

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):

The orientation of the house facing the corner of the lot, the existing placement of the pool, and that the only door leading to direct access to the yard is on the Berkshire side of the house means that out back yard is considered front yard by the city. As a result where we would put a secured enclosed fence is not permitted by existing zoning without a variance.

- 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.

I don't believe this applies to our property, although I do believe that a secure and fully fenced in backyard would be beneficial to the property value of the house.

- C. Explain whether the variance is insubstantial:

The variance is insubstantial for a couple reasons: the fence will not be visible from the street as it lays behind bushes and trees that will obscure it from street view; additionally, it will not change the character of the property as we will be adding into an existing fence, but in compliance with other zoning board requirements.

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

I don't believe this applies to our property

- 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.

This would not change any essential character of the neighborhood, nor cause detriment to adjoining properties. All changes will be made on my property alone. Several houses in the neighborhood have existing chainlink fences, including our property which does, so new chain link will not be out of place compared to other houses.

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

Variance would have no affect on delivery of governmental services as it is tied into the back yard and does not in any way inhibit governmental services

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

Yes, but through no fault of prior owner

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

The special conditions were results of the original owner (101 years ago) insofar as the orientation of the house orientation and exits were built.

- 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).

No, we considered other locations on the property to fence in but for the same reasons: cannot build one in the front of the house without changing the character of the property; the other portion of our yard in the back does not have an exit directly from the house attached and so would not provide a secure enclosed area.

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

Yes, we are adhering to the spirit of the zoning requirement by not changing the character of the property and minimizing any visibility of the chain link fence.

- 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.

No, this will not provide special privilege. Several houses in the neighborhood have chain link fences, so this is not unique to our home.

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

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