

Case No.: 14-2026

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: 331 East Ellsworth Avenue
LEGAL DESCRIPTION: The West 43.45 Feet of the East 100 Feet of Lot 23 and 24, Block 4, Snyder's Subdivision
APPLICANT(S) Shannon and Robert Taylor, 331 East Ellsworth Avenue, Denver, CO 80209 , **Filed By:**
Ozi Friedrich, 528 West 1st Avenue, Denver, CO 80223

APPEARANCES:

APPLICANT: Shannon and Robert Taylor, 331 East Ellsworth Avenue, Denver, CO 80209
Ozi Friedrich, 528 West 1st Avenue, Denver, CO 80223
Kathryn Fontaine, 1025 South Pearl Street, Denver, CO 80209

FOR THE CITY: Nicholas Hufford, Zoning Representative

SUBJECT:

Request for a Variance for a second story addition to an Urban House building form encroaching 8 feet into the 20-foot rear setback, in a G-MU-3 UO-3 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

MAY 12, 2026

CASE NO. 14-2026

PREMISES: 331 EAST ELLSWORTH AVENUE. (The West 43.45 Feet of the East 100 Feet of Lot 23 and 24, Block 4, Snyder’s Subdivision.)

APPLICANT(S): SHANNON AND ROBERT TAYLOR, 331 East Ellsworth Avenue, Denver, CO 80209, by Ozi Friedrich, 528 West 1st Avenue, Denver, CO 80223.

SUBJECT: Request for a Variance for a second story addition to an Urban House building form encroaching 8 feet into the 20-foot rear setback, in a G-MU-3 UO-3 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: Shannon and Robert Taylor, 331 East Ellsworth Avenue, Denver, CO 80209
Ozi Friedrich, 528 West 1st Avenue, Denver, CO 80223
Kathryn Fontaine, 1025 South Pearl Street, Denver, CO 80209

For The City: Nicholas Hufford, Zoning Representative

FINDINGS OF FACT:

- I. The application was timely filed March 26, 2026, from a Zoning Relief Pre-Application Meeting Summary dated March 25, 2026. The case was heard on April 21, 2026, at which time the variance was granted. 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). 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 an 1890, single story residence located in the Speer neighborhood. The property is located on a block bound by East 1st Avenue to the north, East Ellsworth Avenue to the south, North Grant Street to the west, and North Logan Street to the east. The block is divided by a 12-foot-wide, north-to-south running alley. On the block all properties face either east or west onto North Grant Street or North Logan Street except for the subject property. The subject property is located along East Ellsworth Avenue, adjacent to the alley. The property is 49 feet 2 inches deep by 43 feet 6 inches wide, with 2,140 square feet in area. The Applicants have owned the property since 2013. Since purchasing the home, they have started a family, and they would like to expand the house to create some additional living space. They have an 11-year-old daughter and a 7-year-old son who live in the house with them. Their kids have been sharing a bedroom for their whole lives, and the Applicants would like to expand their living space to give the kids separate bedrooms. Due to the size and configuration of their zone lot, there is no way to develop any additional living space within the allowances of the Code. The Applicants therefore ask the Board to consider a variance to allow them to

build a modest second story addition to the house. (Testimony of Ozi Friedrich. Testimony of Shannon Taylor. See also Exhibit 2 – Board’s Sketch, Exhibit 3 – Board’s Posting Photos, Exhibit 5 – Variance Application, and Exhibit 7 – Applicants’ Packet.)

- b. Despite the significant development restrictions on their property, the Applicants initially developed their proposal believing that they would comply with Code. Their zone lot is 49 feet 2 inches deep. There are no other properties facing East Ellsworth Avenue, so the property is subject to a standard 20-foot front setback rather than a block sensitive front setback. The property borders surrounding residential properties on the rear and east side interior property lines, and it borders an alley along the west side property line. The DZC requires either a 12-foot or 20-foot rear setback depending on the conditions surrounding the rear property line. The Code states that a 12-foot setback is required from the rear property line where an alley (public or private) abuts a rear zone lot line. The Code requires a 20-foot setback from the rear property line if an alley does not abut a rear zone lot line. The property is bordered across the rear property line by an adjacent residential property and there is an alley running along the west side of the property. The Applicants looked to the definitions section of the DZC to determine what ‘abutting’ meant in the context of their property. The DZC defines Abut or Abutting as, “To physically touch at a point or line...” (See Section 13.3.A. DZC.) While the alley does not touch along the full rear property line, it does touch at the rear, northwest corner of the property line. Because the property abuts an alley at a point along the rear property line, the Applicants believed that a 12-foot, rather than a 20-foot rear setback would apply. After preparing plans for a second story addition which met this setback, the Applicants were surprised to learn that Community Planning and Development (CPD) staff had a different reading of the Code. CPD determined that the 20-foot rear setback would apply, as the alley was along their side property line rather than the rear property line. Although the Applicants do not agree with CPD’s assessment, they have decided to seek a variance to the Code rather than formally challenging CPD’s interpretation. However, they note that they have done their best to proceed in good faith and to attempt to comply with the Code prior to seeking a variance. (Testimony of Ozi Friedrich. Testimony of Nicholas Hufford. See also Exhibit 7 – Applicants’ Packet, and Exhibit 9 – CPD Packet.)
 - c. The Applicants’ zone lot is much smaller than a typical lot in the neighborhood, which results in far more significant restrictions to development of the property. A typical residential Denver zone lot is 125 feet deep. The subject property on the other hand is only 42 feet 9 inches deep. A typical 125-foot-deep zone lot, subject to a 20-foot front and 20-foot rear setback would allow for 85 feet of buildable area. The Applicants’ 42-foot 9-inch-deep zone lot when subject to these same setbacks has only 9 feet 2 ½ inches of area that can be developed in compliance with the Code. There is no way to develop even a modest addition which will function within the buildable envelope that the Code allows on the lot. The Applicants are therefore asking for an additional 8 feet of buildable area which will allow them to create a usable second story addition to the house. This will only extend out to 12 feet from the rear property line, which they initially believed would be allowed. It will also remain farther from the rear property line than the existing first story, which is a little less than 3 feet from the northern property line. The Applicants believe that their request is unimpactful and appropriate given the conditions on the zone lot. (Testimony of Ozi Friedrich. See also Exhibit 2 – Board’s Sketch, Exhibit 5 – Variance Application, and Exhibit 7 – Applicants’ 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. On the block, the subject property and the property immediately adjacent to the east are the only two lots which are not the full lot depth. The subject property is unusually shallow compared to the typical lot found throughout the

- neighborhood. (Testimony of Ozi Friedrich. See also Exhibit 7 – Applicants’ Packet, and Exhibit 9 – CPD Packet.)
3. The unusual physical circumstances or conditions have not been created by the applicants. The existing residence was built on the lot in 1890, predating the Applicants’ interest in the property and the current zoning regulations. (Testimony of Ozi Friedrich. 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 unusually shallow zone lot depth. (Testimony of Ozi Friedrich.)
- 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 developing any additional living space on the 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. The Code intends to support reinvestment in existing neighborhoods which protects their historic character and reinforces their unique characteristics. The Applicants believe that the variance would support, rather than impair the intent of the Code. (Testimony of Ozi Friedrich. 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 prepared a shadow study showing the shading differences between their proposed project and a compliant design. The variance will allow for a very minor increase in shading primarily along the alley, but will otherwise have little to no impacts compared to a compliant project. (Testimony of Ozi Friedrich. See also Exhibit 7 – Variance Application.) A representative from the West Washington Park Neighborhood Association WWPNA) attended the hearing in support of the request. WWPNA concurred that the site was uncommonly restrained and they found that the application satisfied the criteria for a variance. (Testimony of Kathryn Fontaine.) 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. 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 uncommonly shallow compared to adjacent properties and that the standard setbacks were far more restrictive on this property than on a typical lot in the neighborhood. CPD therefore found that the request satisfied the variance criteria and they were in support of the request. (Testimony of Nicholas Hufford. 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 Ms. DeVuyst to grant the variance as requested was seconded by Mr. Rice 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.