

APPLICATION NUMBER

**5372**

A REQUEST FOR

**SIDE YARD SETBACK VARIANCE TO ALLOW THE  
CONSTRUCTION OF A 6' TALL WOODEN PRIVACY  
FENCE ALONG THE MONROE STREET (SIDE STREET)  
PROPERTY LINE; A MINIMUM 3-FOOT SIDE YARD  
SETBACK ALONG A SIDE STREET (MONROE STREET)  
IN AN R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT IS  
REQUIRED WITHIN THE HISTORIC OVERLAY  
DISTRICT.**

LOCATED AT

**200 SOUTH DEARBORN STREET**

(Southwest corner of South Dearborn Street and Monroe Street)

APPLICANT/OWNER

**BARBARA G. GIDDENS**

**BOARD OF ZONING ADJUSTMENT**

SEPTEMBER 2006

The applicant is requesting a Side Yard Setback Variance to allow the construction of a 6' tall wooden privacy fence along the Monroe Street (side street) property line; a 10'-6" side yard setback is required along a side street (Monroe Street) for a 55'-wide lot in an R-1, Single-Family Residential District.

The purpose of this application is actually to allow the fence to remain as it was constructed earlier this year as a replacement of a deteriorated fence. Instead of locating the replacement fence along the same line of the original fence, the replacement fence was located approximately two feet closer to the side street (Monroe Street) property line. A 1993 survey of the subject property indicates the fence three feet off that property line. The current fence appears to be approximately twenty feet longer than that shown on the 1993 survey, however. A building permit was obtained for the current fence, and, since the property is located within the Church Street Historic District, an Architectural Review Board Certificate of Appropriateness was also obtained.

The applicant states that during the reconstruction, problems were encountered with removing the fence posts embedded in 16 to 18 inches of concrete. When trying to offset the posts, problems were encountered with the root system of an Oak tree on the property. The decision was then made to relocate the fence closer to the sidewalk where the tree roots and old fence posts could be avoided. Instead of gates swinging outward into the sidewalk, a rolling gate parallel with the fence was installed. The applicant states that the area outside the old fence collected much litter and that in fourteen years of property ownership, the house has been broken into, shed doors torn open, lawn furniture, lawn tools, and a tool box stolen, and a car window broken with items stolen from within.

Since the site is within the Church Street East Historic District, setbacks are governed by the Historic District Overlay which states that the side yard setback on side streets may be no less than the side yard setback of the other corner lots, along the same street, at the same intersection. In this instance, the side street setback would be approximately three feet, based upon existing structures at the Monroe Street/South Dearborn Street intersection. While some of the concerns of the applicant may be valid, there are other concerns that should also be taken into consideration. It should be noted that Traffic Engineering conducted an on-site review and determined the fence creates a line-of-sight obstruction for vehicles exiting the driveway to pedestrian traffic along the Monroe Street sidewalk. The Board has typically approved side yard variances to allow fences higher than three feet, especially in older areas of the City, when Traffic Engineering has indicated there would not be a line-of-sight problem.

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.

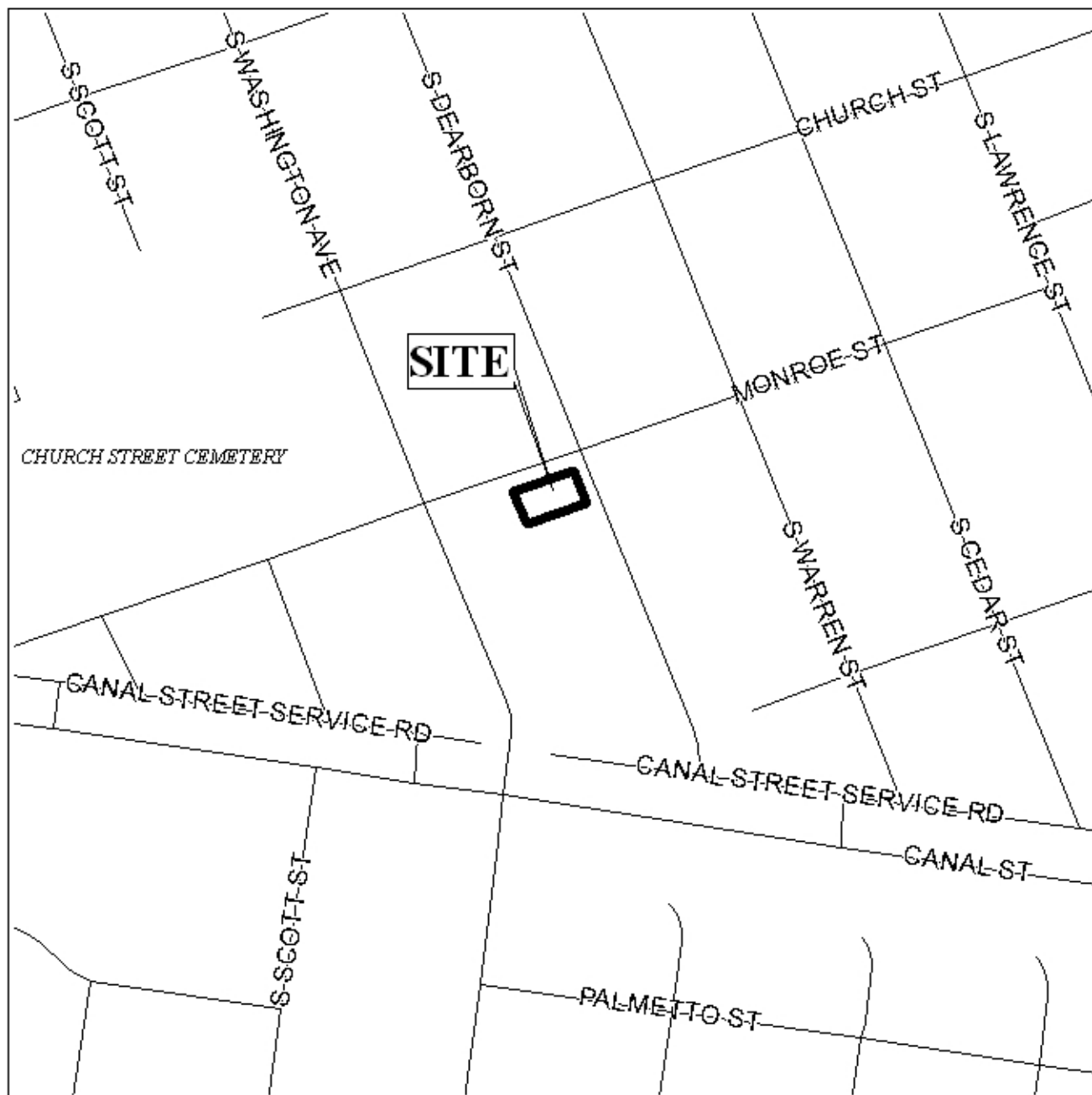
Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined from the facts and circumstances of each application.

While the applicant did partially justify a hardship imposed by the location of the Oak tree root system, Traffic Engineering concerns must also be considered in the fence location. The fact that the site is in a historic district is also a factor to be considered.

**RECOMMENDATION 5372****Date: September 11, 2006**

Based on the preceding, this application is recommended for approval subject to the following conditions: (1) the coordination with and approval of Traffic Engineering for modifications to the fence in the driveway area to create better line-of-sight along the sidewalk; (2) coordination with Urban Forestry to minimize any damage to the Oak tree root system during any required modifications; and (3) the obtaining of a revised Certificate of Appropriateness from the Architectural Review Board.

## LOCATOR MAP



APPLICATION NUMBER 5372 DATE September 11, 2006

APPLICANT Barbara G. Giddens

REQUEST Side Yard Setback Variance



NTS

# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by mixed landuse.

APPLICATION NUMBER 5372 DATE September 11, 2006

APPLICANT Barbara G. Giddens

REQUEST Side Yard Setback Variance

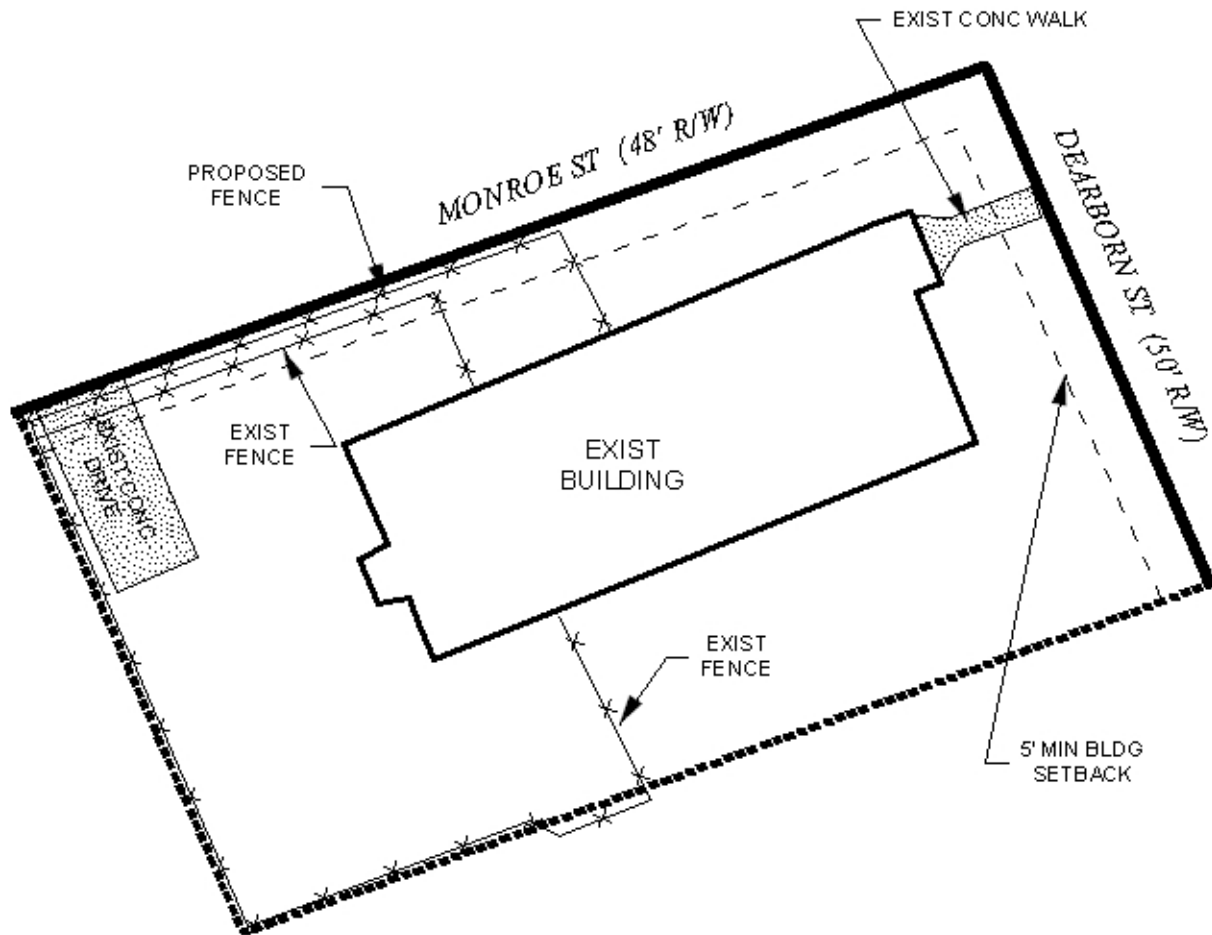
LEGEND

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
-----	-----	-----	-----	-----	-----	-----	------	-----	-----	-----	-----	-----	-----



NTS

## SITE PLAN



The site plan illustrates existing fences, building, and proposed fence.

APPLICATION NUMBER 5372 DATE September 11, 2006

APPLICANT Barbara G. Giddens

REQUEST Side Yard Setback Variance



NTS