

Town of Pitkin, CO

On-site Wastewater Treatment System (OWTS)

Variance Application pg. 1 of 2

Applicant must fill in each section. The information requested on this application is in accordance with Regulation 43.4(O)(2) Requirements for Variance Consideration. Additional pages may be attached as necessary. The Variance Application fee must be paid at the time of submittal.

(1) Site-specific request identifying the specific criteria from which a variance is being requested:

(2) Technical justification by a professional engineer or professional geologist, which indicates the specific conditions which exist and/or the measures which will be taken that support a finding that the variance will result in no greater risk than that associated with compliance with the requirements of the regulation. Examples of conditions which exist, or measures which might be taken, include but are not limited to the following: evidence of a natural or manmade physical barrier to the movement of effluent to or toward the feature from which the variance is requested; placement of a manmade physical barrier to the movement of effluent to or toward the feature from which the variance is requested; soil replacement with sand filter media to reduce the infiltration rate of the effluent such that the travel time of the effluent from the absorption field to the physical feature is no less than the travel time through the native soils at the prescribed setback and Treatment Level 2; Applicant may attach additional page(s) to satisfy this condition:

(3) Alternatives considered in lieu of the requested variance;

(4) Technical documentation for selected alternative, which may include a testing program, which confirms that the variance does not increase the risk to public health and to the environment;

(5) A statement of the hardship that creates the necessity for the variance:

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The applicant has the burden of proof to demonstrate that the variance is justified and will pose no greater risk to public health and the environment than would a system meeting the regulations.

The local board of health has the authority to impose site-specific requirements and conditions on any variance granted.

Outcome of the Variance Proceeding:

The applicant must be notified, in writing, of the local board of health's decision regarding the request for a variance. The notice of a denial of a variance must include those reasons which form the basis for the denial. The notice of an approval of a variance must include any conditions of the approval. The variance, and any conditions thereof, must be recorded on the deed to the property and any expenses associated with that recording must be the responsibility of the party obtaining the variance.

Prohibitions on the Granting of Variance Requests:

- a. No variance shall be issued where the property can accommodate a conforming OWTS.
- b. No variance shall be issued to mitigate an error in construction involving any element of property improvements.
- c. No variance shall be allowed solely for economic gain.
- d. No variance shall be issued, if it will result in a setback reduction to an offsite physical feature that does not conform to the minimum setbacks defined in Table 7-1 of this regulation without the written consent of the owner of property containing said feature. Property lines are considered offsite features.
- e. No variance shall be issued, if it reduces the separation to ground water or bedrock based on the level of treatment in Table 7-2 of Regulation 43.
- f. No variance from the horizontal setback from a well shall be issued unless it also meets the variance requirements of the Board of Examiners of Water Well Construction and Pump Installation Contractors.

Variances for Repair of Failing Systems:

When a proposed variance for a system repair or upgrade would result in encroachment on minimum distances to physical features on neighboring properties required by Reg. 43, the hearing procedures in Regulation 43.4(O)(2), Requirements for Variance Consideration above, must be followed.

For the repair of or upgrade to an approved existing system where the existing system does not meet the required separation distances and where the size of the lot precludes adherence to the required distances, a variance to the separation distances may be requested. The repairs or upgrade shall be no closer to features requiring setbacks than the existing facilities. Variances requesting setbacks no closer than existing setbacks do not have to provide technical justification from a professional engineer or professional geologist.

A request for review/appeal must be made within 60 days after denial of an application by the local public health agency. Such review must be conducted pursuant to the requirements of section 24-4-105, C.R.S.