

MINUTES
FAYSTON DEVELOPMENT REVIEW BOARD
Thursday November 16th, 2021, 6:00 p.m.
Fayston Town Office

Attendees

Development Review Board: Shane Mullen, Mike Quenneville, Pete Ludlow, Dan Young

Zoning Administrator: Hanna Neill

Minutes taker: Betsy Carter

Guests: Jon Kirson, Karl Klein, Karen Sauther, Matt Lillard, Gunner McCain, Tom Harris

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) Last review (October), not all adjoining land owners had been notified. Some items had been discussed, but application not totally complete with remaining adjoining land owner notification.
- 2) *Motion to find application complete by Mike, seconded by Pete. All in favor, none opposed. Motion passes.*
- 3) Overview/Questions:
 - a. Additional adjoining land owners notified.
 - b. Ray Mund (former neighbor) brought up concerns over potential connecting driveway from the Henry's Way property to brother-in-law & sister. The intention is to not connect driveways. Intend to state in deed of sale that driveways will not be connected.
 - c. Most of land in that area is greater than 15% slope, so would be expensive to build.
 - d. Driveway is to scale with boundary of right of way in site plan.
 - e. Shane: So the right of way is going to serve a single structure only and not the existing structure and not to connect through to get down to Route 17? Jon: The dotted line that's not shaded serves the permitted house that will be constructed. The extension shaded in gray, should that 5 acres ever be developed, would serve a single-family home and would terminate at any future development.
- 4) *Motion to close hearing by Pete, seconded by Dan (?). All in favor, none opposed. Motion passes.*

Applicant: Karl & Susan Klein

Application Number(s): 3685 & 3694

Type of Hearing: Requesting approval under Article 6 & 7 of the Fayston Land Use Regulations for a minor subdivision of 10.3+/- acres to a 5.1+/- acre lot and a 5.2+/- acre lot. Also requesting approval under Article 3.4 (E) for development on slopes in excess of 15%.

Parcel ID: 06-024

Location of Property: 1439 Kew Vasseur Road, Fayston

- 1) *Motion to find application complete by Mike, seconded by Pete. All in favor, none opposed. Motion passes.*

2) Overview/Questions:

- a. The building envelope was moved up onto hill; per the slope analysis plan, the building envelope is still on fairly flat land. We're trying to build a small single story home and a garage. We could avoid a few steep slopes as demonstrated in site plan. The other steep slope over 25% down by the road due to the ditch. We're hopeful that where we're crossing over, just to the north of the existing culvert on Kew Vasseur Road, that we wouldn't have to install another culvert.
- b. Shane: I know you had previously come in with a sketch plan and one of the things you were investigating was if you had better access to the back of your lot. Karl: We couldn't work out with the neighbor to get access across her land and the wetland shown goes up further than what's shown on the drawing. She didn't want us to interrupt the wetland. Shane: How did you determine the extent of the wetlands? Karl: With a wetlands biologist, Brad Wheeler, and Shannon Morrison from the state is coming out to confirm his work. Shane: Did Brad provide an opinion on whether this is class 2 vs 3 wetland? Karl: His opinion is the lower is class 3 and some of the upper but not on our property is class 2. We're not disturbing any of the buffer. Our LOD actually already exists (since 1987). A lot of this area was disturbed before us. Shane: If this is class 2, the LOD is already within the boundary. Karl: That was done prior to us. Shane: It looks like the entire proposed driveway would be within the 50' buffer of the wetland. Karl: Which one? Shane: the one going to the woodshop. I assume all of that is going to be newer development? Karl: that's all already there. It's the lower section (moves to site plan to show Shane; further discussion over site plan and existing swales continues). Shane: All of the new proposed putting gravel on grass type work would be outside of the 50' buffer.
- c. Shane: I don't see grading on here. I see existing contours for the driveway and for the building. Can you confirm that the limits of grading will be within the limits of disturbance? Karl: There'll be very little grading as we're not installing a basement. Shane: I didn't see any proposed drainage for the driveway. Karl: I believe that's on the 3rd or 4th page. Shane: It shows the LOD and some grading around the wastewater system, but none around the driveway. I'm looking for proposed swales and driveway grading. Karl: the swale that's there should work for the majority of it. We may need to enlarge it slightly. I can't answer how wide we'd need to make it. For the majority of this we're not changing the grade. Shane: So you're saying you're not planning to have any swales on the driveway? Karl: We'll have to put swales on either side and potentially culverts (pointing at site plan). Shane: It would be nice to have that detail here. Shane: Mike do you have a gut sense (inaudible). Mike: (inaudible). Shane: On page 47 of the land use regulations it details different types of swales. Karl: water coming down seems to run off very easily. Shane: Since we've got some steeper slopes, we'd like to see a bit more detail around the grading here.
- d. Shane: The same questions apply to what it'll look like at Kew Vasseur Road. I did measure the angle of approach there and according to our driveway regulation, it should intersect at an angle of less than 70 degrees from the centerline of the road. I measured it at 52. Can you explain how the driveway came to be where it is and any opportunity to make it shallower? Karl: If we were to make it shallower, we'd have a steeper uphill angle. We could move that so it's not as sharp coming in, as long as we maintain the 25' setback on the mound. Shane: Right now the edge of the driveway is 20' from the mound. So this doesn't meet your regulations or there's concern? Shane: Right now I'm

- measuring the approach angle at 52 degrees and it needs to be more like 70 degrees. Maybe you can start straighter and then put a little kink in there to get around the septic.
- e. Pete: Can you adjust the (not audible). Karl: Let me check with him on that, that would seem to be the easiest way.
- f. Shane: Would you have any objections to us putting a condition in the decision stating that lighting will be downcast? Karl: No.
- g. Shane: This erosion control plan looks pretty robust; note 5 talks about erosion control netting on steep slopes. Are you amenable to erosion control nets to be biodegradable? The plastic netting sticks around longer and is detrimental to wildlife. Karl: Do you know the cost difference is? Where we're using it is slopes greater than 1 over 3. And that's within the LUD? Shane: There is difference in cost; where you have those swales and steeper slopes is where it'd be used. Karl: I don't think that's an issue.
- h. Mike: How will you get power to the house? Karl: We already have solar panels on the barn/woodshop and that will be part of it. Other than that we'll have to bring in from Kew Vasseur and add a pole. Pete: Do you have service at the woodshop? Karl: Yes, but we have to split it as it also feeds the current house. We'll have to dismantle that and rerun.
- i. Shane: Right now there's one existing residence and the woodshop, and no accessory dwelling? Karl: No accessory dwellings. Shane: So this subdivision will have a new residence, woodshop, and ADU? Karl: Yes and he shows it as a 2 bedroom, one bathroom, but we don't have to build it as a 2BR ADU.
- j. Shane: Circling back to the ADU, do you have a footprint for the ABU? Karl: It'll be under 900 sq feet. Shane: What about the residence? Karl: we haven't finished the design, but it'll be around 1700 or 1600 sq ft. From what I understand from the state allow ADUs at 30% or 900 sq ft, which ever is greater. Shane: We allow up to 40% as a conditional use. I just wanted to make sure to have a clear understanding of if the ADU is allowable use or conditional use. Karl: Will the state regulations override the local regulations? Shane: My understanding is that the state rules are intended so that towns cannot prohibit (not audible), but the towns still can regulate. Karl: For now the second floor of the barn is the ADU and it's a 1.5 story building, not two and you've got knee walls coming in. I believe it's about 800 sq ft including the stairwell. Shane: Our regs right now, the main house on that lot will need to be at least 1040 sq ft. Will the planned house be greater than 1100 sq ft? Karl: Yes the planned house will be about 1600. Shane: I think it would be good for us to have an understanding of what the square footage of the house will be and what will be the size of the ADU. The way the regulation states right now (quoting from LUR). Karl: So this disagrees with the state regs of 30% or 900 sq ft, whichever is greater. I just don't understand what takes precedent. We need to be able to build ABUs greater than 640 sq ft if we're going to solve the housing crisis. Shane: I'd love to see some clarity on that as these regs were written in 2018. Hanna: I just looked it up. (quoting from state regulations). Shane: So we'll have to make note of that; you're proposing an ADU not to exceed 900 sq ft.
- k. Shane: I feel like having a chance to take a look at the site plan in more detail with some additional engineering around the driveway would be helpful. I have written down: show proposed drainage swales, confirmation of status of wetlands on property and show appropriate 50' buffer if Class 2, adjusting angle of driveway to 70 degrees minimum within 35' of the centerline of the road, (something inaudible from Pete). Karl: ON the

wetlands, the state allows you to be within the 50' buffer. Are you saying the town won't allow that? Shane: No, but if you are going to do that it needs to be spelled out on the plan.

- 3) *Motion to continue this hearing by Pete, seconded by Mike. All in favor, none, opposed. Motion passes.*

Applicant: Mad River Glen – Matt Lillard

Application Number(s): 3695

Type of Hearing: Requesting approval under Article 5 of the Fayston Land Use Regulations for a conditional use application to extend the temporary permit (#3612 one season) for the “Snack Shack” to a permanent structure.

Parcel ID: 10-03

Location of Property: 57 Schuss Pass, Fayston

- 1) Motion to consider application complete by Mike, seconded by Pete. All in favor, none opposed. Motion passes.
- 2) Overview/Questions:
 - a. The snack shack was born out the COVID guidelines issued by the governor last year. It was a way to spread out our operations and keep things outside. Turns out the snack shack was enormously successful, and people enjoyed being outside rather than going into the Basebox. We'd like to be able to offer it in the same location as last year. The structure is still on skids; there is potential to move it out of the way in the summer, but for winter operations we'd like it in the same spot. **(Hard to hear)**
 - b. Shane: No water or sewer, just electric? Matt: Yes. Everything will be prepared in the kitchen, just need electric. No wastewater.
 - c. Shane: Any other state permits required for this to be more permanent? **Matt: (not audible, something about last year)**, but no.
 - d. Shane: If you were to move this around, would you have objections to us putting the condition in to stay away from any stream buffer? Matt: No.
- 3) *Motion to close hearing by Pete, seconded by Mike. All in favor, none opposed. Motion passes.*

Applicant: Thomas & Judith Harris

Application Number(s): 3690

Type of Hearing: Requesting approval under Article 3.8 of the Fayston Land Use Regulations for the expansion of a Non-Complying Structure; requesting approval under Article 3.13 for a building envelope within 100' of a stream; and also requesting approval under Article 3.6 (D) (1) for a front setback waiver to 45'.

Parcel ID: 05-037

Location of Property: 342 Glen View Road, Fayston

(Shane recused himself from hearing)

- 1) *Motion to consider application complete by Mike, seconded (by who?). All in favor, none opposed. Motion passes.*
- 2) Interested parties present: Shane Mullin, Karen Sauther.
- 3) Overview/Questions:
 - a. Gunner expressed concern over only 3 members of board present. Feels this is a straightforward application but concerns over small voting population of board.

- b. This application is to build a new garage attached to an existing house (house built prior to land use regulations). Garage is outside of stream buffer and requesting standard setback waivers. The garage will be built on top of the existing driveway, so minimal earthwork or grading required. No sewer service required.
- c. Mike: will this have frost walls or slab? Tom: This will be on a slab with frost walls.
- d. Gunner: One glitch in the drawing it shows a dimensional arrow to the center of the stream, but we have calculated the stream buffer from top of bank.
- e. DRB gathered around drawing, not audible.
- f. Mike: The garage is only 26' from the stream bank? Gunner: Correct. The existing structure is nonconforming and we're working under the expansion of a nonconforming structure regulation. Shane: it's section 3.8 starting on page 41.
- g. Mike: (not audible) Gunner: Correct Mike. That's right, we're further. The existing structure, the deck, is only 11' from the bank. The new structure is 26'. We're well further from the stream bank. Hanna: (quoting section 3.8.a regarding volume of structure of noncomplying structures). Gunner: If you look at the plan, the shaded area of the proposed garaged is the portion within the stream buffer. In the top right hand corner of the plan there's a discussion on that. It was also included in narrative form. Existing square footage of dwelling, deck and steps within the stream buffer is 1130 sq ft and allowable increase is 565 sq ft and proposed structure within the buffer is 522 sq ft. As far as volume goes, again existing volume of structure within buffer is 12,780 cu ft. Allowable increase is 7,779 cu ft (please double check... this part glitchy on recording) and requested increase is 1,067 cu ft.
- h. Mike: (something) from the road is 45'? Gunner: Correct.
- i. Karen: How was the top of bank determined? How recently was it determined? Is the past 5 years the width and path of the stream has changed in the past several years. Gunner: Nothing occurred this year. Tom did most of the mapping back there as he's a licensed surveyor. We field checked it and agreed. It's not a huge stream back there, it's a fairly small one. Karen: I was wondering about the location of the propane tanks as they're on the side of the house where I think the garage is going. I just want to make sure there will be no chemicals stored in the garage or potential for leakage into the stream. Tom: I plan to relocate those to the side of the garage. Karen: I heard there would be little to no earthwork, I don't know if that's possible as you'd have to take some trees out and that slope starts pretty immediately. Gunner: I mentioned this is minimal as we're building this on top of the existing driveway and note that the contour intervals are 2' intervals and not 1' intervals. The earthwork to build this will not be significant, but there will be some for sure. Karen: I was wondering if there was any intention of building an extension to the patio area and what will happen with the existing shed? Tom: There will be no extension to the patios. The shed is still there; eventually I'll have to repair it and I like it, but it's right on the edge of the stream. Eventually it's going to have to get repaired or it may come down. Karen: the pitch of the roof, being that it's so close to the stream bank, will it be pitched back to the stream bank? Tom: It'll be reversed (shows drawing on camera).
- j. Shane: What was the intended finished floor elevation of the garage? Tom: the idea is to get it up above just a little bit from the existing driveway. I don't want to create too many steps and I'm changing the entry to be next to the garage. Shane: I'm trying to get a better sense in my head of what the proposed earthwork will be. If the propose garage

is at 1135 and the far corner is on 1137.5, so you'd have to cut back about 2.5' to get to existing grade, and then chase that slope back up the hill.

- k. Mike: The water from the roof will run towards the road. Tom: It's going to be pitched, but we could put gutters. It's pitched towards the hill. Gunner: some of it will runoff towards the stream, but that's better than shedding onto the driveway and into the stream. Runoff from the roof is a better situation than runoff from the driveway due to contaminants that can come with runoff from a driveway.
 - l. Shane: My main concern is that the stream stays stable as it's still a very active area. A suggestion is to reach out to Friends of the Mad River and see what they recommend to shore up that area of the stream.
 - m. Shane: Is there any lighting proposed for this? Tom: just standard residential lighting like next to the door. Gunner: Tom would you agree to a condition for lighting to be downcast? Tom: Yes.
 - n. Hanna: On the site plan map, it says area to be added to stream buffer it says 587 sq ft, but then on different documents is 565 and 522. Gunner: We originally had this garage a little bit bigger and we shortened it up once we did some volume calculations. The written information presented with the application is correct. Shane: From my calculations I found 1133 sq ft of existing structure in the stream buffer and 537sq ft proposed within the stream buffer. I am satisfied that the 50% threshold hasn't been exceeded.
- 4) *Motion to close hearing by Pete, seconded by Mike. All in favor, none opposed. Motion passes.*