

Board of Vacation Minutes

A petition to vacate an unimproved portion of 12th Street located in Frederick H. Bartlett's North Shore Acres Subdivision - Third Addition
Benton Township

Public Hearing – February 7, 2018

Petitioners: Lorna Leben, 42144 N. Fago Avenue, Zion, Illinois; John Charles Judge, 11642 13th Street, Winthrop Harbor, Illinois.

1. **Call to Order:** Street Vacation No. #000314-2018 – Petition to vacate an unimproved portion of 12th Street located in Frederick H. Bartlett's North Shore Acres Subdivision - Third Addition.

2. Roll Call

Board of Vacation representatives:

Planning, Building and Development: Matt Meyers – Deputy Director/Chief Engineer
Planning, Building and Development: Brittany Albrecht-Sloan–Deputy Director/Zoning Administrator
Division of Transportation: Betsy Duckert – Manager of Permitting
Vacation Officer*: Brad Denz – Senior Planner/Project Manager
States Attorney's Office*: Lisle Stalter – Assistant States Attorney
* Non-voting members.

3. **Pledge of Allegiance**

4. **Approval of Minutes (none)**

5. **Added to the Agenda (none)**

6. **Deferred Matters (none)**

7. **Other Business**

7.1 – Request by Lorna Leben and John Charles Judge, record owners of the properties adjacent, to the portion of the right-of-way described as "The East Half (1/2) of Twelfth Street lying between Blocks 64 and 73, in Frederick H. Bartlett's North Shore Acres Third Addition, Being a Subdivision of Parts of the Southwest Quarter (1/4) and the Southeast (1/4) of Section 8, Township 46 North, Range 12 East, of the Third Principal Meridian, according to the Plat thereof recorded February 9, 1927, in Book "R" of Plats, Page 12, as document Number 294004, in Lake County, Illinois." The proposed area to be vacated consists of approximately 0.19 acres.

Mr. Denz opened the hearing at 3:00 p.m. and reviewed the petition with those in attendance. The petitioner was sworn in. Mr. Denz explained that the petition was legally advertised in the Daily Herald on January 22, 2018, thus meeting the legal notice requirements for the hearing.

Mr. Denz stated that he received correspondence from People's North Shore Gas, which stated no objection. Additionally, Mr. Denz stated that he received correspondence from Comcast Cable which stated "Comcast has no cable facilities within the proposed street vacation of the east half of 12th Street between Hanks Avenue and Fago Avenue. Therefore, Comcast has no objection to the vacation of said roadway." Additionally, Mr. Denz stated he had a conversation with Benton Township Supervisor, Larry Booth, in which Mr. Booth stated the Township has no infrastructure within the proposed area of land to be vacated and the Township does not have an objection to the proposed street vacation.

Mr. Denz stated that he had not received any other correspondence concerning the petition prior to the hearing. The members of the audience and the Board of Vacation were given a brief review of the proposed vacation by staff.

Petitioner's Testimony

Lorna Leben, 42144 N. Fago Avenue, Zion, Illinois, stated she has maintained the area of the proposed street vacation for the past 20 years, for which she had discussed with Benton Township utilizing this area for a garden and fire pit. Ms. Leben stated Benton Township had no objection. Ms. Leben stated the request to vacate the road was due to: 1) The water well is located in the back of the home and the septic field is located in the front yard, which leaves limited space for additional improvements without the potential of risk of jeopardizing these facilities; 2) The placement of the home in relation to the property lines leaves limited room for further development. Ultimately, the acquisition would allow for the construction of a detached garage (within the required vacated area) as the features on Ms. Leben's lot make it problematic to build a new detached structure. Additionally, Ms. Leben stated she has reached-out to adjacent property owners, Benton Township Supervisor, and David Knabel of the City of Zion Finance Department, and received a "no objection" response from each individual.

The adjacent property owner to the south of the proposed vacation area, John Charles Judge, 11642 13th Street, Winthrop Harbor, Illinois, is a co-applicant of the petition. If the vacation is approved, Mr. Judge will transfer the southern portion of the vacated 12th Street right-of-way to Ms. Leben. In terms of the benefit for the County, if the right-of-way is vacated, Ms. Leben stated the acquired land area would be maintained and become part of the tax-base for both the County and Township.

Board Comments/Questions

Member Duckert asked if other utility companies responded to the application request. Mr. Denz stated only People's North Shore Gas and Comcast Cable. Member Duckert asked if the Township submitted correspondence stating "no objection". Ms. Leben stated the Township Highway Commissioner did sign an initial plat of vacation document which stated their approval.

Member Sloan asked the applicant if she intended to retain the entire right-of-way pursuant to the 0.19 acres represented on the plat of vacation. Ms. Leben stated she would acquire the entire width of the right-of-way. Member Sloan asked the applicant if she spoke with the neighbor to the west located at the south end of Hanks Avenue, and if so, did that property owner express an interest of vacating their abutting portion of 12th Street. Ms. Leben stated she spoke with Robert Walldan of 11662 13th Street (southwest of the subject property), and Mr. Walldan did express an interest of vacating the portion of 12th Street north of his property, however he wanted to verify the results of Ms. Leben's vacation application. Member Sloan asked the applicant if she was aware of any proposed development on large vacant tracts of land to the west of the subject property. Ms. Leben examined the aerial photo of the neighborhood provided and stated she was unaware of any proposed development to the west of her property. Member Sloan asked Brad Denz if he received any objections of the vacation request from the adjacent property owners. Mr. Denz stated he received a phone call from the resident who resides at 3113 12th Street (southeast of the subject property) and that the conversation was "inquisitive" in nature. Member Sloan asked if the proposed structure would be for a non-residential business use. Ms. Leben stated it would be for their personal use only.

Member Meyers asked the applicant if she received any negative responses from the letter she sent to the adjacent property owners. Ms. Leben stated she did not receive any response from the adjacent property owners.

Member Sloan stated if there had been more density to the west (specifically 11722 or 11788 13th Street), an assessment could have been made for the potential extension of 12th Street (as 13th Street abuts a number of back yards). However, since any road extension of 12th Street has not occurred in 90 years, it does not appear a road extension would occur. Moreover, the existing parcels to the west could acquire access to 11th Street from a potential extension of either Hanks Avenue or Hayner Avenue.

Public Statements

Ms. Carol Traylor of 42163 Fago Avenue, Zion, Illinois, stated she had no objection to the vacation request.

Announcement of Land Cost

Mr. Denz announced that he had calculated the value of the right-of-way using the formula established by the County Board and determined that the value of the right-of-way was \$6,521.00. He stated that the petitioner would be responsible for these charges prior to placing the item on the agenda for the County Board.

Closing Statement

Ms. Leben indicated the proposed vacation would be an improvement to the neighborhood, she had no further comments and asked for a favorable vote by the Board on the proposed vacation.

Close of Testimony

A motion to close testimony was made by Member Sloan and seconded by Member Duckert. The motion passed unanimously.

Board Discussion

Member Duckert asked who would acquire the entire tract of vacation area. Mr. Denz stated, both applicants (Leben and Judge) have rights to each half of the proposed vacation area. However, as the property owner to the south (Judge) does not wish to acquire the land area, a "land transfer declaration" would occur (from Judge to Leben) if the County Board approves the street vacation application.

The Board agreed there was no need to preserve the subject area of the 12th Street right-of-way for access purposes because as Benton Township has no objection to the request, and it is unlikely any road extension to the west would be necessary.

Motion

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

1. Benton Township has no objection to the request, and it is unlikely any road extension to the west would be necessary to develop the parcels to the west.
2. The vacation would relieve the County of any liability associated with the right-of-way.
3. The vacation would place the property in private ownership and on the tax rolls.

Action

The motion passed 3-0.

8. **Adjournment**

Member Meyers moved to adjourn the meeting. This motion was seconded by Member Sloan and passed unanimously. The meeting was adjourned at 3:25 p.m.