

**ORDINANCE NO. 22-07-OA** 6

**AN ORDINANCE OF THE TOWNSHIP OF BERKELEY,  
COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING  
AND SUPPLEMENTING CHAPTER XXXV, ENTITLED "LAND  
DEVELOPMENT", SO AS TO AMEND VARIOUS SECTIONS  
OF 35-6 (ZONING BOARD OF ADJUSTMENT)**

**February 28, 2022**

**SECTION 1.** Chapter 35 of the Township Code of the Township of Berkeley, entitled "Land Development," is hereby amended and supplemented so as to amend §35-6.10, entitled "Powers of Zoning Board of Adjustment," to revise subsection "a" which shall now read as follows:

**§35-6.10 Powers of Zoning Board of Adjustment**

The Board of adjustment shall have the power to:

a. Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by the Zoning Officer based on or made in the enforcement of the Zoning Ordinance.

1. Appeals to the Board of Adjustment may be taken by any interested party. Each appeal shall be taken within the 20 days prescribed by N.J.S.A. 40:55D-72 by filing a notice of appeal with the Zoning Officer, together with three copies of the notice with the Secretary of the Board of Adjustment. The notice of appeal shall specify the grounds for the appeal. The Zoning Officer shall be advised of the appeal and immediately transmit to the Board all the papers constituting the record upon which the action appealed from was taken. Said Zoning Officer shall be given notice for attendance for the hearing on the matter before the Board of Adjustment.

2. An appeal stays all proceedings in furtherance of the action in respect to which the decision appealed from was made, unless the Zoning Officer certifies to the Board of Adjustment, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Superior Court of New Jersey on application or notice to the Zoning Officer and on due course shown.

3. The Board of Adjustment may, in conformity with the provisions of N.J.S.A. 40:55D-69 et seq., reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and make such other requirement, decision or determination as ought to be made, and to that end have all the powers of the administrative officer from whom the appeal was taken.

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**SECTION 2.** After introduction of this ordinance, the Township Clerk shall send a copy of this ordinance to the Township Planning Board for its review and comment. The Township shall send a copy of the ordinance to the Ocean County Planning Board pursuant to N.J.S.A. 40:55D-16.

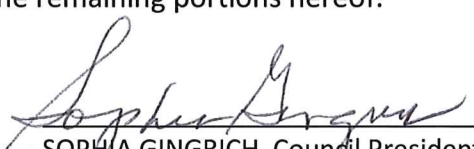
**SECTION 3.** This ordinance shall take effect after second reading and publication as required by law and the filing of the adopted ordinance with the Ocean County Planning Board.

**SECTION 4.** All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

**SECTION 5.** If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.



CARMEN F. AMATO, JR., Mayor



SOPHIA GINGRICH, Council President  
JOHN BACCHIONE, Council Vice President

**NOTICE**

**NOTICE IS HEREBY GIVEN** that the foregoing ordinance was introduced and passed on first reading at a regular meeting of the Township Council of the Township of Berkeley, in the County of Ocean, State of New Jersey, held on January 24, 2022, and will be considered for second reading and final passage at the regular meeting of said Governing Body to be held on the 24<sup>th</sup> day of February 2022, at 6:00 p.m., or as soon thereafter as this matter can be reached, at the meeting room of the Municipal Building located at 627 Pinewald-Keswick Road, Bayville, New Jersey, at which time all persons interested shall be given an opportunity to be heard concerning this ordinance.



BEVERLY M. CARLE, RMC  
Township Clerk, Township of Berkeley