

Silver City Land Use Code Update

Administrative Procedures

Introduction and Purpose

The purpose of making changes to the administrative provisions of the code is to establish a rational basis for flexibility. To this end, “dimensional adjustments” may be granted for minor variations to dimensional standards without the full set of findings required for a variance. The Planning and Zoning Commission will decide on dimensional adjustments, as it currently does for variances.

Administrative subdivisions clarify that lot line adjustments may be approved by the Community Development Director where no new lots result and vacation of easements upon written acknowledgement from utility providers.

Resubdivisions and lot line adjustments that result in no new lots shall not be restricted to fewer than one per 12-month period, as currently required in the code.

The notification of decisions has been extended from three to five business days.

Dimensional Adjustments vs. Variances

When a subject lot, building structure, parking area or street have unusual dimensional characteristics within their zone districts, and a minor degree of flexibility is needed for dimensional standards to better situate development, then the Planning and Zoning Commission has the discretion to consider a dimensional adjustment rather than a variance. Variances are intended to address problems involving major physical hardships, requiring more difficult findings. Dimension adjustments may be granted for:

- Reductions of street setbacks that do not exceed the average street setback of buildings on abutting lots facing the same street
- Modifications of 20% or less of the dimension of any zone district street or rear yard setback, provided that a driveway is at least 20 feet deep from the closest edge of the right-of-way or, where streets are not located in a right-of-way, as calculated in Section 3.4.2(A)(3)
- Modifications of 10% or less of any zone district lot size or lot width, or height standard
- Alternate parking plans involving a modification of 10% or less in the number of off-street parking spaces required in Section 5.9.2
- Reduction in right-of-way width to no less than 40 feet for one-way streets for standards set in Section 5.2.3(B)(3)
- Modifications of 20% or less of total street width standards as established in Section 5.2.3(J)(3)

Findings Required for Dimensional Adjustments

The Planning and Zoning Commission shall only approve a dimensional adjustment if it makes the following findings:

- The requested dimensional adjustment is consistent with the stated purposes of the Land Use Code, and
- The requested dimensional adjustment is consistent with the stated purposes of the Comprehensive Plan, and
- The granting of the adjustment will not be detrimental to the public health, safety, comfort, convenience and general welfare, and will not adversely affect the established character of the surrounding neighborhood, and
- The requested dimensional adjustment will not be injurious to the property or improvements in the vicinity of the property for which a dimensional adjustment is requested.

Findings Required for Variances

- The applicant’s hardship is unique to the applicant rather than a hardship suffered by neighbors or the general public
- The hardship relates to the applicant’s land, rather than personal circumstances
- The hardship is not the result of the applicant’s own actions
- The granting of the variance is consistent with the town’s Comprehensive Plan
- The granting of the variance is in harmony with the purposes and intent of the Land Use Code
- The variance granted is the minimum necessary to make possible the reasonable use of the land or building
- The granting of the variance will not be injurious to the neighborhood surrounding the property where the variance is proposed, and is not otherwise detrimental to the public welfare
- The variance will not result in the extension, expansion or enlargement of a non-conforming structure in violation of Article VII, and will not authorize the initiation of a non-conforming use of land.

Damage or Destruction of Non-Conforming Buildings

The proposed change would allow rebuilding non-conforming structures or re-establishing non-conforming uses that were formerly lawful when such building is unintentionally damaged or partially destroyed. The existing code restricts re-building to buildings that have lost less than 75% of the structure’s value. If greater than 75% of the value is lost, then a building cannot be built except in conformance with the code.

Summary of Main Code Amendments

- Addition of new residential and commercial zones more specific to areas with different characteristics
- Street setbacks
- Temporary and portable signs
- Adding bicycle parking and shared use parking provisions
- Creating a simpler dimensional adjustment process for minor changes instead of a full variance process
- Clarifying and adding definitions
- Revisions to the use table
- Accessory dwelling units
- Recreational vehicle subdivisions
- Parking of recreational vehicles in yards
- Street standards
- Parking standards
- Cross-referencing and indexing the code for easier use

