

# 1430 Maryland Avenue East

ABZA 26-1, DSIAPP-000279-2026

David Eide – Department of Safety & Inspections, Zoning Section



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## **Sec. 61.702. - Appeals to city council.**

(a) The city council shall have the power to hear and decide appeals where it is alleged by the appellant that there is an error in any fact, procedure or finding made by the board of zoning appeals or the planning commission.



# 1430 Maryland Avenue East

## Existing Bureau of Criminal Apprehension Headquarters

6.75-acre parcel

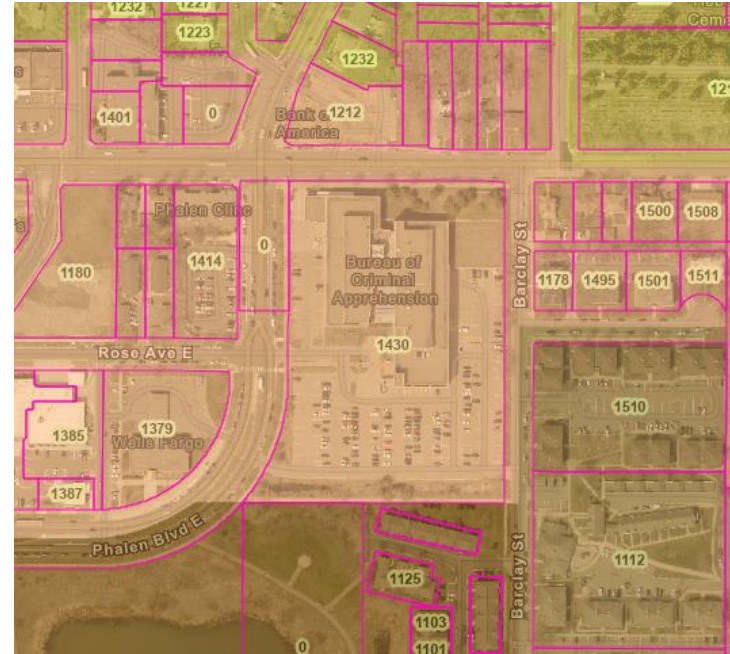
### Surrounding Zoning/Land Uses

T2 zoning – West, North, East (Residential, bank, clinic)

RM1 – East (Multiple-family dwellings)

RM2 – South (Multiple-family dwellings)

Opened in 2003



T2 – Traditional Neighborhood



## Section 63.314 - Landscaping

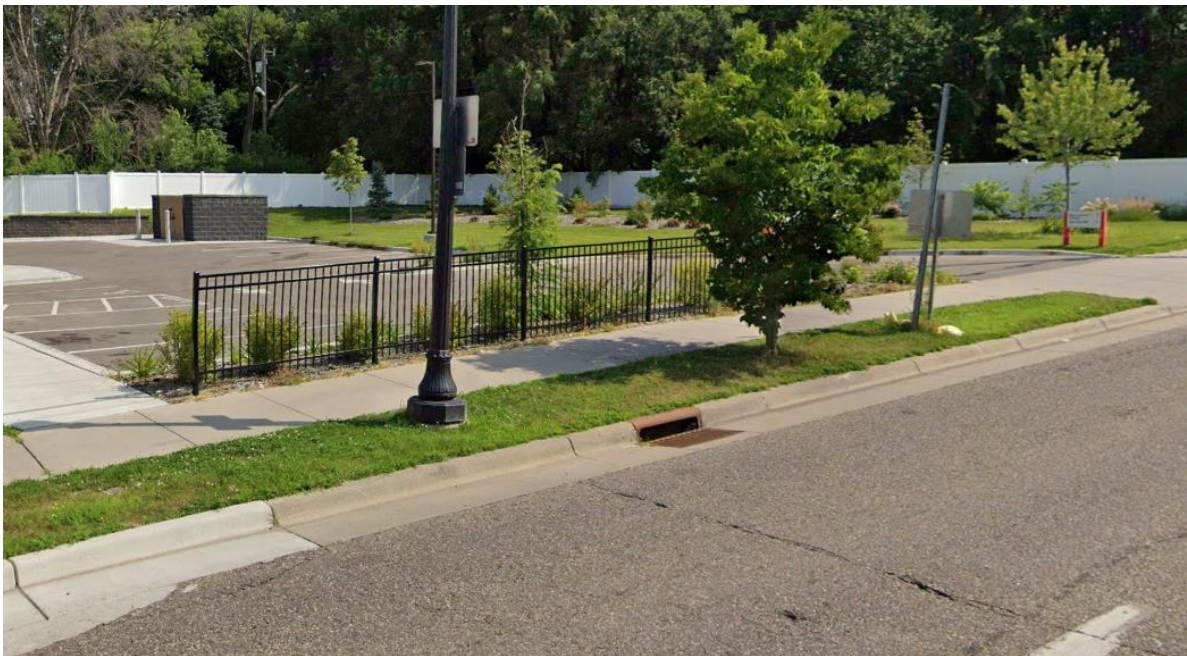
For any parking facility, other than structured parking, landscaping shall be provided to buffer the facility from adjacent properties and from the public right-of-way; reduce the visual glare and heat effects of large expanses of pavement; and provide areas for the retention and absorption of stormwater runoff.

All parking and loading areas (including drive-through facilities, outdoor auto sales and rental, pump island service areas and stacking spaces) adjoining public streets or sidewalks shall provide:

(b) *Screening* landscape. In all districts except industrial districts, screening shall be provided **consisting of a masonry wall or decorative fence (not including chain link)** supplemented with landscape material, **forming a screen a minimum of three (3) feet in height, a maximum of four and one-half (4½) feet in height not including trees**, and not less than fifty (50) percent opaque.



## **Screening Landscape – 1212 Prosperity Ave. E.**



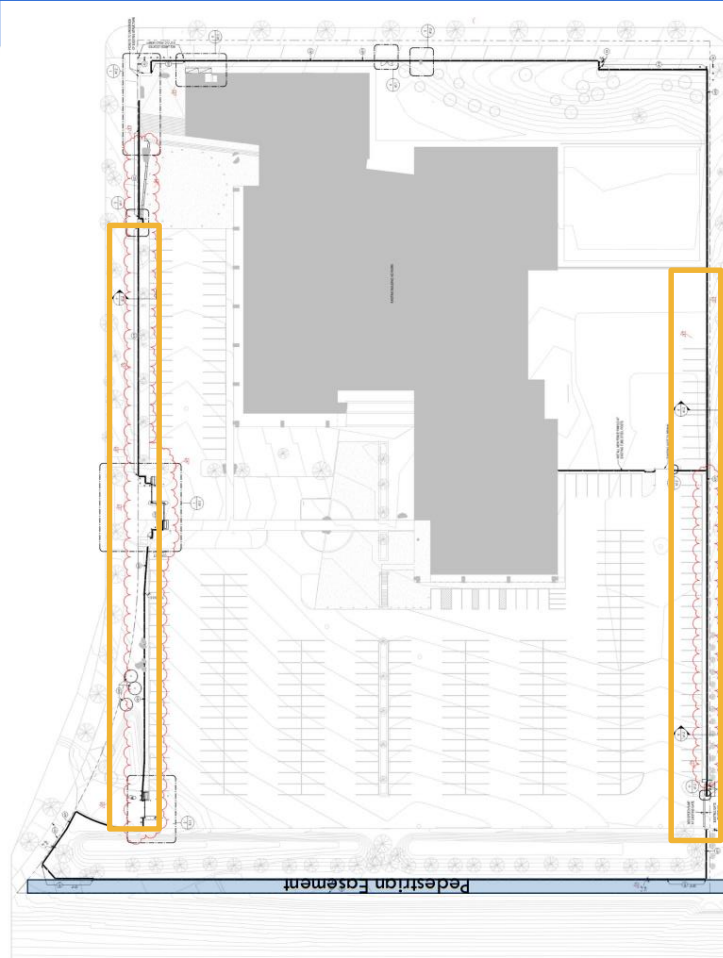


## Screening Landscape – 1160 Clarence Street





## Variance Request Location and Design





## BZA Outcome – Initial Case (Not Appealed)

- 10' fence along Phalen Boulevard, 8' fence along Barclay Street
  - Variances of 5.5' and 3.5' respectively
- Public hearing held on September 15, 2025
- Staff recommended approval of requested variance
  - **Greater East Side Community Council opposition letter received after meeting (10/24/25)**
  - **Support: 1 person spoke, 0 letters received**
  - **Opposition: 0 people spoke, 0 letters received**
- First Motion – Denial based upon findings 2 (comprehensive plan), 6 (essential character), vote 3 (Yea) to 2 (Nay), failed (4 votes one direction necessary)
- Second Motion – Approval w/ staff recommendation. No second, failed.
- Not appealed



## MN Statutes Section 15.99 Subd. 2:

When a vote on a resolution or properly made motion to approve a request fails for any reason, the failure shall constitute a denial of the request provided that those voting against the motion state on the record the reasons why they oppose the request.



## BZA Outcome – Second Case (DSIBZA-000226-2025)

- 10' fence along Phalen Boulevard, 10' fence along Barclay Street
  - Variances of 5.5' on both sides
- Public hearing held on January 5, 2026
- Staff recommended approval of requested variance
  - **Greater East Side Community Council opposes the request**
  - **Support: 0 person spoke, 1 letter received**
  - **Opposition: 2 people spoke, 2 letters received**
- First Motion – Denial based upon findings 1 (harmony and intent), 2 (comprehensive plan), 6 (essential character), moved and seconded.
  - Failed: 3 (Yea), 2 (Nea)
- Second Motion – Approval w/ staff recommendation; moved and seconded.
  - Failed: 3 (Yea), 2 (Nea)



## MN Statutes Section 15.99 Subd. 2:

When a vote on a resolution or properly made motion to approve a request fails for any reason, the failure shall constitute a denial of the request provided that those voting against the motion state on the record the reasons why they oppose the request.



## Six Findings Necessary to Grant Variance

- **In harmony with the general purposes and intent of the zoning code**
- **Consistent with the comprehensive plan**
- Practical difficulties in complying with the provision (Economic considerations alone do not constitute practical difficulties)
- Plight is due to circumstances unique to the property, not created by the landowner
- Will not permit unallowed use
- **Will not alter the essential character of the surrounding area**



**Finding 1:** *The variance must be in harmony with the general purposes and intent of the zoning code.*

Intent of this finding is that the variance generally aligns with the overall intent of the ordinance and code section.

BZA members voting against approval found request not in alignment with finding 1:

*Proposed fence is not in harmony with the general purposes and intent of the zoning code in that, contrary to Sec 60.103 it does not: (m) To protect all areas of the city from harmful encroachment by incompatible uses.*

*Inconsistent with land uses adjacent, whether they be commercial or residential in mixed-use area.*

*Disagree that this is a decorative fence.*



**Finding 2:** *The variance must be consistent with the comprehensive plan.*

This finding requires that the request is in alignment with the 2040 Comprehensive Plan.

BZA members voting against approval found request not in alignment with the following:

*LU-9: Promotes high-quality urban design that enhances public realm.*

*LU-24: Prioritizes infrastructure and private investments that maintain and improve public realm to encourage street-level pedestrian activity.*



**Finding 6:** The variance cannot alter the essential character of the surrounding area.

Intent is that the request will not negatively affect the surroundings.

BZA members voting against approval found request stated the following:

*Here again, staff has erred in finding that the essential character of this mixed-use residential and commercial neighborhood would not be altered by the imposition of a military-grade, high-security enclosure of the BCA building and its entire parking-lot which does not:*

*-maintain and improve the public realm to encourage street-level pedestrian activity. and -does not protect all areas of the city from harmful encroachment by incompatible uses.*



## Next Steps

*The city council shall have the power to hear and decide appeals where it is alleged by the appellant that there is an error in any fact, procedure or finding made by the board of zoning appeals or the planning commission.*

*Board of Zoning Appeals declining to approve a request to vary Section 63.314. The zoning code limits the height of fences constructed between off-street parking facilities and the public right-of-way to 4.5 feet; 10' was proposed along Phalen Boulevard and Barclay Street, for a variance of 5.5' on each side.*

- Grant the appeal: Property owner can establish 10' tall fence between parking and streets.
- Deny the appeal: Property owner limited to 4.5' tall fence between parking and streets.

Minnesota Statutes § 15.99 120-day deadline: April 18, 2026