedded down below the frost line. Pete asked about the contours in the area. Joshua stated that it is relatively flat, not much more than a 2% pitch in any area.

Adam asked how the court would be situated. Joshua said it would be baseline to baseline, one baseline facing the Bewlay house and the other facing the Beard house. The lighting would be facing either the road or the pond.

Shane asked about proximity to the two ponds on the property. The site plan situates the court between the two ponds and about 44-feet from the smaller pond. Shane asked about whether the lines near the pond on the site plan were streams or drainage ditches. Joshua stated the latter. Shane noted that the setbacks from surface waters contemplated by the land use regulations pertain to natural waters and not man-made ponds.

Richard Ruback asked about the location of the court in relation to the back property. Joshua estimated about 100 feet or more. Richard asked whether there is a setback rule to a property line. ZA Weir stated that the minimum setback to a property line is 25 feet.

Given the need for a more accurate site plan and the pending meeting between Joshua and Adam, ZA Weir asked whether a continuance may be best. Lindsay also wondered whether a site visit may be best. ZA Weir asked Joshua if he could provide an updated site plan that had correct scaling, and reflected the correct front setbacks. Pete added that he would like to see some contours on the map. Shane asked about the electricity to the court lights. Joshua stated that it would run underground from his home. Shane noted the conditional use criteria pursuant to Section 5. The application requirements include delineating all existing and proposed utility lines. Shane added that the screening from the row of pine trees should also be reflected on the site plan. Shane added the photometric chart was instructive but lacked context both for the Board and Adam. Shane would like to see this information on a revised plan in a more contextual backdrop.

Members discussed the need for a site visit. The Board agreed that if Joshua staked the court out, members could visit on their own time. Joshua so agreed to staking out the court and to provide an updated site plan with the information discussed above.

Pete moved to continue the hearing until the September 8, 2020 meeting date. Lindsay seconded. All were in favor and the motion passed.

Chair Mullen opened the hearing for application #3593 (parcel ID# 08-072.009, located at 2849 Mill Brook Road, Fayston). Applicant Andrew Lynds requests an amendment to Conditional Use Permit #3453 allowing for 23 amplified special events between (roughly) Memorial Day weekend and Columbus Day weekend. Any request to amend prior conditional use approval requires conditional use review under Section 5 of the Fayston Land Use Regulations.

Chair Mullen reviewed the application, noting the application form, narrative and prior decisions with regard to the Mad River Barn's wedding events. A scan of abutter receipts was also in the file. Lindsay moved to find the application complete. Mike seconded. All were in favor and the motion passed.

Andrew Lynds presented the application. Andrew noted the extreme difficulty the virus has taken on the hospitality industry, and especially on the Mad River Barn. The Barn's business has grown much in recent years and, given the 23 wedding events they are permitted to hold each year, it brings thousands to the Valley every year. Given the pandemic and limits on gatherings, the Barn has had to cancel all 20 weddings it had booked for 2020. In March, Andrew furloughed 34 staff members.

Andrew stated that what he is asking for is the ability to recoup the losses of 2020. To do this, he is asking for four additional weddings during roughly the same time frame over the next five years, including one smaller wedding this upcoming November. Andrew stressed that all he is asking for are these additional 20 events spread out over the next five years, or basically up to 27 events through 2025. He is not asking for any other change to the existing local permit which allows the Barn roughly 23 amplified events between Memorial Day weekend and Columbus Day weekend. No changes to the hours of amplified music, the days of the week upon which events are allowed, the number of guests or to any other condition of his prior permits are requested. The additional events would maintain the consecutive nature of weekends contemplated by the prior approvals and bookend the same permitted time frame.

Shane wanted clarification as to the request for the one wedding sought to be held on November 21, 2020. Andrew stated that he was seeking that one date for the fall as well. Shane noted that by that time the leaves will be mainly gone from the trees and would not provide the same sound barrier as in the summer. Andrew agreed but noted that given the time of year, all the motorized curtains will be down to keep the pavilion warmer. This would enclose all sound as opposed to the summer months when some of the curtain are drawn and open to the outside.

Lindsay asked whether the Barn would continue to hold only one event per weekend as conditioned in the 2018 decision. Andrew stated in the affirmative. ZA Weir asked what time period Andrew was seeking to add the additional four weddings to. Andrew stated that he is seeking to add two weddings to each end of the permitted time frame of roughly Memorial Day weekend to Columbus Day weekend: meaning the first two weeks of May and the last two weekends of October. This would be the structure from 2021-2025. ZA Weir asked about any feedback from Susan Baird at Act 250. Andrew said he has been in touch with her. Andrew said she is supportive and does not think there should be a problem.

Shane asked Truxton Pratt whether he had any comments. Truxton's only comment was that by having weddings into November there is an overlapping with deer-hunting season. Truxton noted that generally the Mad River Corporation does not allow hunting on its lands. Truxton was only concerned with the safety issues should any guests wonder off the Barn property. Andrew understood that concern and noted the presence of no trespassing signs that he hopes deter the public from leaving the Barn property. Truxton had no other concerns.

Shane asked whether there were any other permits Andrew needed aside from the local CU amendment and Act 250. Andrew stated that those were the only two. Pete asked when to expect an answer from Act 250. Andrew hoped pretty soon, as that is a prerequisite to hosting

any amplified events outside of the approved-23 events between roughly Memorial Day weekend and Columbus Day weekend.

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

The Board entered deliberative session at 6:59 p.m.

The Board exited deliberative session at 7:18 p.m.

Lindsay moved to adjourn the meeting. Mike seconded. All were in favor and the motion passed.