

CAL. No. 3465
2611 FAIRMOUNT

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 lot is a corner lot. the house is existing and dictates available
land. the rear entry garage (existing) and drive allow for
one location of the pool. for safety and practical use, the pool
cannot be adjacent or abutting the house or garage. zoning code
demands that a 6'-0" fence surround a pool, but code also dictates that the
fence cannot be located in a "front" yard

- 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.

practical use of the pool orients the living areas between the
pool and the house, for safety, access, privacy from the adjacent
roadway (tudor), and the path of the sun. locating the pool against
the house creates obvious safety and structural issues and reduces the size of the
pool in a manner to be useless to the homeowner. the owner would be satisfied if a
four foot fence was permitted, as other homes utilize, in lieu of a six foot fence.

- C. Explain whether the variance is insubstantial:

the location of the pool and requisite fencing is presented in
a typical and ordinary way. it will provide no hardship to adjacent
properties, and will not provide a negative result to adjacent
properties. similar conditions exist for pools and fences in
other locations in cleveland hts. (see attached photos). a six foot fence
surrounding pools is a requirement for pools by zoning code

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

the practical use of of a pool and its surrounds assumes a certain
right and necessity of privacy. moving the patios and living areas
against the tudor sideline would eliminate the right of privacy
as it would be against the sidewalk and the roadway. it is impossible to locate
the fence outside of the pool but inside the "front yard" setback

- 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.

many properties on tudor and fairmount have privacy fences that
are 6'-0" in height along side property lines where they are
adjacent to roadways, other have fences at the sidewalk on the
front yard property lines. (see attached photos)

- E. Explain whether the variance would adversely affect the delivery of governmental service (e.g., water, sewer, garbage).
no impact to government services would occur as the result of the variance. current driveway access from both tudor and fairmount would be maintained.
- F. Did the applicant purchase the property without knowledge of the zoning restriction?
the applicant was not aware of the zoning restrictions at the time of purchase. the homeowner had, regardless of a pool installation planned on continuing the fencing around the yard, as it exists currently on the north and east property lines.
- G. Explain whether the special conditions or circumstances (listed in response to question A above) were a result of actions of the owner.
the owner purchased an existing property. while the owner has invested significant monies into improving the property, no exterior changes or modifications to the footprint have occurred.
- 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 installation of a pool is a significant investment. poorly locating the pool and its surrounds will create a serious and difficult to mitigate obstacle to the future value and sale potential of the home. a six foot fence in close proximity to the pool is overwhelming and architecturally damaging, it needs to be distanced from the 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 granting of this variance will, in no way, violates the intent or the spirit of the zoning requirement. the corner lot and the application of "two front yard setbacks" incurs an unfair set of parameters and if enforced, damages the value of the property. many other properties utilize six foot fences on corner lot- sidelines
- 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.
other homes in cleveland heights enjoy the benefit of similar variances, whether grandfathered or granted, and this variance will not cause harm to adjacent properties, but will add to the value, to the investment, and to the aesthetic of the neighborhood.
~~two houses at the north end of tudor enjoy the same variance for fencing.~~

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.