

AGENDA
FAYSTON DEVELOPMENT REVIEW BOARD
Tuesday October 5th, 6:00 p.m.

Attendees

Development Review Board: Shane Mullen, Mike Quennville, Ky Koitzsch, Pete Ludlow, Daniel Young

Zoning Administrator: Hanna Neill

Applicants/Representatives: Jon Kirson, George McCain (Dwyer, Lesage), Margo Wade(Sugarbush), Abby Dwyer, Virginia Lesage,

Public: Joel Rhodes, Ray Munn, John Hammond, Kim Laidlaw, Dave Frank

Minutes Taker: Betsy Carter

Meeting called to order at 6:01pm

Applicant: Jon & Heather Kirson

Application Number(s): 3675

Type of Hearing: Requesting approval under Article 7 of the Fayston Land Use Regulations for a lot-line adjustment (minor subdivision) of 5.03 acres.

Parcel ID: 08-056

Location of Property: 256 Henry's Way, Fayston

1. Introduction/Changes:

- a. Last in front of the board in July; ZA recommended a revised survey showing all three parcels. Abutters have been notified.
- b. 5.03 acres shown on survey that will be transferred from Kirson to Johnson via a real estate transaction.

2. Questions:

- a. When final mylar is submitted, right of way should be drawn to scale.
- b. Questions/comments:
 - i. (Unidentified public) Robin Stone, abutting land owner that gentleman sold land to, was not notified of the lot line adjustment. Robin's property is not shown according to the survey. Jon: I would assume future development/plans would have to be reviewed in the future by the DRB and this lot line adjustment isn't part of it.
 - ii. Ky: Would we have to include abutters of the existing property not part of the lot line adjustment? Shane: On first blush of the regs, it should include abutters of existing lots.
 - iii. Dan: I think in the long run it wouldn't hurt to notify the lot abutter below the existing Johnson lot. It'll save time for future applications.
 - iv. Jon: Do I need to notify Robin in the interim and reapply for the next meeting? Shane: (Double checking list) I think you should also include WB Hariland and town of Fayston, also Robin Stone. The grand list will confirm who owns the parcel with the shared leach field.
 - v. Shane: Technically this application is incomplete; if we continue the hearing and Jon follows up with additional information so we can pick this up in the next meeting. Is there anything else the board would request of Jon? Ky: I ask that you confirm the landowners and check the maps; there is a lot going on at the top of the lots. Jon: Should I notify the people that share a corner, like the Fosters? Shane: I would go ahead and do that. That sounds like a good plan.
 - vi. Ky: should we review the table 7.2 to ensure everything is complete? Shane: Yes, we should draft a memo to Jon to ensure he has all information.
 - vii. No other questions or comments from the public.
- c. *Motion to continue this application to next month by Pete, seconded by Mike. All in favor, none opposed. Motion passes.*

Applicant: Richard E. Lesage Revocable Trust c/o Virginia Lesage

Application Number(s): 3676

Type of Hearing: Requesting approval under Article 3.6 (D) (1) of the Fayston Land Use Regulations for a front setback waiver to 45'; requesting approval under Article 3.4 (E) development on slopes in excess of 15%; and also requesting approval under Section 3.13 (C) for a building envelope within 100' of a stream.

Parcel ID: 01-059

Location of Property: 316 Dunbar Hill, Fayston

1. Review of application

- a. Paper copy of receipts from notification of abutters (not included on the packet)
- b. Pete: If I overlay the two maps, there's a lower house and septic in the vicinity that would be helpful to see the wastewater distances.
- c. *Motion to consider application complete by Mike, seconded by Ky. All in favor, none opposed. Motion passes.*

2. Review of property

- a. Building envelope falls outside of the 50' stream buffer. There is a disturbance envelope and shows well (no water exists today) and septic for future building.
- b. Given the topography of existing land, the majority of the steep slopes don't appear to be naturally made, regardless we are requesting development on steep slopes.
- c. Since we are within 100' of the stream, we're requesting special use since the property can't be developed otherwise.
- d. Pete: Is there existing septic for the camp? George: There is a toilet for the camp, but the status of the system is unknown.
- e. Ky: This is rural residential district and the minimum lot is 1 acre. George: that is correct, but I believe this allowable per the regs. Ky: Yes, assuming the conditional use is approved.
- f. Shane: Can we approve the conversion of a seasonal camp on 1/2 acre to a year-round residence? George can you point us to where in the regs you see this? George: Section 3.5.
- g. Shane: Does anyone have any questions on that? This seems to me the small lot provisions.
- h. Ky: So they're planning to take the camp off and just have the house? George: Yes, establish a new building envelope as there is no intention to try to salvage the camp, that's not in great shape.
- i. Shane: What have you considered as the top of bank? George: (Pointing out of screen) Short dashed line along the clear change in slope. The edge of the building envelope is 50' and the house is at 58' from the top of bank. Shane: According to 3.13.A, that building envelope does meet the top of bank designation.
- j. Pete: The current septic hasn't been through review? George: No, we're going through this review first then going to the state.
- k. Pete: It would be helpful to see the surrounding structures to understand the wastewater of the whole area. George: I'm familiar with the Williams property in question and there should be no issue. Shane: I think we have to be careful as that's in the state purview and not really within the DRB review. What part of that would you want to see? Pete: My real question is understanding the layout of the Williams' property and how it impacts this property. Shane: I understand that, but we're here to review Lesage. Pete: Yes, but I think we need to understand the full context.
- l. Ky: how is that well shield drawn? George: It's a 100' radius level with the well and then follow the contours/flow lines.
- m. Shane: Question on the leach field -how close is the leach field to the southern property line? George: The minimum is 25' unless you are asking for a variance, which we are asking for. Shane: What is the state's setback for a leach field? George: it's 25'. I'm measuring our setback at 19'. Even though the new system we're proposing is not within the rules, we're converting a seasonal camp to a residence and we're improving what's there. The variance is a state requirement as it has jurisdiction over wastewater.
- n. Shane: The concern is that the wastewater system is uphill from the abutting land. That said, this

- is a state issue but I'd like to hear what the regional engineer has to say.
- o. Shane: What are you proposing for parking? George: There's an existing driveway that's grown over, then a garage within the envelope. Shane: From the edge of the building envelope to Dunbar Hill road is about 32'. George: It's 45' to the centerline. Shane: Is there space for someone to pull in/turn around without being in the road? George: without having a firm footprint of what will be built on the lot, we can't determine what the end user will do.
 - p. Ky: Are you proposing to have the well within the 50' buffer? George: Utilities are allowed.
 - q. Public questions:
 - i. Leigh: I'm curious about if/when the property lines change. I also don't know if the camp was build before or after the transfer of ownership to Lesage. The deed from the 60s only describes the boundary as being the stream and a fence. If the stream changes, does the property shrink. George: Yes. Leigh: That stream is changing a lot; the road is collapsing at the top of the property. George: The top corner is defined by a pin, so if the stream changes the top of the property is defined. Leigh: do you know if that camp that's there was built prior to the land being given? George: I don't know.
 - ii. Leigh: If this is approved, can I use approval if I end up purchasing this lot? Shane: You would have to look at it in the context of the full lot.
 - iii. Leigh: Is she looking to sell the lot, or build then sell? Ginny: I don't intend to build anything on it myself unless I buy it from the estate myself. I intend to sell the lot as is and I do have an interested buyer.
 - iv. Kim Laidlaw: Me (Kim) and her husband are interested in the Dunbar Hill property. We have heard your concerns especially on the septic design. We live here are interested in keeping all the waterways safe and clean.
 - r. Shane: I'm thinking we're going to want some sort of level of assurances due to all the variances/conditional use requests on this property.
 - s. Shane: Do we feel like we have enough information to deliberate and come to a decision, or do we need more time to understand what we do/do not want to see? Ky: Wouldn't we do that after we deliberate? Shane: We wouldn't have the opportunity to request details or assurances if we close the hearing. Ky: I'm having a tough time looking at the setbacks; if I look at where the setbacks are, there is nothing left. George: That's why we're requesting the waivers.
 - t. Shane: What are you proposing for tree clearing? George: The building envelope pretty much falls into where the camp exists today. We'd just be clearing within the limit of disturbance.
 - u. *Motion to close this hearing by Ky, seconded by Pete. All in favor, none opposed. Motion passes.*

Applicant: Abby Dreyer

Application Number(s): 3680

Type of Hearing: Requesting approval under Article 7.2 (E) of the Fayston Land Use Regulations for a boundary line adjustment for Parcel 2 that involves no change in acreage and no change to the approved development area.

Parcel ID: 01-026

Location of Property: 2142 North Fayston Road, Fayston

1. Review of Application:

- a. List of abutters in the application, printed hardcopy of receipt.
- b. Site plan present.
- c. *Motion to find application complete by Mike, seconded by Ky. All in favor, none opposed. Motion passes.*

2. Review of property

- a. George: We are seeking to move the property line so that it benefits the end users. The utility easement interferes with the property line.
- b. Shane: Has any work occurred on the site to date? Abby: Yes. Shane: Has anything changed versus the plan to date? Abby: Nope. Shane: Is there still intent to provide the 30' fire line?

- George: yes, I think it's hidden by the masking from the text.
- c. Ky: Do we have the document with the approved plans? Shane: At the time, the approval from the fire department was the last thing needed to reach a decision. I looked back through the original application materials and this plan didn't make it in there. I'm wondering if we attach it somewhere so that it's clear. The decision did reference the current decision (March 5 2021). Ky: I'm wondering if we should have an updated plan that shows the change in property line? George: We'll provide a MYLAR upon completion. Shane: What we could do in the finding of fact when we issue a decision, we can reference the March 5 plan. Can you make a revision that moves that text up? George: Yes.
- d. *Motion to close this hearing by Pete, seconded by Mike. All in favor, none opposed. Motion passes.*

Applicant: Sugarbush Mountain Resort Inc.

Application Number(s): 3679

Type of Hearing: Requesting approval under Article 2.6 (C) of the Fayston Land Use Regulations for a conditional use permit for a new outdoor recreational facility: Mount Ellen Off-Road Guest Experience.

Parcel ID: 11-085.001

Location of Property: 626 Mt. Ellen Road, Fayston

1. Review of Application

- a. Shane: do we consider this application complete with the high-level GIS type maps? Pete: What I recall is that it's not constructing any new trails or roads but repurposing existing work roads.
- b. Shane: Do we have copies of certified mail receipts? Margo: We don't; we have not notified abutters and have not received the town warning that triggers the notification of abutters.
- c. Shane: We can treat this as a sketchplan review as we can't find this application complete.

2. Review of project

- a. Sugarbush is looking to partner with car manufacturers to offer an off-road experience for guests. Other Vermont resorts are doing similar activities; this would be summer only from May 15 through June 15. We would use the existing gravel lots and existing work roads with an instructor. We don't plan to offer 7 days a week, but will be shorter depending upon how the partner group plans to operate. We currently use 4WD vehicles and heavy equipment on the mountain. The roads are built and maintained to accommodate 4WD vehicles. The stormwater management is part of the road work. Other than the temporary obstacle course, there is no physical change to ski area.
- b. Pete: What is the anticipated noise level and impact to the surrounding community? Margo: We are anticipating 4WD vehicles; not mud vehicles or modified muffler vehicles. These are road legal vehicles. Operating hours will be typical daytime working hours; guest hours will be 9am-5pm with periodic sunset tours.
- c. Ky: What vehicles, makes/models, are you talking about? And what are sunset tours? Margo: We've be up on the mountain at sunset and group size about 6 vehicles. Sugarbush has been approached by Ford, but we're also pursuing Honda Pioneers (side by sides). John: At this point we do not have a sponsor. Ky: Would there be 4 wheelers or lasers? John: Not sure what a laser is, but we'd consider side by sides.
- d. Shane: Where does this project lie within zoning boundaries? The upper loop appears to lie within forest boundaries. Margo: I believe you're correct. Shane: According to our bylaws, the only things that are permissible in this area are hiking trails, VAST trails, huts, and biking trails. All other uses require conditional use approval. In my opinion 4WD drive trails are not allowed within the forest reserve district. Margo: So this wouldn't be considered a recreational use? Shane: On table 2.1 it outlines what is allowable. Margo: So ski areas are not allowed? We would place this under supplemental uses on page 7 section (E)(4). Shane: I feel like 4x4 is a different use than workroads. Margo: So if we stayed out of the forest reserve area, we'd be ok? Shane: This could be considered conditional use under the soil/water district. It's only the forest

- reserve district that has the specific use.
- e. Margo: We need to do some work on the mapping to determine where the elevation line is for forest reserve and soil/water to see if we can stay under that. Shane: Yes.
 - f. Shane: What kind of traffic are you planning on? How many vehicles/day would be allowed on these roads? Margo: It's difficult to say as we don't have a partner yet. We'd be willing to talk to the DRB to see what you're comfortable with. Seeing as we plan to operate 9 to 5 with 6 vehicles, it'd be about 40 vehicle trips with 8 different groups. Shane: I'm guessing the work roads see occasional use vs. this recreational use that could see significantly more traffic. That additional traffic could put additional stress and erosion on the roads. What kind of maintenance and erosion control is done currently and what would be done if this goes through to insure the roads stay in good condition? Margo: Any stream or water crossing would be over a bridge or culvert, so no open water crossing. We do have water bars on the work roads, so there is potential for there to be water there. If the weather is unsuitable for driving up the mountain, we would not run vehicles up in those conditions. Shane: So if the day starts and conditions are sketchy, will a scouting vehicle go up and assess? Margo: Yes, something like that.
 - g. Ky: What would one of these experiences look like? Margo: It's hard to say since we don't have a partner lined up. But, we could assume it's a 2 hour appointment with the first hour being in the parking lot learning how to drive and then going up on the hill with an instructor. If the person doesn't have the skills, the instructor would drive the guest up the hill. Our chief plan is to operate the ski area. The intent is to have an alternate activity in the summer to offer guests in the Mad River Valley. We propose to inspect and maintain the roads on a weekly basis. The roads are pretty sturdy gravel roads. Ky: Do you anticipate any conflict with bikers and hikers? Margo: There is no organized biking, but that's not to say that people don't bike up there. Also there is no organized hiking, but the hill is open to the public for hiking. We could educate with signage.
 - h. Margo: Do you know what the lower elevation is for the forest reserve district? Shane: I don't have handy what contour that is, but we can figure that out.
 - i. Margo: Since we're vague at this point on what this type of experience looks like, we can reach out to Ford and other vehicle companies to understand how they operate at other ski area and come back with a better description of what this experience is: How long each experience is, how long guests are up on the mountain, how long it takes for guests to reach an appropriate level to drive on the mountain.
 - j. Shane: I guess the type of questions I have are around the details like: How wide is the road, what is the width of the road, how many water bars are up there? Would the board feel we need a more detailed site plan like what we get for other permit requests? Or do we talk in generalities about what will be happening up on these work roads? Pete: One point of clarification – when I look at the forest reserve regulations, they seem to be consistent with the state regulations; that might shed some light on the permitted uses. The state regulates what can be done in the forest areas. Shane: But we do. Pete: So, is it about what's operated on those roads? Do we slice and dice this, or since they're already operating vehicles in the forest reserve area? Shane: Do you think 4x4 is part of allowable recreation of the forest reserve? Pete: But we allow 4WD vehicles as part of the operation of the ski area. Ky: But this is a different use of the area.
 - k. Daniel: MTB trails aren't open in May. I struggle to understand how roads will be maintained in May. June is even variable. I think we'd need to see more detail around number of vehicles, constraints of use (time of year, precipitation, etc). Pete: It's at Sugarbush's expense to maintain or remediate the roads and water bars.
 - l. Shane: I think having profile of the roads would be helpful to understand of how steep the grades are and where the potential erosion areas would be. Margo: We can do profiles with the GIS mapping tools.
 - m. Ky: So where would this go, like to the midstation? Margo: Yes, it'd go up to the Glen Haus, then over to Inverness and down.

- n. Shane: I heard you state that you've applied for the 9050 with the state? Margo: Yes, the NOI and then we proceed to permit the plan. Shane: I'm guessing these roads will be collected in the impervious surface total? Margo: Yes. Shane: do you anticipate additional work to these roads to come into compliance with the 9050? Margo: We haven't dived that deeply into the work roads. I think wherever we have water bars that aren't discharging directly into a stream, we're ok. Where we have bars that are not connected, we have to work on that.
- o. Shane: It looks like on the map you provided, there's one stream that would be impacted by the road loop you're proposing, are there are other streams in that area that didn't make it onto the USGS map or wetland/habitat areas that would be in the vicinity of these roads? Margo: With regard to the stream that we cross, those segments are culverted. With other intermittent streams that are not mapped, we'll have to take a deeper dive into that. We didn't do a natural resource assessment as we're dealing with existing roads. We can pull the soils maps and data off the ANR atlas to do a deeper dive into the intermittent streams and channels.
- p. Margo: Is the next meeting going to be warned? Shane: Yes. Margo: Hanna, can you send me a copy of that warning or work with us so we can get the abutters notified? Shane: We do have a bit of a backlog of applications, so we're considering having additional meetings in November. How does the second hearing look in November? Hanna: We have 12 hearings in November. I propose the 9th and 16th, but haven't received any feedback on those. Margo: We'll be ready when you tell us to be ready. Shane: We've covered a lot of ground tonight and we'll provide a memo to you of what we need to see for the next hearing. Margo: We are also going through the Act 250 process, so these are running simultaneously.
- q. Public comments/questions:
i. None at this point.
- r. *Motion to continue this hearing by Pete, seconded by Ky. All in favor, none opposed. Motion passes.*

Motion to approve August 3 minutes as amended. All in favor, none opposed.

DRB enters deliberative session at ~9:00pm.