

VERMONT SUPERIOR COURT
Environmental Division
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Docket No. 23-ENV-00143

Peacefield, LLC & Shade Maple, LLC CU and Site Plan Appeal

ENTRY REGARDING MOTION

Motion: Motion for Summary Judgment

Filer: Christopher Boyle, Attorney for Appellants Tom Meyerhoff and Cynthia Volk

Filed Date: February 2, 2024

Memorandum in Opposition, filed by Alexander J. LaRosa, Attorney for Applicant/Appellees on March 22, 2024.

Reply to Memo in Opposition, filed by Christopher Boyle on April 5, 2024.

The motion is GRANTED.

This is an appeal of a Town of Woodstock Development Review Board decision granting Peacefield, LLC and Shade Maple, LLC (Appellees) conditional use and site plan approval to operate an on-farm restaurant (the Project) on the property located at 650 Pomfret Road in Woodstock, Vermont (the Property). Neighboring landowners Tom Meyerhoff and Cynthia Volk (Appellants) timely appealed the DRB's decision to this Court. Presently before the Court is Appellants' motion for partial summary judgment on Question 3(b), which asks whether the Project complies with a Town bylaw provision limiting the allowable footprint for on-farm restaurants to 2,800 square feet.

Legal Standard

To prevail on a motion for summary judgment, the moving party must demonstrate "that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." V.R.C.P. 56(a), applicable here through V.R.E.C.P. 5(a)(2). In determining whether there is any dispute over a material fact, "we accept as true allegations made in opposition to

the motion for summary judgment, so long as they are supported by affidavits or other evidentiary material.” White v. Quechee Lakes Landowners’ Ass’n, Inc., 170 Vt. 25, 28 (1999) (citation omitted).

Undisputed Material Facts

We recite the following factual background and procedural history, which we understand to be undisputed unless otherwise noted, based on the record now before us and for the purpose of deciding the pending pre-trial motion. The following are not specific factual findings relevant outside the scope of this decision on the pending motion. See Blake v. Nationwide Ins. Co., 2006 VT 48, ¶ 21, 180 Vt. 14 (citing Fritzeen v. Trudell Consulting Eng’rs, Inc., 170 Vt. 632, 633 (2000) (mem.)).

1. On August 18, 2023, Peacefield, LLC and Shade Maple, LLC (Appellees) submitted an application to the Town of Woodstock seeking permission to operate an on-farm restaurant at 650 Pomfret Road. Appellants’ Ex. A, Peacefield Application No. T-0024-24 at 2.

2. The Application stated that it was submitted “under Section 536 of the Woodstock Zoning Regulations for the service of farm dinners in the 36-foot by 72-foot red barn-style building...and associated patio and porch for up to sixty people total.”¹ Id. at 3.

3. The “red barn-style building” proposed to be used as the on-farm restaurant was constructed years prior to the submission of Peacefield’s Application.

4. The proposed plans for the Project include three types of designated areas: (1) the exclusive on-farm restaurant; (2) a mixed-use restaurant and agriculture area; and (3) exterior areas. Appellants’ Ex. D. The plan includes square footage calculations for each of these sections.

5. The exclusive on-farm restaurant area measures 2,527 square feet and includes a dining area, bar, bathrooms, a foyer, and an entry way. The mixed-use restaurant and agriculture area measures at 866 square feet and includes the kitchen (468 square feet), clean-up area,

¹ In responding to Appellants’ Statement of Undisputed Material Fact, Appellees reserve the right to revise their application in the proceedings before this Court. We have not presently received any such request to revise the application. We also note that any request to do so would be subject to this Court’s jurisdictional limitations. See In re Wright & Boester Conditional Use Application, 2021 VT 80, ¶ 22, 215 Vt. 593 (explaining that truly substantial changes to the form or type of an application require remand to the DRB).

mechanical storage, and a stairway. These two areas are located inside the exterior walls of the proposed Project.

Statement of Questions

Appellants' Question 3(b) asks "[w]hether the Application . . . complies with . . . the requirement the 'footprint of the restaurant building . . . not exceed 2,800 square feet,' per § 536(B)(3)(b) of the Zoning Regulations?" Appellants' Statement of Questions at 2.

Conclusions of Law

To answer Question 3(b), we turn to § 536(B)(3)(b) of the Woodstock Zoning Regulations (WZR) which states: "[t]he footprint of the restaurant building shall not exceed 2,800 square feet." The parties dispute what areas should be included in the "footprint" of the building. Therefore, we also turn to the definition of "footprint" that is provided in the Regulations. The WZR defines "footprint" as: "[t]he horizontal area as seen in plan measured from outside of all exterior walls and supporting columns. It includes interior occupied spaces, garages, covered carports, and accessory structures, but not trellises, patios, and areas of porch, deck and balconies less than 30 inches from finished grade." WZR § 110.

In interpreting a zoning ordinance, we apply the principles statutory interpretation. In re Application of Lathrop Ltd. Partnership I, 2015 VT 49, ¶ 22, 199 Vt. 19 (citation omitted). We "construe words according to their plain and ordinary meaning, giving effect to the whole and every part of the ordinance." In re Appeal of Trahan, 2008 VT 90, ¶ 19, 184 Vt. 262. If there is no plain meaning, we will "attempt to discern the intent from other sources without being limited by an isolated sentence." In re Stowe Club Highlands, 164 Vt. 272, 280 (1995). In construing ordinance language, our "paramount goal" is to implement the intent of its drafters. Colwell v. Allstate Ins. Co., 2003 VT 5, ¶ 7, 175 Vt. 61. We therefore "adopt a construction that implements the ordinance's legislative purpose and, in any event, will apply common sense." In re Laberge Moto-Cross Track, 2011 VT 1, ¶ 8, 189 Vt. 578 (quotations omitted).

We conclude that under the plain meaning of the WZR, the proposed Project, as currently designed, exceeds the 2,800 square foot limitation for an on-farm restaurant. To calculate the horizontal area within the exterior walls of the building, we combine the square footage of the

exclusive on-farm restaurant area and the mixed-use restaurant and ag area. Based on this initial calculation, the square footage totals 3,393 square feet.

Appellees argue that several rooms within these designated areas should not be included in our calculations. They argue that the kitchen should not be included because it is not open to the public and was not built exclusively for the on-farm restaurant. We do not see any reference to or distinction between public and private spaces in the definition of footprint. Rather, the operative language is interior *occupied* spaces. In order for a restaurant to operate, the kitchen must be occupied by staff. The same is true for the bathrooms, which Appellees argue are not regularly occupied. Again, bathrooms are essential to the operation of a restaurant, and are intended for human occupation.² To exclude these rooms from the square footage calculations would violate the plain language of the Regulations.³

Appellees point out that the Town bylaws were specifically amended in order to accommodate their Project. While we acknowledge the Town's approval of this project, the changes to the bylaws were not successful in bringing about the intended result. Adopting Appellee's proposed interpretation that the kitchen and bathrooms are not "interior occupied spaces" would be a strained reading of the ordinance. These areas are essential to the functioning of any restaurant. The definition of footprint does not distinguish between "occupied" and "public" spaces. Rather, the unambiguous language indicates that the kitchen and bathrooms are "interior occupied spaces" that must be included in the overall footprint of the restaurant building.

Conclusion

For the foregoing reasons, we **GRANT** Appellants' motion for partial summary judgment. In doing so, we answer Question 3(b) of Appellants' Statement of Questions in the negative. Because Appellees repeatedly indicated that they may wish to revise their application depending

² In fact, a common reply for when someone knocks on a bathroom stall is to say "Occupied!"

³ Appellees argue that other rooms should not be included in our calculations, such as the clean-up space, mechanical space, stairwells, and entryway. We need not reach a determination as to whether these rooms fall under the definition of "interior occupied space" because even if we were to exclude them from our calculations, the Project would still exceed the 2,800 square foot limit. If we add up the square footage of the interior dining area, bar, bathrooms, foyer, and kitchen, based on the existing plans, the total square footage still exceeds 2,800 square feet.

on this Court's ruling, we decline to void the permit issued by the DRB until Appellees have had an opportunity to do so. The Court will schedule this matter for a status conference to discuss how the parties would like to move this case forward.

Electronically signed April 24, 2024, pursuant to V.R.E.F. 9(D).

A handwritten signature in black ink that reads "Tom Walsh". The signature is written in a cursive, slightly slanted style.

Thomas G. Walsh, Judge
Superior Court, Environmental Division