

Variance Requests:

Certain development regulations may be varied at the staff level or by the Board of Zoning Adjustment. The regulations, process, and review criteria are outlined below (*Note: all referenced codes can be found on pages 2 and 3 of this handout*).

Under what circumstances can I apply for a variance to one of the regulations by staff versus the Board of Zoning Adjustment, and what are the review standards?

□ Side Yard Bulk Plane and Side Yard Wall Articulation

- Staff level request
 - Without limitation if:
 - The lot is **4,600 square feet** or less or
 - The lot is **48 feet in width** or less; and
 - The application satisfies the requirements of **(5)** from **9-2-3 (h)**
 - Up to 20% above the height of the Side Yard Bulk Plane or wall length for the Side Yard Wall Articulation Standard if:
 - The application satisfies all of the applicable requirements of **(1), (2), (3), or (4)** and the requirements of **(5)** from **9-2-3 (h)**
- Board of Zoning Adjustment level request
 - Without limitation if:
 - The application satisfies all of the applicable requirements of **(1), (2), (3), or (4)** and the requirements of **(5)** from **9-2-3 (h)**

□ Maximum Building Coverage or Floor Area Ratio requirements

- Staff level request
 - Up to 200 square feet for existing single family dwellings if:
 - The application satisfies all of the applicable requirements of **(1), (2), (3), or (4)** and the requirements of **(5)** from **9-2-3 (h)**; or
 - Up to 200 square feet for existing single family dwellings for minor modifications that are needed to allow residents or a family member of a head of household with existing or anticipated impairments that restricts their ability to perform a major life activity to be in the home if:
 - The request meets the requirements of **(5)(A) and (B)** from **9-2-3 (h)**; and
 - The improvements are necessary to remedy any impairment, or anticipated impairment, that would prohibit or significantly restrict a resident's or a family member of a head of household's ability to perform a major life activity as compared to the ability of the average person in the general population to perform the same activity.
 - **The maximum variance that may be granted to the Building Coverage or Floor Area Ratio requirements is a total of 200 square feet of floor area or building coverage**

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- ❑ **Maximum Building Coverage**
 - **Board of Zoning Adjustment** level request for Maximum Building Coverage only
 - Without limitation of if:
 - The application satisfies all of the applicable requirements of (1), (2), (3), or (4) and the requirements of (5) from **9-2-3 (h)**

- ❑ **Setback requirements**
 - **Staff level** request
 - up to 20% of the required setback if:
 - The application satisfies all of the applicable requirements of (1), (2), (3), or (4) and the requirements of (5) from **9-2-3 (h)**; and
 - The applicant obtains the written approvals of impacted property owners.

 - **Board of Zoning Adjustment level request**
 - Without limitation of if:
 - The application satisfies all of the applicable requirements of (1), (2), (3), or (4) and the requirements of (5) from **9-2-3 (h)**

What are the review criteria used to evaluate variance requests?

- ❑ From **9-2-3 (h)**:
 - (1) Physical Conditions or Disability:
 - (A) 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) Any unnecessary hardship has not been created by the applicant.
 - (2) Energy Conservation:

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(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 chapter 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 ten percent 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 (except as noted):

(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

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(D) Would not conflict with the provisions of section 9-9-17, "Solar Access," B.R.C. 1981.

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