

ARTICLE 14

FLEXIBLE DEVELOPMENT STANDARDS

14.1 Purpose

The purpose of this section is to provide the *Planning, Zoning & Subdivision Administrator* with limited authority in accordance with G.S.160D-403(d) to allow deviations from the minimum development standards for setbacks, lot area, and lot dimension as otherwise set forth in this land development ordinance provided that certain conditions exist. The intent of this section is to promote both the orderly and efficient development and/or redevelopment of property within the Town of Spencer.

14.2 Approval of Flexible Development Standards

Determination of the applicability of flexible development standards shall be made by the *Planning, Zoning & Subdivision Administrator* and, in applying these standards, the *Planning, Zoning & Subdivision Administrator* may establish conditions to ensure that the circumstances which warranted the application of the flexible development standards are maintained. Decisions by the *Planning, Zoning & Subdivision Administrator* shall be in writing and may be appealed to the Board of Adjustment by following the procedures for zoning appeals as provided in Article 6 of this Ordinance.

14.3 Flexible Development Standards Permitted

The cumulative total of any flexible development standard applied to a property by category or location shall not exceed the allowances set forth in this section. The *Planning, Zoning & Subdivision Administrator* shall maintain appropriate records to ensure compliance with this provision. The following flexible development standards may be approved by the *Planning, Zoning & Subdivision Administrator*:

14.3-1 Setbacks. The *Planning, Zoning & Subdivision Administrator* is authorized to approve requests that deviate from required setbacks set forth in Article 8 (Zoning Districts) and Article 9 (Building and Lot Type Standards) of this Ordinance by up to ten percent (10%) of the required setbacks or 32 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:

(1.) the *Lot of Record* does not meet the dimensional standards established for the zoning district in which it is located;

(2.) the *Lot of Record* has topographic limitations that require placement of the

structure into the required setback area; or

(3.) 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 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 requirement(s).

(C.) The reduction of the front and/or corner side setback allows the structure to meet the average front and/or corner side setback of other existing structures in the applicable block face.

(D.) The placement of the proposed structure will allow for the preservation of significant existing vegetation.

14.3-2 Lot area and lot dimension. The *Planning, Zoning & Subdivision Administrator* is authorized to approve requests to permit a reduction of up to ten percent (10%) in the minimum lot area or lot dimensional standards set forth in Article 8 (Zoning Districts) and Article 9 (Building and Lot Type standards), upon finding that the reduced lot area and/or lot dimensions will not inhibit the reasonable use of the lot and that the reduced lot area and/or lot dimensions are in keeping with the existing pattern of development in the area.

14.3-3 Building coverage and frontage. The *Planning, Zoning & Subdivision Administrator* is authorized to approve requests to permit a reduction of up to ten percent (10%) in the building coverage and frontage standards set forth in Article 8 (Zoning Districts) and Article 9 (Building and Lot Type Standards) of this Ordinance, upon finding that the reduced building coverage and/or frontage will not adversely impact the development pattern of the street which is the location of the property for which the adjustment is requested.

14.3-4 Density Credits and Severable Development Rights. The *Planning, Zoning & Subdivision Administrator* is authorized to approve requests to permit Density Credits and/or the transfer of Density Credits that are development rights originating in dedicated rights-of-way in accordance with G.S. 136-66.10 or G.S. 136-66.11 to contiguous or non-contiguous property.

14.4 Variances

No variances shall be allowed with regard to deviations from development standards that have been approved pursuant to this Article nor shall any deviations from these development standards make void or otherwise modify any variance decision by the *Board of Adjustment*.