

RESOLUTION

No. 17

KENILWORTH, N.J.

November 8, 2017

Introduced by: 


Seconded by: 

BE IT HEREBY RESOLVED that the ordinance #2017-04, entitled:

AN ORDINANCE TO REDUCE THE REQUIREMENTS IMPOSED UPON AN APPLICANT TAKING AN APPEAL FROM AN ACTION OF THE ZONING OFFICER WITHIN THE BOROUGH OF KENILWORTH BY AMENDING ARTICLES FOUR (4), FIVE (5) AND SIX (6) OF CHAPTER 225 OF THE MUNICIPAL CODE OF THE BOROUGH OF KENILWORTH


Was introduced and approved on first reading, at the regular meeting of the Borough Council on September 13, 2017 approved for final passage at the regular meeting of the Borough Council of November 8, 2017 after all persons interested were given an opportunity to be heard concerning said ordinance.

BE IT FURTHER RESOLVED that the Borough Clerk is hereby authorized and directed to publish said ordinance according to law with a notice of its final adoption.


Anthony DeLuca, Jr., Mayor

	MOVED	SECONDED	AYES	NAYS	ABSTAIN	ABSENT
Councilwoman Kay Ceceri	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>			
Councilman Larry Clementi		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
Councilman Peter Corvelli						<input checked="" type="checkbox"/>
Councilman Mark David			<input checked="" type="checkbox"/>			
Councilwoman Linda Karlovitch			<input checked="" type="checkbox"/>			
Councilman Gerry Laudati			<input checked="" type="checkbox"/>			
ON CONSENT AGENDA	Yes <input type="checkbox"/>		No <input checked="" type="checkbox"/>			

I hereby certify that the above Resolution was adopted by the Borough Council of the Borough of Kenilworth at a Meeting held on November 8, 2017.


Laura Reinertsen, Borough Clerk

**BOROUGH OF KENILWORTH
ORDINANCE NO. 2017-04**

AN ORDINANCE TO REDUCE THE REQUIREMENTS IMPOSED UPON AN APPLICANT TAKING AN APPEAL FROM AN ACTION OF THE ZONING OFFICER WITHIN THE BOROUGH OF KENILWORTH BY AMENDING ARTICLES FOUR (4), FIVE (5) AND SIX (6) OF CHAPTER 225 OF THE MUNICIPAL CODE OF THE BOROUGH OF KENILWORTH

Explanation: The Borough Code currently imposes a significant burden on resident home owners who only seek to challenge the Zoning Officer's determination or interpretation. It is the intent of the Governing Body to reduce the cost and time for rudimentary review of the Zoning Officer's determination for said residence.

NOW THEREFORE BE IT, Ordained by the Governing Body of the Borough of Kenilworth that:

Section 225-129 J is replaced by the following: Preliminary review of a zoning officer's decision with regard to resident home owner's dwelling shall not require any additional notice other than appearing on the Planning Board's published agenda, no less than two (2) business days prior to the scheduled meeting. All other interpretations and appeals of any administrative officer shall comply with N.J.S.A 40:55D-70b.

Section 225-143 B The title for this section shall now read "Resident Home Owner's Review of Zoning Officer's Decision and Appeals Alleging Erroneous Zoning Officer's Decision for All Other Properties"

Section 225-143 B(3) is replaced by the following: Upon proof of payment of taxes and assessments, the fee required to appeal a zoning officer's decision or interpretation is included in the schedule of fees. The fee for the review of a zoning officer's decision for the residence of a home owner regarding zoning regulations or interpretations is \$250.00.

Section 225-143 B(5) shall read as follows: A public hearing for a appeal before the Planning Board shall be held in accordance with Article 4. The appellant shall give public notice of the hearing in the manner specified for development application in this chapter provided that the parties entitled to notice shall be limited to those specified in Article 4. If the appeal is made by an interested party, other than the owner of the property which was the subject of the decision by the Zoning Officer, notice shall also be sent to said property owner, in addition to the parties specified in Article 4. Affidavits of proof of service of notice shall be submitted to the Planning Board's Secretary no less than seven (7) days prior to the scheduled hearing.

Section 225-143 B(10) is now added and reads as follows: Reviews of a Zoning Officer's decision as requested by a resident home owner by his/her dwelling shall occur at a public hearing before the Planning Board and it shall occur at the next regularly scheduled meeting. The review by the Planning Board shall be placed on the agenda and published on the Borough's website no less than two (2) full business days prior to the scheduled meeting.

Section 225-143 B(11) is now added and reads as follows: The Planning Board upon review of a resident home owner's application for their dwelling based upon an erroneous decision of a zoning officer shall result in one of the following decisions:

- a) Uphold the zoning officer's decision without prejudice; or
- b) Reverse the zoning officer's decision in whole or in part; or

**BOROUGH OF KENILWORTH
ORDINANCE NO. 2017-04**


- c) With the applicant's consent on the record, the board may refer the matter to a board professional for further comments and recommendations. The board professional shall provide written comments and recommendations as may be required at the next regularly scheduled meeting of the Planning Board provided the applicant has provided \$1,500.00 to the Borough to guarantee said review. No further application fee shall be required of the applicant; or
- d) If the \$1,500.00 is not deposited by the eleventh business day after the meeting, the zoning officer's decision shall be deemed upheld and a resolution finding same shall be entered by the Board.

Section 225-149 D is replaced by the following: Review or appeal of a decision of a zoning officer regarding a regulation and/or interpretation shall be \$250.00.

Section 225-150 B(4) is amended to read as follows: Appeals of the decision of the zoning officer shall be \$1,000.00 and the Board shall not require an escrow deposit nor shall the Board professional be permitted to charge for any service for a review of a zoning officer's decisions with regard to resident home owner's dwellings.

This Ordinance shall take effect twenty (20) days after the first publication thereof after final passage as provided by law.

Approved: 
Anthony DeLuca, Mayor

INTRODUCTION						COUNCILPERSON	FINAL ADOPTION					
Moved	Sec.	Aye	Nay	Abs.	NP		Moved	Sec.	Aye	Nay	Abs.	NP
	X	X				KAY CECERI	✓		✓			
X		X				LARRY CLEMENTI		✓	✓			
		X				PETE CORVELLI						✓
		X				MARK DAVID			✓			
		X				LINDA KARLOVITCH			✓			
		X				GERRY LAUDATI			✓			
Introduced: April 12, 2017 Reintroduced: September 13, 2017 Final Adoption: November 8, 2017						I hereby certify the above ordinance was adopted by the Borough Council of the Borough of Kenilworth, County of Union, State of New Jersey on the aforementioned date.  Laura Reinertsen, Borough Clerk						