

TOWN OF MARLBORO
Development Review Board

Application for Conditional Use
Findings and Decision

Permit Application # 19-12 CU

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves review, under the Town of Marlboro Zoning Bylaw, of an application for Conditional Use submitted by Applicants: W. Kent Taylor & Kelley Tutless, 1796 VT Route 9, Brattleboro, VT 05301; Owner: Marlboro Heights, LLC (John McKay), 110 Honey Brim Road, Vernon, VT 05354; Location: 1796 VT Route 9, Marlboro, VT, Tax Map # 07-04-09; Proposal, Conditional Use: Open a market and deli at the location of the former *Sweeties* market, offering take-out food prepared on-site as well as packaged food, and beverages including beer and wine; no seating, public restroom, or gasoline available at the market.
2. The application was received by Mary Sargent, Zoning Administrator, on August 15, 2019. A copy of the application is available for review at the Marlboro Town Office.
3. On August 31, 2019, notice of a public hearing was published in the *Brattleboro Reformer*.
4. On September 1, 2019, notice of a public hearing was posted at the following places:
 - Marlboro Town Clerk's Office
 - Bulletin Board outside the Marlboro Town Clerk's Office
 - Marlboro Town Website, marlborovt.us
5. On September 4, 2019, a copy of the notice of a public hearing was mailed to the applicants and to the owner of the property subject to the application. On September 4, 2019, a copy of the notice of a public hearing was mailed to the following owners of properties adjoining the property subject to the application:
 - Beth & Richard Bennett, PO Box 116, Marlboro, VT 05344-0116
 - Jason Gardner, PO Box 571, Hinsdale, NH 03451-0371
 - Raymond Mercier, PO Box 351, Marlboro, VT 05344-0351
 - Alan & Janet Zargo, 32 Tower Hill Road, Killingworth, CT 06419
 - Jorge & Celena Romo, PO Box 183, Marlboro, VT 05344-0183

6. The application was considered by the Development Review Board at a public hearing on September 17, 2019. The Development Review Board reviewed the application under the Zoning Regulations of the Town of Marlboro, as amended March 6, 2018.
7. Present at the hearing were the following members of the Development Review Board:
 - Steven John, Chairman
 - Jean Boardman, Vice Chairman
 - Gail MacArthur
 - John Nevins
 - Brent Seabrook
 - Lauren MacArthur, DRB Administrative Assistant
 - Mary Sargent, Zoning Administrator
8. At the outset of the hearing, the Development Review Board afforded those persons wishing to achieve status as an interested party an opportunity under 24 V.S.A. § 4465(b) to demonstrate that the criteria set forth in that statute could be met. The following persons sought interested party status:
 - Beth & Richard Bennett, 1694 VT Route 9, Marlboro, VT : Abutters
9. During the course of the hearing the following exhibits were submitted to the Development Review Board:
 - Permit Application, signed and dated 8/2/19 (Owner) and 8/11/19 (Applicants)
 - Letter of authorization for Kent Taylor & Kelley Tutless to present the Proposal at the hearing, signed by John McKay, Owner, and dated Sept. 11, 2019
 - State of Vermont DEC Project Review Sheet issued by John Fay, Permit Specialist, dated 2019.07.17, describing the project and listing State permits required
 - Town of Marlboro CTI Map, showing Ortho Imagery 2015, dated September 4, 2019
 - Town of Marlboro CTI Map, showing parcel boundaries and dimensions, dated September 4, 2019
 - List of abutters to Marlboro Heights, LLC (McKay) property (Tax Map # 07-04-09), with corresponding Town of Marlboro CTI map, printed on August 27, 2019

These exhibits are available for inspection at the Marlboro Town Office.

FINDINGS

Based on the application, testimony, exhibits, and other evidence, the Development Review Board makes the following findings:

1. The applicants seek a Conditional Use permit to open a market and deli at the location of the former *Sweeties* market, offering take-out food prepared on-site as well as packaged food, and beverages including beer and wine; no seating, no public restroom, and no gasoline available at the proposed market.
2. The subject property is a parcel of 3.1 acres located at 1796 VT Route 9 in the Town of Marlboro; Tax Map Number 07-04-09. The property is more fully described in a Deed recorded in Book 63, Page 309, of the Town of Marlboro Land Records.
3. The property is located in the Commercial East District (COM-E) as described in the Town of Marlboro Zoning Map on record at the Town of Marlboro municipal office, and in *Section 309 - Commercial (COM-W and COM-E)* of the Zoning Regulations of the Town of Marlboro.
4. Conditional Use approval is requested to open a market and deli at the location of the former *Sweeties* market, in the Commercial East District. The project meets the requirements in *Section 309 - Commercial (COM-W and COM-E)* of the Zoning Regulations.

DECISION AND CONDITIONS

Based upon these findings, the Development Review Board approves the following Conditional Use: to open a market and deli at the location of the former *Sweeties* market, offering take-out food prepared on-site as well as packaged food, and beverages including beer and wine; no seating, no public restroom, and no gasoline available at the proposed market.

The following conditions were established at the hearing:

1. Parking spaces shall be at least 9 feet by 22 feet, as required in *Section 435 - Off-street Parking and Loading Space Requirements* of the Zoning Regulations.
2. In conformance with Vermont Agency of Transportation (VTrans) requirements, traffic calming elements shall be employed, including two (2) access driveways from the highway. The maximum width of each access driveway shall be forty (40) feet. (To be completed before June 30, 2020)
3. Unused underground gasoline tanks shall be removed, in compliance with State standards for gasoline tank removal. (To be completed before June 30, 2020)

Dated at Marlboro, Vermont, this 25th day of September, 2019.

A handwritten signature in cursive script that reads "Steven John".

Steven John, Chairman
Marlboro Development Review Board

NOTICE: This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding(s) 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.