

BOROUGH OF BRADLEY BEACH, MONMOUTH COUNTY

ORDINANCE 2021-28

AN ORDINANCE AMENDING ARTICLE I: "PLANNING BOARD" AND ARTICLE II: "ZONING BOARD OF ADJUSTMENT" CONTAINED IN CHAPTER 60: "LAND USE PROCEDURES" OF THE BOROUGH'S REVISED GENERAL ORDINANCES TO MERGE THE BOROUGH'S LAND USE BOARDS INTO AN EXPANDED SINGLE BODY

Mayor Fox offered the following Ordinance and moved its introduction:

WHEREAS, the Master Plan for the Borough of Bradley Beach is a requirement of New Jersey State Statutes and Municipal Land Use Law, and the Planning Board serves as the "guardian" of the Master Plan, and the Council creates Zoning ordinances that are consistent with the Master Plan in order to help the Borough achieve the objectives of the Master Plan, and

WHEREAS, it is critical that the Borough's Zoning Ordinances are consistently interpreted and enforced, and that the Bradley Beach Borough Council believes this consistency can be best accomplished by the membership of a single Land Use Board, and

WHEREAS, to provide the most effective model for managing consistency of enforcement of our Zoning Ordinances, and to strengthen procedural process in support of our Master Plan, the Borough of Bradley Beach, County of Monmouth, and State of New Jersey (the "Borough") seeks to merge its Planning Board and Zoning Board of Adjustment into an expanded single body; and

WHEREAS, in order to implement said merger, certain amendments to the Borough's land use procedures are necessary;

NOW, THEREFORE BE IT ORDAINED by the Mayor and Council of the Borough of Bradley Beach, County of Monmouth, and State of New Jersey as follows:

SECTION 1. Section 60-1: "Established; members" of Article I: "Planning Board" of Chapter 60: "Land Use Procedures" of the Revised General Ordinances of the Borough of Bradley Beach is hereby amended as follows (~~stricken~~ text deleted; underlined text added):

§60-1 Established; members.

~~There is hereby established, pursuant to c. 291, P.L. 1975, in the Borough of Bradley Beach a Planning Board of nine members~~ There shall be a Planning Board comprised of nine (9) members and four (4) alternates, appointed in accordance with the provisions of N.J.S.A. 40:55D-23, consisting of the following classes:

- A. Class I. The Mayor.
- B. Class II. One of the officials of the municipality other than a member of the governing body to be appointed by the Mayor; provided that the member of the Environmental Commission who is also a member of the Planning Board as required by N.J.S.A. 40:56A-1 shall be deemed to be the Class II Planning Board member if there is both a member of the Zoning Board of Adjustment and a member of the Board of Education among the Class IV members.
- C. Class III. A member of the governing body to be appointed by it.
- D. Class IV. ~~Seven~~ Other citizens of the municipality to be appointed by the Mayor. The members of Class IV shall hold no other municipal office, except that one member maybe a member of the Zoning Board of Adjustment and one may be a member of the Board of Education. A member of the Environmental Commission who is also a member of the Planning Board as required by N.J.S.A. 40:56A-1 shall be a Class IV Planning Board member unless there be among the Class IV members of the Planning Board both a member of the Zoning Board of Adjustment and a member of the Board of Education, in which case the member of the Environmental Commission shall be deemed to be the Class II member of the Planning Board.

SECTION 2. Section 60-4: "Alternate members" of Article I: "Planning Board" of Chapter 60: "Land Use Procedures" of the Revised General Ordinances of the Borough of Bradley Beach is hereby amended as follows (~~stricken~~ text deleted; underlined text added):

§60-4 Alternate members.

Pursuant to N.J.S.A. 40:55D-23.1, the Mayor shall appoint ~~two~~ four (4) alternate members to the Planning Board who shall meet the qualifications for Class IV members. The ~~two~~ four (4) alternate members shall be designated at the time of appointment as ~~"Alternate No. 1" and "Alternate No. 2."~~ "Alternate No. 1" and "Alternate No. 2" and "Alternate No. 3" and "Alternate No. 4". The terms of the alternate members shall be two years, except that the expiration of such terms of the alternate members first appointed shall be distributed evenly over the first two years after appointment, and the initial term of no member shall exceed two years. Any vacancy occurring otherwise than by expiration shall be filled by the Mayor for the unexpired term only. Alternate members may participate in discussion of the proceedings but may not vote except in the absence or disqualification of a regular member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote, then Alternate No. 2, then Alternate No. 3,

and then, Alternate No. 4.

SECTION 3. Section 60-14: “Established; composition; terms; alternate members; vacancies” of Article II: “Zoning Board of Adjustment” of Chapter 60: “Land Use Procedures” of the Revised General Ordinances of the Borough of Bradley Beach is hereby amended as follows (~~stricken~~ text deleted; underlined text added):

§60-14 Established; Powers Exercised by Planning Board. ~~composition; terms; alternate members; vacancies.~~

- A. ~~A Zoning Board of Adjustment is hereby established pursuant to N.J.S.A. 40:55D-69 et seq., consisting of seven residents of the Borough of Bradley Beach appointed by the Mayor to serve for terms of four years from January 1 of the year of their appointment. The terms of the members first appointed shall be so determined that to the greatest practicable extent the expiration of such terms shall be distributed evenly over the first four years after their appointment; provided that the initial term of no member shall exceed four years. Thereafter the term of each member shall be for four years. Nothing in this chapter shall, however, be construed to affect the term of any present member of the Zoning Board of Adjustment, all of whom shall continue in office until the completion of the term for which they were appointed.~~
- B. ~~There shall also be appointed, in the same manner as regular members are appointed, four alternate members of the Zoning Board of Adjustment. The alternate members shall be designated as Alternate No. 1, Alternate No. 2, Alternate No. 3 and Alternate No. 4. The alternates shall serve in rotation during the absence or disqualification of any regular member or members. The term of each alternate member shall be for two years.~~
- C. ~~No member of the Zoning Board of Adjustment may hold any elective office or position under the municipality.~~
- D. ~~A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term only.~~

Pursuant to N.J.S.A. 40:55D-25.c(2), the Borough of Bradley Beach has created a nine member Planning Board, which Planning Board shall have the right to exercise, to the same extent and subject to the same restrictions, all the powers of a Zoning Board of Adjustment.

SECTION 4. Section 60-15: “Officers” of Article II: “Zoning Board of Adjustment” of Chapter 60: “Land Use Procedures” of the Revised General Ordinances of the Borough of Bradley Beach is hereby amended as follows (~~stricken~~ text deleted; underlined text added):

§60-15 Officers, Class I and Class III Exemption.

~~The Board of Adjustment shall elect a Chairman and Vice Chairman from its members and shall also select a Secretary who may be either a Board member or another municipal employee.~~

The Class I and Class III members of the Planning Board shall not participate in the consideration of applications for development which involve relief pursuant to N.J.S.A. 40:55D-70.

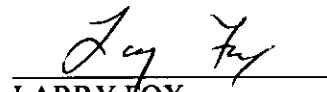
SECTION 5. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

SECTION 6. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough, the provisions hereof shall be determined to govern. All other parts, portions and provisions of The Revised General Ordinances of the Borough of Bradley Beach are hereby ratified and confirmed, except where inconsistent with the terms hereof.

SECTION 7. This Ordinance shall take effect on January 1, 2022, following adoption and publication in accordance with the laws of the State of New Jersey.

SO ORDAINED as aforesaid.


ERICA KOSTYZ
Borough Clerk


LARRY FOX
Mayor

Introduced: September 21, 2021

Date of Hearing and Adoption: October 12, 2021