

PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
July 14, 2020

Application Number: Business Site Plan Application #223amd2

Street Address: 1089 Boston Post Road
Assessor's Map #73 Lot #6

Name and Address of Property Owner: 390 Post Road, LLC, Cecilia Cavolo
11 Holly Cove Circle
Stamford, CT 06902

Name and Address of Applicant & Applicant's Representative: Wilder Gleason, Esq.
Gleason & Associates, LLC
23 Old King's Highway South
Darien, CT 06820

Activity Being Applied For: Proposal to establish a liquor store in the first and second floor space now occupied by Kennedy's Barber Club.

Property Location: The 0.10+/- acre subject property is located on the north/west side of Boston Post Road approximately 190 feet south of its intersection with Corbin Drive.

Zone: CBD

Date of Public Hearing: June 23, 2020
Deliberations Held: July 7, 2020

Time and Place: 8:00 P.M. Room 206 Town Hall and GoToMeeting (online)

Publication of Hearing Notices
Dates: June 11 & 18, 2020 Newspaper: Darien Times

Date of Action: July 14, 2020 Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action: July 23, 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, 904, 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 the application and the statements of the applicant 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 application is to establish a liquor store, a commercial sales and service use, in the first and second floor space now occupied by Kennedy's Barber Club. The first floor space (1,746+/- square feet) would be utilized solely for retail sales. The second floor space (1,320+/- square feet) would be utilized for storage, administrative space, limited retail sales and wine tastings. No changes are proposed to the exterior of the building.
2. The property is within the Central Business District (CBD) Zone. Commercial sales and service uses are permitted as-of-right in the CBD pursuant to Section 722a of the Regulations.
3. The proposal is for the second floor to have occasional tastings. These would be for a maximum of 10 to 12 customers, and would occur only after 3 p.m. (in order to avoid peak parking demand in the area). Tastings on the second level would be by invite only and would last a maximum of one hour. Smaller tastings/sampling for all customers would occur within the first floor retail space on an occasional basis. The smaller first floor tastings would be what is now considered customary practice in many package stores. There will be no first floor seating for such first floor tastings.
4. At the public hearing, Richard Hokin, the principal owner of Glen Liquors, noted that the business had been in operation in the Noroton Heights neighborhood for many years, but has recently left that site. He acknowledged that the business would need to reinvent itself, as they anticipate a different clientele at the new location.
5. At the public hearing the applicant, Attorney Wilder Gleason, explained that the store will have three employees or less during most times, except during holiday periods, when they may have more employees present. It was noted by the applicant that employees of the business would park off-site.

HISTORY OF THE SUBJECT PROPERTY

6. The subject property is presently occupied by Kennedy's Barber Club. Prior to that use, it was occupied by Roundabout, a retail consignment shop.

CHANGES FROM PREVIOUS APPROVAL

7. The previous July 20, 2010 approval for this space was for Kennedy's Barber Club. When the Planning & Zoning Commission approved Kennedy's on that date, there were a number of conditions of approval. Glen Liquors seeks to modify three of those conditions. Those conditions to be modified are as follows:
 - Condition '2'. No alcohol may be sold or served on premises;
 - Condition '4'. All interior fit out would conform to the plans submitted dated 7/7/10;
 - Condition '5'. Limits on hours of operation.

It is noted that there was also Condition 1, which required that all employees park off-site, and Condition 3, which required that there be no signage limiting or restricting the six existing

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parking spaces for on-site customers only. The applicant is willing to comply with those conditions, and thus, is not requesting to modify them as part of this application.

8. The applicant noted that the proposed hours of operation for Glen Liquors would be 9 a.m. to 8 p.m. Monday through Saturday and from 10 a.m. to 6 p.m. on Sundays. Attorney Wilder Gleason mentioned that the peak parking demand is after 4 p.m. on weekdays and on Saturdays and Sundays. This is based on historic sales data from Glen Liquors.

PRIOR SEPARATION DISTANCES

9. During the public hearing, it was explained that the Darien Zoning Regulations prior to 2000 required a 1,500-foot separation distance between liquor stores. That Section of the Regulations (Section 1054), was eliminated/repealed on May 15, 2000 by the Planning & Zoning Commission.
10. The Commission finds that the State Liquor Control Commission limits the number of liquor stores in each community.

PUBLIC COMMENT ON THIS APPLICATION

11. The Commission notes that at the June 23 public hearing, verbal comments were received from members of the general public, including nearby downtown property owners. In addition, numerous letters and e-mails were submitted as part of the record. Those comments, both written and verbal, bring up a number of issues and concerns related to this relocation of Glen Liquors to the subject property.

TRAFFIC & PARKING

12. At the public hearing on this matter, it was noted that the subject property contains six (6) on-site parking spaces. Peak parking demand is anticipated after 4 p.m. Friday and Saturday.
13. The applicant submitted recent traffic studies completed in 2020 for an adjacent property at 1077 Boston Post Road . That parking study noted that the shared parking lot behind the subject property would regularly be at a capacity of 80 to 90 percent during peak hours throughout the year, which means that is in essence, full. Approximately 197 parking spaces would be required to meet typical peak demand in that lot. During the highest peaks, approximately 256 parking spaces would be needed to meet full demand. Peak parking demand in the shared lot is anticipated from 12 p.m. to 2 p.m., Thursdays through Saturdays.
14. The subject property is not part of the shared parking agreement related to the large parking lot now shared between the Darien Playhouse property, the Darien Sport Shop, and 1101 Boston Post Road. The applicant explained that the proposed Glen Liquors use will be less intense from a parking standpoint than the Kennedy's Barbershop use. It was mentioned that Kennedy's was approved for six barber chairs and a waiting area, with the understanding that at peak times there could be six employees and six customers in the space at any time. He also noted that customers who get their haircut at Kennedy's are likely there for approximately 30 minutes, whereas Glen Liquors retail customers would likely be on-site for less than 15 minutes. Mr. Gleason concluded that generally, Glen Liquors use would have less employees and less customers in the store at any one time than the Kennedy's use.

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SITE PLAN FINDINGS

15. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
16. The nature of the use is such that the project will not hinder or discourage the appropriate development and use of adjacent land and buildings, nor impair the value thereof.
17. The site plan has been reviewed by the Commission and is in general compliance with the intent, purposes and objectives of Section 1020.
18. 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 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 Business Site Plan #223 Amendment #2 is hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. The applicant submitted the following sketch floor plans for the proposed tenant fit up:
 - Proposed Ground Floor Plan, Glen Liquors, Inc., 1089 Post Road dated May 18, 2020 (8.5"x11");
 - Proposed and Existing 2nd Floor Plan, Glen Liquors, Inc., 1089 Post Road, dated May 18, 2020 (8.5"x11").These plans may be modified by the applicant, Fire Marshal, and/or Building Official as part of the Zoning & Building Permit process, and thus, no specific floor plan for either the first or second floor is being approved herein.
- B. The Commission hereby eliminates the following conditions which were instituted for the establishment of Kennedy's Barbers Club as part of the Commission's July 20, 2010 approval:
 1. Condition 'B'. No Alcohol may be sold or served on premises;
 2. Condition 'D'. All interior fit out would conform to the plans submitted dated 7/7/10;
 3. Condition 'E'. Hours of operation.All other conditions of this approval remain in full force and effect.
- C. No signs restricting parking spaces to Glen Liquors customers shall be permitted on the site. All "Reserved For" parking signs shall be removed from the building prior to the issuance of a Certificate of Occupancy (CO) for the building. This is consistent with prior approvals for this site.
- D. All employees of the business shall be required to park off-site.

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- E. All deliveries to the business shall occur before noon (12 p.m.). This proposed condition has been put forth by the applicant in order to minimize potential conflicts with peak parking times.
- F. Formal tastings on the second floor of the building shall be limited to a maximum of 12 people and up to six (6) times per year. All formal tastings shall occur after 3 p.m. (in order to avoid conflict with peak parking demand in the area), and may be up to a maximum of one (1) hour in duration.
- G. Due to the location of this business in downtown Darien, and the fact that all activity is within the building, the Commission does not limit the hours of operation of the business. While the applicant put forth proposed hours as part of the application submittal which included the potential expansion of hours during holidays, the Commission believes that in this instance, any additional hours beyond those presented would be outside the peak parking demand time, and the Commission does not need to limit or restrict hours for this use in this downtown area. It is noted that the State Liquor Commission may have limits and restrictions of hours of operation of liquor stores, and those supercede any decision herein.
- H. The Commission hereby waives the requirement for a loading zone under Section 909 of the Zoning Regulations.
- I. There is no new impervious surface proposed as part of this application, and therefore, the Commission waives the requirement for any additional stormwater management facilities on the site, pursuant to Section 888(a)(1) and 888(a)(3) of the Regulations.
- J. 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. Zoning and Building Permits will be required for the interior tenant fit-up modifications. Any signage requires review and comment by the Architectural Review Board (ARB).
- 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 to modify, suspend, or revoke the permit as it deems appropriate.
- L. This permit shall be subject to the provisions of Sections 720 and 1020 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (July 14, 2021). This may be extended as per Section 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.