

June 12, 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 swimming pool code regarding required setback to the side and rear property lines. We propose a significant landscape improvement to the rear yard including new in-ground pool and pool equipment shed, patio, fence, new driveway and new landscape material. We plan to add a lap pool along the south side lot line. The proposed pool dimensions are 40' x 12'. The pool will be located 6 feet from the side and rear property lines. The pool equipment shed will be setback 2.5 feet from the rear lot line, and matches the setback of the existing garage. Both the pool and the equipment shed will be screened by a 6' high fence and dense landscaping.

We were before the Board a few months ago for a variance for an ornamental pool. The recent health crisis has prompted us to rethink the project. As I am an avid lap swimmer, and public pools are closed and may be for some time, we are now requesting a variance to construct a lap pool. The location is adjacent to the neighbor's driveway and garage. The variance is similar to pool setback variances granted in the past. The pool will be used for lap swimming and will be a very quiet use.

The rear yard is narrow and the house is only setback 2.75' from the side property line. The rear yard is also very shallow. The yard is not deep enough to construct a standard lap lane, so a pool of half the standard length is proposed. The variance is the minimum necessary to install the pool and retain green space in the rear yard.

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 pool will not adversely affect the delivery of governmental services, and will not be detrimental to the public welfare.

Thank you for your consideration of this request.

Sincerely,



Jim Posch and Joyce Braverman  
2205 Demington Drive

**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.

- 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 in ground pool. The current health crisis has increased the need to have a livable back yard.

- C. Explain whether the variance is insubstantial:

The variance is not substantial. A 15' setback is required for the pool and 6' is requested. The 6' will be heavily landscaped to mitigate the smaller setback. The pool equipment structure will line up with the rear of the garage.

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 while providing for a pool which is long enough to swim laps. A typical lap lane is 75' long; the proposed pool is half of that at 40' long. Due to the shallow yard, this is the ideal length so to provide for a useable pool and to provide a wide enough setback to screen the use.

- 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 pool is a low profile that can not be seen from the street. It is located along the southern lot line, adjacent to the neighbors' driveway and garage. The pool will be screened with 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 pool is located in the rear yard, and does not affect any utilities.

- 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 would be to center the pool in the rear yard, which would make most of the yard unusable for other activities such as outdoor eating or green space. This would not create a livable back yard and it is unlikely that we would move forward with a pool.

- 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 pool will be screened, would only be used for lap swimming and will not cause noise.

- 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 similar variances for in ground pools have been granted in the past.

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

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