

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

**DOVER DEVELOPMENT REVIEW BOARD**  
**NOTICE OF DECISION**  
**Application 19-RT015-01**

**A. PROCEDURAL HISTORY & APPLICANT REQUEST**

1. Landowner: Leatherneck Associates, LLC
2. Applicant: Walter C. Bansley IV, owner
3. Brief Description of Request: Change from one non-conforming use (Retail) to another non-conforming use (Manufacturing, Packaging or Processing: "Brewery"), and from a non-conforming use (Office) to a conditional use (Bar or Lounge) within a Planned Unit Development in accordance with Sections 300, 330, 375, 380, 385, 470, 634, & 690, and Article 7 of the Dover Zoning Bylaw (the "Bylaw" herein).
4. A copy of the application was received by the Zoning Administrator on January 15, 2019.
5. On January 18, 2019, 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 January 15, 2019:
  - 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.com](http://www.doververmont.com)Public notice of the hearing was also published in the Deerfield Valley News on January 18, 2019.
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 opened on February 28, 2019 and continued to and closed on March 14, 2019. 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 and concludes as follows:

1. The property is located at 33 Route 100 in West Dover VT and is located in the Productive Residential District (PRO).
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. "Planned Unit Development" is a conditional use in the PRO District.
6. Within the PUD, and pursuant to Non-Conforming Uses in Bylaw Section 330, the current uses of "Retail" and "Office" are non-conforming uses in the PRO District. Of the proposed uses, "Manufacturing, Packaging, or Processing" (Brewery) is a non-conforming use and "Bar or Lounge" is a conditional use in the PRO District. The Accessory Apartment on the second floor of the structure's use will not be changed and is a conditional use in the PRO District.
7. Pursuant to Section 330.2.a, a non-conforming use may be changed to another non-conforming use with the approval of the Development Review Board provided the change, in the opinion of the Board, is equal to or less than the existing degree of non-conformity. It is the Board's opinion that the change from "Retail" to "Manufacturing, Packaging or Processing" does not represent an increase in the non-conformity of the PUD.
8. The change of use from "Office", a non-forming use, to "Bar or Lounge", a conditional use, in the Board's opinion, represents an overall reduction in the degree of non-conformity of the PUD.
9. Pursuant to the General Standards for Conditional Use in Bylaw Section 380, the Board finds and concludes that the changes 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. Every effort shall be made to preserve the viability of land-based economic activities, including agriculture, forestry, recreation, and to preserve the rural character of the Town.
  3. Traffic on roads or highways in the vicinity.
  4. The current Bylaw and other Town ordinances.
  5. Utilization of renewable energy resources.
10. 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.
  2. There are no relevant sections of Article 6 to be considered.
  3. The standards of Section 385.2, 385.3, 385.4, 385.5 and 385.6 are not applicable to this Application, as there are no changes to the existing structure, its circulation, parking, screening, or setbacks.
11. Pursuant to Minimum Parking Requirements in Bylaw Section 634, the Board finds and concludes that there are twenty-one (21) parking spaces delineated on the plan SP1, and one (1) designated handicapped (ADA) space. Parking requirements for Bar or Lounge is one (1) space for every three (3) persons permitted for occupancy. There are fifty-four (54) seats in the Bar or Lounge; therefore eighteen (18) spaces are required. The Accessory Apartment requires two (2) parking spaces. The Brewery will have two (2) employees, and therefore will require two (2) parking spaces. The total parking

requirement is twenty-two (22) spaces, therefore the parking requirement is not met, as presently proposed. However, SP1 appears to indicate that there is sufficient area on the lot for additional parking spaces.

12. Pursuant to Application and Review Procedures in Bylaw Section 715, the Board finds and concludes as follows:
  1. Name, address and interest of the Applicant in the subject property, deeds pertinent to the property, and the names and addresses of the owners of record of the adjoining lands are provided.
  2. Sections 715B, 715C, 715D, and 715G are not applicable, as there is no new construction proposed.
  3. A letter supplied by the North Branch Fire District satisfies the requirements of Section 715E.
  4. A traffic impact evaluation, supplied by Mance Engineering Partners, P.C., and communication from the West Dover Police Chief and the Business Administrator for Deerfield Valley Rescue satisfies the requirements of Section 715F.
13. Pursuant to the General Development Standards for PUDs in Bylaw Section 720, the Board finds and concludes as follows:
  1. The change of use from Retail to Manufacturing, Packaging or Processing and from Office to Bar or Lounge does not increase the degree of non-conformity for the PUD as a whole.
  2. The Planned Unit Development, with the proposed changes of use, is more consistent with the Town Plan than previously.
  3. Sections 720C, 720D, 720E, 720F, and 720G are not applicable to this Application.
  4. Section 720H is addressed elsewhere in this Decision.
14. Pursuant to Additional Requirements for PUDs in Bylaw Section 725, the Board finds and concludes as follows:
  1. Sections 725A, 725B, 725C, 725E, 725F, 725G, 725H, and 725I are not applicable.
  2. Section 725D is addressed elsewhere in this Decision.

## **C. DECISION**

Based on the evidence presented and the Board's Findings of Fact and Conclusions of Law, by a vote of 4-0-0, the Board approves the changes of use from Retail to Manufacturing, Packaging, or Processing, and from Office to Bar or Lounge. The Accessory Apartment use is not changed. The approval is subject to the following conditions:

1. The Site Plan submitted with the Application does not accurately represent the number of spaces testified to by the Applicant. A revised parking plan, delineating at least twenty-two (22) standard spaces, with each space measuring nine (9) feet by twenty-two (22) feet, and one (1) appropriately sized, designated handicapped (ADA) space, shall be submitted to the Zoning Administrator prior to issuance of the Zoning Permit.
2. Pursuant to Compliance with Fire Codes in Bylaw Section 690, the Applicant shall submit evidence of compliance with all State and Local fire codes.

Respectfully submitted,



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Sarah K. Shippee  
Chairperson, Dover Development Review Board

**March 28, 2019**

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Date

**NOTICE: This decision may be appealed to the Environmental Division of Vermont Superior Court by an interested party who participated, by offering oral or written testimony, evidence or a statement of concern regarding this application 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 802-279-4747 to speak to the regional Permit Specialist before beginning any construction.**