



VARIANCE FINDINGS

ZTA24-01

Planning Commission Hearing – September 26, 2024

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Request

Amend the Unified Development Code (UDC) Section 35.6.209 Variances and Appeals and bring the section into conformance with Arizona Revised State Statute 9-462.06.

Applicant / Owner:

Planning Commission Initiated/ City of Glendale



Objective

The intent of this request is to bring Section 35.6.209 of the Unified Development Code into compliance with Arizona Revised State Statutes.

Objective

STRICKEN LANGUAGE

- General
- Variance Criteria



ADOPTED LANGUAGE

- Purpose
- Findings for a Variance
- Guidelines for NOT Granting Variance
- Application Process



Current Standard

35.6.209 Variances and Appeals

A. General

Variances from zoning regulations pertaining to development standards; setbacks, lot dimensions, or other development standards where such a variance will not be detrimental to public interest, health, safety, or welfare. No variance shall be granted to permit a use not otherwise permitted in the applicable zoning district.



Current Standard

B. Variance Criteria

Relief from established development standards shall not be arbitrary nor open-ended or universal across multiple properties. Upon filing a variance for consideration, the applicant shall present evidence that demonstrates the following:

1. Existing unique circumstances or conditions on the subject property that prevents the universal application of the zoning standard.



Current Standard

2. The literal interpretation of the Unified Development Code would deprive the appellant of rights commonly enjoyed by other properties in the same zoning district.
3. Any hardship caused by the provisions of the Unified Development Code is more than personal inconvenience or a financial hardship and is not the result of actions by the applicant.
4. Granting the variance will not interfere with or alter the appropriate and legal use of adjacent conforming properties in the same zoning district.



Proposed Standard

A. Purpose

The purpose of a variance is to restore equity when, due to special circumstances or conditions, the ordinance restricts one property more severely than other properties in the same zoning district. The circumstances or conditions must be beyond the control of the owner and relate to the property as opposed to the owner. Personal hardship or inconvenience does not justify a variance. The burden of proof is on the property owner.



Proposed Standard

B. Findings for a Variance

The Board of Adjustment shall make the following findings based on the evidence in the record prior to granting a variance:

1. There are special circumstances or conditions applicable to the property including its size, shape, topography, location, or surroundings which were not self-imposed by the owner;



Proposed Standard

2. Due to the special circumstances, the strict application of the Zoning Ordinance would deprive the property of privileges enjoyed by other properties in the same classification in same zoning district;
3. Granting the variance will not have a detrimental effect on the property, adjoining property, the surrounding neighborhood, or the City in general.



Proposed Standard

- C. The Board of Adjustment shall not grant a variance when:
 - 1. The special circumstances applicable to the property are self-imposed by the owner. This includes:
 - a. A hardship that has been intentionally, knowingly, or recklessly created.
 - b. The failure of the owner to consider other reasonable alternatives, which do not require a variance.



Proposed Standard

- c. The variance would constitute a change to the uses permitted in any zoning district.

- d. The variance would constitute a grant of special privileges inconsistent with the limitations on other properties in the zoning district.



Public Involvement

- Notice mailed June 24, 2024.
- Hearing notices mailed on August 30, 2024.
- Request advertised in *The Arizona Republic* on September 4, 2024.



Findings & Analysis

- The proposed amendment supports the goals of the General Plan by providing a clear and concise process for a variance approval or denial that is consistent with Section 9-462.06 of the Arizona Revised Statute.



Recommendation

Staff recommends Planning Commission forward a recommendation of approval of ZTA24-01, as presented.



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