

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

PREMISES AFFECTED: 2001 North Osceola Street
LEGAL DESCRIPTION: Lots 16 & 17, Block 9, Highland View Subdivision

APPLICANT(S) Jerry Bowman, 2001 North Osceola Street, Denver, CO 80212 ,
Filed By: Brandon Sweeney, 1490 North Lafayette Street, #408, Denver, CO 80218
Adam Steinbach, 1490 North Lafayette Street, #408, Denver, CO 80218

APPEARANCES:

APPLICANT: Jerry Bowman, 2001 North Osceola Street, Denver, CO 80212
Adam Steinbach, 1490 North Lafayette Street, #408, Denver, CO 80218
Brandon Sweeney, 1490 North Lafayette Street, #408, Denver, CO 80218

FOR THE CITY: Nicholas Hufford, Zoning Representative

SUBJECT:

Request for a Variance for an Urban House building form with a total building coverage of 47.1%, exceeding the maximum building coverage by 2.1% or 137 square feet (45% maximum building coverage permitted), in a U-SU-C zone district

ACTION OF THE BOARD:

THE VARIANCE IS GRANTED under the Neighborhood Compatibility 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

MARCH 3, 2026

CASE NO. 5-2026

PREMISES: 2001 NORTH OSCEOLA STREET. (Lots 16 & 17, Block 9, Highland View Subdivision.)

APPELLANT(S): JERRY BOWMAN, 2001 North Osceola Street, Denver, CO 80212, by Brandon Sweeney, 1490 North Lafayette Street, #408, Denver, CO 80218, & Adam Steinbach, 1490 North Lafayette Street, #408, Denver, CO 80218.

SUBJECT: Request for a Variance for an Urban House building form with a total building coverage of 47.1%, exceeding the maximum building coverage by 2.1% or 137 square feet (45% maximum building coverage permitted), in a U-SU-C 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: Jerry Bowman, 2001 North Osceola Street, Denver, CO 80212
Adam Steinbach, 1490 North Lafayette Street, #408, Denver, CO 80218
Brandon Sweeney, 1490 North Lafayette Street, #408, Denver, CO 80218

For The City: Nicholas Hufford, Zoning Representative

FINDINGS OF FACT:

- I. The application was timely filed January 27, 2026, from a Zoning Relief Pre-Application Meeting Summary dated January 16, 2026. The case was heard on February 24, 2026, at which time a variance was granted. Final Findings of Fact and Conclusions of Law were adopted by the Board on March 3, 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.B, "Neighborhood Compatibility:"
- A. Neighborhood Compatibility:
1. The property could be reasonably developed in conformity with the provisions of this Code, but the proposed variance will result in a building form that is more compatible with similar building forms in the Existing Neighborhood in which the subject property is located than a project that complies with this Code's Building Form Standards that address Building height, siting, and Design Elements.
 - a. The subject property is a vacant zone lot located in the Sloan Lake neighborhood. The property is located on the northwest corner of West 20th Avenue and North Osceola Street, directly across from Sloan's Lake Park to the south. The property is 50 feet wide by 127 feet deep, with 6,350 square feet in area. The property is bordered at the rear by a 16-foot-wide alley. The Applicants are in the process of developing the lot. They plan to build a new two-and-a-half-story single-family residence on the lot with an Accessory Dwelling Unit (ADU) at the rear. The ADU will have a garage on the main floor and living space above. The single-family residence will have the bedrooms on the ground floor with living space above, and a half-story plus rooftop deck on the third floor. The living space on the second floor includes a deck space which wraps the southwest corner

of the house. The deck is built above the enclosed space of the first floor and has a roof overhang which extends approximately 2 feet beyond the edge of the deck and first floor below. The second-floor deck carves away at the massing, providing relief along the façade facing the park. The Applicants believed that they had designed the structure to comply with Code but have been informed by Community Planning and Development (CPD) staff that they will exceed the building coverage for the zone lot. The building coverage has been determined to be 47.1% coverage where the Code limits them to 45% coverage, which equates to 137 square feet beyond the limit. Although they will not comply with the letter of the Code, they believe they meet the intent of the coverage limit. They also believe that they satisfy the review criteria for Neighborhood Compatibility. They ask the Board to approve their request. (Testimony of Adam Steinbach. See also Exhibit 2 – Board’s Sketch, Exhibit 5 – Variance Application, and Exhibit 6 – Plans.)

- b. The Applicants believed they had designed the project to maximize but not to exceed the building coverage limit for the zone lot. However, they have since learned that there is a difference in interpretation in the Code which has put them over the building coverage limit by 137 square feet. The difference in interpretation comes from the roof overhangs along the second story deck on the southwest corner of the house. The Code describes how the building coverage is measured in Section 13.1.5.14 DZC. This section identifies that building coverage is the percentage reached by dividing the building footprints of all structures on the zone lot by the area of the zone lot. Building footprint is defined in the prior section, in Section 13.1.5.13 DZC. This section identifies that roof overhangs extending no more than 3 feet from the exterior wall face do not count toward the building footprint. Section 13.1.5.13.B identifies the Rule of Measurement for Building Footprint:

Except as specifically allowed below, the Building Footprint of a Structure shall be the total area of the portion of the Zone Lot occupied or obstructed from ground to sky by the Structure or portion of the Structure, as measured to the exterior face of above-grade Exterior Walls on all levels, to the furthest edge of Roofs, and to the furthest edge of any other above-grade surfaces.

Based on this section, the Applicants understood that the building footprint of a structure would be determined by the farthest extent of any above-grade exterior walls. Whether on the first or second floor, the farthest extent of any above-grade exterior wall would define a vertical plane from ground to sky which would establish the building footprint. An overhang of less than 3 feet from this established vertical plane would not count toward the building footprint and thus building coverage, while an overhang of more than 3 feet from this established vertical plane would count towards it. With this understanding, the Applicants designed their roof overhangs to extend less than 3 feet from the vertical plane so they would not contribute to their building coverage. However, CPD staff had a different interpretation of the Rule of Measurement which has led to the building coverage violation. CPD determined that for the roof overhang exception to apply that it must project less than 3 feet away from the exterior wall it is connected to. Although the roof overhangs adjacent to the second story deck project less than 3 feet from the established vertical plane of the building footprint, the roof overhangs project nearly 10 feet out from the exterior walls of the second story along the deck area. For that reason, the roof overhangs adjacent to the second story deck count towards the building coverage and push it from being compliant with the Code to exceeding the building coverage limit. Although the Applicants have decided not to formally appeal this interpretation by CPD staff, they feel that this is important background information for the Board to consider as part of the reason behind the request. (Testimony of Adam

Steinbach. See also Exhibit 5 – Variance Application, Exhibit 7 – Applicants’ Presentation, Exhibit 8 – CPD Presentation, and Exhibit 9 – Applicants’ Rebuttal.)

- c. The Applicants believe that their design proposal will fit into the neighborhood context better than a compliant design alternative. The Applicants find the defining characteristics of the neighborhood to be a strong relationship to the pedestrian scale and a horizontal ground plane which is often expressed through pronounced roof overhangs and thoughtful material changes. Homes in the area also feature articulated facades which step back at the second and third levels, reducing mass and creating usable upper-level outdoor space through decks and patios. The Applicants have identified numerous examples in the surrounding neighborhood of deep overhangs and articulated stepped facades. They have found examples at 2739 Vrain Street, 1926 Newton Street, 4500 West 30th Avenue, 4701 West Byron Place, which they feel showcase similar design aesthetics. In closer proximity to the subject property, they have found 3729 West 20th Avenue, which features long, linear massing with deep protruding overhangs. 2000 North Perry Street has linear roof deck overhangs along the southwest corner of the structure to protect the glazing elements from solar gain, similar to the Applicants’ design. 3801 West 20th Avenue has second level, southern facing decks which are stepped back from the ground level. 2002 North Osceola Street includes low sloping roof lines at the primary and side streets with stepped back massing used as shading for exterior spaces. 2026 North Perry Street features a deep second level overhang where the second and half level building massing steps back from the lower floors. With each of these designs, deep overhangs are a prominent design feature, similar to the Applicants’ proposal. The Applicants have also identified nearby examples which they feel negatively contribute to the neighborhood character, which they feel should not be used as comparisons. These properties are built out to the maximum allowed building envelopes rather than following a contextually appropriate design approach. They believe that examples like these should be removed from consideration, which increases the percentage of relevant positive examples in the area. The Applicants believe that their design will follow along with the positive examples in the neighborhood, better matching the aesthetic of the surrounding area. The deep overhangs along the second story deck are important to maintain this design aesthetic and they believe the project better fits into the established neighborhood pattern despite the minor overage in building coverage. (Testimony of Adam Steinbach. See also Exhibit 5 – Variance Application, Exhibit 7 – Applicants’ Presentation, Exhibit 8 – CPD Presentation, and Exhibit 9 – Applicants’ Rebuttal.)
- 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 challenges given the surrounding neighborhood context and the complications arising from confusion in the Code.
 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 by the surrounding neighborhood context.
 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 a compliant option could involve enclosing the second story deck. This would move the exterior walls of the second story out to align with the first floor, making the overhangs less than the 3 feet permitted with the building coverage exceptions. It would result in more enclosed space rather than less, it would eliminate the relief along the façade, it would increase the physical massing of the structure, and it would only adversely impact the appearance of the structure and the

pedestrian realm. There would be no change to the actual amount of structure between ground and sky, it would only be a change in the exterior wall of the second story deck above the enclosed first floor space. Technical compliance with the Code would be achieved, but the intent and purpose of the Code would be impaired. The Applicants therefore believe that the variance better serves the intent and purpose of the Code more than strict compliance with the Code would. (Testimony of Adam Steinbach. See also Exhibit 9 – Applicants’ Rebuttal.) 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. The variance will not affect light, air, or emergency egress to any adjacent properties. The Applicants note that although it seems counter intuitive, the variance for excess building coverage results in less enclosed space compared to a compliant design. If the Applicants enclosed the second story deck, the project would technically comply with Code but it would create more enclosed space and it would eliminate the façade articulation. Otherwise, the roof overhangs and the overall building massing and footprint would not be changed. (Testimony of Adam Steinbach. See also Exhibit 9 – Applicants’ Rebuttal.) Although the Applicants did not provide letters of support from any nearby property owners, no one appeared in opposition to the request after 14 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 above at 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 opposed to the variance. CPD noted that much of the discussion at the hearing was over the application of the Rule of Measurement to determine the building coverage. Whether the Applicants agreed with CPD’s interpretation, they had chosen not to formally appeal the determination and had instead opted to pursue a variance. Any discussion or consideration of this difference of opinion over the Rule of Measurement was therefore not relevant to the discussion. Instead, CPD noted that the Applicants were seeking a variance for building coverage on the basis of Neighborhood Compatibility. With that, CPD did not find sufficient evidence to show that the resulting building form would be more compatible with the surrounding neighborhood compared to a compliant design. The Applicants provided 4 examples of nearby properties which contained deep roof overhangs. However, the Code defined surrounding neighborhood was made up of 25 properties. CPD did not find that 4 out of 25 properties created a pattern. Additionally, simply having overhangs does not show that the variance for building coverage is necessary to fit into the surrounding neighborhood context. There is no information to show that these structures exceed building coverage. Because this is new construction, it would be possible for the Applicants to redesign the structure to eliminate 137 square feet from anywhere on the project and keep the overhangs otherwise the same. CPD was therefore opposed to the variance being granted. (Testimony of Nicholas Hufford. See also Exhibit 8 – CPD Presentation.) The Applicants note that although the project has not yet been built, it has proceeded far down the design and review path with the city. The Applicants proceeded with this design in good faith, believing that it would meet the Code requirements. Redesigning the project at this point to eliminate 137 square feet from elsewhere in the project would require substantial revisions to the architectural layout, the structural design, and the energy modeling of the residence. The project has already progressed through all building review phases, so these redesigns would require significant costs and delays with little to no benefit to the project or surrounding neighborhood. The Applicants believe that the simplest options for compliance would be to either enclose the second story deck or to modify the roof overhangs along the second story deck to align with

the first floor below. They believe that both options would adversely impact the appearance of the project, the massing and engagement with the pedestrian realm, and the ability of the house to fit into the neighborhood context. They instead believe that the variance will allow the project to be more compatible with the surrounding neighborhood. Testimony of Adam Steinbach. See also Exhibit 9 – Applicants’ Rebuttal.) The Board was of mixed opinions on the appropriateness of the variance, but the majority of members concurred that the resulting design would be more compatible with the neighborhood compared to a compliant design. The Board thus 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. Haywood and was adopted.
- VOTE: FOR: 3 (DeVuyst, Haywood, Berton) AGAINST: 2 (Correa-Ortiz, Bergeron)
- ACTION OF THE BOARD: THE VARIANCE IS GRANTED under the Neighborhood Compatibility 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.