MEMORANDUM

TO: Mayor Jason Haselkorn
Vice Mayor Jim Lyons
Members of the Town Council

FROM: Leonard G. Rubin, Town Attorney

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

DATE: April 20, 2016

CC: Joseph Lo Bello, CPA, Town Manager
Vanessa Mutchnik, MMC, Town Clerk
Ruben Cruz, Director of Planning and Zoning

Background:

Staff is proposing an amendment to Section 34-63 of the Town Code, governing the composition of the Zoning Board of Adjustment and Appeals ("Board of Adjustment"). Pursuant to Section 34-63, the members of the Board of Adjustment 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* (by virtue of their position) members of the Board of Adjustment 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.

At its April 11, 2015 meeting, the Planning and Zoning Board conducted a public hearing and unanimously recommended approval of the proposed Ordinance.

Recommendation:

Town Staff is recommending that the Town Council approve Ordinance No. 685, appointing alternate members to the Zoning Board of Adjustment and Appeals, on first reading.

TOWN OF JUNO BEACH, FLORIDA

ORDINANCE NO. 685

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

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

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

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

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

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

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

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

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

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.

_____	_____	_____
AYE	NAY	JASON HASELKORN, MAYOR
_____	_____	_____
AYE	NAY	JIM LYONS, VICE MAYOR
_____	_____	_____
AYE	NAY	FRANK FAHY, VICE MAYOR PRO TEM
_____	_____	_____
AYE	NAY	ELLEN ANDEL, COUNCILMEMBER
_____	_____	_____
AYE	NAY	BILL GREENE, COUNCILMEMBER

ATTEST:

VANESSA M. MUTCHNIK, MMC
TOWN CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

LEONARD G. RUBIN
TOWN ATTORNEY