

ORDINANCE 13, 2023

ORDINANCE AMENDING CHAPTER 109 OF THE WEST AMWELL TOWNSHIP MUNICIPAL CODE ENTITLED "LAND DEVELOPMENT" AND MORE PARTICULARLY BY AMENDING ARTICLE VIII, ENTITLED "PLANNING BOARD" AND ARTICLE IX, ENTITLED "ZONING BOARD OF ADJUSTMENT" FOR THE PURPOSE OF VESTING IN THE PLANNING BOARD ALL OF THE POWERS OF THE ZONING BOARD OF ADJUSTMENT

WHEREAS, N.J.S.A. 40:55D-25 permits under certain circumstances, a municipality of the State of New Jersey to extinguish its Zoning Board of Adjustment and vest all powers of said Board in the Municipal Planning Board; and

WHEREAS, "[i]n a municipality having a population of 15,000 or less, a nine-member planning board, if so provided by ordinance, shall exercise, to the same extent and subject to the same restrictions, all the powers of a board of adjustment"; and

WHEREAS, in the interest of efficiency for all current and future land use applicants, the Township Committee is desirous of implementing said procedure to extinguish its Zoning Board of Adjustment and vest all powers of said Board in the Municipal Planning Board.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of West Amwell, County of Hunterdon, State of New Jersey, that Chapter 109 of the West Amwell Township Municipal Code, entitled "LAND DEVELOPMENT" is hereby amended by amending Article VIII, entitled "Planning Board" and Article IX, entitled "Zoning Board of Adjustment" as follows:

SECTION I

Article VIII of Chapter 109, entitled "Land Development," which article is entitled "Planning Board," is amended by amending subsection 109-31, entitled "Establishment; composition" subsections A(1) and A(3) to add the following language to each subsection:

Subsection A(1). The Class I members shall not be permitted to participate in the consideration of applications for development which involve relief pursuant to N.J.S.A. 40:55D-70(d).

Subsection A(3). The Class III members shall not be permitted to participate in the consideration of applications for development which involve relief pursuant to N.J.S.A. 40:55D-70(d).

Subsection 109-32B entitled "Alternate members" is amended by deleting subsection B in its entirety and, in its place and stead, shall be the following:

Alternate members.

1. There shall be four alternate members of the Planning Board appointed by the Mayor and meeting qualifications of Class IV members of the Planning Board. Alternate members shall be designated at the time of the appointment by the Mayor as Alternate No. 1, Alternate No. 2, Alternate No. 3, and Alternate No. 4.
2. No alternate member shall be permitted to act on any matter in which he has either directly or indirectly any personal or financial interest.
3. Alternate members may participate in discussions of Planning Board proceedings but may not vote, except in the absence or disqualification of a regular member of any Class. A vote shall not

be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice needs to be made as to which alternate member will vote, the alternate shall be chosen in chronological order in accordance with his or her designation as Alternate Nos. 1, 2, 3 or 4.

4. No alternate members shall vote in place of the Class I or Class III member when the Planning Board is considering an application for development which involves relief pursuant to N.J.S.A. 40:55D-70(d).

III. Subsection 109-38, entitled "Powers and duties generally," shall be amended by adding new subsection A(9) as follows:

B. To exercise all powers previously granted to the Zoning Board of Adjustment pursuant to N.J.S.A. 40:55D-70.1, 70.2, 72, 74, 76 and powers granted pursuant to N.J.S.A. 40:55D-34 and 36, as well as the amendments and supplements to the Municipal Land Use Act granting additional powers or amending the powers of a Zoning Board of Adjustment.

IV. **BE IT FURTHER ORDAINED** that Article IX, entitled "Zoning Board of Adjustment" is hereby amended by deleting section 109-41 entitled "Establishment; composition," as well as Sections 109-42, 109-43, 109-44, 109-45, 109-46, and 109-47. All other provisions in Chapter 70 with reference to the Zoning Board of Adjustment shall continue in existence, however, shall be applicable to the Planning Board and wherever it specifies either the "Board of Adjustment" or the "Zoning Board of Adjustment" said words shall be substituted with the words "Planning Board."

V. **BE IT FURTHER ORDAINED** that Article X of Chapter 109, entitled "Provisions Applicable to Planning Board and Board of Adjustment" shall be amended to only apply to the Planning Board.

SECTION II

All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistencies.

SECTION III

If any article, section, subsection, paragraph, phrase or sentence is, for any reason, held to be unconstitutional or invalid, said article, section, subsection, paragraph, phrase or sentence shall be deemed severable.

SECTION IV

This Ordinance shall take effect immediately upon final publication as provided by law.

ATTEST:

Maria Andrews, Township Clerk, RMC

By Order of the Township Committee

Gary Hoyer, Mayor

Introduced: 12/6/23

Adopted: 12/27/23