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RTM Mtg

MEMORANDUM

TO: Representative Town Meeting Members  
Cc: J. Wayne Fox, Esq.  
Donna Rajczewski, Town Clerk

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

RE: Proposal to Modify Land Use Board Application Fees and Zoning Permit Fees

DATE: February 4, 2016

EXECUTIVE SUMMARY

The Planning and Zoning Department re-evaluates the existing fee structures for the land use boards for which it provides staff support. These are the Planning and Zoning Commission; Architectural Review Board; Zoning Board of Appeals; and the Environmental Protection Commission. The Department reviews what is charged for Zoning Permits, which are the precursor to Building Permits. At this time, the Department recommends an increase in both land use board application fees and Zoning Permit fees.

Background

When preparing the annual budget, the Board of Selectmen asks that Department heads review revenues and fees, to ensure they are appropriate. As part of that review, consideration was given as to application and permit complexity and review time. It was determined that an increase for both the land use board application fees, and the Zoning Permit application fees would be appropriate.

This memo puts forth a proposal to amend both the land use application fees and Zoning Permit fee, to better reflect the time and effort and Town out-of-pocket costs to process. For example, in certain circumstances, the State Statutes require that mailings to applicants are sent certified mail, return receipt requested; legal notices be published twice in a local paper prior to a public hearing and once after a public hearing; and a court stenographer is present and record the proceedings for applications which may be appealed. All of these are out-of-pocket costs. Staff time spent processing applications is also a consideration.

APPLICABLE STATE STATUTE/LOCAL ORDINANCE

State Statute 8-1c requires that these fees be approved by ordinance, which means the schedule of fees must be adopted by the RTM.

*Sec. 8-1c. Fees for municipal land use applications. Any municipality may, by ordinance, establish a schedule of reasonable fees for the processing of applications by a municipal zoning commission, planning commission, combined planning and zoning commission, zoning board of appeals or inland wetlands commission. Such schedule shall supersede any specific fees set forth in the general statutes, or any special act or established by a planning commission under section 8-26.*

Locally, Section 54-22 of the Town Code of Ordinances reads as follows:

**Sec. 54-22. - Schedule of fees.**

*The RTM shall establish and maintain a schedule of reasonable fees for the processing of applications, by the planning and zoning commission, the zoning board of appeals, the environmental protection commission and the architectural review board. Such schedule shall supersede any specific fees set forth in the general statutes, or by any special act, or as established by a planning commission under*

*C.G.S. 8-26. These land use boards are hereby authorized to implement said application fee schedule for the processing of applications and are authorized to include and refer to said schedule of fees in their respective regulations as those land use boards deem necessary.*

### **PURPOSE**

The goal of this proposal is to ensure that fees are appropriate to cover both the out-of-pocket costs of the Department (mailings/postage, etc), as well as generally reflect the staff time involved in processing such an application/permit.

### **SUPPORTING DOCUMENTATION/BACKGROUND**

The last time fees were updated by the RTM was in 2011, about five years ago.

Our office has evaluated the fees, and updated them to reflect the work associated in our office with processing each type of permit or application. The last three pages of this memo shows that the in some cases, there are small increases proposed, while in other cases, such as ZBA application fees, larger increases are proposed to reflect the fact that more staff time is needed relative to that specific permit or application.

If the RTM does find these fee increases to be appropriate, the Department asks that the effective date of the increase be April 24, 2016, which would give our office time to publish a legal notice; change all of the existing Zoning Regulation books and other documentation in our office which notes the fees; change our computer software; and post the changes to the Town web site.

### **Past Fee Increases**

The RTM last reviewed and increased the schedule of land use fees in 2011.

### **State “surcharge”/fee on each application**

Per Connecticut General Statutes Section 22a-27j, the State of Connecticut requires that a surcharge or fee be added to each land use application. The last increase in this State portion of application fees was in October 2009. It increased from \$30 to \$60, as noted below:

#### **History of State fee increases:**

- Prior to 2003--\$10 (municipalities keep \$1 of the \$10)
- Effective August 20, 2003--\$20 (municipalities keep \$1 of the \$20)
- Effective July 1, 2004--\$30 (municipalities keep \$2 of the \$30)
- Effective October 1, 2009--\$60 (municipalities keep \$2 of the \$60)

We have specifically called out that fee separately, so that if/when it increases in the future, the application fee would increase automatically to reflect that change.

### **Description of proposed amendments**

As part of the analysis for this proposal, we reviewed the costs for processing applications including out-of-pocket costs. Also, the fee structures and rates in other communities were reviewed. This review assured the Department that Darien was “generally in line” with other communities.

- All of the *Planning and Zoning Commission* application fees are proposed to increase. The larger increases proposed reflect the need to update a set of zoning regulations, zoning map, or Town Plan document as a result of an approved application.

- The *Architectural Review Board* fees are proposed to increase from \$30/sign to \$50/sign. The current rates correlate well to the work to process applications. There are no out-of-pocket costs required for processing these types of applications.
- The *Zoning Board of Appeals* fee for a variance or appeal application is proposed to increase from \$360 to \$510. The costs of processing these types of applications, including staff time, the required legal notices/advertising, and required stenographer and certified mailings justifies the increase in the application fee. The cost for filing the required variance in the Darien Land Records per CGS 8-7 is included in the application fee.
- The *Environmental Protection Commission (EPC)* application fees are proposed to be amended. The first change is to establish a specific fee for a wetland regulation amendment. While such an application is rare, it is important to specifically establish the fee for that. The proposal also eliminates the site inspection fee, since nearly all EPC applications are approved. Such inspection costs will now be built directly into the application fee. All fees are therefore increasing by at least \$100. The public hearing fee is increasing by \$100 to reflect the legal notice and stenographer costs associated with holding a public hearing on an application.
- The *Zoning Permit* fee will continue to have three categories. The fee for smaller projects is proposed to increase slightly—up \$15 to \$95. In addition, certain larger types of applications will now have two new fee categories to better reflect the time and effort in their review. What the Department has found is that more complex applications take longer to review, and therefore, we believe that the application fee should reflect that, and we now propose to base the permit fee upon the value of the work. The largest fee category shows the largest increase—again, to better reflect the time and effort necessary for review.

### Summary

The purpose of this proposal is to amend Appendix B Schedule of Fees, contained within the Darien Zoning Regulations. All proposals show the fee excluding the State of Connecticut fee, which must be collected by the Town and was increased in 2009 to be \$58 of the first \$60 of each application. This will allow the (likely) future State increases to be automatically accounted for exclusive of the application fee, and the RTM will not have to increase its fee schedule and amend the Zoning Regulations every time the State decides to increase its fee.

The proposed increase in the application fees also reflects the fact that the actual costs for processing an application (mailings, legal notices, and court stenographer) have also increased. Overall, this proposal should result in slightly higher revenues, most of that attributable to the increase in Zoning Permit application fees.

### Recommendations

The following pages show Appendix B of the Zoning Regulations, which is proposed to be modified. The Table of Contents and inside cover page of the Regulations will also be modified accordingly if the proposal is adopted by the RTM. It is recommended that if the changes are adopted by the RTM, that an effective date of Sunday, April 24, 2016 be used. This will give staff the time to print new zoning regulations; file them with the Town Clerk; and post them on the Town web site; give advance notice to townspeople, contractors and developers of the upcoming change; include the fee changes in our computer permitting software; and publish the approval in the local paper as required by law.

Wording to be deleted shown in strikethrough, proposed wording in bold:

APPENDIX B - SCHEDULE OF FEES

SCHEDULE OF FEES  
PLANNING & ZONING COMMISSION

APPLICATION FEES  
 WITH REQUIRED  
 STATE FEE  
 INCLUDED

	FEE**	
AMENDMENT TO TOWN PLAN OF CONSERVATION & DEVELOPMENT	<del>\$330</del> <b>\$500</b>	<del>\$390</del> <b>\$560</b>
AMENDMENT TO ZONING REGULATIONS	<del>\$380</del> <b>\$500</b>	<del>\$440</del> <b>\$560</b>
AMENDMENT TO ZONING MAP	<del>\$380</del> <b>\$500</b>	<del>\$440</del> <b>\$560</b>
SPECIAL PERMIT:	<del>\$300</del>	<del>\$360</del>
New Construction involving principal use or structure	<del>\$110</del> <b>\$350</b>	<del>\$170</del> <b>\$410</b>
Other special permits or amendments	<del>\$150</del> <b>\$150</b>	<del>\$210</del> <b>\$210</b>
SITE PLANS/BUSINESS SITE PLANS	<del>\$230</del> <b>\$250</b>	<del>\$290</del> <b>\$310</b>
FINAL SUBDIVISION AND/OR RESUBDIVISION	<del>\$410 PER NEW LOT</del> <b>\$500 PER NEW LOT</b>	<del>\$410 PER NEW LOT PLUS \$60</del> <b>\$500 PER NEW LOT PLUS \$60</b>
COASTAL SITE PLAN REVIEW	<del>\$130</del> <b>\$165</b>	<del>\$190</del> <b>\$225</b>
FLOOD DAMAGE PREVENTION	<del>\$130</del> <b>\$165</b>	<del>\$190</del> <b>\$225</b>
LAND FILLING, EXCAVATION, EARTH REMOVAL &/OR REGRADING	<del>\$130</del> <b>\$165</b>	<del>\$190</del> <b>\$225</b>
ADMINISTRATIVE PERMITS	<del>\$130</del>	<del>\$190</del>
including requests under CGS Section 8-26g	<del>\$165</del> <b>\$165</b>	<del>\$225</del> <b>\$225</b>

NOTE: Where a proposal involves multiple applications (three or more), an applicant shall pay only the two highest fees of the three or more.

NOTE: The Town of Darien and its agencies shall not be liable for payment of any of the above fees.

*\*\*All fees specifically exclude any fee required by the State of Connecticut per Section 22a-27j of the Connecticut General Statutes, which must be collected by the Town. As of July 1, 2004, the State fee was \$30.00 per application. As of October 1, 2009, the State fee was \$60 per application.*

Wording to be deleted shown in strikethrough, proposed wording in bold:

SCHEDULE OF FEES  
ARCHITECTURAL REVIEW BOARD

APPLICATION FEES  
 WITH REQUIRED  
 STATE FEE  
INCLUDED

	<u>FEE**</u>	<u>INCLUDED</u>
SIGN, AWNING OR FAÇADE CHANGE PERMITS (FEE IS PER SIGN, AWNING OR FAÇADE CHANGE)	<del>\$30</del> <b>\$50</b> PER SIGN, AWNING OR FAÇADE CHANGE	<del>\$30</del> <b>\$50</b> PER SIGN, AWNING OR FAÇADE CHANGE PLUS \$60

NOTE: The Town of Darien and its agencies shall not be liable for payment of any of the above fees.

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SCHEDULE OF FEES  
ZONING BOARD OF APPEALS

APPLICATION FEES  
 WITH REQUIRED  
 STATE FEE  
INCLUDED

	<u>FEE**</u>	<u>INCLUDED</u>
VARIANCE, INTERPRETATION AND/OR APPEALS	<del>\$300</del> <b>\$450</b>	<del>\$360</del> <b>\$510</b>
REVIEW AND SIGNING OF STATE MOTOR VEHICLE DEPARTMENT FORMS	<del>\$10</del>	<del>\$70</del>

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SCHEDULE OF FEES  
ZONING PERMITS

WITH REQUIRED  
STATE FEE  
INCLUDED

	<u>FEE**</u>	<u>INCLUDED</u>
For applications with a total work value of \$79,999 or less.	<del>\$20</del>	<del>\$80</del>
	<b>\$35</b>	<b>\$95</b>
For applications with a total work value ranging from \$80,000 to \$250,000.	<del>\$100</del>	<del>\$160</del>
	<b>\$150</b>	<b>\$210</b>
For applications with a total work value of greater than \$250,000.	<del>\$260</del>	<del>\$320</del>
	<b>\$340</b>	<b>\$400</b>

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Wording to be deleted shown in strikethrough, proposed wording in bold:

SCHEDULE OF FEES  
ENVIRONMENTAL PROTECTION COMMISSION

	<u>APPLICATION FEES</u>	
	WITH REQUIRED STATE FEE INCLUDED	
	<u>FEE**</u>	<u>INCLUDED</u>
WETLANDS MAP AMENDMENT (no extra public hearing charge)	\$130 <b>\$240</b>	\$190 <b>\$300</b>
WETLAND REGULATIONS AMENDMENT (no extra public hearing charge)	<b>\$840</b>	<b>\$900</b>
APPLICATIONS LIMITED TO BASIC MAINTENANCE, INCLUDING: AGENT APPROVALS, MINIMAL TREE CUTTING ONLY, POND DREDGING, PATH CLEARING, OR INSTALLATION OF A FENCE OR STONE WALL OR SITE DISTURBANCE/NEW CONSTRUCTION OF <del>100</del> <b>200</b> SQUARE FEET OR LESS AND OTHER MINIMAL ACTIVITIES	<del>\$65</del> <b>\$200</b>	<del>\$125</del> <b>\$260</b>
CONSTRUCTION OF A NEW OR REPLACEMENT <del>RESIDENCE</del> <b>PRINCIPAL STRUCTURE; SIGNIFICANT ACTIVITIES WITHIN A REGULATED WETLAND; OR SIGNIFICANT FILLING &amp; GRADING WITHIN AN UPLAND REVIEW AREA</b>	<del>\$950</del> <b>\$1,200</b>	<del>\$1,010</del> <b>\$1,260</b>
ALL OTHER ACTIVITY FOR WORK WITHIN WETLANDS AND/OR THE REGULATED AREA	<del>\$600</del> <b>\$740</b>	<del>\$660</del> <b>\$800</b>
PUBLIC HEARING FEE (IN ADDITION TO THE ABOVE)	<del>\$250</del> <b>\$350</b>	N/A
<del>STAFF INSPECTION FEE (if project is approved)*</del>	<del>\$100</del>	N/A

NOTE: The Town of Darien and its agencies shall not be liable for payment of any of the above fees.  
~~\*The Staff Inspection Fee is per visit and is paid in advance, and returned to the applicant if the project is denied or withdrawn in its entirety. A separate check is recommended.~~

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