

APPLICATION NUMBER

5270

A REQUEST FOR

**FRONT YARD SETBACK AND SIDE YARD SETBACK
VARIANCES TO ALLOW THE CONSTRUCTION OF A 6'
SOLID WOODEN FENCE ON THE FRONT PROPERTY
LINE (LOT 1 OF CLOISTER SUBDIVISION) AND SIDE
PROPERTY LINE (1160 CHURCH STREET) ALONG
RAPIER AVENUE; A 25' FRONT YARD SETBACK IS
REQUIRED FROM THE FRONT PROPERTY LINE AND A
4.34' SIDE YARD (STREET) SETBACK FOR A WALL OR
FENCE HIGHER THAN 3-FEET IN A HISTORIC
DISTRICT WHERE THE SITE IS ZONED R-1, SINGLE-
FAMILY RESIDENTIAL**

LOCATED AT

**1160 CHURCH STREET & LOT 1, CLOISTER
SUBDIVISION**

(Northeast corner of Church Street and Rapier Avenue, extending 177'± North along
Rapier Avenue)

APPLICANT/OWNERS

**ROY & REBECCA C. BURNS AND CECIL & SUSAN
GARDNER**

BOARD OF ZONING ADJUSTMENT

NOVEMBER 2004

The applicants are requesting Front Yard and Side Yard Variances to allow the construction of a 6' solid wooden fence on the front property line (Lot 1 of Cloister Subdivision) and side property line (1160 Church Street) along Rapier Avenue; a 25' front yard setback is required from the front property line and a 4.34' side yard (street) setback for a wall or fence higher than 3-feet in a historic district where the site is zoned R-1, Single-Family Residential.

The applicants propose the construction of a 6-foot high, capped, solid wooden fence along Rapier Avenue. The proposed fence would begin approximately 70-feet from the Northeast corner of Church Street and Rapier Avenue, it would be constructed along the side (street) property line of 1160 Church Street and along the front property line of the adjacent (North) lot, Lot 1 of Cloister Subdivision.

The applicants state that two sets of double drive gates will be constructed to access each lot and that the fence will be to screen the garage and driveway.

While concerns for security is understandable, and the right to privacy is important to everyone, these concerns do not necessarily preclude development in accordance with the Ordinance; nor do they require that a fence be built along the side street and front property line.

Several applications have come before the Board within two blocks of this site. Understanding the need for security and privacy, as well as trying to sustain the integrity of the street line and maintain the spirit and intent of the Ordinance, the board has approved several variances to permit construction in line with the existing dwellings. Additionally, a side yard variance to allow an 8-foot high wooden fence along Rapier Avenue was approved by the Board in 1994 for the site adjacent (North) of this site.

The historic district overlay was recently adopted to allow additions to, or new structures that are "in-line" with existing development. However, this variance application is to allow a fence higher along the property line; the existing structures are setback 4.34' from the property line, thus a variance is required.

It should be noted that Traffic Engineering conducted an on-site review and found that the fence would not cause a line of sight obstruction. The Board has typically approved side yard variances to allow fences higher than 3', especially in older areas of the City, when Traffic Engineering has indicated there would not be a line of sight problem.

As the site is located within the Oakleigh Garden Historic District any improvements will require Architectural Review Board approval.

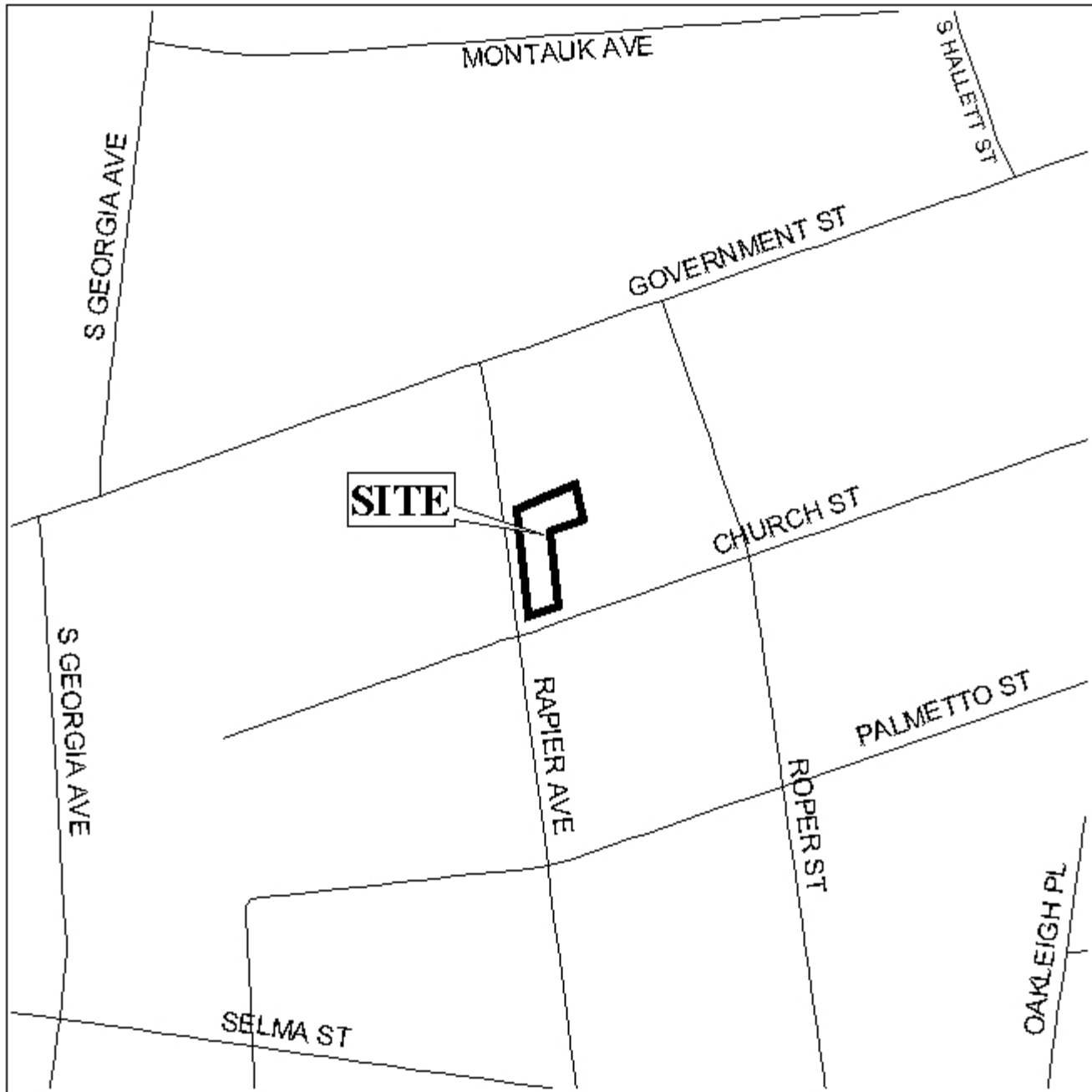
The Zoning Ordinance states that no variance shall be granted where economics are the basis for the application; and, unless the Board is presented with sufficient evidence to find that the variance will not be contrary to the public interest, and that special conditions exist such that a literal enforcement of the Ordinance will result in an unnecessary hardship. The Ordinance also states that a variance should not be approved unless the spirit and intent of the Ordinance is observed and substantial justice done to the applicant and the surrounding neighborhood.

The site is located within a historic district and is designed to provide visibility for both the driveways for this residence, and the adjacent residence. Furthermore approval of this variance would conform to the Board's previous approvals for similar side yard setback variances to allow fences exceeding 3' high.

RECOMMENDATION 5270**Date: November 1, 2004**

Based upon the preceding, this application is recommended for approval subject to the following conditions: 1) the approval from the Architectural Review Board prior to the issuance of any permits; and 2) the fence location to be approved by the Traffic Engineering Department.

LOCATOR MAP



APPLICATION NUMBER 5270 DATE November 1, 2004

APPLICANT Roy & Rebecca C. Burns and Cecil & Susan Gardner (Owners)

REQUEST Front, Side Yard Variance



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



Commercial sites and single-family residential units are located to the north of the site. Single and Multi family residential units are located to the south of the site.

APPLICATION NUMBER 5270 DATE November 1, 2004

APPLICANT Roy & Rebecca C. Burns and Cecil & Susan Gardner (Owners)

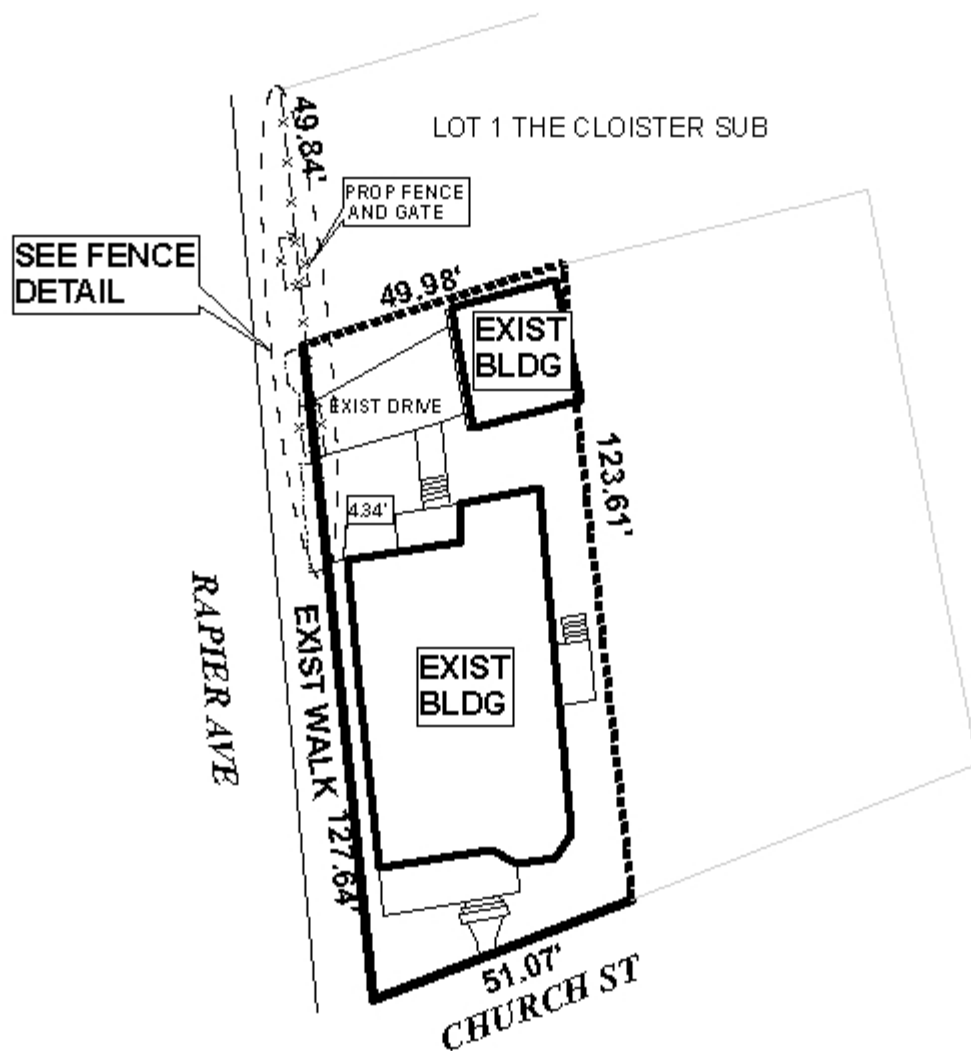
REQUEST Front, Side Yard Variance

LEGEND

R-1	R-2	R-3	R-A	R-B	H-B	B-1	LB-2	B-2	B-3	B-4	B-5	I-1	I-2



SITE PLAN



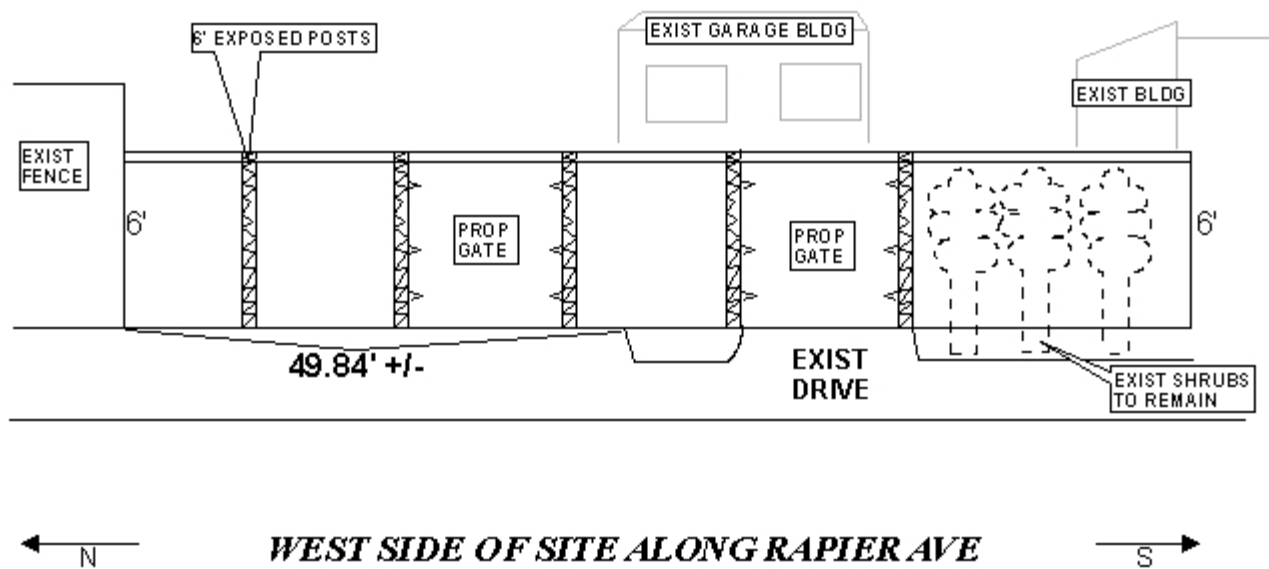
The site plan illustrates the existing buildings and drives along with the proposed fencing and setbacks.

APPLICATION NUMBER 5270 DATE November 1, 2004
APPLICANT Ray and Rebecca C. Burns
REQUEST Fence Variance



NTS

FENCE DETAIL



APPLICATION NUMBER 5270 DATE November 1, 2004

APPLICANT Roy & Rebecca C. Burns and Cecil & Susan Gardner(Owners)

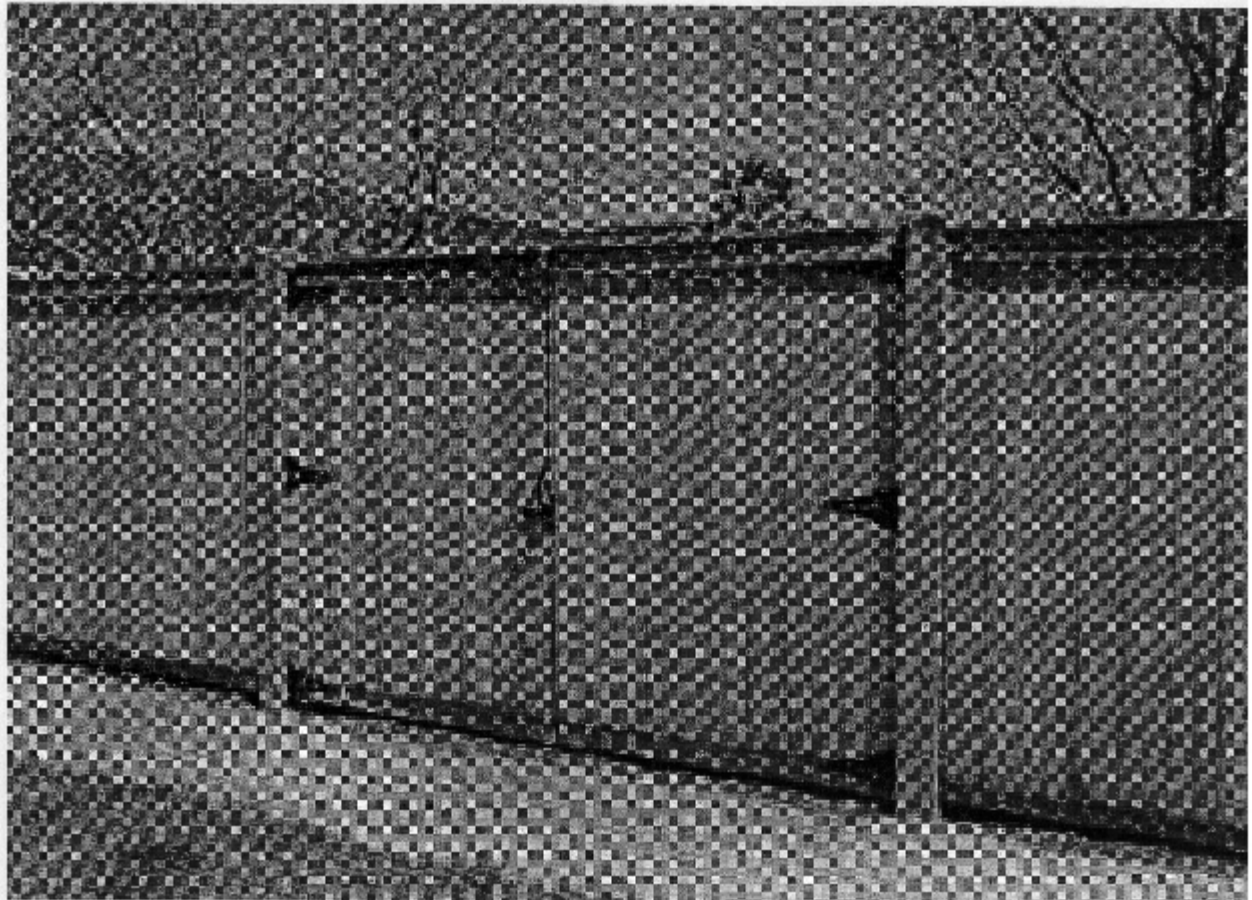
REQUEST Front, Side Yard Variance



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FENCE DETAIL

Proposed Fence



APPLICATION NUMBER 5270 DATE November 1, 2004

APPLICANT Roy & Rebecca C. Burns and Cecil & Susan Gardner (Owners)

REQUEST Front, Side Yard Variance



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