

5.5. - PROVISIONS FOR RELIEF FROM DENSITY AND DIMENSIONAL STANDARDS

5.5.1. Administrative Relief

- (A) **Purpose.** The purpose of this Section is to provide for flexibility in the application of regulations when a standard is inapplicable or inappropriate to a specific use or design proposal or a minor problem arises with the strict application of development standards.
- (B) **PCD Authorized to Grant Administrative Relief.** The PCD Director may approve administrative relief to the requirements for lot area, front, side and rear setbacks, and height limitation. Administrative relief shall be for the purpose of relieving difficulties or hardships due to narrowness, shallowness, shape or topographic condition of a specific piece of property, or to provide limited flexibility to lot standards when it is determined that no substantial detriment to the public good nor harm to the general purpose and intent of this Code will be caused by the administrative relief granted.

The PCD Director may only grant relief in accordance with the following standards:

PROPOSED REAR SETBACK WOULD BE 20 FT
16X11X10
PROPOSED
PERGOLA
WOULD QUALIFY

- (1) **Reduction in Lot Area, Setbacks, and Lot Width.** A maximum of a 20% reduction in lot area, setbacks and lot width from the amount required in the zoning district in which the subject property is located may be approved.
- (2) **Increase in Lot Coverage and Structure Height.** A maximum of a 20% increase in the lot coverage and structure height from the amount required in the zoning district in which the subject property is located may be approved.
- (3) **Increase in Accessory Structure Size.** A maximum of a 20% increase in the size of an accessory structure from the size allowed in the zoning district in which the subject property is located may be approved
- (4) **Decrease in Parking Requirements.** A maximum of a 20% decrease in the parking requirements in the zoning district in which the subject property is located may be approved.

PROPOSED PERGOLA
(16X12X10) AS IS
DOES NOT QUALIFY

(5)

Reduction in Distance Separation. A maximum reduction of 50% in distance separation requirements for day care homes, group homes, and other similar human service establishments may be approved.

(6) **Increase in On-Premise Sign Area.** A maximum increase of 20% in the area of any on-premise sign may be approved.

(C) **Limitations on Administrative Relief.** The following limitations shall apply to the granting of administrative relief:

(1) **Sight Distance Triangle.** Administrative Relief to setbacks on corner lots shall not be granted by the PCD Director in a sight distance triangle at corners and railroad crossings unless it is specifically found by the County that no potential traffic problem is created because of diminished sight distances.

(2) **Setback and Height Relief on Same Lot.** Administrative Relief shall not be granted for both setback and height requirements on the same lot or parcel.

(3) **Plat Notes or Restrictions.** Administrative Relief cannot be granted from a standard that is set by plat note or restriction.

(4) **Within an approved PUD District.** Administrative Relief in accordance with the limitations of this Code may be granted from a standard that is set by the PUD Development Plan or Development Guide for a single lot or parcel or between two adjacent parcels. Minor variances to PUD standards affecting multiple parcels may be approved as a minor PUD amendment.

(D) **Findings Necessary to Grant Administrative Relief:**

(1) **Criteria to be Met.** To grant administrative relief, all of the following criteria shall be met, in addition to the compliance with the other applicable development standards:

- The strict application of the standard in question is unreasonable or unnecessary given the development proposal or the measures proposed by the applicant; or that the property has extraordinary or exceptional physical conditions that do not generally exist in nearby properties in the same zoning district;
- The intent of this Code and the specific regulation in question is

preserved;

- The granting of the administrative relief will not result in an adverse impact on surrounding properties; and
- The granting of the administrative relief will not allow an increase in the number of dwelling units on a parcel.

(2) **Additional Factors Considered.** In addition to the criteria required to be met for approval of administrative relief, consideration may also be given to the following factors:

- The granting of administrative relief would help minimize grading and reduce vegetation removal;
- The granting of administrative relief would avoid unnecessary site disturbance or minimize grading;
- The granting of administrative relief would allow the proposed building location and existing vegetation on the site to restrict visibility of the additional height from a distance, from the road or from downhill properties; and
- The granting of administrative relief would allow for building design such as split pads, stepped footings, below grade rooms and roof forms pitched to follow the slope.

(E) **Responsibility of Applicant to Comply.** Prior to occupancy for the building allowed by an administrative relief, it shall be the responsibility of the applicant to furnish the PCD Director with a survey, certified by a registered surveyor, licensed in the State of Colorado, depicting the improvement in relationship to the lot lines affected by the administrative relief.

(F) **Revoke Administrative Relief.** The PCD Director may revoke any administrative relief by issuing a zoning violation notice if, in the PCD Director's opinion, the use is not in compliance with the intent and purpose for which the administrative relief was granted.

(G)

Minor Variations During Platting. Minor variations from strict application of the provisions of a development plan or conventional zoning district may be allowed at the discretion of the PCD Director in order to facilitate the reasonable and expeditious platting of the property. Variations shall be allowed only after a finding by the PCD Director that:

- The variation does not constitute a substantial change to the allowed land use; and that
- No substantial detriment to the public good, nor harm to the general purpose and intent of this Code, will be caused thereby.

The variation shall not by themselves constitute grounds for disapproval by the BoCC of any final plat unless the BoCC specifically finds that the variation constitutes a substantial change in the allowed land use or causes a substantial detriment to the public good or harm to the general purpose and intent of this Code.

5.5.2. **Dimensional Variances and Appeals to the Board of Adjustment**

- (A) **Applicability.** Any person aggrieved by the inability to obtain a building permit or by any order, requirement or decision made by an administrative officer or agency in the administration, interpretation or enforcement of the following provisions of this Code can appeal to the Board of Adjustment.
- (B) **Authorities of the Board of Adjustment.**
 - (1) **Appeal of Administrative Decisions or Determinations.** The Board of Adjustment shall have the power to hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or refusal made by the PCD pertaining to the application or enforcement, under this Code, of:
 - A zoning district's development requirements or a use standard relating to physical dimension, structural location, or bulk limitation;
 - Nonconforming building provisions;
 - Nonconforming lot or parcel or merger by contiguity provisions;

- Parking and development requirements;
- Landscape requirements;
- On-premise signs (dimensional, location, and number requirements only) provisions, and off-premise sign separation distances;
- Distance separation requirements required for daycare applications;
- Appeal of an action regarding administrative relief;
- Determination of wildfire hazard or zoning district boundary;
- Any other matter appealable to the Board of Adjustment under the provisions of this Code.

(2) Grant of Variance of Specific Development Standards.

(a) **Variations to Physical Requirements.** The Board of Adjustment is authorized to grant variances from the strict application of any physical requirement of this Code which would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of the property. Practical difficulties and hardship, in this context, may exist where the legal use of the property is severely restricted due to (1) the exceptional narrowness, shallowness or shape of the specific piece of property, or (2) the exceptional topographic conditions or other extraordinary or exceptional situation or condition of the piece of property.

The Board of Adjustment may also grant variances from the strict application of any physical requirement of this Code based upon equitable consideration, finding that the burdens of strict compliance with the zoning requirement(s) significantly exceed the benefits of such compliance for the specific piece of property and;

- The variance provides only reasonably brief, temporary relief; or

- The variance request includes an alternative plan, standards or conditions that substantially and satisfactorily mitigate the anticipated impacts or serve as a reasonably equivalent substitute for current zoning requirements; or
- Some other unique or equitable consideration compels that strict compliance not be required.

(b) **Variances to Standards Subject to Appeal.** The Board of Adjustment is authorized to grant variances to those standards subject to appeal to the Board of Adjustment where strict compliance with this Code would result in peculiar or exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of the property.

(c) **Other Variance Matters.** To hear any other variance matters expressly delegated to the Board of Adjustment by this Code.

(3) **Prohibited Actions by the Board of Adjustment.** The Board of Adjustment shall not take any action which would result in any of the following:

- Permitting a use other than those allowed in the property's zoning district;
- Authorizing an existing zoning violation for a building or use that is subject to prosecution pursuant to C.R.S. § 30-28-124(1), without the express written consent of the OCA;
- Alteration of any definition contained in this Code;
- Substantial modification to any PUD or Special Use allowed or approved by the BoCC; or
- Variation of any subdivision standard.

(C)

Action by the Board. The affirmative vote of 4 members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of the PCD Director; to approve any variance; to resolve boundary line disputes; or to take any other action regarding an appeal or application.

(D) Limitations on Approval and Expiration.

- (1) **Approval Limited to Proposal Presented.** A physical variance is limited to the property configuration and existing or proposed structures actually presented to the Board of Adjustment as part of the variance application.
- (2) **Expiration of Approval if Action Not Initiated.** A physical variance for a proposed structure, except for lot area variances where a plat has been filed for recording, is valid only if construction of the structure is initiated within one year of the date of the Board of Adjustment's approval of the variance.
- (3) **Expiration of Approval if Structure Removed.** A physical variance for an existing or subsequently constructed structure, except for lot area variances where a plat has been filed for recording, is valid only so long as the structure is not removed or demolished.
- (4) **Run with the Land.** Variance requests approved by the Board of Adjustment shall run with the land for which the variance has been approved.

- (E) Revocation of Approval or Permit.** Failure to abide by or comply with any requirements, conditions or restrictions of this Code may result in the PCD Director scheduling a hearing regarding revocation of the Board of Adjustment's approval following the appropriate enforcement procedures.

