

**TOWN OF DARIEN
ZONING BOARD OF APPEALS**



August 25, 2020

CERTIFIED MAIL

Amy E. Souchun & John W. Knuff
Hurwitz Sagarin Slossberg & Knuff, LLC
147 N. Broad Street
Milford, CT 06460

Re: Zoning Board of Appeals Application
Calendar No. 15-2020
Public Hearing of September 16, 2020
Property of Duchess Family Restaurant of Darien, Inc.
306 Boston Post Road, Darien

Dear Ms.Souchuns & Mr.Knuff,

Your application to the Darien Zoning Board of Appeals (ZBA) has been scheduled for a **Public Hearing on Wednesday, September 16, 2020 at 7:00pm via GoToMeeting** as noted in the enclosed Legal Notice. **A login number will be provided to both you and the general public a few days prior to the meeting via the Town of Darien website.**

Your hearing will be in chronological order with others based as much as possible on the date and time of the complete application submittal. **You need to be prepared to proceed at the GoToMeeting by 7:00pm**, regardless of the order of your hearing on the Legal Notice and Meeting Agenda. The Chair will begin with significant instructions about how the meeting will be conducted and there may be a postponement or other changes to the order of the hearings.

Please read this letter completely and carefully. Follow all of the enclosed instructions in order to proceed to a legal Public Hearing of your application. This requires you to complete a detailed process. Many applicants have failed to properly complete these requirements, resulting in delay to a subsequent meeting. If necessary, assign this task to a methodical, organized person or ask someone to double check your effort.

NOTIFYING PROPERTY OWNERS WITHIN 100 FEET OF THE PROPERTY

In accordance with Connecticut Statute 8-7d, ZBA staff is in the process of arranging for newspaper publication of the meeting Legal Notice including your application. You are now required to individually notify neighboring property owners of your application in accordance with Section

1127 of the Darien Zoning Regulations as follows: “Not less than ten (10) days nor more than twenty (20) days prior to the applicant’s scheduled public hearing, the applicant, or their legal representative, shall mail notification of their application, including “Item K” of the text of the application and the scheduled date, time and place of the hearing, to the owners of each parcel or property within 100 feet of the perimeter of the subject property. This would include the owner of each condominium if any portion of such property is within 100 feet or less of the condominium association property. The owners and their addresses shall be determined from the latest real estate list of the Town in the Assessor’s Office.”

Your mailing must be done between Thursday, August 27, 2020 (20 days prior to your hearing) and Saturday, September 5, 2020 (11 days prior). In this case the statutory deadline of 10 days prior to the hearing falls on Sunday when the Post Office is obviously closed; therefore the mailing must be done by Saturday. Monday is too late.

A notification letter specifically addressed to each owner (not tenant) must include a clear advisory of the proposal and the requested appeal, interpretation, or variance of the Zoning Regulations. **The letter must clearly state that “A Public Hearing for this matter has been scheduled for 7:00 P.M. via GoToMeeting on Wednesday, September 16, 2020.”** In addition to the Item K, please enclose a copy of the Legal Notice of your request (enclosed). Please advise the neighbors that the complete application materials may be viewed at www.darienct.gov/zba/pendingapplications. You might want to also include a phone number and an invitation for the neighbors to contact you with any detailed questions.

Our office is providing you with the attached mailing list that you should use for the required mailings. Be sure to use the address located under the “OWNER ADDRESS” column for the property mailing addresses, as the mailing address can differ from the property/site address. Be aware that any error of owner name or address, including Zip Code will nullify a mailing. **NOTE: As a result of the COVID-19 pandemic, a recent order from the Governor allows the mailings to be done by regular mail, rather than requiring certificates of mailing.**

Failure to properly notify all applicable property owners will result in an automatic postponement of your Public Hearing to the following months meeting. Therefore, the following part of the process is essential and is outlined in order to help you obtain the specific information necessary for you to correctly notify the neighboring owners within 100 feet of your property and successfully complete this process. Please consult the Neighbor Notification Process enclosure for step by step instructions.

If it is determined that your mailing is incomplete or improper, the Public Hearing of your application will be postponed to a later date. You would then have to properly re-notify your neighbors of the later hearing date.

FINAL PREPARATIONS FOR HEARING

“The applicant, or his legal representative, shall submit evidence of the required mailing in the form of date stamped US Postal Service Certificates of Mailing, a list showing the names and addresses of the owners of all such properties, and a copy of the notification (including attachments) which was mailed” (Section 1127). A complete mailing sample (every item mailed) must be

submitted to the Planning & Zoning Office, as well as the original (white slips) Certificates of Mailing and neighbor list.

By September 2, 2020 (two weeks prior to the Public Hearing), please submit to the Planning and Zoning Office via mail, or our drop-box located outside of Room 119 of the Darien Town Hall a complete proof of mailing sample which includes:

- a copy of one (1) of the letters sent to the property owners within 100 feet; and
- the enclosure which was sent to them including a copy of the Item K, and
- a copy of the Legal Notice; and
- a list of those property owners within 100 feet.
- As a result of the COVID-19 pandemic, a recent order from the Governor allows the mailings to be done by regular mail, rather than requiring certificates of mailing. **Therefore, as proof of mailing, you have the option to provide the Planning and Zoning Office with either: a copy of each individual envelope mailed to the property owners within 100 feet OR the original (white slips) Certificates of mailing.**

ZBA Staff will check your evidence of the required mailing, to verify that the applicable neighbors have been properly notified. In the event there has been an error, you will still have time to rectify such error with an additional mailing by the Saturday deadline. You will need to submit additional proof of mailing for the correction. If you do not provide the proof of mailings to ZBA Staff at least one week prior to the meeting, your Hearing will be placed at the end of the agenda, or postponed if necessary.

If you have been unable to properly do the mailings your hearing will be automatically postponed to the following month's meeting. No exceptional arrangements can be made. You will then be charged an additional fee to cover the cost of additional legal notice newspaper publications for the later hearing date. Subsequently, we will send you a new certified notification of public hearing letter with a new neighbor notification time table.

All relevant materials should be included with your application. You should provide a minimum of additional documents, plans, and surplus information at the Hearing. Your property and your application are inherently unique. Therefore, copies of other project decisions are essentially irrelevant. If background Zoning history or chain of title information is important, it should have been submitted with the original application. If significant additional materials are submitted, the ZBA will probably continue your Hearing to a subsequent meeting in order to properly consider the information.

OTHER PRE-HEARING INFORMATION

Be aware that ZBA Staff and ZBA members will observe the subject property. That may be during evening or weekend hours. A detailed inspection may include notes and photographs. Therefore **the property line survey markings, as determined in the preapplication meeting with ZBA staff, need to be properly installed by the project surveyor at this time.** ZBA members, neighbors, as well as the subject property owner need to know just where the relevant to the application property lines are. **It is very important that the ZBA understand how your proposal relates to neighboring properties, as well as your own property boundaries.** It will not be

necessary to enter any structures. However, it may be necessary to observe any proposed expansion from the perspective of a neighboring property, which may be affected. Common courtesy is observed by knocking first and asking permission from neighbors. As the applicant you should have already spoken to the most affected neighbors. **Please advise your property residents/tenants as well as neighbors of the likelihood of site inspections relative to your request.**

A compilation map of the subject property and adjacent property may be assembled by ZBA Staff utilizing the application plans, inspection notes, other available surveys or aerial photographs. Critical features may be noted such as existing structures and outdoor activity areas. Good quality landscape buffering fences or evergreen trees may also be identified. Generally, ZBA Staff will prepare a few key questions/observations for the Board's consideration. You may review this staff report information the day before the meeting.

The Board may have significant other business to attend to in addition to the Public Hearings. Although changes may occur, generally the Agenda is finalized the Monday afternoon before the meeting and may be reviewed in the Planning & Zoning Office or on the Zoning Board of Appeals website at <http://www.darienct.gov/zba>. It will also be posted on the meeting room door the night of the meeting. You may withdraw your application, postpone your Hearing, or arrange to open and continue it, by writing to ZBA Staff up until the time of the Hearing.

TIPS FOR YOUR PUBLIC HEARING PRESENTATION

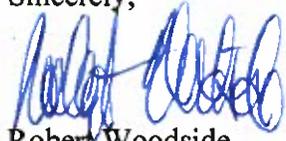
Significant advice is provided on a separate enclosure. During the COVID-19 risk period, the ZBA is conducting virtual GoToMeetings. **You are required to provide a PowerPoint presentation of the significant plans no later than September 9, 2020. This presentation can be emailed to teberhardt@darienct.gov.** You will need to plan a clear presentation utilizing the cursor. A Planning & Zoning Department colleague will receive your PowerPoint and provide a practice session prior to the hearing.

ZBA DELIBERATION & DECISION

Deliberations usually occur after all the scheduled hearings are closed. You are welcome to remain in the meeting room to silently observe the Board's subsequent deliberation of your request. However, since the hearing is closed, you will no longer be permitted to speak or provide testimony. Connecticut State Statutes allow up to 65 days for the ZBA to make a decision after closing the public hearing. Be aware that 4 affirmative votes out of the 5 voting members are required to vary the Darien Zoning Regulations and approve a proposal. The ZBA will make an effort to decide your application on the same evening as your Hearing, although it is possible for the deliberation to be continued to a later date, particularly with complicated matters. Generally meetings will conclude by 11:00 PM. The Deliberation portion of the meeting is not a Public Hearing. Applicants and other interested parties are welcome to quietly observe the ZBA and staff fulfilling their legal responsibilities for the overall benefit of the community. Any expression from the audience is inappropriate and constitutes grounds for tabling the matter referred to or denying it without prejudice. If you prefer, you can call the Planning & Zoning Office the day after your hearing to learn the decision, which may have been made.

Thank you for your patience and cooperation. If you have any questions, please feel free to contact me or Tamara at 203-656-7351.

Sincerely,



Robert Woodside,
Code Compliance Officer
ZBA Staff

cc: Duchess Family Restaurant of Darien Inc.
425 Kings Highway East Suite 2C
Fairfield, CT 06825

7-Eleven Inc.
3200 Hackberry Road
Irving, TX 75063

Enclosures

ID	Site Address	Owner Name	Co-Owner Name	Owner Address	Owner City	Owner State	Owner Zip	Map-Lot
05586	319 BOSTON POST ROAD	BDQ LLC		42-08 BELL BOULEVARD	BAYSIDE	NY	11361	13 1 & 2
06415	275 BOSTON POST ROAD	GRUSS/LESSER PROPERTIES LLC	C/O SIDRA GRUSS	6557 LAS FLORES DRIVE	BOCA RATON	FL	33433	13 3
11085	354 BOSTON POST ROAD	MASONIC CLUB OF DARIEN INC	C/O 320 BPR HOLDINGS	320 BOSTON POST ROAD	SUITE 110 DARIEN	CT	06820	32 12*

Subject Property

04413 306 BOSTON POST ROAD DUCHESS FAMILY RESTAURANT O C/O ATTY JACK SAMOWITZ 306 BOSTON POST ROAD

verified 8/25/2020

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that the Zoning Board of Appeals (ZBA) of the Town of Darien, Connecticut will meet via Go To Meeting 861 201 205 with possible Staff only in Darien Town Hall, 2 Renshaw Road at 7:00 P.M. on Wednesday, September 16, 2020 or any adjournment or adjournments thereof, to conduct Public Hearings and/or act on the following:

CALENDAR NO. 12-2020 The application of Christopher Pagliaro Architects on behalf of Samuel B. Fuller submitted on June 17, 2020 for variances of Sections 825f and 406 of the Darien Zoning Regulations, to allow the construction of a foyer/powder room/staircase, raised equipment platform, reconstructed sunroom, and second floor balcony/walkway additions; Section 825f: 13.0 in lieu of 16.0 feet minimum required floor elevation for the foyer/powder room; 9.8 in lieu of 16.0 feet minimum required floor elevation for the lower staircase; and Section 406: 12.0 in lieu of 25.0 feet minimum required side yard setback for the raised equipment platform, 12'± in lieu of 40.0 feet minimum required rear yard setback for the reconstructed sunroom, and 31'± in lieu of 40.0 feet minimum required rear yard setback for the balcony/walkway. The property is situated on the west side of Contentment Island Road approximately 1,000 feet south of Shennamere Road and is shown on Assessor's Map #68 as Lot #27 being 40 Contentment Island Road and located in an R-1 (residential) Zone.

CALENDAR NO. 13-2020 The application of Dennis Peters – designer and D. Peters Designs, LLC on behalf of Christopher & Christine Barkley submitted on June 17, 2020 and amended August 19, 2020 for variances of Section 406 of the Darien Zoning Regulations, to allow the construction of an attic story dormer addition; Section 406: 50.0 in lieu of 65.0 feet minimum required front yard setback as measured from the centerline of North Road and 34.0 in lieu of 30.0 feet maximum building height. The property is situated on the northwest side of North Road approximately 450 feet northeast of Butler's Island Road and is shown on Assessor's Map #67 as Lot #71 being 5 North Road and located in an R-1 (residential) Zone.

CALENDAR NO. 14-2020 The application of Peter Daniel submitted on August 11, 2020 for a variance of Section 406 of the Darien Zoning Regulations, to allow the installation of a heating oil tank; Section 406: 28.5 in lieu of 35.0 feet minimum required ease side yard setback. The property is situated on the south side of Hancock Lane approximately 1,100 feet east of Hollow Tree Ridge Road and is shown on Assessor's Map #2 as Lot #78 being 40 Hancock Lane and located in an R-2 (residential) Zone.

CALENDAR NO. 15-2020

The application of Amy E. Souchons, John W. Knuff and Hurwitz Sagarin Slossberg & Knuff LLC on behalf of 7-Eleven Inc. and Duchess Family Restaurant of Darien, Inc. submitted on August 13, 2020 for variances of Section 935 and a determination under Section 1124 of the Darien Zoning Regulations, to allow the installation of pole signage

and the construction of a gas station; Section 935.d.3a: for the 7 ELEVEN pole sign 23 in lieu of 18 square feet maximum area; Section 935.d.3b: for the pole sign location 5.0 feet from the front property line in lieu of being no closer than the gas service island; Section 935.d.5a: for the fuel price sign 25 in lieu of 12 square feet maximum area; Section 935.d.5b: for the fuel price sign location 5.0 feet from the front property line in lieu of not being located between the gas island and the street; Section 935: for the 7 ELEVEN and fuel price pole sign 48 in lieu of 30 square feet combined maximum area; and Section 1124: a determination that the proposed location is acceptable for a motor vehicle service use. The property is situated on the southeast side of Boston Post Road approximately 200 feet northeast of Birch Road and is shown on Assessor's Map #32 as Lot #9, being 306 Boston Post Road and located in an SB-E (commercial) Zone.

Plans and related application materials may be viewed at www.darienct.gov/zbapendingapplications. At the Public Hearing, interested persons may be heard and written communication may be received.

Mike Nedder, Chair
9/3 & 9/10

ZBA/LegalNot/09.16.2020ph