

MEMORANDUM

TO: Planning and Zoning Commission

FROM: Jeremy Ginsberg, Planning & Zoning Director *JG*

SUBJECT: Proposals to Amend the Darien Zoning Regulations

DATE: August 14, 2015

This memo outlines fourteen proposed Zoning Regulation amendments put forth by the Planning and Zoning Commission.

Former and current ZBA members and Department staff have been noting issues with various zoning regulations for many years now. And for the past few months a subcommittee has been studying the issue and determining whether some are worthy of clarification, adjustment and/or change. These proposals are as follows:

1. Modify Sections 210 and 223—Definition of Building Coverage
2. Modify Section 210—Definition of Lot Line, Side
3. Modify Section 230 to allow Monument Signs and Modify Sections 925.1 and 926.3 to allow such signs in certain non-residential zones.
4. Modify Section 334 and 385 to eliminate the need for Lot Width variances to redevelop on building lots which do not have sufficient Lot Width.
5. Modify Section 371—Height of Buildings or Structures (Building Height relative to cupolas and mechanical equipment.)
6. Modify Section 384—Non Conformity, Other Than Use.
7. Modify Section 406 #7—Eliminate the Total of Two side yards requirement which now affects the R-1/3 and R-1/5 Zones.

Other changes which the Planning and Zoning Commission and/or Department staff has discussed over the past few months are being put forth:

8. Modify Section 406f regarding detached accessory structures.
9. Modify Section 575 Area and Bulk Requirements DCR Zone to clarify what counts towards floor area.
10. Modify Inclusionary Zoning Regulations (Sections 583, 588a through 588e) to require that all below market rate units be changed to be affordable to those with an income equal to or less than 80% of State Median Income (SMI). Include updated SMI data and calculations.

Other changes, which clarify and/or correct improper or incorrect references, are also being put forth:

11. Modify Section 572 to refer to the DMR Zone, when it should refer to the DCR Zone.
12. Modify Section 577 to reference signs allowed in the DCR zone.
13. Modify Section 625 Item 15 to be Maximum Average Floor Area of All Dwelling Units.
14. Modify Section 873. Eligibility for Certification to reflect updated report name and date.

1. **Modify Sections 210 and 223 of the Regulations (Definition of Building Coverage).**

Explanation/Justification:

Modify Sections 210 and 223 of the Regulations (Building Coverage) to exempt from the definition of Building Coverage, above ground mechanical HVAC & generator equipment, fuel tanks, and basement access Bilco style doors. The new definition will now count patios higher than four feet above grade towards Building Coverage. The overall goal of this amendment is to better clarify whether certain items count towards Building Coverage.

Existing Wording:

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.)

Proposed Wording:

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. Building 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. Patios, steps, stoops and similar structures, any portion of which is more than 4 (four) feet above any of the adjacent ground level, shall be included in the calculation of Building Coverage. (See Subsection 223 for illustration). ~~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.~~

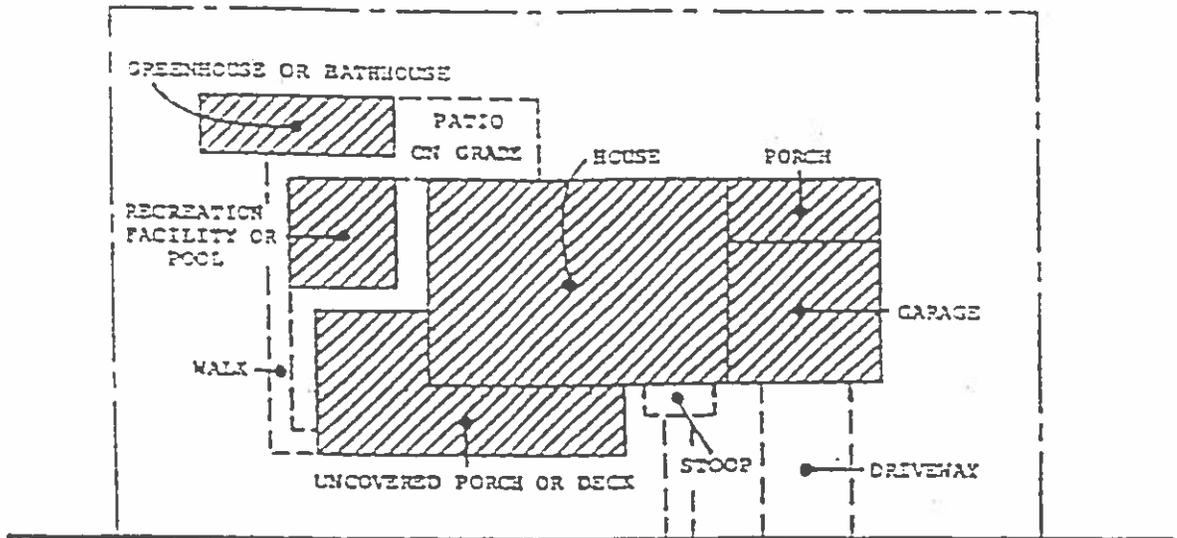
The following shall not count towards Building Coverage:

- The first six inches (6") of building eave, and up to a total of 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 that do not require a Building Permit. ~~shall not be included in building coverage, but~~
- Provided they each are below nine (9) square feet each; and provided the total of such features does not exceed a maximum total of twenty (20) square feet — Above ground mechanical HVAC, pool equipment, & generator equipment, fuel tanks, and covers over basement access stairs or window wells.
- 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.

Section 223. Building Coverage (figure)

(Update figure to reflect revised definition and make reference to the definition in Section 210.)

223. BUILDING COVERAGE



SEE DEFINITION OF BUILDING COVERAGE
IN SECTION 210 FOR ADDITIONAL SPECIFICATIONS
AND EXACT DETAILS ON WHAT COUNTS TOWARDS
BUILDING COVERAGE.



AREA TO BE INCLUDED
IN BUILDING COVERAGE

2. Modify the definition of Lot Line, Side in Section 210 of the Regulations.

Explanation/Justification:

Very small change in angles of lot lines have resulted in staff interpretations regarding when a side lot line turns into a rear lot line. This change in the definition of Lot Line, Side will clarify existing Department policy. The proposal is to specifically note that a change of direction of 60 degrees or more from the original bearing for a length of 30 feet or more shall change a side lot line to a rear lot line.

Existing Wording:

Lot Line, Side: Boundary line which separates two lots and one end of which intersects a front lot line. A change of direction of 60 degrees or more from the original bearing shall change a side lot line to a rear lot line.

Proposed Wording:

Lot Line, Side: Boundary line which separates two lots and one end of which intersects a front lot line. A change of direction of 60 degrees or more ~~for a length of 30 feet or more~~ from the original bearing at the street line shall change a side lot line to a rear lot line. In situations where a side lot line starts at the street as a turning radius or in situations where there is a total deflection of greater than 60 degrees for a total length of 30 feet or less of the side line, then the boundary shall remain a side lot.

3. **Add monument style signs as a possible sign type in Section 230 of the Regulations, and allow them in the OB, DOR-1 and DOR-5, and SB and SB-E Zones.**

Explanation/Justification:

Recently, the Zoning Board of Appeals has approved monument signs for certain properties, including, but not limited to: Maplewood, 745 Boston Post Road, Darien Green, 17 Old King's Highway South, and Land Rover. It is logical therefore, to describe/define such a sign, and specifically allow them in certain zones.

Modify Sections 925.1 (Signs in OB, DOR-1 and DOR-5 Zones).

925.1. Ground and Monument Signs (See Subsection 230 for illustration.)

- a. The maximum total square footage of a ground or monument sign shall not exceed 20 square feet.
- b. The maximum height of a ground or monument sign shall not exceed four feet.
- c. No letter or figure on a ground or monument sign shall be higher than four inches.
- d. Multiple occupancy buildings may have one combined ground or monument sign listing all occupants.

Modify Section 926.3 (Signs in Service Business and Service Business East Zones).

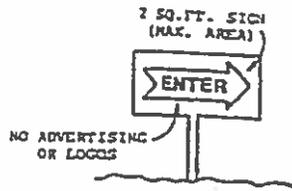
926.3. Ground and Monument Signs (See Subsection 230 for illustration.)

One ground sign or monument sign may be permitted in lieu of one pole sign. All ground or monument signs shall comply with the requirements of Subsection 925.1(a-d) and shall be subject to the same setback requirements as pole signs.

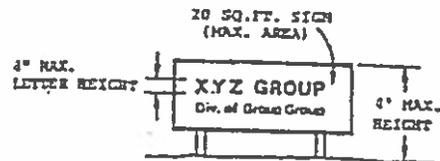
Add new figure to Section 230 to reflect a monument sign.
 (existing figure showing various signs to now include a monument sign).

230. TYPES OF SIGNS

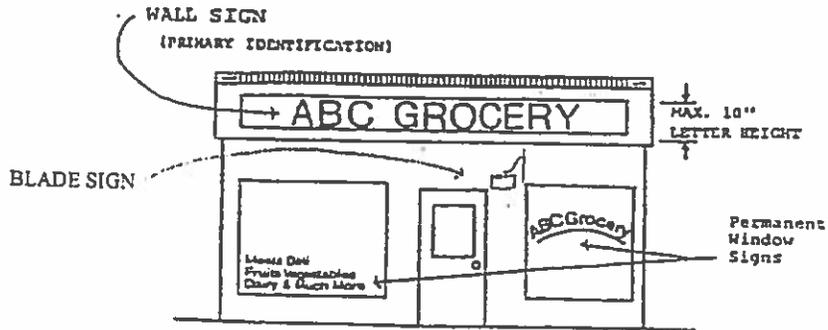
(Not to Scale)



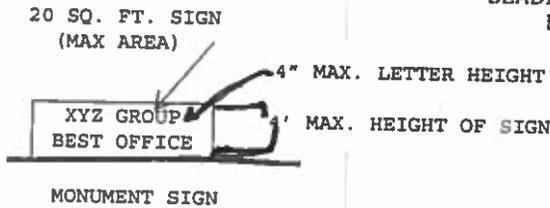
DIRECTIONAL SIGNS



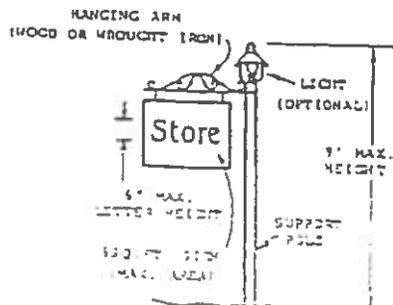
GROUND SIGN



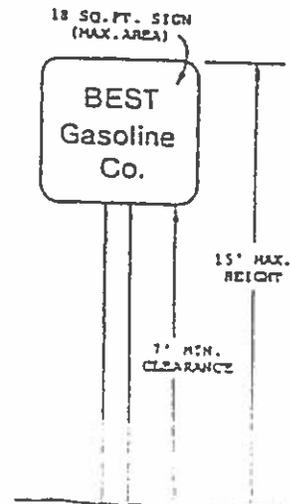
BLADE, WALL SIGNS AND DISPLAY AREA



MONUMENT SIGN



HANGING SIGN



POLE SIGN

4. Modify Section 334 and 385 to eliminate the need for Lot Width variances to redevelop on building lots which do not have sufficient Lot Width.

Explanation/Justification:

Establish a procedure for the Zoning Enforcement Officer (ZEO) to determine the legality of non-conforming building lots (width, depth, area, merger). This will allow for replacement house proposals that meet all setback, parking and other limitations to no longer require a variance, even though they may be on lots which do not have required lot width or depth.

334. Lot Width and Depth Required

Within any zone, no part of any building or any structure housing a principal use shall be erected on any part of a lot which has a minimum width or depth of less than the distance specified for the zone in which located. Further, such lot shall be able to fully enclose a square having a dimension on each side equal to the lot width requirement for that zone.

On existing non-conforming lots where there is no portion of the lot with sufficient lot width and/or lot depth ~~is not sufficient~~ to fulfill these requirements, the following shall apply:

- a. Construction of a new principal building on a vacant building lot shall be permitted only in accordance with Subsection 385; and
- b. The lot width and/or lot depth requirement shall not apply to the construction of a replacement dwelling or to an addition to an existing structure provided the actual lot width and actual lot depth shall equal at least 50 percent of that which is required ~~the required lot width~~.

385. Building on Non-conforming Lots

A permit may be issued for the erection of a building on any building lot, recorded in the Darien Land Records, that was made non-conforming with respect to area, frontage, lot depth and/or lot width requirements, by the adoption of, or any amendment to, these Regulations or the Zoning Map, provided the Zoning Enforcement Officer makes a written finding that:

- (a) The owner of any such lot did not own sufficient adjoining land at the time of the adoption of said Regulations (September 24, 1954) or said amendments to conform therewith, or more nearly therewith, and
- (b) All yard and open space requirements of the Regulations are met, and
- (c) Adequate provision is made for protecting the general health, safety, and welfare and providing adequate access, drainage facilities, and protection of the nearby properties, and
- (d) The lot has not been used in conjunction with adjacent property to the extent that its identity has merged with adjacent property in the same ownership. Uses or activities

that may cause the identity of a lot to be merged with adjacent properties include, but are not limited to the following:

1. allowing two or more parcels to be assessed as one building lot, or
2. construction of a structure crossing the property line, or
3. location of an accessory structure (tool shed, pool, garage, etc.) on the lot, or
4. having utilities and/or services (electrical, telephone, sewer, water, septic system, etc.) on or crossing the lot without having an easement or documented distinction between the parcel being serviced and the lot in question, or
5. having a driveway, parking area, accessway or similar facility on or crossing the lot without having an easement or documented distinction between the parcel being serviced and the lot in question, or
6. planting and/or maintaining a garden, lawn, row of planted trees or shrubs, fence, or similar improvement(s) on or encompassing the lot or portion of the lot, or
7. other actions of the lot owner that indicate that they have treated the lot as a portion of the adjoining property.

When the owner of two or more adjacent non-conforming lots abandons the separate, non-conforming status of the lots by failing to comply with any of the above standards, the non-conforming lots shall be eliminated and the parcels shall, for purposes of these Regulations, be considered merged into one or more conforming lots or a single more nearly conforming lot. This shall apply even if one or more of the non-conforming lots has been developed. Once considered merged the lots may not be sold, conveyed, altered, or otherwise used as separate lots.

5. Modify Section 371 Height of Buildings or Structures.

Determine acceptable size cupolas (height, width, roofline) which would be exempt from the maximum Building Height calculation. The 4' default practice doesn't appear to fit properly with every house design. The goal is to define a maximum height ignoring any weathervane/spire type projections. The maximum width should be proportional to the ridge length the cupola sits on.

Explanation/Justification:

The existing regulations of "only to such height as is necessary to accomplish the purpose they are intended to serve..." was vague, and staff has recently used a 4' x 4' x 4' standard. The Planning and Zoning Commission and Zoning Board of Appeals have also insisted that cupolas be unlit. This will clarify that policy.

Existing Wording:

371. Height of Buildings or Structures

The height limitations of these Regulations shall not apply to church spires, bellfries, flagpoles, cupolas and domes not used for human occupancy; or to chimneys, ventilators, solar panels, skylights, water tanks, bulkheads, non-commercial transmitting or receiving antennas, or similar features, and necessary mechanical appurtenances usually carried above the roof level. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose they are intended to serve, and the total area covered by such features shall not exceed 15 percent of the roof area or the area actually needed, whichever is less.

Proposed Wording:

371. Height of Buildings or Structures

The height limitations of these Regulations shall not apply to church spires, ~~bellfries, belfries,~~ flagpoles, ~~cupolas and domes not used for human occupancy; or to~~ chimneys, ventilators, solar panels, skylights, water tanks, mechanical equipment or similar features not intended for human occupancy. ~~bulkheads, non-commercial transmitting or receiving antennas, or similar features, and n~~ Necessary mechanical appurtenances usually carried above the roof level may exceed the height limitation provided they shall be adequately screened from view from nearby streets. ~~All~~ Such features, however, shall be erected only to such height as is necessary to accomplish the purpose they are intended to serve, and the total area covered by such features shall not exceed 15% (five percent) of the roof area or the area actually needed, whichever is less. A ~~C~~cupolas shall be unlit, and no greater than 1.5" of cupola for every foot of unbroken roofline to be exempt from the height calculations (a 30" square cupola is four feet tall). No more than two cupolas per structure can be exempt from the height calculations.

6. Modify Section 384—Non Conformity, Other Than Use.

Explanation/Justification:

Clarify long-time Department policy.

Proposed Wording:

384. Non-Conformity, Other Than Use

A building that is conforming in use, but does not conform to the height, setback, yard, land coverage or parking requirements of these Regulations shall not be considered to be non-conforming within the meaning of Subsection 383 (nonconforming use). Any and all additions to the building must comply with all current requirements of the zone in which the site is located. No permit shall be issued that shall result in the increase of any non-conformity in height, setback, yard space, land coverage or parking without an appropriate variance from the Zoning Board of Appeals. No intensification of use nor increase of the amount of building vertically, horizontally or otherwise, shall be based on the existing noncomplying or nonconforming aspects of the structure.

7. Modify Section 406 by eliminating the “Total of two side yard” requirements, which impact the R-1/3 and R-1/5 Zones. All items in the chart shall be renumbered accordingly.

Explanation/Justification:

This will allow an addition to be constructed without a variance if all of the new volume conforms to applicable setback and other limitations. Eliminate the current “penalty” practice and simplify the application of the total side yard setback requirement in the R-1/3 and R-1/5 zones. This “total of two side yards” is very difficult to administer and harder to explain to owners and their representatives.

Proposed Wording:

406. Area and Bulk Requirements

The requirements listed for each zone as designated shall be deemed to be the minimum or maximum requirements in every instance of their application. Dimensions are in feet unless otherwise indicated.

	<u>R-2</u>	<u>R-1</u>	<u>R-1/2</u>	<u>R-1/3</u>	<u>R-1/5</u>
1. Minimum Lot Area (Square Feet) (See notes e, g)	87,120	43,560	21,780	14,520	8,712
2. Minimum Width (See notes a, b, e)	200	150	100	80	60
3. Minimum Frontage (See notes a, e, h, i)	75	50	50	50	50
4. Minimum Depth (See notes a, e)	200	150	100	100	100
5. Minimum Front Yard (See notes a, b, c, d)	50	40	40	30	25
6. Minimum Side Yard: <u>Each</u> Least One	35	25	15	10	8
7. <u>Minimum Side Yard: Total of Two</u> (See notes b, e)	70	50	30	25	20
7. <u>8.</u> Minimum Rear Yard (See note b)	50	40	25	25	25
8. <u>9.</u> Accessory Structures (See note f)	50	40	40	30	25
<u>89A.</u> Minimum Distance from Front Lot Line					
<u>89B.</u> Minimum Distance from Side Lot Line	35	25	10	5	5
<u>89C.</u> Minimum Distance from Rear Lot Line	50	40	10	5	5
9. <u>10.</u> Maximum Height in Stories	2-1/2 (All Residential Zones)				
10. <u>11.</u> Maximum Height in Feet	30 All Residential Zones)				
11. <u>12.</u> Maximum Building Coverage	20% (All Residential Zones)				

8. Modify Section 406f. regarding detached accessory structures. This will clarify how the height of the structure is measured, and give a maximum height to the ridge of such a structure. Also notes that there shall be no finished space in such detached accessory structures.

Explanation/Justification:

Large detached accessory structures can have a negative impact on neighborhoods. The proposed amendments clarify how to measure the height of such structures, and give a maximum height to the ridge. It also notes that detached accessory structures which do not meet the principal setbacks cannot contain finished space.

Proposed Wording:

f. Detached accessory structures within five feet of a principal structure, and/or over 15 feet tall at any point, and/or over one floor/story in height, shall observe the same setbacks as for main buildings. Such detached accessory structures that do not comply with the setbacks for principal use or structure shall be for parking and/or storage only and shall not contain any finished or habitable space for occupancy.

9. Modify Section 575. Area and Bulk Requirements DCR Zone to clarify what counts towards floor area.

Explanation/Justification:

At its meeting of June 23, 2015, the Darien Planning & Zoning Commission agreed that the wording in the DCR zone requirements needs to clarify that portions of finished basements do not count toward the floor area of the dwelling units. The proposal is to add a Note to the Area and Bulk Requirements clarifying the Commission's policy.

Proposed Wording:

575. Area and Bulk Requirements

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

Minimum Lot Area	10 acres
Minimum Lot Frontage	200
Minimum Lot Width (Average)	200
Minimum Lot Depth (Average)	200
Minimum Front Yard	50
Minimum Side Yard	25
Minimum Rear Yard	25
Maximum Height	2 ½ stories or 28 feet
Maximum Building Coverage	20%
Average Floor Area of Dwelling Units (see Note 1)	3,900 sq. ft.
Maximum Dwelling Units/Building	4
Maximum Average Building Size	16,000 sq. ft.

Note 1: Portions of finished basements do not count toward the floor area of the dwelling units unless the basement is a 'story' as defined by these regulations.

10. Modify Inclusionary Zoning Regulations (Sections 583, 588a through 588e) to require that all below market rate units be changed to be affordable to those with an income equal to or less than 80% of State Median Income (SMI).

Explanation/Justification:

Section 8-30g of the CT General Statutes only grants moratorium points for those units which are deed restricted to equal to less than 80% of State Median Income (SMI). The current Inclusionary Zoning Regulations allow one of the units to be restricted to those earning equal to or less than 110% of Area Median Income. The change in the Regulations will change the requirement, creating units which are affordable to lower incomes, and allow the Town to gain moratorium points for these units. The change in the regulations will also include updated SMI figures.

Proposed Wording:

583. Below Market Rate Affordable Requirements

Developments resulting in the creation of additional multi-family dwelling units shall designate a minimum of twelve percent (12%) of the total number of dwelling units as affordable housing as defined by Connecticut General Statutes~~below market rate~~. For the purpose of this regulation, the term multi-family is defined as a single property with two or more dwelling units, whether attached or detached. Dwelling units constructed pursuant to Section 405e. are exempt from the requirements of this regulation.

Single-family subdivisions or re-subdivisions resulting in a total of five or more building lots shall designate a minimum of twelve percent (12%) of the total number of dwelling units as affordable housing as defined by Connecticut General Statutes~~below market rate~~. All other single family subdivisions are exempt from the requirements of this regulation.

The affordable housing~~below market rate~~ requirement shall be satisfied by: providing affordable housing~~below market rate~~ dwelling units on the subject property; providing affordable housing~~below market rate~~ dwelling units elsewhere within the Town of Darien; or paying a fee in lieu; or providing some combination thereof.

~~At least half of the All~~ affordable housing ~~below market rate (BMR)~~ dwelling units shall be affordable to households with an income equal to or less than 80 percent of the State Median Income (SMI) for the State of Connecticut ~~and the remainder of the below market rate dwelling units shall be affordable to households with an income equal to or less than 110 percent of the Area Median Income for the Standard Metropolitan Statistical Area encompassing Darien. If an odd number of below market rate units is being constructed, the higher number of units shall be constructed at the 80 percent number. For example, if the requirement is to construct one BMR unit, then it shall be at the 80 percent number.~~ Household incomes are published by the United States Census Bureau and periodically updated by the U.S. Department of Housing and Urban Development (HUD). Income levels are to be adjusted for household size per HUD requirements.

588. Additional Standards

- a. On-Site: ~~Affordable Below-market-rate~~ dwelling units shall be reasonably dispersed throughout the development and shall contain, on average, the same number of bedrooms and shall be indistinguishable from market rate units with respect to the exterior finishes, including landscaping, but interiors may include standard finishes and need not be of 'luxury' quality. Those units shall be designed and located to maintain the architectural elements and character of the neighborhood.

(1) Example: Nine lot subdivision:

The total number of on-site units proposed is nine (9).

The number of ~~BMR dwelling~~ affordable units required: $9 \times 12\% = 1.08$.

~~The number of units required to be~~ All of which must be affordable to households at 80% of State Median Income: $50\% \times 1.08 = .54$.

~~The number of units required to be affordable to households at 110% of Area Median Income: $50\% \times 1.08 = .54$.~~

Since only one unit is required (the 1.08 rounds down to 1.0), ~~that unit shall be at the 80% level, and no unit is needed for the 110% level. The remaining .08 units would have to be fulfilled via fee in lieu at the 110% level standard~~

$$0.08 \times \$117,800 \underline{\$86,900} \times 225\% = \$21,204.$$

(2) Example: Nine multi-family units to be constructed:

The total number of on-site units proposed is nine (9).

The number of ~~BMR dwelling~~ affordable units required: $9 \times 12\% = 1.08$.

The number of units required to be affordable to households at 80% of State Median Income (SMI): ~~$50 \times 100\% \times 1.08 = .54$~~ $100\% \times 1.08 = .08$.

~~The number of units required to be affordable to households at 110% of Area Median Income: $50\% \times 1.08 = .54$.~~

Since only one unit is required (the 1.08 rounds down to 1.0), that unit shall be at the 80% level, ~~and no unit is needed for the 110% level.~~

The Commission could grant up to 4 additional units as a bonus (1/2 of 9 rounded down), provided that these units meet a 25% affordability standard (Section 585).

Now there are 13 units

The number of ~~BMR dwelling~~ affordable units required: $9 \times 12\% = 1.08$.

25% of the 4 bonus units will need to be affordable = 1.00.

Now, there are two required affordable units, ~~one at the 80% level, and one at the 110% level,~~ with the remainder being a fee-in-lieu calculated as:

The number of units required to be affordable to households at 80% of State Median Income: ~~$50 \times 100\% \times .08 = .04$~~ $100\% \times .08 = .08$

~~The number of units required to be affordable to households at 110% of Area Median Income: $50\% \times .08 = .04$~~

The ~~Area State~~ Median Income for a family of four is ~~$\$117,800$~~ $\$86,900$ (~~2008~~ 2014).

The cash contribution is calculated as follows:

$$0.04 \times \$117,800 \underline{\$86,900} \times 300\% = \$14,136 \underline{\$10,428}$$

$$0.04 \times \$117,800 \underline{\$86,900} \times 225\% = \$10,602 \underline{\$7,821}$$

The total fee in lieu payment is: ~~$\$24,738$~~ $\$18,249$

- b. Phasing: ~~Below-market-rate~~ Affordable dwelling units shall be developed

simultaneously with or prior to the development of the other units on a pro rata basis.

c. Deed Restrictions: In order to maintain ~~below-market-rate~~affordable dwelling units for at least forty years or the life of the unit, whichever is longer, the following restrictions shall apply:

(1) ~~Below-market-rate~~Affordable dwelling units for sale shall be restricted by title to require that, in the event of any resale by the owner or any successor, the resale price shall not exceed the then maximum sales price for said dwelling unit, as determined in accordance with Subsection 587d above or the sum of the original purchase price and the cost of any documented fixed improvements made by the owner, whichever is greater.

(2) ~~Below-market-rate~~Affordable dwelling units for rent shall be restricted by title to require that the rents for said units shall not exceed the maximum rent as determined annually in accordance with Subsection 587e above.

d. Alternative Sites: The Commission may, at its absolute discretion, approve the construction or rehabilitation of the required ~~below-market-rate~~affordable dwelling units on another site in Darien, provided that such off-site ~~below-market-rate~~affordable dwelling units shall be maintained for at least forty years or the life of the unit, whichever is longer, in the same manner as on-site units. The Commission may condition the issuance of certificates of occupancy for the development project with the completion of the off-site ~~below-market-rate~~affordable dwelling units or establish other reasonable performance conditions necessary to insure that the off-site units will be built in a timely manner.

e. Payment of a Fee: The Commission, at its absolute discretion, may require the applicant to pay a fee in lieu of constructing some, or all, of the required ~~below market-rate~~affordable housing units. Such fee shall take the form of a one time cash contribution to a Town of Darien housing trust fund, or other Commission approved non-profit or for-profit organization dedicated to ~~below-market-rate~~affordable housing initiatives. Said funds shall be paid prior to the issuance of the first Zoning Permit. Units created with such funds shall be designated as ~~below-market rate~~affordable in the same manner as required in Section 584. The cash contribution provided for each dwelling unit, or fraction thereof, shall be as follows:

(1) Units affordable to households earning 80 percent of the State Median Income (SMI) for the State of Connecticut require a cash contribution equal to 300% of the ~~Area-State~~ Area Median Income for a family of four.

~~(2) Units affordable to households earning 110 percent of the Area Median Income for the Standard Metropolitan Statistical Area encompassing Darien require a cash contribution equal to 225% of the Area Median Income for a family of four.~~

~~(3)~~(2) Example: cash contribution based on 2008-2014 data:
The total number of on-site units proposed is five (5).

The number of ~~BMR dwelling~~affordable units required: $5 \times 12\% = 0.6$.
The number of units required to be affordable to households at 80% of State Median Income: ~~50~~100% $\times 0.6 = 0.36$.
~~The number of units required to be affordable to households at 110% of Area Median Income: 50% $\times 0.6 = 0.3$.~~
The ~~Area-State~~ Median Income for a family of four is ~~\$117,800~~\$86,900 (201408).
The cash contribution is calculated as follows:
~~0.63~~ \times ~~\$117,800~~\$86,900 $\times 300\% =$ ~~\$106,020~~\$156,420
~~0.3~~ \times ~~\$117,800~~ $\times 225\% =$ ~~\$79,515~~
The total fee in lieu payment is ~~\$185,535~~\$156,420.
(Note: As of the adoption of this Regulation, the ~~2008~~2014 ~~Area~~ State Median Income data was the most recent available. As time changes, this data will change. The most recent data from HUD at the time the application is filed shall be used for this calculation).

11. Modify Section 572a to refer to the DMR Zone, when it should refer to the DCR Zone.

Explanation/Justification:

Corrects a typographical error.

Proposed Wording:

a. Utilities

To qualify for development under these ~~DMR-DCR~~ regulations, a site shall be served by public water supply and public sewerage facilities of sufficient capacity to serve the development. The applicant shall submit a statement from a licensed Professional Engineer or the utility companies certifying that such capacity exists.

12. Modify Section 577 to reference signs allowed in the DCR zone.

Explanation/Justification:

Clarifies that signs allowed in the DCR zone are those allowed in the DBR and all other Residential Zones.

Proposed Wording:

577. Design Criteria

The following required criteria on specific design elements under this Section are found in the following Subsections of Section 500 Designed Business and Residential Zone (DBR):

- A. Sec. 509 Accessory Buildings, Structures, Signs, and Uses shall apply as modified by Sec. 577 and 578 below.
- B. Sec. 511 Architectural Design shall apply
- C. Sec. 517 Application shall apply
- D. Sec. 516 General Standards and Requirements shall apply
- E. Sec. 519 Drives shall apply.

13. Section 625 Item 15 should be clarified to be Maximum Average floor area.

Explanation/Justification:

Corrects a typographical error in the DB-2 zoning table.

Proposed Wording:

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	2
9. Maximum Height in Feet	28
10. Maximum Building Coverage	Determined by FAR
11. Minimum Front Landscape Depth	30
12. Maximum Developed Site Area	70%
13. Minimum Setback from Any Residential or DOR Zone	25
14. Maximum Average Floor Area	0.40 of first 10,000 s.f. of lot area plus 0.20 of all lot area over 10,000 s.f.
Ratios	
15. Maximum Floor Area of all Dwelling Units	1,000 sq. ft. (See Note d.)

14. Modify Section 873. Eligibility for Certification to reflect updated report name and date.

Explanation/Justification:

Updates reference to document.

Proposed Wording:

873. Eligibility for Certification

To be eligible for certification, a Soil Erosion and Sediment Control Plan shall contain proper provisions to adequately control accelerated erosion and sedimentation and reduce the danger from storm water runoff on the proposed site based on the best available technology. Such principles, methods and practices necessary for certification shall be found in the "2002 Connecticut Guidelines for Soil Erosion and Sediement Control" published by the Connecticut Department of Energy and Environmental Protection. ~~Connecticut Guidelines for Soil Erosion and Sediment Control (1985)~~, as amended. Alternative principles, methods and practices may be used with prior approval of the Commission.