
Town of Nags Head Section 4.14 Administrative Adjustments

4.14.1. Purpose.

The purpose of this section is to provide an administrative mechanism for allowing minor variations, or adjustments, to certain dimensional requirements or numerical standards (i.e., setbacks, parking, etc.) of the zoning provisions based on specific standards, with the intent of providing relief where application of a requirement or standard creates practical difficulties in allowing development that would otherwise advance the purposes served by the standards and is compatible with the surrounding area.

4.14.2. Timing and Review.

4.14.2.1. An administrative adjustment may be requested either as a stand-alone application or in conjunction with other application(s).

4.14.2.2. If an administrative adjustment application is submitted in conjunction with another application, it shall be reviewed and decided prior to the other application. (For example, if an administrative adjustment application is submitted in conjunction with a site plan application because the administrative adjustment is needed to achieve the plan for development in the site plan, the administrative adjustment application shall be reviewed and decided upon prior to review of the site plan application.)

4.14.2.3. Such requests shall be submitted in writing and acted upon by the UDO Administrator within 14 calendar days.

4.14.2.4. The UDO shall administer shall either approve or deny such requests in writing.

4.14.3. Applicability.

Administrative adjustment requests may be granted by the UDO Administrator or his or her designee only for the following requirements or standards:

4.14.3.1. Modifications in a minimum yard by up to ten percent of the setback requirement;

4.14.3.2. Modifications to non-residential parking requirements by no more than two spaces; and

4.14.3.3. Modifications to the building height by no more than six inches of the maximum limitation of the district in which the structure is located. This only applies in instances where an error occurred during the construction process.

4.14.4. Administrative Adjustment Review Standards.

An application for an administrative adjustment shall be approved upon finding that the applicant demonstrates that all of the following standards are met:

4.14.4.1. The administrative adjustment does not exceed the limitations established in subsection 4.5.2;

4.14.4.2. The administrative adjustment is consistent with the character of development on surrounding land, and is compatible with surrounding land uses;

4.14.4.3. The administrative adjustment is consistent with one or more of the following purposes:

4.14.4.3.1. Compensates for some unusual aspect of the site or the proposed development that is not shared by landowners in general;

4.14.4.3.2. Supports an objective or goal of the zoning district where it is located;

4.14.4.3.3. Saves healthy existing trees; or

4.14.4.3.4. Is necessary to rectify a building siting or placement error that occurred subsequent to the issuance of a building permit where the noncompliance occurred in good faith and through no fault of the property owner.

4.14.4.4. The administrative adjustment will not pose a danger to the public health or safety;

4.14.4.5. Any adverse impacts will be mitigated, to the maximum extent practicable;

4.14.4.6. The site is not subject to a series of multiple, incremental administrative adjustments that result in a reduction in development standards by the maximum allowed; and

4.14.4.7. The administrative adjustment is not designed to increase the building footprint of structures or the overall intensity of development.

4.14.5. Expiration of Development Approval for Administrative Adjustments.

Unless otherwise specified in the approval, an application for a building permit shall be approved within one year of the date of the approval of the administrative adjustment, or the administrative adjustment shall become null and void, and automatically expire. Permitted timeframes do not change with successive owners.