

House Engrossed

FILED
MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-second Legislature
First Regular Session
2015

CHAPTER 125

HOUSE BILL 2525

AN ACT

AMENDING SECTION 9-462.06, ARIZONA REVISED STATUTES; RELATING TO THE BOARD OF
ADJUSTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 9-462.06, Arizona Revised Statutes, is amended to
3 read:

4 9-462.06. Board of adjustment

5 A. The legislative body ~~shall~~, by ordinance, SHALL establish a board
6 of adjustment, which shall consist of ~~not less than~~ AT LEAST five ~~nor~~ BUT NO
7 more than seven members appointed by the legislative body in accordance with
8 provisions of the ordinance, except that the ordinance may establish the
9 legislative body as the board of adjustment. The legislative body may, by
10 ordinance, delegate to a hearing officer the authority to hear and decide on
11 matters within the jurisdiction of the board of adjustment as provided by
12 this section, except that the right of appeal from the decision of a hearing
13 officer to the board of adjustment shall be preserved.

14 B. The ordinance shall provide for public meetings of the board, for a
15 chairperson with the power to administer oaths and take evidence, and that
16 minutes of its proceedings showing the vote of each member and records of its
17 examinations and other official actions be filed in the office of the board
18 as a public record.

19 C. A board of adjustment shall hear and decide appeals from the
20 decisions of the zoning administrator, shall exercise ~~such~~ other powers as
21 may be granted by the ordinance and adopt all rules and procedures necessary
22 or convenient for the conduct of its business.

23 D. Appeals to the board of adjustment may be taken by persons
24 aggrieved or by any officer, department, board or bureau of the municipality
25 affected by a decision of the zoning administrator, within a reasonable time,
26 by filing with the zoning administrator and with the board a notice of appeal
27 specifying the grounds ~~thereof~~ OF THE APPEAL. The zoning administrator shall
28 immediately transmit all records pertaining to the action appealed from to
29 the board.

30 E. An appeal to the board stays all proceedings in the matter appealed
31 from, unless the zoning administrator certifies to the board that, in the
32 zoning administrator's opinion by the facts stated in the certificate, a stay
33 would cause imminent peril to life or property. ~~Upon such~~ ON THE
34 certification proceedings shall not be stayed, except by restraining order
35 granted by the board or by a court of record on application and notice to the
36 zoning administrator. Proceedings shall not be stayed if the appeal requests
37 relief ~~which~~ THAT has previously been denied by the board except pursuant to
38 a special action in superior court as provided in subsection K of this
39 section.

40 F. The board shall fix a reasonable time for hearing the appeal, and
41 shall give notice of hearing by both publication in a newspaper of general
42 circulation in accordance with section 9-462.04 and posting the notice in
43 conspicuous places close to the property affected.

1 G. A board of adjustment shall:

2 1. Hear and decide appeals in which it is alleged there is an error in
3 an order, requirement or decision made by the zoning administrator in the
4 enforcement of a zoning ordinance adopted pursuant to this article.

5 2. Hear and decide appeals for variances from the terms of the zoning
6 ordinance only if, because of special circumstances applicable to the
7 property, including its size, shape, topography, location, or surroundings,
8 the strict application of the zoning ordinance will deprive ~~such~~ THE property
9 of privileges enjoyed by other property of the same classification in the
10 same zoning district. Any variance granted is subject to ~~such~~ conditions as
11 will assure that the adjustment authorized shall not constitute a grant of
12 special privileges inconsistent with the limitations upon other properties in
13 the vicinity and zone in which ~~such~~ THE property is located.

14 3. Reverse or affirm, ~~wholly or partly~~ IN WHOLE OR IN PART, or modify
15 the order, requirement or decision of the zoning administrator appealed from,
16 and make ~~such~~ THE order, requirement, decision or determination as necessary.

17 H. A board of adjustment may not:

18 1. Make any changes in the uses permitted in any zoning classification
19 or zoning district, or make any changes in the terms of the zoning ordinance
20 provided the restriction in this paragraph shall not affect the authority to
21 grant variances pursuant to this article.

22 2. Grant a variance if the special circumstances applicable to the
23 property are self-imposed by the property owner.

24 I. If the legislative body is established as the board of adjustment,
25 it shall exercise all of the functions and duties of the board of adjustment
26 in the same manner and to the same effect as provided in this section.

27 J. In a municipality with a population of more than one hundred
28 thousand persons ~~according to the latest United States decennial census~~, the
29 legislative body, by ordinance, may provide that a person aggrieved by a
30 decision of the board or a taxpayer WHO OWNS OR LEASES THE ADJACENT PROPERTY
31 OR A PROPERTY WITHIN THREE HUNDRED FEET FROM THE BOUNDARY OF THE IMMEDIATELY
32 ADJACENT PROPERTY, AN officer or A department of the municipality affected by
33 a decision of the board ~~may file~~, at any time within fifteen days after the
34 board has rendered its decision, MAY FILE an appeal with the clerk of the
35 legislative body. The legislative body shall hear the appeal in accordance
36 with procedures adopted by the legislative body and may affirm or reverse, in
37 whole or in part, or modify the board's decision.

38 K. A person aggrieved by a decision of the legislative body or board
39 or a taxpayer WHO OWNS OR LEASES THE ADJACENT PROPERTY OR A PROPERTY WITHIN
40 THREE HUNDRED FEET FROM THE BOUNDARY OF THE IMMEDIATELY ADJACENT PROPERTY, AN
41 officer or A department of the municipality affected by a decision of the
42 legislative body or board ~~may~~, at any time within thirty days after the
43 board, or the legislative body, if the board decision was appealed pursuant

1 to subsection J of this section, has rendered its decision, MAY file a
2 complaint for special action in the superior court to review the legislative
3 body or board decision. Filing the complaint does not stay proceedings on
4 the decision sought to be reviewed, but the court may, on application, grant
5 a stay and on final hearing may affirm or reverse, in whole or in part, or
6 modify the decision reviewed.

APPROVED BY THE GOVERNOR MARCH 30, 2015.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 31, 2015.

Passed the House February 17, 2015

Passed the Senate March 24, 2015

by the following vote: 58 Ayes,

by the following vote: 31 Ayes,

0 Nays, 2 Not Voting

0 Nays, 2 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this
25th day of March, 20 15

at 3:31 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 30th day of

March

at 1:24 o'clock P. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State
this 31st day of March, 20 15

at 10:00 o'clock A. M.

[Signature]
Secretary of State

H.B. 2525