

### 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 backyard is shallow and the house is located very close to the side property line. The side yard setback is 2.75'. The variance helps mitigate the tight distance between the fence and the side of the house where one end of the ornamental pool is located.

- 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 variance allows for a complete back yard improvement with new lawn, driveway, stone patio, landscaping and water feature. This improvement will enhance the use and value of the home.

- C. Explain whether the variance is insubstantial:

The variance is small and not substantial. The water feature is 41' long and the majority maintains the 3' required setback. Only the two ends of the pool are located closer to the property line to accommodate the termination of the pool and recirculation of water. One end is located 2'8" from the property line for a distance of 5'8"; the other end is located 2' from the property line for a distance of 7'.

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

The variance request is kept to a minimum. As stated above, most of the ornamental pool maintains the required setback. In two areas, for a total length of 12'8" a variance is requested to locate the ends of the water feature between 2'8" and 2' from the side property line.

- 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 will not be altered as the ornamental pool is a low profile or at grade and can not be viewed from the street. Adjoining properties will not suffer as the ornamental pool is located adjacent to the southern neighbor's driveway and garage. It will be screened by a 6' high fence.

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

The variance will not affect the delivery of governmental services as the ornamental pool is located in the rear yard, is not visible from the street, and does not interfere with utilities or services.

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

We purchased the property 24 years ago and did not anticipate this improvement at the time.

- 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 not a result of actions by the property owner. The size of the yard, house setback and all other property dimensions are original to the development and construction of the house.

- 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).

The resolution could be to relocate the ornamental pool to be setback 5'8" from the side property line. This is not workable as it would reduce the size of the patio in this small backyard.

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

The intent of the requirement is observed as the variance is not substantial. The spirit of the code is upheld as the majority of the ornamental pool meets the setback requirement.

- 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 granting of the variance will not confer a special privilege because it is not a substantial variance. It is a minor variance that is unique to this yard and to this particular water feature design.

If you have questions, please contact the Planning Department at 216-291-4878 or [planning@dvhts.com](mailto:planning@dvhts.com).

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

March 10, 2020

Board of Zoning Appeals  
City of Cleveland Heights  
40 Severance Circle Drive  
Cleveland Heights, OH 44118

Re: 2205 Demington Variance Request

Members of the BZA:

This letter is to request a variance from the ornamental pool code regarding required setback to the side property line. We propose a significant landscape improvement to the rear yard including new patio, fence, new driveway and new landscape material. We plan to add a linear ornamental pool along the south side lot line. The water feature is proposed to be 41 feet long by 18 inches wide, except at the end where the water recirculates. The ornamental pool will be setback 3 feet from the side property line for most of the length. However, in two small areas it will be located closer. In one area, for a distance of 5'8", the proposed setback is 2'8" from the side property line and in another area, for a distance of 7', it is located 2' from the side property line and a variance is requested.

The ornamental pool will be screened by a 6' high wood fence and shrubs. The location is adjacent to the neighbor's driveway and garage. The variance is necessary to accommodate the receptacle at the ends of the ornamental pool and to account for the tight area between the fence and side of the house where it will be located.

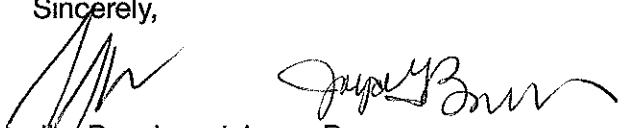
The rear yard is narrow and the house is only setback 2.75' from the side property line. The variance is not substantial as most of the ornamental pool complies with the 3' required setback and only a total distance of 12'8" is located between 2' and 2'8" from the side property line. The ends of the ornamental pool are wider to accommodate the receptacle to recirculate the water. The variance is the minimum necessary to install this landscape feature.

The character of the neighborhood would not be altered by the installation of the pool as it would not be visible from the street. It is a very low profile design and will not be visible to adjacent neighbors. The current fence will be replaced with a new wood fence to screen the area. In addition, the ornamental pool will not adversely affect the delivery of governmental services, and will not be detrimental to the public welfare.

As the variance request is for a very short distance and is not substantial, the spirit and intent of the zoning code is upheld. The majority of the improvement is set back the required distance.

Thank you for your consideration of this request.

Sincerely,



Jim Posch and Joyce Braverman  
2205 Demington Drive