

**October 23, 2019**

**Title**

ZBA 19-06

**Petitioner & Property Owner**

Thomas and Judy Woldman  
6 West Central Avenue  
Lombard, IL 60148

**Property Location**

6 West Central Avenue

**Zoning**

R2 Single Family Residence

**Existing Land Use**

Single Family Home

**Comprehensive Plan**

Low Density Residential

**Approval Sought**

A variation to allow a six foot (6') tall solid fence in the corner side yard; a variation to allow a six foot (6') tall solid fence in a rear yard that abuts the front yard of an adjacent lot.

**Prepared By**

Tami Urish  
Planner I



**PROJECT STATS**

**Lot & Bulk (Proposed)**

Parcel Size: 9,904 SF  
Fence Height 6 feet

**Reqd. Setbacks & Existing Dimensions (in parens.)**

Front (south) 30' (32')  
Side (west) 6' (8')  
Corner Side (east) 20' (21' approx.)  
Rear (north) 25' (69' approx.)

**Submittals**

1. Petition for Public Hearing;
2. Response to Standards for Variation, Exhibit A; and
3. Plat of Survey prepared by Gentile and Associates, dated October 31, 1986 with site plan, Exhibit C and D.

**APPROVALS REQUIRED**

The petitioner requests that the Village grant approval of a variations from Sections 155.205(A)(1)(c)(ii) and (iii) of the Lombard Village Code to allow for an existing six foot (6') high solid fence in a corner side yard for the subject property located within the R2 Single-Family Residence District.

**EXISTING CONDITIONS**

The property is improved with a raised ranch single-family residence.

**Surrounding Zoning & Land Use Compatibility**

	Zoning Districts	Land Use
North	R2	Single Family Home
South	R2	Single Family Home
East	R2	Single Family Home
West	R2	Single Family Home

**INTER-DEPARTMENTAL REVIEW**

**Building Division:**

The Building Division has no comments regarding the petition.

**Fire Department:**

The Fire Department has no comments regarding the petition.

**Private Engineering Services:**

Private Engineering Services (PES) has no comments regarding the petition.

**Public Works:**

The Department of Public Works has no comments regarding the petition.

**Planning Services Division:**

The property is currently developed with a six-foot tall solid wood fence located in the rear, interior side, and corner side yards (Exhibits A and B). The petitioner proposes to replace the existing fence with a similar fence in the same relative location while additionally avoiding the clear line of sight of the property to the north's driveway that is approximately four feet from the subject property's rear property line. Therefore, the current conditions will be improved.

Section 155.205(A)(1)(c) of the Zoning Ordinance permits fences of solid construction to be a maximum of four feet tall in corner side yards. Further, fences in rear yards that abut the front yard of an adjacent lot may be a maximum of four feet tall. Exhibit C shows the fence height permitted by the Zoning Ordinance in the rear and side yards of the subject property.

The petitioner states that the existing six-foot tall fence is in poor condition and needs to be replaced. The petitioner is concerned that a replacement fence that meets the height requirements of the Zoning Ordinance would not provide adequate privacy or security.

To be granted a variation, petitioners must show that they have affirmed each of the standards for variations outlined in Section 155.103(C)(7). Staff offers the following commentary on these standards with respect to this petition:

- a. *That because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner has been shown, as distinguished from a mere inconvenience if the strict letter of the regulations were to be applied.*

Staff observes that the subject property has a significant grade change relative to Main Street that is adjacent to the corner yard. This results in the property being lower than Main Street and the associated sidewalk.

- b. *The conditions upon which an application for a variation is based are unique to the property for which the variation is sought, and are not generally applicable to other property within the same zoning classification.*

This standard is affirmed. The grade difference of Main Street and the close proximity to the high school creating a high pedestrian traffic area near the subject property with respect to the corner yard is a unique feature.

- c. *The purpose of the variation is not based primarily upon a desire to increase financial gain.*

This standard is affirmed.

- d. *The alleged difficulty or hardship is shown to be caused by this ordinance and has not been created by any person presently having an interest in the property.*

This standard is affirmed.

- e. *The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.*

This standard is affirmed. The existing fence has been on the property for decades and prior to the house being built on the lot to the north of the subject property. Conditions will be improved by removing the section of the existing fence from the clear line of sight of the neighbor's driveway.

- f. *The granting of the variation will not alter the essential character of the neighborhood.*

This standard is affirmed. Staff notes that the proposed fence will be identical in location and height to the fence currently on the property with the exception of the clear line of sight area for a driveway. Conditions in the neighborhood will not change.

Further, there are a number of fences six feet in height to the north and south along Main Street that are on properties that are through lots. Through lots essentially have two front yards however an exception was made in Section 155.205 (1)(iv) that through lots in most residential districts that takes driveway access from the same right of way as both adjacent properties, the lot line opposite the access right of way shall be treated as a rear lot line and allowed a maximum fence height of six feet. Therefore, the character along Main Street will not noticeably be altered by allowing an additional fence six feet in height.

- g. The proposed variation will not impair an adequate supply of light and air to adjacent property or substantially increase the congestion of the public streets, or increase the danger of fire, or impair natural drainage or create drainage problems on adjacent properties, or endanger the public safety, or substantially diminish or impair property values within the neighborhood*

This standard is affirmed. The existing fence has been on the property for decades.

In consideration of precedent, staff has identified 22 similar cases that appeared before the Zoning Board of Appeals since 2005. Each case involves a request for a six foot (6') tall solid fence in a corner side yard in a single-family residential zoning district.

Of the 22 cases, the Zoning Board of Appeals recommended approval of the requested variation 11 times. The Village Board approved 21 requests, with the exception of the portion of ZBA 15-05 requesting a solid fence in the clear line of sight. Staff notes the fence on the subject property in ZBA 19-06 is adjusted so as not to impact any clear lines of sight.

CASE NO.	DATE	ADDRESS	SUMMARY	ZBA	BoT
ZBA 05-02	4/21/2005	322 E. Elm St.	6' tall solid wood fence within a corner side yard.	Approval, 4-1	Approval, 6-0
ZBA 05-06	6/2/2005	324 S. Ahrens Ave.	6' tall wood picket fence within a corner side yard (15' off of property line)	Approval, 6-0	Approval, 6-0
ZBA 06-13	9/21/2006	501 N. Garfield St.	6' tall wood picket fence within a corner side yard.	Approval, 6-0	Approval, 6-0
ZBA 06-20	1/4/2007	614 E. Berkshire Ave.	6' tall solid wood fence within a corner side yard.	Approval, 5-1	Approval, 6-0
ZBA 07-06	8/9/2007	466 N. Main St.	5' tall solid wood fence within a corner side yard.	Denial, 4-0	Approval, 5-0
ZBA 07-09	8/9/2007	130 E. Sunset Ave.	6' tall solid wood fence within a corner side yard.	Denial, 4-0	Approval, 5-0
ZBA 07-10	8/9/2007	220 W. Central Ave.	6' tall solid wood fence within a corner side yard.	None, 2-2	Approval, 5-0
ZBA 08-04	5/15/2008	1005 E. Washington Blvd.	4' tall solid wood fence with a 1' tall lattice extension within a corner side yard.	Denial, 6-0	Approval, 6-0
ZBA 08-07	8/21/2008	197 S. Lombard Ave.	5' tall solid wood fence within a corner side yard.	None, 3-2	Approval, 6-0

ZBA 08-09	9/4/2008	1601 S. Main St.	6' tall solid wood fence within a corner side yard.	Approval, 5-0	Approval, 6-0
ZBA 08-14	10/2/2008	242 W. Berkshire Ave.	6' tall solid wood fence within a corner side yard.	Approval, 5-0	Approval, 6-0
ZBA 08-16	1/15/2009	350 N. Fairfield Ave.	6' tall solid wood fence within a corner side yard.	None, 3-2	Approval, 6-0
ZBA 09-09	10/15/2009	1107 Woodrow Ave.	6' tall solid vinyl fence within a corner side yard.	Approval, 5-0	Approval, 6-1
ZBA 09-11	1/21/2010	617 E. Berkshire Ave.	6' tall solid wood fence within a corner side yard.	Approval, 5-0	Approval, 6-0
ZBA 10-02	5/20/2010	302 S. Grace St.	6' tall solid wood fence within a corner side yard.	Denial, 1-4	Approval, 6-0
ZBA 11-02	6/2/2011	403 W. Ethel Ave.	6' tall solid fence within a corner side yard.	None, 3-3	Approval, 6-0
ZBA 11-03	5/19/2011	1147 E. Adams St.	6' tall solid wood fence with a corner side yard.	Approval, 4-1	Approval, 6-0
ZBA 13-05	11/7/2013	640 N. Charlotte St.	6' tall solid wood fence within a corner side yard.	Approval, 5-0	Approval, 6-0
ZBA 14-08	6/24/2014	551 N. LaLonde Ave.	6' tall solid fence within a corner side yard.	None, 3-3	Approval, 5-0
ZBA 14-10	9/24/2014	236 W. Sunset Ave.	6' tall solid fence within a corner side yard.	Denial, 4-2	Approval, 6-0
ZBA 15-05	5/27/2015	601 N. Grace St.	6' tall solid fence within a corner side yard; 6' tall solid fence within the clear line of sight.	6' in corner side yard: Approval, 6-0  6' in clear line of sight: Denial, 6-0	6' in corner side yard: Approval, 6-0  6' in clear line of sight: Denial, 6-0
ZBA 18-02	5/17/2018	303 Collen Drive	6' tall solid fence within a corner side yard.	Approval, 5-0	Approval, 5-0

Staff finds that because there are so few properties within the Village that are similar to the subject property, recommending approval would not set a long range precedent that could be commonly applied to other properties.

### **FINDINGS & RECOMMENDATIONS**

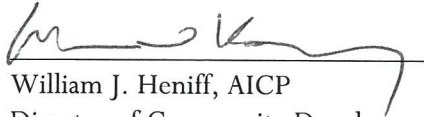
The Department of Community Development has determined that the information presented **has affirmed** the Standards for Variations for the requested variation. Based on the above considerations, the Inter-Departmental Review Committee recommends that the Zoning Board of Appeals make the following motion recommending **approval** of the aforementioned variation:

Based on the submitted petition and the testimony presented, the requested variation does comply with the Standards required for a variation by the Lombard Zoning Ordinance; and, therefore, I move that the Zoning Board of Appeals find that the findings as discussed at the public hearing, and those findings included as part of the Inter-Departmental Review Committee Report be the findings of the Zoning Board of Appeals and recommend to the Corporate Authorities approval of ZBA 19-06 with the following conditions:

1. The replacement fence shall be constructed in substantial conformance to the plan submitted by the petitioner, as shown in Exhibit C; and

2. The petitioner shall apply for and receive a building permit for the proposed replacement fence.
3. Such approval shall become null and void unless work thereon is substantially under way within 12 months of the date of issuance, unless extended by the Board of Trustees prior to the expiration of the ordinance granting the variation.

Inter-Departmental Review Committee Report approved by:



William J. Heniff, AICP  
Director of Community Development

c. Petitioner

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EXHIBIT A – Response to Standards prepared by Petitioners

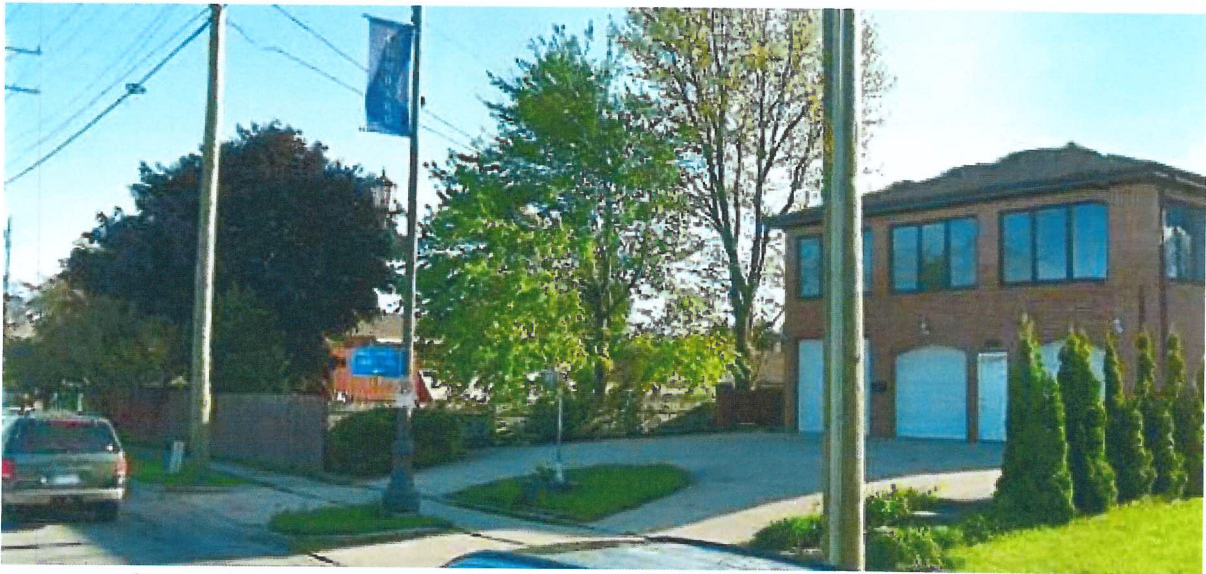
**Standards for Variations**

1. Because the grade of the property is lower than the right of way we get a lot of debris from the street and more people can see in our yard.
2. The property is on a busy street-Main Street. If this were our back yard it would be allowed as evidence along Main Street south of Roosevelt.
3. We are only looking to replace the existing fence for our own enjoyment.
4. The hardship of us just replacing our existing fence has nothing to do with any person having an interest in our property.
5. We do not feel replacing our six foot fence with a six foot fence will be detrimental to the neighborhood. In fact we are planning on angling the fence at a 45 degree angle 20 feet from the property line to insure a clear sight line to our neighbors at 1046 S Main. So improving the existing fence.
6. We do not feel the variation will alter the essential character of the neighborhood. It should actually improve it with a better looking fence.
7. The variation does not cause any of those listed. The fence has been there for 18 plus years and none of these things have been impacted.

Exhibit B – Existing Conditions

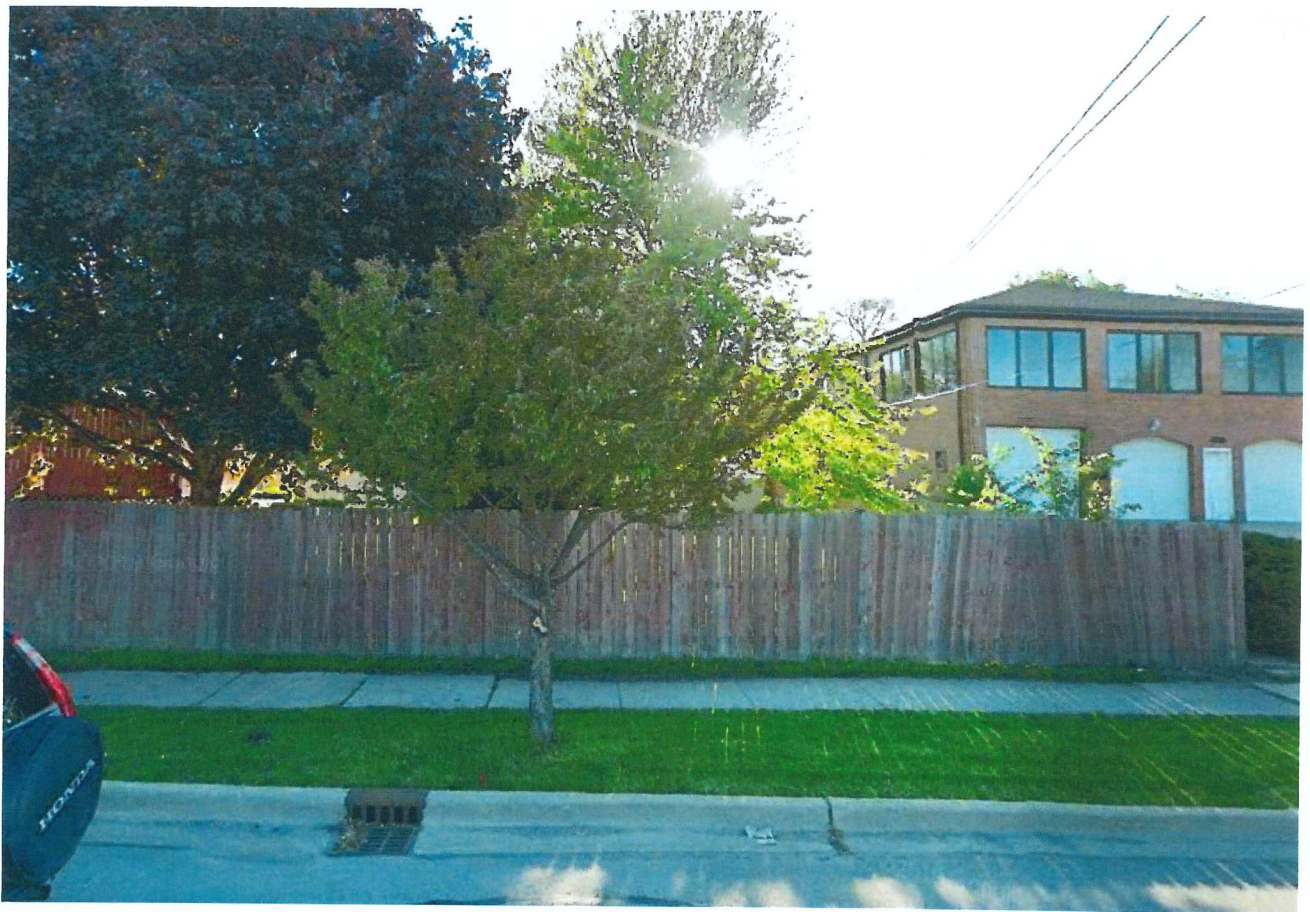


*Looking northwest toward subject property*

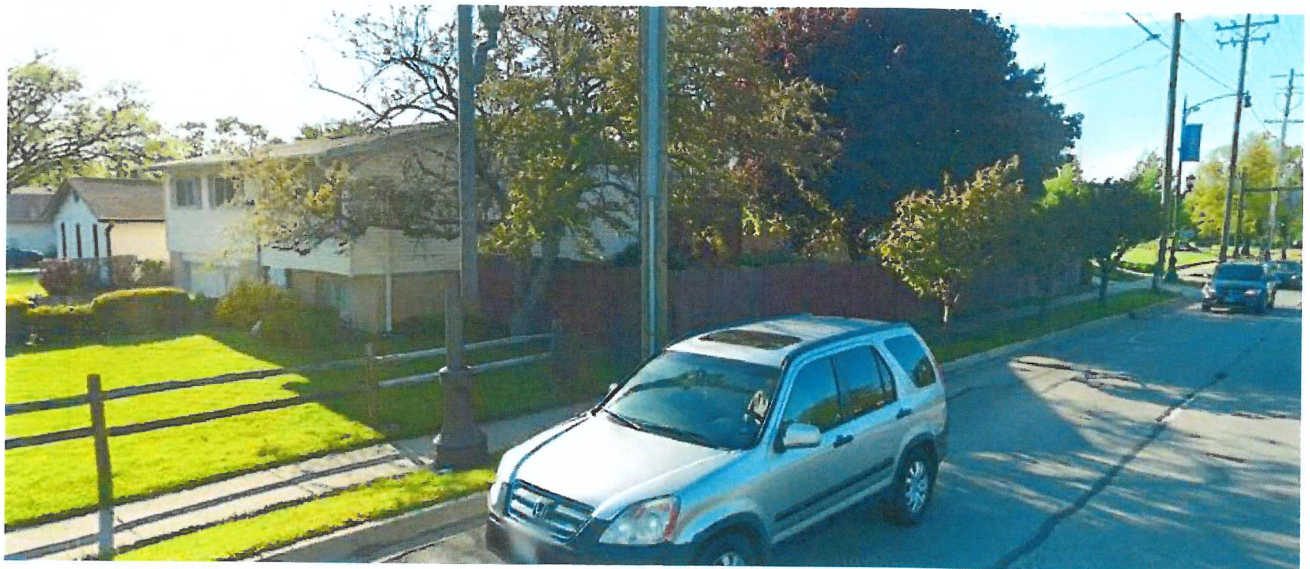


*Looking south toward subject property*





*Looking west toward subject property*



*Looking west, with view of neighbor's front yard*

EXHIBIT C – Site Plan  
 Showing location of proposed replacement fence



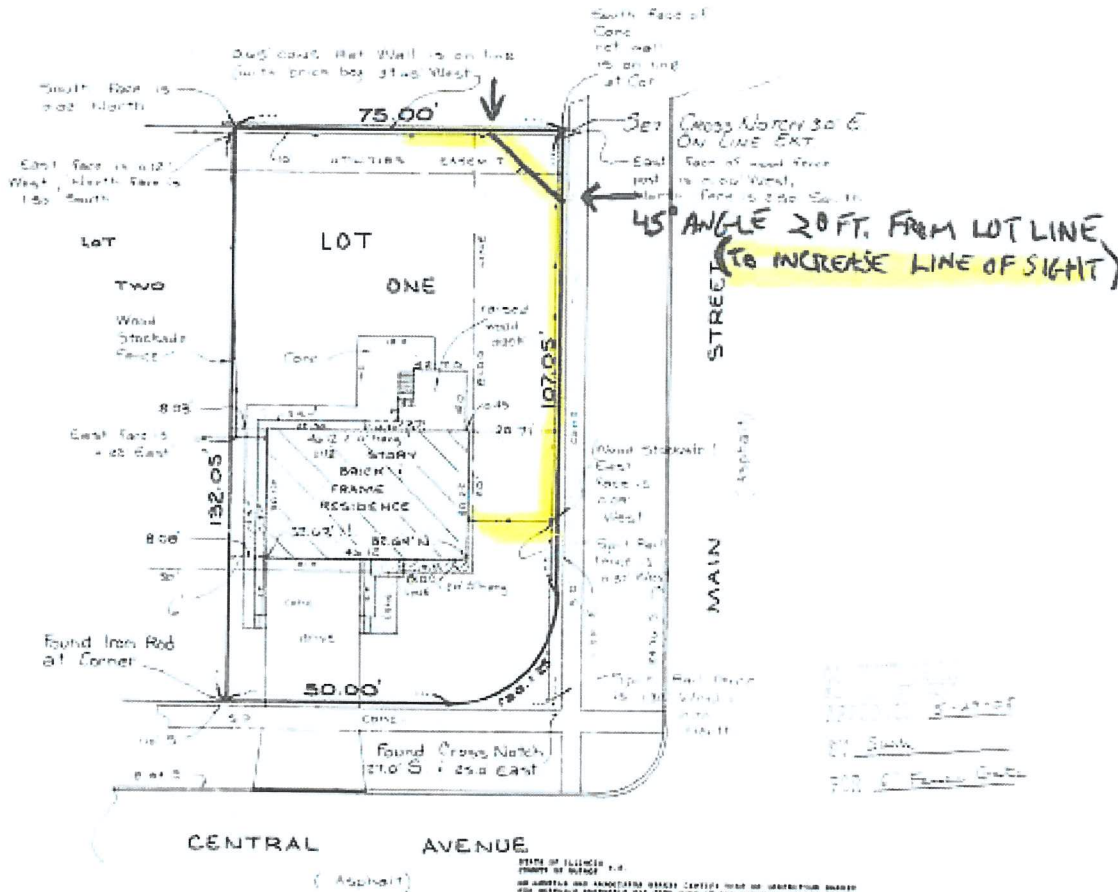
# Plat of Survey

**GENTILE and ASSOCIATES, INC.**  
 registered land surveyors

350 N. ST. CHARLES PLACE  
 LOMBARD, ILLINOIS 60148  
 PHONE: (708) 814-6262 OR 626  
 FAX: (708) 956-6264

LOT ONE and LOT TWO of SECTION ONE, being a subdivision of the North Half of the Southeast quarter of Section 18, Township 33 North Range 11 East of the Third Principal Meridian, according to the plat thereof recorded October 18, 1988 as Book 26 of 201-26750 on Page 200 and 211 hereof.

Map made by G. R. Gentile, Surveyor



Scale: 1 inch = 20 feet  
 Distances in decimal parts thereof  
 Surveyed by G. R. GENTILE  
 Checked by W. J. ...  
 Conformed to W. J. ...

OWNER SHALL REPORT BUILDING BY DATE AND AT ONCE  
 REPORT ANY DIFFERENCE FOR BUILDING LINE AND OTHER  
 INSTRUCTIONS NOT MENTIONED REFER TO YOUR ABSTRACT  
 BOOK, CONTRACT AND LOCAL ORDINANCES.

STATE OF ILLINOIS )  
 COUNTY OF DUPAGE )  
 I, GENTILE and ASSOCIATES, INC., CERTIFY THAT A COPY OF THIS SURVEY HAS BEEN MADE AT AND UNDER MY SUPERVISION OF THE PROPERTY DESCRIBED ABOVE, AND THAT THE PLAT HEREON DRAWN IS A CORRECT REPRESENTATION OF SAID SURVEY.  
 AUGUST 23, 1991  
 G. R. Gentile  
 Registered Land Surveyor No. 2208

STATE OF ILLINOIS )  
 COUNTY OF DUPAGE )  
 I, GENTILE and ASSOCIATES, INC., CERTIFY THAT A COPY OF THIS SURVEY HAS BEEN MADE AT AND UNDER MY SUPERVISION OF THE PROPERTY DESCRIBED ABOVE, AND THAT THE PLAT HEREON DRAWN IS A CORRECT REPRESENTATION OF SAID SURVEY.  
 October 31, 1980

