

PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
January 8, 2002

Application Number: Business Site Plan #177-C/Special Permit

Street Address: 1358 Boston Post Road

Tax Assessor's Map #63 Lots #11, #12, #13

Name and Address of Applicant: Ken Kronberg
And Applicant's Representative: 1510 Post Road East
Westport, CT 06880

Name and Address of Property Owner: Kenyon Oil Company, Inc.
PO Box 866
N. Grosvenordale, CT 06255

Activity Being Applied For: Proposing to raze the existing employee kiosk and construct a new 525 +/- square foot accessory convenience store and perform related site development activities.

Property Location: The subject property is located on the southeast side of Boston Post Road directly across from its intersection with Thorndal Circle.

Zone: SB Zone

Date of Public Hearing: November 27, 2001

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

Publication of Hearing Notices

Dates: November 15 & 21, 2001

Newspaper: Darien News-Review

Date of Action: January 8, 2002

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:
January 17, 2002

Newspaper: Darien News-Review

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

- the proposed use and activities must comply with all provisions of Sections 660, 1000 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 development plans, 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.

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- 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 proposed convenience store is an auxiliary use that will be in conjunction with the principal use which is a gasoline sales facility. The existing kiosk structure will be razed, and a new 525 square foot +/- accessory convenience store built in its place.
2. The applicant noted that there will be no cooking of food by the employees, but there would be a small microwave oven for use by customers to heat up pre-packaged sandwiches and other food. There would be a coffee pot and a hot plate to keep the coffee warm. There would be no food assembled or prepared, or any baking done on-site. There are no provisions for eating on the premises (no tables, counter space to eat at, or indoor or outdoor seating).
3. The proposed hours of operation are 24 hours-a-day.
4. There are no automobile repair services conducted at the site, and none are proposed.
5. The applicant received a variance from the Zoning Board of Appeals on July 25, 2001 (Calendar No. 61-2001). That approval is hereby incorporated by reference.
6. At its meeting of November 20, 2001, the Architectural Review Board approved the new convenience store. That approval is also incorporated by reference.
7. The location and size of the use, the nature and intensity 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.
8. The location and nature of the proposed use, the size and height of the building are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
9. 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.
10. The elements of the Site Plan, submitted as part of the Special Permit application accomplish the objectives for Site Plan approval as specified in subsections 1024-1025 of the Darien Zoning Regulations.
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 Business Site Plan #177-C/Special Permit is hereby modified and approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction of the accessory convenience store shall be in accordance with the plans entitled:
 - o Proposed Convenience Store Prepared for Kenyon Oil Company, Inc., by CME/CPK Design Group, date Sept. 24, 2001, Sheet A2.
 - o Preliminary Site Layout Prepared for Kenyon Oil Company, Inc. By CME/CPK Design Group, last revised 10/16/01 Sheet 1 of 1 and Sheet A1 (dated Sept. 24, 2001).
- B. Now that there will be internal retail sales of goods, there shall be no display or storage of goods for sale outside of the new building. This includes the removal of the existing outdoor vending machines, prior to the use or the issuance of a Certificate of Zoning Compliance for the new building. The existing exterior pay telephones and the vacuum and air machines may remain.
- C. The hours of operation are 24 hours a day for both the accessory convenience store and gas pumping facilities; although the applicant noted that he may decide to remain open fewer hours than that. That is permitted, subject to Item D, below. If the late night and/or early morning operation of the business causes disturbance to the nearby residents, then the Commission reserves the right to restrict the hours of operation to 6:00 A.M. to midnight.
- D. Because this application is for an accessory convenience store, and retail sales are not permitted in this SB Zone, the Commission hereby requires that there be no retail sales activity without the gas pumping facilities being in operation. The convenience store shall not become a principal use on-site, and shall not be in operation without the gasoline pumps also being in operation.
- E. There shall be no cooking of food on the premises, but there can be one small microwave oven for use by customers to heat up pre-packaged sandwiches and other food. There can be a coffee pot and a hot plate to keep the coffee warm. There shall be no food assembled or prepared, or any baking done on-site. There shall be no provisions for eating on the premises (no tables, counter space to eat at, or indoor or outdoor seating). There shall be no cooking facilities installed other than those outlined herein.
- F. Final review and approval from the Darien Health Department for the accessory convenience store shall be submitted to the Planning and Zoning Office prior to approval of the Zoning Permit.
- G. 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.

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- H. 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, approval from the Darien Health Department, as noted in Item F, above.
- I. 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 (January 7, 2003). This may be extended as per Sections 1009 and 1028.

All provisions and details of the plan, as approved, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations, the signing of the final documents by the Chairman, and filing of the Special Permit form in the Darien Land Records.

KronbergAmoco BSP177/SP