

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):

Without a variance, we have concerns a tree located near the area where the patio would be located could be damaged if the location/design is changed. It would cause tree roots to be removed or severely damaged. Along the back of the property is a patch of grass that belongs to the apartment building located on the corner of Belvoir and Monticello. During the past 39 years we have lived on the property, this area has rarely been used, except for keeping the grass cut.

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.

We have never been able to use the back left corner of our property and we have not been able to landscape or grow grass here due to the tree, tree roots and shale rock common on Quarry Drive.

C. Explain whether the variance is insubstantial:

The variance requested would have minimal impact for our neighbors along the side and back property lines. The property behind our neighbors garage cannot be used and the property owner and tenants of the apartment buildings rarely use their property.

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

The patio described and outlined in the sketch would allow our family and future owners to use a portion of the back yard that is basically unusable.

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 area located in the back left corner of our yard would not substantially alter the neighborhood or create a detriment to adjoining properties, because both areas are not used or rarely used by our neighbors.

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

The flat paver patio will not interfere with any city services as well as public utilities due to the location of the patio in the back left corner of our property.

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

No

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

No

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).

Without the variance, the size of the patio would be substantially reduced and could cause damage to our tree, which adds substantial benefits due to the shade provided and has provided enjoyment for our family over the past 39 years.

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

The variance is requested in order to help us finally achieve full use of our back yard.

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.

There is no special privilege associated with granting this variance. The variance will not affect other structures or building located in the same district.

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.

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