

CAL NO 3573 STATEMENT OF PRACTICAL DIFFICULTY

To obtain a variance, an applicant must show by a preponderance of the evidence, to the satisfaction of the Board of Zoning Appeals (BZA), that strictly adhering to the Zoning Code's standards would result in a "practical difficulty" for the applicant. To this end, a written statement of practical difficulty must accompany an application for a standard variance. Please complete this Statement of Practical Difficulty, **by addressing all of the factors listed below that are relevant to your situation.** Additional documents may be submitted as further proof.

In deciding whether to grant a variance, BZA will consider the following factors in determining whether a practical difficulty exists:

- A. Explain special conditions or circumstances that exist 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):

Variance A – 1131.04 – Lot Area Regulations: The property is vacant and has been owned by the city of Cleveland Heights for over 20 years. It consists of 6 parcels totaling 2.19 acres that have not yet been consolidated. This is due to the need to subdivide the property into 2 parcels, the primary one being Parcel A which is intended to accommodate the proposed multifamily apartment development shown on the site plan.

The full property configuration is highly irregular in shape and is unnecessary to properly plan the project. The area of Parcel A is 1.86 acres, and at 52 dwelling units is at 1,558.10 sf/unit, very close to meeting the recommended 1,740 sf/unit per the zoning code. The remaining small Parcel B, at .33 acres, does not contribute to the development and has mature trees that would require removal to connect to the project. For these reasons, cost considerations, and the strong desire of the community to reserve Parcel B for other residential development on Woodview Road, a practical difficulty exists requiring the pursuit of Variance A.

Variance B – 1161.11 – Parking Space Size: The project has been carefully planned to properly site the building, meet the desired parking needs, and provide for outdoor public space, while retaining as many mature trees as possible. The resident parking lot is designed at an appropriate width of 60' to each face of curb. The drive aisle is 22' as required.

It is common these days to utilize 9' x 19' parking spaces as they encourage more responsible parking by the users pulling forward and avoiding extending into the aisle. Also, striping the spaces at a 20' depth would add 2' of asphalt width by the length of the parking lot increasing the impervious surface, reducing green space, and jeopardizing the health of mature trees. We find the unnecessary nature of these considerations to present a practical difficulty to the residents quality of life.

Variance C – 1166.6 – Parking Lot Landscaping: The parking lot described in Variance B is narrow and relatively small in size. Keeping it compact and free of interior landscaping will allow it to accommodate the number of vehicles needed to meet our parking requirements.

As this lot has many mature trees to be retained on its perimeter, as well as additional new trees and landscaping, the parking lot will be appropriately screened and shaded. Also, a continuous bio-swale will be created along its western length with curb slots to release surface drainage into the swale for processing eliminating piping. Cutouts in the lot for trees would somewhat inhibit the free flow of stormwater and make snowplowing more difficult.

B. 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.

Investing in improvements to the unused property would add cost to the primary project and most certainly restrict its use for private development that would benefit and add value to the neighborhood.

C. Explain whether the variance is insubstantial:

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

In our opinion, these variances are indeed insubstantial and are the minimum necessary to make possible the reasonable use of the land

D. 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 variances will in no way alter the character of the neighborhood, be visually evident, or present a detriment. Indeed the variances as described above, will preserve trees, minimize paving, and provide for the proper planning and use of this property.

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

Governmental services will not be restricted or adversely affected as a result of these variances.

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

Both the seller and the buyer were aware that these type of variances might be required primarily due to the irregular shape of the property and desire to preserve as many existing trees as possible.

G. 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 were all pre-existing and not the result of actions of the owner.

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

Each of these variances are physical and dimensional in nature and result from the responsible desire to achieve good land use, plan appropriately, work with the existing property configuration and conditions. These could not be accomplished without these inter-related variances.

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

Most certainly, both the spirit and intent of the multifamily zoning is met by the variances and also enhanced as for the reasons stated in the above question.

J. 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.

No special privilege will be granted the applicant that would not be otherwise available for consideration to other property owners in the district.

If you have questions regarding the BZA or this application, please contact Planning & Development staff at 216.291.4878 or via email at bza@clevelandheights.gov.

The factors listed above can be found in Subsection 1115.07(e)(1) of the Cleveland Heights Zoning Code.