



## BZA Summary Document

Printed Date: November 24, 2025

<b>Permit Number:</b>	SV25-000030	<b>Permit Type:</b>	Board of Zoning Appeals Standard Variance
<b>Property Address:</b>	2211 LEE RD CLEVELAND HEIGHTS, OH 44118		
<b>Application Date:</b>	11/19/2025		
Applicant Name	Joe Andulics	Applicant Email	-
Applicant Address		Applicant Company Name	The Forest
Applicant Company Address		Applicant Home Phone	
Applicant Cell Phone		Applicant Work Phone	
Applicant Relationship to Property	Representative		
Property Owner Name	Jared Maloof		
Property Owner Address			
Property Owner City/State /Zip			
Property Owner Phone			
Property Owner Email			
Property Type	Multi-Family Residential, Commercial, etc.		
Brief Summary of Variance Request	Requesting a variance from Section 1161.07 to allow fewer on-site waiting spaces for the proposed drive-thru pickup lane due to existing site constraints. The design still provides safe, contained queueing for pre-ordered pickups only, with no impact on public streets.		
Number of Variances Requested	1		
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,	The site is uniquely constrained by an existing mixed-use building footprint, a narrow side yard along the east property line, and the placement of the parking garage and retaining walls, which limit the ability to create a long, straight queuing lane. These physical conditions are specific to this parcel and are not typical of other commercial sites in the district. Because the building occupies nearly the full width of the lot and the drive aisle must run between the structure and an elevation change, the full waiting-space		

## STATEMENT OF PRACTICAL DIFFICULTY

Brief Summary of Variance Request:

- A. to Code Section 1161.03(c)(1) to permit the loss of 4 parking spaces for a new retail use; and
- B. to Code Section 1161.07(a) to permit a drive-thru window with less than 10 waiting spaces.

Number of Variances Requested: 2

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):**

The property is a constrained, mixed-use urban site with an existing building footprint that occupies most of the parcel, limited lot width, fixed grade changes, retaining walls, and adjacency to the Cedar-Lee public parking garage. These physical conditions significantly restrict the ability to reconfigure circulation, queuing, and parking without major structural alteration or expansion beyond property boundaries.

To safely accommodate a contained drive-thru pickup lane and maintain functional site access, limited adjustments to queuing and parking are required. These constraints are inherent to the site and are not common to other properties within the zoning district.

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.**

Without the requested variances, the property cannot reasonably function with the approved dual-use retail dispensary. Strict adherence to both the full drive-thru queuing requirement and parking count would prevent implementation of a safe, internal circulation pattern and materially impair the site's operational efficiency.

The requested relief allows the property to operate in a reasonable, functional manner consistent with similar urban commercial uses while preventing vehicle congestion on public streets.

**C. Explain whether the variance is insubstantial:**

The variances are insubstantial in scope, scale, and impact.

The drive-thru operates as pre-order pickup only, with no on-site ordering, no speakers, and short dwell times. Operational data from comparable locations shows average demand of approximately 10–12 vehicles per hour, distributed throughout the hour rather than concentrated.

Only (4) on-site parking spaces are removed, and ample replacement parking is immediately available in the adjacent Cedar-Lee public parking garage directly behind the building. One on-site parking space remains reserved for Merchant Manor Cheese, ensuring no adverse impact to that tenant.

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

Yes. The requested relief represents the minimum necessary to allow safe and reasonable use of the site. No additional parking reduction or queuing relief is requested beyond what is required to implement the drive-thru safely within the existing physical constraints.

All remaining zoning requirements are satisfied.

**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.**

Granting the variances will not alter the essential character of the neighborhood or create a detriment to adjoining properties. The drive-thru is fully contained on-site, maintains existing traffic patterns, and directs vehicles internally toward Tullamore Road as the preferred exit.

Parking demand is supported by the nearby public garage, pedestrian access is preserved, and no additional impacts related to noise, lighting, or traffic are anticipated.

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

The variances will not adversely affect governmental services. Utility access, refuse collection, emergency access, and public infrastructure remain unchanged and fully functional.

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

The applicant was aware of zoning requirements at the time of application. However, the full extent of the site's circulation and geometric constraints became apparent only after detailed engineering review and coordination with adjacent development.

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

No. The special conditions result from the existing building footprint, site geometry, grade, and surrounding infrastructure, all of which predate the applicant. The applicant did not create these constraints.

**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).**

There is no feasible alternative that would allow the site to function safely and efficiently without the requested variances. Eliminating the drive-thru or maintaining full parking compliance would require removal of fixed site elements, unsafe circulation patterns, or expansion beyond the property line, none of which are practical or permissible.

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

Granting the variances upholds the spirit and intent of the Zoning Code by promoting safe on-site circulation, preventing congestion on public streets, and allowing reasonable use of an existing urban property while protecting public safety and orderly development.

**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.**

Approval of the variances does not confer a special privilege. The relief requested is limited, site-specific, and necessary due to unique physical constraints. All other zoning requirements remain fully satisfied, and the property will function comparably to similar commercial uses in the 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](mailto:bza@clevelandheights.gov).

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