

Case No 3544

## 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):

A code conforming lot is a 50 foot front lot with 7500 sq feet. Our lot is a 40 foot front lot with only 4800 sq feet. If we had the other 10 feet front footage, we would not have this practical difficulty. If we put a driveway down the side of the home, it would reduce the size of the home on the ground floor and prevent us from giving the community the type of new homes they desire.

- 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.

Through our community meetings we have learned the types of housing that residents are looking for us to build on these extremely small lots. This single level home was desired for empty nester/senior living. The planning and zoning requirements that currently exist somewhat preclude new strategies for residential development. The current code presents challenges to introducing new modern and desirable residential design concepts onto established streets with defined lot widths etc.

- C. Explain whether the variance is insubstantial:

Our variances are insubstantial in terms of impact on neighboring properties. The floor plan chosen by the community needed this variance to have a 2 car garage. Also the home would have a smaller footprint if we put a driveway along the home with a garage in the back. The front loaded garage, given our approach of extending a portion of the dwelling 5'-0" beyond the front of the garage to minimize its aesthetic impact along Nelaview Road. This would be consistent with

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

These lots are extremely small and we are trying to revitalize the neighborhood with new designs that the community indicated they were interested in. The 2'-0" sideyard variance is the minimum necessary to reasonably use the property. It allows the development team to incorporate a two car garage as opposed to a single car. We do not want the owner to have to park their second car in the driveway. We will also have more usable family green space in the backyard.

- 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 essential character of the neighborhood would not be impacted by the granting of the variances. The architectural plans and renderings illustrate a very compatible design with regard to scale, materiality, fenestration and positioning on the site. We are working with ABR who are ready to approve the design.

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

Governmental services will not be adversely affected through the granting of the requested variances. However granting the variance will positively affect the delivery of governmental service by adding new income and property taxes

- F. Did the applicant purchase the property without knowledge of the zoning restriction? NO, this lot is one of 23 that the City sought a development team to build 23 new homes for the neighborhood.

- G. Explain whether the special conditions or circumstances (listed in response to question A above) were a result of actions of the owner.

The size and design of the dwelling are primarily responsible for the need for the variances. The extremely small lot itself is not code conforming, which is making us build a home which is not code conforming.

- 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).

The size and design of the home cannot feasibly be resolved without the requested variance. Any other shapes and home designs would still require setbacks in order for us to ensure that we have competitive livable and green space for the infill New home development project.

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

The spirit and intent of the zoning requirement will substantially remain intact with the development of our project. There is only a 2'-0" encroachment into the north sideyard setback and, again, the front loaded garage impact has been mitigated by our expanding the front porch that projects 5'-0" beyond the garage. There is no other code conforming solution that has the desired livable and green space to be competitive with other New Home construction

- 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.

The variances requested will not confer any special privileges on us, but will help us take an extremely small unconforming lot and build a home that will be the first of 23 new homes in this neighborhood.

If you have questions, please contact the Planning Department at 216-291-4878 or [planning@clvhts.com](mailto:planning@clvhts.com).

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