

**MEETING MINUTES  
FAYSTON DEVELOPMENT REVIEW BOARD  
TUESDAY MARCH 9, 2021  
Join Zoom Meeting**

**<https://us02web.zoom.us/j/84163504748?pwd=SjF3enhTc004Ym85T2w4SVIUSnhxdz09>  
Meeting ID: 841 6350 4748 Passcode: 981398 (929) 436 2866 (audio)**

6:00 p.m. – 866 North Fayston Road in Fayston Municipal Offices and via Zoom

**Attendees**

**Fayston Development Review Board:** Shane Mullen, Ky Koitzsh, Lindsay Browning, Pete Ludlow, Mike Quenneville, Jared Alvord

**ZA:** JB Weir

**Guests:** Gunner McCain, Eve Silverman, Gene Scaperotta, Alan Thorndike, George McCain, Bob & Diane Schellack, Bruce Sinnott, Bob Lockett, Brian Holtan, Annika Holtan, Joseph Lojko, Andy Phelan, Kim Phelan

**Minutes taker:** Betsy Carter

**Introductions**

**Applicant: Abby Dreyer**

**Application Number(s): 3599-3600**

**Type of Hearing:** Requesting approval under Article 8 of the Fayston Land Use Regulations for a 6-unit Planned Residential Development (application #3600).

Applicant also requests approval under Article 7 of the Fayston Land Use Regulations for a minor subdivision of one 114.33-acre lot into two lots of 108.33 acres and 6 acres (application #3599).

**Parcel ID:** 01-026.000

**Location of Property:** 2142 North Fayston Road, Fayston

- 1) This is a continuation of last month's hearing; in that hearing the DRB created a list of questions for the applicant to review and answer.
- 2) Gunner McCain addresses the punch list and submitted plans to address those comments. Gunner shares screen and discusses changes made.
  - a. The PRD will have no more than three structures will be a mobile home ("tiny home on wheels")
  - b. The applicant has agreed to establish a minimum lease term of 6 months.
  - c. The site plans depict a 25' setback to centerline of road w/ 10' side yard setback.
  - d. A revised erosion control plan with biodegradable erosion control matting.
  - e. Road construction details are depicted on the revised plan.
- 3) Ky: is the compaction of the road surface requested by the Waitsfield Fire Department specified on these plans? Gunner: we do not specify as that is expected to happen with road construction.
- 4) No questions from Pete, or Mike. Shane: Once the final plan set comes in for review confirm that the R1 plans have come in and meets fire department needs.
- 5) Shane: Maintenance and operations agreement stipulates minimum lease of 6 months. No questions or comments from Gunner.
- 6) Full review complete.
- 7) Public questions or comments
  - a. No questions

8) *Motion to close application by Pete, seconded by Mike. All in favor, none opposed.*

**Applicant: Robert Lockett**

**Landowner: Bruce Sinnott**

**Application Number(s): 3628**

**Type of Hearing:** Requesting approval under Article 7 of the Fayston Land Use Regulations for a lot-line adjustment (minor subdivision) of 0.18 acres.

**Parcel IDs:** 14-029.000 & 14-029.001

**Location of Property:** 1444 German Flats Road & 1358 German Flats Road, Fayston

- 1) Introduction of project: The two applicants considered this lot line adjustment 10 years ago and paused when town required a boundary survey. The existing property line between the lots is a straight line that crosses Lockwood Brook and the proposed lot line generally follows the route of the brook. No development proposed for this application.
- 2) Questions
  - a. Lindsay: What was the original intent from the DRB in requiring the survey? Bruce: I believe it was just protocol at the time and we didn't pursue due to cost.
- 3) Elocution form in hand; all materials received. The applicant requests that this project be reviewed in a single meeting instead of a sketch/preliminary/final plat review meetings.
- 4) Motion to find this application complete by Ky, second by Lindsay. All in favor and none opposed.
- 5) Motion to find this application a minor subdivision by Mike, seconded by Pete. All in favor and none opposed.
- 6) Motion to approve request to waive preliminary sketch plan review by Lindsay, seconded by Mike. All in favor, none opposed.
- 7) Additional questions:
  - a. Ky: Is the survey as presented sufficient, or is additional information such as topography and existing features required? Shane: since there is no development and just a land swap, this should be sufficient for us to make an evaluation.
  - b. Mike: The town will be replacing that culvert eventually and will be on Bob's land.
- 8) *Motion to close hearing on application by Mike, seconded by Pete. All in favor, none opposed.*

**Applicant: John Thrailkill**

**Landowner: Karen Mitchell**

**Application Number(s): 3629**

**Type of Hearing:** Requesting conditional use approval under Section 3.4 (C) (1) (d) and 3.4 (E) of the Fayston Land Use Regulations for development of a driveway on slopes in excess of 15% in grade.

**Parcel ID:** 14-074.000

**Location of Property:** Maple Ridge Road, Fayston

- 1) Gunner: This is a subdivision started in the 1990s prior to steep slope restrictions in land use regulations. (Gunner sharing screen with site plan). Proposal is to extend existing driveway onto a house site w/ area to turn around vehicles.
- 2) Adjoining landowners notified and all documents received.

- 3) Motion to find application complete by Mike, seconded by Lindsay. All in favor, none opposed.
- 4) Discussion:
- a. Lindsay: Is there any point where the slopes are more than 25%? Gunner: Yes. Slope classes of 15-25% as dictated by the yellow shading on map; slopes in excess of 25% in grade are in red
  - b. Joe Lojko: It looks like this passes through an easement on my property. Gunner: yes, this is within the existing easement. A retaining wall will be added to ensure we stay within the previously deeded easement. Joe: It looks like the retaining wall comes into my property and a driveway into lots on my property looks like it would go through the retaining wall. Gunner: Showed on screen where driveway should go through to stay within slope guidelines.
  - c. Shane: Joe, you are the adjoining landowner, correct? Any you have not built anything on your lot as of yet? Joe: yes, nothing's been done. Gunner: Your leach field has been built (indicated location).
  - d. Shane: Joe as an abutting landowner, you have the right to be an interested party and can appeal the DRB decision. Joe was deemed an interested party.
  - e. Shane: Looking at that intersection and looking at how Joe's property looks in relation to this, can you explain how the different lots intersect off of this road? (Gunner shows on screen how driveways would intersect). Shane: runoff will be discharging onto Maple Ridge Road as the plan currently indicates. Gunner: shows where culverts would be positioned. Shane: Is one of the culverts in the middle of Joe's driveway? Gunner: We'd need to take a look at it and likely move. Shane: For this site plan, the topography appears to be based on LIDAR data. Gunner: There was some field verification with GPS data and tracing of aerial photography. Shane: For such a site plan, the different data sources need to be correctly aligned on the site plan to accurately depict the topography with the property lines, was this done? Gunner: I can confirm that.
  - f. Shane: Is this application just limited to driveway design or also the house? Gunner: Driveway and building envelope. Shane: Looking at this under section 5, conditional use applications require plans for wastewater disposal. Gunner: The leach field has been put in and located here (showing on screen). Shane: To confirm, the leach field is installed and the gravity sewer and septic tank need to be installed? Gunner: yes. The tank is straightforward and just running a pipe. Shane: Do you have drawings illustrating that? Gunner: Those have not been completed at this time.
  - g. Shane: site grading. What do you expect the limits of grading are around the building and will you be avoiding encroachment on the adjacent property? Gunner: The building envelope defines the limits of grading; the 25' side yard setback is ample space and there will be no encroachment onto the adjoining property.
  - h. JB: You are proposing to adjust the building envelope from what was depicted on the original map, correct? Gunner: On the original plan there was a depiction of the house, but not an envelope. JB: So in 1998 it was not required to have building envelopes? Gunner: Let me see if I have that original plan. (being viewed in person at town office).
  - i. Ky: So the area where the road will be built is greater than 25%, but how much? I'm wondering about where that driveway crosses the contour and ends in the flat area? Gunner: That's what the contours are depicting, but we are cutting and filling and there's a gentle slope into the house. Ky: How much more than 25% is where the driveway is cutting? More than 30%? Gunner: yes.
  - j. Jared Alvord: Is any of the area at the lower portion of the property delineated as wetland? Gunner: yes, some of that area is wet. Shane: What is the drainage area

from uphill areas to the project area? ? Gunnar: We're only looking at a few hundred feet of driveway that will divert flow ; we'll be managing the stormwater with erosion control and culverts. Shane: it appears that there will be water running across the hammerhead turnaround. Gunnar: there will be some contouring to shed water around that turnaround. Shane: having a swale on the high side will be important to redirect the stormwater around the driveway. Gunnar: we can submit plans showing the arrows to direct water. Shane: There should also be a device at the end of the swale to dissipate the energy and promote sheet flow on the downhill bank.

- k. Pete: Are the water wells located and not interfering with the adjacent lots? The plans did not show a well, but Gunnar pointed to an area next to the building envelope where it will likely go.
- l. Shane: Is a wastewater permit amendment needed? Gunnar: No, we can work with the original design . JB: the original wastewater permit information is not in the vault. We were expecting information from the state, but it hasn't arrived.
- m. JB: Is a modification to the existing subdivision permit needed? We have the approved plans that were submitted with the meeting packet; JB sharing screen showing original details of proposed water sewer plans showing house footprints. Shane: Section 7.7 revisions to approved plan – the idea is that what's proposed in this application is different from those submitted in 1998. Does a new plat need to be filed? Gunnar: those were never intended to be building envelopes and are house footprints. We're not changing the prior plat or proposing changing the prior plat.
- n. Shane: considering this section, would this have a material change to the approved subdivision plat? JB: It depends. JB will look into the subdivision requirements in place in 1998, as well as the recorded mylar in the vault.
- o. Ky: How big is the easement on the lot to the north? Gunnar: Max 50' width, just enough to round the corner.
- p. Jared Alvord: Will there be blasting? Gunnar: We won't know for sure until we get into the work, but we don't think there will be.
- q. Ky: How do you make the decision to use LIDAR to get contour information? Gunnar: Overtime we're finding the LIDAR is getting better and better with matching up with the onsite shots. We do go out and field check to verify the LIDAR, but in most cases, they are matching.
- r. Ky: is there anything staked out on the lot? Gunnar: We installed a set of survey stakes.
- s. Shane: this design plan was built out of a few different sources; did you do any field survey to verify any topography? Gunnar: I'll have to check the field data; we didn't do a full-blown survey.
- t. Shane: Do you have anything on these plans that describe the driveway design in terms of materials and depth? Gunnar: We did not as this will be standard design and wasn't aware we needed that information. Shane: We do state in the specific use regulations that driveway design information must be included in the planset and built to VTtrans driveway standard B-71. Gunnar: that's fine.
- u. Jared Alvord: The driveway is under 300'? Gunnar: It's actually 350', 400' to the house site.
- v. Shane: we have development on a steep slope with over 300' driveway, how will you ensure bare earth is stabilized and not wash away as construction progresses? Gunnar: the driveway has to be built first and needs to be done right. It costs more to rebuild things multiple times than to do it right the first time.
- w. Shane: with how this driveway intersects the abutting property and lack of utilities shown as stipulated, I think at this time we need to have those details fleshed out. Gunnar: the 3-way driveway was in the original plan and there's already one driveway

there and we need to allow access for Joe. Shane: we do need to allow the adjoining landowner access to his property without a weird traffic pattern. Joe: I'd like to see a plan that better shows where my driveway might be. I just can't see where my driveway is and where how the proposed hits my property.

- 5) Motion to continue hearing made by Mike, Lindsay second. All in favor, none opposed.
  - a. JB to begin punch list for plan.

**Applicant: Robert & Diane Schellack**

**Application Number(s): 3630**

**Type of Hearing:** Requesting conditional use approval under Section 3.4 (C) (1) (d) and 3.4 (E) of the Fayston Land Use Regulations for development of a driveway on slopes in excess of 15% in grade.

**Parcel ID:** 03-119.000

**Location of Property:** off Stony Hill Road, Fayston

- 6) Certified list of abutters received on page 49.
- 7) *Motion to find the application package complete by Mike, second by Pete Alvord. All in favor, none opposed.*
- 8) Public discussion:
  - a. Interested parties:
    - i. Gene & Eve: We are the one of the abutting landowners within the subdivision. Our concerns are around the work for the stormwater permit for the subdivision. The last attempt at the driveway was somewhat difficult and affected all of us.
    - ii. Annika Holtan: Abutting property owner and concerned about runoff and erosion control. Interested to understand the character of the area after the installation of the driveway and piping to the common leach field on her property.
    - iii. Kim & Andy Phelan: We have the same concerns as the other parties.
  - b. *Motion to add Gene and Eve to this application by Mike, seconded by Lindsay. Motion to add Annika as an interested party by Mike, seconded by Pete.*
  - c. *Motion to add Kim & Andy as interested parties by Pete, seconded by Lindsay.*
- 9) George McCain sharing screed to review plan. Current request is to build a driveway that follows a different route from a previous roughed-in path; that location crossed the adjoining property owner. The site is subject to state and local wastewater and stormwater requirements. We are looking for approval for the driveway on steep slopes. Approval is not being sought for the house construction.
- 10) Discussion:
  - a. Shane: This subdivision has an existing 9010 stormwater discharge permit, but this project will be built to current stormwater standards? George: Yes. The existing stormwater permit covers impervious surface to approximately 8+50, and the driveway from that point forward will require coverage under a new stormwater permit.
  - b. Shane: One thing for us to keep in mind is that the application before us is for the road design on steep slopes, so we are looking at how the driveway would meet our requirements for stormwater. This does not include the house site.
  - c. Pete: Question on C1 – The reference scale is the contour increments are 2' and it shows increments of 5'. George: On C2 it is 2', but I need to update on C1. It should be 2'.

- d. Jared Alvord: what is the total length of the driveway? George: Just under 1400', right about 1390'. Jared Alvord: Pull offs every 500'? George: yes (references stations every 500').
- e. Ky: Is that existing septic easement where the common leach field is? George: Yes, it is a common area, but discrete leach fields exist in a cluster. And the Holton's driveway exists? George: Yes.
- f. Interested Parties:
- i. Eve: Can you discuss the construction of the driveway – will there be blasting and how many trees will have to be removed outside of the driveway area? George: There may have to be blasting, but we've tried to avoid the exposed rock areas to the extent feasible. There will require some ledge removal, but we will have licensed and insured people to do that. The ledge material can actually be reused for driveway material. Tree removal should be pretty minimal for driveway and swales.
  - ii. Gene: Do you anticipate more flow of stormwater from this driveway into the culverts, or will it be shed elsewhere on the property? We are below this area and the runoff hits our property. George: We've tried to stay with existing drainage patterns, but there will be some runoff but within the constraints of the state guidelines.
  - iii. Pete: on the stormwater runoff, most of this will collect in the area of the existing leach field, what steps will you be taking to prevent flooding of the existing leach field. George: We will be adding a culvert at the bottom of the driveway ( not illustrated on drawing) that will direct everything away from the existing leach field. The natural grade will direct everything into the culvert and away from the leach field. Pete: where is the cumulative runoff headed? George: there are a few existing drainages and existing infrastructure on Stony Hill Road. The 10k sq ft that was previously permitted was included in the infrastructure installed on Stony Hill Road.
  - iv. Eve: there is a stream and the existing infrastructure already drains our fields. Is there a way to direct the drainage into the existing stream? Pete: That works if the flowrate doesn't go up. What we need to understand if a retention pond is required to hold any surges? George: Yes, it likely will.
  - v. Shane: Can you speak to the drainage patterns of the site and whether there will be an increase or decrease of drainage area in the area of concern for the neighbors ? George: We're looking to tie into existing drainage patterns and not disrupt exiting flow. (George sharing screen) Existing infrastructure consists of swales, culverts, and check dams. No retention ponds.
  - vi. Pete: As we develop more and more steep slopes, we're developing more and more energy in that water that causes erosion. I think some assessment is needed to determine what the volume of water that will be coming from the property and that it's not just getting dumped into the neighbors' property. George: The state stormwater controls address those concerns (showing screen with the various control methods)
  - vii. Annika: What's the width of the driveway and steepest grade? George: 14', steepest section is 14% right around the beginning of the driveway. Annika: Are you following some of the old logging roads? George: Yes we're trying to, there are several in there and most of the driveway seems to follow an old road. Annika: There seems to be a lot of pooling of water where the house site is and at the bottom of the driveway when it meets our driveway (seasonal). When you do the state permit, is someone going to look at those areas and anticipate stormwater flow? George: yes. We look at large and small-scale storms. Also confirmed with a wetland biologist that there were no conflicts. Annika: What happens if existing infrastructure can't handle the added water? George: That would have to be set up in a maintenance agreement with what would happen in the event of a catastrophic failure. Annika: Is this application

- available for review as interested parties? JB: I can email them in the next day or so.  
Shane: They can also be found in the meeting package on the town website.
- viii. Pete: are the properties part of an HOA? Eve: There is no HOA. The town is a party to this permit. Pete: so the roads are town maintained? Eve: No, private road, but the turnaround on Strong Road has something to do with the permit. JB: The access to this property is over class 3 town road.
- ix. Kim: the other parties have covered our questions and concerns with this lower area that's very wet. With the increased construction traffic, we just want to make sure the common area of the road is maintained and no impact to our access to Strong Road.
- x. Ky: In that old permit information, it provides permission to dump water into an unnamed tributary. Is it named and is there much runoff currently? Eve: It's the stream I mentioned previously and I'm unsure how to describe the size. It does continue through a large culvert and through several properties and eventually into the Mad River. Ky: How much of the development runoff goes into that stream? George: I think most if it is handled on site and doesn't go into the stream.
- xi. Ky: following up on Pete's comments, are you familiar with the Ridge the Rivers effort in the valley? George: Yes. Ky: A project like this may contribute more runoff into the rivers and I can see why so many of the parties here are concerned with the construction of this driveway. George: that's why we're trying to build this properly with proper control measures in place.
- xii. Pete: What's the nature of the foliage and is there sufficient soil to contain the runoff? George: It is rocky on the uphill side and we're trying to preserve the natural topsoil along the construction. The operational stormwater permit also has several requirements around disturbed earth and trying to improve it. Ky: What are the hydrologic soil types? George: Type C.
- xiii. Andy: The issue we're concerned with where the water comes down at the confluence of the driveways. Anything that comes out with construction will pool down there and there's nowhere for that flow to go. Will that swale and culvert be enough to handle the additional water? George: Should have been as the stormwater would have been considered when the original driveway was installed. Andy: We want to ensure what that the design can accommodate what is coming.
- xiv. Shane: question for you Andy: How would you characterize the drainage system at the moment? Andy: I don't think it gets caught up in there. When it's wet and rainy, you sink in that concentrated area. Shane: Are you seeing impact to existing infrastructure? Andy: no impact to existing.
- xv. Shane: It doesn't sound like the design is complete yet as it's this discussion is just around the driveway. George: Yes, we're looking to get approval for the driveway contingent upon getting the applicable permits from the state.
- xvi. Shane: Given the concerns from the adjoiners, it sounds like the reason there's no further design is to get through the conditional use permit to determine if the current state is sound. I'm looking at this and it seems like this is a reasonable first stab at this, but I think there's some additional work needed to determine what this is going to look like when complete. Are there additional requirements to get this to a passable state? Pete: I'd like to see additional analysis of the runoff from the slopes and understand where the pooling may happen. Is there a type of routing map to show where the water goes?
- xvii. Mike: It looks to me like at station 1570, the water is just going to shoot off to the (left). George: Yes, there are several natural collection areas.
- xviii. Annika: What would be helpful is if the driveway could be flagged on the property so we can have a visual to understand where the driveway is going? George: Yes, we can certainly do that to show where the new driveway veers off from the previous

failed driveway so that you can see the difference. Annika: Shane can you tell us the next steps and timing for moving forward in this process? Shane, yes that's where I'm trying to get a sense of where the board goes next. If there are enough questions, we can continue the hearing and have George come back with revised plans, or we can close the plans based on what we're seeing here. Pete: I think we need to continue as there doesn't seem to be enough information. I think besides the water management, I'd like to get a picture of what exists today. Also, I'd like to have a better picture of the utilities. Shane: just to make sure we're slicing this correctly, the application before us is for the driveway and the utility runs are in the corridor, but this conditional use application doesn't need to show us where the sewer lines are run. JB: That may be stretching the purview of the application before us, but we know the septic will run along the driveway. Andy: We're really more concerned with how the driveway is done, just what the impact of the water in the area.

- xix. Shane: To the board, do you have enough information to deliberate? Ky: I'd like to understand where that water is going to pool at the end of the driveway and perhaps to do a site visit. JB: Yes, I recommend a site visit especially now during the thaw. Lindsay: Yes, I agree on a site visit. George: Keep in mind we can only control what happens on the Shellack's property.
- xx. Shane: The general sense is to continue this hearing, provide George with a punch list, and coordinate a site visit.
- xxi. aholtan@aol.com - Annika Holtan, baholtan@aol.com - Brian Holtan, Phelan email is kimandandyphelan@verizon.net, Andy Phelan is acp5490@gmail.com, ersilverman111@gmail.com

11) *Motion to continue this hearing to the next meeting by Pete, seconded by Lindsay. All in favor and none opposed.*

### **Minutes of February 2, 2021**

- 1) *Motion to approve minutes from February 2, 2021 by Pete, seconded by Mike. All in favor, none opposed.*

### **Other Business**

The Board entered deliberative session at 8:50 p.m.

The Board exited deliberative session at 9:40 p.m.

The meeting adjourned at 9:40 p.m.

### **Adjourn**