

PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 2, 2020

Application Number: Business Site Plan Application #90-P

Street Address: 1077 Boston Post Road

Assessor's Map #73 Lots #7 and #42 with shared parking on Lots #40 and #41

Name and Address of Applicant and Property Owner(s): Darien Place, LLC
c/o 48 Ring's End Road
Darien, CT 06820

Name and Address of Applicant's Representative: Amy Zabetakis, Esq.
Rucci Law Group, LLC
19 Old King's Highway South
Darien, CT 06820

Activity Being Applied For: Proposal to renovate the rear (theater portion) of the existing Playhouse building, by converting the first floor into commercial storefronts and converting the second floor to four new one-bedroom apartments; Proposal to reconfigure the shared parking lot adjacent to the rear of the building, including adding seven new parking spaces, relocating the trash enclosure and power transformer, and to perform related site development activities.

Property Location: The subject property is located on the north/west side of Boston Post Road approximately 550 feet northeast of its intersection with Leroy Avenue,

Zones: CBD and PR

Date of Public Hearing: March 31, 2020 immediately continued to April 28, 2020

Deliberations Held: May 5, 2020 and June 2, 2020

Time and Place: 8:00 P.M. Room 119 Town Hall and GoToMeeting (online)

Publication of Hearing Notices

Dates: March 19 & 24, 2020

Newspaper: Darien Times

Date of Action: June 2, 2020

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:
June 11, 2020

Newspaper: Darien Times

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 560, 720, 905 and 1020 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted redevelopment plans, and the statements of the applicant's

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representatives whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.

- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The proposal is to renovate the rear (theater portion) of the existing Playhouse building, by converting the first floor into commercial storefronts and converting the second floor to four new one-bedroom apartments; Proposal to reconfigure the shared parking lot adjacent to the rear of the building, including adding four new parking spaces, relocating the trash enclosure and power transformer, and to perform related site development activities.
2. No changes are proposed to the front portion of the building (the portion fronting the Boston Post Road). The building's existing tenants are: Scena Restaurant; The Verizon Store; Caffé Nero, CST50 Darien; and Posh Spa & Nails; and those will remain unchanged. New first floor retail/personal service space will be created where the theater now is in the back of the building.
3. The four proposed second floor residential units vary in size between approximately 650 and 875 square feet in size. Two of the three proposed first floor commercial units are approximately 1,000 square feet in size. The third commercial unit is approximately 2,000 square feet in size. The total new commercial space at the rear of the building is 4,350+/- square feet.
4. Because there are less than five new residential units proposed, there is no requirement for any inclusionary units as part of this application.
5. The proposed reconfiguration of the parking area and associated pedestrian improvements are to result in no new impervious surface on the site.
6. The Darien Public Works Department sent an e-mail with comments dated March 20, 2020. This e-mail commented on matters relating to sewer connections, and other DPW-related items. The Fire Marshal submitted a comment as follows "Building will require full fire sprinkler system".

PEDESTRIAN & LANDSCAPE IMPROVEMENTS

7. A new paver plaza, including a new pergola area, and pedestrian amenities (benches, plantings, lighting, etc.) are to be installed in front of the proposed commercial storefronts in the back of the building. It was noted that the brick paver feature will help to visually connect the subject building to the north side of Grove Street. New sidewalk connections would be established, linking Grove Street to the site. The Commission finds that those features are an essential part of the project, and will benefit the downtown by providing a visual and physical connection that can be used by pedestrians.

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8. The Commission finds that all new hardscape improvements will be matched to the red brick of the existing building. The sidewalks around the three sides of the back of the building will be increased in width to accommodate improved pedestrian circulation.
9. New trees are to be planted and lighting added within the plaza area and within islands in the adjacent shared parking lot to soften the appearance of the building. One existing tree, presently in poor condition, is to be removed from the parking area. It was noted that the proposed lighting has been designed to match the existing lighting on the Boston Post Road and on Grove Street.
10. At the public hearing, the Commission suggested that the applicant may wish to consider extending the proposed sidewalk from the west side of the Playhouse building towards the Darien Sport Shop to make the area more walkable for pedestrians.
11. A trash, transformer, and emergency generator enclosure is located adjacent to the northeast rear corner of the building. The trash enclosure is proposed to be moved away from the building to a landscaped enclosure directly northeast of the building within the parking area. The existing transformer will be relocated and screened within the paver plaza, predicated on Eversource requirements. The generator for the building will remain in its existing location at the rear of the building and be screened from public view.

ARCHITECTURE & DESIGN

12. On January 21, 2020, the Architectural Review Board (ARB) reviewed the redesign of the rear of the Playhouse building and issued a favorable report. A letter to that effect, dated January 29, 2020, has been submitted for the record.
13. At the public hearing on the matter, Mr. James Schettino, the architect for the applicant, detailed the architectural elements of the proposal. He described proposed floor to ceiling heights, architectural treatments for the exterior of the building (northern, eastern, and western façades of the building), and the proposed commercial and residential spaces.
14. Access to the second floor apartments is proposed via a new stairway and elevator lobby on the west side of the building. A secondary stairway would be added on the east side of the building. New windows would be installed on the second story of the building. New mechanicals on top of the roof of the building are proposed to be screened from public view.

PARKING & CIRCULATION

15. The subject property is subject to an existing shared parking agreement between the applicant (1077 Boston Post Road – Map #73, Lots #7, 42), the Darien Sport Shop (1127 Boston Post Road – Map #73, Lots #1, 2, 3, 4, 41, 43), and Webster Bank (1101 Boston Post Road – Map #73, Lot #5), that has been in existence since 1954. This shared agreement is governed by three separate documents, each of which has been included as part of the record on the matter:
 - a February 1978 agreement between Mr. Zangrillo and United Artists Theater;
 - a 1984 agreement between the Connecticut Bank and Trust and the Darien Sport Shop;
 - a deed from 1954, Prudential Theaters – original agreement.

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16. Currently, the existing shared parking lot has a supply of 187 parking spaces. The shared parking lot adjacent to the rear of the building is proposed to be reconfigured, with four new parking spaces added, bringing to total supply of parking spaces to 191.
17. The parking lot is accessed from the southwest end of Grove Street, from the east side of Leroy Avenue, and from two driveways from Boston Post Road. Two drive-through lanes along the northwest and southwest sides of 1101 Boston Post Road exit to Boston Post Road.
18. Mr. Neil Olinski, of Milone & MacBroom, the applicant's traffic engineer, reviewed his February 17, 2020 parking study submitted as part of the original application and estimated new parking requirements based on the proposal. He said that parking counts were completed for the study in January 2020. He said that the proposal would result in approximately 15 to 18 new parkers during peak hours in the lot. The applicant acknowledged that the parking lot would at times be largely occupied with parkers.
19. Mr. Sharat Kalluri, of CDM Smith, the Commission's peer review traffic engineer, submitted a March 23, 2020 review of the applicant's parking study that has been included as part of the record in the matter. At the public hearing, Mr. Kalluri said that his main concerns from his review were the seasonality of the parking counts and the supply/demand factor accounted for in the study. He said that all of the applicant's parking counts were done in January 2020, which does not accurately reflect parking supply/demand for other times of the year.
20. The applicant's traffic engineer, Milone & MacBroom, submitted a response to Mr. Kalluri's March 23, 2020 review, dated April 7, 2020. A 13 percent adjustment was made by the applicant to the January 2020 parking counts to account for increased parking demand during peak hours as well as for other times of the year.
21. Mr. Kalluri testified that with Milone & MacBroom's April 7, 2020 adjustments, the parking lot would regularly be at a capacity of 80 to 90 percent during peak hours throughout the year, which means that is in essence, full. He said that approximately 197 parking spaces would be required to meet typical peak demand in the lot. Mr. Kalluri further noted that during the highest peaks, for which parking is not typically designed, approximately 256 parking spaces would be needed to meet full demand.
22. At the public hearing, the applicant's attorney, Amy Zabetakis, explained that they are pursuing a formal parking agreement with the Board of Education for employee use of their lot at 35 Leroy Avenue during off hours and on weekends. The Board of Education lot has a total of approximately 75 to 85 parking spaces on that property. The Commission noted that any new agreement with the Board of Education (BOE) cannot conflict with the Darien Sport Shop existing agreement with the BOE.
23. The Commission finds that overflow parking in the nearby Grove Street municipal lot for customers (it has a two hour maximum for parking) and the ability for employees to park in the Board of Education lot at 35 Leroy Avenue at certain times would reduce the load during peak time and would make the parking situation more manageable. The Commission acknowledges that while there are on-street parking spaces in the vicinity, they also have time limits, and there

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is no guarantee that those spaces will be vacant and available. Each of these locations (Grove Street, 35 Leroy Avenue, and on-street spaces are within easy walking distance to the subject property).

24. The Commission finds that there may be a need for private parking enforcement at the owner's expense during certain times of the year in order to ensure sufficient on-site parking to the greatest extent, and to ensure that other downtown employees who work in nearby buildings, or commuters do not park in the shared lot, since this shared parking lot is about two blocks from the Darien Train Station.
25. Commission members asked that the 2015 Nelson Nygaard Downtown Parking Study and that the Paris Café approval be entered into the record on the matter. The applicant's traffic engineer agree with the Downtown Parking Study that the busiest peak demand for parking in this part of downtown occurs on Thursdays and Fridays between 12 noon and 2pm.

PUBLIC COMMENT

26. The Commission notes that letters of support on the application have been received from Mr. Daniel Dolcetti, who owns two nearby properties on Grove Street; Mr. M. Reese Hutchison who owns a property at the corner of Day Street and Boston Post Road; and Ms. Gina Zangrillo, the owner/operator of the Darien Sport Shop. Those letters have been included as part of the record.
27. Mr. David Genovese, of Baywater Properties, who owns a number of nearby properties, spoke at the public hearing regarding several concerns about parking deficiencies within the shared parking lot and said that overflow parking, within public municipal lots in the vicinity of the project is not sufficient to meet the parking demands for the proposal. He said that the Town needs to take a holistic view of downtown parking.

NOW THEREFORE BE IT RESOLVED that Business Site Plan Application #90-P is hereby modified and approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction and other site development activity shall be in accordance with the following plans:

SURVEY

- Zoning Location Survey of 1077 Boston Post Road, prepared for Darien Place, LLC by William Seymour & Associates, P.C., dated November 4, 2020.

ENGINEERING PLANS

Plans generally titled 'Proposed Site Improvements to the Existing Parking Lot, Darien Place, LLC, 1077 Post Road, prepared by LandTech, dated January 10, 2020, last revised February 4, 2020:

- Sheet C-1, 1077 Boston Post Road – Site Development Plan;
- Sheet C-2, Existing vs. Proposed Conditions;
- Sheet C-3, Notes & Details;

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- Sheet TM-1, Turning Movements;

LANDSCAPE & LIGHTING PLANS

- Sheet L-1, Landscape Plan, 1077 Boston Post Road, Darien, prepared for Darien Place, LLC by LandTech, dated April 24, 2020.
- Sheet L-2, Aerial Plan, 1077 Boston Post Road, Darien, prepared for Darien Place, LLC by LandTech, dated April 24, 2020.
- Sheet L-1, Lighting Plan, Darien Place, LLC, 1077 Post Road, prepared by LandTech, dated February 4, 2020;
- Darien Playhouse Site Lighting Plan, 1077 Boston Post Road, prepared by Lighting Affiliates, undated.

ARCHITECTURAL PLANS

Plans generally titled 'Darien Place, 1077 Post Road', ARB Submittal, prepared by James Schettino Architects, dated January 10, 2020, last revised February 4, 2020:

- Sheet A0.1, Cover Sheet and Sheet Index;
- Sheet A2.1, First Floor Plan;
- Sheet A2.2, Second Floor Plan;
- Sheet A5.1, North Elevation;
- Sheet A5.2, West Elevation;
- Sheet A5.3, East Elevation;
- Sheet A5.4, North East View.

- B. Because of the size of the property, the Commission hereby waives the requirement for a loading space under Section 909 of the Zoning Regulations.
- C. All utilities serving this property shall be underground. These include, but are not limited to, electrical, telephone, cable TV, and all other wiring.
- D. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans in Condition 'A', above, and any additional measures as may be necessary due to site conditions. These sediment and erosion controls, plus any additional measures as may be needed due to site conditions, shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- E. Rough site work for the project may commence once the sediment and erosion controls are in place. Around the work area, the stormwater runoff must be addressed on a temporary, during construction, basis. This includes limiting the potential for erosion, capturing sediment that does get created, and providing for the flow of stormwater in a manner that will not create any problems for adjacent or downstream properties.

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STORMWATER MANAGEMENT

- F. Since there is no new impervious surface proposed as part of this application, the Commission hereby waives the requirements of Section 880 of the Regulations for stormwater management.
- G. Any personal service or food related uses proposed for the first floor commercial space shall be required to apply for necessary Special Permits from the Planning & Zoning Commission for the establishment and operation of those businesses as noted in Section 723 of the Zoning Regulations.

PARKING & CIRCULATION

- H. Any required amendments to the existing shared parking agreement, including the addition of four new parking spaces and the reconfiguration of the lot directly adjacent to the rear of the Playhouse building shall be filed in the Darien Land Records.
- I. Section 905.2 of the Zoning Regulations allows for the reservation of on-site parking areas for residential tenants, provided that the Commission makes a finding that the remaining on-site parking shall be sufficient to meet the parking demand of the related residential parking uses and non-residential uses covered by a joint parking agreement. In this case, the Commission specifically makes such a finding, and is allowing up to four (4) on-site parking spaces be allowed to be reserved for the residential tenants.
- J. Any new agreement with the Board of Education for employee and overflow parking shall not conflict with the Darien Sport Shop existing agreement with the BOE. If the applicant is able to come to an agreement, it shall be submitted to the Planning & Zoning Department for the record.
- K. The Commission strongly encourages employees to park offsite, particularly during peak times (Thursday and Friday between noon and 2pm, and during mid-November to January 2). As noted both the Grove Street Municipal lot and 35 Leroy Avenue are within easy walking distance. Employees who park off-site will free up additional parking spaces for customers of the businesses subject to the shared agreement.
- L. Private parking enforcement shall be required, at the owner's expense, during certain peak times of the year in order to ensure sufficient on-site parking to the greatest extent, and to ensure that commuters do not park in the shared lot. Required enforcement activities shall be coordinated with the Director of Planning & Zoning in consultation with the Darien Police Department and Traffic Authority.

AS-BUILTS AND CERTIFICATIONS REQUIRED

- M. Prior to issuance of the Certificate of Occupancy (CO) for this project, the following shall be submitted to the Planning & Zoning Department:
 - 1) Verification from the project engineer that all aspects of the site improvements have been completed in compliance with the approved plans.
 - 2) As recommended by DPW, an as-built drawing prepared by a licensed land surveyor or certified by a registered professional engineer. This drawing shall show all utilities or

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buried infrastructure installed as part of this application. This shall include measurements from known and visible surface features so that buried infrastructure can be located in the field in the future.

- N. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. This includes, but is not limited to: the requirement for Zoning and Building Permit application(s) and a Sewer Connection Permit from Darien Sewer Services for the proposed new construction. A permit will be needed from the Fire Marshal for the full fire sprinkler system, which is herein being required by the Commission.
- O. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- P. This permit shall be subject to the provisions of Section 1028 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (June 2, 2021). This approval may be extended as per Section 1028.

All provisions and details of the plans shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. All completed requirements and materials shall be submitted to the Planning and Zoning Department within 60 days of this action or this approval shall become null and void. Any amendment to the existing shared parking agreement will need to be filed in the Darien Land Records.