

PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 26, 2012

Application: Amendments to the Darien Zoning Regulations (COZR #1-2012)
Put forth by Baywater 745 BPR, LLC, 745 Boston Post Road

Street Address: 745 Boston Post Road
Assessors Map #16 Lots #15 & #16

Name and Address of Property Owner(s): Baywater 745BPR, LLC
c/o 1019 Boston Post Road
Darien, CT 06820

Name and Address of Applicant & Applicant's Representative: Robert F. Maslan, Jr., Esq.
Maslan Associates, PC
30 Old King's Highway South
Darien, CT 06820

Activity Being Applied For: Zoning Regulation amendments are proposed to Section 585 which would allow the Commission to grant an incentive for building coverage for inclusionary zoning projects.

Subject property: The 745 Boston Post Road property is on the northwest corner formed by the intersection of Academy Street and Boston Post Road.

Zones: DB-1, and R-1/3 Zones; and DBR overlay Zone

Dates of Public Hearing: May 1, 2012

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

Publication of Hearing Notices

Dates: April 20 & 27, 2012

Newspaper: Darien News

Date of Action: June 26, 2012

Action: ADOPTED WITH MODIFICATIONS
WITH AN EFFECTIVE DATE OF SUNDAY,
JULY 15, 2012 AT TWELVE NOON.

Scheduled Date of Publication of Action:
July 6, 2012

Newspaper: Darien News

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

1. On November 22, 2011, the commission approved the redevelopment of 745 Boston Post Road and as part of that, approved changes to the Darien Zoning Regulations and the site specific development plan. It was later discovered that a miscalculation had been made regarding the proposed building coverage. One or both of the garage structures had not been included in the building coverage calculation, and therefore, the change that the

PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
PROPOSED AMENDMENTS OF DARIEN ZONING REGULATIONS COZR #1-2012
PUT FORTH BY BAYWATER 745BPR, LLC, 745 BOSTON POST ROAD
JUNE 26, 2012
PAGE 2

Commission had incorporated into the Regulations was not sufficient to accommodate the development that the applicant had desired. The current proposed amendment is to modify the Regulations, so that instead of a 25% increase of building coverage, the Regulations would allow the Commission to increase the building coverage to 50% of what is normally allowed.

2. At the public hearing, comments from the South Western Regional Planning Agency (SWRPA) as noted in their April 2, 2012 response were read aloud. They noted that the change is not likely to have any inter-municipal impacts provided the DBR overlay zone Regulations are not extended in areas closer to the municipal boundaries.
3. Attorney Maslan, who represented the property owner, noted that this project was approved under the Design Business and Residential (DBR) Regulations. Mr. Maslan said that the proposed modifications are now an exception of 50% of the normal regulations. He is proposing that the exception should only be allowed if the size and proposed development will not negatively impact the adjacent properties. David Genovese, project applicant, said that in any case, the exception is at the discretion of the Planning & Zoning Commission when considering a Special Permit application within this Zone. The Commission agrees that granting such an incentive may not be appropriate in all situations.
4. At the public hearing, it was noted that the DB-1 Zone is specially designed to discourage the compiling of smaller parcels into a larger development site of an acre or larger.
5. Mr. Maslan said that the purpose of this proposed amendment is to correct efficiency in the previous approval process. He said that if the Commission approves and adopts the amendment, there would be no need to go back and amend the approval for the 745 Boston Post Road project. He said that the proposed amendment would allow the Commission to grant up to a 50% exception, but only if the Commission finds that it will not affect the residential properties in the area.
6. Regarding the discussion of lot sizes in the area, at the public hearing, Mr. Ginsberg suggested that the Commission include in the record a copy of Assessor Map #16 to show the size of the nearby properties. Everyone agreed to include Assessor's Map #16 in the record. That map shows the lots within the DB-1/DBR zones on both sides of Boston Post Road. The subject property at 745 Boston Post Road is .592 acres. On the north side of the road, there are eleven parcels total (including the subject property). Of those 11, four appear to be larger and six smaller. Of the 14 parcels on the south side of Boston Post Road, four appear to be larger and ten smaller. The Commission believes that the choice of a 0.6 acre standard would be appropriate to include as part of this regulation amendment.
7. Within the bound binder of the applicant's submitted materials received on March 19, 2012, Pages 6-1 through 6-3, the Housing Chapter, of the 2006 Town Plan of Conservation & Development (the "Town Plan") were submitted. The applicant notes that the proposed zoning regulation amendment is consistent with the Town Plan.

PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
PROPOSED AMENDMENTS OF DARIEN ZONING REGULATIONS COZR #1-2012
PUT FORTH BY BAYWATER 745BPR, LLC, 745 BOSTON POST ROAD
JUNE 26, 2012
PAGE 3

8. The Commission finds that the proposed zoning regulation amendments, as modified and adopted herein, are consistent with the 2006 Town Plan of Conservation & Development, as amended.

NOW THEREFORE BE IT RESOLVED that based upon the review of all of the materials and information, the Commission, acting in its legislative capacity, hereby ADOPTS the *Proposed Amendments to the Darien Zoning Regulations* WITH AN EFFECTIVE DATE OF SUNDAY, JULY 15, 2012 AT TWELVE NOON, as noted herein:

NEW WORDING IN BOLD, DELETIONS IN STRIKEOUT:

585. Incentives

Developments subject to the provisions of Section 580, except for single-family subdivisions, may, at the absolute discretion of the Commission, be eligible for an increase in permitted density up to 50 percent greater than the allowed density provided at least 25 percent of such incentive units are designated as below market rate and the Commission determines that such incentives do not adversely affect the health, safety and welfare of the public in general, and the immediate neighborhood. In such cases, the Commission may, at the absolute discretion of the Commission, allow any or all of the following waivers, provided the Commission finds that such waiver encourages the development of below market rate housing and is consistent with the surrounding neighborhood:

- a. Recreational or open space requirements may be reduced.
- b. Minimum yard requirements may be reduced.
- c. Maximum building coverage requirements may be increased.
- d. Parking requirements may be reduced.
- e. Height may be increased to allow three stories.
- f. Height may be increased to allow up a maximum building height of 32.5 feet by Special Permit.

In no case shall the Commission approve a waiver described in a. through e. above, resulting in a requirement that deviates by more than 25% from the originating regulation. **On lots less than 0.6 acres in area in the Designed Business One Zone (DB-1), the Commission may increase building coverage by up to 50 percent from the originating regulation, provided that the Commission shall find that the height and bulk of the proposed buildings on the subject site shall not adversely impact abutting residential properties.**