

**FAYSTON DEVELOPMENT REVIEW BOARD**  
**MINUTES**  
**TUESDAY, JULY 16, 2019**  
**Unapproved**

Attending DRB Members: Shane Mullen (Chair), Lindsay Browning (Vice-Chair), Mike Quenneville, Ky Koitzsch, and Pete Ludlow (alternate); ZA: John Weir; Public: Bob Holden, Doug Hall, Sheila Getzinger, Bruce Isaacson, Gunner McCain, Michael Clendenin, Karen Sauthier

The meeting opened at 6:05 p.m. Chair Mullen asked each person intending on providing testimony at hearing to affirm his or her oath to tell the truth. All so affirmed.

Chair Mullen opened the hearing for application #3535 (parcel ID #07-056.000, located at 675 Mill Brook Road, Fayston). Applicants Robert Holden and Douglas Hall request conditional use approval under Section 3.8 (B) of the Fayston Land Use Regulations to re-establish a non-conforming use at the former Bongiorno's restaurant.

Chair Mullen asked whether any member of the public wished to be deemed an Interested Party to this application. There were none. Sheila Getzinger presented the application on behalf of the applicants. Sheila noted that this is an application to re-establish a use in an existing building that is otherwise conforming. It is the use only that does not conform to the Rural Residential district. The building stopped being used as a restaurant in October 2017 when Bongiorno's closed. Sheila reiterated that the use was "stopped" as opposed to "discontinued." Sheila stated that the grandfathered non-conforming use remained a valid permitted use under the land use regulations until October 2018. Sheila added that, as of the date of enactment of the revised land use regulations in June of 2018, this grandfathered non-conforming use was still valid and could be re-established.

Sheila added that the former restaurant is one of two buildings on the property – the other being the office of Hall & Holden.

Sheila explained how the proposed use would have no adverse impact upon the General Review Standards of Section 5.4 (A). With regard to capacity of existing or planned community facilities and services, the use as a restaurant was in place since the late 1960's. Additionally, no known burden was placed on any existing or planned community facilities or services as a result thereof. With regard to character of the area affected, the use as a restaurant was in place for more than 50 years and there are a number of other restaurants in the vicinity of the subject property (Mill Brook Inn and Restaurant, Hyde Away, Tucker Hill Lodge). Sheila added there have been no traffic issues or complaints over the years that applicants are aware of. Sheila proffered that the proposed use remains compatible with any other land use regulation.

Sheila noted that the water supply for the property is an on-site drilled well with holding tanks. There is periodic water testing as required by the Vermont Department of Health as part of the licensing requirements for any restaurant. The sewage disposal system serving the property is an

on-site system shared with the other building located on the property which houses the Hall & Holden, PC. The restaurant building has a grease trap and a 1,000 gallon concrete septic tank and the office building also has a 1,000 gallon concrete tank. The septic tanks were last pumped on July 29, 2018 and are regularly maintained. Both the water supply and sewage disposal systems have adequately served both the office building and the restaurant uses.

Sheila noted that there are more than enough parking spaces to satisfy the zoning ordinance. Table 3.1 on Page 44 of the Town of Fayston Land Use Regulations requires one parking space per 250 square feet of gross floor area accessible to the public for a commercial/retail establishment (and one space plus one per 300 square feet of office space). The public will have access to approximately 1,250 square feet of space in the restaurant which equals five (5) parking spaces. The office building would appear to require 8 parking spaces, for a total of 13 if both were in use at the same time. The office building and restaurant are permitted to share all parking spaces on the property – a total of thirty (30) spaces (only 17 are shown on the enclosed plan but more parking space is available on the site).

With regard to the Specific Review Standards, no new construction is proposed. Accordingly, no effect will be had upon Siting and Dimensional Standards, Access and Circulation Standards, Landscaping and Screening Standards, nor Stormwater Management & Erosion Control Standards. With regard to the Performance Standards, the proposed hours of service for the restaurant would be between 6:00 a.m. and 10:00 p.m. The existing signage and lighting (either pre-existing or permitted) would be maintained in the same size and format.

Pete asked about the capacity of the former restaurant in comparison to that proposed in relation to the load on the septic system. Sheila responded that it was the same. Prior to becoming Bongiorno's, it was the China Barn. The China Barn utilized the upstairs for seating whereas both Bongiorno's and the proposed restaurant did/do not. Shane asked how about the age of the leachfield. Applicant stated that it would have been in the late 1960's. Shane asked when the leachfield was last updated. Applicant stated that would have happened in the 1980's while existing as China Barn.

Ky asked whether the proposed use would be identical to prior. Bruce Isaacson (owner Fit To Be Thai'd) stated that he is only seeking a license for up to 100 customers at a time, same as prior. Bruce did not have any plans for the upstairs at this time, aside from office space and laundry facilities.

Lindsay asked what Bruce's timeline is. Bruce hopes to be open by October 1.

Shane asked about the grease trap. There is a dedicated exterior grease trap that was used by Bongiorno's and will be used by the proposed restaurant. It will be periodically maintained just as before. Shane asked whether there would be any increase in grease load between the two restaurants. Applicants stated it should be the same.

Lindsay moved to close the hearing and Pete seconded. All were in favor and the motion passed.

Chair Mullen opened the hearing for application #3536 (parcel ID #05-060.000, located at 51 Glen View Road, Fayston). Applicants James and Katherine Elkind request conditional use

approval under Section 3.4 (C) (1) (d) of the Fayston Land Use Regulations to modify a previously-approved disturbance envelope on slopes between 15% - 25% in grade.

Chair Mullen asked whether any member of the public wished to be deemed an Interested Party to this application. There were none.

Gunner McCain presented the application. Applicant applied for and received conditional use approval in January 2019 for application #3505 to construct a driveway on slopes between 15% - 25% in grade. Subsequent to that approval, applicants' architect devised a slightly different layout, footprint and orientation than previously. In addition, applicant wanted to add a tractor shed adjacent to an eventual garage. These changes necessitated an adjustment of the disturbance envelope, resulting in the need for a new application. Gunner stated that the applicant requests no modifications to anything other than adjusting the disturbance envelope. The disturbance envelope is a bit closer to the road and is more compact than prior. The new disturbance envelope meets all setback requirements. No changes to drainage patterns are necessary.

Pete asked how big the tractor shed would be. Gunner responded 12 x 22. Pete asked what type of roof the shed would have. Gunner was not sure but believes it would be a single-slope roof.

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

Chair Mullen opened the hearing for application #3537 (parcel ID #05-038.000, located at 312 Glen View Road, Fayston). Applicants Paul and Ellen Beard request conditional use approval under Section 3.13 (E) of the Fayston Land Use Regulations for construction of a replacement leachfield within the 50-foot stream buffer.

Chair Mullen asked whether any member of the public wished to be deemed an Interested Party to this application. Michael Clendenin, abutter to the subject parcel, wished to be deemed an Interested Party. He has a particularized interest in the application due to the placement of the leachfield in relation to the stream that runs from the Beard property through his own. Lindsay moved to find Michael an Interested Party and Ky seconded. All were in favor and the motion passed.

Karen Sauthier was present and wish to be deemed an Interested Party. Karen is an abutter lives at 347 Glen View Road, along with Chair Mullen. Karen has a particularized interest in the application due to the close proximity of her well to the proposed leachfield. Ky moved to find Karen and Interested Party and Pete seconded. All were in favor and the motion passed.

Shane disclosed a potential conflict of interest. Shane is an abutting landowner along with Karen Sauthier. They share a particularized interest in that their well is in close proximity to the proposed leachfield. Shane asked Gunner if, on behalf of the applicant, he prefers Shane to remove himself from hearing this application. Gunner responded in the negative, believing Shane would act in an impartial manner and that Shane's expertise is important for this application.

Gunner McCain presented the application. The Beard wastewater system failed. Sewage backed up in the house. It was an antiquated system that, by present regulations, is too close to the stream and slope. There is an old drywell just down slope of the failed system. Gunner dug a test pit next to the drywell, and at three and half feet an old leachfield was discovered. In another location, a second abandoned leachfield was discovered at a depth of about five feet. The project proposes taking an archaic system that provides little to no treatment to effluent prior to that effluent being discharged into the water table and sent downhill into the stream, and converting it into a modern system which includes a pre-treatment unit with a leachfield that will be close to the surface so that the effluent that will be properly treated by both the pre-treatment unit and the flow through the soil before it meets the water table. Gunner believes this will be better for the surrounding environment in all respects.

Gunner stated that the State wastewater permit is currently being reviewed. Shane asked whether Carl Fuller had visited the site for the digging of test pits. Gunner stated in the negative. Gunner noted however that he works with Carl on these types of situations on a regular basis. Gunner did speak with Carl for feedback about the Beard project and Carl was satisfied with the proposal.

Lindsay asked where the new system would be in relation to the old. Gunner stated it would be no closer to the stream, perhaps a foot farther away than the old system.

Discussion was had as to the proximity of the Clendenin and Mullen/Sauthier wells in relation to the proposed system. Gunner assured that the leachfield will be set far enough away from the wells as to not interfere with water quality. Karen asked what the closest point of the proposed leachfield is to her well. Gunner stated about 70-72 feet. Ky asked whether on the surface contour the well was slightly lower than the leachfield. Gunner responded in the affirmative. A portion of the proposed leachfield does fall within the 100-foot wellshield: the leachfield is about 70 feet from the Mullen/Sauthier well, and the State requirement for well-distance from a leachfield is 100 feet. Karen asked about the pre-treatment. Gunner stated it is a bio filter with pump station. Gunner added that it is basically a big tank filled with peat moss. Ky asked what happens if the Mullen/Sauthier well got infected with E.coli. Gunner stated that there is no reason to expect that would ever happen. Karen is concerned about the construction phase. Given the disturbance area will be larger than just the system and leachfield, Karen wonders whether there may be other contaminated areas that will be dug up. Gunner stated that the existing drywell will be pumped out and crushed in place. Gunner added that this process would not result in any added contamination, as all the liquids and sludge will be pumped out and, after the drywell is crushed in place, there will be no void left in the ground. Additionally, immediately adjacent to that, the project proposes digging a large hole and placing the pre-treatment tank. Gunner added that the soil around the existing drywell is already tainted by effluent the pathogens of which should die off in two years. With the new pre-treatment system, the effluent will be much higher quality and the leachfield should last indefinitely. Per State regulations, the pre-treatment system must have a maintenance contract in place at all times. Accordingly, the unit will be maintained by a certified maintenance provider twice a year for the first year, and then once in a year thereafter. Gunner stated that the unit is a 3,000 gallon

concrete tank with chambers in the bottom for collection and a pump vault with 2-2.5 feet of peat moss on top. There are dispersion trays on top of the peat moss. This type of pre-treatment unit has no electrical components aside from the discharge pump, and therefore is less likely to malfunction. It is passive treatment via gravity flow through peat moss. Treatment to effluent occurs via bacterial action, and the purpose of the peat moss is to provide a large amount of surface area for the bacteria to grow.

Pete asked whether the pump to discharge into the leachfield is alarmed. Gunner stated that it is, and due to storage requirements such that should the pump fail there is one day worth of flow emergency storage (likely closer to three days of storage). Karen asked how many bedrooms the home has. Gunner stated three. Karen asked about system's bedroom capacity. Gunner stated it is a three-bedroom system. Michael Clendenin asked whether abutters should test their wells after project completion. Gunner stated they should be tested now before the new system is put in so there is a baseline test for future reference. Pete asked whether the new leachfield is built over the old field. Gunner stated in the affirmative. It is a shallow, in-ground placement, built on top of the old leachfield. Shane asked about erosion control near the stream. Gunner stated that measures will be taken at the slope break, and include a silt fence that wraps around the whole disturbance area.

Pete moved to close the hearing and Lindsay seconded. All were in favor and the motion passed.

The Board went into deliberative session at 6:55 p.m.

The Board exited deliberative session at 7:15 p.m.

Shane moved to approve the Minutes of June 11, 2019. Lindsay seconded. All were in favor and the motion passed.

The meeting adjourned at 7:25 p.m.