

## **STANDARD VARIANCE APPLICATION**

### **City of Cleveland Heights**

There are some instances in which a Cleveland Heights property owner, due to unusual conditions on his or her property, may request a variance from strict adherence to the standards of the Zoning Code. Variances are reviewed and acted upon by the **Board of Zoning Appeals (BZA)**. To obtain a variance, an applicant must demonstrate, to the BZA's satisfaction, that literal enforcement of the Zoning Code result in a "practical difficulty" for the applicant. The factors to be considered in determining whether a practical difficulty exists are listed on page 4. It is not necessary for the Board to find that all the listed factors apply but **applicant should discuss as many factors as possible**.

BZA meetings are held on the third Wednesday of each month, with some adjustments for holidays, at 7:00 p.m., in City Council Chambers, on the second floor of City Hall. **Applications are due on the second Wednesday of the preceding month** (see page 2 for this year's dates).

#### **Contacting the Planning Department**

Prospective applicants are strongly advised to consult with Planning Department staff before submitting an application. Staff members will explain the process and make applicants aware of the regulations that apply to their projects.

The department's main phone number is 216-291-4878; its e-mail address is [planning@clvhts.com](mailto:planning@clvhts.com). Application forms can be downloaded from the City's website, [www.clevelandheights.com](http://www.clevelandheights.com).

#### **Application Process**

The following materials should be included with all applications:

- (1) the completed application form (14 copies);**
- (2) a written statement of practical difficulty (14 copies, see page 3);**
- (3) scale drawings in an 8-1/2-by-11 or 11-by-17 format, or, if necessary to maintain legibility, a larger format (14 copies);**
- (4) proof of control of the property by ownership, option, or lease (1 copy);**
- (5) the signed Consent to Access Property form (1 copy, page 8); and**
- (6) application fee: \$80.00 for single, two-and three-family residential; all others \$150.00 (checks should be made payable to the City of Cleveland Heights).**

The application may be dropped off at the Planning Department on the main floor of City Hall or mailed to City of Cleveland Heights, Dept. of Planning, 40 Severance Circle, Cleveland Heights, OH 44118.

#### **Public Hearing and Board of Zoning Appeals Review**

At the Board of Zoning Appeals meeting, City staff will make a presentation summarizing the requested variance and applicable zoning regulations. City staff may also present neighborhood and historical context. The applicant then will have the burden to demonstrate to BZA that the literal enforcement of the Zoning Code will result in practical difficulties. The factors that BZA may consider are provided on page 4 and 5. Applicants should demonstrate as many factors as possible by discussing facts that relate to those factors. Staff can provide samples, as needed.

Neighbors, who will be notified in advance of the hearing by mail, and other interested parties will have the opportunity to participate during the public-hearing portion of the BZA meeting. BZA may grant or deny the variance, or it may postpone making a decision to consider or seek additional information. It is BZA's responsibility to make decisions based on the preponderance of the evidence presented within the framework of factors established by the Zoning Code.

#### **Other approvals**

The granting of a variance does not imply approval of specific plans by the Building Dept., Architectural Board of Review, or other City entities. Questions about building permits and regulations may be addressed to the Building Dept. at 216-291-4900.

## **BZA MEETING DATES FOR THE YEAR 2020**

Meetings are held on the third Wednesday of each month at 7:00 p.m., unless otherwise indicated, and are held in City Council Chambers on the 2nd floor of Cleveland Heights City Hall. Applications are due by 5:00 p.m. on the second Wednesday of the previous month.

**The applicant or the applicant's representative must be present at the meeting.** Variances granted by BZA are not effective until approved by City Council.

<u>Application deadline</u>	<u>Meeting date</u>
December 11, 2019	<b>January 15</b>
January 8	<b>February 19</b>
February 12	<b>March 18</b>
March 11	<b>April 22*</b>
April 8	<b>May 20</b>
May 13	<b>June 17</b>
June 13	<b>July 15</b>
July 10	<b>August 19</b>
August 12	<b>September 16</b>
September 9	<b>October 21</b>
October 9	<b>November 21</b>
November 14	<b>December 18</b>
December 11	<b>January 16, 2020</b>

\*Holiday-related date change

# STANDARD VARIANCE APPLICATION FORM

Please type or print clearly.

Calendar number \_\_\_\_\_

Contact information:

Date submitted \_\_\_\_\_

Applicant(s) \_\_\_\_\_

Address of subject property \_\_\_\_\_

Phone \_\_\_\_\_ e-mail address \_\_\_\_\_

fax \_\_\_\_\_

Mailing address of applicant(s) \_\_\_\_\_

Applicant's representative, if any \_\_\_\_\_

Phone \_\_\_\_\_ e-mail address \_\_\_\_\_

fax \_\_\_\_\_

Address of representative \_\_\_\_\_

Property owner, if different from applicant \_\_\_\_\_

Phone \_\_\_\_\_ e-mail address \_\_\_\_\_

fax \_\_\_\_\_

Address of property owner \_\_\_\_\_

Brief summary of variance request (please complete the Statement of Practical Difficulty):

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\_\_\_\_\_

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Supporting documentation (check all that apply):

- \_\_\_\_ Completed Application (14 copies)
- \_\_\_\_ Detailed statement of practical difficulty (14 copies)
- \_\_\_\_ Proof of ownership, option, or lease agreement (1 copy)
- \_\_\_\_ Scale drawings (site plan; & floor plan if applicable) in an 8-1/2-by-11 **or** 11-by-17 format, or, if necessary to maintain legibility, a larger format (14 copies)
- \_\_\_\_ Elevations, if applicable (14 copies)
- \_\_\_\_ signed Consent to Access Property form (1 copy)
- \_\_\_\_ Application fee check no. \_\_\_\_\_

I swear or affirm that the information in this application is true and correct to the best of my abilities.

Applicant's signature \_\_\_\_\_ Date \_\_\_\_\_

## 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):

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- 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.

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- C. Explain whether the variance is insubstantial:

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

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- 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.

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

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

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

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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).

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

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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.

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

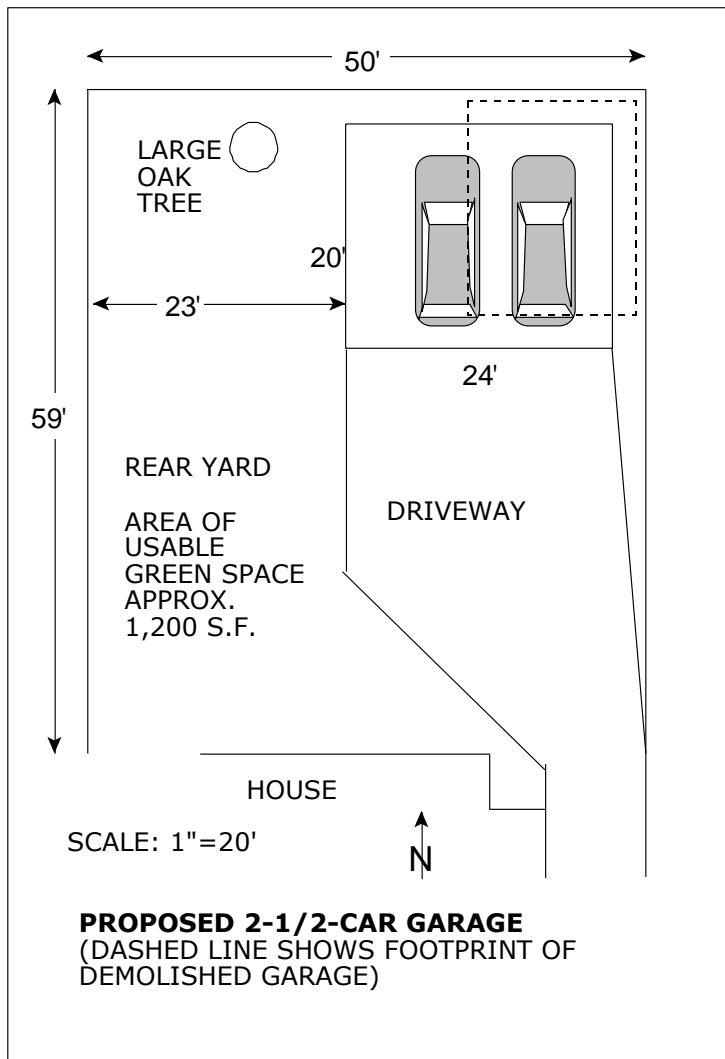
The factors listed above can be found in Subsection 1115.07(e)(1) of the Cleveland Heights Zoning Code.

## SAMPLE SITE PLANS

The site plans shown on this page and the next are examples of the kinds that may be needed with your application for a variance from the standards of the Cleveland Heights Zoning Code. Before submitting your application, it is recommended that you discuss your situation with staff to determine exactly what kinds of drawings will be needed.

Drawings should be produced at appropriate scales in 8-1/2-by-11 or 11-by-17 formats (larger if necessary to maintain legibility). The samples below are drawn to scale, but the scale may be slightly off if you downloaded this application package from the Internet.

### Sample Site Plan #1



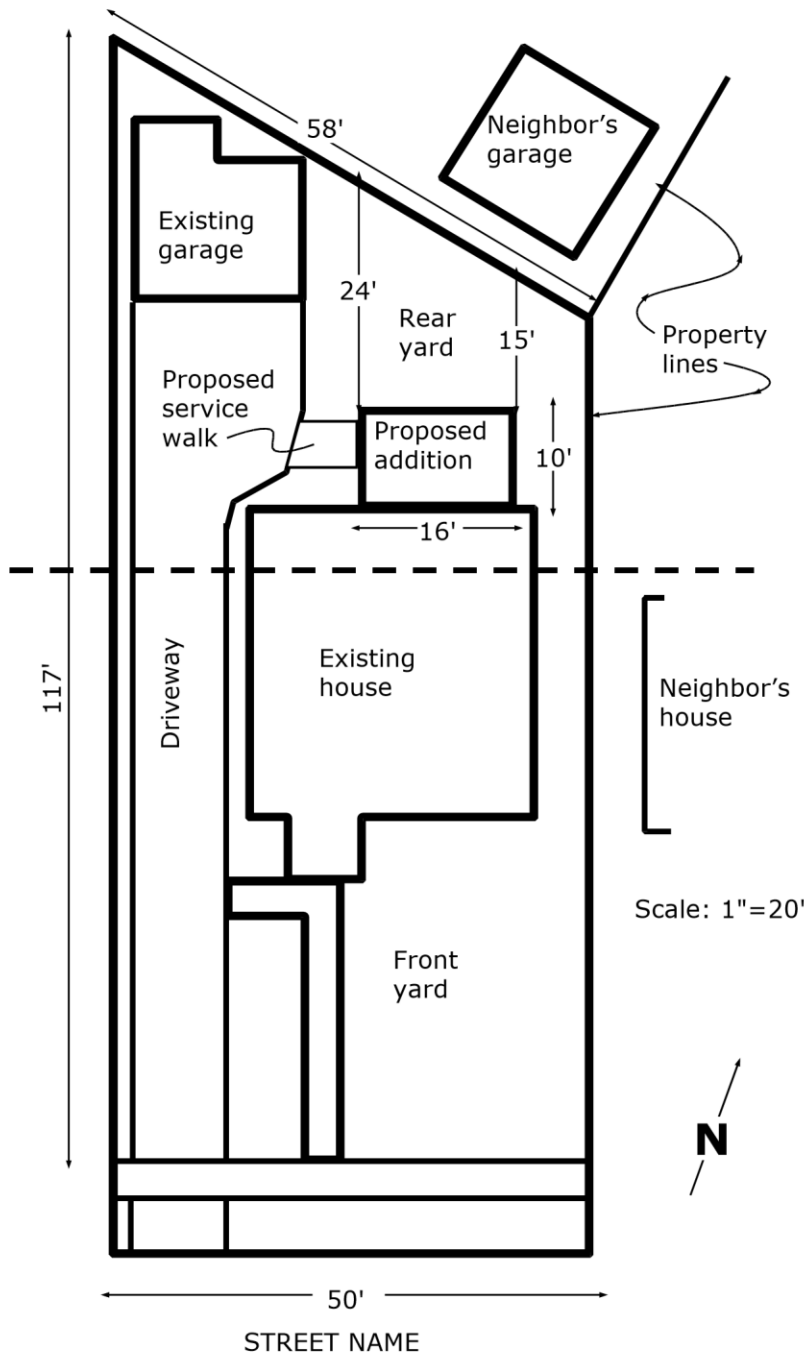
The site plan example on this page depicts a proposal for a 2-1/2-car garage in the rear yard of a 2-family house. Since 2-family houses are generally required to have 4-car garages, a property owner would be required to seek a variance before replacing the property's original garage with something smaller than a 4car garage.

This drawing shows what the property owner is proposing in a clear, concise manner. It also shows the two reasons why the property owner is seeking the variance: a four-car garage would require removal of a large oak tree and reduce the amount of usable green space in the rear yard to an unacceptably low level.

A problem with this drawing is the lack of information regarding the distance of the proposed garage from the rear and side property lines. If the drawing is true to its 1":20' scale, though, as it is required to be, the distances can be measured off the drawing.

The scale drawings of cars parked in the garage are helpful, but not necessary.

**Sample Site Plan #2**



On the imaginary property depicted at left, the property owner is seeking a variance from the required 30-foot rear-yard setback requirement. The variance is needed to build a proposed addition.

Since the variance request involves the rear yard, the information shown above the dotted line is essential. The information below the line, while not essential, is helpful and should be provided if possible.

It is also beneficial to show the location of nearby buildings on other properties. This helps to show whether granting the variance would have a negative impact on those properties.

Drawings should be clear, concise, and drawn to scale. They should also illustrate the property owner's reasons for seeking a variance.

In this case, the odd shape of the lot, the lot's relatively small size, and the unusually deep front setback are all conditions that could lead a property owner to request a variance, and these conditions are all illustrated in the drawing.

Proposed landscaping improvements should also be shown.

**CONSENT TO ACCESS PROPERTY**

I, the undersigned responsible party (owner, occupant, tenant, or agent for the property owner) of the property described herein, do hereby consent to entry upon said property, at a reasonable time and to the extent necessary, by the City of Cleveland Heights and its officers, employees, and/or agents for the purpose of inspecting said property for compliance with the City's Zoning, Housing, and/or Building Codes. I further certify that I have authority to grant access to said property.

\_\_\_\_\_ Property  
Address

\_\_\_\_\_  
Signature of Responsible Party

\_\_\_\_\_  
Name of Responsible Party (please print)

I am the:     owner     occupant     tenant     agent for property owner

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Date

**PLEASE NOTE THAT FAILURE TO CONSENT TO A SITE INSPECTION OF YOUR PROPERTY MAY CAUSE DELAY IN YOUR APPLICATION AND/OR MAY CAUSE YOUR APPLICATION TO BE CONSIDERED INCOMPLETE.**