

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

**PREMISES AFFECTED:** 711 South Downing Street  
**LEGAL DESCRIPTION:** Lot 5 and the South 12.5 Feet of Lot 4, Block 8, 1st Re-subdivision of Bryn Mawr  
**APPLICANT(S)** Andrew & Victoria McClearn, 444 North Cherry Street, Denver, CO 80220 ,  
by Sarah Sexton, 1627 North Gilpin Street, Denver, CO 80218

**APPEARANCES:**  
**APPLICANT:** Andrew & Victoria McClearn, 711 South Downing Street, Denver, CO 80209  
Sarah Sexton, 1627 North Gilpin Street, Denver, CO 80218  
Kirk Reeve, 8324 East Foxhill Place, Centennial, CO 80112  
Jim Reeve, 8751 East Fremont Circle, Centennial, CO 80112  
14 (Fourteen) Signatures of Support

**OPPOSITION:** Letter of Opposition (West Washington Park Neighborhood Association, March 11, 2026)

**FOR THE CITY:** Nicholas Hufford, Zoning Representative

**SUBJECT:**  
Request for a Variance for a General Detached Structure (Garage) encroaching 1 foot 6 inches into the 5-foot rear setback, and encroaching 1 foot 6 inches into the 21-foot separation between garage door opening facing an alley and the farthest alley right-of-way boundary line, in a U-SU-B zone district

**ACTION OF THE BOARD:**  
THE VARIANCE IS GRANTED IN PART AND AS AMENDED under the Limited Tolerance for Construction Errors variance criteria, to allow the General Detached Structure (Garage) to encroach 1 foot 3 inches into the 5-foot rear setback, according to the testimony at the hearing.

The request for variance is DENIED as to the Minor Detached Structure (Garage) encroaching into the 21-foot separation between the garage door opening facing an alley and the farthest alley right-of-way boundary line, for failure of the request to meet all the conditions required for a variance under Sections 12.4.7.5 and 12.4.7.6 of the Denver Zoning Code. The Applicants have 14 days in which to request a Reconsideration if they believe there is new evidence of Justifying Circumstances which was not or could not have been presented at the hearing, or 28 days to appeal this decision to Denver District Court. Questions about this decision may be addressed to Austin Keithler, 720-913-3050, at the Board's office.

BOARD OF ADJUSTMENT  
Ignacio Correa-Ortiz, Chair

*Austin Keithler*

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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**

APRIL 7, 2026

CASE NO. 10-2026

PREMISES: 711 SOUTH DOWNING STREET. (Lot 5 and the South 12.5 Feet of Lot 4, Block 8, 1<sup>st</sup> Re-subdivision of Bryn Mawr.)

APPELLANT(S): ANDREW & VICTORIA MCCLEARN, 444 North Cherry Street, Denver, CO 80220, by Sarah Sexton, 1627 North Gilpin Street, Denver, CO 80218.

SUBJECT: Request for a Variance for a General Detached Structure (Garage) encroaching 1 foot 6 inches into the 5-foot rear setback, and encroaching 1 foot 6 inches into the 21-foot separation between garage door opening facing an alley and the farthest alley right-of-way boundary line, in a U-SU-B 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:

Appellant: Andrew & Victoria McClearn, 711 South Downing Street, Denver, CO 80209  
Sarah Sexton, 1627 North Gilpin Street, Denver, CO 80218  
Kirk Reeve, 8324 East Foxhill Place, Centennial, CO 80112  
Jim Reeve, 8751 East Fremont Circle, Centennial, CO 80112  
14 (Fourteen) Signatures of Support

Opposition: Letter of Opposition (West Washington Park Neighborhood Association, March 11, 2026)

For The City: Nicholas Hufford, Zoning Representative

**FINDINGS OF FACT:**

I. The application was timely filed February 10, 2026, from a Zoning Relief Pre-Application Meeting Summary dated February 5, 2026. The case was heard on March 24, 2026, at which time one variance was approved, and one variance was denied. Final Findings of Fact and Conclusions of Law were adopted by the Board on April 7, 2026.

II. The Applicants request a variance under Sections 12.4.7.5 and 12.4.7.6 of the Denver Zoning Code (DZC), and believe the required conditions are met, specifically alleging:

A. The subject property is a 1917, two story residence located in the Washington Park West neighborhood. The property is located on the west side of South Downing Street, directly across from Washington Park to the east. The property is located on a block which has a 16-foot-wide north-to-south running alley extending down the middle of the block. The Applicants have recently completed a large-scale renovation and addition to the primary structure. They are now in the process of completing work on the property by replacing an older covered carport with a new three-car detached garage. The Applicants submitted plans for the garage depicting it at 22 feet deep by 32 feet wide, located just over 5 feet from the rear property line. These plans were approved and the Applicants began construction on the garage. After the foundation was poured and the walls were framed, an inspector noted that there was a discrepancy between the approved

location and the built location. The Applicants have since determined that the rear survey pins along the alley were offset from the property by two feet into the alley. The older carport structure was built right at the rear property line. This location prevented the survey pins from being placed at the corners of the property, leading to them being set back into the alley instead. The survey was completed in January of 2023, but construction on the garage did not begin until the end of 2025. When construction began on the garage, the Applicants measured back five-and-a-half feet from the pins, believing that this would leave the garage a little over five feet from the alley. Because they did not take the offset into account, the built location of the garage was approximately 1 foot 6 inches into the 5-foot rear setback. There is an additional requirement in the Code in Article 10 which requires a 21-foot separation between garage doors or carport openings that open directly to an alley and the farthest alley boundary line. The structure encroaches 1 foot 6 inches into this 21-foot separation requirement as well. The Applicants believe that the garage as built will have no negative impacts on the adjacent properties on the block and they ask that it be allowed to remain in its' current location. (Testimony of Andrew McClearn. Testimony of Sarah Sexton. Testimony of Kirk Reeve. See also Exhibit 2 – Board's Sketch, Exhibit 3 – Board's Posting Photos, Exhibit 5 – Variance Application, Exhibit 6 – As Built Plans, Exhibit 7 – Originally Approved Plans, and Exhibit 9 – Applicants' Packet.)

- B. The Applicants believe the request satisfies the Limited Tolerance for Construction Errors variance criteria. CPD approved the plans for their garage and issued a zoning permit for construction. The Applicants built the garage at the size they were approved for and in what they believed was the correct location. During construction it was determined that the structure encroached into the rear setback and the vehicle maneuvering separation area, due to the misunderstanding over the property line location. At this time the structure is largely built. The Applicants are willing to take steps to reduce the violations as much as they are able, but they cannot fully comply with the Code without demolishing and rebuilding the structure. The Applicants estimate around \$35,000 to bring the property into compliance with the Code, which would require significant demolition and modification to the existing structure. There would be significant waste produced by these modifications, and the Applicants do not believe that the changes would be significant enough to warrant the cost and waste. They ask the Board to approve the variances to allow the structure to remain in place. (Testimony of Andrew McClearn. Testimony of Sarah Sexton. Testimony of Kirk Reeve. See also Exhibit 2 – Board's Sketch, Exhibit 3 – Board's Posting Photos, Exhibit 5 – Variance Application, and Exhibit 9 – Applicants' Packet.)
- C. The Applicants believe that the placement of their garage is compatible with the surrounding neighborhood. Although their garage is located closer to the alley than the Code requires, this is a common condition along the alley. On their block bound by East Exposition Avenue to the north, East Ohio Avenue to the south, South Corona Street to the west and South Downing Street to the east, there are 11 properties on the west side of the alley and 15 properties on the east side of the alley. Among these properties, there are 19 garages located along the alley, not counting the Applicants' property. Nine of these garages have setbacks which are less than 5 feet from the rear property line, which works out to 47% of nearby garages sharing similar violations. The Applicants note that the property directly to their north at 707 South Downing Street seems to have only a 3-foot rear setback for the garage. They also note that the carport which was previously on the property had a 0-foot rear setback. Although the new garage does not comply with Code, it will have a larger setback than what has historically been present on the lot, and it will have a similar setback to 47% of nearby garages on the block. (Testimony of Andrew McClearn. Testimony of Sarah Sexton. See also Exhibit 5 – Variance Application, and Exhibit 9 – Applicants' Packet.)

III. CPD staff note that the application for a variance was submitted with the Limited Tolerance for Construction Errors justifying circumstance addressed in the application. There are two violations to the Code at issue in this application. The rear setback violation has been cited under Section 5.3.4.5.B DZC and the

vehicle maneuvering area violation has been cited under Section 10.4.5.1.D.3. DZC. While the violation to Article 5 can be approved based on the Limited Tolerance for Construction Errors criteria, the violation to Article 10 cannot. In the Limited Tolerance for Construction Errors criteria, Section 12.4.7.5.F.3 states, “(d)uring construction, a violation of one or more Building Form Standards found in Articles 3 though 9 of this Code, except maximum height in stories, occurred;”. Because Section 12.4.7.5.F.3 specifically states that the Limited Tolerance for Construction Errors criteria can only apply to the Building Form Standards in Articles 3 through 9, the Article 10 violation is not eligible for consideration under this Justifying Circumstance. (Testimony of Nicholas Hufford. See also Exhibit 1 – Zoning Relief Pre-Application Meeting Summary, Exhibit 5 – Variance Application, and Exhibit 11 – CPD Packet.)

IV. 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 as to the rear setback encroachment under Section 12.4.7.5.F, “Limited Tolerance for Construction Errors:”

A. Limited Tolerance for Construction Errors:

1. CPD approved and issued a zoning permit for construction of a Structure. A zoning permit was issued for the new garage on October 31, 2025. (Testimony of Sarah Sexton. See also Exhibit 9 – Applicants’ Packet.) See also Findings II.A, and II.B, above.
2. Start of Construction of the Structure has begun, as “Start of Construction” is defined in Article 13 of this Code. After the building permit was issued, the Applicants began construction on the garage. Shoring piers were installed on November 25, 2025, footings were poured on December 4, 2025, and the foundation was poured December 11, 2025. Framing began December 15, 2025, and the trusses and sheathing were installed by January 4, 2026. (Testimony of Sarah Sexton. See also Exhibit 9 – Applicants’ Packet.) See also Findings II.A, and II.B, above.
3. During construction, a violation of one or more Building Form Standards found in Articles 3 through 9 of this Code, except maximum height in stories, occurred. The Applicants called for a surveyor verification of placement on January 6, 2025, at which time it was discovered that the garage was built closer to the property line than anticipated due to the survey pin offsets not being taken into account. (Testimony of Sarah Sexton. Testimony of Kirk Reeve. See also Exhibit 9 – Applicants’ Packet.) See also Findings II.A, and II.B, above.
4. The Structure or portion of the Structure containing the violation has been substantially constructed. At the time the issue was discovered, the foundation was entirely completed, and the structure was framed and sheathed. The overall massing of the structure is currently in place. (Testimony of Kirk Reeve. See also Exhibit 3 – Board’s Posting Photos, and Exhibit 9 – Applicants’ Packet.) See also Findings II.A, and II.B, above.
5. The Applicant will face substantial and unreasonable difficulties in fully complying with or correcting the zoning violation. At this time the structure is largely in place and the Applicants do not believe there is a simple way to correct the violations. They would have to remove the roof from the structure as well as the front and back walls. They would have to create new foundations set back 18 inches, then rebuild the front and back walls and reattach the roof. (Testimony of Kirk Reeve. See also Exhibit 9 – Applicants’ Packet.)
6. Given the stage of completed permanent construction, the effort or cost to comply with the zoning standard(s) is substantially disproportionate to the type, scale, or size of the error / violation. The Applicants estimate that the cost to bring the structure into compliance would be somewhere between \$35,000 and \$40,000. They feel that this is disproportionate to the resulting violation due to the construction error. Although the encroachment into the rear setback affords them less space to maneuver their vehicles into the alley, this only really impacts them. They have small vehicles, and they do not believe it will be difficult for them to use the alley with the current location of the garage. They do not believe that it will have any adverse impact on their neighbors. While the garage is not set back 5 feet from the alley, the prior carport structure was built directly along the alley. The new garage will still have

more space along the alley than the prior condition, even with the rear setback encroachment. (Testimony of Andrew McClearn. Testimony of Kirk Reevie. See also Exhibit 9 – Applicants’ Packet.)

- 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 occupant of the property would experience similar challenges given the current condition of the structure due to the construction error.
  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 Limited Tolerance for Construction Errors variance criteria.
  3. It would not substantially impair the intent and purpose of this Code. The variance is minor and technical under the circumstances. The Applicants’ note that the rear setback encroachment will only impact their own access to the alley. The prior carport was built along the rear property line and blocked vehicle access or neighbors far more than the current structure. (Testimony of Sarah Sexton.) See also Findings II.A, and II.B, above.
  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, above
  5. It would not substantially or permanently impair the reasonable use and enjoyment or development of the subject property or adjacent property. The Applicants do not believe that the garage as built will impact light, air, or emergency access to any nearby properties. They also note that if there are any external impacts from the location of the garage, it will only be to them. They will have less room to maneuver their vehicles into and out of the garage but anyone else using the alley will not be impacted. The Applicants have the written support from 14 nearby property owners. (Testimony of Andrew McClearn. See also Exhibit 8 – Signatures of Support.) The Board notes that they have also received a letter of opposition from the West Washington Park Neighborhood Association (WWPNA). The WWPNA does not find the variance criteria in the Code to be met and is therefore opposed to the variance. The WWPNA finds that the two variances are an egregious violation of the Code. They find that it is impossible to know whether the intrusion is a result of carelessness, incompetence, negligence, or a deliberate attempt to skirt the Code. They argue that no information has been provided to show that compliance with the Code cannot be met and that no information has been provided on the cost to comply with Code. They believe that the garage as built will adversely impair the surrounding properties and they believe the variance should be denied. (See Exhibit 10 – WWPNA Opposition Letter.) The Board noted that the WWPNA did not appear to have all the relevant information at their disposal at the time they reviewed the request. The WWPNA questioned whether the pouring of the foundation constituted substantial construction, but the walls and roof of the structure were also built prior to the violations being identified. The WWPNA argued that no cost analysis to resolve the violations had been provided, but the Applicants had submitted a cost breakdown showing \$34,050 to comply with the Code. While the WWPNA argued that adjacent properties would be adversely impacted, the Applicants had provided signatures of support from 14 adjacent property owners. Apart from the RNO, no one appeared in opposition to the request. (Testimony of Andrew McClearn. See also Exhibit 3 – Board’s Posting Photos, Exhibit 8 – Signatures of Support, and Exhibit 9 – Applicants’ Packet.) The Board thus found that although the WWPNA was opposed to the request, that the variance would not adversely impair the reasonable use and enjoyment of the adjacent properties. The Board thus found this condition to be met.

6. It would be the minimum change that would afford relief and would be the least modification of the applicable provisions of this Code. The Applicants have two ideas to reduce the violations, but they do not believe they can fully comply with Code without substantially altering the structure. The walls of the garage were designed with 2x6 framing with a standard depth brick veneer along the exterior. The Applicants believe they can use thin brick along the exterior instead, which will gain them an additional 3 inches. While this won't eliminate the violation it will reduce it from an 18-inch encroachment down to a 15-inch encroachment. Additionally, the Applicants believe they can inset the garage doors into the structure. While the exterior façade of the structure will still encroach 15 inches into the rear setback, the garage doors themselves will be set 21 feet from the opposite alley right-of-way as required by Section 10.4.5.1.D.3. DZC. (Testimony of Kirk Reeve.) The Board concurs that the reduction in the rear setback violation from 18 inches down to 15 inches is a reasonable compromise and would be the minimum change necessary. The Board was not certain whether or not insetting the doors would meet the requirements of Section 10.4.5.1.D.3. DZC. See below at Findings VII. As the Board only found the variance to be appropriate for the rear setback encroachment, the Board thus found this condition to be met.
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 opposed the two variances. Although the Applicants did not directly address these points in their application, CPD staff have reviewed the request against the Unusual Physical Conditions or Circumstances and Neighborhood Compatibility criteria. CPD was unable to find any applicable unusual conditions on the property. While CPD found some evidence to support a claim of Neighborhood Compatibility, they still argued that the variances should be denied. CPD staff found that if the variance were approved on the basis of Neighborhood Compatibility that it would establish a precedent which would negatively impact the built character of the neighborhood. See below at Findings VI.A. CPD notes that the variance application lists Limited Tolerance for Construction Errors as the applicable review criteria. The language in Article 12.4.7.5.F.3. does not allow for the variance to the vehicle maneuvering area to be approved based on a construction error. CPD found that the two variances for the rear setback encroachment and the vehicle maneuvering area requirement were inherently tied together. Limited Tolerance for Construction Errors could not be used to approve the vehicle maneuvering area variance and CPD found no other justifying circumstance to be met. Because the two variances were inherently tied together, CPD found that both variances should be denied. (Testimony of Nicholas Hufford. See also Exhibit 10 – CPD Packet.) The Board concurred with CPD's analysis as to both the Unusual Physical Conditions or Circumstances and Neighborhood Compatibility criteria. The Board also concurred as to section 12.4.7.5.F.3 disallowing the vehicle maneuvering area variance on the basis of Limited Tolerance for Construction Errors. However, the Board found it appropriate to split the two violations apart to allow their consideration individually. The Applicants had proposed a modification to the location of the garage doors to inset them into the garage to gain additional separation from the farthest alley Right-of-Way. See above at Findings IV.B.6. The Board was not certain if this proposal would allow the project to meet Code for this violation but they found it appropriate to give the Applicants the relief they could grant as well as the flexibility to explore alternative design alternatives. See below at Findings VII. The Board thus found this condition to be met.

V. The Board does not find that the Applicants meet the criteria of Sections 12.4.7.5 and 12.4.7.6 of the Denver Zoning Code as to the encroachment into the vehicle maneuvering area. Section 12.4.7.5 states: “The Board of Adjustment may grant a variance only if it finds that there are justifying circumstances whereby the application satisfies the criteria of **any one of Sections 12.4.7.5.A through F in addition to satisfying the**

**general review criteria in Section 12.4.7.6.”** (Emphasis in original). The Board is not authorized to grant relief under the variance section unless all the criteria are met.

VI. The Board finds that the Applicants do not meet the following conditions for a variance as to the encroachment into the vehicle maneuvering area:

- A. The variance would establish a precedent in the existing neighborhood for similar future requests, which would adversely impact the existing character and built context in the identified existing neighborhood. See Section 12.4.7.5.B.3.b.ii. DZC. CPD staff did not dispute the Applicants’ assertion that just under half of the other garages in the existing neighborhood had garages with rear setbacks less than 5 feet. However, CPD noted that the degree of encroachment for these other garages was typically less than that of the subject property. CPD noted that only 4 of 9 garages with a setback encroachment were located less than 4 feet from the rear property line. The Applicants’ garage would contain the second largest encroachment on the block. Further, CPD was concerned that the granting of the variance on the basis of Neighborhood Compatibility would establish a precedent for similar future requests. The current request was in front of the Board due to a construction error. If not for the construction error, the garage would have been built in a compliant location and the Applicants would not be requesting a variance. It is only because the vehicle maneuvering standard in Article 10 is not eligible for a variance on the basis of Limited Tolerance for Construction Errors that an argument based on Neighborhood Compatibility is even being addressed. Given that, CPD finds that if the Board were to approve the variance on the basis of Neighborhood Compatibility, that same finding of Neighborhood Compatibility would be true for any future request as well. CPD finds that the inadvertent construction error would therefore establish a precedent on the block should the Board approve the variance for the vehicle maneuvering area encroachment on the basis of Neighborhood Compatibility. CPD thus does not find this condition to be met. (Testimony of Nicholas Hufford. See also Exhibit 11 – CPD Presentation.) The Board concurred and did not find this condition to be met.
- B. The violation in question is not to the Building Form Standards found in Articles 3 through 9 of this Code. See Section 12.4.7.5.F.3. DZC. The Board is unable to grant the variance for the vehicle maneuvering area standard based on Limited Tolerance for Construction Errors because this standard is in Article 10 of the Code. Although the Board does not understand the rationale for disallowing a variance to Article 10 based on a construction error, they agree with CPD’s reading of the Code. Because the primary argument put forth by the Applicants is based on the Limited Tolerance for Construction Errors variance criteria, and this justifying circumstance cannot apply to Article 10, the Board is unable to find this condition to be met. See above at Findings III.

VII. The Board noted that the two variances were inherently related, but that one could be approved based on Limited Tolerance for Construction Errors while the other could not. The Board found the criteria for Limited Tolerance for Construction Errors to be met for the rear setback encroachment. The Board also found that with the exception of Section 10.4.7.5.F.3. DZC, the criteria for Limited Tolerance for Construction Errors would be met for the vehicle maneuvering area encroachment as well. It was only because the vehicle maneuvering area encroachment related to Article 10, rather than Articles 3 through 9, that this variance could not be approved as well.

The Applicants had suggested modifications to the structure to reduce the rear setback encroachment through the use of a thinner brick veneer, and to reduce or eliminate the vehicle maneuvering area violation by inseting the garage doors farther back into the structure. The Board agreed that the use of a thinner brick veneer was appropriate as it could reduce the violation and would thus be the minimum relief needed. See above at Findings IV.B.6. Neither the Board nor CPD staff were certain if inseting the garage doors would resolve the vehicle maneuvering area violation. The Code standard for minimum vehicle maneuvering area referred to ‘garage doors or carport openings’. It was not clear if the standard was intended to relate to garage door openings or carport openings, or if it meant the face of the garage door or the vertical support member of the carport. If the standard measured to the face of the garage door, the Applicants’ proposal to inset the door

could resolve the violation. If the standard instead measured to the opening for the garage door along the exterior façade, the Applicants’ proposal to inset the door would not resolve the violation.

The Board disliked the uncertainty over how this Code section would apply to the project. They were concerned that granting a variance to the rear setback encroachment but denying the vehicle maneuvering area variance would render the first variance unusable. After some discussion however, they decided this was an appropriate decision despite the uncertainty. The Board found that the variance for the rear setback encroachment met the review criteria while the variance for the vehicle maneuvering area did not. According to the variance requirements of the Code, this was the most appropriate outcome. It is possible the Applicants would not be able to resolve the vehicle maneuvering area violation while utilizing the rear setback variance. It is also possible that they will be able to modify the structure to comply with the vehicle maneuvering area violation while utilizing the rear setback variance. The Board wanted to give the Applicants the opportunity to work with CPD staff to see if revisions to the structure could be made to meet the vehicle maneuvering requirements without requiring the rear wall of the garage to be demolished and moved back. This would afford them some flexibility in pursuing an alternative design solution collaboratively with CPD staff.

**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 as to the rear setback encroachment as amended. The Board concludes that the conditions set forth in Sections 12.4.7.5. and 12.4.7.6 of the Zoning Code do not exist, and a variance is not in order as to encroachment into the vehicle maneuvering separation requirement from the farthest alley right-of-way boundary line.

**MOTION:** The motion by Mr. Keavney to grant the variance in part and as amended for the rear setback encroachment and deny the variance for the encroachment into the vehicle maneuvering separation from the farthest alley right-of-way boundary line was seconded by Mr. Rice and adopted.

**VOTE:** FOR: 5                      AGAINST: 0

**ACTION OF THE BOARD:** THE VARIANCE IS GRANTED IN PART AND AS AMENDED under the Limited Tolerance for Construction Errors variance criteria, to allow the General Detached Structure (Garage) to encroach 1 foot 3 inches into the 5-foot rear setback, according to the testimony at the hearing.

The request for variance is DENIED as to the Minor Detached Structure (Garage) encroaching into the 21-foot separation between the garage door opening facing an alley and the farthest alley right-of-way boundary line, for failure of the request to meet all the conditions required for a variance under Sections 12.4.7.5 and 12.4.7.6 of the Denver Zoning Code. The Applicants have 14 days in which to request a Reconsideration if they believe there is new evidence of Justifying Circumstances which was not or could not have been presented at the hearing, or 28 days to appeal this decision to Denver District Court. Questions about this decision may be addressed to Austin Keithler, 720-913-3050, at the Board's office.