

City Board of Adjustment

WEDNESDAY, July 2, 2025 AT 4:30pm

Board members		01/08/2025	02/05/2025	03/05/2025	04/02/2025	05/07/2025	06/04/2025	07/02/2025	08/06/2025	09/03/2025	10/01/2025	11/05/2025	12/03/2025	
Josh Sayer	Chairman	1	1	-	-	1	1	1						
Oscar Heinrich	Member	1	1	-	-	A	V	1						
George Warmer	Member	1	1	-	-	1	A	1						
Michael Bruschwein	Vice Chair	1	A	-	-	1	1	1						
Chris Hayes	Member	1	1	-	-	1	1	1						
Dave Hagstrom	Member	1	1	-	-	1	1	1						
Brian Roush	Member	1	1	-	-	1	1	A						
TOTAL NUMBER OF APPLICATIONS 2024		01/08/2025	02/05/2025	03/05/2025	04/02/2025	05/07/2025	06/04/2025	07/02/2025	08/06/2025	09/03/2025	10/01/2025	11/05/2025	12/03/2025	TOTAL
Variance		1	1	-	-	1	1	2						6
Appeal		-	-	-	-									

Please note: "A" stands for excused absence, "1" stands for present, "V" stands for Zoom participation

Call the Meeting to Order: Chairman Sayer called the meeting to order at 4:30 PM.

Attending Staff:

Anna Vickers, Planning Division Manager; Karen Husman, Zoning Coordinator; Brenda Berns, Planning Clerk

Participants:

Devin Hartley 300 S 24th St W
 Jacob Butt, 4223 Arrowhead Dr
 Caleb Holden 646 North Grove St
 Brad Doll, Majestic Lane; Jill Reddick, Majestic Lane.

Public Comment

Chairman Sayer opened the public comment period and asked if there was anyone wishing to speak during the public comment portion of the meeting. There were no members of the public.

Approval of Meeting Minutes - June 4, 2025

The board voted unanimously to approve the meeting minutes of June 4, 2025.

Disclosure of Ex Parte Communication – Board members and Staff

Disclosure of Ex Parte Communications – Board member Warmer stated that on Variance 1383, he represented the adjacent property owner and visited with him regarding the subject variance. The Board determined it was not a conflict.

Disclosure of Site Visits – Variance 1382; 4 visited, Variance 1383; 3 visited

Disclosure of Conflict of Interest – None

Public Hearing:

Chairman Sayer opened the Public Hearing.

City Variance 1382 – 300 S 24th St. W – Allow increase in maximum wall square footage. A variance from Section 27-1407.C.2(a) requiring a maximum of 250 square feet total wall sign area per frontage in a Corridor Mixed Use 2 (CMU 2), on Block 1, Lot 1, of JPM Subdivision, S12, T01, S, R25 E, a 9.018-acre parcel of land. The purpose of the variance is to allow a 441-square foot wall sign on a street facing building façade of 180 lineal feet. Tax ID: A30040

Karen Husman gave a brief overview of the subject property and variance request.

Recommendation

Planning Staff is recommending denial based on draft findings of the review criteria for variances:

1) **There is a hardship with the property** that is not applicable to other lands in the same district.

There are no special circumstances. The storefront faces a parking lot and thru drive lane connecting 26th St.

2) **Denying the variance might deprive this owner of similar rights** enjoyed by others in the area.

Proposed sign location is approximately 120 feet from the nearest drive lane with 15mph speed limit.

3) **Granting the variance will not confer a special privilege to this applicant.**

There are several other businesses that have signage that address traffic on higher speed ROW (24th St. W & Central @ more than 600 ft away) all were approved under previous code

4) Granting the variance will be in harmony with the purposes of zoning and growth policy.

Granting this variance will meet the general intent of the Growth Policy. (local economic prosperity should be supported). However, it does not meet the zoning regulation specification for granting a variance application, and is not in harmony with the intent of the Zoning Code for new signage in this district.

Section 27-1627.E

1. Whenever the City Board of Adjustment grants an application for a variance, the minutes shall specifically state the criteria upon which the variance is granted.

The above-referenced criteria from Section 27-1627.D. has been addressed in the staff report for the board to state.

Discussion

The board reviewed signage size allowances in comparison to the former Herberger's and current Dunham's signs. The Herberger's sign was estimated at 300–410 sq. ft., while Dunham's sign is approximately 31 sq. ft. larger. The current code allows a maximum of 250 sq. ft., though exceptions, variances, and administrative relief may apply. It was noted that if Herberger's were still operating, its signage would be considered prior nonconforming under updated code requirements.

Applicant's Agent:

Devin Hartley, Rimrock Mall General Manager 300 S. 24th St – It was noted that the Herberger's sign was of a larger size. Clarification was provided that the drive lane under consideration is located within the parking lot, with the only designated roadway being the exit from Stewart Park. The target audience for the proposed sign is primarily individuals visiting the concession stand at Stewart Park, located approximately 800 feet from the site. It was further observed that the existing trees near the concession stand will maintain year-round foliage, which will partially obscure the visibility of the sign from that location.

It was noted that there is some uncertainty as to whether the proposed sign would effectively reach the target audience toward Stewart Park. When asked which of the two remaining options was preferred, the response indicated a preference for the 335 square foot option.

A question was raised regarding whether the measurement referred to the overall sign size or the lettering specifically. It was clarified that the measurement reflects the letters themselves only.

Chairman Sayer closed the public hearing.

Board Discussion

It was noted that if the Herberger's sign had previously been granted, accommodating the current request for approximately a 400 square foot sign would appear reasonable, as it is only slightly larger than the former Herberger's sign.

It was further observed that the Herberger's sign has been down for more than a year. Had a request been made when the sign was still in place, the replacement could have been completed at the same size without the need for a variance. It was assumed that negotiations with the mall may have delayed the request.

Appreciation was expressed for the presentation provided by the mall; however, concern was raised as to whether the inability to target the intended audience constitutes a true hardship. It was noted that increasing the sign size may not resolve that concern, and that a target audience alone may not be sufficient to establish hardship.

It was suggested that the placement at the back of the building presents a hardship in and of itself. The board discussed the three proposed options and noted that only one option would not require a variance. A preference was expressed for a sign comparable to or smaller than the Herberger's sign, approximately 336 square feet.

Motion

A motion was made by Board Member Heinrich, seconded by Board Member Hayes, to approve Variance 1382 with the recommended conditions of approval outlined in the staff report. The motion included an amendment to Condition 1, establishing 336 square feet as the maximum sign size, and an amendment to the Findings of Fact based on the hardship created by the need to capture an audience from the back of the building. The motion carried with a vote of 5:1.

b. **City Variance 1383 – 1753 Majestic Lane** –Required side or rear yard parking – A variance from Section 27-409-Table 27-400-6. B.6 requiring a side or rear yard parking in a Heavy Commercial (CX) zone, on Broso Valley Park Sub., Block1, Lot 20, S23, T1S, R25E, a 1.9896-acre parcel of land. The purpose of this variance request is to allow parking in the front yard. Tax ID: A30697

Karen Husman provided an overview of the variance request and stated it is surrounded by Heavy Commercial zoned parcels.

Recommendation

Planning Staff is recommending denial based on draft findings of the review criteria for variances:

1) **There is a hardship with the property** that is not applicable to other lands in the same district.

Previous variance approvals applied to developments with specific, well-defined uses; in contrast, this proposal calls for two multi-tenant buildings whose future occupants are still unknown and it is unclear whether parking placed in the front yard would be appropriate. Alternative site designs could position parking along the sides or rear of the parcel.

2) **Denying the variance might deprive this owner of similar rights** enjoyed by others in the area.

Properties to the north, south, and west have been developed with front yard parking, adhering to previous zoning regulations.

3) **Granting the variance will not confer a special privilege to this applicant.**

Existing developments in the area were constructed in accordance with the previous code, parcel is currently undeveloped

4) **Granting the variance will be in harmony with the purposes of zoning and growth policy.**

Growth Policy, and Zoning Code were developed to move away from traditional development patterns. (a sea of parking in front of commercial uses)

Board Discussion

A board member inquired about potential approaches to address the issue. Discussion followed regarding parking layout and its relationship to pedestrian access. It was suggested that encouraging side parking would better promote walkability and create a more pedestrian-friendly environment. The possibility of allowing a limited number of parking spaces at the front of the building, while placing the majority of spaces on the side, was identified as a balanced solution.

Applicant's Agent

Brad Dahl Principal and owner AE Design; Mr. Dahl stated they are asking for the variance as it is consistent with neighboring properties. Understands the code and the reason behind them. If this is not a walkable area and doesn't warrant sidewalks. If we turn the building, more of the truck activity would be seen from the street and we believe we're better neighbors to screen that.

Questions

Discussion focused on the vision for Phase 2. It was indicated that the plan would generally continue in the same style, with potential emphasis on more industrial uses. Alternatives proposed by staff were reviewed, and it was noted that multiple design options had been considered. Ultimately, the goal is to create a layout that is attractive to potential tenants. Some designs were found to be functionally challenging, and the intent is to maximize the site's potential for actual development. The topic of walkability was raised, with the observation that there are multiple ways to measure and assess walkability within the proposed plan.

Jacob Butt, owner of the property, provided an overview of the project. It was noted that Pioneer Oil, a marketing and logistics company, would serve as the anchor business. The development is intended to attract additional tenants, including those in the construction, medical, and sporting goods warehouse sectors, among others.

Board Discussion

The board inquired about alternatives being offered for the project. It was noted that the proposed plan maintains the same square footage as previous options. A rendition of the design was presented, reflecting that the side of a building can function as the front, providing flexibility in layout.

A comparison was made to a prior discussion regarding Costco, noting that challenges such as site constraints (e.g., a ditch along one side of the property) can impact parking placement. It was clarified that the ditch appears along the south side of the property and must be accounted for in terms of setbacks. Stormwater runoff requirements and landscaping obligations were also discussed. The variance under consideration pertains specifically to allowing parking at the front of the building, as the remaining three sides of the property cannot be used for vehicle entry or exit.

Previously reviewed variances on other properties were presented as a comparison to the subject property. It was noted that, although the project aligns with the character of the neighborhood and surrounding developments, granting the variance would not negatively impact the intent of creating a walkable area.

Chairman Sayer closed the public hearing.

Motion

Motion made by Board member Hagstrom, seconded by Board member Warmer to conditionally approve Variance 1383 based on the conditions of approval outlined in the staff report. The motion included an amendment to the Findings of Facts based on the hardship of the lot shape and access to the property. The motion carried with a vote of 5:1.

Other Business

Ms. Husman announced that no variance applications were submitted by the July 1, 2025, deadline. As a result, the Board will not hold a meeting in August.

ADJOURNMENT: The meeting adjourned at 5:32PM.

Brenda J Berns, Planning Clerk