

## 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-** (1123.06) Lot area/Unit ~ The existing historic structure takes up most of the lot and is surrounded by other existing buildings. As it already exceeds the lot area/unit requirements it would not be possible to meet these requirements without the demolition of other adjacent structures.

**Variance B-** (1123.11) Building Height ~ The existing historic structure is currently over the MF-2 max allowable height.

**Variance C-** (1161.03) Parking ~ The Property contains a national historic registered and local landmarked structure, which has little opportunity for additional onsite parking. Additionally, the existing historic structure takes up most of the current lot area limiting any additional onsite parking.

- 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.

The property currently has unactivated units that cannot be utilized without a variance from the parking requirements due to the inability to create sufficient additional onsite parking without disturbing the character of the Property and, by extension, the neighborhood. Applicant is prepared to make substantial investments into the property to activate the unused units, which would bring additional residents to the Property and provide economic and non-economic returns to both the Property and surrounding businesses.

- C. Explain whether the variance is insubstantial:

Applicant believes that the variances are insubstantial due to the nature of the target demographics for the building and mitigating efforts that Applicant intends to pursue. Applicant targets residents who work in the area and tend to be more interested in a less car-dependent lifestyle. In addition, Applicant intends to make

use of a bike room, long term bike storage, and "house car" available for rent to provide residents with access to transportation. Should they be necessary, Applicant has secured rights to 20 offsite parking spaces that can be used by residents of the Property. These efforts will collectively work to mitigate any effects on neighboring properties.

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

Yes, the variances are necessary in order to activate the unutilized units at the property. Due to the inability to activate these units without the variances, it is the minimum necessary.

**E. 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 character of the neighborhood would not be altered, or adjoining properties impacted by the variances. Granting of the variance will help to preserve the essential character of the neighborhood by both providing additional opportunity for local workers to live in the immediate vicinity of their workplace and by avoiding more substantial renovations to an historic structure that would otherwise be needed to make full beneficial use of the Property. The variance would allow for additional residents in a currently-operating property that would promote the continued growth of the area. In addition, as described above, Applicant has secured rights to 20 offsite parking spaces and plans to incentivize occupants who do not have cars and offer a for-rent "house car" to mitigate any impact to adjoining properties from parking needs related to the increased unit count.

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

The variances would not adversely affect the delivery of governmental services. The property is already operating and, under its prior partial use as a hotel, previously supported a higher unit count than is now sought.

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

The applicant purchased the property with knowledge of the restrictions, but with plans to pursue the unit increase after developing an understanding of the day-to-day operation of the property. After a year of operating the property, Applicant understands how the existing residents utilize the current on-site garage and believes that the property can support the increased unit count without impacting existing units or the surrounding areas based on the mitigation efforts described. Owning the property for this period has permitted the Owner to make a more

informed proposal as opposed to pursuing the variance prior to acquisition without the necessary operational knowledge of the Property.

**H. 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 or circumstances are not a result of the actions of the Owner.

**I. 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).**

It cannot. As described above, the national historic registered and local landmarked structure on the property has little opportunity for additional onsite parking. Attempting to add additional onsite parking, even if feasible, would be detrimental to the overall character of the property and the neighborhood.

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

Yes, due to Applicant's mitigating efforts to avoid any impacts on neighboring properties, the intent of the requirement would be observed. The parking count requirement is in place to ensure that specific properties do not monopolize area parking to the detriment of the overall neighborhood. The applicant is confident that will not occur as described above, meaning that the benefits to both the Property and the neighborhood of the increased resident count should be promoted and pursued.

**K. 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.**

There would not be any special privilege granted by the variances over others in the same district. Because of the fact that these are pre-existing unactivated units and due to Applicant's mitigating efforts to limit any adverse impacts, the variances would not be detrimental to the character of the neighborhood or the rights of other property owners as it may otherwise be.

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](mailto:bza@clevelandheights.gov).

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