



CLEVELAND  
HEIGHTS

Calendar number \_\_\_\_\_

**BRIEF SUMMARY OF NONCONFORMING USE EXPANSION OF USE TO  
OCCUPY A GREATER AREA OF LAND REQUEST**

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True North Energy LLC, 2310 Lee Road, Cleveland Heights, OH

**STATEMENT OF HARDSHIP**

An applicant must show, to the satisfaction of the Board of Zoning Appeals (BZA), that strictly adhering to the Zoning Code's limitations on the use of his or her property, would result in an "unnecessary hardship." **Please complete this Statement of Hardship, by addressing all seven (7) of the criteria listed below.** Additional documents may be submitted as further proof.

BZA must determine that all seven (7) of the following criteria are met by the proposed use of the property that is the subject of the use variance request:

- A. Please explain why or how the property cannot be put to any economically viable use under any of the permitted uses in the zoning district without the expansion of use to occupy a greater area of land:

***The location has existed for many years (decades) under its present use. Like all business, it is important to stay relevant to an ever-changing marketplace and customer base. In a market such as Cleveland Heights, there are numerous quality shops and products and an expectation of a quality interior and products. In this case, we require more space to provide these and in an accessible and non-cluttered manner.***

- B. The expansion of use to occupy a greater area of land requested stems from a condition which is unique to the property at issue and not ordinarily found in the same zone or district This/these condition(s) is/are:

***Essentially as listed above this property must update and offer a newer, fresher interior to stay relevant to the expectations of the market place, failure to update often leads to a site of a lower quality than would be desired by the community's customer base.***

- C. The hardship condition is not created by actions of the applicant. The hardship condition is a result of:

***The higher expectations of customers and the need to compete against updated competition. Our existing conditions constrain development.***

- D. The granting of the expansion of use to occupy a greater area of land will not adversely affect the rights of adjacent property owners or residents; because

***We believe the project will provide a significant improvement to the property. The project will include a renovation of the site and the building's facade. Similar projects have significantly improved the appearance and the image of other True North sites and demonstrate a willingness to invest in our locations. The adjacent property owners will abut the same use but will abut a building with walls constructed of red clay brick vs. the existing painted concrete block. Fencing and landscaping will be upgraded. We believe the changes greatly improve the appearance of the building and the site at large. Please refer to the renderings.***

- E. The granting of the expansion of use to occupy a greater area of land will not adversely affect the public health, safety or general welfare; because

***The fuel business will still operate in the same manner, not adversely affecting public safety or general welfare. The exterior traffic patterns of customers and emergency vehicles will not be altered. Several interior changes will take place as a result of enlarging the building. Rest rooms will be updated to better meet ADA requirements. The food service area will be modernized with new NSF approved equipment. Plumbing and electrical systems will be upgraded to meet the latest building code standards.***

- F. The expansion of use to occupy a greater area of land will be consistent with the general spirit and intent of the Zoning Code; because

***The well-being of neighbors and the community have been considered while designing the proposed project, a primary goal of a good zoning code. We are requesting an increase in lot coverage from 11.0% to 14.8%, yet we provide the benefits of better architecture, landscaping, and security. We believe the upgrade of materials and property, under the same use and the same operator, will increase the value of the property and enhance our appearance. This will occur without a negative effect and therefore achieve the goals of a local ordinance.***

- G. Please explain how the expansion of use to occupy a greater area of land sought is the minimum which will afford relief to the applicant.

***As mentioned in the answers for A through F, the proposed request is needed to improve the property. It is a balancing act to increase the building area just enough to provide space for desired products and services. For the project to be viable, the increase in sales must support the cost of the project. We feel that we have found the size building that will allow us to provide what our customers want today, what we need to compete in the market, and position our business for the future. These goals do benefit the property, but they also allow us to continue to be a member of Cleveland Heights.***

STATEMENT OF PRACTICAL DIFFICULTY

A. The nature of our industry has changed creating new challenges for existing locations. Old locations often provided fueling with inside auto repairs. The buildings were as deep as the normal depth of an automobile plus a storage rack for tires. The locations did not seamlessly blend into neighborhoods, the auto repair aspect of the business was noisy and often made the site messy.

The new use combined with accessible features demand greater floor area to create a sustainable operation. Locations that do not update often close. The lot depth is further retrained as this use has greater vehicular traffic patterns in front of a building which causes the need for greater lot depth or a lessening of the rear yard setback to achieve the same.

B. As the location presently sets, it has maximized its use and cannot provide any further benefit to the operation of inside store sales, product offering to its customer base, and is presently unattractive inside and outside. The improvement offers the necessary increase in profit margin to finance a whole building improvement, inside and outside that creates a new and improved image.

C.1 The variance is insubstantial as the encroachment does not occur to the immediate adjacency of the neighboring structure, but to the neighboring rear yard. Presently the development already occupies this space with asphaltic pavement, equipment, and a shed. The new development would remove the shed and pavement and change it to an improved building appearance, landscaping, and a decorative fence along the border to replace the existing chain link in the same area.

C.2 The variance is necessary as mentioned in item "A", as this industry like all industries requires a modernization of activities and customer offerings. The limited area of the existing building that was used to change tires and make auto repairs is presently maxed out. To provide a quality offering it will require additional space. The additional space can be used to create a customer offering and reasonable return on investment. It will finance the improved appearance and increased handicapped accessible use. Accessible use is improved when there are wider aisles, increased open circulation and larger restrooms designed to the latest code.

D. We believe the net result is an enhanced appearance. The addition to the rear does not directly affect adjacent properties, but the present appearance will be improved as to enhance the site and better conform to the character of the neighborhood. The surrounding buildings are mostly clay brick structures and are contrasted by our properties glazed gray colored masonry units. Our proposed improvements would clean up the site appearance, replace a chain link fence with a decorative metal fence, and change the façade from a ceramic masonry to a red clay brick similar to neighboring buildings.

E. The proposed building does not affect any of the listed governmental services, the rear of the building presently has a shed and some misc. items. These items would be removed, but access for utilities and garbage does not occur in this area (presently or in the proposed design).

F. The applicant purchased this property many years ago as a vehicle service station. It was not the applicant's lack of knowledge of the zoning regulations, rather a change in the industry to conform to the expectation of the modern customer that has brought the zoning restrictions into the spotlight.

G. When the property was purchased many years ago, the building was already located as it is situated on the lot.

H. Expanding the building in any other direction is not feasible. There are underground storage tanks to the north, fuel dispensers to the east, and limited area to the south. Only to the west is there vacant space that would allow a meaningful expansion.

I. Granting a setback variance would allow an improvement in the area. The project will provide an attractive brick and EIFS building shell, new landscaping, and fencing. This will be an attractive alternative to the existing old asphalt lot that is present in conformance to the allowed zoning setback.

J. Any other applicant is free to justify their own variance request and have it judged on its merit and value to the community. We feel that granting the variance will allow True North to give Cleveland Heights a facility that will be an asset to the community.

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