

Town of Jerome Board of Adjustment Bylaws
Updated: September 22, 2021

I. Organization and responsibilities

A. Board, Officers and Staff

1. It shall be the duty of the Board of Adjustment (the Board) to:
 - a. Hear and decide appeals in which it is alleged there is an error in an order, requirement, or decision made by the Zoning Administrator in the enforcement of the Zoning Ordinance of the Town of Jerome, (the Zoning Ordinance) and to reverse or affirm, wholly or partly, or modify the order, requirement, or decision of the Zoning Administrator appealed from, and make such order, requirement, decision, or determination as necessary.
 - b. Hear and decide appeals for variances from the terms of the Zoning Ordinance only if, because of special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, the strict application of the Zoning Ordinance will deprive such property of privileges enjoyed by other properties of the same classification in the same zoning district. Any variance granted is subject to such conditions as will assure that the adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zoning where such properties are located.
2. The Board of Adjustment may not:
 - a. Make any changes in the uses permitted in any zoning classification of zoning district or make any changes in the terms of the Zoning Ordinance provided the restrictions in this paragraph shall not affect the authority to grant variances pursuant to this article.
 - b. Grant a variance if the special circumstances applicable to the property are self-imposed by the property owner.
3. The Board shall consist of five (5) members, each of whom shall be a resident of the Town of Jerome, to be appointed by the Jerome Town Council (the Council). The members of the Board shall serve a term of three (3) years, beginning March 1 and ending February 28.
 - a. In the event of a death, resignation, or removal from the Board, the vacancy shall be filled by the Council for the unexpired term.
 - b. Members of the Board may, after a public hearing, be removed by the Council for inefficiency, neglect of duty, or malfeasance in office. The Council shall file a written statement of the reasons for removal.

- c. Members of the Board may, after a public hearing, be removed by the Council for inefficiency, neglect of duty, or malfeasance in office. For any reason other than absence, the Council shall file a written statement of the reasons for removal. A Board member who is absent four (4) regular meetings of a year beginning March 1st and ending February 28th shall be deemed to have vacated his or her appointment without further action being taken by the Board or Council.
 - d. All members shall serve without pay. However, members of the Board may be reimbursed for actual expenses incurred in connection with their duties upon authorization or ratification by the Board and approval of such expenditures by the Council.
- 4. The Board shall elect a Chair and Vice Chair annually from among the appointed members at its first meeting in March of each year. If the Board does not meet in March, then officers shall be elected at the next meeting. The election may be postponed by a majority vote of the members of the Board present. If the election is postponed, the current Chair and Vice Chair will remain in office until the election.
 - a. The term of Chair and Vice Chair shall be one (1) year. No individual may serve consecutively as Chair or Vice Chair for more than two (2) one-year terms.
 - b. Any vacancy in the office of Chair or Vice Chair shall be filled from the Board membership by majority vote of the Board members present at the next meeting. Any Chair or Vice Chair so elected shall serve for the remainder of the vacated term.
- 5. The Chair shall preside at all meetings and hearings of the Board, decide all points of order and procedure, and perform any duties required by law, ordinance, or these bylaws.
 - a. The Chair shall have the right to vote on all matters before the Board and shall also have the right to make or second motions in the absence of a motion or a second made by a member.
 - b. The Vice Chair shall act as Chair in the Chair's absence. In the absence of the Chair and Vice Chair, the senior member based upon years of membership shall act as Chair.
- 6. The Zoning Administrator, or their designated representative, shall serve the Board as Secretary. The Zoning Administrator and/or Planning Staff shall furnish professional and technical advice to the Board.

II. Meetings

A. Hearings and Meetings

1. Hearings of the Board shall be held at the call of the Chair and at such other times as the Board or Zoning Administrator may determine.
2. Meetings may be held as necessary to address administrative issues of the Board.
3. Except for executive sessions authorized by law, all meetings of the Board shall be open to the public. Minutes of the proceedings, recording of its examinations, and showing the vote of each member shall be filed with the Town Clerk as a public record.
4. Board members are expected to attend hearings and meetings unless prior notice of an inability to attend is provided to the Chair or Zoning Administrator. Meetings may be attended in person, telephonically, or by other digital means, with advance notice to the Chair or Zoning Administrator.

B. Notice of Meetings and Hearings

Written notice of all meetings shall be delivered by email or in person to individual Board members at least 24 hours before the date of the meeting, except where required by an actual emergency, when members may be notified by telephone by the Secretary.

C. Quorum

Pursuant to Section 105(D) of the Zoning Ordinance, three members of the Board shall constitute a quorum for transacting business at any regular meeting. No action shall be taken at any regular meeting in the absence of a quorum, except to adjourn the meeting to a subsequent date.

D. Agenda

The Zoning Administrator shall prepare an agenda for each hearing or meeting of the Board. The agenda shall include all matters of business as scheduled for consideration by the Board.

III. Order of Business

A. Parliamentary Procedure

1. The Chair shall call the meeting to order and the Secretary, or Secretary's designee, shall record the members present or absent. The Chair may call each matter of business in the order of the approved agenda and shall announce the name of the applicant, the location of the property involved, and the nature of the request. The Board, by majority vote, may change the order of the posted agenda to accommodate the Board, staff, and members of the public. Supporting evidence for and against each matter shall be presented to the Board.
2. The Chair shall conduct meetings under Robert's Rules of Order unless such rules are suspended by majority vote of the Board. The Chair shall direct questions to the applicant or any person speaking in order to bring out all the relevant facts, circumstances, and conditions affecting the matter being considered, and then call for questions from other members of the Board and from staff.

B. Hearing Conduct

1. Public hearings shall be conducted in accordance with the procedures set forth in the Zoning Ordinance and Arizona law.
2. Hearings are quasi-judicial in nature as defined in Arizona Revised Statutes (A.R.S.) § 38-431(7). Relevant evidence may be considered if it is the sort of evidence on which responsible persons are accustomed to relying in the conduct of serious affairs.
 - a. All exhibits shall be clearly labeled and made a part of the record of the Board of Adjustment hearing. Evidentiary objections shall be waived unless made timely to the hearing.
 - b. The Chair may exclude evidence that is irrelevant, immaterial, or repetitious.

C. Public Hearing Testimony

1. Any person may appear at a public hearing and submit oral or written evidence related to the application, either individually or as a representative of a person or an organization. Each person who appears at a public hearing shall state his or her name, address, and, if appearing on behalf of a person or organization, state the name and mailing address of the person or organization being represented.
2. The Chair may establish time limits for individual testimony and may require that individuals with shared concerns select one or more spokespersons to present testimony on behalf of those individuals.
3. In the event testimony or evidence is excluded as irrelevant, immaterial, or repetitious, the person offering such testimony or evidence shall have an opportunity to offer a written statement in regard to such testimony or evidence for the record. Such a written statement shall be presented to the Town Clerk within three (3) working days of the hearing.
4. If an applicant fails to appear at the hearing, the Board may continue the hearing until the next regularly scheduled meeting or other meeting designated by the Board. If before the meeting the applicant submits a written request for the Board to act without their presence, the Board may hear those persons requesting to speak in response to the notice of hearing and make a decision without the applicant attending the meeting.
5. The burden of proof of all legal prerequisites to the granting of the relief or action sought shall be upon the party requesting such relief or action.

D. Voting

1. In taking action on any appeal, the Board may reverse, affirm wholly, affirm in part, or modify the order, requirement, or the Zoning Administrator's decision being appealed from, and make such order, requirement, decision, or determination as necessary. Decisions of the Jerome Board of Adjustment shall meet the statutory requirements set forth in the A.R.S. § 9-462.06 and Town of Jerome Zoning Ordinance. In lieu of the above, the Board may remand the matter to the original decision-making body for reconsideration, for additional information, or to cure a deficiency in the record or proceeding.
2. When making a decision to approve, approve with modifications and/or conditions, or deny a variance, or when acting on an appeal, the Board shall make findings of fact required by the Zoning Ordinance as set forth in A.R.S. § 9-462.06 and the Zoning Ordinance Section 105.B., Powers and Duties, as stated in Section 1.1. of these bylaws.

3. Three (3) members shall constitute a quorum. The affirmative vote of three (3) members shall be required for passage of any matter before the Board.
4. The Zoning Administrator whose decision is being appealed from shall not participate in any discussion or vote of the Board but shall be available during the public hearing for questions from the Board members.
5. Prohibition Against Ex Parte Communications. To ensure a fair and impartial decision-making process, members of the Board of Adjustment shall not, directly or indirectly, participate in any ex parte communication relevant to an application pending before the Board. Ex parte communications are oral or written communications related to the matter to be heard by the Board that are made to or by any member of the Board, including in person, telephonic or electronic communications that occur outside of a public meeting of the Board.
6. A member who has a conflict of interest with a matter being considered, as described in A.R.S. § 38-501 through 38-511, shall recuse themselves, abstain from voting, and leave the meeting chambers during discussion and action of the matter.
7. Each member attending shall be entitled to one vote. The minutes of the proceedings shall indicate the vote of each member on every matter acted upon and shall indicate any absence or failure to vote. No member shall be excused from voting except on matters involving the consideration of their own official conduct, or where the member declares a conflict as described in Section III.D.(6) of these bylaws.
A member who is absent from any portion of a public hearing conducted by the Board may not vote on the matter at the time it is acted upon by the Board, unless they have reviewed the minutes or the recording of any portion of the hearing from which they were absent, and states for the record prior to voting that they deem themselves to be familiar with the record. A member who misses only the presentation of the staff report may vote on the matter at the time it is acted upon by the Board, provided that the member states for the record that they read the staff report and are familiar with it.
8. Whenever practical, Board decisions should be documented by written resolution. Copies of the resolutions shall be maintained at Town Hall.

IV. Official Records

A. Retention of Files

The official records of the Board shall include these bylaws, minutes of meetings, resolutions, and adopted reports, all of which shall be deposited with the Town Clerk and shall be available for public inspection as public records. All applications and other matters coming before the Board shall be filed in the Jerome Planning and Zoning Department in accordance

with that department's general file system. Original papers of all applications and other matters shall be retained in compliance with the Town's document retention schedule.

B. Recording of Meetings

All public meetings of the Board will be recorded in written and audio form. Any person desiring to have a meeting recorded by an electronic device or by a stenographic reporter, may do so at their own expense. Advance notice to the Zoning Administrator to arrange facilities for such recording shall be made at least 72 hours prior to commencement of the meeting. Such recording shall not disrupt the proceedings and may, at the discretion of the Chair, be stopped if it is disruptive.

V. Amendments

These bylaws may be amended by majority vote at any meeting of the Board provided that notice of said proposed amendment is given to each member in writing at least five (5) days prior to said meeting. Such amendment shall become effective at the next meeting or hearing of the Board.