

Town of Dover
P.O. Box 428
West Dover, VT 05356
(802) 464-8720

DOVER DEVELOPMENT REVIEW BOARD
NOTICE OF DECISION
Application 15-RT019A-12

A. PROCEDURAL HISTORY & APPLICANT REQUEST:

1. Landowner: Windsor Gold Star LLC
2. Applicant: Bryan Vincent
3. Brief Description of Request: Change of a Non-Conforming use, from a restaurant to a retail establishment, in accordance with Sections 300, 375, 380, 385, and 470 of the Dover Zoning Bylaw.
4. A copy of the application was received by the Zoning Administrator on October 10, 2015.
5. On October 22, 2015, a copy of the Notice of Hearing was mailed to the Applicant, along with a sample letter and abutter's list for notifying all abutters.
6. Public notice of the hearing was posted at the following locations on October 22, 2015:
 - a. Dover Town Clerk's Bulletin Board
 - b. Dover Town Meeting Room Bulletin Board
 - c. Dover Free Library & Dover Elementary School via email
 - d. East Dover Post Office via regular mail
 - e. Town of Dover website: www.doververmont.comPublic notice of the hearing was also published in the Deerfield Valley News and in the Brattleboro Reformer on October 22, 2015.
7. At the outset of the hearing, the Chair afforded all persons wishing to establish status as an interested party the opportunity to do so; abutters Brian Krupa, 24 Dover Green Rd, West Dover and Cliff Turpin, 55 Route 100, West Dover requested and were granted Interested Party (IP) status. Only IP Brian Krupa participated in the hearing and so retains his IP status.
8. A public hearing was held and closed on November 12, 2015.
9. A complete list of exhibits and attendees is included in the meeting minutes. Minutes, application and exhibits are available for viewing in the Dover Town Office through the Zoning Administrator.

B. FINDINGS OF FACT AND CONCLUSIONS OF LAW:

Based on the application, testimony, exhibits and other evidence, the Dover DRB finds as follows:

1. The property is located at 45A Route 100 in West Dover VT and is located in the Productive Residential District (PRO). It was formerly known as the Red Oak Deli.
2. The hearing was properly warned.
3. All abutters were notified by the Applicant.
4. The Applicant was properly sworn prior to providing testimony.
5. The property is currently permitted as a restaurant, which is a non-conforming use in the PRO District. The Application requests a change of use to retail operations, which is also a non-conforming use in the PRO District.
6. Per Section 330.2.a: A non-conforming use shall not be changed to another non-conforming use except with the approval of the Development Review Board, and provided that the changed use, in the opinion of the Board, is equal to or less than the degree of non-conformity with these Bylaws.
7. The building is approximately 1,170 square feet; approximately 600 square feet of which will be used for Retail operations. The balance of the building will be used for storage.
8. There may be outdoor storage, but the Applicant also owns a business in Chester VT and anticipates that being the primary storage facility. The Application was amended to request storage for up to 4 spas for no longer than 90 days at this location.
9. Retail operations will occur within the hours of 8:00 am to 9:00 pm, daily.
10. There are 6 parking spaces, 9' x 20', provided. Retail stores require 1 parking space for every 200 square feet of floor area. 600 square feet of retail space requires 3 parking spaces; therefore the required number of parking spaces are provided.
11. "Retail: is a non-conforming use in the PRO District. Pursuant to Section 330.2.b.3, Non-confirming Uses, the Board shall review a request for a change of use from one non-conforming use to another non-conforming use under the standards and following the process applicable to conditional uses.
12. Pursuant to Section 380, General Standards for Conditional Use, the Board concludes the improvements proposed in the Application have no undue adverse effect on, and therefore satisfy, the following:
 1. The capacity of existing or planned community facilities.
 2. The character of the area affected, as defined by the purpose or purposes of the PRO District, which are: to minimize development and fragmentation of lands with significant economic value when in productive use, significant scenic, and recreational use.
 3. Traffic on roads or highways in the vicinity.
 4. The current Bylaw and other Town ordinances.
 5. Utilization of renewable energy resources.
13. Pursuant to the Specific Standards for Conditional Use in Bylaw Section 385, the Board finds and concludes as follows:
 1. The lands under consideration do not fall within a Flood Hazard Zone; therefore Article 5 is not applicable. The proposed use meets the General Regulations of the Bylaw; therefore Article 6 is satisfied.
 2. The standards of area, dimension, and coverage are met.
 3. The proposed use does not cause alterations to the areas covered by Sections 385.3, 385.4, 385.5 and 385.6 of the Bylaw.

C. DECISION

Based on the evidence presented, by a vote of 3-0-0, the Board approves this Application with the following condition:

1. Hours of operation are limited to 8:00 am to 9:00 pm.
2. Outside storage shall be limited to no more than 4 spas at any one time, for no more than 90 days.
3. The Applicant shall maintain the property such that 6 parking spaces will remain clear and accessible at all times.
4. Re-application is required for any increase in exterior lighting fixtures.

Respectfully submitted,



Sarah K. Shippee
Chairperson, Dover Development Review Board

December 9, 2015

Date

NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested party who participated, through oral or written testimony, in the proceeding(s) before the DRB. Such appeal must be taken within 30-days of the date of this decision, pursuant to 24 V.S.A. Section 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.

NOTICE: State permits may be required for this project. Call 802-885-8850 to speak to the regional Permit Specialist before beginning any construction.