

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
September 1, 2020**

Application Number: Special Permit Application #313

Street Address: 1025 Boston Post Road
Assessor's Map #73 Lot #13

Name and Address of Applicant and Applicant's Representative: David Genovese
Baywater 1025 BPR, LLC
1019 Boston Post Road
Darien, CT 06820

Name and Address of Property Owner(s): Baywater Properties, LLC
1019 Boston Post Road
Darien, CT 06820

Activity Being Applied For: Proposal to establish a new 1,630+/- square foot Quick Service Restaurant in a portion of the first floor space formerly occupied by Kirby & Company.

Property Location: The subject property is located on the north/west side of Boston Post Road, approximately 30 feet north/west of its intersection with Brook Street.

Zones: Central Business District (CBD)

Date of Public Hearing: July 28, 2020

Time and Place: 8:00 P.M. GoToMeeting (Online)

Publication of Hearing Notices

Dates: July 16 & 23, 2020

Newspaper: Darien Times

Date of Action: September 1, 2020

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action: September 10, 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 720 and 1000 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 property survey and application narrative, and the statements of the applicant's representative, 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.

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

1. The proposal is to establish a new 1,630+/- square foot Quick Service Restaurant (Playa Bowls) in a portion of the first floor space formerly occupied by Kirby & Company. Another retail tenant will be occupying the other portion of the first floor.
2. At the public hearing, it was noted that two to three employees would be present at most times, and that no cooking will be done on-premises, other than heating up oatmeal in a crockpot on the countertop. An existing dumpster area at the rear of the building will be shared with other tenants of the building.
3. At the public hearing it was noted that the proposed hours of operation of the business would be from 8 a.m. to 9 p.m. Monday through Sunday.
4. At the public hearing on this matter, it was noted that the subject property does not have any dedicated parking spaces, as the building predates zoning. The applicant noted that the parking demand for the business is likely to be equal to or less than the demand for previous uses in the space.
5. As shown on the submitted draft floor plan, four tables and two counter seating areas with a total of 21 seats are proposed interior to the business. An additional four (4) outdoor seats are proposed at a third countertop window seating area at the front of the building.
6. The Darien Architectural Review Board (ARB) reviewed the proposal as part of ARB #17-2020 for new signage and façade updates at their July 21, 2020 meeting and issued a favorable report for the project. That report is hereby incorporated by reference.
7. The Local Traffic Authority (LTA) noted that no issues were raised in this application. No members of the public spoke at the hearing regarding this application.

SPECIAL PERMIT FINDINGS

8. The location and size of the use, the nature of the proposed operations involved in or conducted in connection with it, the size of the site in relation thereto, and the location of the site with respect to streets giving access to it, are such that the application is in harmony with the orderly development of the district in which it is located.
9. The location and nature of the proposed use, is such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
10. The location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.
11. The design, location, and specific details of the proposed use and site development will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they

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interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.

NOW THEREFORE BE IT RESOLVED that Special Permit Application #313 is hereby granted subject to the foregoing and following conditions, modifications and understandings:

- A. All interior construction and related activity shall generally be in accordance with the sketch floor plan submitted to and reviewed by the Commission:
- Sheet A-2, Interior Renovation Playa Bowls – Darien, 1029 Boston Post Road, Prepared by Dimovski Architecture, PLLC, dated June 20, 2020.
- It is acknowledged that the floor plan may need to be modified in response to comments by the Fire Marshal, Building Official, and/or the Darien Health Department.
- B. The approved use is a Quick Service Restaurant that specializes in beverages and fruit bowls. No cooking was requested or is being permitted. If in the future, the applicant wishes to establish any cooking facilities or operation at this site, prior review and action by the Commission shall be required.
- C. Any increase of indoor or outdoor seating in the future (beyond the twenty-one indoor and four outdoor), shall require review and action by the Planning & Zoning Commission. The tenant shall be responsible for ensuring that the outdoor seating does not obstruct the sidewalk.
- D. Playa Bowls shall have a maximum of four (4) employees on-site at any one time.
- E. Due to the property's location in downtown Darien, the Commission is not limiting or restricting the hours of operation for the business.
- F. All deliveries to the business shall be made to minimize impacts to the tenant(s) at and adjacent to the subject property, and to minimize parking conflicts with other businesses.
- G. The dumpster enclosure area at the rear of the building shall be neatly maintained, and the doors shall remain shut at all times that someone is not loading or unloading garbage/recycling. The applicant is responsible for maintaining this shared trash area, including ensuring that it is emptied frequently enough to minimize odors. Although the trash facility area may be shared with other uses on the subject property, the applicant and property owner shall be responsible for the upkeep and maintenance of the area. The schedule for emptying the dumpster and/or picking up recyclables shall be adjusted so as to eliminate overflowing garbage situations and to keep the area in a sanitary condition at all times.
- H. Because of the fact that no new impervious surface is created as part of this project, the Commission hereby waives the requirement for stormwater management as part of this application as allowed by Section 880 of the Darien Zoning Regulations.

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- I. Prior to the issuance of a Zoning or Building Permit for the business fit-up, final interior floor plans and equipment plans shall be reviewed by the Fire Marshal and Darien Health Department.
- J. All interior site work shall be properly completed prior to the use of this space and/or the issuance of a Certificate of Occupancy (CO) for the food service establishment.
- K. 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.
- L. The granting of this Special Permit does not relieve the applicant of responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. This includes, but is not limited to, final kitchen review by the Darien Fire Marshal and the Darien Health Department. Separate Zoning & Building Permits will be needed for outdoor signage/awnings.
- M. This permit shall be subject to the provisions of Sections 1009 and 1028 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (September 1, 2021). This may be extended as per Sections 1009 and 1028.

All provisions and details of the plan 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. A Special Permit form shall be filed in the Darien Land Records within sixty days of this approval and prior to the issuance of the tenant fit-out Zoning and Building Permit, or this permit shall become null and void.