

PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
March 26, 2013

Application Number: Proposed Amendments to Zoning Regulations (COZR #1-2013)

Application Put Forth by: the Darien Planning & Zoning Commission

Activity Being Applied For: Proposal to amend subsections 411 and 416 of the Zoning Regulations relative to the Noroton Bay District Residential Zone (R-NBD). These changes: 1) modify the Background and Purposes for this zone; 2) modify Maximum Building Height in feet in this zone from 30 to 33 feet; and 3) modify Maximum Building Coverage in this zone, by exempting the first six inches of eaves and up to a total of twenty square feet of stair landing and stoop overhangs.

Property is located at: These regulation amendments would only apply to properties within the Noroton Bay District Residential (R-NBD) Zone. This zoning district covers most, but not all of the properties within the Noroton Bay neighborhood.

Date of Public Hearings: February 26, 2013 continued to March 5, 2013

Time and Place of Public Hearings: 8:00 P.M. Auditorium Town Hall

Publication of Hearing Notices

Dates: February 15 & 22, 2013

Newspaper: Darien News

Date of Action: March 26, 2013

Action: **ADOPTED IN PART WITH MODIFICATIONS (Building Coverage modifications)
AND DENIED IN PART (Building Height modifications)
THE REGULATION AMENDMENTS WHICH ARE GRANTED WILL TAKE EFFECT
ON SUNDAY, APRIL 14, 2013 AT TWELVE NOON.**

Scheduled Date of Publication of Action:

April 5, 2013

Newspaper: Darien News

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

1. The subject proposal put forth by the Planning and Zoning Commission is to amend subsections 411 and 416 of the Zoning Regulations relative to the Noroton Bay District Residential Zone (R-NBD). This was as outlined in a memo from Planning & Zoning Director Jeremy Ginsberg dated January 18, 2013.

These proposed changes:

- a) Change the Background and Purposes subsection 411 by adding information about the recent storm, and proposed FEMA changes;
- b) Change in Building height subsection 416 #11—propose 33 feet in lieu of 30 allowed;
- c) Change in Building coverage subsection 416 note h.—exempt first six inches of eave and up to 20 square feet of stair landing and stoop overhang from coverage.

PLANNING & ZONING COMMISSION
ADOPTED RESOLUTION
AMENDMENTS TO THE ZONING REGULATIONS
PUT FORTH BY THE PLANNING & ZONING COMMISSION
MARCH 26, 2013
PAGE 2

2. Two different factors have precipitated this proposal. The first is storm Sandy, which hit the Town of Darien in late October 2012, and damaged many houses in Noroton Bay and throughout Darien. Many property owners in the R-NBD zone are in the process of rebuilding. The second factor is the upcoming change in the Flood Insurance Rate Maps (FIRM) which will go into effect in July 2013. These new FIRM raise required first floor elevations in Darien for properties within the flood zone. Most affected is the R-NBD zone, which goes from elevation 10 or 11 to elevation 14. The Commission believed that since rebuilding is in process, it was important to get a proposal put forth at this time.
3. The Commission's considerations are to preserve the Noroton Bay community and also to provide flexibility to property owners who are in the process of rebuilding and meeting FEMA first floor requirements both existing, and to go into effect in July 2013.
4. These changes only affect the R-NBD Zone. This zone is the smallest residential zone in Town by size, and was established in 2003. It covers most, but not all of the area known as Noroton Bay. It only contains 76+/- lots, ALL of which are in the flood zone. Thus, none of these properties is allowed to have a basement under the flood regulations. They range in size from .18 acres to .77 acres, with the only exception being the Noroton Yacht Club which sits on more than an acre. It is generally seen as a zone that is "built out"—little or no new building lots can be created. There are no vacant lots other than those used by the Yacht Club for parking. It is also close to being "built out" in terms of building coverage—many houses within Noroton Bay are at or near the existing 20% maximum.
5. The change to the Building Height maximum was proposed to address the fact that lifting houses or rebuilding houses in this zone will require that any finished first floor be at or above elevation 15 (Darien requires that first floor elevations be at least one foot above the FEMA requirement of elevation 14), whereas now it is 10 or 11. Many properties have a ground elevation in the range of 7-8 now, requiring any finished first floor to be up 6-7 feet over the property's ground elevation. However, property elevations do vary, and each case is different.
6. The proposed Building Coverage change is also related to the fact that these properties are all within the flood zone. Because such houses need to be higher, doors leading to any finished floor space must be elevated. Thus, there will likely be more stairways in and out of a house due to the elevation requirements. The Commission believed that providing up to 20 square feet of total stoop overhang would help account for some of these extra needs. Also, the Commission here took particular note that many of the properties in Noroton Bay are at or near the 20% Building Coverage maximum now. Thus by also exempting 6 inches of building eave, this may allow for houses to provide eaves, and thereby look better, while not impacting coverage.
7. One of the purposes of the Building Coverage change is to both keep the general aesthetic of the neighborhood as well as to acknowledge that for houses that are elevated to meet the flood regulations, additional stairways will likely need to be created to provide access to doorways on the structures (which would also likely need to be at a higher grade). It would be appropriate for such doorways to have a covered landing. It was specifically mentioned at the public hearing that the twenty square feet of covered landing may be in the form of more than one covered landing, as long as the total does not exceed twenty square feet. A covered landing may also

PLANNING & ZONING COMMISSION
ADOPTED RESOLUTION
AMENDMENTS TO THE ZONING REGULATIONS
PUT FORTH BY THE PLANNING & ZONING COMMISSION
MARCH 26, 2013
PAGE 3

include an eave, which, if not exceeding six inches, would also not count towards building coverage in this zone.

8. The Building Coverage change is particularly helpful to smaller lots, which may be at or above full building coverage presently. In the R-NBD zone, about 28 of the 76 existing lots are less than or equal to .25 acres in size, or smaller.
9. One of the issues is whether these new regulations apply to lifting/elevating houses and/or to new construction. In addition, during the public hearing process, comments were received about the desire of some property owners to see similar changes proposed for other zoning districts that included flood zone parcels. The response at a staff level was that the changes are MOST applicable in this zone, since all lots are in the flood zone, and due to the small size of the zoning district, and the fact that so many of the houses in this zone were damaged in the recent storm, and many of the lots are so small. Staff would want to see the effects of possible implementation before trying it elsewhere. It was noted that relief is always available via the Zoning Board of Appeals if a hardship can be shown.
10. At the public hearing, a number of housing lifting and new house approvals within this zone and near this zone were reviewed with the Commission. It was noted that in all but one case, houses complied with the thirty foot height regulation now in effect in this zone.
11. At the public hearing, Planning and Zoning Director Jeremy Ginsberg explained that any regulation plan must be consistent with the Town Plan of Conservation and Development. He read aloud two policies from the plan:
Policies in Chapter 3: To reduce the potential for loss of life and property resulting from flood conditions, both for existing and future development, and to protect the natural flood carrying capacity of all floodplains.

Policies in Chapter 6: Continue to evaluate and consider amending the existing building coverage and height restrictions to maintain the character of the community.
12. The Commission finds that many, if not all, property owners within the R-NBD zone may be able to lift or rebuild their house while complying with building height maximums now in effect. The Commission also finds that by exempting the first six inches of eaves from building coverage calculation within this zone, additional flexibility is given to property owners in this district when lifting or rebuilding their houses. Testimony was presented that while eaves now count towards building coverage, they are not enclosed spaces, and are seen generally as improving the look and aesthetics of a house, and do not affect the perceived bulk of a house.
13. As part of this application, numerous comments were received from the State of CT DEEP, the Southwestern Regional Planning Agency (SWRPA) and the Darien Zoning Board of Appeals (ZBA). The ZBA comments were outlined in a February 6, 2013 memo, portions of which were as follows:
Proposed Noroton Bay changes. The ZBA supports the proposed 6" coverage exemption for eaves townwide. And the ZBA supports the proposed exemption for stair landing/stoop overhangs in Noroton Bay. However the ZBA urges caution with allowing an extra 3' of building height. Recent ZBA hearings of variance applications on specific Noroton Bay

PLANNING & ZONING COMMISSION
ADOPTED RESOLUTION
AMENDMENTS TO THE ZONING REGULATIONS
PUT FORTH BY THE PLANNING & ZONING COMMISSION
MARCH 26, 2013
PAGE 4

properties has included consideration of the proposals' fit among their surrounding properties as well as observation of the overall general neighborhood character. This review appears to indicate that very comfortable and attractive houses with attic level storage or living space can be built within the current regulation limits for the neighborhood, including the applicable flood zone standards.

14. A number of property owners, builders, and others spoke at the public hearings held on February 26 and March 5. At the public hearing it was noted that since storm Sandy, only one height variance has been applied for before the Zoning Board of Appeals.
15. Section 8-3(d) of the Connecticut General Statutes requires that notice of this decision be published in a local paper, and a copy of the regulation change be filed with the Town Clerk prior to the zoning regulation amendments taking effect.

=====

NOW THEREFORE BE IT RESOLVED that ***Proposed Amendments of the Darien Zoning Regulations*** regarding modifications to subsections 411 and 416 are ADOPTED IN PART WITH MODIFICATIONS WITH AN EFFECTIVE DATE OF SUNDAY, APRIL 14, 2013 AT TWELVE NOON AND DENIED IN PART.

The proposed amendments to subsections 411 (regarding Background and Purposes of the R-NBD Zone), and subsection 416 adding note h (changes to maximum building coverage) in the R-NBD zone are ADOPTED WITH MODIFICATIONS. The Commission finds that these amendments, as modified, are consistent with the 2006 Town Plan of Conservation and Development as amended.

The proposed amendments to subsection 416 #11 regarding building height is DENIED. The Commission believes that requests for building heights greater than 30 feet can be taken before the Zoning Board of Appeals (ZBA) and determined on a case-by-case basis. While the Commission acknowledges the need for property owners to elevate and/or rebuild their houses entirely, due to the important and sensitive nature of building height, the Commission believes that an increase in overall building height for the entire zoning district may impact the character of this neighborhood.

=====

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

The approved wording for these Sections is as follows:
New wording in bold, deletions in strikeout:

- 1) Modify subsection 411 Background and Purposes in the Noroton Bay District Residential Zone, by adding a new paragraph after the third paragraph.

During the ensuing years from 1957, many variance applications were received for proposed construction of additions to existing residences or replacement residences because virtually none of the lots in this neighborhood complied with the one-acre minimum lot size, lot

PLANNING & ZONING COMMISSION
ADOPTED RESOLUTION
AMENDMENTS TO THE ZONING REGULATIONS
PUT FORTH BY THE PLANNING & ZONING COMMISSION
MARCH 26, 2013
PAGE 5

width, or lot depth requirements of the R-1 Zone. None of the structures complied fully with all of the building setback and yard requirements. Enactment of Flood Damage Prevention Regulations has required many structures to be elevated as substantial renovations or new construction was proposed. The Flood Damage Prevention Regulations require that the lowest floor (including basement) be at least one foot above the expected flood level. The flood level is generally one to three feet above the existing ground level.

In late October 2012, a storm affected many houses in Noroton Bay, resulting in flood damage to many of the residential structures and the Noroton Yacht Club. In December 2012, FEMA noted that new Flood Insurance Rate Maps (FIRM) would take effect in mid-2013. This would result in most of Noroton Bay, which is now in the AE elevation 10 or AE elevation 11 zones to become AE elevation 14, thus requiring additional elevation of any first floor finished space. This modified FEMA mapping affects almost every house within this zoning district (some of the waterfront properties are currently in the VE-14 flood zone and will not be impacted by the proposed new FIRM). Basements are not permitted within the flood hazard zones. The Commission wants to encourage property owners to comply with all of the flood damage prevention requirements. Because of the unique nature of this zone, with relatively small lots and all structures within a flood zone, which flood zone elevation is generally four feet or more higher than the adjacent streets, special provisions are included, exempting the first six inches of eave and up to twenty square feet of stair landing/stoop overhangs from Building Coverage, making it easier for property owners to elevate their house to meet applicable FEMA standards.

- 2) Modify subsection 416 Area and Bulk Requirements #12 and add a new note “h” in the Noroton Bay District Residential Zone (R-NBD), by exempting the first six inches of eave and up to a total of twenty square feet for overhangs for stairs, stair landings, and stoops from Building Coverage in the R-NBD Zone.

416. Area and Bulk Requirements

The requirements listed for the Noroton Bay District Residential Zone (R-NBD) shall be deemed to be the minimum or maximum requirements in every instance of their application. Dimensions are in feet unless otherwise indicated.

Noroton Bay District	
1. Minimum Lot Area (Square Feet) (See notes c, e)	25,000
2. Minimum Width (See notes a, b, c)	80
3. Minimum Frontage (See notes a, c, f, g)	50
4. Minimum Depth (See notes a, c)	100

PLANNING & ZONING COMMISSION
ADOPTED RESOLUTION
AMENDMENTS TO THE ZONING REGULATIONS
PUT FORTH BY THE PLANNING & ZONING COMMISSION
MARCH 26, 2013
PAGE 6

5. Minimum Front Yard (See notes a, b) As measured from the front property line(s).	30
6. Minimum Side Yard: Least One	15
7. Minimum Side Yard: Total of Two (See notes b, c)	30
8. Minimum Rear Yard (See note b)	25
9. Accessory Structures (See note d and g)	
9A. Minimum Distance from Front Lot Line	30
9B. Minimum Distance from Side Lot Line	15
9C. Minimum Distance from Rear Lot Line	25
10. Maximum Height in Stories	2 ½
11. Maximum Height in Feet	30
12. Maximum Building Coverage (as percentage of lot area) (see note h)	20%

- a. See Sections 334 and 339 for application of "minimum width".
- b. See Section 333.
- c. See Section 385 where lots are of non-conforming dimensions.
- d. Detached accessory structures within five feet of a principal structure or with any portion of the structure over eight (8) feet in height shall observe the same setbacks as for main buildings.
- e. See Section 335.
- f. See Section 332.
- g. Special Provision for Utility Sheds.

No more than one utility shed shall be permitted on each property provided:

- 1. The maximum width of the shed shall be 8' (eight feet) and the maximum length of the shed shall be 8' (eight feet);
 - 2. The highest part of the roof shall not be more than 8' (eight feet) above the highest point of the adjacent ground;
 - 3. The shed must comply with the front yard setback, and shall be not less than 2' (two feet) from the side lot line and not less than 2' (two feet) from the rear lot line, and on properties adjacent to coastal waters the shed shall comply with the 25' (twenty-five foot) rear yard setback;
 - 4. The shed must comply with the Flood Damage Prevention requirements;
 - 5. The shed must comply with all Zoning and Building Permit requirements and will be counted as part of the maximum permitted building coverage.
- 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.**