

February 28, 2024

City of Brookhaven  
Planning and Zoning  
4362 Peachtree Rd.  
Brookhaven, GA 30319

Variance Letter of Intent:

**REQUEST #1: 1143 & 1151 GAIL DR (specimen tree removal)**

PARCEL ID#: 18 199 16 030 & 030

**&**

**REQUEST #2: 1143 GAIL DR (wall to protect specimen tree)**

PARCEL ID#: 18 199 16 030

ZONING: RS-75

To Whom It May Concern:

On behalf of the owner, SADAAT MASOUDI, this letter is a formal request for a variance for relief from RS-75 zoning ordinance and the tree ordinance regulations:

**REQUEST #1: To allow for the removal of two specimen trees outside the buildable area on lots 2 and 3 aka 1143 and 1151 Gail Dr.; 31" & 33" respectively. Sec. 14-56(b)**

Responses to the City of Brookhaven's criteria for a variance request is provided below.

**1. The grant of the variance will not be detrimental to the public health, safety or welfare or injurious to property or improvements:**

- The developer plans to build three homes on three separate previously PLATTED lots within the allowable buildable area for each lot.
- The proposed sanitary sewer line will connect into the City's sanitary sewer system at North Druid Hills but will require a 20' wide easement along Gail Drive.
- The construction required for the sanitary sewer line will destroy two specimen trees along Gail Drive.
- The developer will provide the appropriate tree recompense for the two destroyed specimen trees.
- The grant of the variance to remove the two specimen trees outside the buildable area will not be detrimental to the public health, safety, or welfare or injurious to property or improvements.

**2. The variance request is based on conditions that are:**

**(a) unique to the subject property;**

- The variance request is based on conditions that are unique and exceptional to the subject property. As a part of the development, we need to provide sewer infrastructure. The best location for the sanitary sewer line is along North Druid Hills Road. The unique conditions were not created by the owner.
- An Alternative solution was explored to locate the sanitary sewer line along the southern property line (rear), but it would require the extensive removal of several specimen trees. Because the specimen trees are unique to the property, we need to save the trees. A feasible alternative design does not exist that would also allow us to save those trees.

**(b) not generally applicable to other properties in the same zoning district; and**

- The variance request is based on conditions that are not generally applicable to other properties in the same zoning district due to the developer upgrading the property to tie into the City's sanitary sewer system and the combined property contains several specimen trees that the developer desires to preserve.

**(c) not the result of the subject property owner's or applicant's actions**

- The variance request is based on exceptional conditions that are not the result of the subject property owner's or applicant's actions which include upgrading the site for sanitary sewer infrastructure and protecting several specimen trees that the developer desires to preserve.

**3. Because of the particular conditions, shape, size, orientation or topographic conditions, the strict application of the requirements of this zoning ordinance would deprive the property owner of rights and privileges enjoyed by other similarly situated property owners;**

- Because of the combined site constraints and environmental limitations, the strict application of the requirements of this zoning ordinance would deprive the property owner of rights and privileges enjoyed by other similarly situation property owners. The sloping topographic conditions require retaining walls to preserve specimen tree (s) on the property.

**4. 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 similarly situated properties;**

- The requested variances do not go beyond the minimum necessary to afford relief, and do not constitute a grant of special privilege inconsistent with the limitations upon other similarly situated properties as stated above.

**5. The literal interpretation and strict application of the applicable provisions or requirements of this zoning ordinance would cause undue hardship or practical difficulty, as distinguished from a mere inconvenience; and**

- The literal interpretation and strict application of the applicable provisions or requirements of this zoning ordinance would cause practical difficulty, as distinguished from a mere inconvenience because of the exceptional site constraints and building limitations as stated above.

**6. The requested variance would be consistent with the spirit and purpose of this zoning ordinance and the comprehensive plan.**

- The requested variance would be consistent with the spirit and purpose of the zoning ordinance and the comprehensive plan because the proposed improvements compliment the development across the street on Gail Drive and across the street on North Druid Hills Road.

VARIANCE REQUEST FOR: 1133 AND 1143 GAIL DR, BROOKHAVEN GA 33333

2. **REQUEST #2: To reduce the retaining wall setback on lot 2 aka 1143 Gail Dr as follows: Side yard from 3.75' to 0'. Sec. 27-957**

**The grant of the variance will not be detrimental to the public health, safety or welfare or injurious to property or improvements:**

- The grant of the variance to reduce the retaining wall setback will not be detrimental to the public health, safety, or welfare or injurious to property or improvements. The developer plans to build three homes on three separate previously PLATTED lots within the allowable buildable area for each lot. The proposed low retaining wall will comply with the City of Brookhaven regulations and is required to protect the existing specimen tree outside the buildable area of disturbance along the southern property line.

**2. The variance request is based on conditions that are:**

**(a) unique to the subject property;**

- The variance request is based on conditions that are unique and exceptional to the subject property. The retaining wall is required to save a 31" specimen tree for grading on the lots and outside the buildable area. No alternatives exist and the tree must be saved.

**(b) not generally applicable to other properties in the same zoning district; and**

- The variance request is based on conditions that are not generally applicable to other properties in the same zoning district due to the combined property contains several specimen trees that the developer desires to preserve in the spirit of the city of Brookhaven.

**(c) not the result of the subject property owner's or applicant's actions**

- The variance request is based on exceptional conditions that are not the result of the subject property owner's or applicant's actions which the developer desires to preserve.

**3. Because of the particular conditions, shape, size, orientation or topographic conditions, the strict application of the requirements of this zoning ordinance would deprive the property owner of rights and privileges enjoyed by other similarly situated property owners;**

- Because of the combined site constraints and environmental limitations, the strict application of the requirements of this zoning ordinance would deprive the property owner of rights and privileges enjoyed by other similarly situation property owners. The sloping topographic conditions require retaining walls to preserve specimen tree (s) on the property.

**4. 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 similarly situated properties;**

- The requested variances do not go beyond the minimum necessary to afford relief, and do not constitute a grant of special privilege inconsistent with the limitations upon other similarly situated properties as stated above.

**5. The literal interpretation and strict application of the applicable provisions or requirements of this zoning ordinance would cause undue hardship or practical difficulty, as distinguished from a mere inconvenience; and**

- The literal interpretation and strict application of the applicable provisions or requirements of this zoning ordinance would cause practical difficulty, as distinguished from a mere inconvenience because of the exceptional site constraints and building limitations as stated above.

**6. The requested variance would be consistent with the spirit and purpose of this zoning ordinance and the comprehensive plan.**

- The requested variance would be consistent with the spirit and purpose of the zoning ordinance and the comprehensive plan because the proposed improvements compliment the development across the street on Gail Drive and across the street on North Druid Hills Road.

Based on this, we believe that there will not be any foreseeable potential hardships or detriment upon any of the neighbors if granted. This includes no adverse impact to noise, lights, trees, public health threats or vehicular traffic. The required documentation has been provided within this application. In addition to the materials otherwise required to be submitted with a variance application, find a submitted tree preservation plan and an alternative exhibit for the sewer line. The property owners seek staff support and the appeals board approval on these two variances. Should you have any questions or concerns, please feel free to contact the applicant or owner. Other than relief of the summarized request, no other requests are being appealed at this time.

Thank you for your consideration of this request.

Respectfully,  
April Ingraham,



Consultant/Applicant/Agent for SADAAT MASOUDI, owner/developer  
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