

# MEMORANDUM

TO: Seth Morton, RTM Moderator  
Cc: J. Wayne Fox, Esq., Town Counsel  
Christa McNamara, Town Clerk

FROM: Jeremy B. Ginsberg, Director of Land Use

SUBJECT: Proposal to Amend the Darien Zoning Regulations  
Appendix B—Land Use Application Fees

DATE: March 1, 2023

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

## Background

In my meeting last month with the Town Administrator and First Selectman regarding the Department's budget, I mentioned that it would be more efficient if the Department filed the required Special Permit forms and Notice of Drainage Maintenance Plans in the Darien Land Records, rather than relying on applicants and property owners to do so. At that meeting, I also noted that the fees for Zoning Permit and Land Use Applications (applications for the four local land use boards) have not been adjusted since 2019, and it would be appropriate to re-evaluate those fees as well.

As part of this fee increase proposal, the Town will also be taking on the responsibility of filing Special Permit forms and Notice of Drainage Maintenance Plans. Thus, those \$60 fees per document have been included. That cost will now be built into the overall application fee for certain types of land use application fees.

## Past Fee Increases

The RTM last reviewed and increased the schedule of land use fees in early 2019, with an effective date of March 31, 2019. That fee increase accomplished the following:

- Increased Planning and Zoning Commission (P&Z) application fees by \$20 each, except for subdivision applications, which increased by \$100 per lot.
- Increased Architectural Review Board (ARB) application fees by \$10.
- Increased Zoning Board of Appeals (ZBA) application fees by \$30.
- Did not change the fee for Zoning Permits.
- Increased some Environmental Protection Commission (EPC) application fees, and established a new rate for a new or replacement residences. The fees for a wetlands map amendment, and "basic maintenance" applications did not change.

## 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 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.

Recent increases which affect costs

The costs to process an application includes various items, all of which are outside of the control of the Town of Darien. These include: a) mailing costs--certified mail and return receipt costs; b) legal notice/newspaper advertising costs; and c) stenographer costs.

- a) There have been recent increases in costs of mailings. State Statutes 8-3b, 8-7 (ZBA), 8-7d(f), 8-7e, and 22a-42c require that both certified mail service and return receipt requested mailings be used.
- b) The costs for legal notices increased from \$1.00 per column inch in 2008, 2009, and 2010 to \$1.50 per line in 2011. In 2023, the costs are \$10.00 per inch.
- c) Court recorder/stenographer must be present at meetings pursuant to CGS 8-7a. The costs are now \$300 per meeting, and has increased every two years recently.
- d) Work on required transcripts for court cases also has increased through the years.

Description of proposed amendments

As part of the analysis for this proposal, we reviewed the costs for processing applications including out-of-pocket costs.

- All of the *Planning and Zoning Commission* application fees are proposed to increase by \$25 and the costs of filings. This will help offset out-of-pocket costs, which have increased slightly since October 2009, and which will likely continue to rise. As part of this proposal, \$120 will be added for permits which will require filings in the Land Records. An increase of \$100 is proposed for three types of applications—Amendment to Town Plan of Conservation & Development; Amendment to Zoning Map; and Amendment of Zoning Regulations. This is to account for the amount of staff work required to update those documents or map, including printing hard copies and posting to the Town web site.
- The *Architectural Review Board* fees are proposed to increase marginally by \$15 per sign, awning or façade change. A maximum fee will remain in place—still reflecting four signs/awnings and/or façade change. That maximum will be increased to \$300.
- The *Zoning Board of Appeals* fee for a variance or appeal application is proposed to increase to \$700. Again, the costs of processing these types of applications, including required legal notices/advertising and required 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 remains \$60/page, and is included in the application fee.

- The *Zoning Permit* fee for all projects is proposed to increase by \$40-\$100 depending on the value of the work proposed. The Department has found that the more complex applications take longer to review, and therefore, we believe that the application fee should reflect that review process, and we will continue to base the permit fee upon the value of the work. The State-required fee must also be collected by the Town.

History of Zoning Permit Fee:

2005: \$40--which included \$28 of that sent to the State.

Current: which includes \$58 of each fee sent to the State:

- \$110 for applications with a total work value of \$79,999 or less;
- \$310 for applications with a total work value ranging from \$80,000 to \$250,000;
- \$560 for applications with a total work value of greater than \$250,000.

Proposed to increase in all three categories to \$150, \$375, and \$660 respectively.

- The *Environmental Protection Commission (EPC)* application fees are proposed to be amended. The map amendment increase will help offset the costs of reproducing a new inland wetlands map. We propose to eliminate the Site Inspection Fee, and fold that into each of the three types of application fees. This will eliminate cumbersome tracking by staff. The application costs for a new or replacement residence are scheduled to increase slightly to better reflect the costs to process such applications. The public hearing fee is proposed to increase to \$300, to reflect the increase out-of-pocket costs of the court recorder and required advertising. Not all EPC applications require a public hearing. Page 6 of this memo shows the existing and proposed EPC fees.

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 possible 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 this Appendix of Fees within the Zoning Regulations every time the State decides to increase its fee.

The proposed increase in the land use board application fees also reflects the fact that the actual costs for processing an application (mailings, legal notices, and court stenographer) have also increased over the past few years.

Recommendations

The following pages show Appendix B of the Zoning Regulations, which is proposed to be modified. These are pages B-1, B-2 and B-3 of the existing Regulations. The Table of Contents and inside cover page 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 2, 2023 be used. This will give staff the time to print new zoning regulations, file them with the Town Clerk, modify our online permitting system, post the new fee schedule on the Town web site, give advance notice to townspeople and builders of the upcoming change, and, as required by State Statute, publish the fee increase approval in the local newspaper.

Existing wording in ~~strikeout~~, Proposed wording in **bold**:

APPENDIX B - SCHEDULE OF FEES  
SCHEDULE OF FEES  
PLANNING & ZONING COMMISSION

	FEE**	<u>APPLICATION FEES</u> WITH REQUIRED STATE FEE INCLUDED
AMENDMENT TO TOWN PLAN OF CONSERVATION & DEVELOPMENT	<del>\$600</del> <b>\$700</b>	<del>\$660</del> <b>\$760</b>
AMENDMENT TO ZONING REGULATIONS	<del>\$600</del> <b>\$700</b>	<del>\$660</del> <b>\$760</b>
AMENDMENT TO ZONING MAP	<del>\$600</del> <b>\$700</b>	<del>\$660</del> <b>\$760</b>
SPECIAL PERMIT:	<del>\$300</del>	<del>\$360</del>
New Construction involving principal use or structure	<del>\$110</del> <b>\$420</b>	<del>\$170</del> <b>\$480</b>
Other special permits or amendments	<del>\$170</del> <b>\$170</b>	<del>\$230</del> <b>\$230</b>
SITE PLANS/BUSINESS SITE PLANS	<del>\$230</del> <b>\$350</b>	<del>\$290</del> <b>\$410</b>
FINAL SUBDIVISION AND/OR RESUBDIVISION	<del>\$410 PER NEW LOT</del> <b>\$450 PER NEW LOT</b>	<del>\$410 PER NEW LOT PLUS \$60</del> <b>\$450 PER NEW LOT PLUS \$60</b>
COASTAL SITE PLAN REVIEW	<del>\$130</del> <b>\$200</b>	<del>\$190</del> <b>\$260</b>
FLOOD DAMAGE PREVENTION	<del>\$130</del> <b>\$200</b>	<del>\$190</del> <b>\$260</b>
LAND FILLING, EXCAVATION, EARTH REMOVAL &/OR REGRADING	<del>\$130</del> <b>\$200</b>	<del>\$190</del> <b>\$260</b>
ADMINISTRATIVE PERMITS including requests under CGS Section 8-26g	<del>\$130</del> <b>\$200</b>	<del>\$190</del> <b>\$260</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.*

Existing wording in ~~strikeout~~, Proposed wording in **bold**:

SCHEDULE OF FEES  
ARCHITECTURAL REVIEW BOARD

	<u>FEE**</u>	<u>APPLICATION FEES WITH REQUIRED STATE FEE INCLUDED</u>
SIGN, AWNING OR FAÇADE CHANGE PERMITS (FEE IS PER SIGN, AWNING OR FAÇADE CHANGE)	<del>\$65</del> <b>\$75</b> PER SIGN, AWNING OR FAÇADE CHANGE	<del>\$65</del> <b>\$75</b> PER SIGN, AWNING OR FAÇADE CHANGE (MAX. <del>\$260</del> <b>\$300</b> ) PLUS \$60

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SCHEDULE OF FEES  
ZONING BOARD OF APPEALS

	<u>FEE**</u>	<u>APPLICATION FEES WITH REQUIRED STATE FEE INCLUDED</u>
VARIANCE, INTERPRETATION AND/OR APPEALS	<del>\$550</del> <b>\$640</b>	<del>\$610</del> <b>\$700</b>
REVIEW AND SIGNING OF STATE MOTOR VEHICLE DEPARTMENT FORMS	\$10	\$70

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SCHEDULE OF FEES  
ZONING PERMITS

For applications with a total work value of \$79,999 or less.	<del>\$50</del> <b>\$90</b>	<del>\$110</del> <b>\$150</b>
For applications with a total work value ranging from \$80,000 to \$250,000.	<del>\$250</del> <b>\$315</b>	<del>\$310</del> <b>\$375</b>
For applications with a total work value of greater than \$250,000.	<del>\$500</del> <b>\$600</b>	<del>\$560</del> <b>\$660</b>

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.

Existing wording in ~~strikeout~~, Proposed wording in **bold**:

SCHEDULE OF FEES  
ENVIRONMENTAL PROTECTION COMMISSION

	<u>FEE**</u>	<u>APPLICATION FEES WITH REQUIRED STATE FEE INCLUDED</u>
WETLANDS MAP AMENDMENT (no extra public hearing charge)	\$130 <b>\$175</b>	\$190 <b>\$235</b>
APPLICATIONS LIMITED TO BASIC MAINTENANCE, INCLUDING: MINIMAL TREE CUTTING ONLY, POND DREDGING, PATH CLEARING, OR INSTALLATION OF A FENCE OR STONE WALL OR SITE DISTURBANCE/NEW CONSTRUCTION OF 100 SQUARE FEET OR LESS AND OTHER MINIMAL ACTIVITIES	\$65 <b>\$190</b>	\$125 <b>\$250</b>
CONSTRUCTION OF A NEW OR REPLACEMENT RESIDENCE	\$950 <b>\$1,100</b>	\$1,010 <b>\$1,160</b>
ALL OTHER ACTIVITY FOR WORK WITHIN WETLANDS AND/OR THE REGULATED AREA	\$600 <b>\$740</b>	\$660 <b>\$800</b>
PUBLIC HEARING FEE	\$250 <b>\$300</b>	N/A
STAFF INSPECTION FEE (if <del>project is approved</del> )*	\$100	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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