

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):

Property is on a corner lot and the rear yard (77') abuts a portion of a front yard (36.32') and rear side yard (40.86'). The fence in question faces the side of an adjacent duplex property. The duplex property is a rental property with its tenants changing often, average annually or sometimes bi-annually. The tenants are permitted unleashed dogs and other pets on property. Replacing the

- 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.

Installation of fence would increase the value of the property by providing better security, privacy and aesthetic value not only to this property but also to adjacent properties. We are consciously choosing the same fencing contractor as the other two houses on North Park Blvd, who are currently replacing their fences, to maintain uniformity.

- C. Explain whether the variance is insubstantial:

The variance is insubstantial in the sense that it replaces an existing fence that is already above 4ft on the front portion of the adjacent house and above 5 ft on the rear end. There are existing trees and bushes in the front part of the fence that would obscure the view of the replaced fence. The variance would be a benefit to the both properties and neighborhood as the existing fence is decrepit and in complete disarrav.

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

As previously stated, the existing fence is already above the height restrictions. We are only proposing a replacement of the old existing fence with a new one. The proposal has been presented to the landlord of the adjacent property who has stated no objections to the proposal.

- 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 would not be changed or altered detrimentally. Rather a new fence would be beneficial to all adjoining properties and the character of the neighborhood.

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

The variance would not change or adversely affect the delivery of any governmental service.

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

Yes, we purchased the property without knowledge of the zoning restriction. When we purchased the property the existing non-compliant fence was already there. Over the last decade, since we have owned the property, we have single-handedly dealt with repairing the fence and maintaining it as best as we could. It is at the end of its life-span.

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

No, they were not the result of our actions.

- 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, this cannot be resolved without a variance.

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

Yes, substantial justice would be served by granting the variance. The neighborhood and affected properties will all benefit from a new fence that is not only aesthetically more pleasing but also is safer and more secure.

- 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 this variance does not confer us any special privilege that is denied to others in our district.

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.