

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION
For Inclusion on Board Agenda

Resolution or Ordinance (Blue) _____
Waiver of First Requested
Recommendations of Boards, Commissions & Committees (Green)
Other Business (Pink)


X

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: David A. Huliseberg, Village Manager 

DATE: August 6, 2009 (B of T) Date: August 20, 2009

TITLE: ZBA 09-05: 460 S. Main Street (Lombard Cemetery)

SUBMITTED BY: Department of Community Development 

BACKGROUND/POLICY IMPLICATIONS:

The Zoning Board of Appeals transmits for your consideration its recommendation relative to the above-mentioned petition. This petition requests a variation to Section 155.205(A)(1)(e)(4) of the Lombard Zoning Ordinance to allow supporting members of a fence in the clear line of sight area to exceed six inches (6") in width. (DISTRICT #6)

The ZBA recommended denial of this petition. As the Transportation & Safety Committee heard this petition at their August 3, 2009 meeting and had a favorable recommendation to altering the traffic flow direction on Washington Street to address sight line issues, this item is being placed on Separate Action.

Please place this item on the August 20, 2009 Board of Trustees agenda under Items for Separate Action.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X

Finance Director X

Village Manager X 

Date

Date

Date

8/11/09

NOTE: All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon.


Wednesday, prior to the Agenda Distribution.

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MEMORANDUM

TO: David A. Hulseberg, Village Manager

FROM: William Heniff, AICP,
Director of Community Development *WH*

DATE: August 20, 2009

SUBJECT: ZBA 09-05; 460 S. Main Street, Lombard (Babcock's Grove) Cemetery

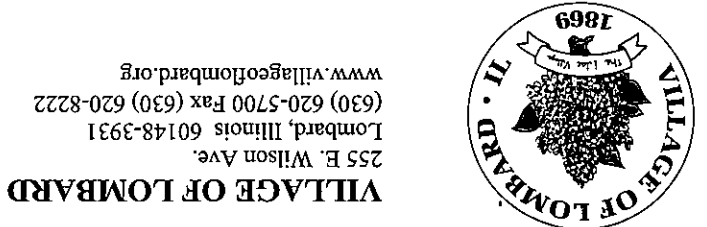
Please find the following items for Village Board consideration as part of the August 20, 2009 Village Board meeting:

1. Zoning Board of Appeals referral letter;
2. IDRC report for ZBA 09-05; and
3. Plans associated with the petition.

The Zoning Board of Appeals recommended denial of the zoning actions associated with the petition based upon the materials presented on the date of the hearing. Subsequent to this hearing, the Transportation and Safety Committee considered alterations to the traffic flow on Washington Street to address sight considerations. Their recommendation to change the traffic flow of Washington is included within the Village Board packet. However, the fence variation will still need to be voted on by the Village Board, as the fence would still need zoning relief to remain at its current location.

Should the Village Board determine that altering the traffic flow of Washington Street would minimize or mitigate the sight line impact of the fence, the Board should make such a finding in their consideration of the fence variation request included within this petition. The Board can then vote to approve the fence variation accordingly.

Please contact me if you have any questions regarding the aforementioned materials.



VILLAGE OF LOMBARD
 255 E. Wilson Ave.
 Lombard, Illinois 60148-3931
 (630) 620-5700 Fax (630) 620-8222
 www.villageoflombard.org

August 20, 2009

Mr. William J. Mueller
 Village President, and
 Board of Trustees
 Village of Lombard

Subject: ZBA 09-05; 460 S. Main Street, Lombard (Babcock's Grove) Cemetery

Dear President and Trustees:

Your Zoning Board of Appeals submits for your consideration its recommendation on the above referenced petition. The petitioner requests that the Village approve the following actions for the subject property located within the R2 Single-Family Residence District:

A variation to Section 155.205(A)(1)(e)(4) of the Lombard Zoning Ordinance to allow supporting members of a fence in the clear line of sight area to exceed six inches (6") in width.

The Zoning Board of Appeals conducted a public hearing on June 24, 2009.

Stuart Moynihan, Associate Planner, presented the staff report. The subject property is located at 460 S. Main Street, the intersection of West Washington Boulevard and South Main Street. The Public Works Department has recently replaced the deteriorated fencing at Lombard Cemetery with a new wrought iron-style fence four feet (4') in height. As part of this replacement, the existing brick pillars at the corners of the fence were reconstructed. As the two pillars at the corners of Washington Blvd. and Main St. are within clear line of sight areas, a variation is necessary to allow them to have a width greater than six inches (6").

On April 16, 2009, the Village of Lombard Board of Trustees approved a contract with Action Fence Contractors, Inc. to replace the fence at Lombard Cemetery. The execution of this contract was overseen by the Public Works Department. The fence was constructed and was constructed at four feet in height. It is an ornamental aluminum fence which meets the requirement for fencing to be of open construction when in a clear line of sight area.

"Our shared vision for Lombard is a community of excellence exemplified by its government working together with residents and businesses to create a distinctive sense of spirit and an outstanding quality of life."

"The Mission of the Village of Lombard is to provide superior and responsive governmental services to the people of Lombard."

Village President
 William J. Mueller

Village Clerk
 Brigitte O'Brien

Trustees
 Greg Alan Gron, Dist. 1
 Richard J. Tross, Dist. 2
 Zachary C. Wilson, Dist. 3
 Dana L. Moreau, Dist. 4
 Laura A. Fitzpatrick, Dist. 5
 William "Bill" Ware, Dist. 6

Village Manager
 David A. Hulseberg

As part of the replacement, six brick pillars were reconstructed at their original dimensions and locations. However, as these pillars were non-conforming structures, reconstruction would require that new pillars meet all code requirements. The new pillars are approximately nineteen and one half inches (19.5") in width with a stone cap at the top that is approximately two feet (2') in width. The Zoning Ordinance requires that supporting members of a fence within the clear line of sight area be no greater than six inches (6") in width. Two of the reconstructed pillars are with in clear line of sight areas. These two pillars are located at the intersections of Washington Boulevard and Main Street, one at the northern intersection and one at the southern intersection. As the width of these pillars exceeds six inches (6"), a variation is necessary.

The Zoning Ordinance requires that fencing and walls within a front yard does not exceed four feet (4'). Staff notes that the height of the pillars along Main Street varies but currently can be measured as high at five and one half feet (5.5') from the grade at the Main Street sidewalk. However, in this case the grade of the cemetery and the grade of the Main Street sidewalk differ considerably. If measured from the grade of the cemetery, the pillars have a height of approximately four feet and three inches (4'3"). Section 155.205(c)(4) of the Zoning Ordinance, permits an additional three inches (3") of height for grade changes and decorative elements. The Public Works Department is currently exploring options for the final grading along the fence line. One option being considered is the construction of a retaining wall which would bring the measured height of the pillars into compliance with code.

The Public Works Department has expressed its reasons for replacing the deteriorated fence and pillars with the same features and location. Foremost among these reasons is the status of the cemetery as a historic site in the Village of Lombard. Public Works determined that the historical character of the cemetery would be best preserved by constructing a fence which matched the previous one. Another important consideration is that if the fence was to be moved out of the clear line of sight area, some grave sites could be at least partially outside of the fenced area. The Lombard Historical Commission also expressed its support for the fence replacement and recommended that the historical character of the fence be maintained.

Currently, the pillar on the northern side of the cemetery is of minimal concern regarding visibility as the northern side of Washington Boulevard allows only one way westbound traffic. The pillar on the southern side of the cemetery could block some visibility to and from Main Street as the southern side of Washington Boulevard allows only one way eastbound traffic. However, as the pillars previously existed, no additional reduction in visibility should occur.

Staff is supportive of the proposed variation due to the historic nature of the site, the previously existing fence and pillars, and necessity to fence in all existing burial plots.

Chairperson Defalco opened the meeting for public comment.

Thomas M. Stuckey, 465 S. Park Road, stated that the post is unacceptable. He has lived in his home on Park for twenty-five years. He stated that he is glad the cemetery is being maintained, but he could see through the old fence and post. He stated that you are taking a chance turning onto Main Street. He doesn't see how the Village could have approved the brick wall. He stated that he was surprised he was the only one present to object. The variance should have been requested before it was built. He asked if there was any coordination between the Village and the builders of the fence.

Chairperson Defalco stated they the ZBA does not examine the Village's dealings with contractors.

Mr. Stuckey stated that the workers don't have concern for the people in the neighborhood. He stated that he nearly hit a trailer left in the road by some workers at night because it had no reflectors. He stated that the project was poorly planned and no concern was shown for the neighborhood. The fence in its current state is an accident waiting to happen.

Rita Schweider, 5 E. View St., stated that she is the Chairperson of the Lombard Historical Commission and a member of the Lombard Cemetery Committee. She indicated that there was coordination between the Historical Commission, the Village, and the Cemetery Committee. She also stated that the Village is looking at finding a solution when pulling out at Washington and Main St.

Mr. Corrado asked if the Transportation Safety Committee has looked at this issue.

Mike Toth stated that to date it had not been examined by them.

Mr. Tap asked if the ZBA had the authority to send the item to the Transportation Safety Committee.

Chairperson Defalco stated that the ZBA could approve the petition but recommend that the signage on the street be looked at. Maybe both lanes of Washington should be westbound only. However, if the ZBA recommends denial they are saying it should not be done regardless.

Mrs. Newman stated that the potential safety issue should be looked into.

Mr. Corrado stated that the Transportation Safety Committee should examine this.

Mr. Stuckey asked if there are many accidents at this intersection.

Mr. Toth stated that does not know of any study of this intersection.

Chairperson Defalco stated that when he visited the site, he had to inch forward to turn onto Main. When he did so, he forgot to look for pedestrians on the sidewalk after the trouble of getting out. He stated that was even being mindful of what he was doing. Although the site is historical, there were fewer cars when the original post was built.

Mrs. Newman stated that Main Street also only had two lanes.

Mr. Stuckey stated that there was no column heading westbound on Washington.

Chairperson Defalco stated that there was a column but it had partially deteriorated.

Mrs. Schweider stated that there was a concrete post and the Cemetery Committee asked that it be moved back six inches. However, they did not expect the light post and utility pole to be installed in the same area.

Mr. Stuckey stated that it is now worse and asked if the brick column can be moved back.

Chairperson Defalco stated that this is a concern due to the grave sites at that corner.

Mr. Stuckey stated that he wants the post moved, not the fence itself.

Chairperson Defalco stated that the post is currently supporting the fence.

Mr. Tap stated that he thinks the result of the construction looks fantastic and is a huge improvement. However, it seems like there was a push to get the work done. He has an issue with the sequence of events and the timing. Other options should be looked at rather than granting a variation.

Chairperson Defalco stated that these items often arise as the result of a complaint and asked staff if this was the case.

Mr. Moynihan stated that it was caught as part of the permitting process.

Chairperson Defalco asked when the permit was issued.

Mr. Moynihan stated that the permit was not issued due to the clear line of sight obstruction.

Chairperson Defalco asked if the fence was then built without a permit.

Mr. Moynihan stated that it was built without a permit, before the clear line of sight issue could be resolved.

Mr. Tap stated that construction was on a fast track and that citizens would be treated differently. He would like to see some other options being looked at. He stated that he could not support the variation.
Chairperson Defalco asked if this item should be tabled so that the clear line of sight issue could be looked at.

Mr. Tap stated that there has always been a problem at this intersection.

Mr. Corrado stated that they should deny the petition and ask for a regular post.

Mrs. Newman stated that recommendation for denial would give the Board their opinion.

Chairperson Defalco stated that if both lanes of Washington were westbound only there would be no clear line of sight issues.

Mr. Corrado stated that the Lombard Historical Commission should not have suggested this.

Mrs. Schweider stated that it was the Cemetery Committee that made this decision. The two lamp posts were a surprise.

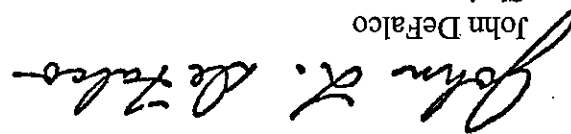
On a motion by Mr. Corrado and a second by Mr. Tap, the Zoning Board of Appeals recommended by a vote of 4 to 0 that the Village Board deny the variation associated with petition ZBA 09-01.

Mr. Corrado recommended that the Village look into installing regular posts in the clear line of sight areas instead of the brick columns.

The Zoning Board of Appeals also recommended that the Transportation Safety Committee examine the possibility of making both sides of Washington Boulevard westbound only.

Respectfully,

VILLAGE OF LOMBARD



John Defalco

Chairperson

Zoning Board of Appeals

**VILLAGE OF LOMBARD
INTER-DEPARTMENTAL REVIEW GROUP REPORT**

TO: Zoning Board of Appeals

FROM: Department of Community Development
PREPARED BY: Stuart Moynihan
Associate Planner

TITLE

ZBA 09-05; 460 S. Main Street, Lombard (Babcock's Grove) Cemetery: The petitioner requests that the Village approve the following actions for the subject property located within the R2 Single-Family Residence District:

A variation to Section 155.205(A)(1)(e)(4) of the Lombard Zoning Ordinance to allow supporting members of a fence in the clear line of sight area to exceed six inches (6") in width.

GENERAL INFORMATION

Petitioner/Property Owner:

The Village of Lombard
255 E. Wilson Ave.
Lombard, IL 60148

PROPERTY INFORMATION

Existing Zoning:

R2 Single-Family Residence District

Existing Land Use:

Cemetery

Size of Property:

Approximately 1.7 acres

Surrounding Zoning and Land Use:

North: R2 Single Family Residence District; developed as Single Family Residences
South: R2 Single Family Residence District; developed as Single Family Residences
East: R2 Single Family Residence District; developed as Single Family Residences
West: R2 Single Family Residence District; developed as Single Family Residences

ANALYSIS

SUBMITTALS

This report is based on the following documents, which were filed with the Department of Community Development on May 21, 2009.

1. Petition for Public Hearing.
2. Response to the Standards for Variations.
3. Site plan based on the Plat of Survey prepared by Gentile and Associates, Inc., dated March 30, 2009, with the fence location.

DESCRIPTION

The subject property is located at 460 S. Main Street, the intersection of West Washington Boulevard and South Main Street. The Public Works Department has recently replaced the deteriorated fencing at Lombard Cemetery with a new wrought iron-style fence four feet (4') in height. As part of this replacement, the existing brick pillars at the corners of the fence were reconstructed. As the two pillars at the corners of Washington Blvd. and Main St. are within clear line of sight areas, a variation is necessary to allow them to have a width greater than six inches (6').

INTER-DEPARTMENTAL REVIEW COMMENTS

ENGINEERING

Private Engineering Services

The Private Engineering Services Division has no comments on the subject petition.

Public Works Engineering

Public Works Engineering has no comments regarding this request.

FIRE AND BUILDING

The Fire Department/Bureau of Inspectional Services has no comments regarding this request.

PLANNING

On April 16, 2009, the Village of Lombard Board of Trustees approved a contract with Action Fence Contractors, Inc. to replace the fence at Lombard Cemetery. The execution of this contract was overseen by the Public Works Department. The fence was contracted and was constructed at four feet in height. It is an ornamental aluminum fence which meets the requirement for fencing to be of open construction when in a clear line of sight area.

As part of the replacement, six brick pillars were reconstructed at their original dimensions and locations. However, as these pillars were non-conforming structures, reconstruction would require that new pillars meet all code requirements. The new pillars are approximately nineteen and one half inches (19.5") in width with a stone cap at the top that is approximately two feet (2') in width. The Zoning Ordinance requires that supporting members of a fence within the clear line of sight area be no greater than six inches (6") in width. Two of the reconstructed pillars are within clear line of sight areas. These two pillars are located at the intersections of Washington Boulevard and Main Street, one at the northern intersection and one at the southern intersection. As the width of these pillars exceeds six inches (6"), a variation is necessary.



*Looking South on Main St.: Pillar
at northern intersection*

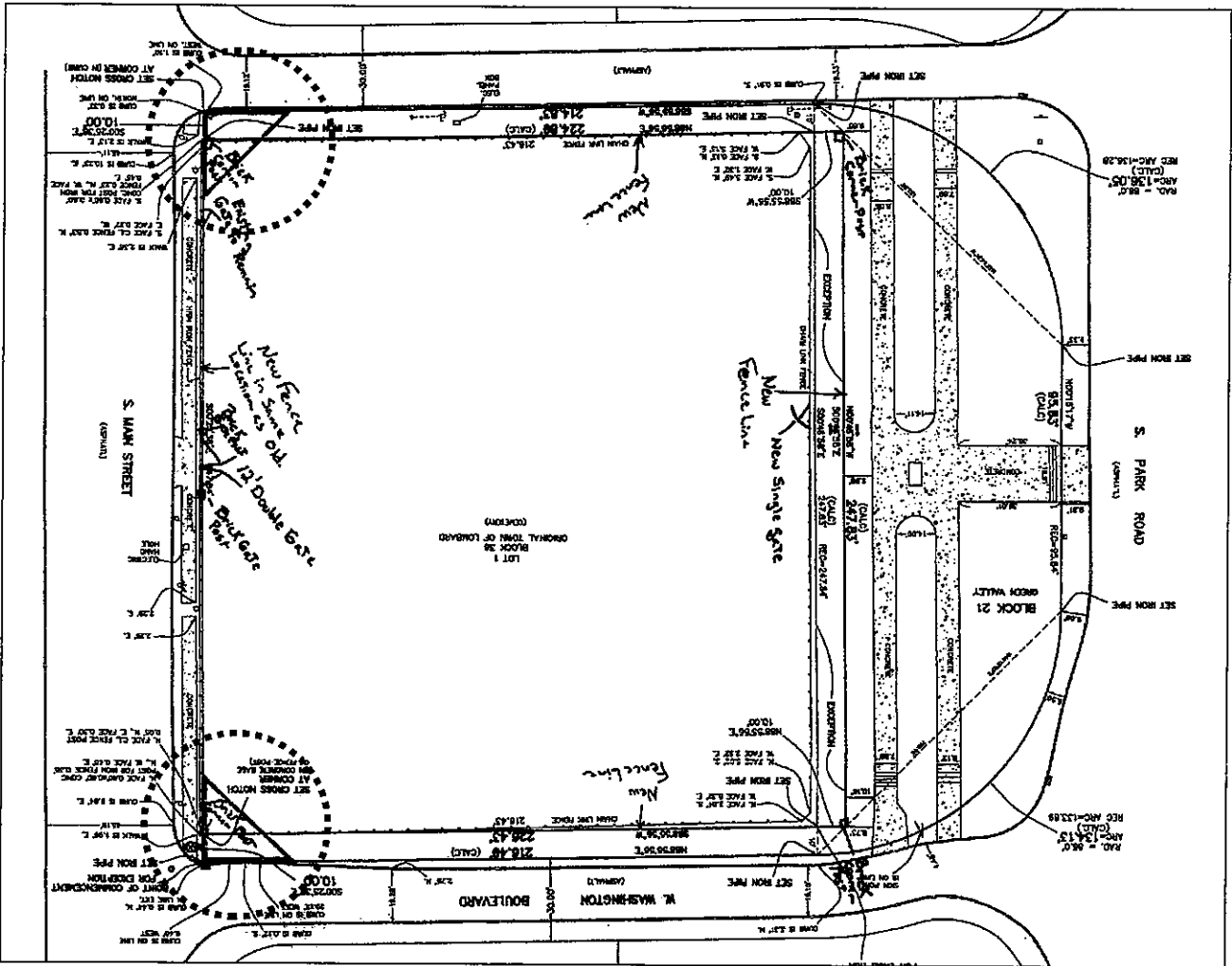


*Looking North on Main St.: Pillar
at southern intersection*

The Zoning Ordinance requires that fencing and walls within a front yard does not exceed four feet (4'). Staff notes that the height of the pillars along Main Street varies but currently can be measured as high at five and one half feet (5.5') from the grade at the Main Street sidewalk. However, in this case the grade of the cemetery and the grade of the Main Street sidewalk differ considerably. If measured from the grade of the cemetery, the pillars have a height of approximately four feet and three inches (4'3"). Section 155.205(c)(4) of the Zoning Ordinance, permits an additional three inches (3") of height for grade changes and decorative elements. The Public Works Department is currently exploring options for the final grading along the fence line. One option being considered is the construction of a retaining wall which would bring the measured height of the pillars into compliance with code.

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Lombard Historical Commission also expressed its support for the fence replacement and recommended that the historical character of the fence be maintained.



The above plan shows the location of these pillars within clear line of sight triangles (in red). Currently, the pillar on the northern side of the cemetery is of minimal concern regarding visibility as the northern side of Washington Boulevard allows only one way westbound traffic. The pillar on the southern side of Washington Boulevard could block some visibility to and from Main Street as the pillars previously existed, no additional reduction in visibility should occur. Staff is supportive of the proposed variation due to the historic nature of the site, the previously existing fence and pillars, and necessity to fence in all existing burial plots.

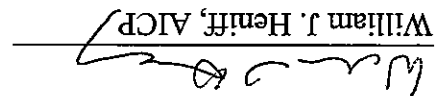
FINDINGS AND RECOMMENDATIONS

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 variations:

Based on the submitted petition and the testimony presented, the requested variations **do comply** with the Standards required for variations by the Lombard Zoning Ordinance; and, therefore, I move that the Zoning Board of Appeals find that the findings included as part of the Inter-departmental Review Report be the findings of the Zoning Board of Appeals and recommend to the Corporate Authorities **approval** of ZBA 09-05, subject to the following condition:

1. The variation to allow the brick pillars to remain in the clear line of sight area shall be applied only to the two pillars located at the intersections of West Washington Boulevard and South Main Street.

Inter-Departmental Review Report Approved By:


William J. Heniff, AICP

Director of Community Development

WJH

Response to Standards for Variations

1. *Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be applied.*

If the fence were to be constructed outside of the clear line of sight triangles, there is the possibility that portions of grave sites would be outside the fenced area.
2. *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.*

The site is unique in that it is a cemetery and a historic site in the Village of Lombard. The goal was to replace a deteriorated fence with a new fence that would not change the appearance of the site. As previously mentioned, the graves also cause a unique circumstance in which the entire property must be fenced in.
3. *The purpose of the variation is not based primarily upon a desire to increase financial gain.*

There will be no financial gain from the granting of this variation.
4. *The alleged difficulty or hardship is caused by this ordinance and has not been created by any person presently having an interest in the property.*

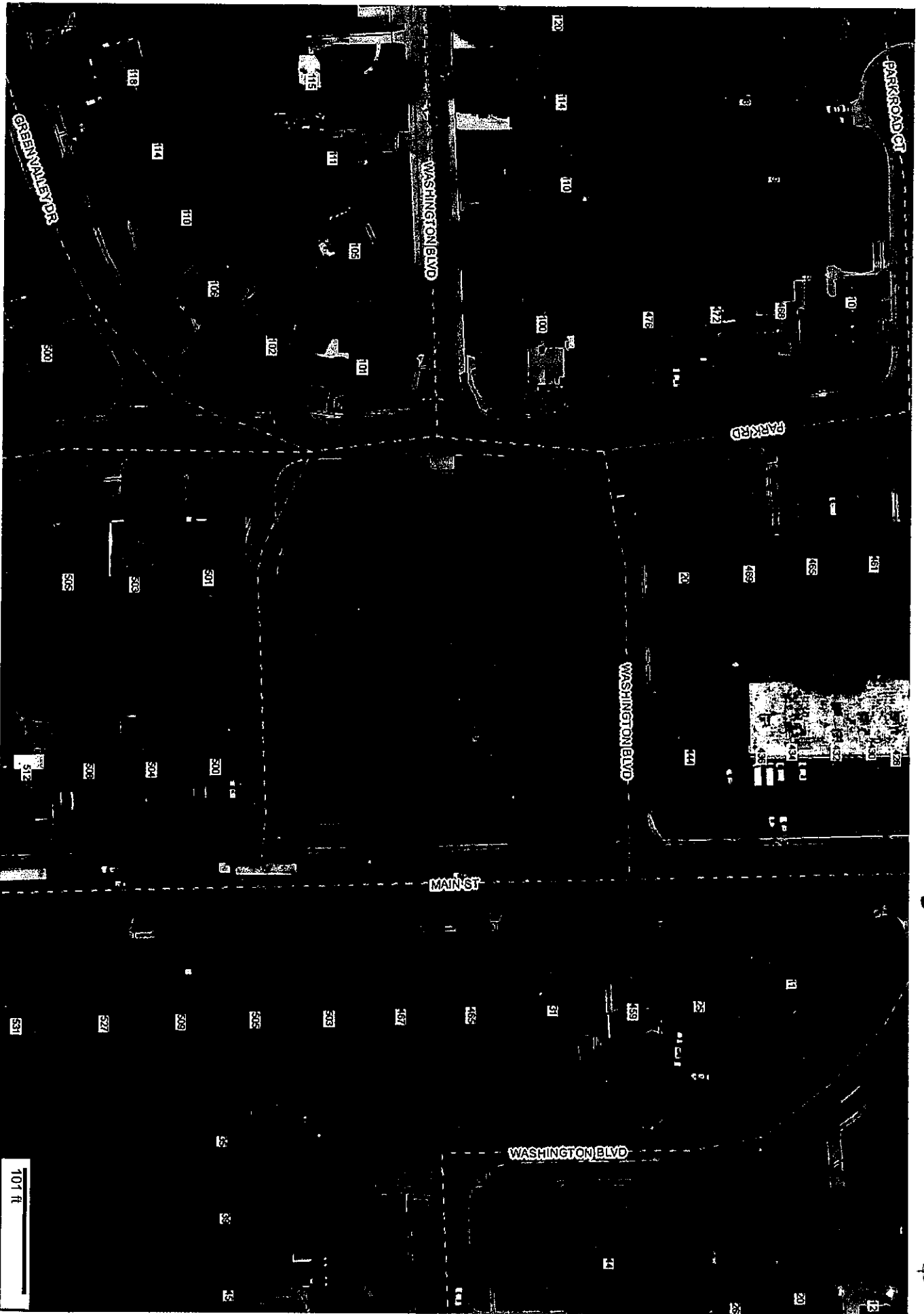
The hardship is due to the application of the ordinance and the confines of the property and not the interests of any individual.
5. *The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.*

The variation will simply allow the fence to remain as it previously existed and will not be harmful to the public.
6. *The granting of the variation will not alter the essential character of the neighborhood; and,*

The variation would have no effect on the character of the neighborhood.
7. *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.*

The variation would not cause any such detrimental effects on the public.

Lombard Cemetery



101 ft