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## MEMORANDUM

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**TO:** Members of the Planning and Zoning Board

**FROM:** Leonard G. Rubin, Town Attorney

**RE:** Ordinance No. 685 (Zoning Board of Adjustment and Appeals)

**DATE:** April 7, 2016

**CC:** Ruben Cruz, Director of Planning and Zoning 

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**Background:**

Pursuant to Section 34-138 of the Town Code, the Planning and Zoning Board is required to hold a public hearing on any proposed changes to Chapter 34, "Zoning," of the Town Code and provide a recommendation to the Town Council.

Staff is proposing an amendment to Section 34-63 of the Town Code, governing the composition of the Zoning Board of Adjustment and Appeals. Section 34-63(a) provides that the members of the Board shall be the Mayor and Councilmembers of the Town. Staff is proposing to add a subsection (b) to Section 34-63 to provide for alternate members of the Board in the event that the Mayor or any Councilmember is unable to attend a hearing or vote on an item due to a voting conflict. Under the proposed Ordinance, the chairman and vice chairman of the Planning and Zoning Board shall be ex officio members of the Board and serve as the first and second alternate, respectively, in the event the Mayor or any Councilmember is unable to participate in any Board of Adjustment hearing.

Four members of the Board must agree to grant a variance to the Zoning Code or to reverse an administrative decision of a Town official enforcing the Zoning Code. Therefore, it is important that a full Board be present in order to afford applicants the full measure of procedural due process.

**Recommendation:**

Town Staff is recommending that this Board vote to recommend Town Council approval of Ordinance No. 685, appointing alternate members to the Zoning Board of Adjustment and Appeals.

1 TOWN OF JUNO BEACH, FLORIDA

2  
3 ORDINANCE NO. 685

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5 AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF JUNO  
6 BEACH, FLORIDA, AMENDING DIVISION 2, "ZONING BOARD OF  
7 ADJUSTMENT AND APPEALS," OF ARTICLE II, "ADMINISTRATION  
8 AND ENFORCEMENT," OF CHAPTER 34, "ZONING," OF THE TOWN  
9 CODE OF ORDINANCES BY AMENDING SECTION 34-63,  
10 "ESTABLISHED; MEMBERS," TO APPOINT THE CHAIRMAN AND  
11 VICE CHAIRMAN OF THE PLANNING AND ZONING BOARD AS EX  
12 OFFICIO ALTERNATE MEMBERS OF THE ZONING BOARD OF  
13 ADJUSTMENT AND APPEALS; PROVIDING FOR CODIFICATION,  
14 SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.

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16 WHEREAS, pursuant to Section 34-63 of the Town Code of Ordinances, the  
17 Zoning Board of Adjustment and Appeals ("Board of Adjustment") consists of the duly  
18 elected Mayor and Councilmembers of the Town; and

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20 WHEREAS, Board of Adjustment has the authority to hear and decide appeals  
21 from administrative orders, requirements, decisions or determinations relating to any  
22 zoning ordinance or regulation and to authorize variances from the provisions of the  
23 zoning code; and

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25 WHEREAS, the concurring vote of four members is required to reverse any  
26 administrative order, requirement, decision or determination and to grant a variance to  
27 the zoning code; and

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29 WHEREAS, because the Board of Adjustment consists of the members of the  
30 Town Council, there are no alternate members in the event the Mayor or a  
31 Councilmember is prohibited from voting due to a voting conflict or otherwise cannot  
32 attend a Board of Adjustment hearing; and

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34 WHEREAS, the Town Council determines that appointing the chairman and vice  
35 chairman of the Planning and Zoning Board as ex officio alternate members of the  
36 Board of Adjustment is in the best interests of the residents and citizens of the Town of  
37 Juno Beach.

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39 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE  
40 TOWN OF JUNO BEACH, FLORIDA as follows:

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42 **Section 1.** The foregoing "Whereas" clauses are hereby ratified and  
43 incorporated herein.

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45 **Section 2.** The Town Council hereby amends Division 2, "Zoning Board of  
46 Adjustment and Appeals," of Article II, "Administration and Enforcement," of Chapter 34,  
47 "Zoning," of the Town Code of Ordinances by amending Section 34-63 to read as  
48 follows (additional language is underlined):

**Sec. 34-63. - Established; members.**

(a) There is hereby established a zoning board of adjustment and appeals (the "board of adjustment") for the town. The members of said board of adjustment shall be the duly elected mayor and councilmembers of the town. The mayor shall serve as the chairman of the board of adjustment.

(b) The chairman and vice chairman of the planning and zoning board shall be ex officio members of the board of adjustment and shall serve as first and second alternate, respectively, in the event the mayor or any councilmember is unable to participate in any board of adjustment hearing.

**Section 3.** The provisions of this Ordinance shall become and be made a part of the Code of the Town of Juno Beach, Florida.

**Section 4.** If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional, inoperative or void, such holding shall not affect the remainder of the Ordinance.

**Section 5.** All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of such conflict.

**Section 6.** This Ordinance shall become effective immediately upon adoption

FIRST READING this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

SECOND, FINAL READING AND ADOPTION this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

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JASON HASELKORN, MAYOR

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JIM LYONS, VICE MAYOR

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FRANK FAHY, VICE MAYOR PRO TEM

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ELLEN ANDEL, COUNCILMEMBER

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BILL GREENE, COUNCILMEMBER

1 ATTEST:

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6 VANESSA M. MUTCHNIK, MMC  
TOWN CLERK

APPROVED AS TO FORM AND LEGAL  
SUFFICIENCY:

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LEONARD G. RUBIN  
TOWN ATTORNEY