



Variance Report

Case #AV26-0007

Board of Adjustment Date: May 12, 2026
Continued Board of Adjustment Date: June 9, 2026
Continued Board of Adjustment Date: July 14, 2026

General Information

Project Name	7050 E. 75th Place Shade Structure Size Variance
Location	7050 E. 75th Place
Site Size	0.17 acres
Current Zoning	Single-Family Detached Residential (R-1)
Property Owner	David Valverde
Case Planner	Nathan Chavez

Request

The property owner, David Valverde, is requesting a variance to increase the maximum shade structure size from 200 square feet to 540 square feet, a 340 square foot increase. The 0.17-acre property is zoned R-1 (Single-Family Detached Residential) and is located at 7050 East 75th Place.

Project Analysis

Background and Case History

The residence was originally constructed in 1955 and the owner purchased the property in 2001. The subject shade structure was erected in 2022 without a building permit. Upon discovery of this unpermitted structure by Code Enforcement via routine patrols through the City and a discussion with Planning staff, the property owner submitted a variance request. A shade structure is allowed within the R-1 zoning district per the Land Development Code. Per [Sec. 21-5400. – Accessory Uses and Accessory Structure Table](#), the maximum size allowed for a shade structure is 200 square feet.

May 12, 2026 Board of Adjustment

The applicant did not complete the required sign posting for public notice per the 2009 Land Development Code and the applicant was not able to be physically present for the Zoning Board of Adjustment hearing. The Board of Adjustment (Board) voted 5-0 to continue the case to the requested June 9, 2026 hearing date.

June 9, 2026 Board of Adjustment

At the June 9, 2026 Board of Adjustment, the public hearing was opened and the case was heard by the Board. However, members of the Board questioned if proper public notice occurred,

specifically the public notice sign. A Board member claimed that the public notice sign was not posted. The applicant spoke on behalf of the public notice requirements, stating that the public notice sign was properly installed, but there may have been inclement weather which affected the installation. In addition, the Board questioned Staff's classification of the subject structure and asked City staff to further clarify the definitions for various accessory structures. The Board of Adjustment voted 5-0 to continue the case to the July 14, 2026 hearing date.

Definitions Analysis

At the June 9, 2026 Board of Adjustment hearing, Board members asked staff to provide definitions for various accessory structures. The following definitions are from [Sec. 21-11200. – Definitions](#) of the Commerce City Land Development Code. There are no specific definitions for gazebos or pergolas and therefore the subject structure is defined as a shade structure and an accessory structure. When reviewing [Table V-4. Summary Table of Bulk Standards and Additional Regulations for Accessory Structures](#), the only structure classification the subject structures fall under is shade structure.

- *Accessory Building or Structure* shall mean a subordinate structure located on the same lot with the principal building, occupied by or devoted to an accessory use. Accessory structures include, but are not limited to, storage sheds, garages, covered porches, large satellite dishes, and telecommunication antennas.
- *Accessory Parking Structure* shall mean a permanent one-story structure that is open on one or more sides and is used for the temporary parking or storage of operable vehicles in conjunction with the primary use of the property.
- *Accessory Use* shall mean a use, located on the same lot, naturally and normally incidental to, subordinate to, and devoted exclusively to the principal use of the premises.
- *Carport* shall mean a one-story structure that is attached to a dwelling unit and entirely open on one or more sides that is used by the legal occupant of the dwelling unit for parking or storing operable vehicles.
- *Dwelling, Accessory* shall mean a second dwelling unit either within or added to an existing single-family detached dwelling, or in a separate accessory structure on the same lot as the main dwelling, for use as a complete, independent living facility with provision within the accessory dwelling for cooking, eating, sanitation, and sleeping.
- *Garage* shall mean a building or the portion of a building designed and intended for the parking or temporary storage of motorized vehicles.
- *Porch* shall mean a covered or uncovered entrance with vertical supporting members on a foundation, not including walls.
- *Shade Structure* shall mean gazebos, arbors, or pergolas that are not attached to a principal structure but may be attached to an accessory structure. Shade structure shall not include carports.

Site Overview

The site, which is located along East 75th Place, is zoned Single-Family Detached Residential (R-1) and is surrounded by other single-family residences (Figure 1) zoned Single-Family Detached Residential (R-1) or Multi-Family Residential District (R-3) (Figure 2). To the west is a commercial in-line building and Highway 2.

Comprehensive Plan Consistency

Per the [2045 Comprehensive Plan](#), the site is within the Central Neighborhoods Character Area (Figure 3) which designates single-family residential as a primary land use. In addition, the character areas calls for reinvestment of the neighborhood, which includes improvements to properties such as the subject shade structure.

Public Comment

City Staff provided public notice per the Land Development Code Standards, including publication in the Commerce City Sentinel, posting of one sign on the site, and mailing of flyers to all property owners within 500 feet of the subject property. Four letters, all in support of the project, were submitted.

Application Review

The proposed variance was reviewed by all relevant Development Review Team agencies, including the Commerce City Planning Division, Geographic Information Systems Division, Parks, Recreation and Golf Department, Department of Economic and Community Vitality, Engineering Review Division, Building Safety Division, Code Enforcement Division, & Energy, Equity, and the Environment Division, the South Adams County Water and Sanitation District (SACWSD) and South Adams County Fire Department with no comments or all comments addressed. 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 strict enforcement of the Land Development Code allows for a smaller 200 sq. ft. shade structure, which still accomplishes the same goals and intent of the existing structure, to provide shade and an area for outdoor use. *Therefore, it can be found that this application **does not meet criteria (i).***

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

Analysis: The shade structure was built without a building permit. The hardship of modifying the shade structure is self-imposed. *Therefore, it can be found that this application **does not meet criteria (ii).***

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

Analysis: A shade structure is an allowed accessory use for this property and it does not block views or sunlight to adjacent properties. In addition, the Commerce City Engineering Review Division, Building Safety Division, and South Adams County Fire Department reviewed the variance request and did not provide any comments indicating there is a detriment to the site and neighboring sites. Lastly, a building permit is required in which the Building Safety Division will ensure the structure meet the International Code Council requirements. As a result, there is no expected detriment to adjacent properties from the retaining wall as proposed. *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 shade structure could have been built to meet the standards and still provide effective shade and space for other uses. *Therefore, it can be found that this application **does not meet criteria (i)**.*

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

Analysis: The 2045 Comprehensive Plan designates the general area for single-family residential as a primary land use, in which a shade structure is an allowed accessory use. The granting of the variance will allow for a shade structure which is typically found within a single-family detached neighborhood just 340 sq. ft. larger than allowed. *Therefore, it can be found that this application **meets criteria (ii)**.*

Staff Recommendation

Planning staff found that the application does not meet three of the approval criteria found within [Sec. 21-3222\(3\)](#) of the Land Development Code, and therefore Planning staff recommends the Board of Adjustment deny case AV26-0017.

Considerations for Discussion

1. The variance is for an increase to the maximum shade structure size from 200 sq. ft. to 540 sq. ft., a 340 sq. ft. increase
2. Neighboring residents were notified about the variance and provided an opportunity to comment and attend the Board of Adjustment.
3. Review of the requested variance revealed limited impacts to surrounding properties.
4. The variance application was reviewed by all relevant Development Review Team (DRT) agencies and there are no outstanding comments or concerns
5. The application does not meet three of the Variance approval criteria
6. Denial of the subject variance would require the applicants to remove or modify the shade structure

Potential Motions

Denial

*I move that the Board of Adjustment enter a finding that the requested **variance**, for the property located at **7050 E. 75th Place** contained in case **AV26-0017**, fails to meet all the criteria of the Land Development Code and based upon such finding, deny the **variance**.*

Criteria A 1, A 2 and B 1 are not met.

Approval

*I move that the Board of Adjustment enter a finding that the requested **variance**, for the property located at **7050 E. 75th Place** contained in case **AV26-0017**, 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 **7050 E. 75th Place** contained in case **AV26-0017**, meets the criteria of the Land Development Code and based upon such finding, approve the **variance** subject to the following conditions:*

[Insert Conditions]

Figure 1. Aerial Map



February 6, 2026 Aerial of 7050 E. 75th Place.

Figure 2. Zoning Map

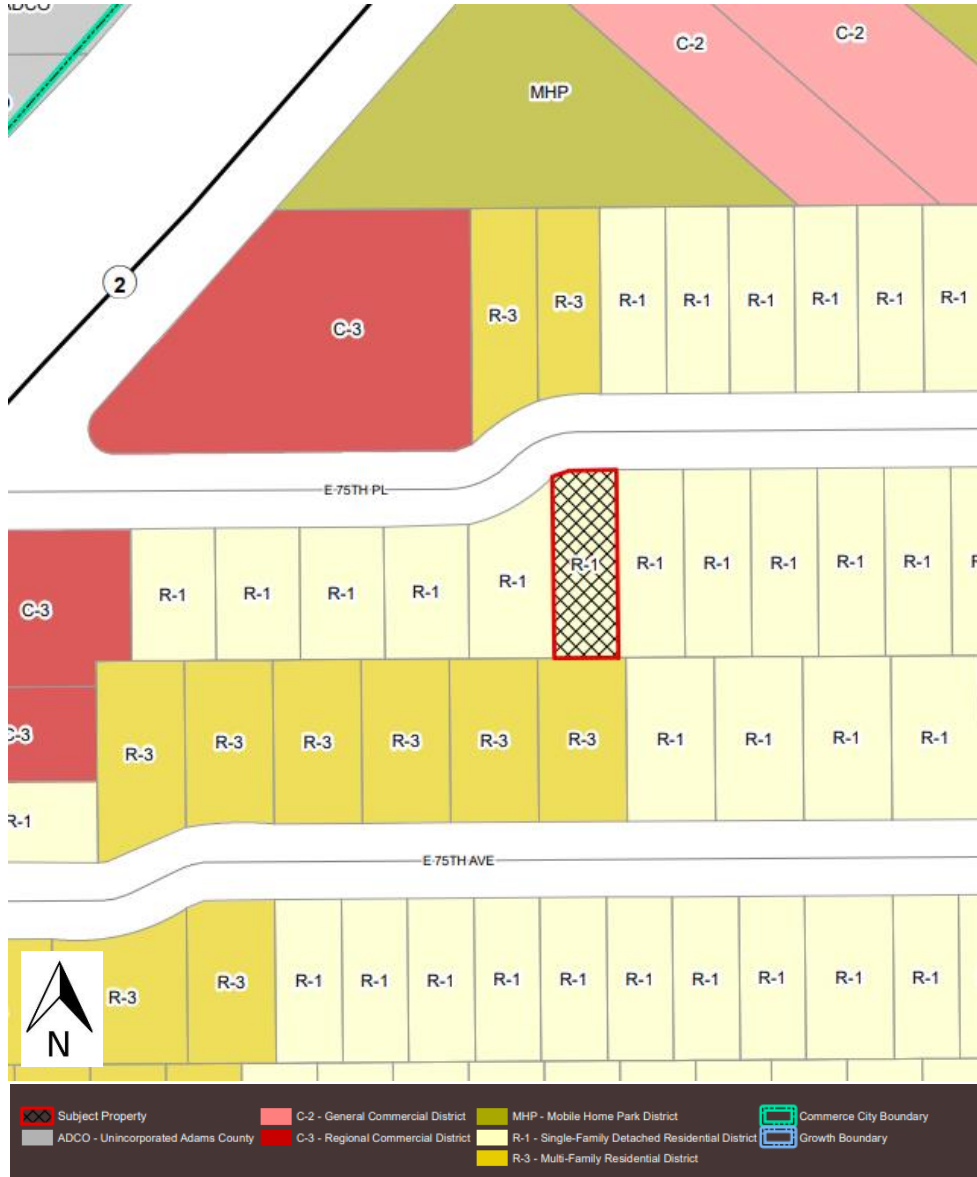


Figure 3. Character Areas Land Use Map

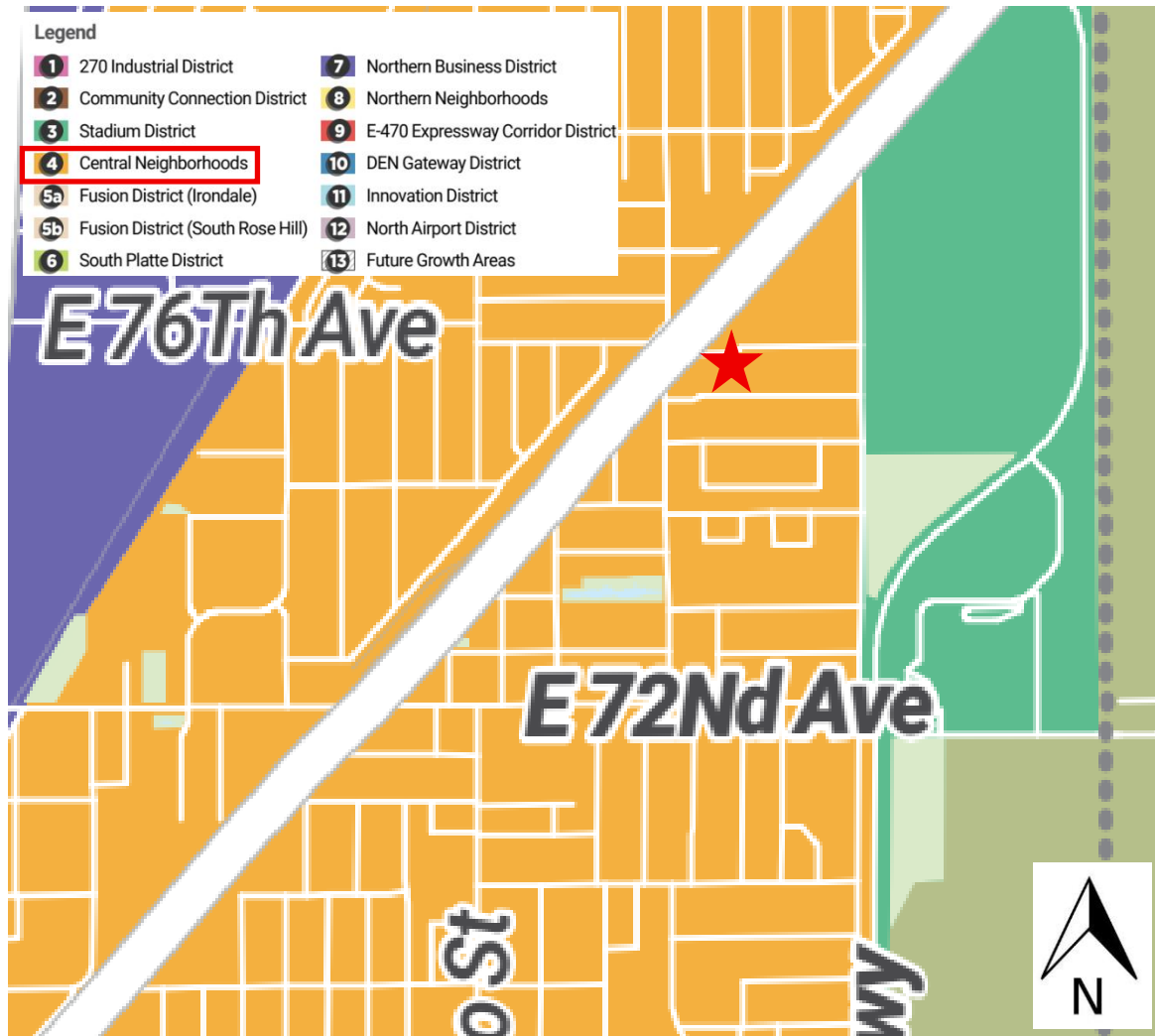


Figure 4. Subject Shade Structure



Photo of the subject shade structure facing south