

## MEMORANDUM

Date: April 30, 2014

**TO:** Dave Bullock, Town Manager  
**FROM:** Alaina Ray, Planning, Zoning & Building Director  
**SUBJECT:** Ordinance 2014-08, Amending Chapter 158, Establishing Procedures for Zoning Board of Adjustment (ZBA) Petitions to be Heard

---

Due to the ongoing difficulties in reaching a quorum for Zoning Board of Adjustment (ZBA) meetings, Staff was directed to investigate options to avoid delays for applicants. Staff presented several options to the Town Commission at their November 13, 2013 Regular Workshop Meeting.

During that Workshop Meeting, Vice Mayor Brenner made the suggestion to revise the Town's Code to specify that applicant requests be sent to the Planning and Zoning Board (PZB), in the event the ZBA was unable to reach a quorum. Consensus was reached by the Commission and Staff was directed to present this option to the PZB.

The PZB held a public hearing on this item on January 21, 2014. The PZB's recommendation to transfer authority for granting variances to the PZB was presented to the Town Commission for their consideration at their February 18, 2014 Regular Workshop. The Town Commission directed staff to revise the ordinance to reflect the original proposal to utilize the PZB as an alternate in the event a quorum could not be reached and to reduce the number of ZBA members from seven (7) to five (5). Additionally, revisions to the Ordinance were made to address removal of ZBA members who are repeatedly unable to participate in meetings and fulfill their duties. Ordinance 2014-08 also includes a provision regarding unavailability of members to attend proposed meetings.

At their May 5, 2014 Regular Meeting, the Town Commission considered Ordinance 2014-08 and made the following modifications: 1) that the ZBA retain all their duties as currently assigned and they not be transferred to the PZB; and 2) that the number of members be reduced from seven to five. The Town Commission forwarded Ordinance 2014-08 to the June 2, 2014 Regular Meeting for second reading, public hearing and discussion.

**ORDINANCE 2014-08**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LONGBOAT KEY, FLORIDA, AMENDING CHAPTER 158, ZONING CODE, 158.026: ZONING BOARD OF ADJUSTMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Chapter 158, *Zoning Code* of the Town of Longboat Key Code of Ordinances establishes comprehensive controls for the development of land in the Town based on the Comprehensive Plan; and

**WHEREAS**, Section 158.026, Zoning board of adjustment, establishes a zoning board of adjustment (Board) and proscribes certain powers and duties to the Board; and

**WHEREAS**, there has repeatedly and historically been difficulty in obtaining a quorum of the Board to consider matters within the jurisdiction of the Board; and

**WHEREAS**, the inability to obtain a quorum has led to prolonged delay for property owners seeking relief from certain provisions of the Town Code; and

**WHEREAS**, the Planning and Zoning Board finds that the subject Town Code amendment will improve the development process, preserve community standards, and protect property values in the Town and recommends approval of the proposed amendments; and

**WHEREAS**, the Town Commission, after careful consideration of the issues, finds that the proposed amendments are in the best interest of the health, safety, and welfare of the citizens of Longboat Key.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN OF LONGBOAT KEY, FLORIDA, THAT:**

SECTION 1. The Whereas clauses above are ratified and confirmed as true and correct.

SECTION 2. Chapter 158, *Zoning Code* is amended to read as follows:

Subsection 158.026, Zoning board of adjustment

(A)(1) There is hereby established a zoning board of adjustment, hereinafter referred to as a board of adjustment. The board of adjustment shall consist of ~~seven~~ five members who are registered voters and residents of the Town of Longboat Key who shall be appointed by the town commission. All members must attend a Sunshine and Public Records Law class within three months of their appointment. The board shall elect a chairman annually from among its members. No member of the board of adjustment shall be an elected official or employee of the town. A person appointed to this board may not serve concurrently on any of the following town boards: Code enforcement board, ~~ethics commission or~~ planning and zoning board or retirement system board of trustees.

(2) The term of office shall be for three years and shall be staggered so that not more than three terms expire within any one year. All terms of office shall expire on the second Wednesday of May of the year in which the term is set to expire. Any member who fails to attend three consecutive scheduled and called regular meetings or fails to make themselves available to attend three consecutive proposed meetings within a twelve (12) month period shall automatically forfeit his appointment and the town commission shall promptly fill the vacancy. Appointments to fill vacancies shall be for the unexpired term of month periodthe member whose term becomes vacant.

(E) The concurring vote of ~~four~~ a majority of members of the board shall be necessary to reverse any order, requirement, decision or determination of the planning and zoning official or to decide in favor of the appellant in respect to any matter on which it is required to pass under the terms of this chapter or to effect any variations of this chapter. Should a petition to the board of adjustment receive a vote of less than ~~four~~ a majority of members, but affirmative votes of enough when added to the absent members to make ~~four~~ a majority, the petition shall be rescheduled from meeting to meeting until the matter can be decided by a concurring vote of ~~four~~ a majority of ~~or more~~ members of the board.

~~(G) If the board of adjustment is unable to achieve a quorum within 30 days after receipt of a matter to be acted upon by the board, the matter shall be referred to the planning and zoning board for consideration at its next available meeting after public notification is provided as required by State law and this Code. In the event a matter is referred to the planning and zoning board as a result of the board of adjustment's inability to achieve a quorum, the planning and zoning board in hearing such matter shall have all powers and duties proscribed to the zoning board of adjustment by this Code.~~

SECTION 3. If any section, subsection, sentence, clause, or provision of this Ordinance is held invalid, the remainder of the Ordinance shall not be affected.

SECTION 4. All ordinances or parts of ordinances in conflict herewith shall be and the same are hereby repealed.

SECTION 5. This Ordinance and proposed amendments shall take effect upon second reading in accordance with law and the charter of the Town of Longboat Key.

Passed on the first reading the \_\_\_\_ day of \_\_\_\_\_, 2014.

Adopted on the second reading and public hearing the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
James L. Brown, Mayor

ATTEST:

\_\_\_\_\_  
Trish Granger, Town Clerk



**End of Agenda Item**