

**BOARD OF ADJUSTMENT
CITY AND COUNTY OF DENVER
201 West Colfax Avenue, Department 201
Denver CO, 80202**

PREMISES AFFECTED: 3648 North Downing Street

LEGAL DESCRIPTION: Lengthy Legal

APPLICANT(S) DOMA LLC, 3535 Larimer Street, Denver, CO 80205
Filed By: Daniel Pittenger, 1850 Platte Street, Suite 400, Denver, CO 80202
Meaghan McGee, 6200 South Syracuse Way, Suite 300, Greenwood Village, CO 80111

APPEARANCES:

APPLICANT: Madeleine Reinke, 6200 South Syracuse Way, Suite 300, Greenwood Village, CO 80111
Meaghan McGee, 6200 South Syracuse Way, Suite 300, Greenwood Village, CO 80111
Daniel Pittenger, 1850 Platte Street, Suite 400, Denver, CO 80202
Brian Keith, 8340 Meadow Road, Suite 150, Dallas, TX 75231
Melissa Joesoef, 8340 Meadow Road, Suite 150, Dallas, TX 75231
Jason Roberts, 8340 Meadow Road, Suite 150, Dallas, TX 75231

FOR THE CITY: Aaron Schultz, Zoning Representative

SUBJECT:

Request for a Variance for a 7-story and 4-story mixed-use residential building under the General building form exceeding the maximum 55-foot height by 6.5 feet, in a C-MX-5 UO-1, UO-2, DO-7 zone district and C-MX-3 UO-1, UO-2, DO-7 zone district

ACTION OF THE BOARD:

THE VARIANCE IS GRANTED under the Unusual Physical Conditions or Circumstances variance criteria, according to the plans submitted to the Board (Exhibit 6) and the testimony at the hearing. NOTE: A digital copy of the Board-approved plans may be obtained by contacting the Board’s staff. These approved plans MUST be submitted to the Development Services Log-In counter when applying for final construction permits for this project.

BOARD OF ADJUSTMENT
Ignacio Correa-Ortiz, Chair

Austin Keithler

Austin E Keithler, Director

THIS ACTION BY THE BOARD OF ADJUSTMENT IS NOT AN APPROVAL TO PROCEED WITH DEVELOPMENT. PLEASE CONTACT YOUR ASSIGNED REVIEWER WITH CPD TO COMPLETE AND FINALIZE YOUR ZONING PERMIT OR ZONE LOT AMENDMENT APPLICATION. CONSTRUCTION OR ANY OTHER DEVELOPMENT ACTIVITY IS PROHIBITED ON THE SUBJECT REAL PROPERTY UNTIL YOU COMPLETE ALL ZONING AND PERMIT APPROVAL PROCESSES.

NOTE!! VARIANCES AUTHORIZING CONSTRUCTION WILL EXPIRE UNLESS START OF CONSTRUCTION HAS OCCURRED WITHIN 3 YEARS AND IS COMPLETED WITHIN 5 YEARS FROM THE DATE THE VARIANCE WAS GRANTED. (FOR EXTENSIONS, SEE DENVER ZONING CODE, SECTION 12.4.7.7.A.2.)

IN THE BOARD OF ADJUSTMENT
THE CITY AND COUNTY OF DENVER
FINDINGS OF FACT AND CONCLUSIONS OF LAW

FEBRUARY 24, 2026

CASE NO. 1-2026

PREMISES: 3648 NORTH DOWNING STREET. (Lengthy Legal.)

APPLICANT(S): DOMA LLC, 3535 Larimer Street, Denver, CO 80205, by Daniel Pittenger, 1850 Platte Street, Suite 400, Denver, CO 80202, & Meghan McGee, 6200 South Syracuse Way, Suite 300, Greenwood Village, CO 80111.

SUBJECT: Request for a Variance for a 7-story and 4-story mixed-use residential building under the General building form exceeding the maximum 55-foot height by 6.5 feet, in a C-MX-5 UO-1, UO-2, DO-7 zone district and C-MX-3 UO-1, UO-2, DO-7 zone district

NOTICE OF HEARING: Premises posted. Public notice given in accordance with Section 2-35(2) and 12-96 of the Revised Municipal Code.

APPEARANCES:

Applicant: Madeline Reinke, 6200 South Syracuse Way, Suite 300, Greenwood Village, CO 80111
Meaghan McGee, 6200 South Syracuse Way, Suite 300, Greenwood Village, CO 80111
Daniel Pittenger, 1850 Platte Street, Suite 400, Denver, CO 80202
Brian Keith, 8340 Meadow Road, Suite 150, Dallas, TX 75231
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Jason Roberts, 8340 Meadow Road, Suite 150, Dallas, TX 75231

For The City: Aaron Schultz, Zoning Representative

FINDINGS OF FACT:

I. The application was timely filed January 12, 2026, from a Zoning Relief Pre-Application Meeting Summary dated December 22, 2025. The case was heard on February 17, 2026, at which time a variance was granted. Final Findings of Fact and Conclusions of Law were adopted by the Board on February 24, 2026.

II. The Applicants request a variance under Sections 12.4.7.5 and 12.4.7.6 of the Denver Zoning Code (DZC). The Board finds that the Applicants meet the following conditions for a variance under Section 12.4.7.5.A, “Unusual Physical Conditions or Circumstances:”

A. Unusual Physical Conditions or Circumstances:

1. There are unusual physical circumstances or conditions peculiar to the affected property.
 - a. The subject property is a 2.3-acre site located along the western edge of the Cole neighborhood. The site is bound by East 37th Avenue to the north, East 36th Avenue to the south, North Downing Street to the west, and North Marion Street to the east. Currently, the site is comprised of two zone lots, with a small triangular parcel separated from the rest of the site by Lawrence Street which crosses northeasterly through the site near the southeast corner. The Applicants are in the process of vacating Lawrence Street and combining both zone lots into a single zone lot which spans the full block. Once the zone lot amendment has been completed, the Applicants propose to develop a mixed-use residential building with activated street fronts on the property. The property sits within

multiple zone districts. The eastern half of the site is zoned C-MX-3 which is a Mixed-Use, 3-story maximum and the western half of the site is zoned C-MX-5, which is a Mixed-Use 5-story maximum. The Applicants are utilizing the Enhanced Incentives offered to developments that exceed the Expanding Housing Affordability (EHA) ordinance, which allows them to build up to 7-stories on the western half of the lot and 4-stories on the eastern half. The western half of the development will fully comply with Code, but the eastern half will exceed the maximum building height of 55 feet by 6.5 feet. The Applicants believe that the additional height is justified by the unusual conditions on the property and they ask the Board to approve the variance for the additional height. (Testimony of Daniel Pittinger. Testimony of Meaghan McGee. See also Exhibit 2 – Board’s Sketch, Exhibit 5 – Variance Application, and Exhibit 7 – Survey.)

- b. There is considerable topography along the site, which creates challenges to the height of the structure. There is a high point on the lot at 5207 feet in elevation, located in the southeast corner of the zone lot at the corner of North Marion Street and East 36th Avenue. The grade drops away to be 3 feet lower at the northeast corner, 10 feet lower at the southwest corner, and 14 feet lower at the northwest corner or North Downing Street and East 37th Avenue. This significant change in grade results in the base plane for the project being below grade for the majority of the eastern portion of the site. The area of the project where the base plane is below grade coincides directly with the portion of the project where the Applicants are asking for the additional height. The Applicants believe that it is uncommon in the surrounding area to have such significant grade change across a site and their request for additional height is appropriate given these conditions. (Testimony of Daniel Pittinger. Testimony of Meaghan McGee. See also Exhibit 2 – Board’s Sketch, Exhibit 5 – Variance Application, and Exhibit 9 – CPD Packet.)
 - c. In addition to the significant elevation changes along the site, the property is required to meet additional restrictions from the Denver Wastewater department. The site is not located within a floodplain, but it is in an area which has been studied for flooding conditions. To receive approval from Wastewater, the project must comply with Minimum Lowest Opening Elevation (MLOE) requirements by elevating finish floors and openings to mitigate impact in storm conditions. Meeting these requirements in areas along North Marion Street where the base plane is below grade significantly limits the developable envelope of the structure. In addition, the project is located in the DO-7 River North Design Overlay. The DO-7 zone district requires a minimum 16-foot street-level height. The combination of the MLOE and DO-7 requirements, along with the topography on the site, makes it effectively impossible to construct a structure which meets the allowed incentive height in stories while remaining below the maximum height limits. (Testimony of Daniel Pittinger. Testimony of Meaghan McGee. Testimony of Aaron Schultz. See also Exhibit 2 – Board’s Sketch, Exhibit 5 – Variance Application, and Exhibit 9 – CPD Packet.)
2. The circumstances or conditions do not exist throughout the neighborhood or zone district in which the property is located except for those adjustments based on any of the conditions listed in Section 12.4.7.5.A.2. The Applicants and CPD staff note that it is uncommon for single zone lots to occupy a full block. It is also uncommon for zone lots to have such significant topographical changes. (Testimony of Daniel Pittinger. Testimony of Aaron Schultz. See also Exhibit 5 – Variance Application, and Exhibit 9 – CPD Packet.)
 3. The unusual physical circumstances or conditions have not been created by the applicants. The existing topography on the zone lot were not created by the Applicants. (Testimony of Daniel Pittinger. See also Exhibit 5 – Variance Application.)
 4. The unusual physical condition or circumstance causes the need for the variance. The combination of the unusual topographical changes on the site, the drainage requirements, and

the DO-7 street-level height requirements, combine to create the need for the variance. (Testimony of Daniel Pittinger. Testimony of Aaron Schultz. See also Exhibit 5 – Variance Application.)

- B. If granted, the variance would meet the following requirements for all variance approvals under 12.4.7.6. DZC:
1. It would not relate to either the persons, or the number of persons, who do, will, or may reside in a residential structure. Any property owner would experience the same issues due to unusual conditions present on the site.
 2. Except as allowed in Section 12.4.7.5, it would not be justified solely on grounds of loss of a financial advantage, hardship that is solely financial, or a more profitable use of the property might be had if a variance is granted. The variance is justified based on the unusual conditions and circumstances on the property rather than on a financial hardship.
 3. It would not substantially impair the intent and purpose of this Code. The variance is minor and technical under the circumstances. Due to the topographical changes along the property, the base plane is below grade for the majority of the eastern part of the site. This leads to the technical measurement of the height of the structure being greater than the experienced height of the structure for a pedestrian on the street. For a pedestrian walking down the street, the structure will not noticeably exceed the maximum height limit. (Testimony of Aaron Schultz. See also Exhibit 9 – CPD Packet.) See also Findings II.A. and II.B.
 4. It would not substantially impair the intent and purpose of the applicable zone district. The variance is minor and technical under the circumstances. See also Findings II.A. and II.B.
 5. It would not substantially or permanently impair the reasonable use and enjoyment or development of the subject property or adjacent property. Part of the intent of the additional height is to ensure that rooftop mechanical equipment will be sufficiently screened from view. The additional height will not have any adverse impact on any adjacent properties. The variance will not affect light, air, or emergency egress to any adjacent properties. (Testimony of Daniel Pittinger. See also Exhibit 8 – Section Diagram.) Although the Applicants did not submit letters of support from any nearby property owners, no one appeared in opposition to the request after fourteen days of posting.
 6. It would be the minimum change that would afford relief and would be the least modification of the applicable provisions of this Code. See also Findings II.A. and II.B.
 7. It would adequately address any concerns raised by the Zoning Administrator or other City agencies in their review of the application. CPD staff stated that they were in support of the variance, as they found that it satisfied the Unusual Physical Conditions or Circumstances criteria as well as the General Review criteria. (Testimony of Aaron Schultz. See also Exhibit 9 – CPD Packet.) The Board concurred and found this condition to be met.

CONCLUSION: The Board concludes that the conditions set forth in Sections 12.4.7.5 and 12.4.7.6 of the Zoning Code do exist, and a variance is in order.

MOTION: The motion by Mr. Rice to grant the variance as requested was seconded by Mr. Haywood and was adopted.

VOTE: FOR: 5 AGAINST: 0

ACTION OF THE BOARD: THE VARIANCE IS GRANTED under the Unusual Physical Conditions or Circumstances variance criteria, according to the plans submitted to the Board (Exhibit 6) and the testimony at the hearing. NOTE: A digital copy of the Board-approved plans may be obtained by contacting the Board's staff. These approved plans MUST be submitted to the Development Services Log-In counter when applying for final construction permits for this project.