

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):

This is a private drive not a public access road. Even with signs stating this is private property unauthorized persons are using the private drive as a public road. This is a private drive for the Oakwood Drive homeowners association, unauthorized use creates a safety risk for the residents.

- 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 gates there is no practical way to stop unauthorized use of the private drive.

- C. Explain whether the variance is insubstantial:

The variance is necessary to stop public use of a private drive.

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

The owner have access and use the gates in place. They are electronically operated. Using something like a chain across the road is not practical. The authorized users would need to get out and remove and then replace the chain every time they use the private drive.

- 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 gates are decorative in nature and all members of the homeowners association are able to use the gates.

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

It would not adversely affect any government services.

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

Yes.

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

The owners were not aware that gates could not be erected on property without a building. The gates are to stop the safety risk created by unauthorized persons using the private drive.

- 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 trespassing and private drive signs have been posted to try and stop unauthorized persons from using this private drive. These have not stopped the use of the drive. Gates are the only practical option.

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

This is not a vacant lot with a fence. This is a private drive with special circumstances, unauthorized persons are using the private drive as a public road creating safety risks to the residents that pay the taxes for the private drive.

- 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.

This is a private drive which is somewhat unique. Keeping unauthorized persons from using private property is not a special privilege.

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.