

**PLANNING AND ZONING COMMISSION**  
**ADOPTED RESOLUTION**  
**May 24, 2016**

Application Number: Amendment to the Darien Zoning Regulations  
put forth by Darien ALF Property, LLC/Maplewood Darien, 599 Boston  
Post Road (COZR #9-2016)

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

Name and Address of Applicant & Amy Zabetakis, Esq.  
Applicant's Representative: 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 907 of the Zoning Regulations regarding the setback and location requirements for subsurface parking structures. The amendment proposes that subsurface parking levels shall not constitute stories for purposes of calculating building height, and allows for underground parking structures to extend into minimum yard setbacks.

Zone: DB-2

Date of Public Hearing: May 3, 2016 immediately continued to May 5, 2016  
Deliberations held on: May 10, 2016

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

Publication of Hearing Notices  
Dates: April 22 & 29, 2016

Newspaper: Darien News

Date of Action: May 24, 2016

Action: ADOPTED WITH MODIFICATIONS  
WITH AN EFFECTIVE DATE OF SUNDAY,  
JUNE 19, 2016 AT 12:05 P.M.

Scheduled Date of Publication of Action:  
June 3, 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.

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

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PROPOSED AMENDMENTS TO THE DARIEN ZONING REGULATIONS  
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1. At the public hearing, it was noted that the proposal is to amend Section 907 of the Zoning Regulations regarding the setback and location requirements for subsurface parking structures. The amendment proposes that 1) subsurface parking levels shall not constitute stories for purposes of calculating building height; and 2) subsurface parking structures would not need to comply with building setbacks. To quote the applicant *“This revision provides for subsurface parking under buildings, landscaped areas and surface parking, without being counted as stories, and allows subsurface parking structures to be located within minimum yard areas, provided they do not encroach into abutting properties or rights of way.”*
2. The applicant’s proposal is very similar to a portion of that proposed as part of COZR #6-2016. That proposal relates to amendments in the Noroton Heights Business area (Section 680 of the Regulations), as well as changes to Sections 905 and 907 of the Regulations. That public hearing is still pending.
3. One of the proposed changes to Section 907 is to the sentence that reads: “The Commission shall require the submission of a sketch plan which clearly compares alternative proposals for surface parking and a parking structure including landscaping or other screening.” The Commission finds that changing “shall” to “may” puts the onus on the Commission to decide whether to require the submission. Leaving the wording as “shall” requires the applicants to provide the sketch plan in all instances.

#### PARKING

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. At the public hearing, it was discussed that no part of a parking structure serving a commercial use can extend into a residential zone. That provision has been added into the new wording of the Regulations.
5. 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.

#### CONCLUSIONS AND FINDINGS

6. The application was referred to the Western Connecticut Council of Governments (WestCOG). They responded on April 13, 2016 stating as follows: “The opinion of WestCOG staff is that the proposal is of local concern, but with minimal intermunicipal impact. Therefore it is not being forwarded to adjacent municipalities and the regional staff is making no comment.”
7. 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.

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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.

8. The Commission hereby confirms 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 #9-2016), is hereby adopted subject to the foregoing and following modifications and understandings:

NEW WORDING UNDERLINED, DELETIONS IN STRIKEOUT:  
Changes to Section 907 of the Regulations

***PROPOSED AMENDMENT TO SECTION 907:***

907. Parking Structures

Parking structures (whether above or below ground; or understructure) shall be permitted in appropriate situations subject to approval of a Special Permit per Section 1000 et. seq., provided it is located below the finished elevation of surface parking or landscaped areas, or provided that the Commission makes an affirmative finding that, due to the location and/or design of the proposed use, no neighboring property will be adversely impacted by such parking structure. Any such parking structure shall be fully enclosed by or attached to a principal structure, and shall be limited to one story above the finished elevation of surface parking. In addition, appropriate measures shall be taken to minimize the street level view of such above ground, below ground, subgrade or understructure parking. The Commission ~~shall~~may require the submission of a sketch plan which clearly compares alternative proposals for surface parking and a parking structure including landscaping or other screening.

The above-grade portion of aAny parking structure approved under this section shall be subject to the setback requirements of the principal structure. The subsurface portion of a parking structure may be located within a minimum yard, provided that no portion of the structure shall encroach into an abutting property or right of way or adversely impact the root structure or root system of plantings on neighboring properties. Subsurface parking levels shall not constitute stories for purposes of calculating building height. The design of any parking structure must architecturally blend in with surrounding design aspects and not delineate itself as a parking structure. No part of a parking structure or access thereto, serving a commercial use, can extend into a residential zone, or the buffer associated with such.