



City of Apache Junction
Development Services Department
300 E. Superstition Blvd.
Apache Junction, AZ 85119
(480) 474-5083
www.apachejunctionaz.gov



Appeal of the Zoning Administrator's Decision Application

City of Apache Junction
Development Services Department
<http://www.apachejunctionaz.gov/81/Development-Services>

Appeals of the Zoning Administrator's Decision

Step 1: Due Diligence and Research Please read through these instructions before asking for assistance on filing an appeal of the Zoning Administrator's decision. If, after reading these instructions and attached forms you have any questions, please contact the Zoning Compliance Division of the Development Services Department for assistance. We may be reached at 480-474-5083.

The following checklist is intended to provide the applicant with an overview of the application process and requirements for filing an appeal. Please read the sections of the Zoning Ordinance, Section 1-16-4, which outlines the powers of the Board of Adjustment and Appeals as well as Section 1-16-5, appeal and variance procedures, and consult the city's General Plan in order to determine whether or not you believe it may have an effect on your appeal request.

Step 2: Zoning Information Locate the subject property on the city's Zoning Map to see what zoning district the property located in. Consult the city's Zoning Ordinance to see what the requirements for the zoning district are and why you believe the Zoning Administrator's decision is erroneous. If after reading the applicable codes you believe your request can be justified, the next step in the process is to fill out the attached application form through the online portal at <https://www.mygovernmentonline.org/>.

Step 3: Submit Appeals Application The applicant shall complete and submit an application and submit the required information for planning staff review. An incomplete application will delay the process. We cannot advertise your application until we have an application that is accurate and complete and until the proper signatures and fees have been provided. It is best if an application can be submitted in person so that we can be sure we have all of the necessary information in our possession to advertise your hearing and get your case on a Board agenda.

Next Steps and Information

Once an application is determined completed, a **Public Hearing** before the Board of Adjustment and Appeals will be scheduled for you at the first available date. The Board normally meets on the second Monday of every month. The date of your hearing will be subject to a properly submitted application and the city's monthly filing deadline. The applicant is responsible for posting and maintaining a 4' x 4' Plywood or Aluminum sign. Provide an affidavit of sign posting with photo of sign and date of posting at least 15 days prior to the Public Hearing.

Further, if the Zoning Administrator has provided a decision, which requires compliance within twenty-one (21) days from receipt of the decision, you are further bound regarding the need to have your appeal filed within thirty (30) days from receipt of the decision.

At the Public Hearing, the Board will ask for a staff report. The Board will also request that the Zoning Administrator explain their decision. The applicant will be asked to state their case and answer any questions that the Board may have. Therefore, you are asked to have a qualified representative present at this hearing. Members from the audience may also be invited to speak on the matter.

The Board's decision will be the city's final determination on the matter. In order to appeal the Board's decision, you would seek relief through the filing of a lawsuit at the Pinal County Courthouse in Florence.

Below is information from the city code regarding the Board of Adjustment and Appeals and appeal and variance procedures. You can find more city codes at http://www.amlegal.com/codes/client/apache-junction_az/.

§ 1-16-4 BOARD OF ADJUSTMENT AND APPEALS.

(A) Establishment. A Board of Adjustment and Appeals ("Board") is hereby established pursuant to A.R.S. § 9-462.06 and Apache Junction City Code, Vol. I, § 2-21-1.

(B) Meetings. The Board shall meet regularly as needed. All meetings shall be open to the public. It shall elect its own officers, establish its own rules, keep a record of its action, and render an annual report to the Council and Commission. The Chairperson, or in his or her absence, the Acting Chairperson, may administer oaths and compel the attendance of witnesses in accordance with the laws of the State of Arizona. Any finding, ruling, or decision of the Board relating to the administration of the Zoning Ordinance shall be an order at either a regular or special meeting of the Board, and shall be fully reported in the minutes of the Board.

(C) Powers and duties. The Board shall have the following powers and duties:

(1) Appeals of Zoning Administrator's decisions. Hear and decide appeals in which it is alleged there is an error in an order, requirement, interpretation or decision made by the Zoning Administrator in the enforcement of the Zoning Code.

(2) Appeals for variances.

(a) Hear and decide requests 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 result in unnecessary property hardships, result in serious impairment of substantial property rights and deprive such property of privileges enjoyed by other property of the same classification in the same zoning district.

(b) Any variance granted is subject to such conditions as will assure that the adjustment authorized shall not be contrary to the public interest, 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 and shall cause the minimum possible interference with the general purposes and intent of this Chapter.

(D) Powers and duties not authorized. The Board shall not have the following powers and duties:

(1) Make any changes or allow modifications to the uses permitted in any zoning district classification (i.e., no use variances allowed).

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

(E) Ex parte communications. The Board shall act in a quasi-judicial manner and shall not entertain, accept or participate in any ex parte communications.

(Ord. 1402, passed 5-6-2014)

§ 1-16-5 APPEAL AND VARIANCE PROCEDURES.

(A) Legal standing for appeals. Appeals to the Board may be taken by persons aggrieved or by any officer, department, board or bureau of the city affected by a decision of the Zoning Administrator, by filing with the Development Services Department a notice of appeal and required complete application within 30 calendar days of the decision being communicated to the applicant.

(B) Information required for filing an appeal. The following information is required for filing an appeal:

(1) Completed application form filed with the Zoning Administrator at 300 E. Superstition Blvd., Apache Junction, Arizona 85119, with date of appeal, name and contact information of person filing the appeal (i.e., appellant), assessor's parcel number, case number and any individual representing the appellant.

(2) List of address to which notices must be sent.

(3) Description of requested variance or decision being appealed.

(4) Date of the Zoning Administrator's decision that is being appealed.

- (5) Description of requested outcome if the appeal is granted.
- (6) Description of grounds for appeal.
- (7) Scaled and properly dimensioned Site Plan illustrating relevant property information.
- (8) Payment of application fees established in Apache Junction City Code, Vol. I, Chapter 4.
- (9) Other items and materials required by the application form and/or necessary for the appeal.

(C) Legal effect of appeal. An appeal to the Board stays all proceedings in the matter appealed from, unless the Zoning Administrator certifies to the Board that, in the Zoning Administrator's opinion and finding, a stay would cause imminent peril to life or property. Upon such finding, proceedings shall not be stayed, except by restraining order granted by the Board or by a court of record on application and notice to the Zoning Administrator. Proceedings shall not be stayed if the appellee requests relief which has previously been denied by the Board, except pursuant to a special action in Superior Court.

(D) Public hearing. The Board shall fix a reasonable time to conduct a public hearing for the appeal. Public notice of the hearing shall be administered by the Development Services Department and shall comply with the following:

(1) Newspaper publication. Notice of the time, date and place of the hearing, including a general description of the matter to be considered and a general description of the area affected, shall be published in a newspaper of general circulation that is published or circulated in the community. The publication notice shall be at least 15 calendar days before the hearing, and shall be published as required by A.R.S. 9-462.04, as amended.

(2) Posting notice. The notice of public hearing shall be posted by the applicant in accordance with the instructions provided in the application materials.

(3) Mailing notice. The city shall send notice by first class mail to each real property owner, as shown on the last assessment of the property, within 300 feet of the appellant's property. The notice shall include the proposed hearing date, time, location and information regarding the case.

(E) Failure to receive notice. The failure of any person or entity to receive notice shall not constitute grounds for the city or any court to invalidate the actions of the Board.

(F) Board review. The Board shall conduct a public hearing (i.e., de novo), and shall review all relevant information, including but not limited to the application, plans, related project materials that were submitted by city staff and the appellant, the original decision being appealed, any additional materials as may be presented at the appeal hearing, any written correspondence submitted prior to or during the hearing, and any information observed by a site visit.

(G) Board's decision. The Board may approve, approve with conditions, or deny an appeal, and may prescribe reasonable conditions in connection with its decision as may be necessary in order to fully carry out the purpose and intent of the Zoning Code.

(H) Appeal to Superior Court. Any person aggrieved by a decision of the Board or any taxpayer, officer or department of the municipality affected by a decision of the Board may, at any time within 30 calendar days after the Board has rendered its decision, file a complaint for special action in the Superior Court to review the Board decision. Filing the complaint does not stay proceedings on the decision sought to be reviewed, but the Court may, on application, grant a stay and on final hearing may affirm or reverse, in whole or in part, or modify the decision reviewed.

(I) Expiration. Rights and privileges established by the granting of a variance shall be exercised within 1 year following the date of approval unless a different time limit is specified by the Board at the time the variance is granted. Failure to exercise a variance within the time limits specified shall cause the variance to become null and void.

(Ord. 1402, passed 5-6-2014)

APPEAL OF THE ZONING ADMINISTRATOR'S DECISION APPLICATION

SUBJECT INFORMATION		
PROJECT NAME:		
DATE OF APPEAL:	CASE NUMBER:	DATE OF DECISION BEING APPEALED:
PROPERTY ADDRESS:	ASSESSOR'S PARCEL NO.	
GROSS ACREAGE:	CURRENT ZONING DISTRICT:	
PROPERTY OWNER		
NAME:		
MAILING ADDRESS:		
EMAIL:	TELEPHONE:	
APPLICANT		
NAME:		
MAILING ADDRESS:		
EMAIL:	TELEPHONE:	
OWNER AUTHORIZATION		
I hereby certify that the above information is correct, and that I am authorized to file an application on said property, being either the owner or authorized agent to file on behalf of the owner. Anyone applying without authorization from the property owner(s) shall be subject to penalty under all applicable laws.		
Property Owner Signature		 Date
Applicant Signature		 Date
REVIEW TIMEFRAME		
ADMINISTRATIVE COMPLETENESS REVIEW: 5 DAYS		REVIEW OF SUBMITTAL: 30 DAYS

APPEAL OF THE ZONING ADMINISTRATOR'S DECISION

SUBMITTAL CHECKLIST

PLEASE RETURN THIS APPLICATION WITH YOUR SUBMITTAL. SUBMITTALS WITHOUT THE INFORMATION BELOW WILL BE CONSIDERED INCOMPLETE AND WILL BE REJECTED. ALL SUBMITTAL MATERIALS MUST BE DELIVERED IN PDF FORMAT.

- ☐ Narrative of Appeal addressing the following:
 - Description of requested variance or decision being appealed
 - The grounds for appeal
 - Provide the zoning ordinance section number(s) which you believe has been incorrectly interpreted by the Zoning Administrator
 - Description of your interpretation of the section number(s) listed above and provide any other reasoning to support your appeal of the Zoning Administrator's decision
 - Description of the existing and proposed use of the subject property (if applicable)
 - Description of requested outcome if the appeal is granted
- ☐ Site plan with proper scaled and dimensions illustrating relevant property information
- ☐ Copy of deed establishing ownership Mailing Label Certification
- ☐ Mailing Labels (with Pinal and/or Maricopa County parcel maps)
- ☐ Signed and Notarized Proposition 207 Waiver (original document must be mailed in to the Development Services Office)
- ☐ Application Fees

Fees for Appeal of the Zoning Administrator's Decision

Appeal of the Zoning Administrator's Decision * (Residential)	\$500
Appeal of the Zoning Administrator's Decision * (Non-Residential)	\$750
Legal Advertising Fee	\$500

*Add 4% technology fee to the application fee plus a \$25 GIS fee.

Information for Mailing Labels

- Labels should be Avery Address Labels #5160 or comparable, approximately 1" x 2-5/8" each, 30 labels to a sheet.

- Labels shall include all property owners within a 300 feet radius of subject property:

- Label Sample:

Line 1:	100-01-001A	<i>[Assessor Parcel No.]</i>
Line 2:	John Doe	<i>[Name]</i>
Line 3:	123 Elm St.	<i>[Address/PO Box]</i>
Line 4:	Apache Junction, AZ 85118	<i>[City/State/Zip]</i>

- Please print or type all information on the labels.

NOTE: NOTE: Property owner information must be obtained from the Pinal County Assessor's records at <https://pinal.maps.arcgis.com/apps/webappviewer/index.html?id=7ab8c3bf67a84f97a1e64dcf435b8b27>.

Mailing Label Certification

I/We, _____
hereby certify that the attached mailing labels constitute all the list of property owners within 300 feet of the
property as obtained from the _____ on (date obtained): _____

I/We further certify that this list is not older than thirty (30) days at the time of filing of said application.

PLEASE PRINT

Property Owner Name

Signature

Street Address

City, State, Zip

Telephone

Property Owner Name

Signature

Street Address

City, State, Zip

Telephone

Agent Name

Agent Signature

Street Address

City, State, Zip

Telephone

Proposition 207 Waiver

If multiple owners need to sign the waiver,
make additional copies.

State law dictates that only the original document of the signed
and notarized Proposition 207 Claim Waiver can be recorded.
Copies or electronic files will not be accepted.

Please mail the original document to the City of Apache Junction
Development Services Department at 300 E. Superstition
Boulevard, Apache Junction, AZ 85119.

When Recorded Return to:
City of Apache Junction
Development Services Department
300 E Superstition Blvd.
Apache Junction, AZ 85119

DIMINUTION IN VALUE AND JUST COMPENSATION CLAIM WAIVER/INDEMNIFICATION/ACKNOWLEDGEMENT

I/We, _____, as owners of property identified as Pinal County Assessor Parcel No. _____, which is the subject of Apache Junction City Council, Planning & Zoning/Board of Adjustment or other Case No. _____, hereby waive any and all potential diminution in value and just compensation claims or lawsuits that could be pursued against the City of Apache Junction ("City"), its elected officials, appointees and employees as a result of the Planning and Zoning Commission/Board of Adjustment/Council's action in the above-referenced matter. This waiver is authorized pursuant to A.R.S. § 12-1134(I). I/We also hereby warrant and represent I/We am/are owner(s) of the above-referenced property and that no other person has any ownership in such property.

Printed Name of Owner

Printed Name of Owner

Signature of Owner

Signature of Owner

Date

Date

State of Arizona)
) ss
County of _____)

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 20__ by _____.

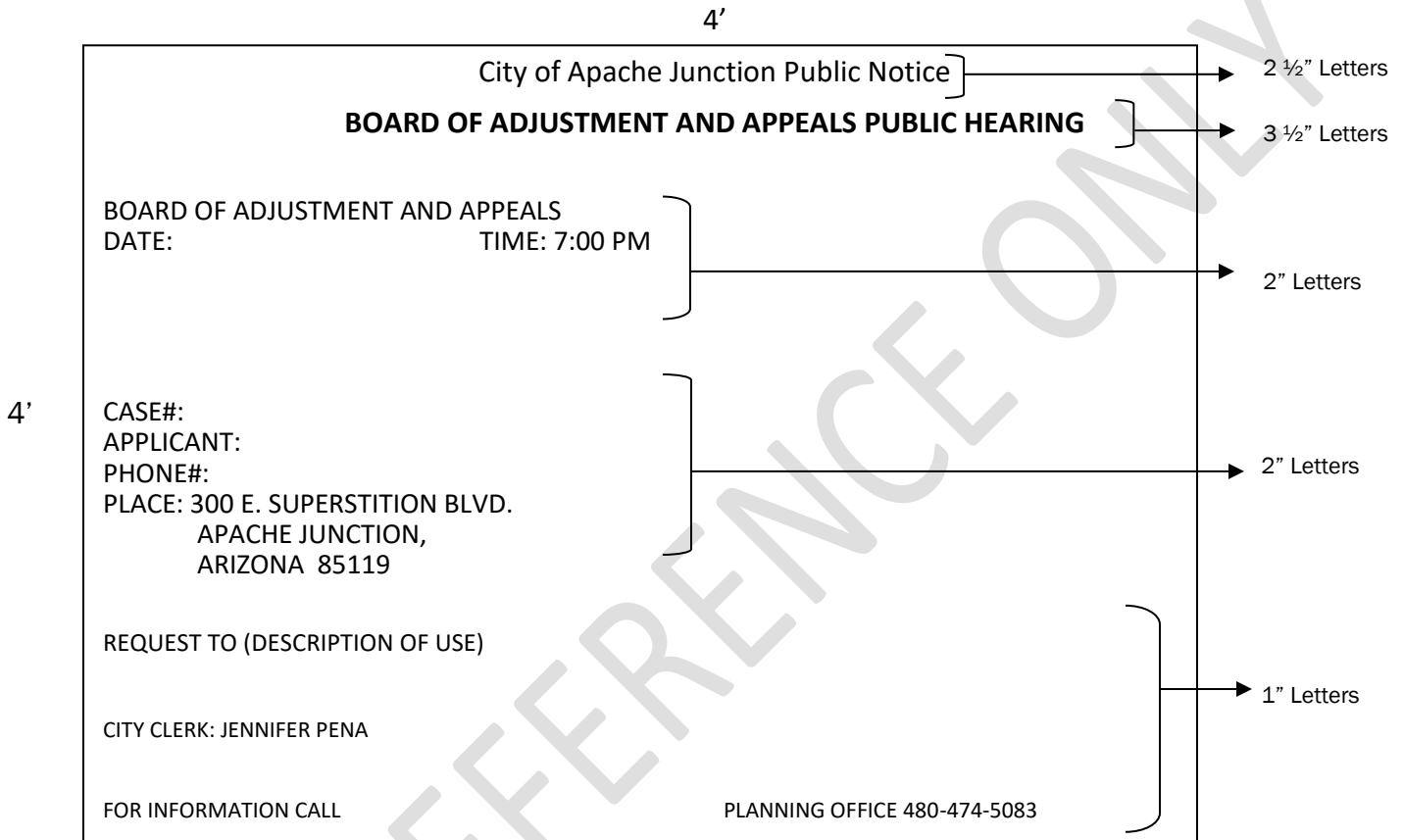
My Commission Expires:

Notary Public

Sign Posting

The applicant is responsible for posting and maintaining a 4' x 4' Plywood or Aluminum sign. Provide an affidavit of sign posting with photo of sign and date of posting at least 15 days prior to the Public Hearing.

Criteria for Posting Sign:



- Applicant must remove sign within 10 working days after the city council Public Hearing.
- Height of sign must be 6 feet from finished grade to the top of the sign (Wooden Stakes to be used)
- **FONT SHOULD BE LEGIBLE AND LETTERS BOLDED AND CAPITALIZED.**
- **COLORS: Body must be white and lettering to be flat black**

Affidavit for Posting Notice

Case Number: _____

Project Name: _____

Project Address: _____

Sign Company Name: _____

I confirm that the site has been posted by me or my agent for the case listed above as required by the City of Apache Junction and a photo and/or map of the sign posting location on the property is attached.

Applicant Name: _____

Applicant Signature: _____

Date of Sign Posting: _____

STATE OF ARIZONA)
) ss.
COUNTY OF PINAL)

Acknowledged and sworn to before me this _____ day of _____
20____.

(NOTARY PUBLIC)

My Commission Expires: _____