

AN ORDINANCE OF THE TOWN OF SAN LUIS, ARIZONA ESTABLISHING A BOARD OF ADJUSTMENT, AN APPEAL PROCESS FOR ZONING ISSUED, SPECIAL USE PERMIT PROCEDURES, VARIANCE PROCEDURES, AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE TOWN COUNCIL OF SAN LUIS, ARIZONA AS FOLLOWS:

SECTION 1: The Board of Adjustment shall consist of seven (7) members of the San Luis Town Council. The Mayor and Vice Mayor shall serve as Chairman and Vice Chairman, respectively.

SECTION 2: The Zoning Administrator, or an authorized deputy, shall serve as Secretary. The Chairman, Vice Chairman or Chairman Pro-Tem shall have power to administer oaths and take evidence.

SECTION 3: Meetings of the Board shall be open to the public and the minutes of its proceedings, showing the vote of each member and records of its examinations and other official action shall be filed with the Town Clerk as a public record.

SECTION 4: The Board shall have the following authority;

- 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 (Town Manager) in the enforcement of this Ordinance.
- B. Reserve or affirm, wholly or partly, or modify the order, requirement or decision of the Zoning Administrator appealed from, and made such order, requirement, decision or determination as necessary.
- C. 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 property 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 zone in which such property is located.

SECTION 5. THE BOARD MAY NOT:

- A. Make any changes in the uses permitted in any zoning classification or zoning district, or make changes in the terms of the Zoning Ordinance, provided the restriction in this paragraph shall not affect the authority to grant variances pursuant to this ordinance.
- B. Grant a variance if the special circumstances applicable to the property are self-imposed by the property owner.

SECTION 6. APPEALS: The Board of Adjustment shall hear and decide appeals from the decision of the Zoning Administrator as provided in this Section. Appeals may be taken by persons aggrieved or by any officer, department, board or agency of the Town.

- A. Application: The application shall be on the form provided by the Zoning Administrator, shall specify the grounds of the appeal. shall be accompanied by a non-returnable filing fee of \$25.00, and shall include reasons and arguments for granting the appeal, plans, and other pertinent information. A list of the names and addresses of all owners of property within a radius of one hundred (100) feet of the exterior boundaries of the property being the subject of the appeal, using for this purpose the name and address shown on the County assessment roll, shall also be provided by the applicant.
- B. Stay Of Proceedings: An appeal stays all proceedings unless the Zoning Administrator certifies that a stay would cause imminent peril to life or property. Upon such certification proceedings shall not be stayed. except by restraining order granted by the Board of by a Court of Record on application and notice to the Zoning Administrator
- C. Public Hearing: A public hearing shall be held by the Board; notice of the time and place of the hearing shall be given by posting the property affected, by at least one publication in a newspaper of general circulation in the Town of San Luis, at least fifteen (15) days before the hearing, and by mail at least seven (7) days before the hearing to all owners of property within a radius of one hundred (100) feet of the exterior boundaries of the property being the subject of the appeal, using for this purpose the name and address shown on the County assessment roll. Failure of any property owner to receive said notice will not invalidate the proceedings.
- D. Board Of Adjustment: Following the aforesaid hearing, the Board shall take action to either deny or grant the appeal.

SECTION 7. SPECIAL USE PERMITS:

- A. It shall be unlawful to erect, construct, move, alter or change the use of any building or structure not in conformance with the provisions of these regulations without first obtaining permission from the Board of Adjustment and a Special Use Permit shall, in no case, be construed as waiving any provision of these regulations.
- B. In granting any Special Use Permit, the Board of Adjustment or the Zoning Administrator may prescribe appropriate conditions and safeguards in conformity with these regulations.
- C. Upon written appeal and payment of a \$25.00 filing fee, the Board of Adjustment may, after posting the property and the holding of a public hearing, authorize such Special Use Permits when such use is not in accordance with the terms of these regulations but will not approve such Special Use Permits when such action is contrary to the public interest.
- D. Application for any Special Use Permit as provided herein shall be made to the Board of Adjustment in the form of a written applicaton for a permit. Said application shall be filed with the Zoning Administrator (Town Manager) and shall be made upon forms provided by the Town of San Luis, and shall be accompanied by:
  - 1) Complete plans and description of the property involved and the proposed use with ground plans and elevations of all proposed buildings; together with the estimate of cost,

- 2) Evidence satisfactory to the Board of Adjustment of the ability and intention of the applicant to proceed with actual construction work in accordance with said plans within six (6) months after issuance of a Special Use Permit.
- 3) Upon receipt in proper form of any such application the Board of Adjustment shall proceed to hold a public hearing upon said application not more than thirty (30) days after such filing at which time all persons and the general public shall be given an opportunity to be heard. The Board of Adjustment shall cause notice of such application and hearing to be given by notices of hearing in the neighborhood where the Special Use Permit is to be located, giving at least ten (10) days notice of said hearing, and the time and place where said hearing will be held. Said notice shall also show the nature of the Special Use Permit requested and state that anyone wanting to protest may appear in person or protest in writing to the Board of Adjustment.
- 4) From the time of filing the application until the time of such hearing, the said application and all maps, shall be available for public inspection during office hours at the Town Hall, and such other places as the Board of Adjustment may direct. At said hearing on the application, the applicant shall present a statement and adequate evidence in such form as the Board of Adjustment may require for the purpose of showing:
  - A. That there are special circumstances or conditions applicable to the property referred to in the application which do not prevail on other property in that district.
  - B. That the strict application of the regulations would cause an unnecessary hardship and that the granting of the application is necessary for the preservation and enjoyment of substantial existing property rights.
  - C. That the granting of such application will not materially affect the health or safety of persons residing or working in the neighborhood and will not be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood.
  - D. That the Special Use Permit is substantially in conformance with the Town's Master Plan, as adopted.

#### SECTION 8 VARIANCES:

- A. Upon written appeal in specific cases, and payment of the \$25.00 filing fee, the Board of Adjustment may authorize such variances from the specific terms of these regulations including the splitting of lots, tracts or parcels of land as will not be contrary to the public interest, where, owing to special conditions a literal enforcement of the provisions of these regulations would result in unnecessary hardship.
- B. A variance shall not be granted by the Board of Adjustment until the appellant has demonstrated that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district.
- C. A variance may be granted when a literal interpretation of the provisions of these regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these regulations, and when,

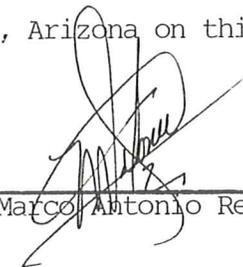
- D. The alleged hardships caused by literal interpretation of the provisions of these regulations include more than personal inconvenience and financial hardship, and do not result from the actions of the applicant, and where,
- E. Granting the variance requested will not confer upon the applicant any special privilege that is denied by these regulations to other lands, structures, or buildings in the same zoning district, and
- F. Granting the variance requested will not interfere or injure the rights of other properties in the same zoning district, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- G. In granting any variance, the Board of Adjustment may require fees, and prescribe appropriate conditions and safeguards in conformity with these regulations.
- H. The fact that there are non-conforming uses of neighborhood lands, structures or buildings, in the same zoning district shall not be considered grounds for issuance of a variance.

SECTION 9: This ordinance supercedes any previous Town Ordinance pertaining to items stated herein.

SECTION 10: Whereas, it is necessary for the preservation of the peace, health and safety of the Town of San Luis, an emergency is declared to exist, and this Ordinance shall be effective immediately upon its passage and adoption.

SECTION 11: If any section, subsection, sentence, clause, phrase or portion of this Ordinance be declared or for any reason held to be invalid or unconstitutional by the decision of any court competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

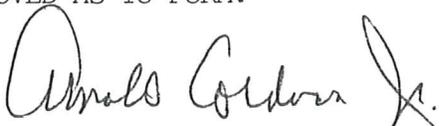
PASSED AND ADOPTED by the Town Council of the Town of San Luis, Arizona on this 24th day of April, 1985

  
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 Marco Antonio Reyes, Mayor

ATTEST:

  
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 Dennis W. Cluff, Town Manager

APPROVED AS TO FORM:

  
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 Arnold Cordova Jr., Attorney