

# **HOLDOVER**

APPLICATION NUMBER

**5444**

A REQUEST FOR

**SIDE STREET YARD SETBACK TO ALLOW THE  
CONSTRUCTION OF AN 8 FOOT HIGH WOODEN  
PRIVACY FENCE ALONG THE SIDE STREET  
PROPERTY LINE IN AN R-1, SINGLE-FAMILY  
RESIDENTIAL DISTRICT; A 20 FOOT SIDE STREET  
YARD SETBACK IS REQUIRED FOR AN 8 FOOT HIGH  
PRIVACY FENCE IN AN R-1, SINGLE-FAMILY  
RESIDENTIAL DISTRICT**

LOCATED AT

**1251 LAKE CIRCLE WEST**

(Southeast corner of Lake Circle West and Lake Circle North)

APPLICANT/OWNER

**MARSHALL AND MICHELLE SANFORD**

AGENT

**MARSHALL SANFORD**

**BOARD OF ZONING ADJUSTMENT**

DECEMBER 2007

# HOLDOVER

**ANALYSIS APPLICATION 5444**

**Date: December 3, 2007**

The applicant is requesting a side street yard setback variance to allow the construction of an 8 foot high wooden privacy fence along the side street property line in an R-1, Single-Family Residential District; a 20 foot side street yard setback is required for an 8 foot high privacy fence in an R-1, Single-Family Residential District.

The applicant constructed the subject structure without a building permit which would have depicted the required side street yard setback. It is stated that the fence was constructed "because of kids jumping his chain link fence to access McLain Lake." Furthermore, there is also a steep drop off to the lake just six feet from the property line along much of the Lake Circle North frontage.

With regard to the side street setback variance, the topographical site plan submitted by the applicant does depict a significant drop off near the property line, in some places, which makes the 20' building setback impossible to comply with. However, the property begins to level off approximately 130' from Lake Circle West. There is no reason that the applicant cannot comply with the required setback at this point.

The Zoning Ordinance states that no variance shall be granted where economics are the basis for the application. Furthermore, the applicant must present 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.

This application was heldover from the Board's scheduled November meeting due to a lack of quorum to hold the meeting.

# **HOLDOVER**

## **RECOMMENDATION 5444**

**Date: December 3, 2007**

Based on the preceding, this application is recommended for approval, but modified to comply where the property begins leveling off approximately 130' from Lake Circle West.

## LOCATOR MAP



APPLICATION NUMBER 5444 DATE December 3, 2007

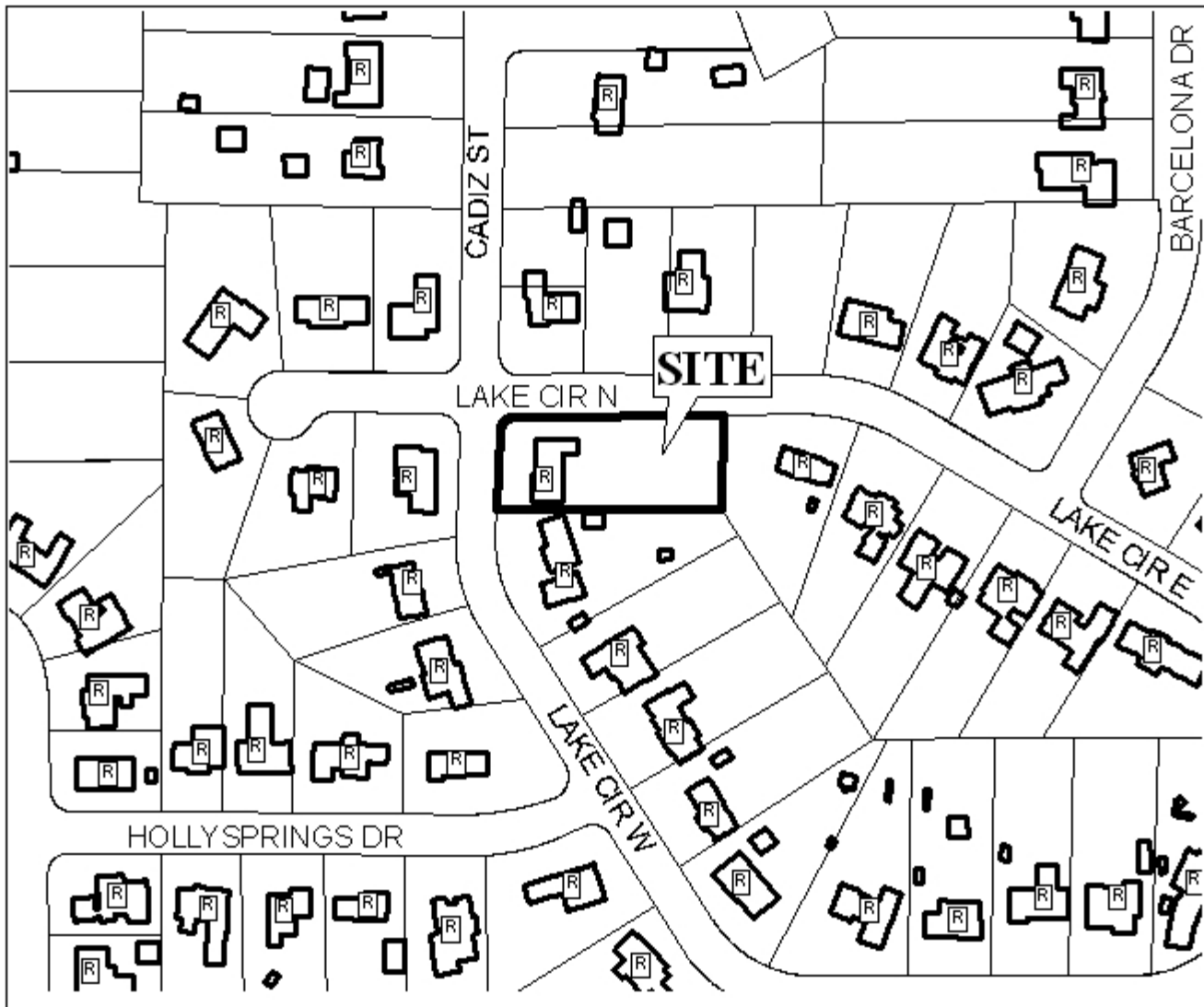
APPLICANT Marshall & Michelle Sanford

REQUEST Side Street Yard Setback



NTS

# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING





The site is surrounded by single family residential units.

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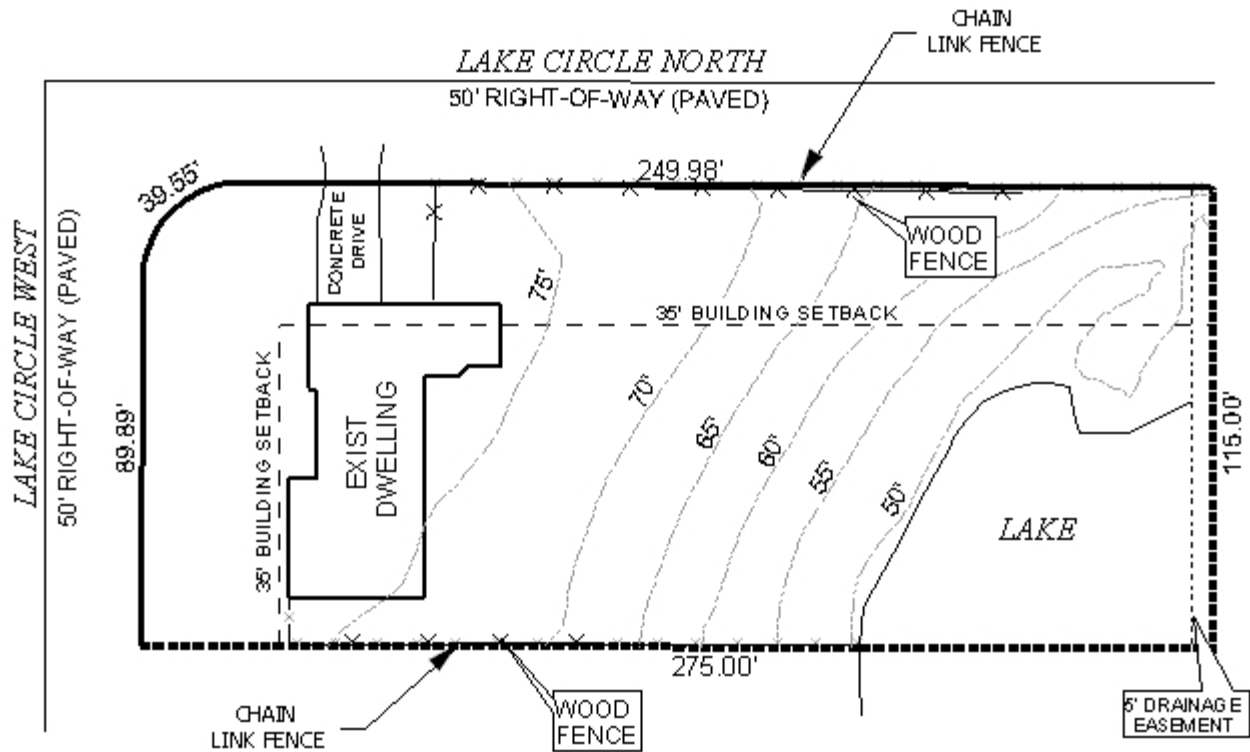
REQUEST Side Street Yard Setback

LEGEND

 R-1	 R-2	 R-3	 R-A	 R-B	 H-B	 T-B	 B-1	 LB-2	 B-2	 B-3	 B-4	 B-5	 I-1	 I-2	NTS
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# SITE PLAN



The site plan illustrates fences, setbacks, easments, buildings, slope contour, and lake.

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NTS