

## MINUTES

FAYSTON DEVELOPMENT REVIEW BOARD  
Tuesday, January 4, 2022  
6:00 p.m. at the Fayston Town Offices & via Zoom

### Attendees

**Fayston DRB:** Shane Mullen, Mike Quenneville, Pete Ludlow, Ky Koitzsch, Daniel Young

**Zoning Administrator:** Hanna Neill

**Minutes Taker:** Betsy Carter

**Applicants/Public:** Karl Klein, Gunner McCain, Andy Kaplan, Don Marsh, Clayton-Paul Cormier, Marisa Mauro (interested party), Ryan Lynch (interested party)

### 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% grade.

**Parcel ID:** 06-024

**Location of Property:** 1439 Kew Vasseur Road, Fayston

- 1) Overview/review of project:
  - a. Detail of runoff added to the EPSC plan & details.
  - b. Memo from November 24, 2021 of 5 action items resulting from November 16, 2021 hearing:
    - i. State wetland designation from Shannon Morrison relating to the wetland on the southside of the lot at the edge of the existing driveway. Wetland delineation boundary labeled as class 2 wetland with wetland buffer.
      1. Don: That's correct and we provided a 50' buffer and we stay out of the buffer except in the vicinity of the barn where we have to encroach on the buffer.
      2. Karl: The area of encroachment has been encroached since prior to 1990, probably about 1987. This is not a new encroachment.
      3. Shane: I do notice on the plans that the earthwork is limited to the drainage infrastructure that is conveying runoff down to Kew Vasseur Road and not draining into the wetlands. Is that correct? Don: That is correct.
      4. Ky: Before the subdivision, how much of that driveway existed down next to the southside of your shop? Karl: Basically all of it. That's all existed since about 1987 when the prior owners built the shop. Ky: So not much has changed, you're just connecting to that spot.
    - ii. Engineered drainage and grading plans for the driveway: showing the cuts, fills driveway swales, etc., for the entire length driveway to get a sense of the limits of disturbance, as well as the connection to Kew Vasseur Road. The prior iteration showed the driveway coming in at an acute angle; based on the VTrans driveway standards that needs to be less than a 70 degree bend. Looking at this, it appears that you have a right angle and start curving back away from the road. Don: That's correct.
    - iii. Defined square footage of the proposed ADU: Karl provided in the narrative that it was a 800 sq ft ADU per the state, which trumps the town limit. Karl: I measured the actual square footage and it's only 760 sq ft.
    - iv. Disturbance area for electrical service: Overhead service planned to the workshop. Karl: Yes.
  - c. Questions from board:
    - i. Ky: Once the power is overhead to the barn, is it underground to the house? Karl: That's correct. We're meeting with Washington Electric again to discuss the service, if we were to require a second pole, is that a problem or does it need to stay underground after one pole? Pete: I don't think it makes a difference if you go above or below ground; if you go below, you'll just need to deal with any consequences with excavation. Karl: If it's possible we'd like to do a second pole before we go underground as it brings us to a more logical point at

the driveway. It's easier and less expensive to do the second overhead pole. It wouldn't be over the shop. Do we have latitude on pole placement? Shane: That seems fine to me, but ultimately we'd need to know the decision and have it updated on the plans prior to construction.

2) *Motion to close hearing by Pete, seconded by Mike. All in favor, none opposed. Motion passes.*

**Applicant: Andy Kaplan**

**Application Number(s): 3706 & 3707**

**Type of Hearing:** Requesting approval under Article 6 & 7 of the Fayston Land Use Regulations for a minor subdivision of 18+/- acres to a 7.9+/- acre lot, a 5.8+/- acre lot, and a 4.2+/- acre lot. Also requesting approval under Article 3.4(E) for development on slopes in excess of 15% grade.

**Parcel ID: 06-052.002**

**Location of Property:** 2122 Bragg Hill Road, Fayston

- 1) Interested parties
  - a. Ryan Lynch at 54 Stagecoach Road wishes to be an interested party.
    - i. *Motion to find Ryan Lynch as interested party by Pete, seconded by Ky. All in favor, none opposed, motion passes.*
  - b. Marisa Mauro at 2021 Bragg Hill and wishes to be an interested party.
    - i. *Motion for find Marisa Mauro as an interested party by Ky, seconded by Mike. All in favor, none opposed, motion passes.*
- 2) Review of application
  - a. Cover letter, narrative, adjoining abutters list, certified mail receipts, location map, 3 page plan set.
  - b. *Motion to find the application complete by Ky, seconded by Pete. All in favor, none opposed. Motion passes.*
- 3) Overview of project by Gunner McCain.
  - a. Gunner sharing screen of map of 18-acre Kaplan Parcel.
    - i. No change to existing house; we do locate the replacement septic as required by the state for the water and sewer analysis.
    - ii. The existing house will end up on an 8-acre lot.
    - iii. Smaller 4 acre lot will be located at the corner of Bragg Hill and Stagecoach with the building site shown.
    - iv. Larger lot of about 6 acres on the high side going up Stagecoach Road with a 500' driveway running up to the house site.
      - b. Slope plan showing on screen.
        - i. Large class 2 wetland in middle of parcel. Some buffer impact with the driveway to the house site of 5.8 acre lot.
        - ii. Shallow spring at corner of Bragg Hill and Stagecoach that serves the Kaplan home and Marisa Mauro's home.
        - iii. Underground power will be run to the two new house sites.
- 4) Questions from the board.
  - a. Mike: Is the Kaplan house also served by a well? Gunner: He's served from the shallow spring. There is no drilled well. It's the same spring that Marisa uses the Kaplans use.
  - b. Shane: I don't see any proposed easements for that existing spring. We also don't see the lines and existing easements that would be on Marisa's behalf. Gunner: We know where the spring is and that it's shared and it's been there for some time. We do need to show some easements, but we don't know where Marisa's line crosses the road. Marisa's easements will remain intact. Shane: What are the details of those easements? Gunner: It's very vague in this deed what the easement is. Typically easements are 20' wide centered on the waterline. Shane: It would be good to have on the plans once you track it down. Gunner: We'll track that down and put it on the plan.
  - c. Ky: Following up on that question, what happens if the construction alters the spring in anyway? Gunner: It would be the responsibility of the developer or the person developing the lot; there's no reason to suspect that something would happen. I haven't had that experience in the past.

- d. Shane: What is the applicant's intent, to build themselves or sell off the lots and leave it to the new owners to develop? Gunner: There is no intent to build; the applicant is selling the lots. There really is no reason to suspect that anything would happen to that spring.
- e. Shane: One thing I notice in there is the power line right of way assumed to be 50'. It would be good to know precisely what that is. Gunner: We'll track that down; we put it in there at 50' to make sure we had that covered, but obviously we can't put a building envelope within the powerline right of way. We'll track that down to make sure it's in there too.
- f. Shane: Also in that area there's labeled proposed house foundation; I guess the best thing to look at per the plan you provided was T-1. Can you explain the differentiation of the building envelope about the allowed foundation and the other area? Gunner: The lightly shaded area you can have a foundation with foundation drains. The darker area is acceptable to put in structures with foundations, but they need to be slab on grade, but this area is in the no foundation with drain area down below the leach field.
- g. Shane: Do you have the limits disturbance for earthwork identified for these two new structures? Gunner: We have not identified the limits of disturbance on this plan. Shane: This looks like a compact development, but just want to make sure there's enough space for the contractors to work around, but also to make sure there is a clear picture to ensure they maintain the wetland buffer. Gunner: We can certainly add those to the plan. On lot 3, the wetland buffer will be the limit of disturbance because there no intrusion into that buffer is allowed. For the other lot, similar situation. We can certainly show those on the plan. They are pretty well defined by the site conditions.
- h. Shane: On lot 2, from the grading plan it appears that you're providing an uphill drainage ditch/diversion swale. How deep is that swale intended to be? Gunner: We would typically have those at 18". Shane: My concern is that you'll be encroaching on that western property and wonder if you'll be able to fit a good-sized swale to capture the runoff without encroaching on the abutter's property. Gunner: The answer is yes we will. The finished grade packs existing grade closely. One of the attributes of this site is that there are lots of big rocks that are suitable for retaining walls and other landscaping features. There are a number of boulders on site that would make it easy to make sure the earthwork is taking the appropriate place. Shane: The grading plan doesn't show any swale between station 0 and station 75. It just ties right into the existing grade. It doesn't actually show the grading on that. It seems like this is awfully tight and may be better to pull that road away from the property line to avoid encroaching on the other property. Gunner: Boulders make great retaining walls and are helpful for cuts. At the front in when we put fill in, it creates a natural swale and drainage above this is pretty limited. We kept it where it is to avoid the wetland buffer. We can show a retaining wall around here, but I'm confident this can be built and not impact the existing land.
- i. Shane: I didn't see any note on the drawing at the culvert at the end of the driveway for any energy dissipation or level spreader. Can you provide us some detail to keep that area from channeling? Gunner: We do have a culvert headwall detail for the 18" culvert that has a splashpad at the outlet. I think that's what you're looking for. Mike: Doesn't Stuart want a 2' culvert off the town road? Gunner: We can put in a 2' culver if that's what's needed.
- j. Shane: Was this site plan developed by LiDAR? Gunner: Absolutely not. There was some LiDAR work done, but we shot in most of this site. I don't rely on LIDAR for full site work. We have the label on the wrong plan. If you'd like a map of what we shot vs. what we LIDAR'd in, we can provide that.
- k. Shane: What are the intents for the proposed tree clearing? Gunner: Lot 3 is limited by the wetlands and those will control where they can cut trees. The same is true for the driveway portion of lot 2. The wetland and buffer do drop off and we want to leave the ability to clear some views on those slopes. Shane: Do you have an idea of that clearing? Gunner: That will be specified by the end user.
- l. Shane: For the house itself, the proposed house looks like it's aligned up against that building envelope. What's the proposed earthwork in that area? The building envelope is on less than 25% or less slopes, but just beyond that it's steep slopes. What is the extent of the proposed earthwork? Gunner: You can see below the leach field that we have silt fences (showing on drawing). That would be the limit of the earthwork areas. Shane: Up above? Gunner: 25' off the property line would be the limit up here (showing on drawing).

- m. Shane: It would be good to have some of these lines stand out a little bit more. The setback lines are not shown; it would be good to show those for the entire parcel. Gunner: We can add that, but I'm reluctant to show building setbacks in areas we don't intend to build. We do have the regulatory setbacks listed on sheet 1. Shane: I'm just talking about front yard/backyard setbacks for the lot. Gunner: We can add those. Shane: (reviewing table) We do not require you to add that. Gunner: I'll take that off the list.
- n. Shane: What is in sheet C-2? Gunner: C-2 is the septic system site plans and we have another plan set that goes to the state. They are concerned with septic design details and specification, but this is the detail sheet (C-4). It provides a lot of the detail around sizing and soils data that dictates the type of design we do. These are just extra plans for permitting for water and sewer.
- o. Ky: I'm a little concerned with how development up there will affect the character of the area. The development may alter the character of the land up at Bragg Hill for visitors and residents of the area, considering the Chamber of Commerce highlights the Bragg Hill loop as classic Mad River Valley driving tour for visitors. Fayston citizens have supported the conservation of the Bragg Farm by contributing funds from the conservation reserve fund. The Bragg Barn with the mountains beyond it is probably the most photographed barns in the Valley. Potential development of this land may have negative impacts to the area. A few questions within the general review standards you comment on a few things. You say the proposed residences will be in keeping with existing and planned features of the rural residential district and will have no visual impact in relation to the character of the neighborhood. Under landscaping and screening standards, you say that the natural wooded nature of the site will adequately screen the proposed residence from other homes on adjoining lots and from public roads. So that would suggest that none of those houses will be visible from the neighbors or public roads. And then under section 6.2, you say that the subdivision of the property will not substantially alter the character of the land, rural nature, or natural beauty. What are the other unsubstantial alterations from this development? Gunner: Clearly that's not the case on lot 3 as that house will be seen from the road and is close to the road. On lot 2 the house is 500' from the road and will likely not be seen from the road. If one defines the character of the area based on what is on the ground today, there will be no development. The character of the area needs to be defined by what is allowed in the zoning ordinance; that is what the town suggests should be going on in those area. In this area, the town allows for 1 acre building lots. We're proposing 3 houses on 18 acres. We're using an average of 6 acres per house. Ky: I'm not suggesting we don't build up there, I just want to make sure everyone is aware of the importance of that area to the community.
- 5) Questions from the public/abutters.
- a. Ryan: One of my major concerns is with Lot 3. My property on 54 Stagecoach, I don't know that the lines on this drawing are representative of my driveway. My driveway is right across from the leachfield and there's a culvert that runs underneath Stagecoach just above my driveway and dumps water directly onto where that leachfield is shown. I don't see that culvert on any of these plans. Gunner: I don't show it on this plan, but I'll check to make sure it's shown. I don't believe that culvert dumps into that leachfield area. I'm pretty sure it dumps more to the west into that wetland and the buffer and that open area. I will confirm that. Ryan: This lot does have a significant impact on my view, so the comment on screening and trees is important to me, but without being able to see where this is in relation to my house it's hard to see. Gunner: The Kaplans allowed the prior owners of your house to do some clearing in this area (showing on screen) to get a better view, but we tried to keep the proposed house out of that area and not put it completely in the area of that viewshed. You will see that house, it will be visible from your house and they will be 15' vertically lower than yours. We can make sure to better depict your house.
- b. Marisa: What exactly is the well shield? Gunner: The well shield is the isolation zone around a drilled well where one cannot put a leachfield. Marisa: I'm worried about drilling the well so close to the existing spring, but you said in your experience you haven't had any issues with that? Gunner: Correct. Drilled wells and springs emanate from two different ground water regimes. A drilled well drills into a bedrock aquifer and pulls water from crevices within the bedrock. The shallow spring water is contained within the overburden contained above the

bedrock and is not directly connected to the bedrock aquifer below the site. Marisa: What about that building envelope being quite congested and the spring being downhill from all of that work and it being shallow? Gunner: I don't believe that's going to be an issue as there's a ledge outcrop right next to that drilled well and that ledge is in between the spring and the development site. Shane: The net set of plans should contain clear limits of disturbance for lot 3. Marisa: I have a more general question around clearing trees and wetlands. Whoever buys this property, they'll be held to these standards through this map or the town? Gunner: They'll be held to the standards through the Vermont Wetlands Rules and Vermont Wetlands Office. The wetlands have standalone regulatory protection. This map shows the wetlands, but this is not the regulatory map. Marisa: I did get a notification from the state of Vermont about a request for a driveway in a wetland, but earlier in this meeting you stated that there wouldn't be any wetland disturbance with this project. Gunner: There is no wetland disturbance, but there is buffer disturbance. Shane: That would be another good thing to have is a copy of that driveway permit. Gunner: We can share the application, but we don't have the permit yet.

- c. Shane: I presume the limits of disturbance for lot 3 would be the limits of proposed clearance for this lot? Gunner: Yes. If we come up with anything other than that, we'll show it. There may be some thinning, but I don't think there's any other clearing that can be done on that site.
  - d. Ky: What can't happen in a spring shield? Gunner: Same as well. You can't have a septic system.
- 6) *Motion to find this proposed subdivision to be a minor subdivision by Mike, seconded by Ky. All in favor, none opposed. Motion passes.*
- 7) Clarification/information needed:
- a. Easements: Marisa's easements on the spring line on the property.
  - b. Confirmation of the width of the power line easement.
  - c. Providing 2' culverts at driveways.
  - d. Clarify swale dimensions.
  - e. Response memo will be provided.
  - f.