

## **BZA: STANDARD VARIANCE**

## **INFORMATION**

City of Cleveland Heights

Application available at [www.citizenserve.com/clevelandheights](http://www.citizenserve.com/clevelandheights)

Contact: [BZA@clevelandheights.gov](mailto:BZA@clevelandheights.gov) or 216-291-4878

Prospective applicants are strongly advised to consult with Planning & Development Department staff before applying.

There are some instances in which a Cleveland Heights property owner, due to unusual conditions on his or her property, may request a variance from strict adherence to the standards of the Zoning Code. Variances are reviewed and acted upon by the Board of Zoning Appeals (BZA). To obtain a variance, an applicant must demonstrate, to the BZA's satisfaction, that literal enforcement of the Zoning Code result in a "practical difficulty" for the applicant. The factors to be considered in determining whether a practical difficulty exists are listed below. It is not necessary for the Board to find that all the listed factors apply but applicant should discuss as many factors as possible. BZA meetings are held on the third Wednesday of each month, with some adjustments for holidays, at 7:00 p.m. Applications are due on the third Wednesday of the preceding month.

### **Board of Zoning Appeals Meeting**

Meetings are held on the third Wednesday of each month at 7:00pm at City Hall, in Council Chambers, unless otherwise indicated. Applications are due by 5:00 p.m. on the third Wednesday of the previous month, unless otherwise indicated. The applicant or the applicant's representative must be present at the meeting. During the public hearing, City staff will make a presentation summarizing the requested variance and applicable zoning regulations. City staff may also present neighborhood and historical context. The applicant then will have the burden to demonstrate to BZA that the literal enforcement of the Zoning Code will result in practical difficulties. The factors that BZA may consider are provided below. Applicants should demonstrate as many factors as possible by discussing facts that relate to those factors. Staff can provide samples, as needed. Neighbors, who will be notified in advance of the hearing by mail, and other interested parties will have the opportunity to participate during the public-hearing portion of the BZA meeting. BZA may grant or deny the variance, or it may postpone deciding to consider or seek additional information. It is BZA's responsibility to make decisions based on the preponderance of the evidence presented within the framework of factors established by the Zoning Code.

### **Statement of Practical Difficulty**

In deciding whether to grant a variance, BZA will consider the following factors in determining whether a practical difficulty exists, which can be found in Subsection 1115.07(e)(1) of the Cleveland Heights Zoning Code:

- 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.)
- 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.
- C. Explain whether the variance is insubstantial.
- D. Explain whether the variance is the minimum necessary to make possible the reasonable use of the land.
- 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.
- F. Explain whether the variance would adversely affect the delivery of governmental service (e.g., water, sewer, garbage.)
- G. Did the applicant purchase the property without knowledge of the zoning restriction?
- H. Explain whether the special conditions or circumstances (listed in response to question A above) were a result of 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.)
- J. Explain whether the spirit and intent behind the zoning requirement would be observed and/or substantial justice done by granting the variance.
- K. Explain whether the granting of the variance requested will or will not confer on the applicant any special