

**MINUTES**  
**FAYSTON DEVELOPMENT REVIEW BOARD Thursday November 4th**  
**6:00 p.m.**  
**Fayston Town Offices, 866 North Fayston Rd. & via Zoom**

**Attendees**

**DRB Members:** Shane Mullen (Chair), Mike Quenneville, Pete Ludlow, Ky Koitzsch, Dan Young;

**ZA:** Hanna Neill

**Public:** George McCain, Leigh Williams, Tom Clark (Zoom), David Frank, Siri Fiske, Ariel Brumbaugh, Barclay Rappeport, Kellee Mazer, Meg Hourihan, Kathy Haskell, Deb Steines (Zoom), Amanda Siegel (Zoom),

**Applicant: Tom & David Clark**

**Application Number(s): 3683**

**Type of Hearing:** Requesting approval under Article 7 of the Fayston Land Use Regulations for a lot-line adjustment (minor subdivision) of 3.58 acres

**Parcel ID: 08-005**

**Location of Property: 133 Clark Road, Fayston**

- 1) Motion to find application complete by Ky, seconded by Pete. All in favor, none opposed; no further discussion. Motion passes.
- 2) Brief overview of project.
  - a. Intent is to sell the house on the lot at a future date and would like to maintain ability to pass from our land to our son and daughter-in-law's land unencumbered.
  - b. No intent of development on the lot and maintain the path between our lot and son's lot.
- 3) Questions:
  - a. Shane: It looks like the existing lot line runs down the centerline of the road and the new line adjusts the line to the north of the road. Tom: yes, it's moving the lot line to the north of the path.
  - b. Ky: The driveway that goes up to lot 2B and lot 3 will be completely out of that 1A lot? You'll be able to travel unencumbered to your personal lots? Tom: Correct.
  - c. Mike: Which lot is being adjusted? Tom: I believe it's 3, but it should be on the map provided.
  - d. Shane: I see a note on here for new driveway to lots 1 & 3. Is there an existing driveway servicing those lots? Tom: There is an existing driveway servicing the lots in question and I don't think there's a need for a new driveway. Shane: It looks like the lot line adjustment was just imposed on top of a prior plan. Tom: The plan I dropped off is the most recent MYLAR. Shane: I think we would put in the findings of fact that there's no driveway work being done and that this is just a lot line adjustment.
  - e. No questions from the public
- 4) Motion to close hearing by Pete, seconded by Mike. All in favor, none opposed. Motion passes.

**Applicant: Dave Frank**

**Application Number(s): 3692**

**Type of Hearing:** Requesting approval under Article 6 - 7 of the Fayston Land Use Regulations for a two-lot subdivision. The existing 5.9 acre parcel would be divided into a 2.3 acre and 3.6 acre lot.

**Parcel ID: 06-041.000**

**Location of Property: 645 Stagecoach Road, Fayston**

- 1) Motion to find application complete by Mike, seconded by Pete. All in favor, none opposed. Motion passes.
- 2) Brief overview of project
  - a. David: we had bought this property with the intention to build a house. The original plan was for

1 ac and 4.8 ac lot and septic was designed, modified and approved for what you see in front of you.

- b. We have come up with a screening and buffer plan that is shown on the site plan. Screening will be evergreens and lower bush type evergreens. In the other direction to the existing house there are several trees and we will be leaving those between the lots. We positioned the house for the view and southern exposure.
- c. The driveway will be designed in accordance with the B71 standard. The driveway is the most gradual grade we could create in and out of the lot. The driveway provides the best line of sight at a level section of Stagecoach Road. Additional details around driveway erosion control shared: erosion control blanket, grading, and swale to the house.
- d. There is an existing swale that runs over to an existing stream that picks up a minimal amount of road drainage.

3) Questions:

- a. Shane: The proposed diversion swale wraps around the house a little bit; would it be possible to route that swale to the existing ditch that directs the water to the 15" culvert. That might result in 20' less excavation required. David: Yes we'd love to do that. I did see that the well has been placed in the 50' buffer with the current septic; is that permitted? Shane: That would require an additional use approval. What is the rationale for the placement of the drilled well? David: I'm not sure, but it's something that we can make sure is not in that buffer.
- b. Shane: On that same swale, there's no note of the geometry of the swale and on page 47 on the land use regulations there are some sketches of how swales should be built. One particular thing to note is the triangle point of the swale to reconcentrate the water. David: That area is pretty flat and the grade is less than 15% in that area, so that shouldn't be an issue.
- c. Shane: You mentioned the erosion control blankets; something to keep in mind is on our conditional of approval that the erosion control blankets use a biodegradable netting rather than plastic netting.
- d. Ky: In your description you suggest that there are no slopes on the lot, but then you say that it averages between 13 and 14%, which may suggest some are greater than 15%, so which is correct? David: The driveway will be less than 15% in accordance with the driveway requirements. We've been told that everything on the lot is less than 15% and everything within 13-14%. Of course, it gets steeper at the stream. Ky: So everything is under 15% but within about 13-14%/ Shane: I spot checked a few areas and the house lot is about 13.5% and where the second tank is proposed is 13.8% and the driveway is about 14.2%. The septic system in the leach field is about 12.7%.
- e. Ky: Jody from the state suggests that there's no critical wildlife habitat on your property and there's value in providing connectivity on both sides of the road. Keep in mind that the stream will be used as a wildlife path, so whatever you can do to keep that area as natural as possible since that is a heavily used corridor just by its location.
- f. Ky: for the Andrews that adjoin your lot, do they have any concerns with the buffer proposed? David: I have gone over it with them; they're ok with what we've proposed. There's some apple trees in that area and we get deer in that area.
- g. Shane: One consideration is for exterior lighting; we recommend downcast lighting so as to not interfere with others in the area. Is that a condition you're ok with? David: The lot is kind of long and we do have neighbors towards the ends, but we would like to consider spotlights into the yard. Ky: Who would this impact? David: (inaudible) Oh yes Haraldsen wraps around with a large house on the other side of Andrews and wraps around to the bottom of my lot. Ky: Can you see the houses down in Fayston Farms? David: you can see some lights through the trees, but not really. Shane: Looks like the nearest house to the existing is about 559'. Shane: With the adjoiners the screen clearly helps with the existing house. David: Yes it does; I mean you can see some below the trees, but it's minimal. Ky: I don't see any issues as long as he's not lighting up the neighbors or the road.

- h. No questions from the public.
  - i. David: Will you need the MYLAR or just the survey? Shane: Survey should be fine; the surveyor should confirm what is needed.
- 4) *Motion to close hearing by Pete, seconded by Ky. All in favor, none opposed. Motion passes.*

**Applicant: Leigh Williams**

**Application Number(s): 3641 & 3642**

**Type of Hearing:** Final Plat Review of 3 lot subdivision. Requesting approval under Articles 6 - 7 of the Fayston Land Use Regulations for a minor subdivision of one 10.4-acre lot into three lots of 6 acres, 1.5 acres and 2.9 acres (#3641). Conditional use review is also required pursuant to Section 3.4 (E) and Section 3.4 (C) (1) (d) of the Fayston Land Use Regulations for development on slopes in excess of 15% in grade (#3642).

**Parcel ID: 01-063**

**Location of Property: 360 Dunbar Hill Road, Fayston**

- 1) Reintroduction of project
  - a. No revisions from preliminary hearing and the project is still as was described. We did make some edits to the site plan based on a site visit and make some revisions to culverts. Now that we've update the plan, we'd like approve the preliminary plat to finalize everything.
- 2) Questions:
  - b. Shane: I didn't see any grading plans. George: We've provided development and building envelopes below that 25% threshold and final grading will depend on the house layout. Shane: Can the building envelopes be better defined? Can you elaborate? George: Lot 1 is the existing house that meets all current stream setbacks and easements. Lot 2 has building envelope with a setback of 65' from the top Dunbar hill Road and 25' from the property line of lot 1. Lot 3 building envelope has a 25' side setback along the road boundary and 50' along the east side to the top of bank of the stream. Shane: Yes it looks like you pinched the envelope in a little bit to avoid the 25% area. The building envelope for lot 3 is shown on the draft survey plat. Shane: I noticed there was a discrepancy on the easement for the lot 3 driveway. We'd like to have the final version of the site plan for our records to be consistent with the final plat.
  - c. Ky: It looks like from lot 2 down to the septic is now kicked over away from the stream. It's to the west of the house? George: That is correct.
  - d. Shane: one thing that showed up on the overall site plan has the one little shed that on the plans show relocate or demolish. Is it a sugar shack? George: Yes it's a sugar shack that Leigh would like to move uphill. Shane: So that would be relocated out of that buffer.
  - e. Shane: Regarding lighting for these houses, would you be amenable to the condition of downcast lighting? George: that's a standard condition we work with for most towns.
  - f. Leigh: What happens now? Do you approve it? We've been at this for almost a year and a half now. I just want to know how much longer this goes for. Shane: If there are no other questions or comments, we'll close this hearing. We have 45 days to issue a decision; if we fail to issue a decision the application is defacto approved. There is a 30 day appeal period after the decision is issued; within 6 months the town requires a recordable Mylar of the survey. Leigh: One of the concerns from my neighbors is once we do this we can't go back. My feeling would be that if I did this and wanted to rejoin the lots, I could apply to have the lots rejoined. Is that true? Right now I have no plans to do anything with that lower lot, but it made sense to me at the time to separate it and eventually build a structure or sell it. If I decide not to build down there, can I apply to have that lower lot line adjusted? Shane: We're talking about lot 3 and you wouldn't have done any improvements and it's still greenfield? Shane: If you were to put in a curb cut for a driveway, then yes you'd be developing that lot and couldn't go back. You have control over it until you start developing on the lots.
- 3) *Motion to close this hearing by Pete, seconded by Mike. All in favor, none opposed. Motion passes.*

**Applicant: Siri Fiske**

**Application Number(s): 3689**

**Type of Hearing:** Requesting approval under Article 5 of the Fayston Land Use Regulations for a Conditional Use permit for operation of an educational organization in existing Mad River Glen buildings. Pursuant to Section 2.4, Table 2.6 (C) (17) under the use "Private Club" in the Resort Development District.

**Parcel ID: 10-043**

**Location of Property: 57 Schuss Pass, Fayston**

- 1) Review of application packet
  - a. There isn't really much of a description of what this is for; for conditional use application requirements, we ask for a series of materials (site plan... this one is using existing structures), traffic/visual impact assessments.
  - b. Shane: Does the board feel like there is enough information submitted to deem this application complete? There is no written narrative from the applicant. Ky: When you look at what's required, the application isn't complete, but can we hear the overview of what's happening.
  - c. Applicant: Sorry I'm here representing Matt. I think given that this is only 9 kids and we thought we had already checked the boxes.
  - d. Ky: In the review standards, you would need to assess in accordance with the current standards and provide explanation of how your application will or won't affect the current way of operating.
  - e. Person in the back: It sounds like we have a miscommunication here. I think we came ready to present what you're saying would be a written narrative; it's hard to assess the impact of our application to some of these issues like traffic, as we're operating within normal operating hours of Mad River Glen and only using 2-4 parking spaces behind the Cricket Club.
- 2) General Discussion/Questions
  - a. Nothing being built or added to current structures at Mad River Glen.
  - b. Operating hours approximately 9-3, Monday through Friday.
  - c. Age range of students is roughly 9 years old to 16 years old, 9 students total.
  - d. The goal is to grow the student population to about 40 in the next 4-5 years.
  - e. Shane: The two biggest things we're up against, to be consistent we need the full application materials. The second is the use and how this is being proposed for zoning; this is a school, but for the application it's a private club. If you look at the definition of school, it fits this use. When you look at private club, it's also applicable. What are the board's thoughts on the particular use?
    - i. Ky: Is this exclusive to this area, or open to all? Applicants: there is a registration process and it is a private school. When you compare to GMVS, the school operates in Waitsfield and uses Sugarbush North, so a little bit of a similar application to Mad River Glen opening up to a school community.
  - f. Dan: Would you be certified in the state of Vermont as a school? Applicants: Yes. Dan: So that puts you more in the direction of school than private club. Applicants: Yes, but religious schools are also private clubs.
  - g. Shane: With them being registered as school, is there an issue with dual use? This application has a set timeframe. Applicants: Yes we'd assess at the end of next June to see if we should pursue zoning changes with MRG board.
  - h. Deb: The MRG homeowners association met in October we met and agreed that this would be a good use of the building. There has been declining use and numbers over the years. The homeowners are in support of this.
  - i. Shane: Does the board feel that classifying this project as a private club as appropriate? Pete: It seems to be more than a private club. Calling it what it is, is more constructive. Shane: Is this an allowed use of the district? Pete: I think the education could be an allowance. Dan: My concern is that we could allow it, but what's next? (a lot was hard to hear) I'm looking at further out. Shane: Yes what is decided here becomes a precedent later on.
  - j. Ky: Another option is adapted reuse under section 4.2 (reads from regulations).
  - k. Hanna: This was brought up at the planning commission meeting; if Mad River Glen was applying

for this, it would be different and become part of mountain operations. This brings up how or if will be incorporated into the next revision of the land use regulations.

- l. Shane: Personally, I'm torn about this; it clearly meets both definitions although I am a little concerned about us crafting a decision that isn't spelled out in our table (hard to hear). Pete: (hard to hear). Mike: (hard to hear) something about a year and see what happens. Dan: (hard to hear).
- m. Pete: In moving forward, we have to consider the precedent. Shane: And not even for schools. That's why I'm agonizing over this; we have to be consistent and it's incumbent on us to ensure we're following the letter of the land use regulations. Pete: We have to look around to see what has been done within the state. Mike (not audible).
- n. Ky: Are there schools out there that you can align yourselves with in Vermont that have gone through this process? Applicant: (not audible) some academy within some resort and that's how we're seeing our school. I don't know the history of the Stowe River School, but they operated out of a ski shop. Ky: was it permitted or conditional use? Applicant: I'm not sure.
- o. Shane: When/if we grand approval, we'll list in the finding of fact and if it says 9 students, there can't be 10. Applicant: We understand and it's a constrained ask.
- p. Shane: One of the other things that's important for this conditional use request is the findings of fact so that there are boundaries set on a particular proposal. So you'd request no more than 15 students and no more than 2 staff. Applicant: Well there would be up to 3 staff but only 2 parking spaces. We may enlist the mountain naturalist or others to help that are already there. Shane: so 3 fulltime teachers with potential for an additional educational visitor. Applicant: Yes but only 2 spaces. Shane: so where would they park? Applicant: In the ski area parking lot. Shane: Operating hours 9 to 3 and school year would be? Applicant: September to June.
- q. Shane: What additional permitting need to obtain? Sewer/wastewater with additional students, Act 250? Applicant: We're within normal operating. Shane: So you're under capacity. (somebody mentions something about 250?) Applicant: Yes with 15 children and 3 staff. Shane: Any need for admin or office space? Applicant: All contained within the space.
- r. Ky: I'm looking at what was prepared. There's a lot of little things that depending on what conditional use label it would have, there would be restrictions. Shane: That's why a plan that outlines the parking spaces and use would be helpful. Pete: It's not a new structure, it's just the use. Ky: That's why I'm reading through the regs there. Shane: I think it's pretty clear that even if we did find the application complete tonight, we wouldn't have enough information to close this hearing or make a decision. We've gotten a lot of questions answered, but I think we need to put our heads together to provide a formal recommendation of what's needed. I would say this application is not complete and we can provide feedback on information is needed at a subsequent hearing. Applicant: Yes, if you can just let us know what is needed. I'm happy to write an overview and provide pictures of the parking and everything. Shane: Yes, we'll give you a clear shopping list of what is required.