

PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
MAY 15, 2000

Application Number: Change of Zone Application

Name and Address of Applicant

and Applicant's Representative: D. B. Hill, Esq.
Gleason & Hill, LLC
777 Boston Post Road
PO Box 1636
Darien, CT 06820

Name and Address of Property Owner: UB Darien, Inc. (owner of Goodwives Shopping Ctr.)
321 Railroad Ave.
Greenwich, CT

Proposed Lessee: Old Post Company
D.b.a. World of Wine
555 Boston Post Road
Darien, CT 06820

Activity Being Applied For: Requested amendments to Section 210 and/or Section 1054 of the Darien Zoning Regulations.

Date of Public Hearing: March 28, 2000

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: March 16, 2000 Newspaper: Darien News-Review
March 23, 2000

Date of Action: May 15, 2000 Action: GRANTED

Scheduled Date of Publication of Action: Newspaper: Darien News-Review
May 18, 2000

Current Application

1. This application by the Old Post Company requests amendments to Section 210 and/or Section 1054 of the Darien Zoning Regulations. The Old Post Company (dba World of Wine) wishes to relocate due to a December 1999 fire at their existing location at 555 Boston Post Road. The existing store is a legally non-conforming use within the DB-2 Zone. World of Wine seeks to relocate to Goodwives Shopping Center within the DC zone, where package liquor stores are now permitted as of right. However, Section 1054 of the Zoning Regulations requires a separation distance of 1500 feet between package liquor stores.

Existing Conditions in Darien

2. Under the current Zoning Regulations, package liquor stores are considered commercial sales and service (retail sales). These uses are permitted only in the following zones: Central Business District (CBD), Designed Commercial Zone (DC), Neighborhood Business District (NB) and Designed Business One (DB-1) via Special Permit.

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3. The total acreage of these zones in Darien is as follows:

Central Business District Zone (CBD) 41.3 acres	Designed Commercial Zone (DC) 39.2 acres	Neighborhood Business Zone (NB) 5.8 acres	Designed Business One Zone (DB-1) 38.6 acres
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4. There are currently eight package liquor stores in Darien:

- World of Wine, 555 Post Road, DB-2 Zone
- Darien Liquor, 49 Tokeneke Road, CBD Zone
- Nicholas Roberts, 1053 Post Road, CBD Zone
- Leary's, 186 Heights Road, DC Zone
- Glen Liquors, 390 Heights Road, DC Zone
- Bottle Shop, 25 Old King's Highway North, DC Zone
- Frate's Wines & Liquors, 1937 Post Road, NB Zone
- White Bridge Liquors, 284 Tokeneke Road, NB Zone

Other Options for Relocation of Package Liquor Stores

5. The attached map (Attachment A) shows the location of these stores and a 1500 foot radius around each (except for the existing World of Wine location). As noted at the public hearing on this matter, and confirmed via this map, it is clear that there is no available space in Town for any package liquor store to relocate to within the four aforementioned zoning districts which now allow these stores. The only possible areas as shown on the map are small portions of three lots, each of which is small in size and each of which currently has a use on it. The available areas are:

- Part of Middlesex Commons, Hale Lane, DB-1 zone
- Part of Center for Hope, Boston Post Road, DB-1 zone
- Part of First Congregational Church, Brookside Road, DB-1 zone

Approximate acreage in each zone which is not within 1500 feet of a package liquor store (not including World of Wine):

Central Business District Zone (CBD) 0.00 acres	Designed Commercial Zone (DC) 0.00 acres	Neighborhood Business Zone (NB) 0.00 acres	Designed Business One Zone (DB-1) 1.6 acres
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6. The space next to Trader Joe's (430 Boston Post Road) is not an option, as the DB-2 zone does not allow package liquor stores. The former Heights Hardware at 178 Heights Road is within 1500 feet of two liquor stores. It is clear that for any package liquor store to relocate, a variance is necessary from the ZBA, or a zone change from the Planning and Zoning Commission is necessary.

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Zone-by-Zone Analysis

7. **CBD Zone**-- In the CBD Zone, all properties are within 1500 feet of Nicholas Roberts, and therefore would also need a variance. Nicholas Roberts and Darien Liquor, which are both in the CBD zone, currently do not meet the 1500 foot separation distance.
8. **DC Zone**--A small DC Zone at the intersection of West Avenue and Leroy Avenue is the only DC area within town which does not now have a package liquor store. This area is within 1500 feet of Nicholas Roberts on the Post Road, and would also need a variance. Glen Liquors received a variance (Calendar No. 77-1995) to relocate within fifteen hundred feet of Leary's Liquor Cabinet (1085 feet). The location of Leary's and Glen Liquors, both in the DC Zone in Noroton Heights, effectively preclude any other liquor store from relocating to the DC Zone in Noroton Heights. The location of the Bottle Shop at effectively precludes anyone from locating within that DC Zone on Old King's Highway North without a variance.
9. **NB Zone**--Because of the very limited size of the three NB zones in Town, the location of Leary's, Frate's Wine & Liquors, and White Bridge effectively preclude any other liquor store locating within the three small NB Zones in Town without a variance.
10. **DB-1 Zone**—Nearly the entire DB-1 Zone on the Post Road is within 1500 feet of either Darien Liquors and/or the Bottle Shop. The only exception is portions of two small parcels (as noted in Item 5 above). As for the DB-1 Zone near Squab Lane, that is entirely within 1500 feet of Nicholas Roberts on the Post Road. Nearly all of the DB-1 zone on Leroy Avenue is within 1500 feet of Nicholas Roberts. This zone includes Middlesex Commons and part of the library parking lot. Only a small portion of the DB-1 zone is not within 1500 feet—this is the rear portion of Middlesex Commons.
11. **DB-2 Zone**—Although not currently permitted in the DB-2 zone, there recently have been two legally non-conforming package liquor stores. Before recently going out of business, the Little Brown Jug at 455 Post Road was within 1500 feet of World of Wine.
12. **Therefore, it could be shown that at this point, with the current eight liquor stores in Town, that any relocation of a liquor store within Darien would either need to receive a variance from the Zoning Board of Appeals or effectively is not allowed.** This is a very severe restriction on liquor stores, and does not apply to any other type of use (retail sales, restaurants, gas stations, coffee shops) in Darien. This was clearly not the intention of Section 1054 as it was passed in 1959, as package liquor stores were allowed in more zones than at present.

Other Restrictions/Regulations

13. As mentioned at the Public Hearing by the applicant as well as representatives from the Bottle Shop, the State currently heavily regulates package liquor stores in Connecticut, including hours of operation, pricing, and other restrictions such as the number of stores allowed within a community. There is now a State limitation of the number of stores based on population (1 per 2500 population), resulting in eight liquor stores being allowed in Darien (approximate population of 20,000). It is highly unlikely, due to the very limited amount of currently vacant land, that Darien's population will grow sufficiently to allow the number of package liquor stores to be increased.

Existing Commission Policy on Retail Sales

14. **The 1995 Darien Town Plan of Development clearly encourages retail business in downtown Darien (the CBD Zone). In addition, retail sales are also encouraged in the DC and NB zones to provide convenient shopping for Town residents. Restricting package stores to a 1500 foot**

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separation is clearly contrary to the Plan's intent of encouraging all types of retail business in order to maintain a vital downtown.

Decision

15. Based on the foregoing, the Planning and Zoning Commission finds that the 1500 foot separation requirement for package stores is no longer needed for the following reasons:
 - State regulations on package stores in Connecticut are sufficiently stringent making proliferation virtually impossible.
 - Darien's Town Plan of Development encourages retail uses in specific regulated zones.
 - Section 1054 of the Darien Zoning Regulations, which was of use when written, is now outdated and opposed to the policies outlined in the 1995 Town Plan of Development.

16. Therefore, Section 1054 of the Darien Zoning Regulations is hereby repealed effective Sunday, June 18, 2000 at 12 A.M. This will then by right allow package liquor stores in the CBD, DC and NB Zones, and allowed by a Special Permit in the DB-1 Zone (as commercial sales and service). No other specific distances or regulations will apply.