

# **TOWN** *Of* **PARADISE VALLEY**



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## **STAFF REPORT**

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**TO:** Chair and Board of Adjustment

**FROM:** Chad Weaver, Community Development Director  
Paul Michaud, Planning Manager  
George Burton, Senior Planner

**DATE:** December 3, 2025

**DEPARTMENT:** Community Development Department/Planning Division  
George Burton, 480-348-3525

**AGENDA TITLE:**

**5712 E Glen LLC Variance – 5712 E. Glen Drive (APN 169-55-026A)  
Discussion and Possible Action on Variance to allow setback, height, and  
hillside encroachments for a new single-family residence. Case No. BA-25-09**

This application is a variance request to allow setback, height, and hillside variances to accommodate a new single-family residence and new retaining walls. Staff recommends approval of this variance request due to the site's special circumstances and associated property hardships.

**RECOMMENDATION**

Motion For Approval:

It is recommended that the Board of Adjustment **[approve]** Case No. BA-25-09, a request by 5712 E Glen LLC, property owner of 5712 E. Glen Drive; for variances from the Zoning Ordinance, Article XXII, Hillside Development Regulations and Article X, Height and Area Regulations, to allow: 1) retaining walls and a raised outdoor patio area to encroach into the front yard setback and exceed the height limit, 2) allow a new single-family residence to exceed the height limit, 3) modify and maintain a nonconforming spill slope, and 4) allow portions of a new single-family residence to encroach into the side yard and rear yard setbacks.

Reasons For Approval:

Staff find that the triangular shape of the lot, location of the adjoining City of Phoenix water tank, the location of the existing pad, and the slope of the lot create property hardships that warrant the variance requests.

## BACKGROUND/DISCUSSION

### Scope of Request

The applicant requests four variances:

1. New single-family residence. The applicant requests a variance to allow one portion of the house (i.e. part of a covered patio) to exceed the 24-foot height limit (measured above natural grade).
2. New single-family residence. The applicant requests a variance to allow portions of the house to encroach into the 20-foot east/side yard setback and encroach into the 40-foot north/rear yard setback.
3. Retaining Walls. The applicant requests a variance to allow retaining walls over 3 feet tall (measured from natural grade) to encroach into the 40-foot front yard setback and allow portions of the retaining walls to extend more than 6 inches above the material they retain.
4. Maintain and modify the existing spill slope. The applicant requests a variance to maintain the existing nonconforming spill and to modify/reduce it by 24-percent.

### Variance 1

Single Family Residence (SFR) Height Encroachment. Section 2207.II.A of the Zoning Ordinance limits the height of the primary residence to a maximum height of 24-foot above and parallel to the natural grade. A portion of the front covered patio (adjoining the home office) will extend 3 feet 2 inches above the height limit (with a total of 40 square feet encroaching beyond the height encroachment). The slope of the lot increases northwards (towards the top of the hillside/mountain). Below is a comparison of the Zoning Ordinance requirement and the proposed house.

Single Family Residence Height	
Zoning Ordinance	New SFR
24' Height Limit (Above/parallel to natural grade)	27'2" – Covered Patio (3'2" above limit with 40 sq ft of encroachment)

### Variance 2

Single Family Residence (SFR) Setback Encroachment. Section 1001 of the Zoning Ordinance limits the primary residence to a 20-foot side yard setback and a 40-foot rear yard setback.

The proposed home encroaches 2 feet into the east side yard setback to accommodate a portion of the guest bedroom and a portion of the roof overhang. This part of the house is approximately 24 feet 4 inches tall (measured from finished grade) with approximately 37 square feet of the bedroom and 22 square feet of the roof overhang located in the side yard setback.

The proposed home will also encroach 20 feet into the north/rear yard setback to accommodate the guest bedrooms, part of the living area, and roof overhang. This part of the house is approximately 24 feet 4 inches tall (measured from finished grade) with approximately 643 square feet of encroachment on the lower level/floor

and approximately 1,516 square feet of encroachment on the upper/main floor (1,151 square feet of footprint and 365 square feet of roof overhang). The total rear yard encroachment is approximately 2,159 square feet. Below is a comparison of the Zoning Ordinance requirements and the proposed house.

<b>Single Family Residence Setbacks</b>	
Zoning Ordinance	New SFR
40' Front	40' Front
40' Rear	<b>20'</b> Rear (2,159 sq ft total encroachment)
20' East Side	<b>18'</b> Side (59 sq ft of total encroachment)
20' West Side	300' (+/-)

### Variance 3

Retaining Walls. Section 2207.VI of the Zoning Ordinance requires retaining walls to meet the setback and height requirements outlined in Article XXIV and requires retaining walls not to extend more than 6 inches above the material they retain. As a result, retaining walls are limited to a 3-foot height between the 10-foot and 40-foot front yard setback and an 8-foot height at and beyond the 40-foot front yard setback. The only exception is that driveway retaining walls may go to the front property line and cannot exceed a height of 8-foot tall.

Due to drainage requirements, site stability, and water management, the applicant is placing several retaining walls in the front of the house (located within the 40-foot front yard setback). However, portions of these retaining walls exceed the 3-foot height limit and portions of these retaining walls exceed the 6-inch limit above the material they retain.

A total of approximately 8 lineal feet of retaining wall exceeds the 3-foot height limit (at a height of 5-foot 6-inches tall) and a total of approximately 38 lineal feet of retaining wall extends more than 6 inches above the material it retains. Below is a comparison of the Zoning Ordinance requirements and the proposed front yard retaining walls.

<b>Retaining Walls</b>	
Zoning Ordinance Setback	Retaining Walls
3' Height at 10' Setback from Front Property Line	<b>5'6"</b> tall at 32' Setback from Front Property Line (8 Lineal Feet)
8' Height at 40' Setback from Front Property Line	8' tall beyond 40' Setback
6" Max Extension Above Material it Retains	<b>38 Lineal Feet</b> above 6" Limit <b>2' to 5'</b> above 6" limit

### Variance 4

Maintain and modify the existing spill slope. Section 2207.V.C of the Zoning Ordinance

limits veneered rock slopes to a maximum slope of one to one (or 45 degrees). The applicant is proposing to maintain and modify the existing nonconforming spill slope. A majority of the existing spill slope exceeds the 45-degree limit. The existing spill slope is unvegetated and is 10,600 square feet in area. Also, the applicant will remove approximately 2,200 square feet of the existing spill to lower the existing building pad an additional 12 feet. The remaining spill slope will be enhanced with native vegetation. Although portions of the remaining spill slope will still exceed 45 degrees, it will have an average slope between 30 degrees to 34 degrees. Below is a comparison of the Zoning Ordinance requirements and the modified spill slope.

Spill Slope	
Zoning Ordinance	Modified Slope
Veneered Slope	Veneered & Vegetated Slope
1 to 1 (or 45 degree) Max Slope	<p>Majority of existing areas exceed 45-degree slope.</p> <p><b>24%</b> of area removed.</p> <p>Remaining slope modified &amp; revegetated</p> <p>Average slope between 30 – 34 degrees.</p>

#### Lot History

The subject property is in Tract A of the Club Estates 2 subdivision. The subdivision was platted in 1960 and annexed into the Town in 1961. The following is a chronological history of the property:

July 17, 1973	Grading permit issued
October 29, 1973	Building permit for a single-family residence
October 30, 1974	Building permit for a single-family residence

All three permits are labeled as “expired.” Via historical aerial photos, it appears that a house was never constructed. Also, a pad was created on the east side of the lot; however, it is difficult to discern from the historical aerial photos when that pad was created (possibly created in the late 1970’s to mid-1980’s).

Also, on May 3, 2017, the Board of Adjustment approved Variance Case BA-16-6 which allowed a single-family residence to encroach into the rear yard setback (with portions of the house at a rear setback of 20’ and 35’) to a previous property owner.

Then, the property was purchased by a new owner, who expanded upon approved variance BA-16-6 and requested several more variances. On November 3, 2021, the Board of Adjustment approved Variance Case BA-21-11 which incorporated the setback encroachment from Variance Case BA-16-6 and allowed: 1) a raised outdoor living area/patio to encroach into the front yard setback and exceed the 8’ height limit measured from natural grade, 2) allow a new single-family residence to exceed the height limit, 3) modify and maintain a nonconforming spill slope, and 4) allow a portion of the new single-family residence to encroach into the side yard setback.

Due to the site conditions, this variance and the previous two variances have been very similar: with setback encroachment in the rear and east side, partial height

encroachments for the house, height and setback encroachments for front yard retaining walls/decks and improving the existing nonconforming spill slope.

Due to the multiple variances on this property, staff recommends that if the Board of Adjustment is inclined to approve this application, that the Board stipulates this variance Case BA-25-09 will supersede and void previous variance Case Numbers BA-16-6 and BA-21-11.

Also, this proposal received conceptual review by the Hillside Building Committee (HBC) on September 17, 2025. The Hillside Committee was generally favorable of the proposed improvements, and a copy of the HBC meeting minutes are enclosed for reference.

### Lot Conditions

The property is zoned R-43 Hillside and is 44,786 square feet in size (1.03 acres). The property is triangular in shape, a corner lot (with Glen Dr adjoining the south and north property lines) and is situated around an existing water tank (near the middle of the lot). Staff finds the shape, topography, and dual frontage of the lot create a hardship and is supportive of the house setback and height encroachments, the front yard retaining wall encroachments, and maintaining and modifying the existing spill slope. If the variance is granted, the improvements will finish the hillside review process.

## **DISCUSSION ITEMS**

### Variance Criteria:

Town Code and Arizona Revised Statutes set criteria an applicant must meet before a Board of Adjustment may grant a variance request. If the Board finds an applicant meets all of these criteria, the Board may grant the variance. However, if the Board finds the applicant does not meet all of the criteria, the Board may not grant the variance. The following is the staff's analysis regarding the variance criteria:

1. *"That there are special circumstances applicable to the property, which may include circumstances related to the property's size, shape, topography, location, or surroundings; and"* (Town Code Section 2-5-3(C)4).

### Staff Analysis:

**SFR Height Encroachment.** The property is steep with a building pad slope at 36.1%. Due to the steep slope and the desire to utilize the existing building pad, a small portion of the front covered patio penetrates the 24-foot height limit (measured from the pre-development/natural grade). Since the patio is not enclosed, the 40 square feet of roof encroachment should have little to no impact on neighboring property.

**SFR Side & Rear Yard Setback Encroachments.** Staff recommends approval of this variance request since the shape and topography of the lot create a restrictive building envelope. The shape of the lot limits development to the

eastern half of the property and the buildable area is further reduced since the existing hillside/cut encompasses approximately one third of the building envelope. As a result, only a third of the lot is buildable and is limited to the eastern portion of the property. Under current Town platting requirements, the property would have been 205 feet deep (instead of its current depth of 120 feet deep) and would have been 4.4 acres on size (instead of its current size of 1.03 acres). To mitigate these property hardships, the applicant is placing most of the setback encroachment in the rear adjoining the hillside cut (which should reduce the visibility of this part of the house).

**Front Yard Retaining Walls.** The shape and topography of the lot create a restrictive and difficult building envelope. The shallow depth and steep slope of the lot (with a building pad slope of 36.1%) limits development to the eastern part of the property. The applicant is trying to utilize the existing pad and is placing retaining walls in the front of the house to help with drainage and site stability. The applicant redesigned the retaining walls to further reduce the amount of height encroachment, with approximately 8 lineal feet of retaining wall exceeding the 3-foot height limit and approximately 38 lineal feet of retaining wall extending more than 6 inches above grade.

**Maintain and Modify the Existing Spill Slope.** The steep slope and shape of the lot are unique circumstances limit the amount and location of buildable area and the reduction in the nonconformity of the existing spill slope meets the intent of the Zoning Ordinance. Utilizing, reducing, and vegetating the existing spill slope helps the spill slope to blend in with the surrounding hillside and reduces the amount of nonconformity (which results in an average spill slope of 30 degrees to 34 degrees).

2. *"That the special circumstances applicable to the property were not self-imposed or created by the property owner; and"* (Town Code Section 2-5-3(C)4).

Staff Analysis:

The shape and steep slope of the lot create a restrictive building envelope that warrant these variance requests and are the result of how the property was platted by Maricopa County in 1960. The applicant is trying to limit the amount of disturbance and impact to the hillside by utilizing the existing site conditions and existing building pad.

Also, this is the third variance request for this property. Although the design has changed with each owner, the variance requests have been very similar due to property hardships created by the size, shape, and topography of the lot.

3. *"That the strict application of the Zoning Ordinance will deprive the property of privileges enjoyed by other property of the same classification in the same zoning district"* (Town Code Section 2-5-3(C)4).

Staff Analysis:

The steep slope, odd shape, and shallow depth of the lot prohibit compliance with some setbacks and height for the house and retaining walls. The applicant is trying to utilize the existing pad to limit the amount of disturbance to the hillside. Also, the reduction and vegetation of the existing nonconforming spill slope reduce the amount of nonconforming spill and helps it blend in with the surrounding hillside (which meets the intent of the Hillside Code).

**REQUIRED ACTION**

The Board of Adjustment must consider the facts and determine if the variance request meets all three variance criteria. The Board of Adjustment may take the following action:

1. Approval is subject to the following stipulations:
  - a. The improvement shall comply with the submitted plans and documents:
    - i. Pages 8 – 36 of the applicant variance packet titled “Variance Request 5712 E Glen Drive Paradise Valley, Arizona” and prepared by Kendle Design Collaborative.
  - b. The applicant must obtain the required Hillside Building Committee approval and must obtain all required building permits and inspections from the Town’s Building Division.
  - c. Variance Case BA-25-09 will supersede and void previous variance Case Numbers BA-16-6 and BA-21-11.
2. Deny the variance request(s).
3. Continue the application for further review.

**COMMENTS**

Neighborhood notification was completed in accordance with the Town requirements. Staff received no comments or inquires.

**COMMUNITY IMPACT:** None.

**CODE VIOLATION:** None.

**ATTACHMENTS**

- A. Staff Report
- B. Vicinity Map & Aerial Photo
- C. Application
- D. Narrative Plans & Documents
- E. Notification Materials
- F. Hillside Building Committee Minutes
- G. Applicant Presentation
- H. Staff Presentation