

**Sec. 16-4-180. Zoning Variances**

(a) Purpose. Variances are authorization to deviate from the literal terms of this Land Use Code that would not be contrary to the public interest in cases where the literal enforcement of the provisions of this Land Use Code would result in undue or unnecessary hardship. A variance shall not be granted solely because of the presence of nonconformities in the zone district or adjoining districts.

(b) Variances Authorized. Variances from the standards of the underlying zone district shall be authorized only for maximum height, minimum floor area, maximum lot coverage, maximum lot size, minimum setbacks and parking requirements.

(c) Administrative Variances. Because the development of much of historic Salida preceded zoning, subdivision and construction regulations, many buildings within the older neighborhoods of the City do not conform to contemporary zoning standards. In order to encourage restoration and rehabilitation activity that would contribute to the overall historic character of the community, variances from underlying zoning requirements for side and front setbacks may be granted by the Administrator under the following circumstances:

(1) Existing Primary Structure. The Administrator may grant a variance from a setback requirement for an addition to a primary structure if it continues the existing building line. The Administrator shall only consider allowing the encroachment into the setback if it can be shown that maintenance of the building addition can be provided on the subject property and that it is not injurious to adjacent neighbors.

(2) Traditional Neighborhood Setbacks. The Administrator may grant a variance from a front setback requirement for a primary structure if the neighboring properties encroach into the front setback. The variance shall not permit the structure to encroach further into the front setback than the neighboring primary structures. The Administrator shall only consider allowing the encroachment into the setback if it can be shown that such encroachments are the existing development pattern of the block on which the subject property is located and that the encroachment would not be injurious to adjacent neighbors.

(d) Use Variances Not Authorized. Establishment or expansion of a use otherwise prohibited in a zone district shall not be allowed by variance.

(e) Required Showing for Variances. The applicant shall demonstrate the following to the Board of Adjustment before a variance may be authorized:

(1) Special Circumstances Exist. There are special circumstances or conditions which are peculiar to the land or building for which the variance is sought that do not apply generally to land or buildings in the neighborhood;

(2) Not Result of Applicant. The special circumstances and conditions have not resulted from any act of the applicant;

(3) Strict Application Deprives Reasonable Use. The special circumstances and conditions are such that the strict application of the provisions of this Chapter would deprive the applicant of reasonable use of the land or building;

(4) Variance Necessary to Provide Reasonable Use. The granting of the variance is necessary to provide the applicant a reasonable use of the land or building;

(5) Minimum Variance. The granting of the variance is the minimum necessary to make possible the reasonable use of the land or building;

(6) No Injury to Neighborhood. The granting of the variance will not be injurious to the neighborhood surrounding the land where the variance is proposed, and is otherwise not detrimental to the public welfare or the environment; and

(7) Consistency with Code. The granting of the variance is consistent with the general purposes and intent of this Land Use Code.

(f) Authorization to Impose Conditions. The Administrator, in approving an administrative variance, or the Board, in approving the variance, may impose such restrictions and conditions on such approval, and the premises to be developed or used pursuant to such approval, as it determines are required to prevent or minimize adverse effects from the proposed variance on other land in the neighborhood and on the general health, safety and welfare of the City. All conditions imposed upon any variance shall be set forth in the granting of such variance.