

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. CORNER LOTS ARE DETERMINED TO HAVE TWO FRONT YARD AREAS DUE TO FRONTAGES ON TWO STREETS. THIS RESULTS IN AN UNUSUALLY SMALL AREA DEFINED AS THE "REAR YARD". THE CONFIGURATION OF THE HOUSE, WHOSE FOOTPRINT HAS NOT BEEN MODIFIED, IS A DEEP "L" SHAPE AND PLACES THE REAR FACING GARAGE UNUSUALLY CLOSE TO THE REAR PROPERTY LINE, FURTHER DIMINISHING THE "REAR YARD" AREA.

- 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 ACCESS TO TUDOR IS THE PRIMARY DRIVEWAY FOR THE PROPERTY. TUDOR PROVIDES A SAFE SOLUTION TO PROPERTY ACCESS. WITHOUT ACCESS TO TUDOR, THE VALUE OF THE PROPERTY IS SEVERELY REDUCED. THE OWNER SHOULD BE AFFORDED THE RIGHT TO UTILIZE THIS ACCESS IN MANNER THAT IS CONSISTENT WITH EGRESS THAT WAS PROVIDED WHEN THE PROPERTY WAS PURCHASED. THIS EGRESS IS NECESSARILY RELOCATED DUE TO THE INSTALLATION OF AN IN GROUND POOL..

- C. Explain whether the variance is insubstantial:

THE VARIANCE DOES NOT AFFECT NEIGHBORS IN ANY MANNER. IN FACT THE EXISTING CURB CUT ON TUDOR REMAINS THE SAME. THE WIDTH OF THE DRIVE IS, FOR THE MOST PART, NOT INCREASED. THERE IS A SLIGHT INCREASE IN THE PARKING AREA, HOWEVER, THERE ARE GREAT IMPROVEMENTS IN WATER MANAGEMENT ON THE PROPERTY. THE VARIANCE IS INSUBSTANTIAL.

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

THE OWNER DETERMINED THAT 12' WAS THE MINIMUM WIDTH TO ENABLE TWO PARTIES TO EXIT A VEHICLE WITHOUT STEPPING ON THE GRASS OR IN THE MUD. AFTER THOUGHTFUL CONSIDERATION TO THE REQUESTS OF THE THE BZA, THE OWNERS HAVE AGREED TO REDUCE THE WIDTH TO 10.5' WHICH WILL ALLOW ONE PARTY TO EXIT A VEHICLE. IT IS NOT IDEAL BUT RATHER AN EFFORT TO FIND SOME COMMOM GROUND WITH CITY AND THE NEIGHBORHOOD.

- 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 CHARACTER OF THE NEIGHBORHOOD IS IN NO WAY IMPACTED BY THE APPROVAL OF THIS VARIANCE. THE AREA OF THE VARIANCE IS COMPLETELY ENCLOSED BY FENCES ALONG THE PROPERTY LINES AND POOL AREA. IT IS NOT VISIBLE FROM NEIGHBORING PROPERTIES OR FROM THE STREET. IMPROVEMENTS TO WATER MANAGEMENT ARE BEING INSTALLED WHICH WILL VIRTUALLY ELIMINATE WATER MOVEMENT TO NEIGHBORING PROPERTIES. AS WELL THE MAINTENANCE AND ENHANCEMENT OF A TREE LINE TO THE NORTH WILL SUBSTANTIALLY ASSIST IN WATER MANAGEMENT. IN ADDITION, SIGNIFICANT LANDSCAPING, INCLUDING APPROXIMATELY 20 HORNBEAM TREES AS WELL AS GROUND-COVER WILL ASSIST IN SURFACE WATER MANAGEMENT.

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

DENIAL OF THIS VARIANCE WILL SUBSTANTIALLY LIMIT THE ABILITY FOR EMERGENCY VEHICLES TO ACCESS THE THE PROPERTY. APPROVAL OF THE VARIANCE WILL IN NO WAY IMPACT GOVERNMENT SERVICES, BUT WILL ALLOW EMERGENCY VEHICLE ACCESS TO THE PROPERTY.

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

THE APPLICANT WAS NOT AWARE OF THE ZONING RESTRICTIONS TO THE PROPERTY AT THE TIME OF THE PURCHASE OF THE PROPERTY.

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

THE CONDITIONS THAT EXIST ARE PURELY A RESULT OF THE DETERMINATION OF LOCAL ZONING CODE AND OF THE UNIQUE DESIGN OF THE HOUSE WHICH FORCES THE GARAGE ACCESS TO AN UNUSUALLY DEEP LOCATION THEREBY GREATLY REDUCING THE AREA DETERMINED AS "REAR YARD". THIS CODE RESTRICTIONS AND THE HOUSE DESIGN ARE A FUNCTION OF THE LOT BEING A CORNER LOT.

- 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).

IF THE VARIANCE IS NOT GRANTED, THE HARD SURFACE AREA WILL NEED TO BE REDUCED TO A POINT WHICH RESTRICTS THE OWNERS INGRESS AND EGRESS AND PRACTICAL USE OF THE PROPERTY. THE PURCHASE OF THE PROPERTY WAS PREDICATED ON THE ABILITY TO USE THE TWO EXISTING DRIVEWAYS THAT AFFORD ACCESS TO FAIRMOUNT AND TO TUDOR. USING A "PARKING" SURFACE OTHER THAN CONCRETE OR ASPHALT WILL NOT PERMIT PLOWING.

- 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 ZONING CODE NEEDS TO BE CAREFULLY CONSIDERED WITH CORNER LOTS SO THAT PROPERTY OWNERS' RIGHTS OF PRACTICAL USE IS NOT VIOLATED. SUBSTANTIAL INJUSTICE WOULD OCCUR AT THE DENIAL OF THE VARIANCE AS PRIOR VARIANCES FOR THE POOL AND THE FENCE WERE GRANTED WITH THE CLEAR UNDERSTANDING, AS SHOWN ON SITE PLANS, THAT THE DRIVEWAY AND PARKING AREAS WOULD BE RELOCATED. THE INTENT OF THE SURCACES WAS SHOWN.

- 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.

NO SPECIAL PRIVILIGE OCCURS AT THE GRANTING OF THIS VARIANCE. NO HARM IS DONE TO ADJACENT PROPERTIES OR TO THE COMMUNITY. OTHER PROPERTIES ENJOY VARIANCES OF SIMILAR NATURE. THIS IS A FUNCTION OF THE RESTRICTIVE NATURE OF THE ZONING CODE ON A CORNER LOT AND THE EXISTING CONDITIONS REGARDING THE DESIGN OF THE STRUCTURE.

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.

Karen Knittel

From: David Ducas <David@woodbridgehomes.us>
Sent: Tuesday, November 06, 2018 4:31 PM
To: Karen Knittel
Subject: Re: Revised plan with no Bio Cell
Attachments: RESUBMITTED BZA APP V3.pdf

David,

I have a couple of questions about the drawings:

1. Will the trees along the north property line be maintained – in a prior email you said that was the intention but I wanted to be sure that is still what is intended. I do recall our discussion that the trees would be maintained and that trees do assist with storm water management.
THE TREES ALONG THE NORTH SIDE WILL BE MAINTAINED. IN ADDITION THE OWNER PLANS ON ADDING HORNBEAMS ALONG THAT BORDER/GREEN SPACE TO FURTHER PROVIDE MUTUAL PRIVACY AND LEND TOWARD ADDITIONAL WATER CONTROL. HOWEVER, WE ARE VERY CONFIDENT THAT THERE WILL NOT BE A NET ADD TO ANY WATER ALONG THAT PROPERTY LINE.
2. The key describing coverage on sheet 5 uses the term patio – is the 437 s.f. just the patio or is this the patio, walkway, pool that are in the rear yard? The total rear yard coverage calculation includes all coverage (pool, patio, walks, etc.).
THE 437 SF DESCRIBED IN THE KEY AS THE PATIO IS ANY HARD SURFACE LOCATED IN THE REAR YARD AREA THAT IS NOT DRIVEWAY. IT INCLUDES POOL DECK, PATIO, STAIRS, ETC.

I also have a few questions about the project. Some of these you have verbally explained, however, it is important that we have a written record.

3. What material will the driveway and parking area be?
THE DRIVEWAY AND THE PARKING AREAS WILL BE AN EXPOSED AGGREGATE CONCRETE. THE PRODUCT, BY NATURE OF ITS AGGRESSIVE SURFACE TEXTURE, WILL SLOW DOWN THE MOVEMENT OF SURFACE WATER.
4. Could the driveway from Tudor up to the curve be drive strips? Or, could the driveway portion up to the curve/parking area be permeable pavers?
THE OWNERS BOUGHT THIS PROPERTY WITH A PAVED DRIVEWAY TO BOTH TUDOR AND TO FAIRMOUNT. THEY DO NOT WANT THE INFORMAL LOOK OF DRIVE STRIPS ALONG WITH THE AWKWARD MAINTENANCE OF THAT TYPE OF INSTALLATION.
5. Explain why the width of the curved area is necessary.
6. The site plan has been evolving provide a brief summary of how the amount of coverage has decreased.
OVER MANY CONVERSATIONS WITH THE OWNERS AND THE PLANNING AND ZONING DEPARTMENT, WE HAVE LOOKED AT EVERY REASONABLE SOLUTION TO MITIGATING THE EXTENT OF OR THE NEED FOR A VARIANCE. THE SIMPLE FACT IS THAT OUR POOL INSTALLATION WAS APPROVED WITH A GENERAL OUTLINE OF THE THE INTENT OF THE DRIVEWAY AREA TO TUDOR AND ITS NECESSARY DIRECTION AROUND THE NORTH SIDE OF THE PROPERTY. AT THE TIME OF THE POOL AND FENCE VARIANCE, NO MENTION OR INDICATION WAS MADE THAT THE DRIVEWAY, AS PRESENTED ON THE DRAWINGS, WAS GOING TO BE A

PROBLEM OR NEED A VARIANCE. WHILE THE HOMEOWNERS WOULD PREFER A 12' DRIVEWAY TO TUDOR SO THAT TWO GUESTS CAN EXIT A VEHICLE WITHOUT STEPPING IN SNOW OR MUDDY GRASS, THEY HAVE GIVEN THOUGHTFUL CONSIDERATION TO THE SURROUNDINGS AND TO THE EFFORTS OF THE PLANNING AND ZONING OFFICE TO MINIMIZE THE FOOTPRINT OF HARD SURFACES. AS WELL, THE ARC/TURN IN AREA HAS ALSO BEEN REDUCED FROM WHAT WAS DEEMED AS A SUITABLE AND COMFORTABLE AREA TO SOMETHING TIGHTER BUT WITH LESS SURFACE AREA. THE NET RESULT IS THAT THE OVERALL SURFACE AREA OF THE REAR YARD, WHICH IS IN COMPLIANCE WITH ZONING CODE, HAS REDUCED AN ADDITIONAL 4% FROM 58% TO 54%. THE DRIVEWAY AREA THAT IS SUBJECT TO THE VARIANCE REQUEST HAS REDUCED FROM 1,993 SF TO 1,847 SF. AN ADDITIONAL REDUCTION OF 7.5% OF THE TOTAL AREA. THIS REDUCES THE VARIANCE REQUEST FOR HARD SURFACED DRIVEWAY AREAS TO 13.8% OR A TOTAL OF 43,8% AGAIN, THE CRUX OF THIS VARIANCE IS NO BASED ON THE FACT THAT THERE ARE TWO DRIVEWAYS, BUT DUE TO THE IRREGULAR CONDITIONS OF THE CORNER LOT STATUS AND REAR YARD DELINEATION AS WELL AS THE GEOMETRY OF THE HOUSE.

7. Also, as you have revised your site plan, please review the statement of practical difficulty.
 - a) Provide a statement regarding your response to question C. your response to the whether this is the minimum necessary for reasonable use states that 12' wide driveway is needed. The plans now reduce this width. It is fine to show that this has been reconsidered and to provide an updated statement.
 - b) Also look at the statement of practical difficulty item D – on-site water detention. If this was referencing the bioretention area, please provide an explanation of this statement for the current plan.

Karen Knittel

From: David Ducas <David@woodbridgehomes.us>
Sent: Tuesday, November 06, 2018 4:59 PM
To: Karen Knittel
Subject: turn radius data for 2611 fairmount
Attachments: Standards-SingleFamily-in-MultiFamily.pdf; us dot data on driveway - georgia dept of transportaion.docx; ENGINEERING STANDARDS DRIVEWAY AND TURNS.pdf

Karen,

In response to your question regarding the radii of the turn portion of the driveway at the subject property: All data shows that the minimum inside radius should be 15' and the minimum outside radius should be 25' we have presented an outside radius of 21.32', less than suitable. while the inside radius is significantly less than 15, at 8', pushing it out to 15 will narrow the throat of the driveway to a non-navigable condition. see attached.

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A private two-car garage lawfully in existence on May 5, 1999 may be maintained if the garage serves a single-family residence and has an unobstructed inside dimension of at least 18 feet in width by 18 feet in length.

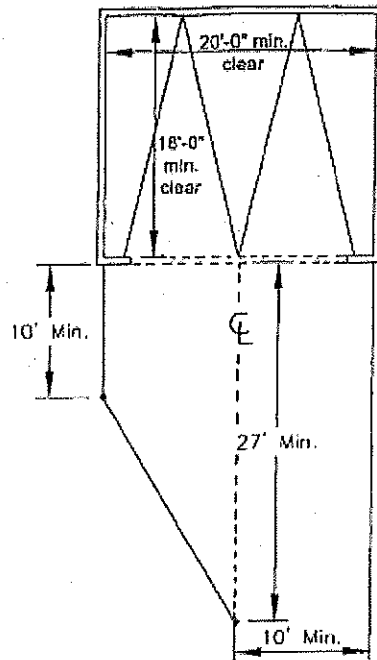
A single-family dwelling unit on a parcel with another dwelling unit(s) is not subject to the garage requirement and may have uncovered parking, in the rear half of the lot and is subject to the number of parking spaces required pursuant to SMMC 9.04.10.08.040 for multi-family residences or condominiums, as appropriate.

The driveway for a two-car garage with its doors facing the alley should have a 1% to 5% slope running down towards the alley from the garage. Backing-out is permitted onto the alley. The width of the driveway is generally at least as wide as the width of the garage; however, for purposes of calculating the HVO, the assumed width is the same as the width of the garage door, typically 16 feet.

Street access is permitted under limited circumstances. With street access, the configuration of a typical driveway depends on garage location or position and turn-around. If a garage is positioned with its doors facing the side or backing onto the street is prohibited, the driveway has to have a turn-around. With turn-around, there should be a 10-foot wide hammerhead turn-around with a 3 foot radius (or the end stall should be widened to 11 feet 6 inches). The minimum **outside turning radius** for a driveway is 25 feet.

Without turn-around and with a garage located in the rear yard, facing the street, the minimum width of the driveway is 10-foot, running along to within 27 feet of the garage doors, at which point it begins to flare and continues to widen for the next 17 feet until at a point 10 feet from the garage door, it is a minimum width of 20 feet. (This must be modified to access narrower or wider garages, and for garages located within 27 feet of the front property line.)

Driveways on lots from which backing onto the street is prohibited should use this design to facilitate on-site turn-around.



If the driveway does not extend beyond the end prolongation of the outer side of the end stall width then either:

