

**FAYSTON DEVELOPMENT REVIEW BOARD**  
**MINUTES**  
**TUESDAY, APRIL 9, 2019**  
**Unapproved**

Attending DRB Members: Jon Shea (Chair), Shane Mullen (Vice-Chair), Jared Alvord, Lindsay Browning, and Mike Quenneville; ZA: John Weir; Public: Colin Lindberg, David Frothingham, Gunner McCain, Susan Snider, Patrik Kasic, Charlotte Potter-Kasic, Sparky Potter, Sheila Getzinger

The meeting opened at 6:05 p.m.

Chair Shea opened the hearing for application #3514 (parcel ID #03-093.002, located at 420 Cartwheel Road, Fayston). Applicant Colin Lindberg requests conditional use approval under Section 3.4 (C) (1) (d) of the Fayston Land Use Regulations for development on slopes between 15% - 25% in grade.

David Frothingham of Wilcox & Barton presented the application. This 6.5-acre parcel is situated toward the top of Cartwheel Road. Conditional use approval is required due to the disturbance of slopes between 15% - 25% for construction of the house site. The proposed driveway has an average grade of 12.5%. The proposed driveway comes in behind the house, cuts across the slope and is approximately 140 feet in length. There is an existing woods road at the site that will be utilized for the proposed driveway after upgrade.

Shane noted that the plans include erosion control matting for slopes greater than 15% in grade. Shane asked David as to what he typically specs for erosion control blanket. David stated a double-layered jute mat with biodegradable mesh. Shane asked whether it was double-layered straw and David affirmed.

Chair Shea asked about the size of the home and garage. Colin stated approximately 30 x 50. The garage would be on the first floor and the house above. Power already runs up Cartwheel Road past the applicant's parcel. Power to the new structure would come off the existing lines and run underground.

Shane asked whether the application proposes working in a swale between the driveway and retaining wall. David stated yes, they'd be using the existing swale. David affirmed that the drainage off the drive goes down to the existing culvert. The existing culvert is only 15-inches and will be upsized for the project.

Mike moved to find the application complete, and Shane seconded. All were in favor and the motion passed.

Pursuant to Section 5.4 (A) (1) – (5), members reviewed the application under the General Review Standards for conditional use approval. The Board found that proposed project would not result in an undue adverse effect on any of: (1) the capacity of existing or planned community facilities and services; (2) character of the area affected; (3) traffic on roads and

highways in the vicinity; (4) bylaws in effect; or (5) the utilization of renewable energy resources. Shane moved to find that the proposed development presented *no* undue adverse impacts under the General Review Standards, and Mike seconded. All were in favor and the motion passed.

Shane wanted assurance that, per the plans, the project would follow the Low-Risk Site Handbook for Erosion Prevention and Sediment Control. David affirmed.

Shane moved to close the hearing and Mike seconded. All were in favor and the motion passed.

Chair Shea opened the hearing for applications #3518-3519 (parcel ID #04-020.000, located off Mad Ellen Road, Fayston). Applicants Patrik Kasic and Charlotte Potter-Kasic request approval under Article 7 of the Fayston Land Use Regulations for a lot-line adjustment (minor subdivision) (#3518). Applicants also request conditional use approval under Section 3.4 (C) (1) (d) of the Fayston Land Use Regulations for development on slopes between 15% - 25% in grade (house site) and slopes greater than 25% in grade (driveway) (#3519).

This application is for the proposed reconfiguration of existing parcels 04-20-c & 04-20-e which are adjoining lots owned by Sparky and Peggy Potter. The 04-20-c parcel will be reconfigured from 41.3 acres to 17.5 acres. The 04-20-e parcel will be reconfigured from 3.7 acres to 27 acres and will be improved with a single-family residence. The project site contains land in both the Rural Residential District and the Soil & Water Conservation District. The proposed lots will meet the dimensional requirements for both Districts, with the exception of frontage requirements. A lot served by a permanent right-of-way may be approved by the DRB under Section 3.1. The applicant requests a sketch plan waiver as the proposed project meets the definition of a "minor subdivision" and is only affecting two lots. Conditional use approval is sought for the driveway, house/accessory structure location, and other associated infrastructure. The project has two building envelopes, one will contain the house, and the other will contain the proposed accessory structure. The proposed apartment is approximately 24% the size of the proposed primary dwelling.

Gunner McCain presented the application. There is an existing woods road that extends out from Judy Dimario's house toward the proposed development area for approximately 900 feet. At the end of the woods road, there will be a cut across the slope to bring the drive up to the proposed house site. The woods road would need to be upgraded, widened and otherwise improved per road standards, as well as extended as a drive. Improvement of the existing woods road will require ditching, stone-lining and grading. Road improvement will result in the disturbance of slopes in excess of 25% in grade. There will be three pull off areas and a turnaround close to the house. The total distance of the driveway is about 1,500 feet.

Jared asked about the grades of the driveway. Gunner responded that the submitted driveway profile depicts two sections of the driveway. The first section has a maximum under 15% in grade, with an average grade around 12.5%. There are existing culverts on the lower portion of the drive. Several more culverts will be added on the upper portion, ranging in size from 30-inch to 18-inch.

Chair Shea asked if there were any wetlands in the area. Gunner stated there were none.

Jaron Borg, State River Management Engineer, has visited the site. Although he delineated one intermittent stream and two ephemeral streams, he concluded no stream alteration permit was necessary. Jaron Borg's email regarding the project was submitted as part of the application materials.

Chair Shea inquired about the house site itself and whether the driveway was the biggest factor affected by the slope. Gunner responded in the affirmative. The house site is on slopes between 15% - 25% in grade. The proposed primary house is 2840, with 2.5 stories, and a walkout basement. Also proposed is a small detached apartment, which would be a one-floor walkout with a flat roof. The apartment will be built into the slope.

Chair Shea asked about the elevation of the house site. Gunner stated about 1,160 feet. Jared asked about the size of the parking area at the primary house site. Gunner stated it would be as large a space as the house envelope. Shane asked about the parking for the detached apartment. Gunner stated that there is no parking area for the apartment. Instead, occupants would park at the primary dwelling and walk down to the apartment. Applicants may lay down a path from the parking area to the apartment. The distance from the parking area near the house to the detached apartment is about 150 feet. Shane asked about the square footage of the apartment in comparison to the house. Gunner stated 684 square feet for the apartment and 2,840 for the house.

Susan Snider, 200 Mad Ellen Road, was present to discuss the application and any concerns she might have. Susan's parcel does not abut the subject parcel, but she does live on the same private road. Shane asked what concerns Susan had. Susan stated that she has issues with the road and its maintenance. Shane moved to find Susan Snider an interested party and Jared seconded. All were in favor and the motion passed.

Peter Terracciano, abutter at 347 Carroll Road, submitted written concerns about the project to the Zoning Administrator. The written statements were entered into evidence. Shane moved to find Peter Terracciano an interested party, and Mike seconded. All were in favor and the motion passed.

Chair Shea asked Gunner to respond to the concerns raised by abutter Terracciano. His concerns stem largely over his spring which is downhill from the subject parcel. Gunner stated that the state requirement for a setback of a leachfield from a shallow spring is 500 feet. Here the leachfield is set back about 650 feet from Terracciano's spring.

Shane is concerned about the two proposed culverts which discharge onto open ground as opposed to a swale. Gunner stated that the discharge from the road would be minimal. Mike asked whether the culverts would be 30-inch. Gunner stated 18-inch. Shane was also concerned about the swale cutting off some of the upstream water and concentrating it elsewhere. Gunner stated that he could put in a level spreader if need be. Gunner stated that there is a swale across the top to divert runoff around the construction zone. It is intended to be temporary but could be made a permanent fixture. Shane asked whether Gunner he considered, when he was laying out the driveway, channelizing all the water down to the larger 30-inch culvert. Gunner stated that he had, but did not want to carry water down the ditch that far, approximately 450 feet. Gunner

stated that his goal was to shed the water in different locations. Gunner stated that current guidelines for woods roads call to shed less water more often.

Chair Shea asked Susan Snider to speak about her concerns. Mad Ellen being a private road, Susan's main concern is over the fact that there has never been a road agreement among the landowners who use it. There are currently six houses on the road and the road is in drastic need of repairs. There is existing disagreement from landowners as to plowing, sanding and otherwise maintenance of the road. The road is also utilized by trucks for sugaring operation. Susan's concern is heightened with the possible addition of the subject development and the continued failure to have any sort of road agreement or homeowners association. The only agreement the landowners along the road have is for pro-rated shares of plowing. Susan wants to ensure that the extension of the existing road to the proposed house will be considered a driveway and not additional road for maintenance purposes. Susan's wants the Board to condition any approval upon the creation of a road agreement. Gunner responded that the applicants as well as the Potters have been actively trying to coordinate a road agreement among the various landowners. Gunner added that it would be improper to fashion any approval upon the creation of a road agreement, as that would potentially allow for a landowner on that road to prevent the subject development by failing to agree.

Shane asked whether there is a chance additional development could occur off the proposed new driveway. Gunner responded yes. Shane stated that, as is generally agreed now, Mad Ellen Road ends at Judy Dimario's house, at which point the proposed driveway to the Kasic's begins and proceeds 1,500 feet to the proposed house site. Shane added that, should additional development occur farther up the driveway, then Mad Ellen Road is effectively extended farther past the Dimario residence.

Gunner noted that lot 2 of this subdivision will be deemed a "deferred lot", meaning that development may occur on lot 2, but none is intended at this time. Gunner stated the applicants would be fully amendable to a condition of approval that required a subsequent application to receive conditional use approval before developing the other parcel.

Shane noted that, pursuant to Section 3.4 (E) (1) (b) (i), development on steep slopes in excess of 25% in grade is allowed only if it consists of limited site improvements necessary to facilitate development on contiguous land with a slope of less than 25% in grade. Shane stated that the accessory dwelling unit is not contiguous land with a slope of less than 25%. Gunner disagreed. Gunner stated that he could have proposed a driveway that ended 200 feet from the house site because the applicant preferred to walk 200 feet to get to the house rather than have a driveway within their viewshed. Shane reiterated the language of Section 3.4 (E) (1) (b) (i), noting that the road extends up to a flatter portion of land (less than 25% in grade) where the house site is situated, but is not contiguous with the less than 25% in grade land on which the accessory dwelling is placed. Gunner stated that it could be interpreted that way, but his plain reading of the regulation's language translates into an applicant's ability to cross steeper ground in order to get to flatter ground. Gunner noted that the project is not proposing to get a driveway up to the flatter ground where the apartment is situated. Gunner added that he could propose a driveway

to the apartment if need be. Gunner stated that the applicant's wish to walk to the apartment and that it is still contiguous to the flatter area.

Shane asked about the swale cross section. Shane noted that Gunner's erosion control swale bottom shows a flat bottom and his cross section row shows a triangle bottom. Gunner will adjust this portion of the plans.

Members and Gunner were amenable to a continuation of the hearing to provide updated plans and allow members to provide a list of concerns to be addressed. Susan Snider remains concerned over the lack of a road agreement.

Mike moved to find the application complete, and Jared seconded. All were in favor and the motion passed.

Members discussed the need for a site visit. A date and time will be scheduled within the next two weeks. Gunner would like to attend and will be notified of the day and time.

Shane moved to continue the hearing until the May 14 date. Jared seconded. All were in favor and the motion passed.

The Board went into deliberative session at 7:25 p.m.

The Board exited deliberative session at 7:40 p.m.

The minutes of March 12, 2019 were approved.

The meeting adjourned at 8:00 p.m.