

APPLICATION NUMBER

**5374**

A REQUEST FOR

**SIDE YARD SETBACK VARIANCE TO ALLOW THE  
CONSTRUCTION OF AN 8'-HIGH WOODEN PRIVACY  
FENCE ALONG THE CYPRESS SHORES DRIVE (SIDE  
STREET) PROPERTY LINE; A 20' SIDE YARD SETBACK  
IS REQUIRED ALONG A SIDE STREET (CYPRESS  
SHORES DRIVE) IN AN R-1, SINGLE-FAMILY  
RESIDENTIAL DISTRICT.**

LOCATED AT

**4101 POINT ROAD**

(Southeast corner of Point Road and Cypress Shores Drive))

APPLICANT/OWNER

**DEREK L. KENT**

**BOARD OF ZONING ADJUSTMENT**

SEPTEMBER 2006

The applicant is requesting a Side Yard Setback Variance to allow the construction of an 8'-high wooden privacy fence along the Cypress Shores Drive (side street) property line; a 20' side yard setback is required along a side street (Cypress Shores Drive) in an R-1, Single-Family Residential District.

The purpose of this application is actually to allow the existing fence to remain. The fence was built by a fence contractor, without a building permit, and with no review for setback requirements. The site plan furnished with the application indicates a major length of the fence in the City right-of-way. The applicant states that the fence replaces a 4'-high chain link fence which allowed visibility into a garage from Cypress Shore Drive, and the wooden fence is needed for security reasons. It is stated that the house flooded during Hurricane Katrina, and the garage was robbed following the vacation of the house. As further justification for the fence height, the applicant states that the property is low along the Cypress Shores Drive side yard property line and that the fence must be eight feet high to obstruct the view into the garage from the road. It is further stated that the fence must be located where it is in order to allow vehicle access into the garage.

A traffic visibility obstruction complaint initiated an investigation into the fence, and Traffic Engineering determined there was a visibility obstruction imposed by the Northern portion of the fence closer to the intersection of Cypress Shores Drive and Point Road. The applicant subsequently relocated the fence onto the property line (verbally stated) and altered the Northern portion to relieve the visibility obstruction, and Traffic Engineering has conducted a follow-up on-site review and determined that the alterations have greatly improved the line-of-sight at the intersection.

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.

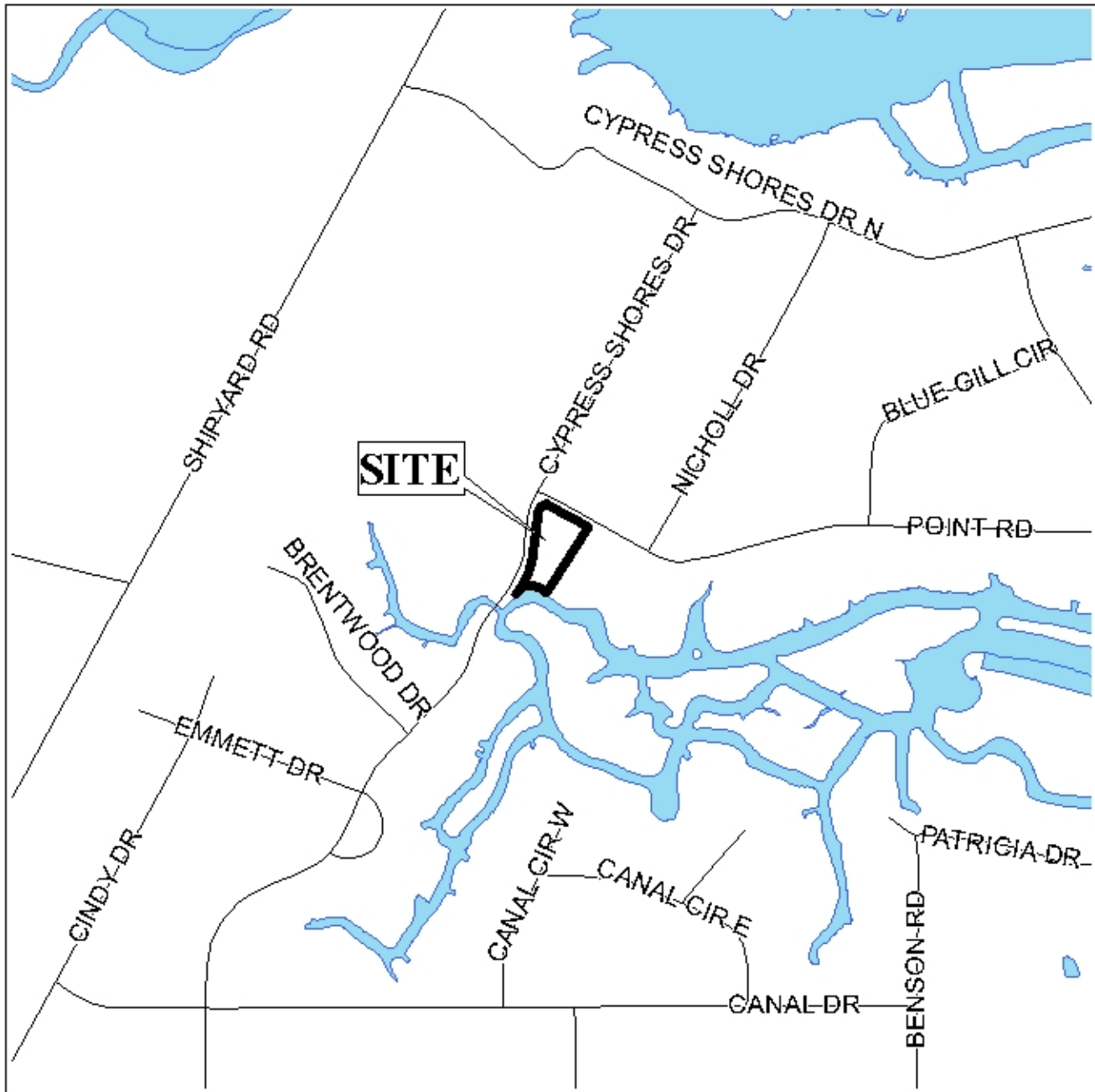
Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined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

The applicant has demonstrated that a hardship is imposed by the property in that the lower elevation along the Cypress Shores property line would warrant a higher fence for privacy, and the site plan furnished indicates that if the fence were to be placed along the required 20' setback line, it would severely restrict vehicular access to the garage.

**RECOMMENDATION 5374****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 on any modifications deemed necessary to eliminate any line-of-sight visibility concerns; (2) verification by re-survey that the fence is indeed on the subject property and not in the City right-of-way, and if in the City right-of-way, it be moved onto private property; and (3) the obtaining of an after-the-fact fence permit.

## LOCATOR MAP



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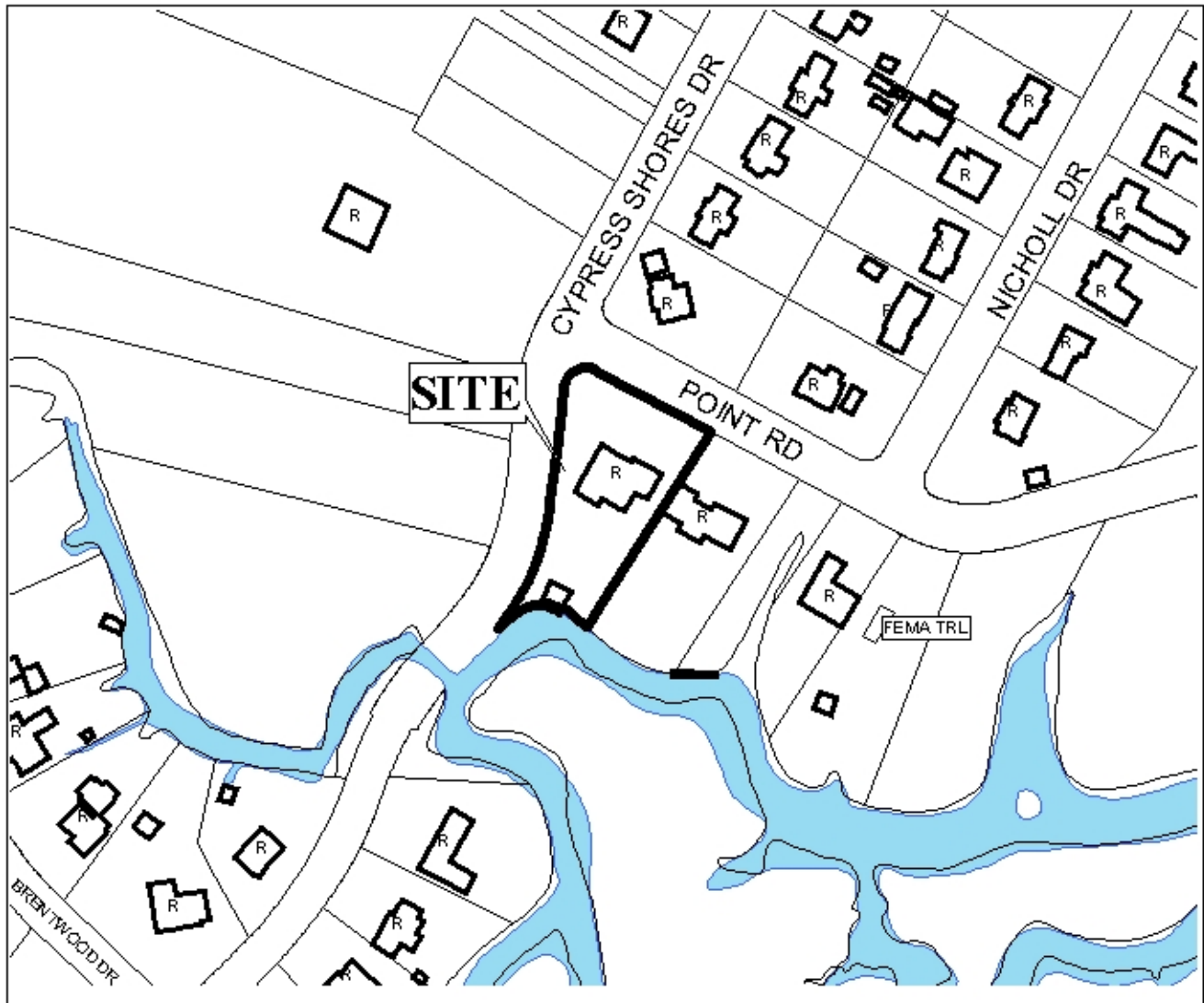
APPLICANT Derek L. Kent

REQUEST Side Yard Setback Variance



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# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single-family residential units

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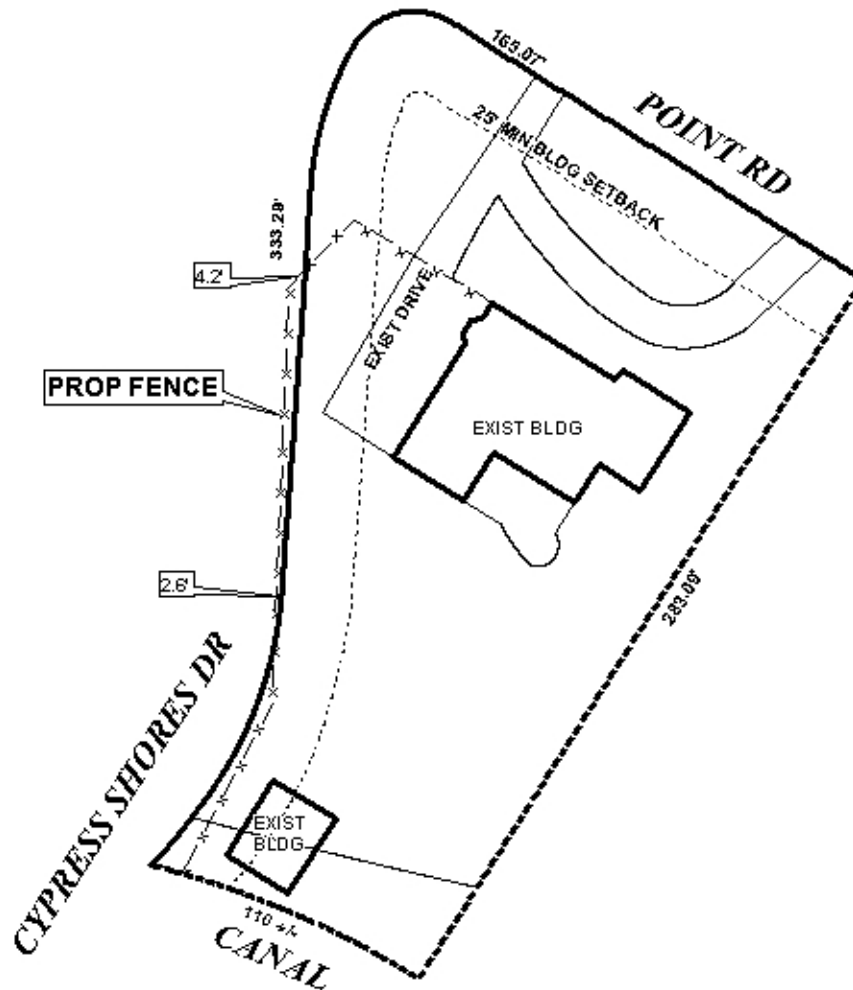
LEGEND

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
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## SITE PLAN



The site plan illustrates the existing buildings, drives, and proposed fencing

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