

PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
January 8, 2019

Application Number: Proposed Amendments to Darien Zoning Regulations (COZR #8-2018)
put forth by Spring Grove Cemetery Association

Names and Address of:
Applicant(s): Spring Grove Cemetery Association
41 Hecker Avenue
Darien, CT 06820

Names and Address of:
Applicant's Representative: D. Bruce Hill, Esq.
Law Offices of Bruce Hill, LLC
30 Old King's Highway South
Darien, CT 06820

Activity Being Applied For: Proposal to amend Sections 404.c. and 405 of the Darien Zoning Regulations to delete the second sentence of Section 404.c. referencing a columbarium as a normal church accessory use; and add a new subsection g. to Section 405, Accessory Uses Requiring Special Permits, to include "a columbarium located on church grounds or on the grounds of a cemetery operated by a cemetery association as defined in Section 19a-296 of the Connecticut General Statutes, and used solely to contain the remains of deceased persons who have been cremated."

Date of Public Hearings: November 27, 2018

Time and Place: 8:00 p.m., Room 206 Town Hall

Publication of Hearing Notices:
Dates: November 15 & 21, 2018 Newspaper: Darien Times

Date of Action: January 8, 2019 Action: ADOPTED WITH AN EFFECTIVE
DATE OF SUNDAY, JANUARY 27, 2019 AT
12:15 P.M.

Scheduled Date of Publication of Action: Newspaper: Darien Times
January 17, 2019

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

- the proposed zoning regulation amendments must be consistent with the 2016 Town Plan of Conservation & Development for the Commission to adopt the amendments.

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

1. The submitted subject application, put forth by Spring Grove Cemetery Association, consists of a proposal to amend the Darien Zoning Regulations to amend Sections 404.c. and 405 of the Darien Zoning Regulations to delete the second sentence of Section 404.c. referencing a columbarium as a normal church accessory use; and add a new subsection g. to Section 405,

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Accessory Uses Requiring Special Permits, to include “a columbarium located on church grounds or on the grounds of a cemetery operated by a cemetery association as defined in Section 19a-296 of the Connecticut General Statutes, and used solely to contain the remains of deceased persons who have been cremated.”

BACKGROUND

2. Article IV, Section 404, of the Darien Zoning Regulations sets forth Principal Uses Requiring Special Permits in residential zones. Among these identified uses are “churches and other places of worship primarily intended to serve religious needs of the local community.” Section 404.c. also provides that “a columbarium on church grounds and used solely to contain the remains of deceased persons who have been cremated shall be recognized as a normal church accessory use.”
3. Section 404, as written, includes this identified accessory use (columbarium) under the section which is intended to set forth the principal uses for residential zones. Moreover, the section fails to state whether such a normal accessory use is permitted or one requiring a Special Permit. Finally, the section is silent on whether a columbarium may be located on cemetery grounds which is a customary location for such a use.

REQUESTED TEXT AMENDMENTS

4. The applicant, Spring Grove Cemetery Association, is a cemetery association as defined by Section 19-296 of the Connecticut General Statutes. The Association has petitioned for the following changes to Section 404 and 405 of the Darien Zoning Regulations:
 - a. Delete the second sentence of Section 404.c. referencing a columbarium as “a normal church accessory use”; and
 - b. Add a new subsection ‘g’ to Section 405, Accessory Uses Requiring Special Permits, to include “A columbarium located on church grounds or on the grounds of a cemetery operated by a cemetery association as defined in Section 19a-296 of the Connecticut General Statutes and used solely to contain the remains of deceased persons who have been cremated.”

CONSISTENCY WITH THE 2016 TOWN PLAN OF CONSERVATION & DEVELOPMENT

5. The Commission finds that the proposal is generally a clarification of existing policy and thus remains consistent with the 2016 Town Plan of Conservation & Development (the POCD or “Town Plan”).

NOW THEREFORE BE IT RESOLVED that Amendment to Darien Zoning Regulations (COZR #8-2018) is hereby adopted subject to the forgoing and following modifications and understandings:

NEW WORDING IN ITALICS AND UNDERLINED; DELETIONS IN STRIKEOUT:
(Appendix C of the Zoning Regulations to be amended accordingly.)

PROPOSED AMENDMENT TO SECTION 404.

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404. Principal Uses Requiring Special Permits

The following uses shall be permitted subject to approval of a Special Permit in accordance with Section 1000:

- a. Private schools.
- b. Child Care Home, Group.
[Amended 12/24/2017]
- c. Churches and other places of worship intended primarily to serve religious needs of the local community. ~~A columbarium located on church grounds and used solely to contain the remains of deceased persons who have been cremated shall be recognized as a normal church accessory use.~~
- d. Social, cultural and recreational uses, serving a community need or convenience, and not including any activity carried on primarily for profit.
- e. Municipal buildings and uses of the Town of Darien, and other governmental uses intended primarily to serve the needs of the local community.
- f. Electric transformer stations, telephone exchanges for local service only and water, sewer or natural gas pumping stations or facilities provided the floor area shall not exceed 300 square feet and no yard or building shall be used for storage.
- g. Railways, but not including switching, storage or yards, industrial sidings, repair or service facilities.
- h. Convents and monasteries of religious orders. As an accessory use to such permitted facility, the Commission may permit the providing of overnight accommodations for not more than ten guests on the premises at any one time when such guests are attending for a religious purpose or retreat.
- i. Protected Town Landmarks, in accordance with the provisions of Subsection 1041.
- j. Single-Family Open Space Development in accordance with the provisions of Subsection 1052.
[Amended 4/12/2009]

PROPOSED AMENDMENT TO SECTION 405.

405. Accessory Uses Requiring Special Permits

The following accessory uses shall be permitted subject to approval of a Special Permit in accordance with Section 1000:

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- a. The office of a physician, dentist, engineer, attorney, architect, accountant, artist, musician, tutor, consultant, financial or investment advisor or similar professional person when conducted by the owner of the dwelling or a home occupation involving some patron, client or associate visits to the premises may be permitted by Special Permit as an accessory use in a dwelling subject to the following conditions:
1. Not more than one person who does not reside on the property shall be employed at or work on the premises.
 2. The accessory use shall not be noticeable from the exterior of the building or change the exterior appearance of the residential character of the building, except for a permitted sign, and shall not have any outside storage, displays or parking of commercial vehicles or equipment. No parking shall be allowed in the front yard setback.
 3. The accessory use shall permit occasional visits by clients, patrons and/or associates (generally not more than a total of six visits per day) to render or receive services. The delivery or sale of tangible products, other than documents is prohibited.
 4. A home occupation shall be incidental to the use of a dwelling for residential purposes.
 5. Said use shall be conducted within the main dwelling exclusively and shall not exceed an area of ten percent (10%) of the gross building area or five hundred (500) square feet whichever is less, including any storage or other area supplementary to such home occupation. Gross floor shall include the area of all heated and ventilated and thereby habitable rooms and areas within the dwelling unit including basements and habitable attic space.
 6. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in any required yard area.
 7. No more than one home occupation shall be permitted within a single dwelling unit, or on a lot, or contiguous lots title to which is under common ownership.
 8. The operation of any wholesale or retail business, unless it is conducted entirely by mail and does not involve the sale, shipment, storage or delivery of merchandise on the premises, is prohibited.
 9. There shall be no separate or distinct entrance or exit way specifically provided for the home occupation in the dwelling or on the premise for the conduct of the home occupation thereon.

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10. The accessory use shall not create any electrical, radio, television or similar interferences.
 11. Any of the above professions or uses that are, or shall become, more intensive than permitted in the residential zone shall only be permitted in the appropriate non-residential zone. The following uses are, by their inherent nature and intensity, not appropriate or permitted uses in residential zones: barber shops; beauty parlors; animal hospital; dance studios; real estate offices; mortuaries; restaurant; stables, kennels; metal working; automobile, boat or other vehicle servicing repair, auto body or painting; and other uses as may be determined by the ZEO.
- b. Outdoor recreational uses and tennis courts. The lighting or illumination of recreational facilities is permitted provided that such lighting shall create no hazard or nuisance upon adjacent properties with reference to the following standards:
1. The source of such lights shall be concealed from surrounding residential properties;
 2. All lighting shall be located and be of such design that no illumination shall be directed toward surrounding residential properties;
 3. Except as provided by Subsection 405b(5), no permanent lighting facilities shall be mounted at a height greater than 20 feet above grade.
 4. Lighting facilities that are both temporary and portable may be mounted up to 30 feet above grade provided such lighting facilities are:
 - a) Granted by Special Permit to address the unique characteristics and circumstances of the site and its surroundings;
 - b) Located on public (i.e. Town-owned) property; and
 - c) Angled and/or shielded to best prevent direct glare to the surrounding residential properties in compliance with b(1) and b(2), above.
 5. Lighting facilities that are permanent may be mounted up to 80 feet above grade provided such lighting fixtures are:
 - a) Granted by Special Permit to address the unique characteristics and circumstances of the site and its surroundings;
 - b) Located on Town of Darien and/or Board of Education property of greater than six (6) acres in size;
 - c) Angled and/or shielded to prevent direct glare to the surrounding residential properties in compliance with b(1) and b(2), above;
 - d) Used to accommodate town or school athletic or related activities, or town non-profit organization athletic activities.

[Amended 8/5/2012; 2/5/2017]

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- c. Windmills and similar energy conservation systems that utilize the power of the wind provided:
 - 1. Each lot shall have a minimum area of 40,000 square feet or as required by the applicable zone, whichever is greater;
 - 2. No windmill or similar structure shall exceed 50 feet in height;
 - 3. No windmill or similar structure shall be located in any required yard;
 - 4. The windmill or similar structure shall be set back from all lot lines and from the principal building a distance of at least equal to the height of the windmill or similar structure.

- d. Ground-mounted solar panels and satellite receiving dishes or dish-type antennae provided they:
 - 1. Shall not exceed 15 feet in height or diameter, including all supporting structures;
 - 2. Shall not be located within any required front yard for a principal structure;
 - 3. Shall be fully screened from any adjacent property line and the street line;
 - 4. Shall be permanently anchored in compliance with the State Building Code; and
 - 5. Technical literature shall be submitted to supplement any proposed application for the above.

- e. Living accommodations and/or dwelling units in conjunction with a Special Permit use where the applicant clearly demonstrates a reasonable safety, security or similar need to have an employee or specified number of employees reside on the premises.

- f. Child Care Centers.
[Added 12/24/2017]

- g. *A columbarium located on church grounds or on the grounds of a cemetery operated by a cemetery association as defined in Section 19a-296 of the Connecticut General Statutes and used solely to contain the remains of deceased persons who have been cremated.*

These amendments to the Darien Zoning Regulations shall become effective at 12:15 P.M. on Sunday, January 27, 2019.