

TOWN OF UNDERHILL
APPLICATION OF MAPLE LEAF FARM ASSOCIATES, INC.
FOR A CONDITIONAL USE PERMIT AND SITE PLAN APPROVAL
FINDINGS AND DECISION

In re: Maple Leaf Farm Associates, Inc.
10 Maple Leaf Rd.
Underhill, VT 05489

Docket No. DRB-11-07: Maple Leaf Farm

I. INTRODUCTION AND PROCEDURAL HISTORY

This proceeding involves review of Maple Leaf Farm Associates, Inc.'s application for a conditional use permit and site plan approval for a water storage tank enclosure on property owned by Maple Leaf Farm located at 10 Maple Leaf Rd. in Underhill, VT.

A. On August 17, 2011, Executive Director Bill Young filed an application for a conditional use hearing to review the request to construct a water storage tank enclosure on property owned by Maple Leaf Farm at 10 Maple Leaf Rd. in Underhill, VT. A copy of the application and materials are available at the Underhill Town Hall.

B. On August 29, 2011, copies of the notice of a public hearing were mailed via Certified Mail to the Applicants, Maple Leaf Farm Associates, Inc., 10 Maple Leaf Rd., Underhill, VT 05489, and to the following abutting neighbors:

1. Rushlow, 126 Harmony Rd., Bristol, VT 06010
2. Infields, LLC, 1448 Ridge Rd., Laurel Hollow, NY 11791
3. Blackmer, P.O. Box 133, Underhill, VT 05489
4. Ochs, P.O. Box 103, Underhill Center, VT 05490
5. Dube, et al., 266 Old Stage Rd., Essex Junction, VT 05452
6. Herman, P.O. Box 116, Underhill Center, VT 05490
7. Davis, P.O. Box 229, Underhill Center, VT 05490
8. Mahin, 21 Ledge Hill Rd., Underhill, VT 05489
9. Barker, TTEE, P.O. Box 655, Albion, CA 95410
10. Pitmon, 31 Maple Leaf Rd., Underhill, VT 05489
11. Leddy Estate, 14 Elsom Parkway, South Burlington, VT 05403
12. Doherty, P.O. Box 89, Underhill Center, VT 05490
13. Panner, 55 Maple Leaf Rd., Underhill, VT 05489
14. Luck/Wilson, TTEEs, 42 Maple Leaf Rd., Underhill, VT 05489

C. On August 29, 2011 notice of the public hearing on the proposed Maple Leaf Farm Associates, Inc. conditional use/site plan review application were posted at the following places:

1. The Applicants' property, 10 Maple Leaf Rd.;
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 August 31, 2011, notice of a public hearing on the proposed Maple Leaf Farm Associates, Inc. conditional use/site plan review application was published in *Seven Days*.
- E. The hearing was scheduled to begin at 8:00 PM on September 19, 2011.
- F. Present at the hearing were the following members of the Development Review Board:
1. Charles Van Winkle, Chair
 2. Peter Seybolt
 3. Chuck Brooks
 4. Will Towle
 5. Deb Shannon
- Kari Papelbon, Zoning & Planning Administrator; Maple Leaf Farm Associates, Inc. Executive Director Bill Young, Applicant, 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. Executive Director Bill Young, Maple Leaf Farm Associates, Inc., 10 Maple Leaf Rd., 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, Maple Leaf Farm Associates, Inc., the Underhill Selectboard (via email by Vice Chair Penny Miller), the Underhill Conservation Commission Chair (via email by Vice Chair Penny Miller), and the Underhill-Jericho Fire Department (via email by Selectboard Member Brad Holden);
 2. Maple Leaf Farm Associates, Inc.’s Conditional Use Hearing Request (dated 8-15-11);
 3. A copy of the site plan prepared by Summit Engineering, Inc. (dated 6-20-07);
 4. A copy of the proposed building and details (dated July 25, 2011);
 5. A copy of the completed Conditional Use Review Standards Findings Checklist;
 6. A copy of the completed Site Plan Review Standards Findings Checklist;
 7. A copy of the tax map for the Maple Leaf Farm Property;
 8. A copy of the hearing notice (published in *Seven Days* on 8-31-11);
 9. A copy of the email from Richard Rushlow, 14 Wheeler Road, in support of the project (dated 9-4-11).

These exhibits are available in the Maple Leaf Farm, ML010, Conditional Use 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, Maple Leaf Farm Associates, Inc., seek a conditional use permit and site plan approval to construct a water storage tank enclosure on their property.
- B. The subject property, 10 Maple Leaf Rd., Underhill, VT is located in the Water Conservation zoning district per Article II, Table 2.4 and the Soil and Water Conservation zoning district per Article II, Table 2.6 of the 2011 Unified Land Use and Development Regulations.
- C. Approval is requested for the project pursuant to review under the following sections of the 2011 Unified Land Use and Development Regulations:
 1. Article II, Table 2.4: Dimensional Standards
 2. Article II, Table 2.6: Dimensional Standards
 3. §3.7: Lot, Yard & Setback Requirements
 4. §3.17: Source Protection Areas
 5. §5.3: Site Plan Review
 6. §5.4: Conditional Use Review
- D. No interested parties attended the hearing. Richard Rushlow provided an email in support of the project.

III. CONCLUSIONS

Applicable Regulation Standards

Article II, Table 2.4 (D): Dimensional Standards and Table 2.6 (D): Dimensional Standards

The Board finds that the proposed water storage tank enclosure, in the location identified on the proposed site plan, will comply with all required setbacks. See Conclusions for Section 3.19 below.

§3.7: Lot, Yard & Setback Requirements

- A. The Board finds that Maple Leaf Farm is currently an approved conditional use and the proposed water storage tank enclosure will meet the requirements of this Section.

- B. No waivers have been requested for the project [Section 3.7(E)].

§3.17: Source Protection Areas

The Board makes the following findings:

- A. A source protection area has been designated on the property; however, the well is private and serves only Maple Leaf Farm. The proposal does not include the addition of a septic system [Section 3.17(A)].
- B. The proposed water storage tank enclosure is required for the sprinkler system serving the men's residence and does not pose a threat to the water supply [Section 3.17(B)(1)].
- C. No storage of chemicals or other materials unrelated to the water storage tanks is proposed within the enclosure [Sections 3.17(B)(2) and (5) through (7)].
- D. The proposed water storage tank enclosure does not specify whether a drain will be installed; however, only water will be stored within the enclosure [Section 3.17(B)(3)].
- E. The proposal includes provisions for the prevention of erosion, including seeding and mulching disturbed areas. A stormwater drain currently exists in the vicinity of the proposed enclosure [Section 3.17(B)(4)].
- F. Sections 3.17(C) and (D) are not applicable.

§5.3: Site Plan Review

The Board makes the following findings:

- A. The location of the proposed water storage tank enclosure as identified on the proposed plan will not have undue adverse impacts to significant natural, historic, and scenic resources as the location is immediately behind and serving the men's residence, the parcel is not above 1500 feet in elevation, the stream on the property is more than 100 feet from the proposed development, there are no mapped significant wildlife habitat areas or travel corridors on the property, and existing scenic resources will be unaffected. The source protection area will not be affected by the location of the enclosure [Section 5.3(B)(1)].
- B. The proposed location of the water storage tank enclosure is compatible with the proposed setting and context of the Water Conservation zoning district as it is immediately behind the existing men's residence. The structure will be located solely within the Water Conservation zoning district [Section 5.3(B)(2)].
- C. Section 5.3(B)(3)(a)-(e) are not applicable. The existing access is sufficient for the facility and additional access for the water storage tank enclosure is not required.
- D. Section 5.3(B)(4) and (5) are not applicable as no new parking or service areas are proposed.

- E. The application states that the proposed enclosure will be between the existing men's residence and a small bank. Existing trees will remain [Section 5.3(B)(6)].
- F. No exterior lighting is proposed for the water storage tank enclosure [Section 5.3(B)(7)].
- G. No surface waters are in proximity to the proposed enclosure. Disturbed areas will be seeded and mulched [Section 5.3(B)(8)].

§5.4: Conditional Use Review

The Board makes the following findings:

- A. The proposed water storage tank enclosure will not result in an undue adverse effect on the capacity of existing or planned community services or facilities as the addition of a water storage tank enclosure does not require further upgrades to serve the existing private facility [Section 5.4(B)(1)].
- B. The proposed enclosure will not result in an undue adverse effect on the character of the area affected as defined by the Water Conservation zoning district purpose statement. Further, the proposed water storage tanks are required for fire safety purposes (sprinklers) by the State of Vermont, and the enclosure is for the protection of such tanks [Section 5.4(B)(2)].
- C. The proposed enclosure will not result in an undue adverse effect on traffic in the vicinity as it is a storage enclosure and not a public building resulting in additional traffic [Section 5.4(B)(3)].
- D. The proposed enclosure will meet required bylaws [Section 5.4(B)(4)].
- E. The proposed enclosure will not interfere with the utilization of renewable energy sources [Section 5.4(B)(5)].
- F. Site plan review standards are addressed in Section 5.3 above [Section 5.4(C)].
- G. The proposed enclosure is required for fire safety purposes. All dimensional and district standards will be met in the presented proposal. [Section 5.4(D)(1),(2)].
- H. Section 5.4(D)(3) and (4) are not applicable.

IV. DECISION AND CONDITIONS

Based upon the findings above, the Development Review Board grants approval for the proposed conditional use/site plan review application for a water storage tank enclosure as described at the hearing subject to the following conditions:

- A. A building permit for the enclosure is required.
- B. The water storage tank enclosure shall be in the location identified on the proposed plan and meet all dimensional requirements of the Water Conservation zoning district.

Dated at Underhill, Vermont this _____ day of _____, 2011.

Charles Van Winkle, Chair, 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 _____.