

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

DOVER DEVELOPMENT REVIEW BOARD
NOTICE OF DECISION
Application 18-RT075-01

A. PROCEDURAL HISTORY & APPLICANT REQUEST:

1. Property Owner: Brattleboro Area Adult Day Service
2. Applicant: Michael McGillion, Esq.
3. Brief Description of Request: Change of Use from restaurant to Adult Day Care Facility, pursuant to Sections 375, 380, 425, 470, and 490 of the Dover Zoning Bylaw. The property is known as The Gathering Place.
4. A copy of the application was received by the Zoning Administrator on February 14, 2018.
5. On February 27, 2018 a copy of the Notice of Hearing was hand delivered 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 February 27, 2018:
 - 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 on February 29, 2018.
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; no requests for Interested Party status were made or granted.
8. A public hearing was held and closed on February 8, 2018. The hearing was re-opened and subsequently closed on March 22, 2018.
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 3 Mountain Park Plaza in West Dover VT and is located in the Commercial District (COM).

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.
6. Restaurant is a conditional use in the COM District.
7. There is no specific provision in the Bylaw for Adult Day Care Facility. Section 490 allows for consideration of Uses Not Provided For. The Planning Commission has defined "Adult Day Care Facility" as follows: a facility providing services to adults with or without disabilities. This is not a permitted or conditional use in any district.
8. The Planning Commission submitted the following Findings of Fact, dated March 19, 2018, to the Development Review Board:
 1. The Gathering Place of Brattleboro proposes an Adult Day Care Facility for the Mountain Park Plaza. The facility will operate year-round between the hours of 7:30 am and 5:30 pm weekdays. Visitors will arrive either by passenger car or public transit and stay for a number of hours to participate in programs and services provided by trained, professional staff. Proposed volume of traffic represents a reduction in the number of vehicles and occupancy limits formerly experienced by First Wok Restaurant.

2. Dover Zoning Bylaw, Section 490: Uses Not Provided for requires the Planning Commission to find whether or not the proposed use will have an adverse impact on existing uses within 1500 feet of the location in question. A circle of radius 1500' around the subject property includes parts of the Route 100 Commercial (COM) Zone, adjacent Residential Zones, and the Resource Conservation (CON) Zone. Existing commercial development at this point along Route 100 is all hard up against the Deerfield River and there are neither existing uses nor direct access in the COM and CON zones to the northwest of the river. The comparisons for the purpose of this discussion are therefore along Route 100, within the plaza itself, and in the residential areas south and west of the plaza.

3. 490 B.1. The use is the same character as those permitted (including conditional uses) in the district. Existing uses include: Government operated, lodging, public recreation/outdoor, residential, restaurants, retail businesses, and service businesses.

The proposed facility will operate with fewer than 12 full-time employees during the regular business hours of all existing uses. Drop offs and pick-ups are scattered, with the highest concentration between 8:30 and 10:00 am, and then again between 3:00 and 4:00 pm, which coincides with large volumes of seasonal ski traffic leaving the mountain at the end of the day. Activities regularly include singing, but not amplified music that might be heard far outside the building. All of these characteristics represent reductions in activity from what would be expected from a successful restaurant operated in this location.

4. 490 C. If there is a permitted use similar to the proposed use in the judgment of the Planning Commission, the Planning Commission in making its findings shall state the permitted use most similar to the proposed use. The Planning Commission states that the proposed facility is most similar to "Business, professional, and medical offices".

9. The Applicant proposes to provide day time care and activity facilities for senior residents of the surrounding area, including but not limited to Dover residents.
10. There are 37 parking spaces allocated to this location within the Plaza at present. Per Section 634, and applying the standard required for Business, professional and medical offices (the most similar use to Adult Day Care Facility), such a facility shall have One (1) parking space for every four hundred (400) square feet of space. The facility is 4,951 square feet; therefore, thirteen (13) parking spaces are required.
11. The Applicant proposes that three (3) of these parking spaces shall be handicapped parking spaces: one (1) will be thirteen (14) feet in width: the standard nine (9) foot width plus a five (5) foot aisle for van parking. The other two (2) spaces shall be nine (9) feet in width, separated by a five (5) foot aisle.
12. The Applicant proposes to extend the existing ramp and reduce its pitch to 1" rise over 24" in length. The total rise is approximately 7 ¾". The new ramp shall be approximately fifteen (15) feet in length, and shall have an overhang above it to protect the ramp from the elements. This extension does not require a variance from the property line.
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:

Respectfully submitted,



Sarah K. Shippee
Chairperson, Dover Development Review Board

April 25, 2018

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 802-282-6488 to speak to the regional Permit Specialist before beginning any construction.