

STATEMENT OF HARDSHIP

To obtain a use variance, 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." To this end, a written statement of hardship must accompany an application for a use variance. **Please complete this Statement of Hardship, by addressing all seven (7) of the criteria listed below.** Additional documents may be submitted as further proof.

In deciding whether to grant a use variance, 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

The property was purchased in December 2020 by Applicant and it is being redeveloped as a Chipotle restaurant. It was formerly a 5/3 Bank branch, and an ATM was formerly affixed to the branch. The adjacent land (12383 and 12395 Cedar Road), including Nighttown Restaurant, was also purchased by Applicant. The addition of a freestanding, walk up ATM will increase the beneficial use of the property and the development of the "Nighttown Block". It will be owned and operated by 5/3 Bank, and it will be placed in a convenient and safe location (See Exhibit A for proposed location of the ATM). The ATM will provide an amenity to the public generally as well as specifically to customers of Chipotle, Nighttown, the Starbucks across Lennox Road, and the Top of the Hill project.

- B. The variance 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:

This variance is unique because it is important to the Applicant's overall development of the "Nighttown Block" and the surrounding community as an amenity. It is also important for 5/3 Bank to maintain a presence in this location. The ATM will be placed in a convenient location that permits both pedestrian walk ups and has ample street and surface lot parking for vehicular customers. (See Exhibit A for proposed location of the ATM). And the ATM should not cause any disturbance or negative impact on the surrounding area since it is well designed and secured (See Exhibit B for specifications for proposed ATM) and well lit (See Exhibit C for specifications for proposed canopy system). The security and lighting package for the ATM will provide continuous high pixel images of the ATM.

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

The Applicant was aware of the zoning restriction/hardship when it purchased the property; however, the overall redevelopment of the property specifically and the "Nighttown Block" generally overrode Applicant's awareness of the zoning restriction.

- D. The granting of the variance will not adversely affect the rights of adjacent property owners or residents; because

Granting the variance will not adversely affect the rights of adjacent property owners since the adjacent landowner (to the west) is an affiliate of Applicant. Additionally, neighbors and residents' rights would not be adversely affected since an ATM was already on the property and Applicant is making a significant investment in the security and convenience of the ATM.

- E. The granting of the variance will not adversely affect the public health, safety or general welfare; because

This variance will have no negative impact on the public health, safety or general welfare. The garbage collection is at the rear of the property, well away from the ATM location. No other public service will be negatively impacted by the ATM's proposed location. All installations will be overseen by a qualified contractor (Loomis Construction). All electrical will be pulled from the neighboring building owned by Applicant's affiliate.

- F. The variance will be consistent with the general spirit and intent of the Zoning Code; because

The ATM be located in a safe and convenient location, with ample parking, and not create a traffic or safety hazard. The convenience and safety of the ATM users was strongly considered and addressed by the Applicant, as is demonstrated in the Statement of Hardship and Exhibits A, B, and C attached hereto. The variance will also assist in the general redevelopment of the Nighttown Block.

- G. Please explain how the variance sought is the minimum which will afford relief to the applicant.

The ATM variance sought is designed to permit a minimally intrusive ATM model and canopy system.

If you have questions, please contact the Planning Department at 216-291-4878 or planning@clvhts.com.

The criteria listed above can be found in Subsection 1115.07(e)(2) of the Cleveland Heights Zoning Code.

Other approvals

The granting of a variance does not imply approval of specific plans by the Building Dept., Architectural Board of Review, or other City entities. Questions about building permits and regulations may be addressed to the Building Dept. at 216-291-4900.