

ORDINANCE 02-35

TO AMEND TITLE 2 OF THE BLOOMINGTON MUNICIPAL CODE ENTITLED  
"ADMINISTRATION AND PERSONNEL"  
(Amending 2.15 "Advisory Board of Zoning Appeals" to Allow Appointment of Standing  
Alternate Members to Participate in any Hearing or Decision of the Board when the  
Regular Member is Unavailable)

- WHEREAS, Indiana Code Section 36-7-4-907(a) allows the appointment of an alternate Board of Zoning Appeals member to participate with the Board in the hearing and decision of a matter when the regular member is unavailable due to disqualification or otherwise; and
- WHEREAS, Section 2.15.030(b) of the Bloomington Municipal Code currently authorizes appointment of an alternate only where the regular member's unavailability is due to the member's disqualification in the particular case; and
- WHEREAS, Appointment of alternates on a case by case basis is not always possible where the appointing authority is the Common Council or Plan Commission, due to the legal requirement of a duly noticed meeting prior to action by those bodies; and
- WHEREAS, The public interest is best served by amending the Bloomington Municipal Code to allow the broadest use of alternates allowed by state law, in order to avoid lack of quorum or lack of official action due to unavailability of one or more members; and
- WHEREAS, This Amendment will allow appointment of alternates regardless of the reason for the regular member's unavailability, and will also allow each appointing authority to appoint a standing alternate to be called into service in the event of the regular appointee's unavailability;

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

SECTION I. Section 2.15.030(b) of the Bloomington Municipal Code shall be amended to add language to the second sentence so that the Section shall read as follows:

- (b) If a vacancy occurs among the members of the Board of Zoning Appeals, the appointing authority shall appoint a member for the unexpired term of the vacating member. In addition, the appointing authority may appoint an alternate for each of its appointees and such alternate may participate with the Board in any hearing or decision in which the regular member has a disqualification or is otherwise unavailable to participate. The appointing authority may appoint a standing alternate for each regular appointee or may appoint an alternate for a member in the particular case in which the regular member is unavailable. All alternate members appointed hereunder must meet all qualification requirements of the regular member for whom they serve as alternate.

SECTION II. Section 2.15.050 of the Bloomington Municipal Code shall be amended by replacing the term "Chapter 20.19" with the term "Chapter 20.03" in the provision so that it now reads:

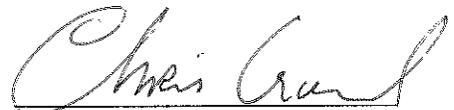
2.15.50 Powers and Duties

The powers and duties of the Board of Zoning Appeals shall be as set out in Chapter 20.03 of the Bloomington Municipal Code.

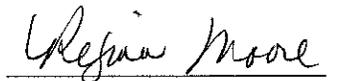
SECTION III. If any sections, sentence or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION IV. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington and approval of the Mayor.

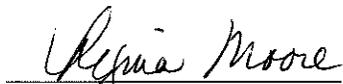
PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 16<sup>th</sup> day of October, 2002.

  
CHRIS GAAL, President  
Bloomington Common Council

ATTEST:

  
REGINA MOORE, Clerk  
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 17<sup>th</sup> day of October, 2002.

  
REGINA MOORE, Clerk  
City of Bloomington

SIGNED and APPROVED by me upon this 18<sup>th</sup> day of October, 2002.

  
JOHN FERNANDEZ, Mayor  
City of Bloomington

SYNOPSIS

This ordinance amends Section 2.15.030 (b) of the Bloomington Code to broaden the authority of the Mayor, Common Council and Plan Commission to appoint an alternate to serve in place of a regular Board of Zoning Appeals member who is unavailable for a particular matter. The ordinance makes two changes: first, it implements a statutory amendment allowing an alternate to serve when the regular member is unavailable for any reason, in contrast to prior statute and current municipal code restricting use of alternates to situations involving disqualification; and second, it expressly permits the appointing authority to appoint a "standing" alternate for each of its regular appointees, which avoids problems that arise when a member's unavailability is not known until shortly before the scheduled BZA meeting.

Note: The Council amended this ordinance prior to final adoption. The amendment added Section II (correcting the citation for the 'powers and duties' provisions in Title 20 of the BMC) and renumbered subsequent sections.

Signed copies to:  
legal (5)      plan commission      BMC file  
    planning      CA/CA(2)      file