

MINUTES

FAYSTON DEVELOPMENT REVIEW BOARD
Tuesday, February 1, 2022
6:00 p.m. at the Fayston Town Offices & via Zoom

Attendees

Fayston DRB: Shane Mullen, Pete Ludlow, Dan Young, Nick Skwira

Zoning Administrator: Hanna Neill

Minutes Taker: Betsy Carter

Applicants/Public: Ryan Lynch, Gunner McCain, Andy Kaplan, Barbara Mitchell, Linda Landrum, Jane Brodwyn, Joel Rhodes (SMR), John Hammond (SMR), Marisa Mauro, Jim Westhelle (SMR), Margo Wade (SMR)

Applicant: Jane Brodwyn

Application Number: 3715

Type of Hearing: Requesting Subdivision Amendment to existing subdivision conditions in application 97SUB03 (1997) pursuant to Article 7 Section 7.7.

Parcel ID: 03-095.003

Location of Property: Center Fayston Road, Fayston

- 1) Review of application materials
 - a. Adjoiner list complete
 - b. *Motion to find application complete by Pete, seconded by Dan. All in favor, none opposed. Motion passes.*
- 2) Overview of project
 - a. This is a DRB hearing to hear/consider amendment to previously approved permit.
 - b. (Gunner sharing screen) Lot was created in late 1990s. Building envelope plan shown using existing driveway that goes to upper house site. Sewer permits approved for layout.
- 3) Questions from DRB
 - a. Shane: This subdivision was approved in 1998, correct? Gunner: 1997 or 98, yes. Shane: So this subdivision was approved with the regulations in place at the time. It was condition 1 of the permit that was the issue. Gunner: In 1997 a lot of this size would not have required any state permitting and now that the state does require permitting.
 - b. Shane: Development of steep slopes was not in effect in 1997 when this subdivision was approved, correct? Gunner: Correct. Shane: This seems like a require to strike a provision from the permit and not necessarily to review the house site as it is covered under the prior approval. Dan: That seems like what we're doing here, just dealing with the one condition and not really anything beyond that. Shane: When this subdivision was originally approved, I assume the applicant submitted a Mylar with the septic and wells as approved. Gunner: Correct. Shane: I'd assume we'd want a Milar submitted, but without the well and septic on it. Gunner: I'm not sure I'm understanding that. We'd be happy to submit a Mylar, but of the site plan. My firm wasn't doing surveys at that time. To reinvent a survey Mylar, would be very expensive and not value added. We can submit a Mylar of the site plan to have it on file.
 - c. Shane: I see that this says preliminary but would be good to have one that says for town permitting. Gunner: we'll get that to you.
- 4) Questions from the public.
 - a. Linda Landrum – occupant of upper house. Wishes to be a interested party to this application.
 - i. *Motion to find Linda Landrum as an interested party to this application by Dan, seconded by Pete. All in favor, none opposed. Motion passes.*
 - ii. No questions regarding proposal at this time.
- 5) *Motion to close the hearing by Pete, seconded by Dan. All in favor, none opposed. Hearing is closed.*

Applicant: Andy Kaplan

Application Number(s): 3706 & 3707

Type of Hearing: Final Plan Review- 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) Review of application materials and status.
 - a. Memo was sent to applicant and consultant for additional information required.
 - b. Review of Memo by Gunner
 - i. Confirm right of way: 30' right of way.
 - ii. Driveway culverts: notes added to plan for 24" culverts.
 - iii. Thinning and clearing areas: Information added to slope map (Gunner showing on screen). Added a "no cut zone" around existing spring.
 - iv. Limits of disturbance included on plans.
 - v. Width and depth of lot 2 driveway has been clarified on driveway cross section.
 - vi. Driveway contouring defined.
 - vii. "Preliminary" needs to be removed from drawing.
 - viii. Wetland application included in application packet.
 - ix. Sewer permitting will be submitted after clearance from town.
 - c. Additional notes:
 - i. Ryan Lynch's property/house better shown on plans.
 - ii. Town road culvert located and placed on drawing. Photo of culvert included in submission and shows significant leaf accumulation, indicative of gentle flow from the culvert.
- 2) DRB Questions
 - a. Shane: I don't see the spring line. Gunner: Oh I missed that. We show the water line as per the survey. We learned that there is not a waterline from the spring back to Mr. Kaplan's house, but there's actually a different spring feeding his house. We do show Marissa's waterline and we do know it has an easement.
 - b. Shane: What are your thoughts about providing a standard easement for that waterline? Gunner: We'd have to talk the lawyers about it, but there's an easement there and specifying a width may do more harm than good. Shane: But she has the easement to do/maintain the line there? Gunner: Yes.
 - c. Shane: On the slope map provided, I see the building envelope as defined from lot 3 appears to include slopes in excess of 25%. Gunner: I'll have to double check that situation. Shane: from my perspective I'm not terribly concerned with those small pieces in the center. Though part of that larger swath of red in the building envelope area. Gunner: that is an area where we couldn't do a foundation. We'll doublecheck the colors. Shane: So you could trim the envelope down? Gunner: Yes.
 - d. Shane: On tree clearing plan, there is a note for no clearing in wetland or wetland buffer. As discussed in prior hearing, this area is an identified wildlife corridor. I have to note in the town regulations that there is no cutting permitted. Gunner: I think that's a condition that we can accept, but maintenance cutting may be required as advised by a forester or the wetlands people.
 - e. Shane: There are sections in the LUR that state the DRB can increase setbacks in wetlands. In this particular instance, I noticed the areas of thinning incorporate an extensive amount of slopes in excess of 15% and even up to 40%. I have a bit of concern of what appears to be a few acres in that thinning area that has clearing of trees on steep slopes. Gunner: The thinning area on lot 2 is about 1.5 acres (Gunner sharing screen and showing thinning areas and wetland buffer). Shane: How do you define the allowable thinning? Does someone count the trees and determine 35%? Gunner: Yes, someone goes in and counts trees and marks what stays and goes. We've also stipulated leaving stumps on steep slopes. Shane: In this thinning plan, is there any

differentiation in size of trees to be cut? Gunner: We can define it as you like. Something in the 4-6" deviate size is recommended.

- f. Nick: How much input do the wetlands permit provide clarity on the clearing? Gunner: The permit only is around the lot 2 driveway and have nothing to do with the thinning of not in the wetlands.
 - g. Shane: Does the board have any particular thoughts on that (wetland buffer extension)? Dan: I have no particular thoughts on that, but I do have a question on lot 2 clearing, the intent is to create a view? Gunner: Yes to open up some space for a parklike setting and allow for some light to come through. Dan: So you'd be targeting a specific height of trees? Gunner: It would be a combination of height and location.
 - h. Shane: With the idea and understanding of the clearing and thinning to provide a solar gain and some sort of view, (Shane sharing screen) if we open up this area and provide a clear healthy buffer, but the fact that this is on steep slopes concerns me from an erosion standpoint. I think we should limit the thinning/clearing area to this pocket. Gunner: we can certainly discuss, but we'd like to retain that southern area to provide some flat area for the future owners to use. Andy: I agree with that assessment. Gunner: so we agree to what is on your screen right now.
 - i. Shane: In looking at lot 3 with the proposal for full clearing that would open up a space at Bragg Hill and Stagecoach; that seems to be a huge change for the viewscape and impact the wildlife in that area. How did you determine the no clearing the spring area? Gunner: We looked at the factors in the area and we took it out 50' south and kept it right up to the powerline right of way. Shane: My concern is that it'll be a major change in the scenery in the area due to the current canopy then some sudden clearing. Gunner: The powerline right of way has to stay clear and the power company has that easement and will maintain that area. To leave some trees in that area can be acceptable, but we need to have some clear cutting and can define the 65/35% thinning.
 - j. Shane: Any thoughts from the board on this area? Pete: I think they should clear as little as possible, but also understand people want the view. Shane (showing screen with polygon depicting area for thinning rather than clearing).
- 3) Questions from Public
- a. Ryan: I appreciate the culvert being depicted on the drawing and understand it's the town's responsibility to keep that clear; I disagree with the assessment of the flow through the culvert. The tree clearing is new to me versus the last meeting, so I was a little surprised to see so much being cleared up to Bragg Hill Road.
 - b. Marisa: I'm sorry for coming in late, but I want to understand more about the tree clearing. Shane: yes we were reviewing the tree clearing plan. Marisa: As far as I'm concerned, I'm ok with the review so that it took into account the wetland area and power lines. Gunner (showing screen): We'll eliminate this area from the clearing plan (triangle previously discussed) and keep a no cut zone around your spring. Marisa: As far as wetland barriers are concerned, what are the colors? Gunner: the colors are the slopes, the wetland is here. Marisa: So is the black area for clearing? Gunner: Yes that is for clear cutting around the house. Shane: To help clarify, there is a dashed yellow line that connects the flags on the map; the yellow line is the delineated wetland. The hashed line with 2 dots is the wetland buffer.
 - c. Marisa: I am worried with the additional clearing will impact the historical area and the pictures of the farm. Gunner: we did discuss that there is a view there, but people are typically looking downslope. All of this development is uphill of the view and road.
- 4) Does the board have everything it needs to discuss and allow for permitting with conditions? Dan/Nick: I believe so. Gunner: handling by condition is fine, but please send over the graphic of the lot 2 thinning versus clearing area. Shane: And that there is no stump clearing outside of the limits of disturbance. Gunner: Ok. Hanna: I just got the most recent AMPs from VT water quality and it talks about the slope of the land versus width of distance away from the wetland buffer. Gunner: I'm not familiar with that document, but we've already agreed to a 100' buffer on the lot 2 thinning area. AMPs are not rules but should be respected. Shane: What document are you looking at? Hanna: It just came in the mail and it's a manual for recommended logging practices

in wetland areas. Shane: It looks like with the 100' buffer that was added that we're providing plenty of space.

5) *Motion to close hearing by Pete. Seconded by Dan. All in favor, none opposed. Hearing closed.*

Applicant: Sugarbush Mountain Resort

Application Number: 3713

Type of Hearing: Requesting Conditional Use approval (Article 5) under Table 2.6 (C) (2) Accessory Structure/Use to (21) Ski Area Operations of the Fayston Land Use Regulations.

Parcel ID: 11-085.001

Location of Property: 626 Mt Ellen Road, Fayston

- 1) Review of application materials.
 - a. Several applications were included in the meeting packet. One is the temporary permit for the structures with a new application for 2 cabins/sheds/warming huts with a food kiosk.
 - b. Floor plans and descriptions provided, abutting land owners notified, map showing overall parcel, and Mt Ellen base area plan showing structures.
 - c. Motion to find application complete by Pete, seconded by Dan. All in favor, none opposed.
- 2) Review of project
 - a. SMR is here to gain approval for the 2 warming cabins and food kiosk and those qualify under "ski area operations" and qualify for conditional use.
 - b. They meet the setbacks for dimensional standards for resort development district. They meet the density front, side, and rear setbacks. Height is under 50'. This seems straightforward after reviewing Article 5.
 - c. Under article 10 of ski area operations this outlines warming huts, snack bars, and restaurants (amongst other things)
- 3) Questions from the Board
 - a. Shane: Are these proposed to be permanent structures? Margo: They are on blocks and not a foundation, but we would like to keep these permanently placed.
 - b. Shane: Is there any earthwork required? Margo: Yes we needed to level the ground with some grading. Shane: These are in existence at the moment correct? Margo: Yes. John: Once VT Adaptive was built, we needed to move to the south side of the building. Shane: Is the location on the map where they are now? Margo: They are there now. Shane: No other earthwork? Margo: Correct.
 - c. Shane: For utilities, what is going to the warming cabins? Margo: None. The only utility in the building (cabin) is a propane heater. There is also a propane heater and electricity to the snack bar with temporary water (fresh and grey). John: We do want to add electricity in the future. Shane: How, where will the power run? John: There is already conduit there, we just need to run the line through. Shane: And the water for the restaurant is self contained? Margo: Yes.
 - d. Pete: There are replacing preexisting buildings? Margo: Last year we had the warming cabins on the other side of the lodge. In the current location there used to be a Waffle Cabin that had power. The food kiosk backs up to the ticket building and is pulling power from there.
 - e. Nick: So the food kiosk is already there? Margo: Yes we are asking for after the fact approval.
 - f. Shane: so the warming huts will stay where they are. Is the food kiosk subject to moving or being replaced year to year? Margo: We'd keep it in the same footprint and same general size.
 - g. Shane: In thinking about the food kiosk how it may change year to year, for the board if the structure changes in size year to year, do we feel SMR should provide some notice of any changes in size? Pete: It raises the question and depends on who the vendor is year to year and what size they will need. Margo: The current kiosk is 6 x 16 and designed to fit on a trailer. John: If you're comfortable saying the structure shouldn't extend beyond a certain size, We want to provide the ability to keep this amenity, but we'd like to get it permanently permitted.

- h. Nick: Did I read correctly that the permit is only good for 2 years? Hanna: They have to be acted on within 2 years.
 - i. Margo: I think we should have some flexibility with the foot print of the kiosk if we need to switch vendors. Shane: But they will be trailer type structures and not something permanent. If they come in with an 8 x 20, is there still plenty of room in that area to exist without any additional earthwork in the area? John: Yes. Shane: I'm just thinking of if there is a change to kiosk, I think notification of any change in size should we keep tabs on through conditions? Pete: Should the use or purpose of that change going from being a restaurant or something else or change of use that that should be brought to the town. The other is size. You could bring in a 70' box trailer in place of the 20' kiosk today. Shane: If it was an 8x20, do we want to add a condition that if a new structure comes in over 160 sq ft should the zoning administrator be notified? Margo: Perhaps if there is a deviation by 50% over existing structure to provide notice to the zoning administrator? Shane: That seems reasonable.
 - j. Pete: Do we need notification if the use change? Currently it's for food service. Shane: If there's a change in use and it becomes a concert venue, there would need to be a different permit. If it becomes a warming hut, there would be less of an impact of our conditions to that. Hanna: If they are in the definition of that ski area operations of conditional use, couldn't they change it without notifications? Shane: Well this proposal is for 2 warming huts and a kiosk. I think we'd have to put it in the findings of fact. From my perspective that these are structures associated with the ski lift operation/area. I think the findings of this decision will reflect that. John: If we were to sell tickets instead of food out of the kiosk next year, would we need to notify that? Margo: I feel like as long as we stay within the confines of the definition and size conditions, we can just notify the zoning administrator of the change. Shane: That seems reasonable.
- 4) *Motion to close hearing by Pete, seconded by Dan. All in favor, none opposed. Motion passes.*