

**PLANNING AND ZONING COMMISSION
CORRECTED ADOPTED RESOLUTION
June 7, 2016**

Application Number: Amendments to the Darien Zoning Regulations
put forth by Darien ALF Property, LLC/Maplewood Darien, 599 Boston
Post Road (COZR #5-2016)

Street Address: 599 Boston Post Road
Assessor's Map #14 Lot #33

Name and Address of Applicant & Applicant's Representative: Amy Zabetakis, Esq.
Rucci Law Group LLC
19 Old King's Highway South
Darien, CT 06820

Names and Addresses of: Darien ALF Property, LLC
Property Owners:

Activity Being Applied For: Proposal to amend Section 627 of the Zoning Regulations to allow that Area and Bulk Requirements for an Assisted Living Facility (ALF), Memory Care Facility (MCF), or a combination thereof be determined on a case-by-case basis by the Commission. The proposal seeks to correct an internal inconsistency that exists within Section 620 (DB-2 Zone).

Zone: DB-2

Date of Public Hearing: April 5, 2016
Deliberations held on: April 26, 2016

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

Publication of Hearing Notices
Dates: March 25 and April 1, 2016 Newspaper: Darien News

Date of Action: May 10, 2016 Action: ADOPTED WITH MODIFICATIONS
WITH AN EFFECTIVE DATE OF SUNDAY,
JUNE 17, 2016 AT 12:05 P.M.

(Note: Original approval had an effective date of June 5, 2016, but was not published, due to a question about a possible scrivener's error. On June 7, 2016, the Commission confirmed that an error was made, and notice of this Corrected Adopted Resolution will be published on June 17, 2016).

Scheduled Date of Publication of Action: June 17, 2016 Newspaper: Darien News

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

- the proposed Zoning Regulation amendments must be consistent with the Town Plan of Conservation & Development for the Commission to adopt the amendments.

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

1. At the public hearing, it was noted that the proposed amendments of the Regulations would allow Maplewood at 599 Boston Post Road to expand on a property to the east (Norwalk side) of their existing facility. In 2011, the Commission adopted requested changes to the Zoning Regulations to accommodate the conversion of the existing building from a nursing home to an assisted living facility (ALF). Now Maplewood would like to expand. Due to the non-conformities of the existing building, some adjustments to the Regulations are needed if expansion is to be possible. If the Commission amends the Zoning Regulations, then a Special Permit and Business Site Plan application for building expansion will be prepared and submitted to the Planning & Zoning Commission for review.
2. The applicant's proposal was revised from that originally submitted in February 2016. The revised application narrative, titled, "March 21, 2016 Application of Rucci Law Group, LLC to Darien Planning and Zoning Commission for Change in Zone Regulations on Behalf of Maplewood Darien 599 Boston Post Road, Darien, Connecticut", proposes changes to modify Sections 621 and 627 of the Regulations.
3. The changes to Section 621 are to the Background and Purposes of the DB-2 zoning district. The additional two sentences proposed to be added confirm that Assisted Living Facilities and Memory Care Facilities are different than the other types of uses allowed in the DB-2 Zone, since these uses require larger facilities than others. The Commission finds that it is appropriate to adopt the amendments to Section 621 (Background and Purposes) as proposed by the applicant.

PARKING/TRAFFIC ISSUES

4. At the public hearing, Attorney Amy Zabetakis, the applicant's representative, discussed the existing Maplewood property, and the fact that it has an underground parking structure, which does not meet existing setbacks. It is clear in the Regulations that any new underground parking structures must meet the setback regulations, however, the existing underground parking structure at Maplewood of Darien is very close to the front property line. Changes to the regulations regarding underground parking structures will be the subject of a subsequent application.
5. It was noted that the existing on-site parking at Maplewood is insufficient for the staff and visitors. In addition, delivery vehicles park along the Boston Post Road in an unsafe manner. Commission members agree that any changes to the site in the future need to incorporate solutions to these problems. Currently, some of the parking spaces in the church parking lot across Boston Post Road are used by some of the workers at Maplewood.

BUILDING HEIGHT ISSUES

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6. Attorney Zabetakis discussed the proposed amendment to the building height limitation. She said that it is 31.5 feet to the flat roof of the existing building. This does not take into account the front façade or parapet walls. They are proposing a 35 foot height limitation. Attorney Zabetakis said that the new roof would match the height of the existing roof. The existing DB-2 Regulations only allow a maximum of two stories and 28 feet, and the existing Maplewood building exists due to the granting of a variance in 1965. To expand it at the same height would require either a variance or a change in the Zoning Regulations.

CONCLUSIONS AND FINDINGS

7. The application was referred to the Western Connecticut Council of Governments (WestCOG). They responded on February 25, 2016 that the application is of local concern and with minimal intermunicipal impact.
8. The Commission has made modifications to the proposed regulations put forth by the applicant. The modifications result in the same outcome, but improve readability.
9. The subject application consists of zoning regulation amendments. As part of this request, the applicant has not proposed a specific site plan for the Commission's review or consideration. During the public hearing, concepts were discussed to assist the Commission in understanding the potential impacts of the regulation amendments. A subsequent, formal application will need to be made to the Planning & Zoning Commission for site plan and special permit approval.
10. Documentation was provided during the public hearing confirming that the proposal complies with the Town Plan of Conservation & Development. The Commission believes that this is an appropriate use in Darien, and is appropriate for this zoning district.

NOW THEREFORE BE IT RESOLVED that Amendment to Darien Zoning Regulations (COZR #5-2016), is hereby adopted subject to the foregoing and following modifications and understandings:

NEW WORDING UNDERLINED, DELETIONS IN STRIKEOUT:
Changes to Sections 621 and 627e of the Regulations
Modify Section 625, and add a new Note e.

621. Background and Purposes

This zone is intended to provide a suitable area for the establishment of business operations which require both internal and external use space and which are intended to primarily serve the needs of the general area. Special measures have been established to assure that traffic generation and circulation factors are adequately regulated to avoid significant intensification of existing problems or the creation of new ones. In addition, controls on the size and bulk of new structures have been established to assure that such new development is consistent with the prevailing character of this district and the surrounding residential areas.

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Because of the unusually high number of basically small, legally non-conforming commercial sales and service businesses within the zone, special provisions are incorporated herein to enable the individual property owners to make further investments in their businesses with an assurance that current conditions may be continued. This zone may allow Assisted Living Facilities, Memory Care Facilities or a combination thereof via Special Permit if certain requirements and standards are met. Because of the unusual nature of these types of facilities and the need for economies of scale, extra height and bulk shall be permitted for these types of businesses subject to the requirement that sufficient open space be set aside for the use of the residents.

625. Area and Bulk Requirements

The following requirements shall be deemed to be the minimum and maximum requirements in every instance of their application. Dimensions are in feet unless otherwise indicated.

1. Minimum Lot Area	1/2 acre (21,780 sq.ft.)
2. Minimum Lot Width	80
3. Minimum Lot Frontage	80
4. Minimum Lot Depth	100
5. Minimum Front Yard	30 (See Note a)
6. Minimum Side Yard	15 (See Note b)
7. Minimum Rear Yard	25 (See Note c)
8. Maximum Height in Stories (See Note e)	2
9. Maximum Height in Feet (See Note e)	28
10. Maximum Building Coverage (See Note e)	Determined by FAR
11. Minimum Front Landscape Depth	30
12. Maximum Developed Site Area (See Note e)	70%
13. Minimum Setback from Any Residential or DOR Zone	25
14. Maximum Average Floor Area Ratios (See Note e)	0.40 of first 10,000 s.f. of lot area plus 0.20 of all lot area over 10,000 s.f.
15. Maximum Floor Area of all Dwelling Units (See Note e)	1,000 sq. ft. (See Note d.)

Notes:

- a. As stated above, except no parking shall be permitted in front of any building unless the setback from the street line is at least 75 feet. On streets of less than 50 feet width, the front yard setback shall be measured from the center line of the street and 25 feet

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shall be added to the required front yard setback. See Subsection 372 for requirements where setback of existing buildings is greater or less than minimum requirement.

- b. As specified above, except that at least 25 feet shall be provided where the side yard furnishes vehicular access to the rear, and except that the Commission, in approving a site plan, may permit a building to abut a side line where it finds such creates a better plan.
- c. As specified above, except as follows:
 - (1) Where a rear yard abuts a Residential Zone, the rear yard requirement shall be at least equal to the rear yard requirement of the adjoining Residential Zone;
 - (2) Where the lot is a corner lot and its rear yard is not adjacent to land in any other zone, the rear yard requirement shall equal the side yard requirement.
- d. If more than 2 dwelling units, then at least 30 percent of the total number of units shall be limited to one bedroom. One additional off-street parking space per bedroom shall be required. The total number of dwelling units shall not exceed 6 dwelling units on any site.
- e. For additions to existing Assisted Living Facilities and/or Memory Care Facilities, the following provisions shall apply in lieu of their respective requirements in the above table in Section 625:

8. Maximum Height in Stories	3
9. Maximum Height in Feet	32
10. Maximum Building Coverage	35% of total lot area
12. Maximum Developed Site Area	75%
14. Maximum Average Floor Area Ratios	Not applicable
15. Maximum Floor Area for each private residential unit	800 square feet.

Due to the nature of the Assisted Living Facility and/or Memory Care Facility use, the Special Controls in Section 626a shall not apply.

627. Assisted Living Facility (ALF) and Memory Care Facility (MCF)

- a. An ALF, MCF or combination thereof shall include common rooms for use by the occupants such as living rooms, laundry, entertainment facilities, dining areas, beauty parlor, library, and kitchen facilities. An ALF, MCF or combination thereof shall also include administrative offices, service facilities, and areas for wellness, periodic medical examination, therapy, or similar uses.
- b. All Area and Bulk Requirements and Special Controls in Sections 625 and 626 shall control.

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- c. The gross floor area of a private residential unit in an ALF, MCF or combination thereof shall be not less than 320 square feet.
- d. Each ALF, MCF or combination thereof shall be connected to public sanitary sewers and served by public water supply.
- e. At least 300 square feet of usable open space shall be provided for each private residential unit. The Planning and Zoning Commission may require that a conservation easement be conveyed for this required open space. Some or all of the open space may be located on the same lot but in an adjoining zone at the discretion of the Planning and Zoning Commission.
- f. To accommodate the parking needs of the residents, visitors, and staff providing services to the occupants, the following minimum off-street parking shall be provided: one space for each employee per maximum shift; plus 0.33 spaces for each ALF unit and 0.25 spaces for each MCF unit.
- g. Off-street parking design standards of Sections 226 and 900 shall be applicable.
- h. At least one off-street unloading facility shall be provided per Sections 909.1c and 909.2a-g.