

WILLIAMS
TEUSINK

R. Kyle Williams
Attorney at Law

404.373.9351 Direct Dial
kwilliams@williamsteusink.com

September 6, 2016



via Hand Delivery

Ben Song
Director, Community Development Department
City of Brookhaven
4362 Peachtree Road
Brookhaven, Georgia 30319

Re: **APPLICATION FOR VARIANCE FROM MINIMUM CORNER-LOT
SIDE YARD REQUIREMENT**

**2290 Fairway Circle, NE, Brookhaven, Georgia 30319
(Tax Parcel Id No. 1820107001)**

Dear Director Song:

I represent Abdoul Amir Nadizadeh (“Homeowner”). Homeowner owns that certain residential real property known as and located at 2290 Fairway Circle, NE, Brookhaven, Georgia 30319 (the “Property”).

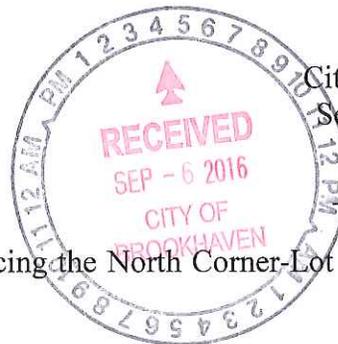
The Property is zoned R-75 Single-Family Residential District. The Property contains a total area of 11,281 sq. ft. or 0.26 acres. The Property is a corner lot with 69.75’ of front yard frontage on Fairway Circle, NE and 146.54’ of corner, side yard frontage on Lindenwood Lane.

Since his purchase in 2008, Homeowner has rented and leased out the Property. Homeowner is President and Partner with SAMS Development Company, a residential homebuilder, and desires to build a new home at the Property for him and his wife, Safia, to allow his family to maintain permanent residency at and from the Property so that they may live closer to their daughter. A limited number of trees will be removed for the construction of the new home at the Property. A partial depiction of the site plan detailing the proposed tree removal is enclosed. A complete, executed site plan detailing the proposed tree removal will be filed as an additional supplement to this application.

Homeowner respectfully submits this application for Variance from the minimum Corner-Lot, Side Yard requirements of Sections 27-335 and 14-455 of the Brookhaven Code of Ordinances.

A. SUMMARY OF PROPOSED VARIANCE

The Pre-Application Meeting with the Community Development Department indicated



that the proposed construction will require a variance reducing the North Corner-Lot Side Yard Setback from the required 30' to 10.6'.

Currently, the Property is improved with a single-family residence (the "Existing Structure"). As-built, the Existing Structure does not comply with the required Corner-Lot, Side Yard Setback. The Existing Structure encroaches approximately 20' into the minimum Corner-Lot, Side Yard Setback. As such, the current effective Corner-Lot, Side Yard Setback is approximately 10'.

The proposed new construction will slightly increase the encroachment into the Corner-Lot, Side Yard Setback by 0.6'. The proposed new construction would result in a Corner-Lot, Side Yard Setback of 10.6'.

Here, the proposed variance is not contrary to the public interest as a literal enforcement of the provisions Zoning Ordinance would result in unnecessary hardship. Further, the proposed variance is in keeping with the spirit of the Zoning Ordinance, does not risk public safety or welfare, and accomplishes substantial justice.

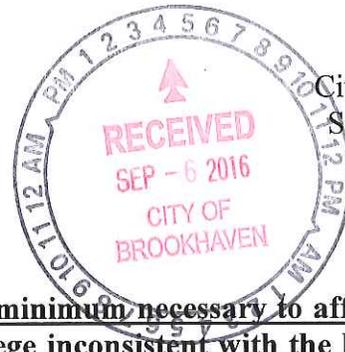
**B. DOCUMENTED CRITERIA UNDER SECTION 27-1665
JUSTIFYING A GRANT OF THE REQUESTED VARIANCE**

- (1) **The strict application of Sections 27-335(3)(d) and 27-1463 would deprive Homeowner of rights and privileges enjoyed by other property owners in the same zoning district by reason of exceptional narrowness, shallowness, and shape of the Property, which were not caused by Homeowner.**

The Property is a corner lot that is significantly handicapped by its exceptional narrowness and shape. Pursuant to Sections 27-335 and 14-455, the Property should have 90' of frontage on Fairway Circle, NE. Section 27-335 sets a minimum frontage of "at least 75 feet" for a standard R-75 lot. Section 14-455 mandates that corner lots "shall have an extra width of not less than 15 feet more than required for interior lots by the zoning ordinance for the zoning district within which they are located in order to provide appropriate front building setback from and orientation to both streets." The Property only has 69.75' of frontage on Fairway Circle, NE.

Strict application of a 30' Corner-Lot, Side Yard Setback would drastically reduce the buildable area width of the Property to 32.25' and result in a narrow, tall residence not in keeping with the surrounding neighborhood. Strict application of Sections 27-335(3)(d) and 27-1463 prohibits the full use and enjoyment of the Property and would prevent Homeowner from constructing a house that conforms with the streetscape and neighborhood characteristics and aesthetics.

Furthermore, the Property as-built currently has a 10' Corner-Lot, Side Yard Setback. The proposed variance would only slightly increase the encroachment by 0.6' for a proposed Corner-Lot, Side Yard Setback of 10.6'.



- (2) **The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the R-75 zoning district.**

Homeowner has designed a new home for himself that seeks to simply build upon the same footprint of the Existing Structure as much as possible, but improve the Property to allow him and his family to maintain permanent residency at and from the Property so that they may live closer to their daughter. The existing Corner-Lot, Side Yard Setback of the Property is 10'. Homeowner proposes a slight increase of the Corner-Lot, Side Yard Setback to 10.6'.

- (3) **The grant of the requested variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the R-75 zoning district.**

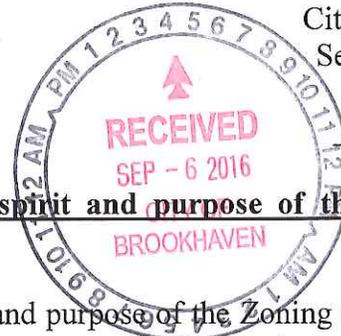
The Property as-built with the Existing Structure encroaches 20' into the Corner-Lot, Side Yard Setback. The proposed construction would only slightly reduce the Corner-Lot, Side Yard Setback from 10' to 10.6'. Furthermore, the variance would allow Homeowner to convert the Property from a rental property to an owner-occupied residence for him and his family. Homeowner intends to talk to his surrounding neighbors to obtain their consent and approval to the requested variance.

- (4) **The literal interpretation and strict application of Sections 27-335(3)(d) and 27-1463 would cause undue and unnecessary hardship, not merely impose a casual/discretionary inconvenience upon Homeowner.**

The Property is a corner lot that is significantly handicapped by its exceptional narrowness and shape. Pursuant to Sections 27-335 and 14-455, the Property should have 90' of frontage on Fairway Circle, NE. Section 27-335 sets a minimum frontage of "at least 75 feet" for a standard R-75 lot. Section 14-455 mandates that corner lots "shall have an extra width of not less than 15 feet more than required for interior lots by the zoning ordinance for the zoning district within which they are located in order to provide appropriate front building setback from and orientation to both streets." The Property only has 69.75' of frontage on Fairway Circle, NE.

Strict application of a 30' Corner-Lot, Side Yard Setback would drastically reduce the buildable area width of the Property to 32.25' and result in a narrow, tall residence not in keeping with the surrounding neighborhood. Strict application of Sections 27-335(3)(d) and 27-1463 prohibits the full use and enjoyment of the Property and would prevent Homeowner from constructing a house that conforms with the streetscape and neighborhood characteristics and aesthetics.

Furthermore, the Property as-built currently has a 10' Corner-Lot, Side Yard Setback. The proposed variance would only slightly increase the encroachment by 0.6' for a proposed Corner-Lot, Side Yard Setback of 10.6'.



(5) The requested variance is consistent with the spirit and purpose of the Zoning Ordinance and Comprehensive Plan text.

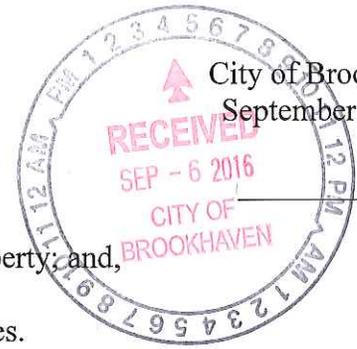
The proposed variance is consistent with the spirit and purpose of the Zoning Ordinance and Comprehensive Plan text as it would allow Homeowner relief from the exceptional narrowness and shape of the Property, respect the existing encroachment of the as-built Existing Structure, and allow Homeowner to construct an owner-occupied, single-family home that conforms with the streetscape and neighborhood characteristics and aesthetics.

Accordingly, Homeowner respectfully requests relief from Sections 27-335(3)(d) and 27-1463 to reduce the minimum required Corner-Lot, Side Yard Setback from 30' to 10.6' as such would not cause substantial detriment to the public good or substantial impairment of the intent and purpose of the Zoning Ordinance.

C. ADDITIONAL SUPPORTING DOCUMENTATION

In addition to this written justification, Homeowner includes as additional support for this Application the following:

1. Payment in the amount of Five Hundred Forty and No/100 Dollars (\$540.00) for Variance Petition and Sign Fees;
2. Pre-Application Form Land Use Petitions and Variance Petitions;
3. Variance Application;
4. Property Owner Notarized Certification;
5. Campaign Disclosure Statement of Homeowner;
6. Campaign Disclosure Statement of Applicant;
7. Notarized Authorization by Property Owner for Application for Variance;
8. Limited Warranty Deed, dated June 9, 2008;
9. Legal Description;
10. As-Built Survey prepared by Solar Land Surveying Company;
11. As-Proposed Survey prepared by Solar Land Surveying Company;
12. Partial of As-Proposed Tree Plan;
13. Architectural Elevation Drawings prepared by Frank Betz Associates, Inc.;
14. Photographs of construction by SAMS Development Company that will be substantially



similar to proposed construction for Homeowner at the Property; and,

15. Photographs of Existing Structure and neighboring properties.

I appreciate consideration of this Application. Please do not hesitate to contact me with any questions or request for additional information or documentation.

Sincerely,



R. Kyle Williams

RKW/etb

Encl.

cc: Amir and Safia Nadizadeh