

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 existing building's construction and location has created a situation that requires phased construction. Reconstruction must occur while MasterWorks Automotive remains in operations. Therefore, the new building's location, site circulation, utility connections, side yards and other components are essentially determined by the existing building. To that end, the project development team, including MasterWorks Automotive, City Architecture and Wojcik Builders have worked for approximately the last two years to determine a feasible solution, as reflected in the current site plan.

The corner lot (Taylor and Bendemeer) also poses a challenge. In order to maintain operations and access, the building must be set back from the public rights-of-way. The project team has located the building as close as possible to Taylor Road. This results in a drive aisle (to access the service bays) and the required landscaping along the main corridor.

MasterWorks Automotive's future expansion is contingent upon the BZA approval.

- 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.

The proposed (and Planning Commission conditionally-approved site plan), aims to maximize the site's potential without imposing on neighboring properties.

Requested variances are listed and described below:

1153.05 (u)(5) – Outdoor Wiring

Code Requirement:

All outdoor wiring, including electrical and telephone wiring, shall be installed underground.

Site Plan Provides:

New overhead service accessed via new pole on western boundary of site.

Variance Requested:

Allow overhead power feed via rear of property.

Statement of Variance Practical Difficulty:

Due to necessary phasing, etc. the overhead wiring must be relocated and remain above ground (due to required underground utilities and connections).

1153.05(u)(6) – Buffer Zone Depth

Code Requirement:

10' yard along perimeter adjacent to residential uses

Site Plan Provides:

+/- 11' along northern portion of western boundary

+/- 5'-2" along southern 125' of western boundary (dimension is taken at most narrow point – pavement and property line are not parallel)

Variance Requested:

Max. 4'-9 ¼" – Min. 3'-7 ¼"

(Overall average variance requested is 4'-2 ½" over the 125' length)

Statement of Variance Practical Difficulty:

Current site circulation, combined with building size (determined by interior dimensions to accommodate equipment and necessary operating space) create a narrow zone along western edge. Drive widths are established to accommodate vehicular movement, as access is required to rear of building, where five of the service bays are located.

Mr. Taub has met with adjacent neighbors on several occurrences, and they are in support of the project.

1153.05 (u)(6) – Buffer Zone Brick Wall

Code Requirement:

Contain a solid brick wall three (3) feet in height from the residential building line of the use to the street and six (6) feet in height from such residential building line to the rear of the residential use or residential district property line.

Site Plan Provides:

Six foot tall wooden board-on-board fence around perimeter of property, terminating at the south-western wall of the Synagogue to the north.

Variance Requested:

Substitution of wooden fence for brick wall.

Statement of Variance Practical Difficulty:

Excessive costs are associated with creating a brick wall that is approximately 240' long. Additionally, the neighbors' properties will be impacted more by the brick wall. Through excavation and construction, yards and existing landscaping is likely to be disturbed. Like the issue with the Buffer Zone (above), Mr. Taub has met with the neighbors. They prefer the wooden fence as they believe the brick wall is much more foreboding.

1131.075(a) – Commercial and Mixed Use Design Standards Windows

Code Requirement:

Windows must be constructed of clear or lightly tinted glass. Reflective glass and tinting above twenty percent (20%) is prohibited. A wall facing a public street must provide windows along at least 60% of its lineal frontage at street level. These windows shall provide views to allow people to see and be seen for passive security and to encourage pedestrian activity and district vitality.

Site Plan Provides:

The primary façade, along Taylor Road, provides in excess of 73% glazing. The primary façade incorporates storefront glazing at customer entrance / offices and glazed overhead doors in each of the service bays.

The secondary façade along Bendemeer Road, does not provide glazing as this portion of

the building provides secure spaces and "back of house" operations.

Variance Requested:

Allow opaque façade along Bendemeer Road.

Statement of Variance Practical Difficulty:

Masterworks' new facility incorporates glazing into the primary façade and the overhead doors (both along Taylor and the western portion of the site) where employees can take full advantage of natural lighting. Due to the nature of the business, secure areas must be provided to store materials, work on sensitive equipment, etc.

Additionally, great care has been taken in the Bendemeer façade's architecture. Multiple material patterns and textures, combined with light fixtures and colors provide animation and visual interest. The project has been reviewed by the City of Cleveland Heights Architecture Board of Review, and conditionally approved in September 2017, with final approval (final color selections) in November. Finally, due to the construction type of the building (pre-engineered to provide long spans / open spaces) windows along the Bendemeer façade become difficult to integrate due to necessary structural cross-bracing.

1131.08(a)(2) – Accessory Use Regulations Off Street Parking Lots

Code Requirement:

Parking shall not be permitted in front or corner-side yards or between a principal building and a public right-of-way. Drive aisles shall not be permitted between a principal building and a public right-of-way.

Site Plan Provides:

Customer / accessible parking and customer drop-off area between building and Taylor Road.

Variance Requested:

Allow parking and vehicular circulation in this area of the site.

Statement of Variance Practical Difficulty:

Due to the need to phase the construction around the existing building, the new building's location was, in essence, predetermined. The design team studied a myriad of locations and arrangements, ultimately determining the proposed plan is the best solution. The proposed arrangement provides the necessary vehicular circulation along the front of the building to access the service bays as well as customer, accessible parking spaces and customer drop-off areas.

Please note, Masterworks as an automotive service provider, is not a typical retail / commercial establishment. Parking and drive aisles are necessary to access the building, as that is the business' nature.

C. Explain whether the variance is insubstantial:

Each of the variances listed and requested are resultant of a comprehensive and exhaustive planning, design and construction feasibility process. While each of the variances' impacts vary, they are imperative to a successful project and operation that will support Masterworks' economic growth while remaining a good neighbor for the community.

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

Each of the variances identified, in their current form, are as minimal as possible while still supporting the businesses operations and functionality. The complexity of the building and site's construction cannot be understated. In order to construct the new building / site multiple phases must be undertaken, ensuring MasterWorks can remain in operation / business throughout the duration of

construction. The site's limited area requires a high level of coordination and expertise, and the team's experience (including architects, engineers and contractors) has led to the proposed plan.

- 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 is enhanced with this initiative. The current building and site will be greatly improved and the long-time blighted home (acquired and razed to allow this construction) land's repurpose will improve the Taylor Road corridor.

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

Service delivery will not be negatively impacted as great care has been taken to ensure circulation and access is appropriate.

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

Mr. Taub purchased the property and has remained in operation since 2009. His recent desire to expand has brought much of these variances and codes to his attention.

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

Mr. Taub's desire to expand his business by quadrupling his service bay capacity has led to this process. Mr. Taub's initiative is fully financed at over \$1.92M, he has secured a contractor to begin work and has been issued a building permit based on City of Cleveland Heights processes.

- 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 are no other methods that will allow for expansion on the current site.

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

The zoning code's spirit is observed via this application and the request made upon the BZA. The City of Cleveland Heights' Zoning Code has adapted to promote sensible economic development, a mixture of uses and champions sound urban design principles.

MasterWorks' expansion illustrates how a long-time business can grow "in-place" by strategic acquisitions and innovative design / construction sequencing. The Taylor Road corridor includes a series of complementary uses – including five automotive-oriented businesses) between Superior Road and Euclid Heights Boulevard. Mr. Taub intends for Masterworks to be a premier service provider and anticipates his property will reflect the quality of his business and personal

character, as an involved community member.

- 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 requested variances will not grant special privilege. A quick observation of the other automotive service providers shows their situations are very similar – parking up front, multiple curb cuts, fencing along property lines, windowless facades, etc.

The requested variances allow Masterworks to expand its business and improve the overall quality of the site and building.

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.



CLEVELAND
HEIGHTS

Calendar number

3460

BRIEF SUMMARY OF NONCONFORMING USE EXPANSION OF USE TO OCCUPY A GREATER AREA OF LAND REQUEST

STATEMENT OF HARDSHIP

An applicant must show, to the satisfaction of the Board of Zoning Appeals (BZA), that strictly adhering to the Zoning Code's limitations on the use of his or her property, would result in an "unnecessary hardship." **Please complete this Statement of Hardship, by addressing all seven (7) of the criteria listed below.** Additional documents may be submitted as further proof.

BZA must determine that all seven (7) of the following criteria are met by the proposed use of the property that is the subject of the use variance request:

- A. Please explain why or how the property cannot be put to any economically viable use under any of the permitted uses in the zoning district without the expansion of use to occupy a greater area of land:

An auto use has existed on this site since the 1930s and MasterWorks Automotive in a long-standing service provider on the Taylor Road corridor, serving people in the neighborhood and beyond. Without the proposed expansion (increasing from 2 service bays to 8), the business will not realize its true economic growth. MasterWorks has been operating for over nine years in this location. The current pre-fabricated building, likely from the 1950s, is not at all viable to continue serving current and future customers. Mr. Boruch Taub has undertaken a three-year long planning and design process resulting in the proposed facility and site design. Financing is in-place as well as a reputable contractor under agreement to deliver the project, able to begin construction immediately. Mr. Taub purchased the adjacent land through the County Land Bank with plans for needed expansion and this expansion and lot joining was approved by the Planning Commission prior to the Zoning Code change that disallowed auto uses in the C-2 District.

- B. The expansion of use to occupy a greater area of land requested stems from a condition which is unique to the property at issue and not ordinarily found in the same zone or district This/these condition(s) is/are:

The overwhelming unique condition is that Mr. Taub has accumulated an adjacent parcel, to the north, that will allow his expansion. He owns this property and coordinated to have the blighted property to make way for this expansion. Redevelopment plans were shared with and conditionally approved by the Cleveland Heights Planning Commission (in August 2016) prior to the

current C-2 zoning designation prohibiting this current land-use. The Planning Commission also approved joining of the northerly adjacent parcel to Mr. Taub's existing auto-repair site.

Additionally, other automotive service providers are located along the corridor in close proximity. Approximately four other automotive focused businesses occupy the district (Shell Station, Mike's Service, Swedish Solutions, Mac's Marathon).

- C. The hardship condition is not created by actions of the applicant. The hardship condition is a result of:

This location has historically included automotive service, as early as 1931, and has been a consistent land-use predating MasterWorks' operations. MasterWorks recently expanded the area of land they occupied with the joining of the northern parcel, which was approved by the Planning Commission in August 2016. This was all done with the intention of expanding the use as approved by the Planning Commission.

- D. The granting of the expansion of use to occupy a greater area of land will not adversely affect the rights of adjacent property owners or residents; because

The proposed expansion of the use is a continuation of the existing business. Great care has been taken by MasterWorks to communicate with the neighbors and community. Mr. Taub has included the neighbors in the design process, asking specific questions related to building orientation, landscape screening and other details. Mr. Taub is committed to remaining in good-standing with his neighbors, and will continue to work with neighbors should something be called to his attention.

Additionally, primary vehicular access and circulation is proposed to remain closer to Taylor than the residential property to the west (along Bendemeer). When Planning Commission reviewed this use, neighbors were notified, none presented concerns, and the Planning Commission found that the use met the Standards for Conditional Uses, which included finding the use would not be injurious to the use and enjoyment of other property in the immediate vicinity.

- E. The granting of the expansion of use to occupy a greater area of land will not adversely affect the public health, safety or general welfare; because

MasterWorks operates in compliance with industry standards set forth by the United States Environmental Protection Agency, Occupational Health and Safety Administration and the Automotive Service Excellence Association. Those standards' purpose is to ensure safe functions. Mr. Taub adheres to these standards as well as holding himself and his staff to higher criteria. Mr. Taub is a neighbor, as he and his family reside a little more than a block away on Severn Road.

When Planning Commission reviewed this use, neighbors were notified, none presented concerns, and the Planning Commission found that the use met the Standards for Conditional Uses, which included finding the use would not be detrimental to or endanger the public health, safety, morals, comfort or public

welfare.

- F. The expansion of use to occupy a greater area of land will be consistent with the general spirit and intent of the Zoning Code; because

The extension of the existing business is consistent with other district uses and serves as a complementary and improved version of many of the properties along the Taylor Road corridor.

The Planning Commission approved the joining of an additional parcel and the planned expansion of this use. When Planning Commission reviewed this use, neighbors were notified, none presented concerns, and the Planning Commission found that the use met the Standards for Conditional Uses, which included that the use would be in general accord with the purpose, intent and basic planning objectives of the Zoning Code, and with the objectives for the district in which located.

- G. Please explain how the expansion of use to occupy a greater area of land sought is the minimum which will afford relief to the applicant.

The proposed site, which is currently owned by Mr. Taub, represents the minimal volume of expansion as explored and determined by exhaustive business planning and modeling. MasterWorks' growth to a 8-bay facility will allow an increase in efficiency and business. The supporting land-area, partially pre-determined by zoning (parking, setbacks, landscaping) requirements, is the minimal amount necessary to support such a facility.

MasterWorks' business volumes are currently controlled / capped by the existing facility's size. The building is at-capacity, and as previously stated, not conducive to current automotive service practices.

Mr. Taub is an active member in the Orthodox community, and has diligently worked to ensure his expansion does not negatively impact the neighboring Synagogue and residential neighborhood. Mr. Taub is a member of JVote, a voter's association serving the Jewish residents in the vicinity of Taylor road community. He is the committee chairman for the Taylor Road Business District Improvement Committee of JVote. His intentions during and after working hours has always been for the great good of the community. His desire is to expand on-site, keeping all operations internal without impacting its neighbors' quality of life.

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

The criteria listed above can be found in Subsection 1115.07(e)(2) of the Cleveland Heights Zoning Code