

Case No.: 12-2026

Final Written Decision Date: 5/12/2026

Hearing History:

Hearing 04/21/2026

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

PREMISES AFFECTED: 1324 North Vrain Street
LEGAL DESCRIPTION: Lots 18 & 19, Block 3, West End Subdivision
APPLICANT(S) Brett Turner & Aviva Katz, 1324 North Vrain Street, Denver, CO 80204

APPEARANCES:

APPLICANT: Brett Turner, 1324 North Vrain Street, Denver, CO 80204
Five (5) Letters of Support

FOR THE CITY: Nicholas Hufford, Zoning Representative

SUBJECT:

Request for a Variance for a carport encroaching 5 feet into the 5-foot south side interior setback, in a U-SU-C2 zone district

ACTION OF THE BOARD:

The request for a Variance is DENIED for failure of the Applicants to meet all the conditions required for a Variance under Section 12.4.7.5 and 12.4.7.6 of the Zoning Code. The Applicants have 20 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.

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.

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

MAY 12, 2026

CASE NO. 12-2026

PREMISES: 1324 NORTH VRAIN STREET. (Lots 18 & 19, Block 3, West End Subdivision.)

APPELLANT(S): BRETT TURNER & AVIVA KATZ, 1324 North Vrain Street, Denver, CO 80204.

SUBJECT: Request for a Variance for a carport encroaching 5 feet into the 5-foot south side interior setback, in a U-SU-C2 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: Brett Turner, 1324 North Vrain Street, Denver, CO 80204
Five (5) Letters of Support

For The City: Nicholas Hufford, Zoning Representative

FINDINGS OF FACT:

- I. The application was timely filed on March 12, 2026, from a Zoning Relief Pre-Application Meeting Summary dated January 12, 2026. The case was heard on April 21, 2026, at which time a variance was denied. Final Findings of Fact and Conclusions of Law were adopted by the Board on May 12, 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 1952, single story residence located in the West Colfax neighborhood. The property is located toward the southern end of a block bound by West 14th Avenue to the north, West 13th Avenue to the south, North Vrain Street to the west, and North Utica Street to the east. The block has a 16-foot-wide north-to-south running alley extending across the block. In addition to the primary structure, there is a detached two-car garage located at the rear of the property. The garage is located along the alley but has access from a driveway which extends along the southern side of the property out to North Vrain Street. There is a side door with a landing and steps down to the driveway also located along the southern side of the home. Although the garage is a two-car garage, it is undersized to fit two modern vehicles. In practice the Applicants can fit one car in the garage while the other car is parked on the driveway adjacent to the house. The Applicants would like to provide sheltered parking for both vehicles. They have explored their options, and they believe the best choice would be to construct a carport along the southern side of the home. There is an existing awning above the side entry steps which is in disrepair. The Applicants intend to remove the awning and replace it with the new carport which would extend out to the edge of the driveway. Although this appears to be the simplest and most logical place for the carport, the location will not comply with the zoning code. The existing driveway is built to approximately one foot from the property line, so the carport covering the driveway will encroach 5 feet into the 5-foot

south side interior setback. The Applicants note that the use of the area will not change, as they plan to just cover their existing parking area. The carport will not have enclosed exterior walls, so it will have little visual impact along the street. Although the carport will encroach into the side setback, the Applicants believe it is an appropriate location for the structure based on the unusual conditions on the property. (Testimony of Brett Turner. See also Exhibit 2 – Board’s Sketch, Exhibit 3 – Board’s Posting Photos, Exhibit 5 – Variance Application, and Exhibit 7 – Applicants’ Packet.)

- B. The Applicants have owned the property since 2013. The garage and driveway were already built in their current locations when the Applicants took ownership. They are doing their best to create additional sheltered parking on the property given these established conditions. There is approximately 15 feet from the southern façade of the house out to the southern property line. The steps and landing occupy 3 feet 9 inches of width, leaving 11 feet 3 inches of space between the side of the steps and the southern property line. By complying with a 5-foot south side interior setback, there is only 6 feet 3 inches of space remaining, which is far too narrow for a carport. The unusually narrow side yard cannot accommodate a reasonably sized carport in compliance with the Code. Meeting the 5-foot setback would also place the columns for the carport in the middle of the driveway, which would be impractical and would render the outside 4 feet of the driveway unusable. The Applicants believe that a carport could be built on a more typical zone lot, it is only the location of the existing residence and driveway which creates the need for the variance. (Testimony of Brett Turner. See also Exhibit 2 – Board’s Sketch, Exhibit 3 – Board’s Posting Photos, Exhibit 5 – Variance Application, Exhibit 7 – Applicants’ Packet, and Exhibit 9 – Applicants’ Rebuttal.)
- C. The Applicants believe that the carport as proposed will be compatible with the surrounding neighborhood. It would be possible to build sheltered parking elsewhere on the lot, but the Applicants believe their proposal would fit better into the established neighborhood pattern. A carport cannot be built in front of the house, and there is less than 5 feet between the northern façade and the northern property line. The only possible locations for a carport would be along the southern side of the house or in the back yard. If the carport were located in the rear 35% of the zone lot, it would be allowed a 0-foot side setback. If the Applicants built the carport above the existing driveway but behind the house, the side setback would not be an issue. However, this is not a reasonable alternative location. If the Applicants built the carport above the driveway closer to the garage, it would require the relocation of existing overhead power lines. The carport in this location would also have to be much larger in size and much more visually impactful. The driveway widens out as it passes the house to provide access to the two-car garage. A carport located here would have to be wide enough to avoid blocking any portion of the driveway. The proposed location on the other hand will be modest in height and scale. It will not be enclosed with solid walls and will have very limited visual impact from the street. The height, siting, and open design are consistent with similar accessory structures found throughout the neighborhood. (Testimony of Brett Turner. See also Exhibit 2 – Board’s Sketch, Exhibit 3 – Board’s Posting Photos, Exhibit 5 – Variance Application, and Exhibit

III. 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. 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.

- IV. The Board finds that the Applicants do not meet the following conditions for a variance:
 - A. The unusual conditions or circumstances exist throughout the neighborhood or zone district in which the property is located. See Section 12.4.7.5.A.2. DZC. The Applicants argue that the

presence of the driveway along the southern side of the home and within the south side interior setback is an unusual condition which creates the need for the variance. The location of the driveway and the location of the existing structures on the zone lot appear to be the primary unusual conditions the Applicants argue justify the variance. The Applicants also note that it is not simply the southern driveway but the lack of a side yard beyond the driveway which is unusual and creates the need for the variance. (Testimony of Brett Turner. See also Exhibit 9 – Applicants’ Rebuttal.) CPD staff reviewed the request and were unable to find that the location of the driveway was unusual within the surrounding neighborhood context. On the same face block, opposite face block, and adjacent face block, CPD staff found approximately 2/3s of properties share these physical conditions. If nearly 2/3s of properties in the immediate vicinity share similar conditions, CPD staff find that these conditions clearly do exist throughout the neighborhood. While the Applicants claim that the lack of a side yard beyond the driveway is unusual and specific to their property, there is no evidence in the file to support this claim. CPD staff find that the Applicants’ property is similar in configuration to the typical property on the block and that there are no unique conditions present which justify the variance. The conditions of the southern driveway within the setback and the locations of the other structures on the lot are not unusual and cannot satisfy the Unusual Physical Conditions or Circumstances review criteria. (Testimony of Nicholas Hufford. See also Exhibit 8 – CPD Packet.) The Board concurs and does not find this condition to be met.

- B. The variance would not result in a building form which is more compatible with the surrounding neighborhood in terms of height, siting, or design elements than a project that complies with the Code’s Building Form Standards. See Section 12.4.7.5.B.1. DZC. CPD staff note that the Applicants argue that the carport within the side setback would be more compatible with other residential accessory structures within the existing neighborhood. CPD has defined the existing neighborhood context as being the same face block, opposite face block across North Vrain Street, and the adjacent face block across the alley. Within this established neighborhood there are 8 properties on the west side of North Vrain Street, 9 properties on the east side of North Vrain Street, and 10 properties across the alley along North Utica Street. Of these 27 properties, there are no examples of similar carports or other accessory structures located within the side setbacks. Absent any examples of other accessory structures located within the side setbacks, CPD is unable to find that a carport built into the side setback would be more compatible with the surrounding neighborhood compared to a carport in compliance with the Code. (Testimony of Nicholas Hufford. See also Exhibit 8 – CPD Packet.) The Board concurs.
- C. The variance would not be the minimum change that would afford relief and the least modification of the applicable provisions of the Code. See Section 12.4.7.6.F. DZC. CPD staff believe that there are alternative locations which could be explored to provide covered parking. If the structure were located entirely within the rear 35% of the zone lot that it would not have to meet a 5-foot setback. Although there are overhead power lines that may need to be moved, it would be possible to locate a carport above the driveway near the garage. Alternately, CPD believes it would be possible to locate a carport north of the garage with access from the alley or from an expanded driveway. Although this may not be the Applicants preferred option, CPD finds that there appear to be alternative locations on the property which could accommodate a carport. (Testimony of Nicholas Hufford. See also Exhibit 8 – CPD Packet.) The Board concurs.

CONCLUSION: The Board concludes that the conditions set forth in Section 12.4.7.5 and 12.4.7.6. DZC do not exist, and a variance is not in order.

MOTION: The motion by Mr. Bergeron to deny the request for a variance was seconded by Mr. Keavney and was adopted.

VOTE: FOR: 3 (Bergeron, Keavney, Rice) AGAINST: 2 (DeVuyst, Correa-Ortiz)

ACTION OF THE BOARD: The request for a Variance is DENIED for failure of the Applicants to meet all the conditions required for a Variance under Section 12.4.7.5 and 12.4.7.6 of the Zoning Code. The Applicants have 20 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.