

Board of Vacations Minutes - PTRL #000693-2021

A petition to vacate an unimproved portion of Wall Avenue located in the
F.H. Bartlett's North Shore Lands Third Addition Subdivision
Warren Township

Public Hearing – September 14, 2021

Petitioners: Joni E. Kelter, Gary G. Kelter, 36854 N. Rosedale Avenue, Gurnee, Illinois; and Douglas M. Durbin and Judy A. Durbin 13686 W. Wall Avenue and 36880 N. Rosedale Avenue, Gurnee, Illinois

1. Call to Order

Street Vacation No. #000693-2021 – Petition to vacate a portion of unimproved portion of Wall Avenue (from Rosedale Avenue), 50 feet wide, extending west 320 feet and consists of 0.44 acres.

2. Roll Call

Board of Vacations representatives:

Planning, Building and Development: Eric Steffen, Engineering & Environmental Services

Division of Transportation: Betsy Duckert, Manager of Permitting

Planning, Building and Development: Krista Braun, Planning & Zoning Manager

Vacation Officer*: Brad Denz, Senior Planner/Project Manager

State's Attorney's Office*: Lisle Stalter, Assistant States Attorney

* Non-voting members

3. Added to the Agenda (none)

4. Deferred Matters (none)

5. Other Business

- 5.1 Request by Jonie E. Kelter, Gary G. Kelter, Douglas M. Durbin and Judy A. Durbin, record owners of the properties adjacent to the portion of the right-of-way described as "The portion of platted road known as Wall Avenue; lying between Lots 58 and 59 of F.H. Bartlett's North Shore Lands Third Addition, being a subdivision of part of the northeast quarter of the northwest quarter of Section 12, Township 45 North, Range 11 East of the third principal meridian, Lake County, Illinois."

Mr. Denz opened the hearing at 3:00 p.m. and reviewed the petition with those in attendance. The petitioner and members of the audience were sworn in. Mr. Denz explained that the petition was legally advertised in the Daily Herald on August 27, 2021, thus meeting the legal notice requirements for the hearing. Mr. Denz stated he received correspondence from Warren Township Highway Department which stated "no objection" for the request. The Department also received correspondence from Commonwealth Edison which also stated "no objection".

Petitioner's Testimony

The applicant's consultant, Nick Shaver of Century Bay Builders, stated the right-of-way area was overgrown. The property owners to the south occasionally maintain this area. If the vacation is successful, it is the intent of the property owners on the south side of the right-of-way (Joni and Gary Kelter) to quit-claim their portion (south half) of the right-of-way to Douglas M. Durbin and Judy A. Durbin, who live on the north half of the right-of-way. It is the intent of the Durbin's to build a garage and mudroom addition to the existing single-family residence. Ultimately, to accomplish this building improvement, the applicants would either have to apply for a side street property line variation setback, or vacate the Wall Avenue right-of-way, eliminating the side street yard setback. A street vacation would give the applicant more area for a building improvement and is preferred.

Board Comments/Questions

Member Braun:

- A. To clarify, based on the staff report, it appears the property owner has maintained the right-of-way area. Does the property owner to the south (Kever) have no objection to allocating the southern half of the right-of-way to the owner on the north side (Durbin)?

Nick Shaver stated the owners to the south do not wish to acquire the land area of the right-of-way. This area will be allocated to the property owners to the north via a quit-claim deed.

Member Steffen:

- A. Based on aerial photography, it appears an extension of the single-family dwelling occurred at the southwest corner of the structure approximately 5 years ago. The Planning Department does not have a record of this building improvement. Can the applicant apply for an after-the-fact permit for this improvement?
- B. Does the building improvement without a permit affect the street vacation application request?
- C. There is a drainage ditch within the right-of-way. Has the applicant experienced negative drainage issues?
- D. The report by the Engineering Division stated the possibility of depressional areas on the vacant right-of-way area. For the proposed addition, there may be some additional permitting requirements based on the possibility of depressional areas and/or wetlands.

Nick Shaver stated the applicant did not mention a permit for the building extension from 5 years prior. Bob Springer, Lake County Building Official, stated an after-the-fact permit can be submitted. It will be necessary to submit "as-built" plans, be detailed as possible, ultimately, staff will have to take the word of the applicant that the building plans are consistent with what was constructed. Mr. Denz stated the street vacation section of the Lake County Code is "silent" regarding foregoing any decision by the Board of Vacations for a street vacation request if a violation is present on an applicant's property. Lisle Stalter stated how the ordinance is currently written, there are no criteria to evaluate determining whether or not a street vacation should be recommended to the Lake County Board, or not. However, the Illinois statute does provide that a street vacation is based on the public and economic interest being served by vacating the county highway. Those are the criteria the Board will examine: Will the economic interest be served by the vacation process. There is no criteria about compliance with overall County Ordinance as you may see with other types of applications brought before the County or ZBA.

Doug Durbin stated the neighbor created a small trench so the spring rain would drain. He has not had issues with flooding.

Member Duckert:

- A. It appears this unimproved right-of-way from west-to-east, to the northeast corner of the right-of-way, where the sewer "beehive" structure is located. Is the Township okay with the drainage directed to this area?

Amy Sarver, Warren Township Highway Commissioner, stated no objection and they are willing to work with the homeowner on future drainage improvements.

Public Statements

None

Closing Statement

Nick Shaver stated if the vacation is approved, they would build where the current lot line is located. There are no plans to place any structures in the right-of-way are to be vacated.

Close of Testimony

A motion to close testimony was made by Member Braun and seconded by Member Steffen. The motion passed unanimously.

Board Discussion

Member Braun stated the following:

- From a planning and zoning perspective, it may have made sense to have this area platted as a road originally. However, there is no longer a need for a road in this area. The lots to the north and south are conforming in the zoning district, but there is not sufficient area to subdivide the properties any further in the future.
- As there is a railroad line to the west of the right-of-way, it is unlikely the County would need this right-of-way to serve additional properties.

Member Steffen stated the following:

- In agreement with Member Braun's comments.
- Staff will verify the completion of unpermitted work.
- The new addition would not intrude further south than the existing property line.

Member Duckert stated the following:

- No objection with the petition.
- It does not appear there are exiting utilities in the right-of-way or any easements utilized by the Township. As the Township has no objection to granting the vacation, the Department has no objection to the vacation request.

Motion

Member Braun made a motion to grant the petition to vacate the right-of-way as proposed, seconded by Member Duckert, for the following reasons:

1. No objections from any government entities or adjacent property owners.
2. The vacation would remove the possible liability for the County to have this property under private ownership and place it on the tax rolls.
3. The unimproved right-of-way serves no public interest now or in the future.

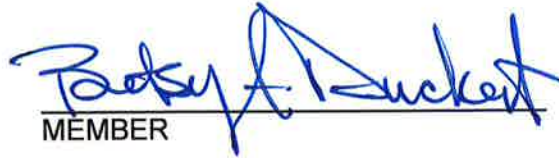
Action

The motion passed 3-0.

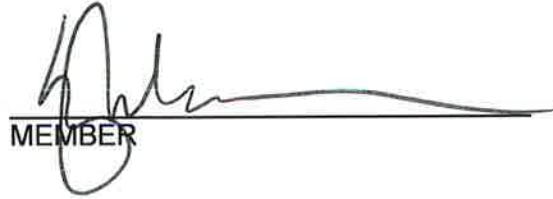
Adjournment

Member Steffen moved to adjourn the meeting. This motion was seconded by Member Braun and passed unanimously. The meeting was adjourned at 3:27 p.m.

**Street Vacation - PTRL #000693-2021
Warren Township**


MEMBER


MEMBER


MEMBER

Dated this 17th day of September 2021