

PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
November 26, 2013

Application Number: Proposed Amendments to Zoning Regulations (COZR #3-2013)

Application Put Forth by: the Darien Planning & Zoning Commission

Name and Address of Applicant &: Darien Planning & Zoning Commission
Applicant's Representative: c/o 2 Renshaw Road—Town Hall
Darien, CT 06820

Activity Being Applied For: Proposed zoning regulation amendments include: Amendments related to Personal Service Businesses: Modify Section 210—Definition of Commercial Sales and Service; Add subsections 604d, 614g, 634g, 654f, and 684j., to specifically call out Personal Service Business as a Special Permit use in certain zones.

Other proposed changes are amendments recommended by the Zoning Board of Appeals (ZBA): 1. Modify Section 210 (Definition of Building Coverage) by noting that the first six inches (6”) of building eave, and up to twenty (20) square feet for overhangs for stairs, stair landings, and stoops do not count toward Building Coverage. Delete subsection 416h. Modify subsection 351 (Porches) to better reflect current policy of acceptable size covered front porches which would be exempt from setbacks or subject to reduced setbacks. Modify subsection 354 (Stairs and Ramps) to better reflect current policy of acceptable size entry stairs which would be exempt from setbacks or subject to reduced setbacks. Modify subsection 1126b (General Rules of the Zoning Board of Appeals) regarding submitted application materials. Modify subsection 1126e (General Rules of the Zoning Board of Appeals) regarding reapplications to the ZBA. Modify subsection 1127 (Notification-ZBA) to have proof of mailing submitted one week prior to the public hearing.

Other proposed changes are amendments recommended by the Architectural Review Board (ARB): Modify subsections 923.1b, c, and d, regarding wall signs in the CBD, DC, and NB Zones; Modify subsection 923.2b regarding hanging signs in the CBD, DC, and NB Zones; Modify subsection 923.5 Prohibited Signs in the in the CBD, DC, and NB Zones; Modify subsection 925.2b, regarding wall signs in the OB, DOR-1 and DOR-5 Zones; Modify subsection 926.1, regarding wall signs in the SB and SB-E Zones.

Property is located at: These regulation amendments would apply to all properties within the Town of Darien.

Date of Public Hearings: July 30, 2013 continued to September 17, 2013 and October 15, 2013

Time and Place of Public Hearings: 8:00 P.M. Rooms 206 and 119 Town Hall

Publication of Hearing Notices

Dates: July 19 & 26, 2013

Newspaper: Darien News

Date of Action: November 26, 2013

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Action: ADOPTED
THESE REGULATION AMENDMENTS WILL TAKE EFFECT ON
SUNDAY, DECEMBER 29, 2013 AT TWELVE NOON.

Scheduled Date of Publication of Action:
December 6, 2013

Newspaper: Darien News

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The public hearing on this matter was opened on July 30, 2013 and immediately continued to September 17, 2013. At the September 17, 2013 meeting, the matter was again continued without taking testimony until October 15, 2013.
2. At the October 15, 2013 public hearing, Planning and Zoning Director Jeremy Ginsberg explained the proposed Regulation amendments put forth by the Commission. He noted that they fall into three general categories, which include recommendations from the Zoning Board of Appeals (ZBA) and the Architectural Review Board (ARB).
3. Commission members noted that a personal service use consists of doing something directly for a consumer, but not having a tangible product, or selling retail products as an accessory nature to the personal service. Such uses include, but are not limited to: barbershop, nail salon, yoga studio, or dry cleaner. Training sessions for individuals or very small groups in yoga or other matters are different than having classes where one or two instructors would be taking care of many clients at the same time. The Commission believes that personal services should no longer be considered the same as commercial sales and services uses, and the distinction should be made more clear. Personal service uses are certainly appropriate within most commercial zones, but would need a Special Permit, rather than being allowed by right. This would allow for Commission review based upon the specific circumstances, such as ensuring that parking is specific for the proposed personal service use.
4. Commission members then discussed the definition of Building Coverage. Recent amendments to the Regulations regarding the Noroton Bay residential neighborhood (R-NBD) which went into effect in April 2013, allow the first six inches of eave or overhang not to count towards building coverage and allow no more than 20 square feet of roof area covering an entrance doorway not to count towards Building Coverage. The Commission agreed that it would be appropriate and consistent to extend those provisions to the rest of the residential zones in Darien.
5. The Commission notes that on November 12, 2013, they adopted an amendment to the definition of Building Coverage as put forth by the Tokeneke Club. That change is noted herein, and has no effect on the change put forth by the Commission.
6. With respect to the Regulations concerning porches, stairs and ramps, the sentences within the exceptions listed in Section 351 need to be rearranged to make it more clear, and to better clarify long-time policy within the Department. These changes are recommended by the ZBA.

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7. The Zoning Board of Appeals (ZBA) recommendation includes the desire to be given authority to waive some of the requirements based on the individual applications which vary with respect to type and complexity. It should also be made clear that an updated survey map must be no more than 18 months old. Also, application to the Zoning Board of Appeals would be allowed within not less than six months, in order to comply with the State Statutes.
8. As noted at the public hearing, there were also suggestions/recommendations put forth to the Planning and Zoning Commission by the Architectural Review Board. These would allow somewhat larger sign letters in certain circumstances. The Planning and Zoning Commission finds that these are appropriate amendments.
9. There were no comments from the public regarding the proposed amendments to the Zoning Regulations.
10. The Commission finds that the all of the proposed amendments are consistent with the 2006 Town Plan of Conservation & Development, as amended.

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NOW THEREFORE BE IT RESOLVED that ***Proposed Amendments of the Darien Zoning Regulations*** regarding modifications to subsections is hereby ADOPTED WITH AN EFFECTIVE DATE OF SUNDAY, DECEMBER 29, 2013 AT TWELVE NOON. The Commission hereby adopts all of the proposals put forth in the June 17, 2013 memorandum from Jeremy Ginsberg, Planning & Zoning Director. The only caveat is that in the intervening period, a modification to the definition of Building Coverage in Section 210 has been adopted, and thus, the change as noted herein, will include that amendment.

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(The inside cover page of the Zoning Regulations, the Table of Contents, and Appendix C-Schedule of Amendments also shall be modified accordingly)

A. Amendments related to Personal Service Businesses:

1. Modify Section 210—Definition of Commercial Sales and Service
2. Add subsections 604d., 614g., 634g., 654f., and 684j., to specifically call out Personal Service Business as a Special Permit use in certain zones. Currently, it is considered part of Commercial Sales and Service, and is a Permitted Principal Use (as-of-right) in some zones, and a Special Permit use in others. It would become solely a Special Permit use—and only allowed in five zones.

B. Amendments recommended by the Zoning Board of Appeals (ZBA):

1. Modify Section 210 (Definition of Building Coverage) by noting that the first six inches (6”) of building eave, and up to twenty (20) square feet for overhangs for stairs, stair landings, and stoops do not count toward Building Coverage.
Delete subsection 416h, which exempts these in the R-NBD zone. Because if the change in Building Coverage is adopted, that change would take place in all zones, and thus, 416h would be superfluous.

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2. Modify subsection 351 (Porches) to better reflect current policy of acceptable size covered front porches which would be exempt from setbacks or subject to reduced setbacks.
 3. Modify subsection 354 (Stairs and Ramps) to better reflect current policy of acceptable size entry stairs which would be exempt from setbacks or subject to reduced setbacks.
 4. Modify subsection 1126b (General Rules of the Zoning Board of Appeals) regarding submitted application materials.
 5. Modify subsection 1126e (General Rules of the Zoning Board of Appeals) regarding reapplications to the ZBA.
 6. Modify subsection 1127 (Notification) to have proof of mailing submitted one week prior to the public hearing.
- C. Amendments recommended by the Architectural Review Board (ARB):
1. Modify subsections 923.1b, c, and d, regarding wall signs in the CBD, DC, and NB Zones.
 2. Modify subsection 923.2b regarding hanging signs in the CBD, DC, and NB Zones.
 3. Modify subsection 923.5 Prohibited Signs in the in the CBD, DC, and NB Zones.
 4. Modify subsection 925.2b, regarding wall signs in the OB, DOR-1 and DOR-5 Zones.
 5. Modify subsection 926.1, regarding wall signs in the SB and SB-E Zones.

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The following are the Regulations as they should appear after the proposed amendments go into effect. The proposed amendments with the redlined format were included in the June 17, 2013 memo from Jeremy Ginsberg.

A. Amendments related to Personal Service Businesses.

1. Modify the definition of Commercial Sales and Service in Section 210:

Commercial Sales and Service: A business or use where products or services are sold or dispensed at retail, wholesale or any other medium or mechanism of trade. For purposes of these regulations, the addition of the terms "internal" or "external" further qualifies this term. This also includes Financial Service uses. Other uses defined in this Section 210 shall not be considered part of this definition.

2. Specifically note that Personal Service Business, which is now allowed as-of-right as a Permitted Principal Use in the NB, CBD, DC zones, and by Special Permit in the DB-1 and NHR Zones; would be allowed by Special Permit only, in those five zones.

Add the following subsections to the Regulations, which would specifically list Personal Service Businesses as uses allowed by Special Permit within five commercial zones.

604d. Personal Service Businesses.

614g. Personal Service Businesses.

634g. Personal Service Businesses.

654f. Personal Service Businesses.

684j. Personal Service Businesses.

B. Proposed amendments recommended by the Zoning Board of Appeals (ZBA), as noted in their memo to the Planning and Zoning Commission February 6, 2013.

1. Note that the modification to the definition of Building Coverage in section 210 accounts for the recent amendment adopted by the Commission regarding tennis courts.

Building Coverage: The combined percentage of the land covered by the roof area or outside dimensions of all structures on the lot including eaves and other similar projections. Coverage shall include dwellings; garages; storage/accessory buildings; commercial buildings; porches; decks; covered courtyards and walkways; pools; tennis and other recreational courts; and other structures that are located on or above the ground. For pervious tennis courts and other pervious recreational courts located on lots in a commercial zone or on a residential lot with a Special Permit use thereon, only the largest such court shall count in Building Coverage. The first six inches (6") of building eave, and up to twenty (20) square feet for overhangs for stairs, stair landings, and stoops do not count toward Building Coverage. Driveways, uncovered walks, patios, terraces and other at grade surfaces shall not be included in building coverage, but shall be included in the calculation of developed site area. (See Subsection 223 for illustration.)

2. Delete subsection 416h.

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~~h. In the R-NBD Zone, the first six inches (6") of building eave, and up to twenty (20) square feet for overhangs for stairs, stair landings, and stoops do not count toward Building Coverage.~~

3. Modify subsection 351 (Porches)
To better clarify existing policy.

351. Porches

Any porch, whether enclosed or unenclosed, shall be considered a part of the building in the determination of the size of yard or amount of lot coverage. (See Subsection 223 for illustration.) A roof over entrance doorways (which is no more than five feet wide, one story, open on the sides with a simple roofline) shall not extend more than three feet into any required yard.

4. Modify subsection 354 (Stairs and Ramps)
To better clarify existing policy.

354. Stairs and Ramps

Entry stairs, fire escapes and access ramps for the handicapped (which are no more than seven feet wide and have a landing of no more than 4' x 4') shall not extend more than three feet into any required yard and shall not be closer than four feet at any point to any lot line.

5. Modify subsection 1126b (General Rules of the Zoning Board of Appeals)

1126. General Rules

- b. Applications or appeals to the ZBA shall be made on the form furnished by the ZBA and shall be accompanied by updated survey plans, building plans, materials, and other information as determined by the ZBA.

6. Modify subsection 1126e (General Rules of the Zoning Board of Appeals)
This would make the Regulations consistent with the State Statute.

- e. Applications denied shall not be heard by the ZBA again until six (6) months after the denial or until the circumstances of the application have substantially changed.

7. Modify subsection 1127 (Notification)
This would include the same requirement that proof of mailing be submitted to the P&Z Department at least one week prior to the public hearing, as Section 1040 (the Notification section used by the Planning & Zoning Commission).

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1127. Notification

Not less than ten (10) days nor more than twenty (20) days prior to the applicant's scheduled public hearing, the applicant, or his legal representative, shall mail notification of his application, including paragraph "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 subject 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 Tax Assessor's Office. At least one week prior to the public hearing, the applicant, or his legal representative, shall submit evidence of the required mailing in the form of date stamped U. S. 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.

C. Changes to sign regulations as recommended by the Architectural Review Board (ARB)
1. Modify subsection 923.1b, c, and d, regarding wall signs in the CBD, DC, and NB Zones.

923.1. Wall Signs (See Subsection 230 for illustration.)

Wall signs shall conform to the following standards:

- a. No wall sign shall project more than 12 inches from the face of the building wall to which it is attached nor extend above the eaves line or highest point of the facing wall of the building. In cases of covered porch or walkway, a wall sign may be hung from an overhang.
- b. No letter, figure, logo, or symbol on a wall sign shall be higher than 10 inches, except that the ARB may, by 2/3 majority of those voting, allow one or two letters, figures, logo or symbols to be up to 15 inches tall if that is part of the business name, trademark or logo. The maximum sign area shall not exceed one square foot of signage for each three feet of front building face parallel to the street lot line.
- c. There may be only one wall sign for a commercial occupancy but an additional wall sign may be permitted on either a side or rear wall only if such wall abuts a street.
- d. No sign on a wall shall be more than 15 feet above the curb level or the ground level, whichever is higher, of the fronting street, and there shall be a minimum clearance of three feet between the base of the sign and the ground.

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2. Modify subsection 923.2b regarding hanging signs in the CBD, DC, and NB Zones.

923.2. Hanging Signs (See Subsection 230 for illustration.)

Hanging signs shall conform to the following standards:

- a. Hanging signs shall be permitted provided they are located at least four feet from any property line.
- b. No letter, figure, logo, or symbol on a hanging sign shall be higher than six inches, except that the ARB may, by 2/3 majority of those voting, allow one or two letters, figures, logo or symbols to be up to 15 inches tall if that is part of the business name, trademark or logo.
- c. There may only be one hanging sign per property. Multiple occupancy buildings may use one combined hanging sign listing occupants.
- d. The maximum total square footage of a hanging sign shall not exceed six square feet.

3. Modify subsection 923.5 Prohibited Signs in the in the CBD, DC, and NB Zones.

923.5. Prohibited Signs

Pole, roof, and internally illuminated signs are prohibited in these zones, except that the ARB may, by 2/3 majority of those voting, allow internal illumination of a wall sign using channel style lighting (where only the letter or figure is internally illuminated and the background is not illuminated) or back-lighting with light fixtures that are within the letter and shine only toward the background wall.

4. Modify subsection 925.2b regarding wall signs in the OB, DOR-1 and DOR-5 Zones.

925.2. Wall Signs

- a. No wall sign shall project more than 12 inches from the face of the building wall to which it is attached nor extend above the eaves lines or highest point of the facing wall of the building.
- b. No letter, figure, logo, or symbol on a wall sign shall be higher than ten inches, except that the ARB may, by 2/3 majority of those voting, allow one or two letters, figures, logo or symbols to be up to 15 inches tall if that is part of the business name, trademark or logo.

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- c. Multiple occupancy buildings may have one combined wall sign listing all occupants.

5. Modify subsection 926.1, regarding wall signs in the SB and SB-E Zones.

926. Signs in Service Business and Service Business East Zones

926.1. Wall Signs

All the requirements of Subsection 923.1(a-d). Wall signs shall not be internally illuminated, except that the ARB may, by 2/3 majority of those voting, allow internal illumination of a wall sign using channel style lighting (where only the letter or figure is internally illuminated and the background is not illuminated) or back-lighting with light fixtures that are within the letter and shine only toward the background wall.