



# Variance Report

## Case #AV25-0015

*Board of Adjustment Date: March 10, 2026*

### General Information

<b>Project Name</b>	Elliot Equipment Retaining Wall
<b>Location</b>	4400 East 60 <sup>th</sup> Avenue
<b>Site Size</b>	1.03 acres
<b>Current Zoning</b>	Heavy-Intensity Industrial (I-3)
<b>Applicant</b>	Elliot Equipment Company
<b>Case Planner</b>	Nic Berry

### Request

Raptor Civil on behalf of the property owner Elliot Equipment, is requesting a variance to increase the maximum retaining wall height from 4 feet to a maximum height of 8 feet, a 4 foot increase.

### Background and Case History

The subject site, 4400 East 60<sup>th</sup> Avenue, currently has an approximately 3,553 square foot building constructed in 1999. The property owner is requesting to construct a 6,624 square foot building on site to expand their business (D23-0007). As a part of that development, the applicant will need to construct a pond to handle storm water for the site. Due to the constraints of the site, Commerce City Development Engineers will allow the use of a retention pond on site (see attached titled Engineering Variance). Apart of the conditions for that approval, the applicant is required to construct a pond which can hold two times the amount of water that occurred in average worst flood every one hundred years (ENGV25-0005). To accommodate this volume of water, the applicant must construct a pond which slopes down to 8 feet deep, surrounding the pond will be a retaining wall that, at its highest point will be 8 feet tall (see grading exhibit below). The pond is positioned a minimum of 5 feet away from the fence line of the property.

The existing building on the property and neighboring properties were constructed when there were no drainage requirements, therefore there is currently not a pond on this site or other properties in the area. The requirement for the installation of the pond and the related retaining wall is because of the redevelopment of this property. All new developments must meet the applicable requirements of the 2009 Land Development Code and other local regulations present at the time of construction

### Project Analysis

## Site Overview

The subject property is zoned I-3 (Heavy-Intensity Industrial). The current use of the property is Heavy Equipment and Truck (Semi) Repair. The requested Variance would allow the property to expand its operations and service more vehicles. The placement of the pond and buildings proposed in the development plan (D23-0007) are logical and allow the site to have good circulation and functional use of the property. Other standards in the Land Development Code, Engineering Standards and Specifications, International Fire Code and other local regulations can be met with this proposal.

## Public Input

City staff received no letters, emails, or phone calls from the public regarding the proposed variance.

## Overall Analysis & Review

The proposed variance was reviewed by all relevant Development Review Team agencies, including Commerce City Planning Division, Geographic Information Systems Division, Parks, Recreation and Golf Department, Engineering Review Division, Department of Economic and Community Vitality, and Energy, Equity, and the Environment (E3) Division, the South Adams County Water and Sanitation District (SACWSD), and South Adams County Fire Department. At this time, there are no outstanding concerns from any of the aforementioned referral agencies related to this variance request.

## Variance Approval Criteria

A decision for this case must be based on the following criteria from [Sec. 21-3222\(3\)](#) of the Land Development Code. An application for a variance may be approved if:

**(a) All of the following criteria are met:**

- i. **The physical character of the property, including dimensions, topography or other extraordinary situation or condition of the property, create a situation where the strict enforcement of the standards in this land development code will deprive the property of privileges generally enjoyed by property of the same classification in the same zoning district (hardship);**

**Analysis:** The subject property is smaller in size than the nearby properties. Properties in the area are generally larger in size and would therefore be able to more easily accommodate a pond with sufficient volume to meet City Standards. Other property owners could expand their buildings and create detention ponds without needing to pursue a Variance. Additionally, the topography of the site necessitates that the pond be in the rear. Locating the pond elsewhere on site would require some grading and fill work. *Therefore, it can be found that this application **meets criteria (i)**.*

- ii. **The hardship is not self-imposed;**

**Analysis:** The hardship in this instance is the requirements of the City codes. The pond needs to be so deep because of need to hold a certain volume of

water. The City uses this standard to be conservative and avoid any flooding impacts to surrounding properties. Additionally, the location of the pond would need to be at the rear of the property to avoid any conflicts with access to circulation of the site. *Therefore, it can be found that this application meets criteria (ii).*

**iii. The variance will not be of substantial detriment to adjacent property; and**

**Analysis:** The proposed retaining wall will be sub-grade. Meaning that off-site viewing of the wall will be minimal. Additionally, allowing the pond to be constructed as proposed in the rear, would allow the frontage along the street and the parking areas to have landscaping improvements which would ultimately enhance the area. *Therefore, it can be found that this application meets criteria (iii).*

**(b) One of the following criteria is met:**

**i. The variance granted is the minimum needed for the reasonable use of the land, building, or structure; or**

**Analysis:** The retention pond design is exactly to the requirements of the City. The 8-foot depth of the pond is the minimum needed. *Therefore, it can be found that this application meets criteria (i).*

**ii. The character of the district will not be changed by the granting of the variance.**

**Analysis:** The redevelopment of the site would not change the industrial nature of the property or the industrial character of the area. *Therefore, it can be found that this application meets criteria (ii).*

### **Staff Recommendation**

Staff finds that the application meets all the approval criteria found within [Sec. 21-3222\(3\)](#) of the Land Development Code, and therefore Planning staff recommends the Board of Adjustment approve case AV25-0015.

### **Considerations for Discussion**

1. The variance is for a retaining wall which is sub-grade and will therefore have minimal impacts on adjacent properties.
2. Approval of the variance will allow for redevelopment of the site.
3. The application meets all the Variance approval criteria.
4. The application was reviewed by all relevant Development Review Team (DRT) agencies and there are no outstanding comments or concerns.

### **Potential Motions**

**Approval**

*I move that the Board of Adjustment enter a finding that the requested **variance**, for the property located at **4400 East 60<sup>th</sup> Avenue** contained in case **AV25-0015**, meets the criteria of the Land Development Code and based upon such finding, approve the **variance**.*

**Approval with Conditions**

*I move that the Board of Adjustment enter a finding that the requested **variance**, for the property located at **4400 East 60<sup>th</sup> Avenue** contained in case **AV25-0015**, meets the criteria of the Land Development Code and based upon such finding, approve the **variance** subject to the following conditions:*

*[Insert Conditions]*

**Denial**

*I move that the Board of Adjustment enter a finding that the requested **variance**, for the property located at **4400 East 60<sup>th</sup> Avenue** contained in case **AV25-0015**, fails to meet the criteria of the Land Development Code and based upon such finding, deny the **variance**.*

*[Insert criteria not met]*

Figure 1. Aerial Map



Aerial from September 25, 2025

Property Boundary in red, Detention pond location in green



## Figure 2: Site Photos



View of the property from CDOT access road facing northeast



View of the property from 60<sup>th</sup> Avenue facing south



Figure 4. Grading Exhibit

