

Town of Underhill
Development Review Board Minutes
Chairperson Scott Tobin

October 18, 2010

Board Members Present:

Scott Tobin, Chair
Will Towle
Matt Chapek
Penny Miller
Chuck Brooks (not at site visit)

Also Present:

Kari Papelbon, Zoning & Planning Administrator; Bill Young, Executive Director of Maple Leaf Farm; Joanne Davis, Business Manager for Maple Leaf Farm; Scott Ovitt, Maintenance Supervisor for Maple Leaf Farm; Barbara Wilson and Michael Luck, neighbors; Jeannie Panner, neighbor; Tom Montgomery, neighbor; Alan Quackenbush, VT Wetlands Section Chief.

6:15 PM: Site Visit at 20 Maple Leaf Road commenced.

6:48 PM: Chairperson Scott Tobin called the Maple Leaf Farm Conditional Use hearing to order.

Applicant Present:

Bill Young, Executive Director
Maple Leaf Farm
10 Maple Leaf Rd.
Underhill, VT 05489

Others Present:

Barbara Wilson
Michael Luck
42 Maple Leaf Rd.
Underhill, VT 05489

John Doherty
157 Stevensville Rd.
Underhill, VT 05489

Jeannie Panner
55 Maple Leaf Rd.
Underhill, VT 05489

Joanne Davis, Business Manager
Scott Ovitt, Maintenance Supervisor

Maple Leaf Farm
10 Maple Leaf Rd.
Underhill, VT 05489

Identifier:	Contents:
ZA-1	A copy of Maple Leaf Farm's Conditional Use Hearing Request (dated 9-17-10)
ZA-2	A copy of Maple Leaf Farm's Building Permit Application for the projects (dated 9-17-10)
ZA-3	A copy of the site plan (undated)
ZA-4	A copy of the drawings for the proposed garage
ZA-5	A copy of the proposed Findings of Fact letter from Bill Young, Executive Director of Maple Leaf Farm, to Kari Papelbon (dated 9-24-10)
ZA-6	A copy of the tax map for ML020
ZA-7	A copy of the hearing notice published in <i>Seven Days</i> (9-29-10)
S-1	A copy of the Testimony for Development Review Board from Bill Young, Executive Director of Maple Leaf Farm (dated 10-18-10)

- Chairperson Tobin began the meeting by explaining the procedure for the conditional use hearing. He then swore in all interested parties and entered the above items into record. Board Member Will Towle stated that he had received an email invitation from Mrs. Panner to attend the hearing, but that no information beyond what was contained in the hearing warning was exchanged.
- Bill Young, Executive Director of Maple Leaf Farm, provided an overview of the plans to demolish the existing camp, enlarge the existing pond, and construct a garage behind the existing parking area. Mr. Young explained that an Act 250 permit will be required for the garage and they will apply for such. They had been waiting for information regarding permitting requirements for the pond from the VT Division of Water Quality. Mr. Quackenbush from the VT Division of Water Quality indicated at the site visit that since the pond is manmade, the State would not take jurisdiction over it and thus no State permit would be required for enlargement. Mr. Young stated that the requests assume that any approval would be conditioned upon Maple Leaf Farm obtaining the required State permits.
- Board Member Towle asked why an Act 250 permit was necessary for the garage. Board Member Penny Miller asked if it was an amendment to an existing permit. ZA Papelbon explained that there is an existing permit and an amendment is needed every time a structure is built.
- Mr. Young further stated that none of the proposed activities are injurious, noxious, or offensive to the neighborhood. Board Member Towle asked about the property being in two zoning districts and which zone each proposal

would be in. ZA Papelbon stated that all activities would be in the Water Conservation zoning district.

- Mr. Young stated that enlarging the pond and installing a clay liner would add to the beauty of the area. Enlargement was considered after speaking to the Underhill-Jericho Fire Department for use as a fire pond. Ideal size for use as a fire pond is approximately 600,000 gallons. Mr. Young explained that he would install the pipe to Maple Leaf Road if the Fire Department paid for the dry hydrant. However, Mr. Young is not willing to maintain the “road” to the pond if the hydrant could not be sited near Maple Leaf Road.
- Board Member Miller asked what the connection was between enlargement and more capacity. Mr. Young stated that the clay liner would prevent the water from draining out.
- Board Member Towle stated that the regulations reference cubic feet rather than gallons. Mr. Young stated that he could get the conversions but did not have them with him. He added that patients are not allowed to swim in the pond for liability reasons, but the pond is a destination for walks. The camp is not usable or salvageable. Board Member Towle asked whether the pond meets the required setbacks, to which Mr. Young stated it did. The closest property line is the Luck property, which follows approximately the tree line. Chairperson Tobin asked what the distance is between the pond and the stream. Mr. Young stated he did not know, but that it could be measured. Mr. Ovitt estimated between 85 and 100 feet. Board Member Chuck Brooks stated that such setback measurement must be known. ZA Papelbon stated that if the pond is less than 100 feet from the stream then the regulation requires that proper erosion controls would have to be in place to protect the stream during the pond work, and that the water table and natural water flow patterns would not be affected. A discussion of requirements and setbacks ensued. It was stated that no variance would be required if the pond is less than 100 feet to the stream.
- Chairperson Tobin asked if there was discussion with someone who specializes in the construction and excavation of ponds. Mr. Young replied that such had not yet been done, but that it would make sense if the pond was enlarged. If the choice is to install a clay liner, the cheaper option, the pond would just be dredged and the liner installed without enlarging.
- Board Member Brooks stated that he could not read the size of the proposed pond on the site plan. Mr. Young stated that the proposed pond size is roughly 120' x 100' square. Board Member Brooks asked what the depth of the pond is. Mr. Young stated it depends on when you measure, but the estimated average is about 6 feet.
- Mr. Young explained that the existing camp needs to be demolished and that there are no current plans to build there. The garage would be for storage of vehicles and a ½ story for storage above. It would not be easily visible

- except from Maple Leaf Road and upper Stevensville Road. Board Member Miller asked if there would be lighting in the garage. Mr. Young stated that lighting would be installed but there would be no water or septic. Board Member Miller asked if there would be exterior lighting. Mr. Young stated that while they had not discussed such, it would make sense to have a light that could be turned on. Board Member Miller stated that she assumed there would be some extension of a driveway from the parking lot to the garage. Mr. Young stated they would either put in a gravel driveway or paved drive.
- ZA Papelbon stated that she confirmed that Maple Leaf Road is a 3-rod road, so the garage would have to be 100 feet from the centerline.
 - Chairperson Tobin stated that the primary function of the building is utility. Mr. Young confirmed such and stated that a van and a car are currently parked in the parking lot. Those vehicles would be parked in the garage and a third bay would be used for other equipment storage. Chairperson Tobin asked if the foundation would be on a concrete slab, to which Mr. Young replied it would. Chairperson Tobin acknowledged that some amount of fill would be required for the base. Chairperson Tobin asked if parking spaces would be eliminated for access to the garage. Mr. Young stated that at least one or two parking spaces currently used for Maple Leaf Farm vehicles would be eliminated for ingress and egress.
 - Board Member Brooks asked what regulation covers demolition of the camp. ZA Papelbon stated that there are no demolition regulations, that such was included in the application as a courtesy since Maple Leaf Farm activities are considered conditional uses.
 - Board Member Towle asked about impact on the neighborhood with regard to the pond--whether Mr. Young would be offering to put in the dry hydrant as a benefit to the community and if he was amenable for such to be included in the permit. Mr. Young stated that his understanding is that he would pay for the pipe to the road and the Fire Department would pay for the hydrant and pumping mechanism. He further stated that if the road would have to be kept open to the pond for a hydrant sited close to the pond that he would not be willing to do so. Board Member Brooks asked if it would be fair to say that Maple Leaf Farm would be willing to offer the pond for use with the dry hydrant provided there is no yearly maintenance cost. Mr. Young stated that it is the cost of the plowing that would be at issue.
 - ZA Papelbon asked Mr. Young if he had submitted the recent survey for recording or planned to do so. Mr. Young stated that he thought they would have received it by the previous Friday, but that he would submit a copy to the Town. ZA Papelbon then mentioned that Mr. Quackenbush told her at the site visit that the Wetlands Division would not take over jurisdiction since it is a manmade pond. She further stated that they would need to have the cubic foot measurement. Board Member Towle offered that his calculations showed a measurement of 80,000 cubic feet based on a pond size of

- Board Member Miller asked ZA Papelbon if the building permit application for the garage would have to be revised based on where it would be sited in relation to the stream. ZA Papelbon stated that it would since the garage would have to be moved back to meet the setback requirement.
- Chairperson Tobin asked for public comment.
- Jeannie Panner, 55 Maple Leaf Road, stated that she has no problems with the camp demolition or the pond. Her concerns are for the amount of fill that will be required for the garage (more opportunity for erosion), and the amount of impervious surface due to the driveway for the garage, which will increase runoff. She stated that the parking lot is a nonconforming use, it is not set back from the road, and there is a safety concern for pedestrians and traffic. Mrs. Panner prefers the parking lot to be moved back for improved pedestrian and vehicle movement, and stated neighbor John Doherty would address issues with lighting.
- Board Member Miller asked about the issues regarding lighting. Mrs. Panner stated that the exterior lights in the parking lot are not shielded. Board Member Miller asked Mr. Young asked which size of the garage is correct. Mr. Young replied it was 40' x 30'.
- Board Member Brooks asked what Mrs. Panner thought about moving the garage closer to the road to prevent more impervious surface. Mrs. Panner stated that the DRB could not grant a variance for that. A short discussion of the driveway to the proposed garage and maneuverability ensued.
- Chairperson Tobin asked if the proposed fill to make the garage level with the existing parking lot would be just slightly wider than the width of the garage. Mr. Young stated that was probably correct. Mrs. Panner reiterated that the additional fill would cause additional runoff. A short discussion of nonconforming uses ensued.
- John Doherty, 157 Stevensville Road, asked what the notes on the site plan for the pond said. The notes were explained. Mr. Doherty asked if there was a diversion from the stream to feed the pond. It was stated that there would be no change to the source. Mr. Doherty asked how far from the bank of the river the garage would be if it had to move to meet setbacks. ZA Papelbon asked Board Member Towle to read the definition of streambank in the regulations, and he did so. Mr. Doherty asked for Mr. Young to determine the accurate setback to the stream. Mr. Young stated that the proposed measurement was taken to the closest part of the stream at the top of the bank, not the high water mark. He added that the measurement would be verified.

- Mr. Doherty stated that a seep/bog exists behind his property adjacent to the parking lot and his concern is for southerly runoff to the bog. ZA Papelbon stated that the contours in that area would be verified.
- Mr. Doherty stated his concern for the existing light that shines into his property from the street lights and motion-sensor lights on some of the buildings. Mr. Doherty asked if some modification could be made to the lights to direct light onto the Maple Leaf property away from neighboring properties. Board Member Towle read the existing outdoor lighting regulation and asked if applied to the conditional use application would it solve the issue. Board Member Miller asked if the light can be seen from Mr. Doherty's property or if it actually crosses the property line. Mr. Doherty stated that it crosses the property line. Board Member Towle asked whether Mr. Doherty had concerns for lighting the garage. Mr. Doherty stated that the light could be placed to shine down on the front, but not the back. Mr. Doherty also expressed concern for runoff to the wetlands.
- Mr. Young stated that there is a bog area where Mr. Doherty described, but that it is quite a distance from the proposed garage. Mr. Young further explained that the topography of the land has a natural "buffer" that is higher than the rest of the ground that might offer some protection for the stream and wetland areas. Silt fences would be installed, but Mr. Young stated he felt there is adequate distance between the proposed garage and the brook and bog.
- Board Member Towle asked Mr. Young if he agreed that the parking lot is a preexisting nonconforming use. Mr. Young responded that he did not know if that was accurate. Board Member Towle asked, if it was, would Mr. Young agree with the suggestion that the additional spaces in the garage would result in the removal of spaces in the parking lot. Mr. Young stated that he anticipated losing the parking spaces that are currently occupied by the vehicles that would be stored in the garage up to 3 spaces.
- Board Member Brooks asked for the size of the camp to be demolished. Mr. Young stated that it was measured, but he did not have the measurements.
- Board Member Miller asked if there would be automatic garage door openers on the garage, to which Mr. Young said he had not considered such. Board Member Miller explained that a lot of water runs off the roof and provided her personal experience with gutters. She then asked about whether there would be another window on the south end of the garage that would be lit. Mr. Young stated that internal lighting would not be bothersome, but all exterior lighting would be directed toward the Maple Leaf property and not south.
- Chairperson Tobin asked about the lighting to which Mr. Doherty referred. Mr. Young replied that the lights on the buildings come on when someone walks past. Mr. Young stated that the street lights in the parking lot are owned by the power company. The street light on the barn side is a regular

street light. Mr. Young stated that he would be glad to call the power company to see if they could change the light.

- Barbara Wilson, 42 Maple Leaf Road, expressed her concern for pedestrians crossing to the back part of the parking lot to smoke. The garage seems to be proposed where the smokers typically congregate. Ms. Wilson suggested providing a smoking area on the opposite side so that people would not have to cross the road.
- Mr. Doherty stated that only municipal lights are not subject to the local regulation, but asked whether the power company would have to comply. Mr. Doherty stated that he believed they should meet regulations regardless of who owns them. ZA Papelbon stated she would have to research the lights. Board Member Towle stated that this issue is not part of the application before the DRB.

8:07 PM: Chairperson Scott Tobin asked if the Board felt they had enough information to make a decision on the application. Board Member Chuck Brooks stated that he was not sure due to the lack of information regarding the size of the pond. If the pond reaches the threshold in the regulations, engineering plans will be required. A short discussion of the pond requirements and procedure ensued.

Mr. Young asked if the requirement for enlarging the pond would be that a professional pond design would be required. Board Member Chuck Brooks stated that it depends on the size. Board Member Towle stated that it sounds like the pond meets the requirement for conditional use and professional pond design. Mr. Young asked whether the installation of a clay liner would require a professional design. Chairperson Tobin stated that such sounds like maintenance of an existing pond. Mr. Young stated that his rationale for enlarging the pond was for fire safety, but if such would require several thousand dollars to hire a pond professional he would not be able to enlarge the pond. The discussion of the requirements continued.

8:18 PM: Chairperson Scott Tobin asked for a vote of whether the Board felt they had enough information to make a decision on the application. Four Board Members voted in favor, with Board Member Chuck Brooks voting against. Chairperson Tobin stated that the evidentiary portion of the hearing was closed.

8:19 PM: Board Member Chuck Brooks made a motion, seconded by Board Member Matt Chapek, to enter a closed deliberative session. The motion was passed by all Board Members present.

9:32 PM: Board Member Will Towle made a motion, seconded by Board Member Chuck Brooks, to move into open session. The motion was passed by all Board Members present. Board Member Will Towle made a motion, seconded by Board Member Matt Chapek, to approve the application with conditions. The motion was passed by 4 Board Members. Board Member Chuck Brooks abstained.

Conditions:

Garage

1. The garage must meet all setbacks (75 feet from the lot line/edge of the Maple Leaf Road right-of-way, which is 100 feet from the centerline of Maple Leaf Road; 100 feet from all watercourses; 20 feet from side and rear lot lines).
2. There shall be no net gain in parking spaces in the existing parking lot.
3. New lighting for the garage shall be shielded and directed away from neighboring properties/toward the Maple Leaf Farm property.
4. No lighting shall be placed on the sides or rear of the garage.

Pond

1. Any work done to the existing pond that does not change the dimensions of the pond shall be considered maintenance that will not require a separate permit.
2. The inlet for the pond shall be from the current source (i.e. no new stream diversions).
3. If technically feasible to install a hydrant near or easily accessible from Maple Leaf Road, such that there is no ongoing maintenance cost burden for the applicant to provide access, the applicant shall install the connection pipe to the proposed dry fire hydrant located near Maple Leaf Road.
4. Should the applicant choose the pond enlargement option, all requirements from Section III(S) and Section III (V)(2) of the zoning regulations to expand the pond to the dimensions and capacity proposed (120' x 100' and 600,000 gallons) shall be submitted to the Zoning Administrator prior to issuance of a permit for the pond expansion.

9:33 PM: Meeting adjourned.

These minutes of the 10-18-10 meeting of the DRB were accepted

This _____ day of _____, 2010.

Chairperson Scott Tobin

These minutes are subject to correction by the Underhill Developmental Review Board. Changes, if any, will be recorded in the minutes of the meeting of the DRB.