

TOWN OF UNDERHILL
APPLICATION OF MARC AND JANE MAHEUX FOR
SITE PLAN REVIEW APPROVAL
FOR AN OFFICE IN AN EXISTING BUILDING
FINDINGS AND DECISION

In re: Marc and Jane Maheux
P.O. Box 236
Underhill, VT 05489
(419 VT Rte. 15, Underhill, VT 05489)

Docket No. DRB-13-08: Maheux

I. INTRODUCTION AND PROCEDURAL HISTORY

This proceeding involves review of the application of Marc and Jane Maheux for site plan review approval for an office in an existing building on property they own located at 419 VT Rte. 15 in Underhill, VT.

- A. On May 30, 2013, Marc and Jane Maheux filed a conditional use/site plan review application for approval for office space for a small IT business with no retail sales in an existing building on their property at 419 VT Rte. 15 in Underhill, VT. Copies of the application and materials are available at the Underhill Town Hall.
- B. On May 31, 2013, copies of the notice of a public were mailed via Certified Mail to the Applicants, Marc and Jane Maheux, P.O. Box 236, Underhill, VT 05489, and to the following abutting neighbors:
 - 1. UJFD, P.O. Box 39, Jericho, VT 05465
 - 2. Manning, 421 VT Rte. 15, Underhill, VT 05489
 - 3. Peterson, 429 VT Rte. 15, Underhill, VT 05489
 - 4. Arpey, 417 VT Rte. 15, Underhill, VT 05489

Notice was also provided by first-class mail to Ross Brewer, 271 Poker Hill Rd., Underhill, VT 05489 as the prospective lessee of the building and IT business owner.

- C. On May 30 and 31 notice of the public hearing on the proposed Maheux site plan review application was posted at the following places:
 - 1. The property where the use is proposed, 419 VT Rte. 15;
 - 2. The Underhill Town Clerk's office;

3. The Underhill Center Post Office;
 4. The Underhill Flats Post Office;
 5. Jacobs IGA;
 6. The Underhill Country Store;
 7. Wells Corner Market;
 8. The Town of Underhill website.
- D. On June 1, 2013, notice of a public hearing on the proposed site plan review application was published in *The Burlington Free Press*.
- E. The hearing began at 7:20 PM on June 17, 2013 at the Underhill Town Hall.
- F. Present at the hearing were the following members of the Development Review Board:
1. Charles Van Winkle, Chairperson
 2. Matt Chapek
 3. Karen McKnight
 4. Penny Miller
 5. Mark Hamelin
- Kari Papelbon, Zoning & Planning Administrator; Marc Maheux, Applicant; and one interested party also attended the hearing.
- G. At the outset of the hearing, Chairperson Charles Van Winkle explained the criteria under 24 V.S.A. § 4465(b) for being considered an “interested party.” Those who spoke at the hearing were:
1. Marc Maheux, P.O. Box 236, Underhill, VT 05489.
- H. During the course of the hearing the following exhibits were submitted to the Development Review Board:
1. A staff report sent by Zoning and Planning Administrator Kari Papelbon to the Development Review Board, the Applicants, the Underhill Selectboard, the Underhill Town Administrator; the Underhill Conservation Commission Chair, the Underhill-Jericho Fire Department; and the Jericho Underhill Water District (to Mr. Maheux as its representative);
 2. Marc and Jane Maheux’s Conditional Use/Site Plan Review Hearing Request (dated 5-30-13);
 3. A copy of the Site Plan Review Standards Findings Checklist;
 4. A copy of the building floor and plot plan (dated 12-30-59);
 5. A copy of the wastewater system site plan (revised 1-3-05);
 6. A copy of the Project Review Sheet (dated 6-4-13);

7. A copy of the tax map for VT419;
8. A copy of the hearing notice published in *The Burlington Free Press* on June 1, 2013.

These exhibits are available in the Maheux, VT419, Conditional Use/Site Plan Review file at the Underhill Zoning Office.

II. FINDINGS

Factual Findings

The Minutes of the meetings written by Kari Papelbon are incorporated by reference into this decision. Please refer to these Minutes for a summary of the testimony.

Based on the application, testimony, exhibits, and other evidence the Development Review Board makes the following findings:

- A. The Applicants, Marc and Jane Maheux, seek site plan review approval for an office with no retail sales within the existing building on property they own at 419 VT Rte. 15.
- B. The subject property, 419 VT Rte. 15, Underhill, VT is located in the Underhill Flats Village Center zoning district per Article II, Table 2.2 of the 2012 Unified Land Use and Development Regulations.
- C. Approval is requested for the project pursuant to review under the following sections of the 2012 Unified Land Use and Development Regulations:
 1. Article II, Table 2.2 – Underhill Flats Village Center District
 2. Section 3.2 – Access
 3. Section 3.3 – Conversion or Change of Use
 4. Section 3.8 – Nonconforming Lots
 5. Section 3.13 – Parking, Loading & Service Areas
 6. Section 3.22 – Water Supply & Wastewater Systems
 7. Section 5.3 – Site Plan Review
- D. An office is defined in the regulations as “[a] room, suite of rooms or building principally used for conducting the affairs of a business, profession, or service industry. This definition specifically excludes office space which is associated with home occupations or which is clearly accessory to another allowed principal use. It also specifically excludes the on-premise retail sale of goods.”
- E. Testimony was received during the hearing from Marc Maheux. See the meeting minutes for details.

III. CONCLUSIONS

Applicable Regulation Standards

Article II, Table 2.2

The Board makes the following findings:

- A. Offices require Site Plan Review approval per Table 2.2(B)(14).
- B. The parcel at 419 VT Rte. 15 is a pre-existing, nonconforming lot as it does not meet minimum lot size requirement [Table 2.2(D)].
- C. No changes are proposed to the square footage or footprint of the existing structure.
- D. No changes are proposed to the existing building and lot coverages.
- E. No changes are proposed to the existing frontage.
- F. No wetlands or surface waters exist on the property.

§3.2: Access

The Board finds that no changes to the existing access have been proposed.

§3.3: Conversion or Change of Use

The Board finds that the proposed conversion of the existing structure from a Conditional Use for a bakery to an office requires site plan approval per Section 3.3(A)(2).

§3.8: Nonconforming Lots

The Board makes the following findings:

- A. The property is of sufficient size to be developed and is currently developed. No changes to the existing structure or parking area have been proposed [Section 3.8(A)].
- B. Section 3.8(B) is not applicable as only one lot is owned by the Applicants; therefore, no merger has occurred.

- C. No waivers or variances to minimum district, surface water and wetland setback requirements have been submitted as part of the proposal [Section 3.8(C)].
- D. The lot was not created as part of an approved planned residential or planned unit development [Section 3.8 (D)].

§3.13: Parking, Loading & Service Areas

The Board makes the following findings:

- A. There currently exist multiple off-street parking spaces serving the structure.
- B. A minimum of one 9' x 18' parking space for every 300 square feet of gross floor area is required per Table 3.1. The existing structure is less than 1300 square feet and requires approximately 5 parking spaces. More than 5 spaces currently exist on the lot [Section 3.13(A)(1),(2)].
- C. The existing parking area is located on the east and west sides of the principal structure. No changes have been proposed [Section 3.13(A)(3)].
- D. The lot has been used as a bakery and restaurant, a flower shop, and a post office in the past. The existing site allows for delivery of goods. No onsite retail is included in the proposal [Section 3.13(B)].

§3.22: Water Supply & Wastewater Systems

The Board finds that a State of Vermont Department of Environmental Conservation & Natural Resources Board Project Review Sheet was issued for the property. The Project Review Sheet states that Act 250 review is not required and conversion of the existing building to an office space with a maximum of 15 employees does not need an amended Wastewater System & Potable Water Supply Permit or approval. Additionally, the lot is served by the Jericho Underhill Water District and any District requirements shall apply for the conversion.

§5.3: Site Plan Review

The Board makes the following findings:

- A. The Applicant has submitted responses to the standards of this section.
- B. The proposal for the conversion of a bakery/restaurant to an office will not have undue adverse impacts to significant natural, historic, and scenic resources as the conversion will occur in an existing structure; existing drainage patterns will be maintained as no new structures or changes to the topography of the lot are

- proposed; the property is not above 1500 feet in elevation; no areas of steep slope exist on the property; there are no surface waters or wetlands are within 100 feet of the property; there are no mapped Special Flood Hazard Areas on the property; the property is not in a Source Protection Area; there are no identified significant wildlife habitat areas or corridors on or near the property; and existing scenic resources will be unaffected as the proposal is to convert the use within the existing structure without changes to the exterior of the building [Section 5.3(B)(1)].
- C. The proposal, with site plan approval, is compatible with the provisions of the Underhill Flats Village Center zoning district as it will reinforce a traditional, compact village settlement pattern through reuse of an existing structure within the traditional village center [Section 5.3(B)(2)].
 - D. No customers or retail sales are proposed.
 - E. Vehicular access is addressed in the Conclusions for Section 3.2 above [Section 5.3(B)(3)].
 - F. Parking, loading, and service areas are addressed in the Conclusions for Section 3.13 above.
 - G. As the existing lot has been used for a bakery/restaurant, flower shop, and post office in the past, sufficient space exists for site circulation.
 - H. The proposal does not include additional landscaping or screening [Section 5.3(B)(6)].
 - I. Section 5.3(B)(7) is not applicable to this application as no outdoor lighting is proposed for the project.
 - J. No stormwater management and erosion control measures have been proposed as the request is for the conversion of the interior use of an existing building for an office space with no changes to the existing grade and no new structures. Additionally, there are no surface waters or wetlands within 100 feet of the property [Section 5.3(B)(8)].

IV. DECISION AND CONDITIONS

Based upon the findings above, the Development Review Board unanimously grants approval for the Site Plan Review application for the conversion of the use of the existing building to an office space with no retail sales as described at the hearing and in the submitted application documents, with the following conditions:

- A. No onsite retail sales are approved. Any retail sales will require prior review and approval by the Development Review Board.
- B. No expansion of the existing structure or parking area is approved. Any expansion of the existing structure shall comply with the requirements of the regulations in place at the time of application. Any expansion of the existing parking area may require prior review and approval by the Development Review Board.

Dated at Underhill, Vermont this 21st day of June, 2013.

Charles Van Winkle

Charles Van Winkle, Chairperson, Development Review Board

NOTICE: This decision may be appealed to the Vermont Division of Superior Court by an interested person who participated in the proceeding before the Development Review Board. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. §4471 and Rule 5 (b) of the Vermont Rules for Environmental Court Proceedings. Appeal period ends **21 July 2013**.