

BOROUGH OF BRADLEY BEACH, MONMOUTH COUNTY

ORDINANCE 2020-1

**AN ORDINANCE TO AMEND CHAPTER 450 AND CHAPTER 5-35(D) OF
THE BOROUGH OF BRADLEY BEACH CODE**

WHEREAS, the Borough of Bradley Beach (“Borough”) has adopted Chapter 450, to regulate “Zoning”, within the Borough, and Chapter 5-35(D) to regulate the issuance of zoning permits; and

WHEREAS, the Mayor and Council believe it is in the best interest of the Borough to amend the Borough’s Zoning ordinances for clarity and consistency; and

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Bradley Beach, Monmouth County, State of New Jersey, that the Code of the Borough of Bradley Beach be amended to repeal Section 5-35(D)(4) and Section 5-35(D)(5); and

BE IT FURTHER ORDAINED by the Mayor and Council of the Borough of Bradley Beach, Monmouth County, State of New Jersey, that Section 450-13 be repealed in its entirety and replaced with the following:

§ 450-13 Porch, Balcony, Deck, and Entry Platform Requirements

A. Porch

- (1) Applicability. This Subsection includes regulations for attached, ~~accessory~~ porches located on properties **within the R-1 and R-B Zones** used for **permitted residential purposes** uses.^[1]_[GW2]
- (2) Porch **and upper porch** setbacks. For ~~residential structures dwellings as indicated in LDO section 450-13-A-(1)~~, a porch, not including steps, may extend no more than eight (8) feet into the required front ~~and/or rear~~^[3] setback area, provided the principal structure conforms to the front yard setback requirement. **In no instance shall a porch exceed the width of the existing or proposed structure.** ~~No porch for a residential structure may extend into a side setback area. No porch associated with any multi-family residential use may extend into any setback area.~~ The front yard setback of a porch shall not be considered the front yard setback of the principal building to which it is attached.
- (3) Enclosure. A porch shall not be heated or air-conditioned and at least fifty (50) percent of the exterior wall area shall be open and non-glazed.
- (4) Porches shall be prohibited in the side and rear yard **setbacks** areas.

(5) An upper porch is only permitted in the front yard area above a front porch.

B. Balcony

- (1) Applicability. This Subsection includes regulations for attached, ~~accessory~~ balconies located on properties used for residential purposes.
- (2) **Balcony requirements. For residential structures, no balcony shall extend out more than 5 feet from the second story wall which it is attached to the dwelling. Each single-family dwelling may have no more than two (2) balconies and the total area of these balconies cannot exceed 40 square feet. Each two-family dwelling may have one (1) balcony for each unit but not to exceed two (2) balconies for the dwelling. Each balcony cannot exceed 30 square feet. This area shall be included into the area of building coverage but excluded from impervious coverage. Balconies are not allowed to encroach into any principal dwelling, setback requirements, and shall never be closer than 5 feet to any property line or extended beyond the side building lines. Balconies may be located in the backyard area only.**~~a balcony shall be located above a porch or the first floor level (in a split level house, this would be above the second, or middle level) only. The edges of the balcony shall have a railing and the structure shall meet the setback requirements of the dwelling porch to which it is attached. Balconies shall not project more than eight (8) feet from the building and shall not exceed more than one hundred fifty (150) square feet in area per 30 foot of lot frontage. For purposes of this Chapter, an open air structure supported from the ground is considered a "deck" when not situated directly above an open air covered porch.~~
- (3) Balconies shall be prohibited in the **front side** and **side rear** yard areas.

C. Deck

- (1) Applicability. This Subsection includes regulations for attached, ~~accessory~~ decks located on properties **within the R-1 and R-B Zones** used for **permitted residential purposes uses**[4].
- (2) Deck setbacks. For ~~single family~~ dwellings **as indicated in LDO section 450-13-C-(1)**, ~~a deck, not including steps shall be located above a first story porch. Decks may extend no more than eight (8) feet into the required front setback area, provided the principal structure conforms to the front yard setback requirement. For single family dwellings, a deck may extend no further than fifteen (15) feet into a required rear yard setback area, provided the principal structure conforms to the rear yard setback requirements. In no instance shall a deck be closer than ten (10) feet to a front, rear or side lot line exceed the width of the existing or~~

~~proposed structure. No deck for a residential structure may extend into a side setback area. No deck associated with a multi-family residential use may extend into any required setback area.~~ No deck is allowed above the lowest first floor elevation (shall comply with the principal building setback requirements). Decks are not allowed to encroach into any principal dwellings setback requirements and shall never be closer than 5 feet of any property line or extend beyond the side building line. Decks may be located in the rear yard area only. The deck area shall be included into the area of the building coverage but excluded from impervious coverage.

- (3) Decks shall be prohibited in the ~~front side~~ and ~~side rear~~ yard areas.

D. Entry Platform

- (1) Applicability. This subsection includes regulations for attached, ~~accessory~~ entry platforms located on properties used for residential and nonresidential purposes.
- (2) Entry platform requirements. An entry platform not more than three (3) feet in height above the average finish grade, nor greater than fifty (50) square feet in area, may project four (4) feet into a required front or rear yard setback. No entry platform may extend into a side **yard** setback area. No entry platform associated with a multi-family residential use may extend into any required setback area.

E. Storage sheds. Private residential storage sheds shall comply with the following regulations:

- (1) In no event shall any such shed or type of permitted structures or containers for storage of any kind or nature be erected or placed in the front of any other building or structure on such lot or on the front of any lot within the Borough.
- (2) Any storage sheds, and any types of permitted structures or containers for storage of any kind or nature, shall be erected no closer than five feet from a side or rear property line.
- (3) No shed shall exceed 120 square feet. No shed shall exceed 10 feet in height. No more than one shed per lot shall be permitted.
- (4) The Zoning Officer of the Borough of Bradley Beach shall approve the permit for any of the foregoing construction, erection, or placement before the same shall be performed; and

BE IT FURTHER ORDAINED by the Mayor and Council of the Borough of Bradley Beach, Monmouth County, State of New Jersey, that Section 450-14 be repealed in its entirety and replaced with the following:

§ 450-14 Height Exemptions and Permitted Projections

A. Height exemptions. The maximum height requirements for each zone district shall apply to all structures in all zone districts, except as follows:

- (1) Chimneys, flues, ventilators, skylights, towers, water tanks, cooling towers, church spires, cupolas, belfries, clock towers, flagpoles and all other decorative features and necessary mechanical appurtenances and similar features usually carried above the roof level, shall be exempt from the height provisions of this Ordinance provided:
 - (a) The aggregate area covered by all such features shall not exceed 20% of the area of the roof of the building of which they are a part.
 - (b) The height of each such feature shall not exceed fifteen (15) feet above the level of such roof, except for church spires which may exceed the required height by thirty-five (35') feet.
 - (c) All such features shall be constructed, or enclosed within walls, of a material and design in harmony with that of the main walls of the building of which they are a part.
- (2) Where the height of a building conforms to the requirements of this Chapter on that side or sides thereof which face(s) the street, but where, due to the topography of the lot, the said height is in excess of said requirements along one or more sides of such building other than the side or sides which face(s) the street, the Zoning Officer may issue a zoning permit provided that at no point along the periphery of the building does the height thereof exceed by ten (10) feet, and/or by one (1) story, the maximum height prescribed by this Chapter for the zone district in which such building is located.
- (3) Parapet walls not extending more than four (4) feet above the maximum height limitation shall be exempt from height requirements set forth in this Chapter.

B. Permitted projections. The following shall not be considered to be obstructions and shall be permitted when located in a required yard and/or setback area:

- (1) Fire escapes, provided they do not project more than four (4) feet into a required yard and they are no closer than two (2) feet to a property line; Fire escapes are not permitted in a front yard. ~~Existing fire escapes may be replaced in their location and to their exact size.~~[5]
- (2) Weather protecting and energy efficiency enhancing front door enclosures are permitted in the GB, OP, GBW and BOR Zones only subject to the following restrictions:

- (a) May be used only from October 15 to May 1 (in each calendar year).
 - (b) The panels must be clear of such material for an individual to see through.
 - (c) The view must be maintained between a height of two feet from grade and seven feet high.
 - (d) Project no more than four (4) feet into a required front setback area and are no larger than forty eight (48) square feet in total area, provided the principal structure complies with the required front yard setback;
 - (e) Must maintain ADA compliance.
 - (f) Anchored to the ground in such a way as not to damage the Borough's sidewalk/pavers or create a tripping hazard when removed. (Any and all damages to sidewalk/pavers will be repaired at the owner's expense.)
- (3) Cornices, eave, cantilevered roofs, gutter, bay windows, and chimneys, provided they do not project more than twenty-four (24) inches from an exterior building wall into any required yard setback, and provided they remain two (2) feet from all yard lines; and

BE IT FURTHER ORDAINED by the Mayor and Council of the Borough of Bradley Beach, Monmouth County, State of New Jersey, that Section 450-79 be repealed in its entirety and replaced with the following:

§ 450-79 Administration, Enforcement, Zoning Permits, Violations & Penalties

- A. Administration. These rules, regulations and standards shall be considered the minimum requirements for the protection of the public health, safety and welfare of the citizens of the Borough. Any action taken by the Borough under the terms of the Land Development Ordinance shall give primary consideration to the above mentioned matters and to the welfare of the entire community.
- B. Enforcement. It shall be the duty of the Zoning Officer of the Borough to administer and enforce the provisions of the Land Development Ordinance. No structure or building improvement shall be erected until a zoning permit is obtained by the Zoning Officer and no structure or lot shall be used in violation of the Land Development Ordinance. It shall be the duty of the Zoning Officer to keep a record of all zoning permit applications and all zoning permits which are either issued or denied, with notations of any conditions involved, which data shall form a part of the Borough's public records. It shall be the duty of the Zoning Officer to inspect the structures and land in the Borough and order the owner in writing to remedy any condition found to exist in violation of any provision(s) of the Land Development Ordinance.
- C. Zoning Permits.

- (1) When required. A zoning permit shall be issued prior to:
 - (a) The commencement or change of use of a property, building or structure;
 - (b) The commercial occupancy of any building or structure;
 - (c) The construction, erection, reconstruction, alteration, conversion, or installation of any building or structure;

- (2) Submission requirements. Every application for a zoning permit shall be accompanied by two (2) copies of a current survey/site plan and two (2) sets of construction plans. Surveys must show the existing conditions and exact location of physical features including metes and bounds, drainage, waterways, specific utility locations and easements, all drawn to scale. All surveys must be prepared by a land surveyor. Survey information may be transposed to a site plan if the date of the survey and by whom and for whom it was prepared is noted on the site plan. Vegetation, general flood plain determinations or general location of existing utilities, buildings or structures may be shown by an architect, planner, engineer, land surveyor, or certified landscape architect. All plans must display the actual shape and dimensions of the lot to be built upon, the exact location, size and height of all existing and proposed structures and substructures (drawn to scale), the number of dwelling units the structure is designed to accommodate, the number and location of off-street parking spaces and off-street loading areas and such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of the Land Development Ordinance.

- (3) A zoning permit shall be granted or denied in writing within ten (10) business days from the date of a complete application submission, unless additional time is agreed upon. All dimensions shown on these plans relating to the location and size of the lot to be built upon shall be based on an actual survey of the lot by a land surveyor licensed in the State of New Jersey. No zoning permit shall be issued for any structure until prior site plan, subdivision and variance approvals as may be necessary, have been granted by the appropriate Board in accordance with the provisions of the Land Development Ordinance and until all review and inspection fees and all local taxes and assessments on the property have been paid.

- (4) The fee for an application for a zoning permit shall be \$45, which fee shall be paid at the time of application.

- (5) The fee for a zoning determination shall be \$100 per property, which fee shall be paid at the time of application.

- (6) Temporary zoning permits may be issued by the Zoning Officer for the location of temporary trailers permitted by this Code for a period not to exceed one year; however, the permit may be renewed for like periods until completion of construction. Such permits may be revoked or reissue refused in the event that the trailer is no longer used for the purposes for which the permit was issued or the use discontinued, subject to the penalties for violation of this Ordinance.

D. Violations. In case any building or structure is erected, constructed, reconstructed, altered, moved or converted; or any building, structure or land is used in violation of, or contrary to, the provisions of the Land Development Ordinance, the Borough may institute an action to enjoin or take any other appropriate action or proceeding to prevent such erection, construction, reconstruction, alteration, conversion or use. However, nothing in the Land Development Ordinance shall be construed to restrict the right of any party to obtain a review by any court of competent jurisdiction according to law.

E. PENALTIES.

(1) Fines.

- (a) Any person, firm or corporation that shall violate any provisions of this Ordinance shall, upon conviction thereof by any court authorized by law to hear and determine the matter, be fined such sum not exceeding \$2,000.00 as such court in its discretion may impose; or if the party so convicted be a natural person, such person may be sentenced to community service not exceeding ninety (90) days, as such court in its discretion may impose; or, if the party so convicted be a natural person, such person may be imprisoned for such term not exceeding ninety (90) days, as such court in its discretion may impose; or such natural person may be both imprisoned and fined not exceeding the maximum limits set forth herein, as such court in its discretion may impose. Each day that such violation exists shall constitute a separate offense.
- (b) The owner of any building or structure, lot or land, or part thereof, and/or the tenant or occupant of any building or structure, lot or land, or part thereof, where anything in violation of the Land Development Ordinance shall be placed or shall exist or be suffered, allowed or permitted to exist; and any architect, builder, developer, contractor, agent, person or corporation engaged in connection therewith and who assists in the commission of any such violation, shall each be guilty of a separate violation, and upon conviction thereof shall each be liable to the fine or imprisonment, or both, specified above.

(2) Selling Land Before Final Subdivision Approval.

- (a) If, before final subdivision approval has been granted, any person as owner or agent, transfers or sells or agrees to transfer or sell any land which forms a part of a subdivision for which municipal approval is required in accordance with the provisions of the Land Development Ordinance, except pursuant to an agreement expressly conditioned on final subdivision approval, such person shall be subject to a penalty not to exceed \$1,000.00, and each lot disposition so made may be deemed a separate violation.
- (b) In addition to the foregoing, the Borough may institute and maintain a civil action:
 - (i) For injunctive relief; and
 - (ii) To set aside and invalidate any conveyance made pursuant to such a contract or sale if a certificate of compliance has not been issued in accordance with N.J.S.A. 40:55D-56.
- (c)

F. Additional Remedies

- (1) In addition to the remedy or remedies hereinbefore provided, any person, persons, company or corporation violating the Land Development Ordinance or any provision or section thereof, may be proceeded against by the Borough of Bradley Beach or by the Zoning Officer of the Borough of Bradley Beach or any designee of the Borough of Bradley Beach or Zoning Officer or by the owner of any property in the Borough of Bradley Beach by appropriate action or by proceeding in equity or otherwise to prevent and enjoin any threatened violation or any existing violation or continuing violation of the Land Development Ordinance or any provision or section thereof; and

BE IT FURTHER ORDAINED by the Mayor and Council of the Borough of Bradley Beach, Monmouth County, State of New Jersey, that the following Definitions shall be added to Chapter 450, as part of 450-4, as follows:

~~BALCONY --An open air structure, without a roof, attached to a building, and located above a porch or the first floor level (in a split level house, this would be above the second, or middle level). The edges of the balcony shall have a railing and the structure shall meet the setback requirements of the structure to which it is attached. Balconies shall not project more than eight (8) feet from the building and shall not exceed more than one hundred fifty (150) square feet in area per 50 foot of lot frontage. For purposes of this Chapter, an open air structure supported from the ground is considered a "deck" when not situated directly above an open air covered porch or the first floor level (in a split level house, this would be above the second, or middle level).~~ **A roofed or unroofed platform attached to the dwelling, having no stairs to or from it, which allows access to the second floor only.**

DECK – An above grade, unroofed structure without walls that is attached to a residential dwelling unit, twelve (12”) inches or more above grade **and is built upon a foundation of piers or piles into the ground.**

PORCH - A roofed, open area attached to and with direct access to or from a building **and is built upon a foundation into the ground**

UPPER PORCH – An unroofed structure without walls that is attached to the second floor of a residential dwelling unit with direct access to or from a dwelling; and

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the Courts to be invalid, such adjudication shall only apply to the section, paragraph, subsection, clause or provision so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective; and

BE IT FURTHER ORDAINED, This ordinance shall take effect twenty (20) days after passage by the Mayor and Council and publication according to law.

SO ORDAINED as aforesaid.

KELLY BARRETT
Municipal Clerk

GARY ENGELSTAD
Mayor

Introduced:

Date of Hearing and Adoption: