

**APPLICATION OF
GNOSIS REAL ESTATE, INC.
FOR
171 BOSTON POST ROAD**

SEPTEMBER 2, 2020

NARRATIVE

The Applicant, Gnosis Real Estate, Inc., is the record owner of the property at 171 Boston Post Road. The property has been the site of a diner for many years, most recently, the Driftwood Diner. The diner is now vacant, and the Applicant requests the following amendments to the existing variances (Cal. Nos. 65-1996 & 98-1997) and Special Permit #172-D/Special Permit:

1. Approval of a small food preparation space in the basement.
2. Approval of a small office space in the attic, to provide new office space for future tenants.
3. Approval of liquor sales in the diner.

The proposed amendments will not increase the dining area or seating capacity of the existing dining room, nor increase the off-street parking demand, nor generate any significant increase in intensity of use.

The original Driftwood Diner was demolished in 1998, and construction of the current building was completed in March 2000, under Special Permit 172-C/Business Site Plan, variances granted in Calendar Nos. 65-1996 and 98-1997, Building Permit No. 25036 and Certificate of Occupancy No. 10007. After construction was completed, the Zoning Board of Appeals and the Planning and Zoning Commission approved several modifications, including a change in the seating and the addition of an entry vestibule at the main entrance.

The following is a list of variances that apply to the property:

1. Section 675, to allow a dining area of 670 square feet in lieu of the minimum 1,200 square feet, zero in lieu of 10.0 feet side yard setback, 6.0 feet in lieu of 18.0 feet front yard landscaping depth, 49.5 feet in lieu of 75.0 feet required front yard along Richmond Drive for parking area;
2. Section 904, to allow 17 in lieu of 28 required on-site parking spaces;
3. Section 926, to allow zero in lieu of 30 feet required front setback for a pole sign; and

4. Section 675b, to allow 69.0 feet in lieu of 75.0 feet minimum front yard setback along Boston Post Road, 68.0 feet in lieu of 75.0 feet minimum front yard setback along Richmond Drive for the entrance vestibule additions, 70.0 feet in lieu of 75.0 feet minimum front yard setback along Boston Post Road, and 52.0 feet in lieu of 75.0 feet minimum front yard setback along Richmond Drive for awnings/canopies.

The current approvals include unfinished basement storage, first floor kitchen, dining area with seating for 47 persons, and rest rooms, and unfinished attic storage. The parking lot consists of 17 regular parking spaces, one handicap parking space, and a loading space at the rear of the building. The maximum allowed hours of operation are from 6:00 am to 11:00 pm Sunday through Thursday, and 6:00 am to midnight Friday and Saturday.

Based upon representations made by the previous diner operator and its architects, the basement and attic are not approved for active, habitable space, or for an office, and the sale of liquor is not approved.

Since the variances and site plan/special permit approvals were granted for the existing development, the following sections of the Zoning Regulations have been amended:

Off-Street Parking. At the time of the original variances, Section 904.h required a minimum of one off-street parking space for each 50 square feet of gross floor area, not including dead storage space. In 2007, the Planning and Zoning Commission amended Section 904.h by reducing the minimum parking requirement for restaurants by one half, and the minimum is now one space for each 100 square feet of gross floor area, not including dead storage space. The result of this amendment is that the variance for parking spaces is not necessary, and the current 18 parking spaces will support up to 1,800 square feet of active floor area—300 square feet more than the existing first floor.

Service Business Zone. At the time the existing building was built and later modified, the subject property was located in the Service Business East Zone. In 2019, the Service Business East Zone and the Service Business Zone were combined. In addition, Section 755.a now allows outdoor dining by special permit, although at this time, the Applicant is not requesting approval of outdoor dining.

Requested Approvals:

The Applicant requests approval of the following:

Basement Food Preparation Area. The Applicant proposes to create a 150± square foot food preparation area in the unfinished basement storage area. The food preparation area is depicted on the accompanying basement plans, and consists of prep tables and sinks. This will result in a more efficient kitchen operation, and provide separation between kitchen workers.

The COVID-19 pandemic has heightened public awareness of public health hazards, and has caused employers to find ways to decrease risk of infection. Social distancing has become a major focus. In a restaurant kitchen, employee distancing is important, and the proposed food preparation area will result in less direct contact between kitchen workers.

The food preparation area will not be open to the public. Access to the area is through an exterior stairway along the back side of the building, and through an interior stairway from the kitchen.

In 2004, the Planning and Zoning Commission approved a similar use of the basement for The Melting Pot at 14 Grove Street. That building consisted of three stories plus storage and equipment spaces in the unfinished basement. At the tenant's request, the Commission approved an employee rest room, locker and changing area, and an administrative/office space. As that building already consisted of three finished stories, it appears that the Commission did not consider the approved basement areas as a story.

If the requested food preparation area is considered a partial story, the Applicant has requested a variance of Section 756.8 to allow this basement activity.

Attic Office Space. The Applicant also requests approval for a small office space of approximately 150 square feet in the attic level. There is no office in the existing building because the owner of the Darien Diner at the time the building was built maintained an office at the Silver Star Diner in Norwalk. That owner no longer is involved in the subject diner building.

A new diner operator will need a small office in the building. Given the existing floor plan, there is no viable location for an office on the first floor or in the basement. The best alternative is the attic. There is a staircase leading from the first floor to the attic level, and converting some of the attic level to office space can be done without altering the roof or exterior appearance of the building.

Finishing a small portion of the attic for use as an office will require an amendment of the existing variances and special permit/site plan, and might require a new variance of the maximum number of stories if the basement food prep area is counted as a story.

Sale of Liquor. When the existing building was built, the then owner did not request approval for liquor sales. This is reflected in the variance and special permit approvals, and the Planning and Zoning Commission has noted that the owner would have to return to the Commission and the Zoning Board of Appeals for approval of liquor sales.

Since the diner was built, diners generally have been selling liquor to patrons. The Darien Diner, now located at 275 Boston Post Road, now has a Restaurant Wine and Beer license. Allowing liquor sales at the subject diner site will allow the diner to be competitive with the Darien Diner and other food establishments in the area.

Approval of liquor sales will not require a new variance, as the Zoning Regulations do not regulate liquor sales. The last regulation that applied directly to liquor sales was repealed in 2000. The Zoning Board of Appeals and the Planning and Zoning Commission can approve liquor sales as an amendment to the existing approvals.

The new variance and the requested amendments to the existing variances will enable the property owner to attract a new diner tenant that can operate efficiently and return a viable diner to the site.