

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

**PREMISES AFFECTED:** 3800 Blake Street

**LEGAL DESCRIPTION:** Lengthy Legal

**APPLICANT(S)** Denver WTC Office Owner, LLC., by Sean Campbell, 1700 North Blake Street, Denver, CO 80202

**Filed By:** Amy McCann, 1550 Wynkoop Street, Suite 100, Denver, CO 80202

**APPEARANCES:**

**APPLICANT:** Amy McCann, 1550 Wynkoop Street, Suite 100, Denver, CO 80202  
Dean Smith, 1550 Wynkoop Street, Suite, 100, Denver, CO 80202

**FOR THE CITY:** Leah Guerand, Zoning Representative

**SUBJECT:**

Request for a Variance for a 12-story mixed-use hotel under the General Building form providing a valet / loading area between the building and the Primary Street (General Building Form prohibits surface parking between a building and a Primary Street), in an I-MX-12 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

Alex Bergeron, 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 21, 2026

CASE NO. 11-2026

PREMISES: 3800 BLAKE STREET. (Lengthy Legal.)

APPLICANT(S): DENVER WTC OFFICE OWNER, LLC., by Sean Campbell, 1700 North Blake Street, Denver, CO 80202, by Amy McCann, 1550 Wynkoop Street, Suite 100, Denver, CO 80202.

SUBJECT: Request for a Variance for a 12-story mixed-use hotel under the General Building form providing a valet / loading area between the building and the Primary Street (General Building Form prohibits surface parking between a building and a Primary Street), in an I-MX-12 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: Amy McCann, 1550 Wynkoop Street, Suite 100, Denver, CO 80202  
Dean Smith, 1550 Wynkoop Street, Suite, 100, Denver, CO 80202

For The City: Leah Guerand, Zoning Representative

FINDINGS OF FACT:

- I. The application was timely filed March 2, 2026, from a Zoning Relief Pre-Application Meeting Summary dated February 19, 2026. The case was heard on April 7, 2026, at which time the variance was granted. Final Findings of Fact and Conclusions of Law were adopted by the Board on April 21, 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 currently vacant zone lot, located in the Elyria Swansea neighborhood. The property is located on the eastern corner of Blake Street and 38<sup>th</sup> Street on a block bound by Blake Street, Walnut Street, 38<sup>th</sup> Street and 40<sup>th</sup> Street. The property has 128 feet 4 inches of frontage along Blake Street and 141 feet 2 inches of frontage along 38<sup>th</sup> Street. Across Blake Street to the northwest is part of the Blake Street light rail station with railroad tracks beyond. The Applicants propose to develop a new 12-story hotel under the General Building form. The ground floor of the structure will generally follow the rectangular shape of the zone lot, but there is a cut out at the northern corner of the site which allows for vehicle access from Blake Street to a loading and valet area on the property. The second floor of the structure will continue above the loading area, providing continuous building frontage along Blake Street. Once loading and unloading has finished, vehicles can either turn around and exit back onto Blake Street or valets can enter a small garage on site to park vehicles. Although the valet and loading area will only be used for vehicle storage on a very short-term basis, the area is considered by the Denver Zoning Code (DZC) to be a surface parking area. The General

Building form prohibits surface parking located between the building and the Primary Street. Despite requiring a zoning variance, the Applicants believe their request is appropriate based on the restrictive conditions on the property. (Testimony of Amy McCann. See also Exhibit 2 – Board’s Sketch, and Exhibit 5 – Variance Application.)

- b. The Applicants note that the zone lot is uniquely constrained in terms of vehicle access compared to the typical property in the area, and there is no compliant way to provide a loading and valet area. The block does not have an alley, so any vehicle access must come from the street. The property has frontage along both 38<sup>th</sup> Street and Blake Street, so vehicle access must come from one or the other. 38<sup>th</sup> Street drops down to pass below Blake Street as it extends northwest past the site. This leaves 38<sup>th</sup> Street with a significant change in grade between the right-of-way and the site. There is a bike pathway which runs along 38<sup>th</sup> Street and turns onto Blake Street. The bike path rises in elevation along 38<sup>th</sup> as the street drops down. Adjacent to the street there is a steep embankment and retaining wall. Between the bike path, the change in grade, and the large retaining wall, 38<sup>th</sup> is unusable for vehicle access. Blake Street is therefore the only possibility for vehicle access. Blake Street, however, also has significant restrictions due to the surrounding right-of-way improvements. The bike path from 38<sup>th</sup> Street rises and turns along Blake Street toward the corner of the site. The railings for the bike ramp would block any possibility for vehicle access out to Blake Street toward the southern end of the site. Additionally, because 38<sup>th</sup> Street drops below Blake Street as they cross, Blake Street is built as a bridge as it passes above 38<sup>th</sup> Street. The Blake Street Bridge crowns along the site’s frontage, leaving it higher than the on-site grade and therefore not possible for a vehicle access point. The railing for the bike path and the increase in grade for the Blake Street Bridge block direct vehicle access for approximately the southern 2/3 of the site. This leaves only the northern portion of the street frontage of Blake Street as a possible location for vehicle access. The Applicants explored creating a loading and valet area within the right-of-way but the bike path and bridge prevent there from being sufficient space to queue vehicles along the street. The Applicants have placed the curb cut in the only location the Department of Transportation and Infrastructure (DOTI) will approve, and they have minimized the appearance of the loading and valet area from the street. They believe that the location of the loading and valet area is the only possible location the conditions on the site will allow and they ask for the Board’s approval of the variance. (Testimony of Amy McCann. See also Exhibit 2 – Board’s Sketch, and Exhibit 5 – Variance Application.)
  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 site has uniquely constrained vehicle access compared to other properties in the surrounding neighborhood. (Testimony of Amy McCann. See also Exhibit 5 – Variance Application.)
  3. The unusual physical circumstances or conditions have not been created by the applicants. The conditions on the property and in the surrounding right-of-way were not created by the Applicants. (Testimony of Amy McCann. See also Exhibit 5 – Variance Application.)
  4. The unusual physical condition or circumstance causes the need for the variance. The variance is necessary due to the various restrictions on vehicle access points to the property. (Testimony of Amy McCann. See also Exhibit 5 – Variance Application and Exhibit 7 – CPD 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. This condition is not applicable to the commercial property.

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 a financial hardship.
3. It would not substantially impair the intent and purpose of this Code. While the Code seeks to prevent surface parking areas from detracting from the pedestrian-oriented character of Primary Streets, the Applicants do not believe this proposal will disrupt this intent. The loading area will be a short-term, actively managed space which is recessed into the building with limited visibility. It will not have the appearance of a large asphalt parking area which the Code seeks to avoid. (Testimony of Amy McCann. See also Exhibit 5 – Variance Application.)
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. The Applicants note that the loading and valet area will be recessed into the property to reduce visibility along the street. The curb cut is being placed in the only location that DOTI has deemed appropriate. The Applicants’ design maintains pedestrian continuity and minimizes any operational impact on surrounding properties. (Testimony of Amy McCann. See also Exhibit 5 – Variance Application.)
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 variance is minor and technical under the circumstances. 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. CPD concurred with the Applicants that the site was uniquely constrained and that there did not appear to be a way to provide the loading / valet area while complying with the Code. CPD therefore found the request to be appropriate and were in support of the variance. (Testimony of Leah Guerand. See also Exhibit 7 – 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 Ms. DeVuyst to grant the variance as requested was seconded by Mr. Berton 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.