

Thomas J. Coan  
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Bradley Beach, NJ 07720  
732-539-3320

November 23, 2020

Mr. Mark Kitrick, Esq.  
Bradley Beach Planning Board Attorney

-- Sent Via Email --

Dear Mr. Kitrick,

Re: Bradley Beach Zoning Board of Adjustment Hearing ZB20/5  
Beth and Harold Cotler 306 Monmouth Avenue

### **Specific Actions Requested**

I am very concerned regarding the lack of adequate processes and controls over the virtual Bradley Beach Board of Adjustment meetings that are being conducted via Zoom technology. Inadequate controls demonstrated in the November 19, 2020 meeting are jeopardizing my rights to fair "due process". In order to address these concerns, I am requesting the following actions be taken immediately:

- Remove ZBA member Deborah Bruynell from further participation in this hearing
- Remove ZBA member Raymond Wade from further participation in this hearing
- Actively manage Zoom audience participants in order to eliminate abuses such as the administrator allowing "open chat" – some of which includes unfiltered, rude and biased comments that might unduly influence Board member opinions.
- At the beginning of each meeting, provide clear, specific guidance to all audience participants regarding proper protocols that should be required for a quasi-judicial meeting, including:
  - Requiring all active participants to be on live video feed
  - Requiring all non-active participants to remain on mute until they identify themselves to actively participate
  - Requiring all ZBA members to remain on live video and without contact from outside influences
- Identify "Bad Actors" – both current (e.g. "iPhone (3)" and "Hands On-Tech") and future, many of whom do not use real names. Strictly enforce a code of conduct that penalizes the non-compliance by bad actors.

- In order to assure adequate public access - post links to prior Zoom meetings noted below as recommended by the DCA, Division of Local Government Services.

### **Removal of ZBA Board member Ms. Bruynell from further participation**

The participation of actors in the question portion of the meeting, who were not on video, is a clear violation as per the NJ Department of Community Affairs, Division of Local Government Services, September 24th, 2020 Local Finance Notice attached below.

***"Due process considerations require that all individuals giving sworn testimony be taken by video as well as audio, including during any cross examination. As most land use meetings feature public hearings on development applications, land use board meetings should be held through videoconferencing technology as a default; however, remote land use board meetings shall continue to allow public comment via a telephone conference dial in number. To ensure maximum transparency and public engagement, the Division strongly encourages local public bodies to use videoconferencing technologies for all remote meetings."***

In the course of the November 19, 2020 meeting, Terence Wright -- a borough employee and the Deputy Coordinator of The Bradley Beach Office of Emergency Management -- participated improperly by phone and was disruptive while not being seen on video. He was not on video, because he was in the same room as Zoning Board of Adjustment member Deborah Bruynell. You can see this in the screenshot taken during the hearing and have included below [See Terrence Wright Photo Attached] Mr. Kitrick, during the meeting you may recall asking if there were two devices on at the same time, due to the feedback you were receiving on the Zoom feed. I believe these individuals caused that feedback and that is supported by the screenshot.

In addition to Mr. Wright, there is a screenshot below [See James J. Byrnes photo attached] of another individual with board member Bruynell, who I am able to identify as sitting Councilman James J. Byrnes of Berkeley Township NJ. As a councilman, former chairman of the Berkeley Township Planning Board, and former member of the Berkeley Township Zoning Board, Councilman Byrnes should be well aware that his appearance on the videotape -- along with Mr. Wright and board member Bruynell in the same room -- raises questions of undue influence and fairness in this open public meeting process. Ms. Bruynell's behavior is clearly a violation of the sanctity of a quasi-judicial body and I request that Ms. Bruynell no longer participate in this hearing. Further, I will petition the Borough Council for her removal from the Bradley Beach ZBA permanently.

### Removal of ZBA Board member Raymond Wade from further participation

I would also request the removal of ZBA member Raymond Wade, per his improper interruption during my cross examination of Planner Jennifer Coffin. His attempt to limit my time was aggressive and inappropriate. This is now the second time that a sitting board member has egregiously interrupted the proceeding in an angry and emotional manner, showing clear bias against my rights to due process, and equally strong bias in favor of the applicant.

### Actively manage Zoom participants and clearly state and enforce meeting rules

The Borough is clearly using the wrong Zoom video conferencing format and there should be a review and change before the next ZBA meeting for the next scheduled meeting for this application on December 1st. The open chat option in Zoom has put the entire zoning application at risk. It is exposing all viewers to the open chat, which includes rude comments about my intent as a resident of Bradley Beach. This is highly improper in a quasi-judicial meeting, and the bad actors do not even have names in the chat as you can see from the screenshot below. [See Zoom Chat Photo Attached] There should be an investigation as to who the players are, "iPhone (3)" and "Hands On-Tech" as this is clearly inappropriate behavior and should bring into question their further participation in this process. For any participants -- anonymous or identified -- to interfere and taint the New Jersey open public meeting process is unethical and a clear violation of due process. Furthermore it shows no respect to this quasi-judicial process, or to the applicant's team, or to those who object to the application expecting a fair process.

As you make adjustments in process for our next meeting that will address these concerns, please consider the following recommendations as well as any other controls that you deem appropriate:

- Requiring all active participants to be on live video feed.
- Requiring all non-active participants to remain off-screen and muted until they identify themselves and are invited into the meeting to actively participate.
- Requiring all ZBA members to remain on live video and without contact from outside influences.

### Provide adequate public access to prior ZBA meetings recorded on Zoom

Guidance provided by the NJ DCA<sup>(1)</sup> referencing local Zoning Boards of Adjustment states:

***“Local units have a continuing obligation to record and make public the minutes of public meetings. They must also continue to transcribe quasi-judicial proceedings. To maintain compliance with these obligations, a court reporter should participate in any virtual hearing, transcribing the***

***video session. Additionally, a record of the entire proceeding can be retained using the adopted virtual meeting technology.”***

Please have Ms. Dickert send the Zoom link of the November 19, 2020 ZBA meeting to both Mr. Stone and me, so we can both prepare for the December 1, 2020 meeting. As was done for the June 18, 2020 ZBA Meeting, I also request that you have Ms. Dickert post Zoom links to the Bradley Beach Borough website for Zoning Board meetings from the following dates:

- July 16, 2020,
- August 20, 2020,
- September 17, 2020,
- October 15, 2020 and
- November 19, 2020

The posting of the links to these meetings will create better public access and transparency.

### **In Closing**

I look forward to conferencing with you and Mr. Stone on these new issues, as we had a productive outcome on the last set of issues regarding this application. Hopefully we can move this case to a final vote on December 1, 2020.

I also request that this email and attachments be made part of the official record of this ZBA proceeding.

Sincerely,

Thomas "T.J." Coan  
Bradley Beach Public Citizen

<sup>(1)</sup> New Jersey Department of Community Affairs, Division of Local Government Services  
Planning Board and Zoning Board of Adjustments Operational Guidance - COVID-19: N.J.S.A. 40:55D-1  
Recommendations for Land Use Public Meetings in New Jersey