

Sec. 7-11-6. Flexible development standards.

(a) *Purpose.* The purpose of this section is to provide the planning and development director, design review boards, and city council, as applicable, with the authority to allow deviations from the development standards for setbacks, front and corner side setbacks, lot area and dimension, number of parking spaces, signage, open space, landscaping, height, and building floor area set forth in this chapter provided that certain conditions exist. The intent of this section is to promote the orderly and efficient development of property.

(b) *Approval of flexible development standards.* Regardless of the minimum development standards otherwise required in this Code, the planning and development director shall administer the following flexible development standards for the purpose of facilitating the orderly development and redevelopment of property within the City of Asheville. Determination of the applicability of flexible development standards shall be made by the planning and development director, design review boards, and city council, as applicable and as provided in this section. The planning and development director, design review boards, and city council may place conditions on an approval to assure that the circumstances which warranted the application of the flexible development standards are maintained. Decisions by the planning and development director shall be in writing and may be appealed to the board of adjustment by following the procedures for such appeals provided in section 7-6-2 of this chapter.

(c) *Flexible development standards permitted.* The cumulative total of any flexible development standard applied to a property by category or location shall not exceed the maximums set forth in this section. The planning and development director shall maintain appropriate records to insure compliance with this provision.

(1) *Setbacks.* The planning and development director is authorized to approve requests that deviate from required setbacks set forth in Article VIII of this Chapter by up to ten percent of the required setbacks or 24 inches, whichever is greater, upon determination that one or more of the following conditions exists:

a. There are site or structural conditions that preclude strict adherence to the setback requirements, such as, but not limited to: the lot does not meet the dimensional standards established for the zoning district in which it is located; the lot has topographic limitations that require placement of the structure into the required setback area; or the structure is physically in line with an existing, legally established wall or walls of a principal structure already within the minimum setback area.

b. The part of the proposed structure that would encroach into the minimum setback area is less than 50% of the width of the affected building facade(s), provided the part of the structure that would encroach into a front setback shall either be open (such as a porch or screen room) or not subject to occupancy (such as a chimney).

c. The part of the proposed structure that encroaches into the minimum setback area is necessitated by a life-safety code, flood

hazard reduction, Americans with Disabilities Act standard, or other public safety code requirements.

d. The proposed structure will allow the preservation of significant existing vegetation.

(2) *Parking garages and parking lots.* Except for parking required for residential development of less than five units, the planning and development director is authorized to approve parking garages and parking lots in connection with a permitted use that has up to 25 percent less than the required number of spaces set forth in article XI of this chapter upon determination that one or more of the following conditions exists:

a. The applicant has presented a written parking needs analysis for the proposed use that demonstrates that a lower parking requirement adequately serves the parking needs of the use. This parking needs analysis shall be prepared by a North Carolina registered engineer or architect or by a certified planner or other professional qualified to do such analysis.

b. The applicant is proposing an adaptive reuse of an existing structure with a permitted use and there is insufficient space on site to accommodate the required parking.

c. The applicant is constructing an addition to an existing structure or site and sufficient new parking will be provided to accommodate the additional square footage without reducing the amount of parking serving the existing structure or site prior to the addition.

d. The proposed parking lot or garage will allow the preservation of significant existing vegetation.

(3) *Lot area and lot dimension.* The planning and development director is authorized to approve requests to permit a reduction of up to ten percent in the lot area or lot dimensional standards set forth in article VIII of this chapter, upon finding that the following conditions exist:

a. The reduced lot area and/or lot dimensions are in keeping with the historic pattern of development in the area; and

b. The reduced lot area and/or lot dimensions will not inhibit the reasonable use of the lot.

(4) *Structures undergoing design review.* Structures or lots subject to design review pursuant to this chapter by any official design review board established in this chapter which are found to comply with the applicable design guidelines shall be exempt from the signage, open space, landscaping, off-street parking, setback, building height and building floor area, lot width, and lot area requirements of the underlying zoning district to the extent that those requirements conflict with the applicable design guidelines.

(5) *Front and corner side setbacks.* Front and corner side setbacks establish the basic street orientation for buildings in a subdivision. In some

circumstances, the front and corner side setbacks established for particular zoning districts require modification in order to create a more practical use of land in response to environmental or topographic considerations or to promote consistency with existing or proposed patterns of development. The intent of this section is to provide for an administrative reduction in required front and cornerside setbacks for entire residential subdivisions and in portions of residential subdivisions in routine circumstances where conditions warrant and a variance would be justified. Such conditions include, but are not limited to: The protection of significant existing vegetation; accommodation of trails and greenways; provision of a more usable lot arrangement due to topographical circumstances; and maintenance of consistent appearance within the subdivision or with similarly situated property in the vicinity of the subdivision. It is not the intent of this section to simply provide a means to increase the buildable portion of a lot or lots. Consequently, the planning and development director and/or city council, as applicable, may impose those conditions reasonably necessary to ensure that the intent of this provision is carried out; such conditions may include, but are not limited to, the establishment of: additional required setbacks to the side or rear of properties, build-to lines, trail or greenway easements, and conservation easements. Due consideration shall be given to the existing development pattern of the surrounding area and no approval of flexible development standards shall be approved that would result in a substantial inconsistency with that pattern of development.

a. *Front and corner side setbacks for entire residential subdivisions.* This section applies to lots in all residential zoning districts. The planning and development director is authorized to approve requests to permit a reduction of up to 10 feet in the required front and/or corner side setbacks for entire subdivisions as part of the plat approval process. For subdivision plats requiring approval by the city council, the city council is authorized to approve a reduction of up to ten feet in the required front and/or corner side setbacks for the entire subdivision. In no case shall these approvals reduce the required front and/or corner side setbacks to less than ten feet. The applicant shall record a note regarding required front and/or corner side setback reduction on the final plat of the subdivision, along with any conditions that may be imposed.

b. *Front and/or corner side setbacks in portions of residential subdivisions.* For lots in all residential zoning districts except the RS-2 zoning district, the planning and development director is authorized to approve requests to permit a reduction of up to 10 feet in the required front and/or corner side setbacks for up to 10 percent of the lots in all subdivisions. For lots in the RS-2 zoning district, the planning and development director is authorized to approve requests to permit a reduction of up to 20 feet in the required front and/or corner side setbacks for up to ten percent of the lots in all subdivisions. In no case shall these approvals reduce the front and/or corner side setbacks to less than ten feet. In either case, the applicant shall record a note regarding front and/or corner side setback reduction on the final plat of the subdivision, along with any conditions that may be imposed.

(6) *Variances.* No variances shall be allowed under article VI of this chapter with regard to deviations from development standards that have been approved pursuant to this section of the City Code nor shall any deviations from these development standards make void or otherwise modify any variance decision by the board of adjustment.