

Agenda Item # 33

Distribution
Div. of Building (2)
Div. Development Review (2)
Div. of Transportation
Map Services

STATE OF ILLINOIS }
COUNTY OF LAKE } SS #07 -02

COUNTY BOARD, LAKE COUNTY, ILLINOIS
MARCH 13, 2007

MEMBERS OF THE COUNTY BOARD:

Your Planning, Building and Zoning Committee herewith presents a Resolution in the matter of the petition of Richard T. Spasojevich to vacate a portion of Birch Street located in the Plat of Re-Subdivision of Blocks A & 3 and Part of Blocks 2 & 4 Woodcrest Addition No. 1, Antioch Township, Lake County, Illinois. The Board of Vacation by a vote of 3 "Ayes" and 0 "Nays" recommends that the vacation request be approved subject to the conditions expressed in Exhibit "A" attached. On the motion "to approve" the prayer of the petitioner your Planning, Building and Zoning Committee vote is 5 "Ayes", 0 "Nays".

An affirmative vote of at least two-thirds of the members of the County Board is required to grant this resolution.

Respectfully Submitted,

	Aye	Nay		Aye	Nay
<u>James D. West</u> Chairman		✓	<u>[Signature]</u> Chairman	x	
<u>Judy Martone</u> Vice-Chairman	✓		<u>[Signature]</u> Vice-Chairman	✓	
<u>[Signature]</u>	x		<u>[Signature]</u>	x	
<u>[Signature]</u>	✓		<u>[Signature]</u>	✓	
<u>[Signature]</u>	✓		<u>[Signature]</u>	✓	
<u>[Signature]</u>	✓		<u>[Signature]</u>	✓	

Planning, Building, & Zoning Committee

Financial & Administrative Committee

RESOLUTION

WHEREAS, on January 30, 2007 a public hearing was held before the Board of Vacation pursuant to Article 3, Section 3.12 of the Lake County Unified Development Ordinance, as amended, on the petition of Richard T. Spasojevich AS LEGAL OWNER to vacate all that part of unimproved Birch Street located west of the west right-of-way line of Lake Avenue and east of the west line of Lot 1, Block 3 extended to the north right-of-way line of Birch Street, Antioch Township, Lake County, Illinois. More fully described as follows:

All the part of unimproved Birch Street located west of the west right-of-way line of Lake Avenue and east of the west line of Lot 1, Block 3 extended to the north right-of-way line of Birch Street, located in the Plat of Re-Subdivision of Blocks A & 3 and Part of Blocks 2 & 4 Woodcrest Addition No. 1, located in the west half of Section 11, Township 46 North, Range 9 East of the Third Principal Meridian in the Town of Antioch, Lake County Illinois as more fully set forth on the plat recorded on May 14, 1928 by document Number 317737 and as more fully set forth on the plat attached.

WHEREAS, the petitioner is the owner of the following parcel(s) of real estate, to-wit:

Property Identification Numbers (PIN): 01-11-100-012, 01-11-106-020, 01-11-107-006, 01-11-107-008 and 01-11-107-009.

Lots 17- 22 Block 2, and Lot 1 and that portion of a park located on the north side of Channel Lagoon in Block 3, located in the Plat of Re-Subdivision of Blocks A & 3 and Part of Blocks 2 & 4 Woodcrest Addition No. 1, located in the West half of Section 11, Township 46 North, Range 9 East of the Third Principal Meridian in the Town of Antioch, Lake County Illinois as more fully set forth on the plat recorded on May 14, 1928 by document Number 317737.

WHEREAS, after reviewing the testimony presented at the aforementioned public hearing of the Board of Vacation, said Board has submitted its recommendation and report to the Planning, Building and Zoning Committee; and

WHEREAS, the Board of Vacation recommends by a vote of 3-0 that the vacation request described above be granted subject to the conditions listed in Exhibit "A"; and

WHEREAS, on February 27, 2007, the Planning, Building and Zoning Committee of the said County Board duly considered the petition and report, and by a vote of 5 "Ayes", 1 "Nays" recommend that above-described street vacation request be granted subject to the conditions attached hereto as Exhibit "A".

NOW, THEREFORE, BE IT RESOLVED by the Lake County Board that the public right-of-way, as described above, is hereby vacated and those portions of said plat of subdivision is hereby revoked, annulled and set aside subject to the conditions attached hereto as Exhibit "A".

BE IT FURTHER RESOLVED, that this resolution shall take effect and be in force for and after its passage provided that said petitioner shall after the passage of this resolution, file for recording in the office of the County Recorder of Deeds, a certified copy of this resolution, the Deeds of Vacation and the proper vacation instrument(s) that combine the vacated right of way to adjacent parcels owned by the petitioner in accordance with the provisions of the Unified Development Ordinance.

Amendment to Exhibit "A"

1. All lots not part of the platted park, shall be consolidated into one parcel so that no lot is deprived of street frontage and the resulting lot has access to a public road.
2. The park lots shall be consolidated into one lot and shall remain independent from the other lots owned by the petitioner.

MEMORANDUM

February 27, 2007

TO: Lake County Planning, Building and Zoning Committee

FR:  Patrick S. Tierney, Principal Planner

Lake County Department of Planning, Building and Development

RE: Vacation Request 07-02 – Antioch Township
Petitioner: Richard T. Spasojevich
Request: Vacation of a portion of Birch Street
in Plat of Re-Subdivision of Blocks A & 3 and Part of Blocks 2 & 4 Woodcrest
Addition No. 1 Subdivision

A public hearing was held on January 20, 2007, relative to a petition to vacate a part of Birch Street located west of Lake Avenue and south of Orchard Avenue in Re-Subdivision of Blocks A & 3 and Part of Blocks 2 & 4 Woodcrest Addition No. 1 Subdivision in Antioch Township (see attached location map). A copy of the petition, Plat of Vacation, location map, and the minutes of the public hearing are attached.

Recommendation:

After reviewing the petition and considering the testimony presented at the public hearing, the Board of Vacation recommends that the vacation request be granted subject to the following conditions:

Conditions of approval:

1. All lots that are not part of the platted park, shall be consolidated into one parcel so that no lot is deprived of street frontage and the resulting lot has access to a public road.
2. The park lots shall be consolidated into one lot and shall remain independent from the other lots owned by the petitioner.

Reasons for Board of Vacation's recommendation:

1. There is no current or future need for the right-of-way.
2. The property will be placed on the tax rolls.
2. The vacation will remove any liability the County may have over the right-of-way.

Cost of Real Estate Purchase: \$409.00

Minutes

Vacation Petition # 07-02 – Antioch Township

A petition to vacate a portion of Birch Street in the Plat of Re-Subdivision of Blocks A & 3 and Part of Blocks 2 & 4 Woodcrest Addition No. 1 Subdivision

Public Hearing Conducted on January 30, 2007

Petitioner: Richard T. Spasojevich

Board Members Present

*Pat Tierney – Development Review Division
*Lisle Stalter – States Attorney's Office
Steve Crivello – Building Division
Paula Trigg – LCDOT
Robert Mosteller - Development Review Division

Others in Attendance

Richard T. Spasojevich

* Denotes Vacation Officer and non-voting member

Mr. Tierney opened the hearing at 2:25 p.m. and reviewed the petition with those in attendance. The members of the Vacation Board were introduced to the petitioner and the petitioner was sworn in. Mr. Tierney explained that the petition was legally advertised in the News Sun on January 10, 2007 and that the affidavit was available for review if anyone was interested in reviewing the document.

Mr. Tierney stated that he had received correspondence from Comcast Cable Communications, Inc. regarding the petition. Comcast indicated that they did not have any facilities within the area to be vacated. Mr. Tierney stated that he had not received any correspondence from any other notified utility. He stated that he had a discussion with County Board member Judy Martini, and she asked him to relay her concern to the board which centered on depriving access to the water for adjacent property owners. She stated that she would be opposed to the vacation if the deeds for the adjacent property owners provided for water access, and the vacation negatively affected those rights.

Mr. Tierney stated that he had received no further communications from any individual or agency he contacted concerning the petition.

Petition Review

Mr. Tierney reviewed the petitioner's application and his property ownership status with the Board members. To assist the Board in this effort, Mr. Tierney presented a series of maps and slides that detailed the ownership of the surrounding property and the land use of the area.

Mr. Tierney indicated that he spoke with the States Attorney's Office (SAO) prior to the meeting regarding the vacation's impact on access, and how to treat the park relative to the petition. He stated that it was the opinion of the SAO that if the Board was inclined to grant the vacation, that the vacated right-of-way should be combined with the

adjacent residential lots, and the park lots should remain independent. This would maintain the integrity of the park, and would reduce potential conflicts concerning park limits and the rights assigned to the park.

Mr. Tierney stated that as proposed, the vacation of Birch Street, would limit eastern access to residential lots located on the north side of Birch Street, west of the petitioner's vacation request. He stated that the residential lots in the area were zoned R-1 and all lots would be considered nonconforming as they did not meet the size requirements of the R-1 District. He stated that if any lot was going to be developed, it would likely mean that more than one lot would need to be consolidated into one larger lot to meet zoning and health department standards. A map was shown that revealed several of the adjacent properties were owned by the same individual. He stated that he had not received any correspondence from any of the property owners that had been notified or the Homeowners' Association.

Member Trigg asked who had constructed the dock/pier on one of the slides? Mr. Spasojevich replied that he acquired the property in 1991 and built the dock so that he had a way to access the channel. He stated he put the fence up to keep the brush from growing into the path.

Member Mosteller asked about the condition and ownership of the dock located in the channel. Mr. Spasojevich indicated that the previous owner of lots 1 and 22 located on the southwest corner of Orchard Avenue and Lake Avenue, constructed the dock, and it was there when he bought the properties in 1996. Mr. Spasojevich stated that he did not want anyone to use the dock because he did not want any one getting hurt.

Member Mosteller stated that if Birch Street was vacated, the park could be accessed from Lake Avenue. Mosteller discussed staff's position regarding the vacation of parks in platted subdivisions, and the rights assigned to parks.

He stated, that based on discussions staff has had with the SAO, the County cannot vacate a park unless all homeowners in the subdivision are a party to the application or consented to the vacation. The petitioner would then need to go through a plat amendment process to remove the park designation which would need to be approved by the Planning, Building and Zoning Committee. He mentioned, when a park goes up for tax sale that does not mean that all property owners in the subdivision relinquish their rights to the property.

Petitioner's Testimony

Mr. Spasojevich stated that it was his intent to vacate Birch Street so that he could eventually build a home on this property. The vacation would increase the land area to accommodate his well, septic and residence. The second reason he wanted to vacate the street, was to keep people from trespassing on his property when they wanted to get to the channel. He felt that there were other ways to gain access to the channel than through his property.

Board Questions

Member Mosteller stated that Lake Avenue and Evergreen Avenue were other streets in the area, and they could be used to access the water. The vacation also did not appear to land-lock any person.

Member Trigg asked Mr. Spasojevich if he planned on fencing the park. Mr. Spasojevich responded no, he did not plan on fencing the park.

The Board then discussed how the lots could be consolidated so no lot would be nonconforming, and the park would remain a separate parcel.

Member Mosteller stated that all lots in the area would be considered buildable even though they were non-conforming (less than the R-1 District size requirement). Mr. Spasojevich stated that he would have to meet setbacks from all street rights-of-ways and the vacation would assist him in meeting the setback requirements. He wanted to make sure there was enough land available for him to construct his house and all accessory uses (well/septic/garage).

Member Mosteller stated that when there are non-conforming lots, there was no minimum lot size requirement. The lot size is then dictated based on what is going to be developed on the property, and the amount of area required to meet the Health Department and zoning standards.

Mr. Mosteller stated that per the direction by the SAO, the park should be kept in one separate parcel.

Mr. Spasojevich asked if he could split the properties in the future. Member Mosteller indicated that once the lots were consolidated, that any new subdivision must meet the lot size requirements for its zoning classification. Based on his evaluation of the acreages, it did not appear that Mr. Spasojevich had sufficient lot area to have two conforming lots. Each would need to have 130 feet of width on an improved, approved street, and 40,000 square feet in area.

Member Trigg stated that for the record, the Lake County Division of Transportation (LCDOT) had contacted Mark Ring, the Antioch Township Highway Commissioner, and he had no comments on the vacation.

Public Statements

No member representing the public was in attendance to provide comments.

Announcement of Land Cost

Mr. Tierney announced that the cost to vacate the right-of-way was \$409.00, and the petitioner would be responsible for these charges prior to placing the item on the agenda for the County Board.

Board Discussion

Member Mosteller stated that clearly there was no need to preserve the right-of-way for roadway purposes and he felt the vacation should be approved.

This was confirmed by both Members Crivello and Trigg.

Motion

Member Mosteller entered a motion that recommended approval of the vacation subject to the applicant combining lots he owned in a manner that the result would not deprive any one lot of direct access to a public road. Further, the parcels that identify the park shall remain separate from the rest of the lots. The result of the consolidations will be two lots owned by the petitioner. The motion was seconded by Member Trigg.

Action

The motion passed unanimously.

Member Crivello stated that the findings in this case should be based on the standard requirements of the Board.

Adjournment

Member Mosteller moved to adjourn the meeting. This was seconded by member Crivello. The motion passed unanimously. The meeting was adjourned at 3:05 p.m.

**TO THE COUNTY BOARD,
LAKE COUNTY, WAUKEGAN, ILLINOIS.**

TO THE CHAIRMAN AND MEMBERS OF THE COUNTY BOARD:

Your petitioner, RICHARD T. SPASOJEVICH being the owner of certain land in the Re-Subdivision of Blocks A & 3 and Part of Blocks 2 & 4 Woodcrest Addition No. 1. Your petitioner further represents that he is the sole legal owner of the following described properties referenced as Property Identification Numbers (PIN): 01-11-100-012, 01-11-106-020, 01-11-107-006, 01-11-107-008 and 01-11-107-009.

LEGAL DESCRIPTION

Lots 18- 22 Block 2, and Lot 1 and that portion of a park located on the north side of Channel Lagoon in Block 3, located in the Plat of Re-Subdivision of Blocks A & 3 and Part of Blocks 2 & 4 Woodcrest Addition No. 1, located in the West half of Section 11, Township 46 North, Range 9 East of the Third Principal Meridian in the Town of Antioch, Lake County Illinois as more fully set forth on the plat recorded on May 14, 1928 by document Number 317737.

and do hereby petition your Honorable Board to approve the revocation, annulment vacation and set aside that part of said plat of subdivision as follows:

LEGAL DESCRIPTION OF ROW TO BE VACATED

All the part of unimproved Birch Street located west of the west right-of-way line of Lake Avenue and east of the west line of Lot 1, Block 3 extended to the north right-of-way line of Birch Avenue, located in the Plat of Re-Subdivision of Blocks A & 3 and Part of Blocks 2 & 4 Woodcrest Addition No. 1, located in the West half of Section 11, Township 46 North, Range 9 East of the Third Principal Meridian in the Town of Antioch, Lake County Illinois as more fully set forth on the plat recorded on May 14, 1928 by document Number 317737 "and as more fully set forth on the plat attached.

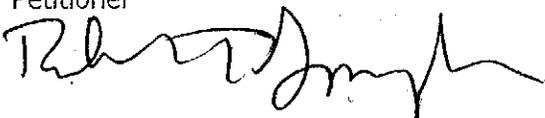
Your petitioner further represents that there are no conflicting interests; that he is the sole owner of all lots, including the park, adjacent to said street to be vacated.

Your petitioner further indemnifies and holds harmless the County of Lake for damages resulting to any person or persons, which may be incurred due to such vacation.

Your petitioner further represents that the portion of Birch Street to be vacated has never been a useable improved road and has not been used as such. Further, said street is not needed for public use and that there is no public need, necessity, or interest in said street.

Respectfully submitted,

Richard T Spasojevich
Petitioner



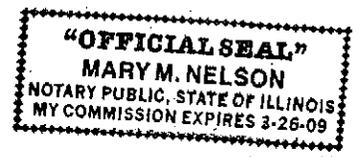
SUBSCRIBED AND SWORN to before me this 25th day of

October

2006

Mary M. Nelson

Notary Public



1:5,722

Search for Parcel Add Lake County Themes Mailing Labels Maps and Assessment Data Delete All Layers



Drawing

10

Arial

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