

**PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING / GENERAL MEETING  
NOVEMBER 26, 2013**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:  
Cameron, Cunningham, DiDonna, Voigt, Olvany, Sini Jr.

STAFF ATTENDING: Ginsberg, Keating  
RECORDER: Syat, Channel 79

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The meeting was opened at 8 P.M. The following motion was made: That the Planning & Zoning Commission meet in Executive Session to discuss pending litigation with staff and Town Counsel. The motion was made by Mr. DiDonna, seconded by Mr. Voigt and unanimously approved.

**EXECUTIVE SESSION**

During Executive Session no motions were made and no actions were taken. The Executive Session concluded at 8:40 P.M. The Commission members opened the room to the public and the public hearing portion of the meeting was commenced at 8:45 P.M.

Chairman Cameron read the following agenda item:

**PUBLIC HEARING**

**Continuation of Public Hearing regarding Coastal Site Plan Review #272-A, Land Filling & Regrading Application #273-A, Eric Richards/Estate of Beatrice Richards et. al., 121-123 Five Mile River Road.** Proposing to raze the existing residence and garage, implement the “free cut”, and construct two single-family residences and in-ground pools with associated filling/excavation and regrading work, and perform related site development activities within a regulated area. The subject property is located on the south and east side of Five Mile River Road approximately 700 feet south of its intersection with Davis Lane, and is shown on Assessor’s Map #67 as Lot #2 in the R-1/2 Zone. *PUBLIC HEARING ORIGINALLY OPENED ON OCTOBER 1, 2013.*

It was noted that this is the fifth night of public hearings regarding this matter and that a lengthy submission of materials was given to the Commission on Monday, November 25, 2013.

Barry Hammons, Professional Engineer and Land Surveyor, explained that he had been hired on behalf of the neighbors to review the application materials. He noted that he had submitted approximately 20 pages of materials on Monday. Rather than review each point, he concentrated on Item #5 and Item #4. Item #5 is the surveying point of issue. The question is whether the easterly line of the right of way of the private portion of Five Mile River Road matches the westerly boundary line of the Richards’ property. Mr. Hammons said that there is a difference of at least three feet between the two and that a three foot difference is a significant separation in modern day surveying. He said that his schematic drawing refers to a drill hole, pipes and monuments on the site and that he and the applicant’s surveyor agreed on at least one corner point at the southwest corner of the Richards property. Measured from that point, there is at least a three foot gap between the right of way and the

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Richards property. He said that at no point does the Richards property touch the right of way of the private street as is claimed by Mark Lebow, the surveyor for the applicant. Mr. Hammons said that both surveyors referred to the same old maps, that Mr. Lebow reaches a different conclusion regarding the Richards property.

With respect to Item #4 in the submitted material, Mr. Hammons explained that the lot area of the proposed Parcel 1 will be less than the required one-half acre because a portion of the lot is less than 50 feet wide and therefore does not count towards the minimum lot area. He said that the northern portion of Parcel 1 is less than 50 feet wide and in order to correct that deficiency there would need to be an adjustment of the proposed dividing line between proposed Parcels 1 and 2.

Matt Marion from the Five Mile River Road Commission noted that there is overlapping jurisdiction regarding the State and his Commission and Town Regulations. He said that the project impacts environmental issues. It is clear that the conditions of the proposed development would add stress to the River that is already stressed. This is apparent from the loss of spartina sea grasses and the reduction of the variety of fish species and the spread of algae. He said that there would be chronic impact of the development because the proposed development of the Richards property creates stresses on the River. He noted that the project involves the wide spread use of blasting and regrading and approximately 1700 truckloads of excavated material to be removed and there will be an increase in the runoff due to impervious surfaces. All of these will have direct impacts on the coastal resources and impact on the old sea walls and docks with the property.

Richard Barber of 55 Rowayton Avenue said that he lives across the River from the Richards site. He had noted a decline in the River in the past five years. He said that the Five Mile River is one of the top kayaking places in Connecticut and that the proposed development would have similar negative impacts as the previous developments have had. He noted that the noise and impact of the previous developments have affected the enjoyment of the River by residents and visitors. In this case, the proposed development includes taking off the top of the hill and it would be much like an open-pit mining operation. He urged the rejection of the application and noted that fishing in the River has declined in recent years.

Attorney John Harness represented the applicant and said that they have listened to the comments and concerns expressed by the neighbors and the Commission members. While they do not agree with all of the comments or concerns, they want to closely examine all of the issues and provide proper responses to the Commission. He said that they are withdrawing the application so that it can be re-worked and re-submitted for consideration at a future date.

Commission members noted that the application and the public hearing regarding this matter is closed and no action will be taken because the application has been withdrawn.

Chairman Cameron read the following agenda item:

**Subdivision Application #577-A, Coastal Site Plan Review #60-B, Land Filling & Regrading Application #318, DFK, LLC, 8 Cross Road.** Proposing to raze the existing residence and garage, resubdivide the existing property into two lots, and construct two new single-family residences with associated septic systems and stormwater management, and perform related site activities in a regulated area. The subject property is located on the north side of Cross Road, approximately 250

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feet east of its intersection with Tokeneke Trail, and is shown on Assessor's Map #65 as Lot #8 in the R-1 Zone.

Rob Frangione, Professional Engineer, explained that the proposed development includes the demolition of the existing house on the property and the re-subdivision of the property to create two separate parcels, each containing approximately 1.5 acres. The existing house and garage will be removed and two new residences are proposed. He said that at present, the stormwater runoff from the developed property heads in various directions, but eventually it all goes to the Tokeneke Brook, which is a tidally influenced body of water.

Mr. Frangione explained that the proposed redevelopment will result in approximately 5,200 square feet of additional impervious developed area. Stormwater runoff from proposed Parcel 4A would be managed by allowing the water to go in different directions. Roof runoff would be directed to splash pads at the rear of the house and then the water would be allowed to flow over the surface of the ground in a northerly direction as it does today. Driveway runoff would be directed into Cultec units to be located on the southwest side of the property. He said that the stormwater controls do not include a rain garden in this area because it would be large and out of character with the area.

Mr. Frangione explained that the stormwater runoff from proposed Parcel 4B would be directed into Cultec units to be located to the east of the proposed house. Driveway runoff would be directed into a rain garden that would be installed in the southeast corner of the property. He said that the stormwater runoff design is to manage water quality but would also result in a slight decrease in the peak runoff after the development compared to the current runoff conditions. He mentioned that many of the trees along the perimeter of the property would be preserved. These would include the maple trees along the street and the cherry trees in the rear of the property. He referred to the landscaping plan that was submitted during the public hearing. He said that the only coastal resources are the shorelands and a small portion of the property is within the flood hazard zone.

Mr. Frangione explained that both proposed parcels, 4A and 4B, will utilize on-site septic systems to manage waste water. He said that both properties are within the lower one-third of the water shed area, thus, the stormwater runoff design is not required to hold back runoff from a 50 year design storm, but being mindful of the potential impact on the neighbors, they are treating the water before it gets to the neighboring driveway.

In the discussion, it was noted that there is a very specific demolition procedure that needs to be followed before the existing house can be torn down. Since Cross Road is a private street, they will also need to obtain approval from the Tokeneke Association for the new driveway locations and curb cuts. In response to a question, Mr. Frangione said the drainage heading in the easterly direction will include approximately 3,700 square feet of new/additional increased impervious area. In response to another question, he said that it is possible that they could use pervious asphalt but he said it is not easy to find manufacturers and installers of that material. He said that some ledge material would need to be removed as part of the house construction. With respect to the drainage on proposed Parcel 4B, it was noted that stormwater runoff from the driveway would need to be channeled around the rock outcrops/ledge and into the rain garden. The rain garden is proposed to be just uphill of the driveway on the neighboring property and is close to ledge as shown on the map. Mr. Frangione said that soil testing in the area indicates that the area of the proposed rain garden is a sandy soil type of material.

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Ms. Cameron said that she is unhappy about the extent of the tree removal for the proposed development. Drawing S4 shows the trees to be removed. Mr. Frangione said that it also shows all the trees to be preserved around the perimeter of the site. Ms. Cameron questioned if the trees being saved are Norway Maples, which are an invasive species. She noted that if it is healthy, the Chestnut tree was a tree worthy of being saved.

Mr. Ginsberg read aloud the comments from Kristal Kallenberg of the Connecticut Department of Energy & Environmental Protection as noted in her e-mail of November 18, 2013. She finds no conflicts between the Coastal Area Management legislation and the proposed development. Mr. Ginsberg noted that the rain garden plan does not include any details about specific plants to be utilized. He also noted that the flood zone lines need to match the contour line of elevation 13. Some of the proposed development would therefore be within the flood hazard zone but no Flood Damage Prevention permit application has been submitted. Mr. Frangione said that the Cultec units shown in the area that could become designated as a flood zone could be moved out of that area and he noted that they are underground and therefore would be below the flood level where ever they are placed.

Mr. Ginsberg said that the Assistant Director of Public Works needs the applicant to use the fresh meadow approach for the stormwater drainage calculations because that is what is applicable when the existing house is removed and new construction is proposed.

Ms. Cameron noted that the landscape plan is not done by a landscape architect. Mr. Frangione indicated that the landscape plan is submitted as schematic only. He also noted that approximately three foot depth of ledge needs to be blasted on proposed Parcel 4B.

Mr. DiDonna noted that a white split rail fence has been located on this site for many years because many cars have skidded off the road in the winter time in the vicinity of this lot.

Ms. Cameron suggested that the Commission continue the public hearing so that the applicant can come back with more detailed information about the removal of the ledge and a more realistic landscape plan and more details about the rain garden area. It was also noted that the applicant needs to correct the numbers on the zoning chart, and prepare a specific impervious surface estimation.

There were no comments from the public regarding the application. The Commission could continue the public hearing on January 7 or January 14, 2014. Mr. Ginsberg noted that in order to continue the hearing on January 14, the applicant would need to consent to an extension of the time period to conclude the public hearing. Mr. Frangione consented to the extension. The Commission agreed to continue the public hearing on January 14, 2014 at 8 P.M. in Room 206 of Darien Town Hall. The hearing regarding this matter was recessed.

Chairman Cameron read the following agenda item:

**Coastal Site Plan Review #116-A, Flood Damage Prevention Application #104-A, Land Filling & Regrading Application #317, Joseph & Amy Gold, 17 Tokeneke Trail.** Proposing to construct seat walls, a fire pit, and landscape areas, and perform related site activities in regulated areas. The subject property is located on the south side of Tokeneke Trail approximately 1600 feet south of its intersection with Homewood Lane, and is shown on Assessor's Map #69 as Lot #36 in the R-1 Zone.

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Rob Frangione, Professional Engineer, represented the applicant and explained that landscaping and masonry structures are proposed to be built within the regulated coastal area and flood hazard area. Landscape design was performed by Tara Vincentes a landscape architect. Photographs of the existing site conditions were reviewed.

Tara Vincentes explained that part of the work involves a vegetable garden near the driveway and a spiral terrace feature to the south of the existing house. She said that the design has been integrated into the rock outcroppings and the high area of the outside terrace will be a fire pit/sitting area. She explained that some of the work also involves removing some of the exotic plants that have been planted by previous owners over the years and replacing those with native plants that are more suitable for the site conditions. She said that the wide steps of the design will have gravel surfaces. It was noted that construction access will be on the northeast side of the house and that a small mini excavator would be used rather than a standard size, larger excavator. She explained that the spiral design starts at the high center point of the outside sitting area and then gets lower as it goes down and out. She said that there would be very little change to the grade because the design has incorporated the existing topography of the property.

There were no comments from the public regarding the application. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this agenda item. The motion was made by Mr. Voigt, seconded by Mr. DiDonna and unanimously approved.

Chairman Cameron read the following agenda item:

**Coastal Site Plan Review #296, Flood Damage Prevention Application #336, James & Elizabeth Lee, 23 Contentment Island Road.** Proposing to construct a two-story detached garage with associated septic system and stormwater management, and perform related site development activities within regulated areas. The subject property is located on the east side of Contentment Island Road, approximately 450 feet northeast of its intersection with Shennamere Road, and is shown on Assessor's Map #67 as Lot #58 in the R-1 Zone.

Doug DiVesta, Professional Engineer, represented the property owner and explained that the property contains approximately 2.9 acres of land and has access to the beach and Long Island Sound. There are several driveways into the site and much of the property is manicured lawn. The proposed site work includes: a new detached two-story garage that would be able to accommodate four cars on the lower level and has finished living space on the upper floor; a new septic system; and a new covered porch over a terrace on the northeast corner of the existing house. The existing flood zone near the house is elevation 13. The proposed garage would be at elevation 17 and the elevation of the terrace and porch at the back of the house would be at 17.5. Roof runoff from the proposed garage will be directed into Cultec units that will allow water to dissipate into the ground rather than being shed directly into Long Island Sound. Mr. DiVesta explained that the septic system has been designed to handle the four bedrooms in the house plus the detached garage structure. The garage structure will not be an apartment nor will it contain any kitchen or cooking facilities but the Darien Health Department requires that the septic system be designed as if it were another bedroom. He said that the Darien Health Department has approved the design in concept but the applicant still needs to get approval from the Connecticut Department of Health.

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In response to a question, Mr. DiVesta said that all of the driveways are considered to be paved impervious surface because they are paved with asphalt and then covered with gravel stones. Although they look like they might be pervious, for drainage calculation purposes they are considered impervious.

Mr. Ginsberg read aloud the comments from the Department of Energy & Environmental Protection (DEEP) as noted in their November 12, 2013 correspondence. The DEEP finds no inconsistencies between the proposed development and the Coastal Area Management Act.

There are no comments from the public regarding the application. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this agenda item. The motion was made by Mr. Voigt, seconded by Mr. Olvany and unanimously approved.

At approximately 9:40 P.M., Chairman Cameron opened the General meeting and read the following agenda item:

**GENERAL MEETING**

**Mandatory Referral #6-2013, Darien Sewer Commission, Andrews Drive.**

Request for report regarding acquisition of land off of Andrews Drive on which a sewage pump station now exists.

The Commission members reviewed the one-page draft report regarding the acquisition of the sewer pump station on Andrews Drive. The following motion was made: That the Planning & Zoning Commission adopt the report as submitted. The motion was made by Mr. Olvany, seconded by Mr. DiDonna and unanimously approved.

Chairman Cameron read the following agenda item:

**Modification of Special Permit Application #117-E/Site Plan, Land Filling & Regrading Application #314, Noroton Presbyterian Church, 2011 Boston Post Road and 2075 Boston Post Road and 25 Noroton Avenue.** Request to modify plans approved on November 12, 2013.

Attorney Bruce Hill and Brian Smalley, Chairman of the Building Committee, explained that the plans have been revised slightly regarding the building façade design. The revised façade design on the south side (rear portion) of the building has been modified to closely resemble the proposed façade on the north side of the building (facing the Boston Post Road). The revised plans have been reviewed and approved by the Architectural Review Board.

The following motion was made: That the Planning & Zoning Commission approve the requested modification of the approval regarding the building façade and the slight expansion of the building on the Noroton Avenue side. The motion was made by Mr. DiDonna and seconded by Mr. Olvany. All voted in favor except Mr. Voigt who abstained. The motion passed by a vote of 5-0-1.

Chairman Cameron read the following agenda item:

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**Modification of Flood Damage Prevention Application #320, Tim Malay, 20 Plymouth Road.**

Request to pave driveway, which was previously approved by the Commission on November 12, 2013 to be gravel.

Commission members discussed the revised plans to pave a small portion of the existing driveway. It was noted that the applicant has received approval from the Noroton Bay Homeowners Association to eliminate the small portion of the driveway adjacent to Plymouth Road. Ms. Cameron questioned the water quality issue for a small project of this size. Mr. Ginsberg said that infiltrators located along the north and west side of the house will manage stormwater runoff from the building but not from the driveway. After further discussion, the following motion was made: That the Planning & Zoning Commission approve the requested modification of the site plan for the project at 20 Plymouth Road in accordance with the submitted materials. The motion was made by Mr. Sini, seconded by Mr. DiDonna and unanimously approved.

The following motion was made: That the Planning & Zoning Commission waive the process of reading the draft resolution aloud because each member has had an opportunity to review the draft prior to the meeting. The motion was made by Mr. Cunningham, seconded by Mr. Olvany and unanimously approved. Chairman Cameron read the following agenda item:

*Discussion, deliberation and possible decisions on the following:*

**Proposed Amendments to the Zoning Regulations (COZR #3-2013) put forth by the Darien Planning & Zoning Commission** as outlined in a June 17, 2013 memo from Jeremy Ginsberg. These proposed changes include: Amendments related to Personal Service Businesses: Modify Section 210—Definition of Commercial Sales and Service; Add subsections 604d, 614g, 634g, 654f, and 684j., to specifically call out Personal Service Business as a Special Permit use in certain zones.

Other proposed changes are amendments recommended by the Zoning Board of Appeals (ZBA): 1. Modify Section 210 (Definition of Building Coverage) by noting that 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. Delete subsection 416h. Modify subsection 351 (Porches) to better reflect current policy of acceptable size covered front porches which would be exempt from setbacks or subject to reduced setbacks. Modify subsection 354 (Stairs and Ramps) to better reflect current policy of acceptable size entry stairs which would be exempt from setbacks or subject to reduced setbacks. Modify subsection 1126b (General Rules of the Zoning Board of Appeals) regarding submitted application materials. Modify subsection 1126e (General Rules of the Zoning Board of Appeals) regarding reapplications to the ZBA. Modify subsection 1127 (Notification-ZBA) to have proof of mailing submitted one week prior to the public hearing.

Other proposed changes are amendments recommended by the Architectural Review Board (ARB): Modify subsections 923.1b, c, and d, regarding wall signs in the CBD, DC, and NB Zones; Modify subsection 923.2b regarding hanging signs in the CBD, DC, and NB Zones; Modify subsection 923.5 Prohibited Signs in the in the CBD, DC, and NB Zones; Modify subsection 925.2b, regarding wall signs in the OB, DOR-1 and DOR-5 Zones; Modify subsection 926.1, regarding wall signs in the SB and SB-E Zones.

Commission members discussed the various amendments to the Regulations. It was noted that the language regarding the exception for a roof over an entrance doorway needs to be slightly modified to

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be more clear. All Commission members agreed to the modification of the language. After further discussion, the following motion was made: That the Planning & Zoning Commission adopt the following resolution to amend the Regulations as noted. The motion was made by Mr. Olvany, seconded by DiDonna and all voted in favor except Mr. Sini who abstained because he had not been a member of the Commission for the public hearing regarding this matter.

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
November 26, 2013**

Application Number: Proposed Amendments to Zoning Regulations (COZR #4-2013)

Application Put Forth by: the Darien Planning & Zoning Commission

Name and Address of Applicant &: Darien Planning & Zoning Commission  
Applicant's Representative: c/o 2 Renshaw Road—Town Hall  
Darien, CT 06820

Activity Being Applied For: Proposed zoning regulation amendments include: Amendments related to Personal Service Businesses: Modify Section 210—Definition of Commercial Sales and Service; Add subsections 604d, 614g, 634g, 654f, and 684j., to specifically call out Personal Service Business as a Special Permit use in certain zones.

Other proposed changes are amendments recommended by the Zoning Board of Appeals (ZBA): 1. Modify Section 210 (Definition of Building Coverage) by noting that 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. Delete subsection 416h. Modify subsection 351 (Porches) to better reflect current policy of acceptable size covered front porches which would be exempt from setbacks or subject to reduced setbacks. Modify subsection 354 (Stairs and Ramps) to better reflect current policy of acceptable size entry stairs which would be exempt from setbacks or subject to reduced setbacks. Modify subsection 1126b (General Rules of the Zoning Board of Appeals) regarding submitted application materials. Modify subsection 1126e (General Rules of the Zoning Board of Appeals) regarding reapplications to the ZBA. Modify subsection 1127 (Notification-ZBA) to have proof of mailing submitted one week prior to the public hearing.

Other proposed changes are amendments recommended by the Architectural Review Board (ARB): Modify subsections 923.1b, c, and d, regarding wall signs in the CBD, DC, and NB Zones; Modify subsection 923.2b regarding hanging signs in the CBD, DC, and NB Zones; Modify subsection 923.5 Prohibited Signs in the in the CBD, DC, and NB Zones; Modify subsection 925.2b, regarding wall signs in the OB, DOR-1 and DOR-5 Zones; Modify subsection 926.1, regarding wall signs in the SB and SB-E Zones.

Property is located at: These regulation amendments would apply to all properties within the Town of Darien.

Date of Public Hearings: July 30, 2013 continued to September 17, 2013 and October 15, 2013

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Time and Place of Public Hearings: 8:00 P.M. Rooms 206 and 119 Town Hall

Publication of Hearing Notices

Dates: July 19 & 26, 2013

Newspaper: Darien News

Date of Action: November 26, 2013

Action: ADOPTED

THESE REGULATION AMENDMENTS WILL TAKE EFFECT ON  
SUNDAY, DECEMBER 29, 2013 AT TWELVE NOON.

Scheduled Date of Publication of Action:

December 6, 2013

Newspaper: Darien News

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

1. The public hearing on this matter was opened on July 30, 2013 and immediately continued to September 17, 2013. At the September 17, 2013 meeting, the matter was again continued without taking testimony until October 15, 2013.
2. At the October 15, 2013 public hearing, Planning and Zoning Director Jeremy Ginsberg explained the proposed Regulation amendments put forth by the Commission. He noted that they fall into three general categories, which include recommendations from the Zoning Board of Appeals (ZBA) and the Architectural Review Board (ARB).
3. Commission members noted that a personal service use consists of doing something directly for a consumer, but not having a tangible product, or selling retail products as an accessory nature to the personal service. Such uses include, but are not limited to: barbershop, nail salon, yoga studio, or dry cleaner. Training sessions for individuals or very small groups in yoga or other matters are different than having classes where one or two instructors would be taking care of many clients at the same time. The Commission believes that personal services should no longer be considered the same as commercial sales and services uses, and the distinction should be made more clear. Personal service uses are certainly appropriate within most commercial zones, but would need a Special Permit, rather than being allowed by right. This would allow for Commission review based upon the specific circumstances, such as ensuring that parking is specific for the proposed personal service use.
4. Commission members then discussed the definition of Building Coverage. Recent amendments to the Regulations regarding the Noroton Bay residential neighborhood (R-NBD) which went into effect in April 2013, allow the first six inches of eave or overhang not to count towards building coverage and allow no more than 20 square feet of roof area covering an entrance doorway not to count towards Building Coverage. The Commission agreed that it would be appropriate and consistent to extend those provisions to the rest of the residential zones in Darien.

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5. The Commission notes that on November 12, 2013, they adopted an amendment to the definition of Building Coverage as put forth by the Tokeneke Club. That change is noted herein, and has no effect on the change put forth by the Commission.
6. With respect to the Regulations concerning porches, stairs and ramps, the sentences within the exceptions listed in Section 351 need to be rearranged to make it more clear, and to better clarify long-time policy within the Department. These changes are recommended by the ZBA.
7. The Zoning Board of Appeals (ZBA) recommendation includes the desire to be given authority to waive some of the requirements based on the individual applications which vary with respect to type and complexity. It should also be made clear that an updated survey map must be no more than 18 months old. Also, application to the Zoning Board of Appeals would be allowed within not less than six months, in order to comply with the State Statutes.
8. As noted at the public hearing, there were also suggestions/recommendations put forth to the Planning and Zoning Commission by the Architectural Review Board. These would allow somewhat larger sign letters in certain circumstances. The Planning and Zoning Commission finds that these are appropriate amendments.
9. There were no comments from the public regarding the proposed amendments to the Zoning Regulations.
10. The Commission finds that the all of the proposed amendments are consistent with the 2006 Town Plan of Conservation & Development, as amended.

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NOW THEREFORE BE IT RESOLVED that ***Proposed Amendments of the Darien Zoning Regulations*** regarding modifications to subsections is hereby ADOPTED WITH AN EFFECTIVE DATE OF SUNDAY, DECEMBER 29, 2013 AT TWELVE NOON. The Commission hereby adopts all of the proposals put forth in the June 17, 2013 memorandum from Jeremy Ginsberg, Planning & Zoning Director. The only caveat is that in the intervening period, a modification to the definition of Building Coverage in Section 210 has been adopted, and thus, the change as noted herein, will include that amendment.

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

- A. Amendments related to Personal Service Businesses:
  1. Modify Section 210—Definition of Commercial Sales and Service
  2. Add subsections 604d., 614g., 634g., 654f., and 684j., to specifically call out Personal Service Business as a Special Permit use in certain zones. Currently, it is considered part of Commercial Sales and Service, and is a Permitted Principal Use (as-of-right) in some zones, and a Special Permit use in others. It would become solely a Special Permit use—and only allowed in five zones.

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B. Amendments recommended by the Zoning Board of Appeals (ZBA):

1. Modify Section 210 (Definition of Building Coverage) by noting that 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.  
Delete subsection 416h, which exempts these in the R-NBD zone. Because if the change in Building Coverage is adopted, that change would take place in all zones, and thus, 416h would be superfluous.
2. Modify subsection 351 (Porches) to better reflect current policy of acceptable size covered front porches which would be exempt from setbacks or subject to reduced setbacks.
3. Modify subsection 354 (Stairs and Ramps) to better reflect current policy of acceptable size entry stairs which would be exempt from setbacks or subject to reduced setbacks.
4. Modify subsection 1126b (General Rules of the Zoning Board of Appeals) regarding submitted application materials.
5. Modify subsection 1126e (General Rules of the Zoning Board of Appeals) regarding reapplications to the ZBA.
6. Modify subsection 1127 (Notification) to have proof of mailing submitted one week prior to the public hearing.

C. Amendments recommended by the Architectural Review Board (ARB):

1. Modify subsections 923.1b, c, and d, regarding wall signs in the CBD, DC, and NB Zones.
2. Modify subsection 923.2b regarding hanging signs in the CBD, DC, and NB Zones.
3. Modify subsection 923.5 Prohibited Signs in the in the CBD, DC, and NB Zones.
4. Modify subsection 925.2b, regarding wall signs in the OB, DOR-1 and DOR-5 Zones.
5. Modify subsection 926.1, regarding wall signs in the SB and SB-E Zones.

The following are the Regulations as they should appear after the proposed amendments go into effect. The proposed amendments with the redlined format were included in the June 17, 2013 memo from Jeremy Ginsberg.

A. Amendments related to Personal Service Businesses.

1. Modify the definition of Commercial Sales and Service in Section 210:

Commercial Sales and Service: A business or use where products or services are sold or dispensed at retail, wholesale or any other medium or mechanism of trade. For purposes of these regulations, the addition of the terms "internal" or "external" further qualifies this term. This also includes Financial Service uses. Other uses defined in this Section 210 shall not be considered part of this definition.

2. Specifically note that Personal Service Business, which is now allowed as-of-right as a Permitted Principal Use in the NB, CBD, DC zones, and by Special Permit in the DB-1 and NHR Zones; would be allowed by Special Permit only, in those five zones.

Add the following subsections to the Regulations, which would specifically list Personal Service Businesses as uses allowed by Special Permit within five commercial zones.

604d. Personal Service Businesses.

614g. Personal Service Businesses.

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634g. Personal Service Businesses.

654f. Personal Service Businesses.

684j. Personal Service Businesses.

*B. Proposed amendments recommended by the Zoning Board of Appeals (ZBA), as noted in their memo to the Planning and Zoning Commission February 6, 2013.*

*1. Note that the modification to the definition of Building Coverage in section 210 accounts for the recent amendment adopted by the Commission regarding tennis courts.*

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.)

*2. Delete subsection 416h.*

~~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.~~

*3. Modify subsection 351 (Porches)*

*To better clarify existing policy.*

351. Porches

Any porch, whether enclosed or unenclosed, shall be considered a part of the building in the determination of the size of yard or amount of lot coverage. (See Subsection 223 for illustration.) A roof over entrance doorways (which is no more than five feet wide, one story, open on the sides with a simple roofline) shall not extend more than three feet into any required yard.

*4. Modify subsection 354 (Stairs and Ramps)*

*To better clarify existing policy.*

354. Stairs and Ramps

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Entry stairs, fire escapes and access ramps for the handicapped (which are no more than seven feet wide and have a landing of no more than 4' x 4') shall not extend more than three feet into any required yard and shall not be closer than four feet at any point to any lot line.

5. Modify subsection 1126b (General Rules of the Zoning Board of Appeals)

1126. General Rules

- b. Applications or appeals to the ZBA shall be made on the form furnished by the ZBA and shall be accompanied by updated survey plans, building plans, materials, and other information as determined by the ZBA.

6. Modify subsection 1126e (General Rules of the Zoning Board of Appeals)  
*This would make the Regulations consistent with the State Statute.*

- e. Applications denied shall not be heard by the ZBA again until six (6) months after the denial or until the circumstances of the application have substantially changed.

7. Modify subsection 1127 (Notification)

*This would include the same requirement that proof of mailing be submitted to the P&Z Department at least one week prior to the public hearing, as Section 1040 (the Notification section used by the Planning & Zoning Commission).*

1127. Notification

Not less than ten (10) days nor more than twenty (20) days prior to the applicant's scheduled public hearing, the applicant, or his legal representative, shall mail notification of his application, including paragraph "K" of the text of the application and the scheduled date, time and place of the hearing, to the owners of each parcel or property within 100 feet of the perimeter of the subject property. This would include the owner of each condominium if any portion of subject property is within 100 feet or less of the condominium association property.

The owners and their addresses shall be determined from the latest real estate list of the Town in the Tax Assessor's Office. At least one week prior to the public hearing, the applicant, or his legal representative, shall submit evidence of the required mailing in the form of date stamped U. S. Postal Service Certificates of Mailing, a list showing the names and addresses of the owners of all such properties, and a copy of the notification (including attachments) which was mailed.

C. Changes to sign regulations as recommended by the Architectural Review Board (ARB)

1. Modify subsection 923.1b, c, and d, regarding wall signs in the CBD, DC, and NB Zones.

923.1. Wall Signs (See Subsection 230 for illustration.)

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Wall signs shall conform to the following standards:

- a. No wall sign shall project more than 12 inches from the face of the building wall to which it is attached nor extend above the eaves line or highest point of the facing wall of the building. In cases of covered porch or walkway, a wall sign may be hung from an overhang.
- b. No letter, figure, logo, or symbol on a wall sign shall be higher than 10 inches, except that the ARB may, by 2/3 majority of those voting, allow one or two letters, figures, logo or symbols to be up to 15 inches tall if that is part of the business name, trademark or logo. The maximum sign area shall not exceed one square foot of signage for each three feet of front building face parallel to the street lot line.
- c. There may be only one wall sign for a commercial occupancy but an additional wall sign may be permitted on either a side or rear wall only if such wall abuts a street.
- d. No sign on a wall shall be more than 15 feet above the curb level or the ground level, whichever is higher, of the fronting street, and there shall be a minimum clearance of three feet between the base of the sign and the ground.

2. Modify subsection 923.2b regarding hanging signs in the CBD, DC, and NB Zones.

923.2. Hanging Signs (See Subsection 230 for illustration.)

Hanging signs shall conform to the following standards:

- a. Hanging signs shall be permitted provided they are located at least four feet from any property line.
- b. No letter, figure, logo, or symbol on a hanging sign shall be higher than six inches, except that the ARB may, by 2/3 majority of those voting, allow one or two letters, figures, logo or symbols to be up to 15 inches tall if that is part of the business name, trademark or logo.
- c. There may only be one hanging sign per property. Multiple occupancy buildings may use one combined hanging sign listing occupants.
- d. The maximum total square footage of a hanging sign shall not exceed six square feet.

3. Modify subsection 923.5 Prohibited Signs in the in the CBD, DC, and NB Zones.

923.5. Prohibited Signs

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Pole, roof, and internally illuminated signs are prohibited in these zones, except that the ARB may, by 2/3 majority of those voting, allow internal illumination of a wall sign using channel style lighting (where only the letter or figure is internally illuminated and the background is not illuminated) or back-lighting with light fixtures that are within the letter and shine only toward the background wall.

4. Modify subsection 925.2b regarding wall signs in the OB, DOR-1 and DOR-5 Zones.

925.2. Wall Signs

- a. No wall sign shall project more than 12 inches from the face of the building wall to which it is attached nor extend above the eaves lines or highest point of the facing wall of the building.
- b. No letter, figure, logo, or symbol on a wall sign shall be higher than ten inches, except that the ARB may, by 2/3 majority of those voting, allow one or two letters, figures, logo or symbols to be up to 15 inches tall if that is part of the business name, trademark or logo.
- c. Multiple occupancy buildings may have one combined wall sign listing all occupants.

5. Modify subsection 926.1, regarding wall signs in the SB and SB-E Zones.

926. Signs in Service Business and Service Business East Zones

926.1. Wall Signs

All the requirements of Subsection 923.1(a-d). Wall signs shall not be internally illuminated, except that the ARB may, by 2/3 majority of those voting, allow internal illumination of a wall sign using channel style lighting (where only the letter or figure is internally illuminated and the background is not illuminated) or back-lighting with light fixtures that are within the letter and shine only toward the background wall.

Chairman Cameron then read the following agenda item:

**Approval of Minutes**

October 8, 2013

Public Hearing/General Meeting

Several corrections were discussed and agreed upon. The following motion was made: That the Planning & Zoning Commission adopt the corrected minutes. The motion was made by Mr. Olvany and seconded by Mr. DiDonna. All voted in favor except Mr. Sini who abstained. The corrected minutes were adopted by a vote of 5-0-1.

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*October 22, 2013 Public Hearing/General Meeting*

Several corrections and clarifications were discussed and agreed upon. The following motion was made: That the Planning & Zoning Commission adopt the corrected minutes. The motion was made by Mr. Voigt and seconded by Mr. Olvany. All voted in favor except Mr. Sini and Mr. Cunningham who both abstained. The corrected minutes passed by a vote of 4-0-2.

**Any Other Business (Requires two-thirds vote of Commission)**

The following motion was made: That the Planning & Zoning Commission discuss a training session in 2014 under "Other Business". The motion was made by Mr. Olvany, seconded by Mr. DiDonna and unanimously approved. It was noted that a training session will be conducted on March 13, 2014 regarding the Freedom of Information statutes. This training session is available to all Board/Commission/Committee members. Commission members agreed that it was important that members attend if possible.

The next meeting of the Commission is scheduled for January 7, 2014.

There being no further business the following motion was made: That the Planning & Zoning Commission adjourn the meeting. The motion was made by Mr. Voigt, seconded by Mr. Olvany and unanimously approved. The meeting was adjourned at 10:13 P.M.

Respectfully submitted,

David J. Keating  
Assistant Planning & Zoning Director