

ORDINANCE NO. 404

FAILED ON  
2ND READING

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF JUPITER ISLAND, MARTIN COUNTY, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS CONTAINED IN APPENDIX "A" OF THE TOWN CODE AT ARTICLE I, SECTION 3.01, PERTAINING TO THE AUTHORITY OF THE BOARD OF ADJUSTMENT REGARDING APPLICATIONS FOR VARIANCES; PROVIDING FOR THE AMENDMENT OF ARTICLE I, DIVISION 3, SECTION 3.03, PERTAINING TO THE AUTHORITY OF THE TOWN COMMISSION REGARDING APPLICATIONS FOR VARIANCES; PROVIDING FOR THE AMENDMENT OF ARTICLE X, DIVISION 8, SECTION 8.00, TO PROVIDE THAT THE TOWN COMMISSION IS AUTHORIZED TO CONSIDER RECOMMENDATIONS MADE BY THE BOARD OF ADJUSTMENT AND TO RENDER THE FINAL DECISION ON THE SAME; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, the Town Commission of the Town of Jupiter Island, Martin County, Florida (Town Commission) recognizes its responsibility to the elected and appointed officials serving the Town; and

**WHEREAS**, the Town Commission has previously created Article 1, Section 3.01, which vested a Board of Adjustment with the responsibility of making decisions on applications for variances pertaining to the development of properties within the Town; and

**WHEREAS**, as part of its review of the Town's Land Development Regulations, the Commission has concluded that the final authority for the determination of applications for variances should rest with the Commission and that the Board of Adjustment should only act in an advisory capacity; and

**WHEREAS**, the Town Commission has directed the Town Manager to make such changes to the Town's Land Development Regulations as are necessary to accomplish its directive.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF JUPITER ISLAND, MARTIN COUNTY, FLORIDA, AS FOLLOWS:**

**Section 1:** The whereas clauses are incorporated herein as the legislative findings of the Town Commission.

**Section 2.** The Town Commission hereby amends Article 1, Section 3.01 of Appendix A of the Town of Jupiter Island's Code, which contains the Town's Land Development Regulations, entitled "Board of Adjustment" as follows:

**ARTICLE 1. GENERAL PROVISIONS**

**Sec. 3.01. – Board of Adjustment**

A. *Establishment.* A board of adjustment for the town is created and established.

B. *Authority; functions; powers and duties in general.*

1. The board of adjustment shall have the authority, function and duty to review applications and render recommendations to the Town Commission regarding ~~the has the following powers and duties:~~

a. ~~*Increases in floor area, and variances.* The board of adjustment shall hear and decide applications for approval using alternative development standards, increases in floor area, pursuant to article X, division 4, and variances.~~

b. *Other powers and duties.* The board of adjustment has the authority to carry out any other advisory powers and duties provided in these land development regulations, or which have been delegated to it by the town commission.

c. Appeals from any requirement, decision or determination made by the administrative official, including interpretations, approval or denial of applications, conditions of development approval, and decisions made with regard to the enforcement of these regulations.

2. The chair, or in his or her absence the acting chair, may administer oaths and compel the attendance of witnesses.

3. No member shall abstain from voting unless he or she has a conflict of interest pursuant to the provisions of F.S. ch. 112.

- C. *Composition.* The board of adjustment shall consist of five members appointed by the mayor, subject to with the consent of the town commission. Each member of the board of adjustment must have a place of residence within the incorporated limits of the town. Members of the board of adjustment shall not hold any elected public office.
- D. *Alternate members.* The board of adjustment shall also have three alternate members to be appointed by the mayor subject to the approval and ~~with the~~ consent of the town commission. Alternate members may act in the temporary absence or disability of any regular member or when a regular member has a conflict of interest pursuant to F.S. ch. 112 ~~is disqualified~~ in a particular case. Alternate members of the board of adjustment may participate in the discussion of the items that are presented to it, but may only vote on an item if the member is participating in lieu of a regular member of the board of adjustment.
- E. *Terms of office.*
1. The basic term of office for members of the board of adjustment shall be three years; provided that each member serving at the time of adoption of these land development regulations section ~~shall~~ may complete his or her term as originally established.
  2. The members of the board of adjustment shall hold office as indicated above until the town commission's April meeting date of the year each member's term expires. As the initial term of each member expires, the new term of each member shall be three years.
  3. Each member shall hold office until his or her successor is duly appointed and qualified.
  4. Any member appointed to serve in lieu of any member on account of death, resignation, removal or disability of such member, shall serve only for the unexpired term of such member, but shall be eligible for reappointment thereafter.
- F. *Removal from office.* Should any member of the board of adjustment no longer maintain a residence within the incorporated limits of the town, the member shall become disqualified and a new member, who maintains a residence within the incorporated limits of the town, shall be appointed.
- G. *Reappointment.* Any member is eligible for reappointment.
- H. *Vacancies.* Any vacancy occurring shall be filled by the town commission within 60 days after the vacancy occurs.
- I. *Officers.* The mayor shall appoint, ~~with~~ subject to the approval and consent of the town commission, a chair and vice-chair from among the members of the board of adjustment. The town clerk or his or her designee shall take all minutes and perform clerical duties necessary to the functioning of the board.

J. *Meetings and rules of procedure.*

1. The board of adjustment shall meet at regular intervals to be determined by it and at such other times as the chair or commission may determine.
2. The board of adjustment ~~shall~~ may adopt rules for the transaction of its business, ~~and The Town's Building, Planning and Zoning Department shall maintain~~ keep a properly indexed written records of its resolutions, transactions, findings and recommendations pertaining to applications determinations, which record shall be maintained as a public record.
3. The administrative official or his or her designee shall attend all meetings and evaluate applications ~~make such be permitted to answer questions, give evidence and make written recommendations to the board of adjustment and town commission on the applications.~~
4. The town clerk or his or her designee may administer oaths, ~~and the chair or acting chair may compel the attendance of witnesses in the same manner as prescribed in the circuit court.~~
5. No action shall be taken on any application unless a quorum of three members is present, and only upon a majority vote of all members present and voting
6. The board of adjustment or any of its members may inspect the premises, site or area under consideration.
7. All decisions of the board of adjustment shall be by motion, second and an affirmative vote of a majority of the members present and voting.
8. All meetings of the board of adjustment shall be open to the public, as provided by law.

K. ~~Employees and salaries.~~

1. ~~The board of adjustment may, subject to the approval of the town commission and within the financial limitations set by appropriations made or other funds available, employ such experts, technicians and staff as may be deemed proper and pay their salaries, contractual charges and fees, and such other expenses as are necessary to conduct the work of the commission.~~
2. ~~The administrative official shall furnish from the town such staff as may be necessary to assist and advise the board in fulfillment of its duties and is authorized to retain a qualified reporter or clerk to record and transcribe the public proceedings of the board of adjustment.~~

K. L. *Minutes public record.* The clerk of the board of adjustment shall keep minutes of its proceedings, showing the vote of each member on each question or if absent or abstaining, indicating such fact. The records of the board of adjustment shall be filed maintained in the office of the town clerk and shall be public record.

**Section 3.** The Town Commission hereby amends Article X, Division 5, Section 5.00 of Appendix A, of the Code of Ordinances as follows:

**Sec. 5.00. Standards for approval of variances.**

~~Except as provided in Article V, section 5.09 (variances related to subdivision standards),~~ Following a recommendation of the board of adjustment, the town commission board of adjustment shall may grant a variance from the terms of these land development regulations if it finds the applicant has demonstrated ~~demonstrates~~ that:

- A. 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; and
- B. The special conditions and circumstances do not result from the actions of the applicant; and
- C. The variance requested will not confer on the applicant any special privilege that is denied by those land development regulations to other lands, buildings or structures in the same zoning district; and
- D. Literal interpretation of the provisions of these land development regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these land development regulations and would work unnecessary and undue hardship on the applicant; and
- E. The variance is the minimum variance that will make possible the reasonable use of the land, building or structure; and
- F. The variance will be in harmony with the general intent and purpose of these land development regulations, and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and
- G. The variance does not authorize a use of land that is prohibited in the underlying zoning district.

**Section 5.** The Town Commission hereby amends Article X, Division 8, Section 8.00 of

Appendix A of the Code of Ordinances, as follows:

**Sec. 8.00. Authority and purpose.**

- A. The board of adjustment is authorized to make recommendations to the town commission regarding ~~hear~~ appeals from any requirement, decision or determination made by the administrative official, regarding any requirement, decision, or determination made by the administrative official, including interpretations, approval or denial of applications, conditions of development approval, and decisions made with regard to the enforcement of these regulations.
  
- B. The town commission is authorized to:
  - 1. ~~Hear appeals from decisions~~ Consider the recommendations of the board of adjustment regarding any requirement, decision, or determination of; and
  - 2. Hear appeals from decisions of the impact review committee.
  - 3. Make final determinations on the use and approval of variances, and appeals of any requirement, decision or determination made by the administrative official.

**Section 6. Severability.**

If any provision of this ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this ordinance are hereby declared severable.

**Section 7. Repeal of ordinances in conflict.**

All other ordinances of the Town of Jupiter Island, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

**Section 8. Codification.**

This ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Jupiter Island, Florida.

**Section 9. Effective Date.**

This ordinance shall take effect immediately upon its passage and approval, as provided by law.

**ORDINANCE 404 PASSED UPON FIRST READING ON THE 21<sup>st</sup> DAY OF MARCH 2025. PASSED AND ADOPTED UPON SECOND READING ON THE 16<sup>th</sup> DAY OF APRIL 2025: FAILED ON 2ND READING**

(SEAL)

**TOWN OF JUPITER ISLAND, FLORIDA**

\_\_\_\_\_  
Mayor, Penelope Townsend

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Vice Mayor, Anne Scott

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Commissioner, Marshall Field VI

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Commissioner, Patricia Warner

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Commissioner, Joseph Taddeo

**ATTEST:**

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Town Clerk, Kimberly Kogos