



ZONING VARIANCE REQUEST

CEDAR LEE MEADOWBROOK DEVELOPMENT (#21024) SUMMARY OF VARIANCE REQUEST

January 19, 2022

Per the City of Cleveland Heights Standard Variance Application (form BZ-SV), please see the Cedar Lee Meadowbrook Development's materials outlined on the following pages. Due to the complexity of this urban infill project and its sites, there are practical difficulties associated with this initiative's design and construction, including: the sites' topography / grading, underground and overhead utilities, circulation and access to service areas / dining areas / patios for Lee Road businesses, existing parking garage (whose pedestrian and vehicular ingress / egress must be maintained), the desire to maintain existing landscaping / trees, and a myriad of other variables.

The development team has facilitated several working sessions, combined with preliminary Planning Commission and Architecture Review Board reviews, along with working diligently with City of Cleveland Heights staff to consider community comments and align with the City's various master plans, land-use plans and updated zoning codes. That process is reflected in a dynamic and contextual design that will enhance the Cedar Lee District.

The development team has organized the package for review, creating a coordinated variance narrative / application and accompanying illustrations, per the Standard Variance Application. Materials are organized by portions of the site: Cedar-Lee Site (Building #1) and the Meadowbrook Site (Building #2). Individual variance requests include the identified zoning code chapter, the requested variance, statement of how the development meets the zoning code's intent and statements of Practical Difficulty. In all cases, variances are in alignment with the code's intent.

Cedar-Lee Site (Building #1)

A. 1131.14(g)(4): Upper Floor Setback (Cedar) Half of each building face along a public street on the building's top floor shall be back at least 8' from the building's setback at street level if the building's height exceeds 45'

Variance Requested: Eliminate upper floor step back requirement

Code Intent Alignment: The proposed development's Cedar Road upper floors do not step back, as the scale along Cedar Road commands a taller building. The corridor's width, combined with the heights of other district buildings (AT&T building: 56'; 3241 Kildare Road [peak of roof]: 38'; Cleveland Heights High School: 53'-73' [not including the clock tower]; Cedar Lee Theatre: 46'; District Parking Garage: 50'; 3207 Meadowbrook apartment building: 37') support this scale of development without an upper floor step back. The size and scale of the overall proposed development appropriately responds to its context. Lastly, the elevation of the highest roof coping is projected to be 49'-1", less than 5' taller than the 45' height maximum that triggers the upper floor setback. Coping heights are varied to provide stepping along the building's roof line to add animation and visual interest. See attached diagrams for reference.

Statement of Practical Difficulty Summary: The proposed development balances unit areas and outdoor spaces (decks / balconies) as best as possible. Stepping back the top floor creates constructability (notably, waterproofing) issues as well as reduces buildable square footage. Furthermore, stepping back the building at upper level would add additional costs to an already cost constrained project while simultaneously reducing the revenue generating square footage to the building.

Statement of Practical Difficulty from City of Cleveland Heights Board of Zoning Appeals Application

A. Explain special conditions or circumstances that exist to which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same Zoning District. (examples of this are: exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to nonconforming and inharmonious uses, structures or conditions):

Special circumstances are created for 4-story development along Cedar Road due to its scale. The surrounding context, notably Cleveland Heights High School, Cedar Lee Theatre and the District Parking Garage all establish context.

Explain how the property in question would not yield a reasonable return or there could not be any beneficial use of the property without the variance.

Stepping in the upper floor creates additional construction costs due to increased building structure, the mis-alignment / stacking of living units, and reduces the overall leasable area.

B. Explain whether the variance is insubstantial:

The overall building's scale, combined with the built-environment context and Cedar Road scale, are appropriate.

Explain whether the variance is the minimum necessary to make possible the reasonable use of the land:

All variances are as minimal as possible, and the development is designed to meet the Zoning Code's intentions.

C. Explain whether the essential character of the neighborhood would be substantially altered or adjoining properties would suffer a substantial detriment as a result of the variance.

The mixed-use district will be enhanced by the construction of this initiative. The long-time vacant lots are primed for redevelopment within the context of the Cedar Lee District. The development's design respects its context, including intentional steps to best relate to the neighboring residential district (primarily along Tullamore).

D. Explain whether the variance would adversely affect the delivery of governmental service (e.g., water, sewer, garbage).

The development will not disturb services or access.

E. Did the applicant purchase the property without knowledge of the zoning restriction?

The property's allowable land-use zoning designation supports this type of development. The applicant has diligently worked with the City of Cleveland Heights Planning Department throughout the process to ensure the design meets the code's intention and has developed a design that requires relatively few variances.

F. Explain whether the special conditions or circumstances (listed in response to question A above) were a result of actions of the owner.

The special conditions outlined in Section A are all existing conditions. The owner's investment intends to enhance and improve each of the special conditions for the betterment of the entire Cedar Lee District.

G. Demonstrate whether the applicant's predicament feasibly can be resolved through a method other than variance (e.g., a zone-conforming but unworkable example).

Due to the development's infill nature, the configuration of the sites, and desire to create new living options for Cleveland Heights, other methods are infeasible. The applicant has studied various alternate solutions, such as reducing the buildings' sizes. However, those scenarios detract from the development's marketability, construction feasibility, and overall impact to the City.

H. Explain whether the spirit and intent behind the zoning requirement would be observed and/or substantial justice done by granting the variance.

The current land-use and zoning designations: Cedar-Lee site (C2-X Multiple Use) and Meadowbrook site (C2-X Multiple Use) and their associated attributes (Lot Areas, Allowable Heights, Design Standards, etc.) promote mixed-use / multi-family development on these sites. Additionally, the City's previous designation of the sites as prime development sites are outlined in various master plans, the Cedar-Lee District (SID) TLCI plan, and prior request for proposals / development attempts. The applicant's proposed use and design aligns with the City's vision for the parcels and will contribute to the Cedar-Lee District and City of Cleveland Heights.

I. Explain whether the granting of the variance requested will or will not confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.

The requested minimal variances do not grant special privilege to the applicant and would be required for reasonable redevelopment of site (notably, the type of development identified in the City's land-use plan and required via zoning code use category). Due to the District's built-out nature, a majority of land-uses, building forms, and building sites are consistent with traditional mixed-use commercial districts. Existing buildings establish strong 'build-to' lines that create and define the public rights-of-way, which the proposed development aims to enforce and strengthen. Additionally, the proposed building heights and requested variances (notably, the upper floor setbacks and yard setbacks) do not apply to the current buildings / districts, as they are an existing condition.

B. 1131.14(f): Front Setback (Cedar) Allowable setback 0-10'

Variance Requested: Proposed maximum setback is 15'-11"; variance requested is 5'-11 (15'-11" less 10' allowable max setback)

Code Intent Alignment: Building is sited to directly correlate with adjacent existing building frontages, extending the District's 'build-to' lines through the site. The building is located to provide additional sidewalk width adjacent to the busy Cedar Road corridor.

Statement of Practical Difficulty Summary: The ROW includes an atypical jog towards the northern portion of the site. This jog creates an additional setback measurement to the ROW. However, the building's location remains consistent with a walkable urban district.

Statement of Practical Difficulty from City of Cleveland Heights Board of Zoning Appeals Application

A. Explain special conditions or circumstances that exist to which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same Zoning District. (examples of this are: exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to nonconforming and inharmonious uses, structures or conditions):

The existing Cedar Road right-of-way location creates a jog that expands the necessary setback. Additionally, overhead utility lines have forced the building to be shifted to allow for ample offsets required for safe construction and building maintenance.

Explain how the property in question would not yield a reasonable return or there could not be any beneficial use of the property without the variance.

Relocating existing all overhead utilities imposes a significant cost burden to the project.

B. Explain whether the variance is insubstantial:

The building's setback enhances the pedestrian experience along Cedar Road via ample sidewalks and landscaping that creates a buffer for pedestrians and adjacent to the new construction.

Explain whether the variance is the minimum necessary to make possible the reasonable use of the land:

All variances are as minimal as possible, and the development is designed to meet the Zoning Code's intentions. Additionally, comments from both the City of Cleveland Heights Planning Commission and Architecture Board of Review suggested setting the building back along Cedar Road.

C. Explain whether the essential character of the neighborhood would be substantially altered or adjoining properties would suffer a substantial detriment as a result of the variance.

The mixed-use district will be enhanced by the construction of this initiative. The building's location is located within a reasonable range of the neighboring structures (Cedar Lee Theatre at Lee/Cedar intersection and the Barber and Beauty Supply building to the site's west and Wendy's to the east).

D. Explain whether the variance would adversely affect the delivery of governmental service (e.g., water, sewer, garbage).

The development will not disturb services or access.

E. Did the applicant purchase the property without knowledge of the zoning restriction?

The property's allowable land-use zoning designation supports this type of development. The applicant has diligently worked with the City of Cleveland Heights Planning Department throughout the process to ensure the design meets the code's intention and has developed a design that requires relatively few variances.

F. Explain whether the special conditions or circumstances (listed in response to question A above) were a result of actions of the owner.

The special conditions outlined in Section A are all existing conditions. The owner's investment intends to enhance and improve each of the special conditions for the betterment of the entire Cedar Lee District.

G. Demonstrate whether the applicant's predicament feasibly can be resolved through a method other than variance (e.g., a zone-conforming but unworkable example).

Due to the development's infill nature, the configuration of the sites, and desire to create new living options for Cleveland Heights, other methods are infeasible. The applicant has studied various alternate solutions, such as reducing the buildings' sizes. However, those scenarios detract from the development's marketability, construction feasibility, and overall impact to the City.

H. Explain whether the spirit and intent behind the zoning requirement would be observed and/or substantial justice done by granting the variance.

The current land-use and zoning designations: Cedar-Lee site (C2-X Multiple Use) and Meadowbrook site (C2-X Multiple Use) and their associated attributes (Lot Areas, Allowable Heights, Design Standards, etc.) promote mixed-use / multi-family development on these sites. Additionally, the City's previous designation of the sites as prime development sites are outlined in various master plans, the Cedar-Lee District (SID) TLCI plan, and prior request for proposals / development attempts. The applicant's proposed use and design aligns with the City's vision for the parcels and will contribute to the Cedar-Lee District and City of Cleveland Heights.

I. Explain whether the granting of the variance requested will or will not confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.

The requested minimal variances do not grant special privilege to the applicant and would be required for reasonable redevelopment of site (notably, the type of development identified in the City's land-use plan and required via zoning code use category). Due to the District's built-out nature, a majority of land-uses, building forms, and building sites are consistent with traditional mixed-use commercial districts. Existing buildings establish strong 'build-to' lines that create and define the public rights-of-way, which the proposed development aims to enforce and strengthen. Additionally, the proposed building heights and requested variances (notably, the upper floor setbacks and yard setbacks) do not apply to the current buildings / districts, as they are an existing condition.

C. 1166.05(b): Landscaping Setback Buffer (Cedar) Front Yard setback exceeding 10' requires landscape buffer

Variance requested: Proposed combination of landscaped areas (6' planted area to delineate sidewalk paths and landscaped areas between 2' and 3' adjacent to the building). Variance requested is to allow this combination approach, resulting in 8' to 9' landscaped area (in aggregate) rather than a continuous 10' landscape buffer.

Code Intent Alignment: Development provides 6' wide planting beds as part of the streetscape design, and 2'-3' planting beds where possible along the building face to provide a landscape buffer. This creates the opportunity to provide street trees, ornamental grasses and a range of native perennials along the Cedar Road frontage of the building.

Practical Difficulty: The proposed in-ground planting beds are located 5'-6" from Cedar Road, to limit salt damage to plants and provide a healthier growing environment. As Cedar Road is a busy thoroughfare, we are also providing a pedestrian path closer to the building that is buffered by landscaping adjacent to the building's base. Because this is a mixed-use building, a paved space to support potential outdoor seating for retail uses is provided. Variations in the building façade create sections where there is not space for a landscape bed at the edge of the building.

Statement of Practical Difficulty from City of Cleveland Heights Board of Zoning Appeals Application

A. Explain special conditions or circumstances that exist to which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same Zoning District. (examples of this are: exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to nonconforming and inharmonious uses, structures or conditions):

Cedar Road's busy / traffic nature requires special attention paid to the pedestrian experience, especially considering the proximity to the high school.

Explain how the property in question would not yield a reasonable return or there could not be any beneficial use of the property without the variance.

The ground floor retail / commercial space's final use is not determined and its marketability is greatly improved if outdoor dining is available. If that ability is eliminated, the viability of the leasable space diminished. Additionally, locating landscaped areas closer to Cedar Road will challenge their health, as the corridor is highly trafficked and salted.

B. Explain whether the variance is insubstantial:

The building's location is consistent with the district context and ground floor uses are consistent with / enhances the district's mixed-use nature.

Explain whether the variance is the minimum necessary to make possible the reasonable use of the land:

All variances are as minimal as possible, and the development is designed to meet the Zoning Code's intentions. Additionally, comments from both the City of Cleveland Heights Planning Commission and Architecture Board of Review suggested setting the building back along Cedar Road.

C. Explain whether the essential character of the neighborhood would be substantially altered or adjoining properties would suffer a substantial detriment as a result of the variance.

The mixed-use district will be enhanced by the construction of this initiative. The building's overall massing and scale creates a recognizable transition between the mixed-use nature of Cedar Road and provides an enhanced pedestrian experience compared to existing conditions.

D. Explain whether the variance would adversely affect the delivery of governmental service (e.g., water, sewer, garbage).

The development will not disturb services or access.

E. Did the applicant purchase the property without knowledge of the zoning restriction?

The property's allowable land-use zoning designation supports this type of development. The applicant has diligently worked with the City of Cleveland Heights Planning Department throughout the process to ensure the design meets the code's intention and has developed a design that requires relatively few variances.

F. Explain whether the special conditions or circumstances (listed in response to question A above) were a result of actions of the owner.

The special conditions outlined in Section A are all existing conditions. The owner's investment intends to enhance and improve each of the special conditions for the betterment of the entire Cedar Lee District.

G. Demonstrate whether the applicant's predicament feasibly can be resolved through a method other than variance (e.g., a zone-conforming but unworkable example).

Due to the development's infill nature, the configuration of the sites, and desire to create new living options for Cleveland Heights, other methods are infeasible. The applicant has studied various alternate solutions, such as reducing the buildings' sizes. However, those scenarios detract from the development's marketability, construction feasibility, and overall impact to the City.

H. Explain whether the spirit and intent behind the zoning requirement would be observed and/or substantial justice done by granting the variance.

The current land-use and zoning designations: Cedar-Lee site (C2-X Multiple Use) and Meadowbrook site (C2-X Multiple Use) and their associated attributes (Lot Areas, Allowable Heights, Design Standards, etc.) promote mixed-use / multi-family development on these sites. Additionally, the City's previous designation of the sites as prime development sites are outlined in various master plans, the Cedar-Lee District (SID) TLCI plan, and prior request for proposals / development attempts. The applicant's proposed use and design aligns with the City's vision for the parcels and will contribute to the Cedar-Lee District and City of Cleveland Heights.

I. Explain whether the granting of the variance requested will or will not confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.

The requested minimal variances do not grant special privilege to the applicant and would be required for reasonable redevelopment of site (notably, the type of development identified in the City's land-use plan and required via zoning code use category). Due to the District's built-out nature, a majority of land-uses, building forms, and building sites are consistent with traditional mixed-use commercial districts. Existing buildings establish strong 'build-to' lines that create and define the public rights-of-way, which the proposed development aims to enforce and strengthen. Additionally, the proposed building heights and requested variances (notably, the upper floor setbacks and yard setbacks) do not apply to the current buildings / districts, as they are an existing condition.

Meadowbrook Site (Building #2)

D. 1131.14(g)(4): Upper Floor Setback (Tullamore) Half of each building face along a public street on the building's top floor shall be back at least 8' from the building's setback at street level if the building's height exceeds 45'

Variance Requested: Eliminate upper floor step back requirement

Code Intent Alignment: The proposed development's Tullamore Road's elevation exceeds the 45' height limit for a very limited portion of the building. Measuring from the Lee Road façade, the Tullamore elevation exceeds 45' (max. height from grade is approximately 48') for only the first 72 lineal feet (of approximately 232') of the Tullamore elevation. Because of the rising street / grade and stepping the building's height down, the balance of the building is below the 45' threshold measured from grade. The average height of the roof coping, measured from Tullamore grade is 42'-6". Of the 72 lineal feet that extends above 45' in height, approximately 7'-4" is setback approximately 20'. The size and scale of the overall proposed development appropriately responds to its context. See attached diagram for reference.

Statement of Practical Difficulty Summary: The proposed development balances unit areas and outdoor (decks / balconies) as best as possible. Stepping back the top floor creates constructability (notably, waterproofing) issues as well as reduced buildable square footage.

Statement of Practical Difficulty from City of Cleveland Heights Board of Zoning Appeals Application

A. Explain special conditions or circumstances that exist to which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same Zoning District. (examples of this are: exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to nonconforming and inharmonious uses, structures or conditions):

The surrounding context, notably Cleveland Heights High School, Cedar Lee Theatre and the District Parking Garage all establish context that support this project's scale. Portions of the upper floor at setback, however, that setback does not meet the zoning code along Tullamore. The building does setback along Lee Road (primary elevation) and is compliant with the zoning code.

Explain how the property in question would not yield a reasonable return or there could not be any beneficial use of the property without the variance.

Stepping in the upper floor creates additional construction costs due to increased building structure, the mis-alignment / stacking of living units, and reduces the overall leasable area.

B. Explain whether the variance is insubstantial:

The building's design, including stepping down in height towards Tullamore and the rising grade of the street, creates a minimal impact of this variance. Additionally, design intention is to articulate the façade to transition to the residential neighborhood by treating the Tullamore elevation as a series of 'townhomes' rather than a large multi-family building, including ground-floor entrances, front stoops / steps, and small residential forecourts / yards.

Explain whether the variance is the minimum necessary to make possible the reasonable use of the land:

All variances are as minimal as possible, and the development is designed to meet the Zoning Code's intentions.

C. Explain whether the essential character of the neighborhood would be substantially altered or adjoining properties would suffer a substantial detriment as a result of the variance.

The mixed-use district will be enhanced by the construction of this initiative. The building's overall massing and scale creates a recognizable transition between the mixed-use nature of Lee Road and the residential character of Tullamore.

D. Explain whether the variance would adversely affect the delivery of governmental service (e.g., water, sewer, garbage).

The development will not disturb services or access.

E. Did the applicant purchase the property without knowledge of the zoning restriction?

The property's allowable land-use zoning designation supports this type of development. The applicant has diligently worked with the City of Cleveland Heights Planning Department throughout the process to ensure the design meets the code's intention and has developed a design that requires relatively few variances.

F. Explain whether the special conditions or circumstances (listed in response to question A above) were a result of actions of the owner.

The special conditions outlined in Section A are all existing conditions. The owner's investment intends to enhance and improve each of the special conditions for the betterment of the entire Cedar Lee District.

G. Demonstrate whether the applicant's predicament feasibly can be resolved through a method other than variance (e.g., a zone-conforming but unworkable example).

Due to the development's infill nature, the configuration of the sites, and desire to create new living options for Cleveland Heights, other methods are infeasible. The applicant has studied various alternate solutions, such as reducing the buildings' sizes. However, those scenarios detract from the development's marketability, construction feasibility, and overall impact to the City.

H. Explain whether the spirit and intent behind the zoning requirement would be observed and/or substantial justice done by granting the variance.

The current land-use and zoning designations: Cedar-Lee site (C2-X Multiple Use) and Meadowbrook site (C2-X Multiple Use) and their associated attributes (Lot Areas, Allowable Heights, Design Standards, etc.) promote mixed-use / multi-family development on these sites. Additionally, the City's previous designation of the sites as prime development sites are outlined in various master plans, the Cedar-Lee District (SID) TLCI plan, and prior request for proposals / development attempts. The applicant's proposed use and design aligns with the City's vision for the parcels and will contribute to the Cedar-Lee District and City of Cleveland Heights.

I. Explain whether the granting of the variance requested will or will not confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.

The requested minimal variances do not grant special privilege to the applicant and would be required for reasonable redevelopment of site (notably, the type of development identified in the City's land-use plan and required via zoning code use category). Due to the District's built-out nature, a majority of land-uses, building forms, and building sites are consistent with traditional mixed-use commercial districts. Existing buildings establish strong 'build-to' lines that create and define the public rights-of-way, which the proposed development aims to enforce and strengthen. Additionally, the proposed building heights and requested variances (notably, the upper floor setbacks and yard setbacks) do not apply to the current buildings / districts, as they are an existing condition.

E. 1131.14(f): Front Yard Setback (Lee) Allowable setback 0-10'

Variance Requested: Proposed setback is 16'-5"; variance requested is 6'-5" (16'-5" less 10' allowable max setback)

Code Intent Alignment: Building is sited to directly correlate to adjacent existing building frontages, extending the District's 'build-to' lines through the site.

Statement of Practical Difficulty Summary: Property line / ROW is abnormally located, creating an atypical scenario. ROW is located towards Lee Road, resulting in majority of the sidewalk and portions of the GCRTA pull-off to be located on development site. If the property line were positioned in a typical location (face of adjacent buildings is standard / expected), the proposed building location meets code (approximate 4'-11" setback from building line of adjacent block, as noted on the dimensioned site plan).

Statement of Practical Difficulty from City of Cleveland Heights Board of Zoning Appeals Application

A. Explain special conditions or circumstances that exist to which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same Zoning District. (examples of this are: exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to nonconforming and inharmonious uses, structures or conditions):

The existing Lee Road right-of-way location is atypical. This creates a circumstance where the sidewalk and portion of Lee Road is outside the public right-of-way.

Explain how the property in question would not yield a reasonable return or there could not be any beneficial use of the property without the variance.

The building is located within appropriate setback range of its immediate neighbors (see drawing package). Meeting the setback requirement would result in constructing the building closer to Lee Road than any other building in the district, and likely result in an unusable sidewalk.

B. Explain whether the variance is insubstantial:

The building's location is consistent with the district context.

Explain whether the variance is the minimum necessary to make possible the reasonable use of the land:

All variances are as minimal as possible, and the development is designed to meet the Zoning Code's intentions.

C. Explain whether the essential character of the neighborhood would be substantially altered or adjoining properties would suffer a substantial detriment as a result of the variance.

The mixed-use district will be enhanced by the construction of this initiative. The building's overall massing and scale creates a recognizable transition between the mixed-use nature of Lee Road and the residential character of Tullamore.

D. Explain whether the variance would adversely affect the delivery of governmental service (e.g., water, sewer, garbage).

The development will not disturb services or access.

E. Did the applicant purchase the property without knowledge of the zoning restriction?

The property's allowable land-use zoning designation supports this type of development. The applicant has diligently worked with the City of Cleveland Heights Planning Department throughout the process to ensure the design meets the code's intention and has developed a design that requires relatively few variances.

F. Explain whether the special conditions or circumstances (listed in response to question A above) were a result of actions of the owner.

The special conditions outlined in Section A are all existing conditions. The owner's investment intends to enhance and improve each of the special conditions for the betterment of the entire Cedar Lee District.

G. Demonstrate whether the applicant's predicament feasibly can be resolved through a method other than variance (e.g., a zone-conforming but unworkable example).

Due to the development's infill nature, the configuration of the sites, and desire to create new living options for Cleveland Heights, other methods are infeasible. The applicant has studied various alternate solutions, such as reducing the buildings' sizes. However, those scenarios detract from the development's marketability, construction feasibility, and overall impact to the City.

H. Explain whether the spirit and intent behind the zoning requirement would be observed and/or substantial justice done by granting the variance.

The current land-use and zoning designations: Cedar-Lee site (C2-X Multiple Use) and Meadowbrook site (C2-X Multiple Use) and their associated attributes (Lot Areas, Allowable Heights, Design Standards, etc.) promote mixed-use / multi-family development on these sites. Additionally, the City's previous designation of the sites as prime development sites are outlined in various master plans, the Cedar-Lee District (SID) TLCI plan, and prior request for proposals / development attempts. The applicant's proposed use and design aligns with the City's vision for the parcels and will contribute to the Cedar-Lee District and City of Cleveland Heights.

I. Explain whether the granting of the variance requested will or will not confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.

The requested minimal variances do not grant special privilege to the applicant and would be required for reasonable redevelopment of site (notably, the type of development identified in the City's land-use plan and required via zoning code use category). Due to the District's built-out nature, a majority of land-uses, building forms, and building sites are consistent with traditional mixed-use commercial districts. Existing buildings establish strong 'build-to' lines that create and define the public rights-of-way, which the proposed development aims to enforce and strengthen. Additionally, the proposed building heights and requested variances (notably, the upper floor setbacks and yard setbacks) do not apply to the current buildings / districts, as they are an existing condition.

F. 1131.14(f): Rear Yard Setback (Tullamore) Minimum setback required is 20' to Residential District

Variance Requested: Proposed setback is 7'-0"; variance requested is 13'-0" (20' max setback less proposed setback)

Code Intent Alignment: Required setbacks are to ensure non-residential development does not have a negative impact on adjacent residential districts. The proposed land-use is residential, and the new building's use along Tullamore is residential, creating the same intended and adjacent use. The proposed building's arrangement also reacts to Tullamore's grading and the residential property (located at 3216 Tullamore Road). 3216 Tullamore sits on top of a rise in grade, that further elevates its presence, and the existing driveway is west (between the proposed development and the existing home), providing additional space and relief. The approximate distance (26'-2") between the proposed development and the house exceeds the 20' setback requirement. In examining the existing setbacks between typical homes along Tullamore (between Lee Road and Goodnor Road), the average distance between home is approximately between 11' and 14' (depending on the curvature of the road). Lastly, the last units / bay of the proposed building set back an additional 5' to better relate to the neighboring parcel.

Statement of Practical Difficulty Summary: Due to the irregular shape of the Meadowbrook parcel and the site's topography (approximate 14' fall along Tullamore towards Lee Road), the building must be sited to provide ground floor access close to the Lee and Tullamore intersection. Additionally, the building must be located within an appropriate setback along Lee Road to meet the Front Yard Setback intent. In doing so, the building's units and layout require the building to extend beyond the code's requirement. The building's design addresses the zoning code intent in multiple ways: holds back from the Tullamore ROW to provide a better transition and relation to the residential neighborhood, the last unit (bay) of the building steps back from the

provides ground floor entrances, and steps down in height. The building's last bay is reduced to an effective two-story height adjacent to 3216 Tullamore. The proposed building's height in this location (measured from grade) is approximately 26', in comparison to 3216 Tullamore's approximate height of 30' (peak of the pitched roof). The development has intentionally reduced the number of units along Tullamore to meet the code's intent.

Statement of Practical Difficulty from City of Cleveland Heights Board of Zoning Appeals Application

A. Explain special conditions or circumstances that exist to which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same Zoning District. (examples of this are: exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to nonconforming and inharmonious uses, structures or conditions):

The Meadowbrook site's steep topography and irregular shape require the design to adapt to the Tullamore grading / slope. Additionally, the site's existing utility easement (AT&T) reduces the overall site's ability to be developed.

Explain how the property in question would not yield a reasonable return or there could not be any beneficial use of the property without the variance.

The building's development is challenged if it needs to reduce its scale and size. The development includes various unit types that would be compromised if they need to reduce in size or if they are eliminated to make the building smaller, reducing the variety of new living options the development brings to the City of Cleveland Heights.

B. Explain whether the variance is insubstantial:

The building's location is consistent with the district context and intentional design strategies have been employed to create an appropriate transition between the mixed-use district (along Lee Road) and residential neighborhood (along Tullamore).

Explain whether the variance is the minimum necessary to make possible the reasonable use of the land:

All variances are as minimal as possible, and the development is designed to meet the Zoning Code's intentions.

C. Explain whether the essential character of the neighborhood would be substantially altered or adjoining properties would suffer a substantial detriment as a result of the variance.

The building's overall massing and scale creates a sensitive transition between the mixed-use nature of Lee Road and the residential character of Tullamore. Additionally, the new building's land-use along Tullamore is residential, matching the adjacent district. For these reasons, combined with the design strategy of stepping down the building's height (to be shorter than the neighboring residential properties) and setting the building back from the public right-of-way (last bay steps back an additional 5'), create an appropriate transition.

D. Explain whether the variance would adversely affect the delivery of governmental service (e.g., water, sewer, garbage).

The development will not disturb services or access.

E. Did the applicant purchase the property without knowledge of the zoning restriction?

The property's allowable land-use zoning designation supports this type of development. The applicant has diligently worked with the City of Cleveland Heights Planning Department throughout the process to ensure the design meets the code's intention and has developed a design that requires relatively few variances.

F. Explain whether the special conditions or circumstances (listed in response to question A above) were a result of actions of the owner.

The special conditions outlined in Section A are all existing conditions. The owner's investment intends to enhance and improve each of the special conditions for the betterment of the entire Cedar Lee District.

G. Demonstrate whether the applicant's predicament feasibly can be resolved through a method other than variance (e.g., a zone-conforming but unworkable example).

Due to the development's infill nature, the configuration of the sites, and desire to create new living options for Cleveland Heights, other methods are infeasible. The applicant has studied various alternate solutions, such as reducing the buildings' sizes. However, those scenarios detract from the development's marketability, construction feasibility, and overall impact to the City.

H. Explain whether the spirit and intent behind the zoning requirement would be observed and/or substantial justice done by granting the variance.

The current land-use and zoning designations: Cedar-Lee site (C2-X Multiple Use) and Meadowbrook site (C2-X Multiple Use) and their associated attributes (Lot Areas, Allowable Heights, Design Standards, etc.) promote mixed-use / multi-family development on these sites. Additionally, the City's previous designation of the sites as prime development sites are outlined in various master plans, the Cedar-Lee District (SID) TLCI plan, and prior request for proposals / development attempts. The applicant's proposed use and design aligns with the City's vision for the parcels and will contribute to the Cedar-Lee District and City of Cleveland Heights.

I. Explain whether the granting of the variance requested will or will not confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.

The requested minimal variances do not grant special privilege to the applicant and would be required for reasonable redevelopment of site (notably, the type of development identified in the City's land-use plan and required via zoning code use category). Due to the District's built-out nature, a majority of land-uses, building forms, and building sites are consistent with traditional mixed-use commercial districts. Existing buildings establish strong 'build-to' lines that create and define the public rights-of-way, which the proposed development aims to enforce and strengthen. Additionally, the proposed building heights and requested variances (notably, the upper floor setbacks and yard setbacks) do not apply to the current buildings / districts, as they are an existing condition.

G. 1131.075(a): Glazing facing public street (Tullamore) A wall facing a public street must provide windows along at least 60% of its lineal frontage at street level

Variance Requested: Proposed design provides approximately 52.3% of windows along the Tullamore Road lineal frontage at street level. Variance requested is 7.7% (52.3% provided less the required 60% lineal calculation)

Code Intent Alignment: The proposed building's design creates a series of ground floor residential units to best transition between the commercial district and the residential neighborhood. The building's design includes townhome vernacular / massing.

Statement of Practical Difficulty Summary: The ground floor units require entry doors and a limited amount of ground floor windows for access and privacy. The design is consistent with typical townhome design.

Statement of Practical Difficulty from City of Cleveland Heights Board of Zoning Appeals Application

A. Explain special conditions or circumstances that exist to which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same Zoning District. (examples of this are: exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to nonconforming and inharmonious uses, structures or conditions):

The mixed-use nature of the Cedar Lee District transitions into a residential neighborhood along Tullamore Road. The building site serves as a link between the two development patterns and characteristics. Creating ground floor units activates Tullamore while providing a recognizable transition between the mixed-use façade (Lee Road) and the single-family homes further up Tullamore.

Explain how the property in question would not yield a reasonable return or there could not be any beneficial use of the property without the variance.

Providing ground floor units along Tullamore aids in the overall development's compliance with its context. Furthermore, it is inappropriate to include ground floor units with large storefront windows / glazing (as required by code) as it detracts from the units' livability and competes with the transitional approach of the development.

B. Explain whether the variance is insubstantial:

The design intention is to articulate the façade to transition to the residential neighborhood by treating the Tullamore elevation as a series of 'townhomes' rather than a large multi-family building, including ground-floor entrances, front stoops / steps, and small residential forecourts / yards. We believe the variance supports this approach and is not a departure from design / code intent.

Explain whether the variance is the minimum necessary to make possible the reasonable use of the land:

All variances are as minimal as possible, and the development is designed to meet the Zoning Code's intentions. Additionally, comments from both the City of Cleveland Heights Planning Commission and Architecture Board of Review supported the approach of transitioning between the mixed-use district and the residential neighborhood.

C. Explain whether the essential character of the neighborhood would be substantially altered or adjoining properties would suffer a substantial detriment as a result of the variance.

The mixed-use district will be enhanced by the construction of this initiative. The building's overall massing and scale creates a recognizable transition between the mixed-use nature of Lee Road and the residential character of Tullamore.

D. Explain whether the variance would adversely affect the delivery of governmental service (e.g., water, sewer, garbage).

The development will not disturb services or access.

E. Did the applicant purchase the property without knowledge of the zoning restriction?

The property's allowable land-use zoning designation supports this type of development. The applicant has diligently worked with the City of Cleveland Heights Planning Department throughout the process to ensure the design meets the code's intention and has developed a design that requires relatively few variances.

F. Explain whether the special conditions or circumstances (listed in response to question A above) were a result of actions of the owner.

The special conditions outlined in Section A are all existing conditions. The owner's investment intends to enhance and improve each of the special conditions for the betterment of the entire Cedar Lee District.

G. Demonstrate whether the applicant's predicament feasibly can be resolved through a method other than variance (e.g., a zone-conforming but unworkable example).

Due to the development's infill nature, the configuration of the sites, and desire to create new living options for Cleveland Heights, other methods are infeasible. The applicant has studied various alternate solutions, such as reducing the buildings' sizes. However, those scenarios detract from the development's marketability, construction feasibility, and overall impact to the City.

H. Explain whether the spirit and intent behind the zoning requirement would be observed and/or substantial justice done by granting the variance.

The current land-use and zoning designations: Cedar-Lee site (C2-X Multiple Use) and Meadowbrook site (C2-X Multiple Use) and their associated attributes (Lot Areas, Allowable Heights, Design Standards, etc.) promote mixed-use / multi-family development on these sites. Additionally, the City's previous designation of the sites as prime development sites are outlined in various master plans, the Cedar-Lee District (SID) TLCI plan, and prior request for proposals / development attempts. The applicant's proposed use and design aligns with the City's vision for the parcels and will contribute to the Cedar-Lee District and City of Cleveland Heights.

I. Explain whether the granting of the variance requested will or will not confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.

The requested minimal variances do not grant special privilege to the applicant and would be required for reasonable redevelopment of site (notably, the type of development identified in the City's land-use plan and required via zoning code use category). Due to the District's built-out nature, a majority of land-uses, building forms, and building sites are consistent with traditional mixed-use commercial districts. Existing buildings establish strong 'build-to' lines that create and define the public rights-of-way, which the proposed development aims to enforce and strengthen. Additionally, the proposed building heights and requested variances (notably, the upper floor setbacks and yard setbacks) do not apply to the current buildings / districts, as they are an existing condition.

H. 1166.05(b): Landscaping Setback Buffer (Lee) Front Yard setback exceeding 10' requires landscape buffer

Variance Requested: Eliminate landscape buffer requirement entirely along Lee Road

Code Intent Alignment: Proposed ground floor retail / commercial space will activate the sidewalk area and potentially include out-door dining areas. This contributes to the vitality of the Cedar Lee District and is consistent with other retail establishments along the corridor.

Statement of Practical Difficulty Summary: Most potential ground floor tenants will demand the ability to include outdoor dining. If that option is not offered, we will potentially eliminate likely uses / tenants.

Statement of Practical Difficulty from City of Cleveland Heights Board of Zoning Appeals Application

A. Explain special conditions or circumstances that exist to which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same Zoning District. (examples of this are: exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to nonconforming and inharmonious uses, structures or conditions):

The existing Lee Road right-of-way location is atypical. This creates a circumstance where the sidewalk and portion of Lee Road is outside the public right-of-way. Additionally, the district is full of ground floor retail / commercial / restaurant uses that utilize outdoor / sidewalk dining areas.

Explain how the property in question would not yield a reasonable return or there could not be any beneficial use of the property without the variance.

The ground floor retail / commercial space's final use is not determined and its marketability is greatly improved if outdoor dining is available. If that ability is eliminated, not only does the viability of the leasable space diminish, a unique (only occurring at this location within the district) front-yard landscaped area is created, which creates a conflict with overall development patterns.

B. Explain whether the variance is insubstantial:

The building's location is consistent with the district context and ground floor uses are consistent with / enhances the district's mixed-use nature.

Explain whether the variance is the minimum necessary to make possible the reasonable use of the land:

All variances are as minimal as possible, and the development is designed to meet the Zoning Code's intentions. Additionally, comments from both the City of Cleveland Heights Planning Commission and Architecture Board of Review suggested setting the building back along Cedar Road.

C. Explain whether the essential character of the neighborhood would be substantially altered or adjoining properties would suffer a substantial detriment as a result of the variance.

The mixed-use district will be enhanced by the construction of this initiative. The building's overall massing and scale creates a recognizable transition between the mixed-use nature of Lee Road and the residential character of Tullamore.

D. Explain whether the variance would adversely affect the delivery of governmental service (e.g., water, sewer, garbage).

The development will not disturb services or access.

E. Did the applicant purchase the property without knowledge of the zoning restriction?

The property's allowable land-use zoning designation supports this type of development. The applicant has diligently worked with the City of Cleveland Heights Planning Department throughout the process to ensure the design meets the code's intention and has developed a design that requires relatively few variances.

F. Explain whether the special conditions or circumstances (listed in response to question A above) were a result of actions of the owner.

The special conditions outlined in Section A are all existing conditions. The owner's investment intends to enhance and improve each of the special conditions for the betterment of the entire Cedar Lee District.

G. Demonstrate whether the applicant's predicament feasibly can be resolved through a method other than variance (e.g., a zone-conforming but unworkable example).

Due to the development's infill nature, the configuration of the sites, and desire to create new living options for Cleveland Heights, other methods are infeasible. The applicant has studied various alternate solutions, such as reducing the buildings' sizes. However, those scenarios detract from the development's marketability, construction feasibility, and overall impact to the City.

H. Explain whether the spirit and intent behind the zoning requirement would be observed and/or substantial justice done by granting the variance.

The current land-use and zoning designations: Cedar-Lee site (C2-X Multiple Use) and Meadowbrook site (C2-X Multiple Use) and their associated attributes (Lot Areas, Allowable Heights, Design Standards, etc.) promote mixed-use / multi-family development on these sites. Additionally, the City's previous designation of the sites as prime development sites are outlined in various master plans, the Cedar-Lee District (SID) TLCI plan, and prior request for proposals / development attempts. The applicant's proposed use and design aligns with the City's vision for the parcels and will contribute to the Cedar-Lee District and City of Cleveland Heights.

I. Explain whether the granting of the variance requested will or will not confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.

The requested minimal variances do not grant special privilege to the applicant and would be required for reasonable redevelopment of site (notably, the type of development identified in the City's land-use plan and required via zoning code use category). Due to the District's built-out nature, a majority of land-uses, building forms, and building sites are consistent with traditional mixed-use commercial districts. Existing buildings establish strong 'build-to' lines that create and define the public rights-of-way, which the proposed development aims to enforce and strengthen. Additionally, the proposed building heights and requested variances (notably, the upper floor setbacks and yard setbacks) do not apply to the current buildings / districts, as they are an existing condition.