

Administrative Setback Variance Criteria

Attachment to
Administrative Review Application Form



**City of Boulder
Planning and Development
Services Center**

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ADMINISTRATIVE SETBACK VARIANCE CRITERIA

The bulk requirements of the city's land use regulations (Section 9-7-1, B.R.C. 1981) specify the required building and use setbacks from property lines. There are two methods available to attempt to vary the setback standards: the site review process and the variance process. Site review applications must be reviewed through the development review process. Certain variance applications are considered by the Board of Zoning Adjustment at a public hearing. The city planning staff may consider variance requests for up to 20% of the required setback (e.g. a proposed 20 foot setback where 25 feet is required). **These administrative setback variances for up to 20% of the setback requirement must be considered through an administrative review application.**

In order for an administrative review application to be approved for an administrative setback variance, Planning and Development Services must find that the variance request meets the relevant criteria. These criteria are found in Section 9-2-3(h), B.R.C. 1981 of the city's land use regulations and are attached. The administrative review application must include a written statement which addresses how the proposal meets the applicable criteria. The required site plans must clearly show the variance requested, including specification of the required and requested setback distances. In addition, the applicant is required to submit written approval from the affected adjacent property owners. This approval may be indicated either in the form of a signed letter of authorization or signatures on proposed plans. The applicant should contact Planning and Development Services for a determination of the affected neighboring properties. (Please note that in determining adjacency, streets and alleys are ignored.)

An administrative setback variance automatically expires within 180 days of the date on which it was approved (or another specified time), unless a building permit for the variance is issued within such period.

CRITERIA (CITY CODE EXCERPT OF SECTION 9-2-3(h), B.R.C. 1981):

- (h) Criteria for Variances. The Board of Zoning Adjustment may grant a variance only if it finds that the application satisfies all of the applicable requirements of paragraphs (1), (2), (3), or (4) of this subsection and the requirements of paragraph (5) of this subsection.

- (1) Physical Conditions or Disability:
 - (A) That there are:
 - (i) Unusual physical circumstances or conditions, including, without limitation, irregularity, narrowness or shallowness of the lot, or exceptional topographical or other physical conditions peculiar to the affected property; or
 - (ii) There is a physical disability affecting the owners of the property or any member of the family of an owner who resides on the property which impairs the ability of the disabled person to utilize or access the property; and
 - (B) The unusual circumstances or conditions do not exist throughout the neighborhood or zoning district in which the property is located; and
 - (C) Because of such physical circumstances or conditions the property cannot reasonably be developed in conformity with the provisions of this chapter; and
 - (D) Such unnecessary hardship has not been created by the applicant.

- (2) Energy Conservation
 - (A) The variance will permit construction of an addition to a building that was constructed on or before January 1, 1983;
 - (B) The proposed addition will be an integral part of the structure of the building;
 - (C) The proposed addition will qualify as a "solar energy system" as defined in Section 9-16, "Definitions," B.R.C. 1981, or will enable the owner of the building to reduce the net use of energy for heating or cooling purposes by a minimum of 10% over the course of a year of average weather conditions for the entire building; and
 - (D) The costs of constructing any comparable addition within existing setback lines so as to achieve comparable energy purposes would be substantially greater than the cost of constructing the addition which is proposed for the variance.

- (3) Solar Access
 - (A) The volume of that part of the lot in which buildings may be built consistent with this code has been reduced substantially as a result of the provisions of Section 9-9-17, "Solar Access," B.R.C. 1981;
 - (B) The proposed building or object would not interfere with the basic solar access protection provided in Section 9-9-17, "Solar Access," B.R.C. 1981; and
 - (C) The volume of the proposed building to be built outside of the building setback lines for the lot will not exceed the amount by which the buildable volume has been reduced as a result of the provisions of Section 9-9-17, "Solar Access," B.R.C. 1981.

(4) Designated Historic Property

The property could be reasonably developed in conformity with the provisions of this chapter, but the building has been designated as an individual landmark or recognized as a contributing building to a designated historic district. As part of the review of an alteration certificate pursuant to Chapter 9-11, "Historic Preservation," B.R.C. 1981, the approving authority has found that development in conforming locations on the lot or parcel would have an adverse impact upon the historic character of the individual landmark or the contributing building and the historic district, if a historic district is involved.

(5) Requirements for All Variance Approvals

- (A) Would not alter the essential character of the neighborhood or district in which the lot is located;
- (B) Would not substantially or permanently impair the reasonable use and enjoyment or development of adjacent property;
- (C) Would be the minimum variance that would afford relief and would be the least modification of the applicable provisions of this title; and
- (D) Would not conflict with the provisions of Section 9-9-17, "Solar Access," B.R.C.1981.