

TO

Mr. Julian Pitor
Lorain County Auditor

SUBJECT: Alley Vacation

DATE 10/30/78

Dear Mr. Pitor:

We are enclosing a copy of Resolution No. 78-761 dated October 23, 1978, Petition, Legal Description and Map regarding Alley Vacation leading off Gladys Avenue and located between Elmwood and Rosewood Street in Clearview Subdivision.

This is being forwarded for your information and

Files *in [unclear]*

RETURN TO:

SIGNED

DATE:

SIGNED

CASCADES LY-C274

#13017

APPROVED
LORAIN CO.
MAP DEPT.
DATE 8-22-79
PAGE 6-7
BY <i>J. Bell</i>
VOID AFTER

RESOLUTION NO. 78-761

In the matter of granting an alley)
vacation leading off Gladys Avenue)
and located between Elmwood and) October 10, 1978
Rosewood Street in Clearview Sub-)
division.)

WHEREAS, after due and legal advertising this is the day fixed for the public hearing on the vacating of an alley leading off Gladys Avenue between Elmwood and Rosewood Streets in Clearview Subdivision, Elyria Township, Lorain County, Ohio; and

WHEREAS, the Ohio Edison Company advised by letter dated October 3, 1978, that they have at least two poles and a distribution line within this alley. These power facilities have been in the area since 1936 and are needed to serve homes within the Elmwood Street and Rosewood Street vicinities;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Lorain County, Ohio, that we do and hereby authorize the vacation of the following described alley:

"Situated in the Township of Elyria, County of Lorain and State of Ohio and also known as being part of Clearview Subdivision as recorded in Volume 10, Page 8 of Lorain County Plat Records, bounded and described as follows:

Beginning at the Southeast corner of Sublot No. 357 of said Subdivision, said corner being on the westerly line of Gladys Avenue;

Thence due West along the Southerly lines of Sublot Nos. 357 thru 372 inclusive, of said subdivision, a distance of 492.65 feet to the Southwest corner of Sublot No. 372;

Thence South $1^{\circ} 32' 30''$ West along the Westerly line of said subdivision, a distance of 15.00 feet to the Northwest corner of Sublot No. 373 of said Subdivision;

Thence due East along the Northerly lines of Sublot Nos. 373 thru 388 inclusive of said Subdivision a distance of 493.03 feet to the Westerly line of Gladys Avenue and being the Northeast corner of Sublot No.388;

Thence North $00^{\circ} 05'$ East along the Westerly line of Gladys Avenue, a distance of 15.00 feet to the place of beginning, embracing 0.17 acres of land, but being subject to all legal highways and easements of record.

OWNERS:	Elizabeth Wolfe Miles	Mr. Walter Miles	41745 Elmwood
	Mrs. Zorka Stayanoff		41719 Elmwood
	Mr. Steve Ylioff		" "
	Miss Julia Wolfe		41731 Elmwood

FURTHER BE IT RESOLVED that said vacation of the 15 foot alley shall accrue to the benefit of adjacent property owners as provided by law.

BE IT FURTHER RESOLVED that the Ohio Edison Company shall retain the right to lay, maintain, operate, repair, replace and occupy the land area represented by them in this alley right of way.

The foregoing resolution was introduced upon a motion by Commissioner J. J. Keron, seconded by Commissioner Fred M. Ritenauer and the vote taken thereon resulted as follows: J. J. Keron, "aye"; Fred M. Ritenauer, "aye"; Alan J. Zaleski, "aye".

Motion carried.

I, C. Malinovsky, Assistant County Administrator of the Board of Commissioners of Lorain County, Ohio, do hereby certify that the above Resolution No. 78-761 is a true copy as it appears in Journal No. 78 on page 110 - 111 dated October 10, 1978.

PETITION FOR ALLEY VACATION

To the Honorable Board of County Commissioners of Lorain County, Ohio:

We, the undersigned petitioners, all being freeholders of Lorain County residing in the vicinity of the proposed vacation, hereby request the Board of County Commissioners of Lorain County to vacate an alley in the Burrell and Day Tract, Lot 18 in Elyria Township, more fully described as follows:

Being a fifteen (15) foot alley located in the Clearview Subdivision as recorded in volume 10, page 8 of Lorain County Plat Records and located immediately North of and adjacent to Sublot Nos. 373 through 388 of said Subdivision.

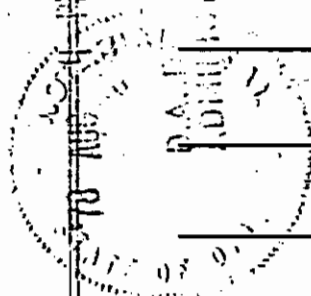
This alley is located immediately West of Gladys Avenue, South of Elmwood Street, and extends Westerly from Gladys Avenue to the westerly line of said Subdivision.

The alley proposed to be vacated has never been used as a roadway, is ungraded and unimproved. The alley deadends at the rear of Lot No. 291 of the Wilbur Heights Allotment as recorded in volume 5, Page 13 of Lorain County Plat Records.

Name	address
Mrs. Elizabeth (Wolf) Miles	41745 Elmwood Elyria Ohio 44038
Mr. Walter Miles	" " " "
Mrs. Zorka Stoyanoff	41719 Elmwood, Elyria Ohio 44038
Mr. Steve Gleiff	41719 Elmwood, Elyria Ohio 44038
Miss Julia Wolfe	41731 Elmwood St Elyria Ohio 44038

Sworn to before me and subscribed by the above in my presence the 28th day of July 1978

Beatrice M. Falk
 BEATRICE M. FALK, Notary Public
 State of Ohio
 My Commission Expires Feb. 5, 1983



This petition approved by the Elyria Township Trustees this 31 day of July, 1978.

May K. Laule
 May K. Laule, Clerk

9 Misc 39, 219 NE(2d) 314 (1966), Carper v Board of County Commrs. The spreading upon the minutes by a board of county commissioners of a letter they wish to send to a state highway engineer expressing a wish not to vacate certain roads after deliberation and consultation with responsible citizens is not the resolution required by 5553.041.

5553.042 Abandoned township roads

A township shall lose all rights in and to any public road, highway, street, or alley which has been abandoned and not used for a period of twenty-one years, after formal proceedings for vacation as provided in sections 5553.04 to 5553.11 of the Revised Code have been taken; and upon petition for vacation of such road, highway, street, or alley filed with the board of county commissioners by any abutting landowner, if the board finds that said public road, highway, street, or alley has been abandoned and not used for a period of twenty-one years as alleged in such petition, the board of county commissioners may, by resolution, order the road, highway, street, or alley vacated and such road, highway, street, or alley shall pass, in fee, to the abutting landowners thereof, as provided by law, subject to the preservation of any existing right of way in, over, or under such roadway by any public utility or rural electric co-operative service facilities, including any conduit, cable, wires, towers, poles, or other equipment or appliances of any public utility or rural electric co-operative located on, over, or under such roadway and for such period of time as such public utility or rural electric co-operative service facilities continue to be used to render service to the public and also subject to the right of ingress and egress for the purpose of servicing and maintaining the same, and subject to the preservation of a right of way for public nonmotorized vehicular recreational use as provided under section 5553.044 of the Revised Code.

HISTORY: 1972 S 247, eff. 10-20-72
1971 H 714; 130 v H 93; 129 v 289

CROSS REFERENCES

OJur 2d: 27, Highways and Streets § 114
Am Jur 2d: 39, Highways § 150 to 156

OAG 70-151. Rights in and to any township road are lost to township if road has been abandoned and not in use for period of twenty-one years, and appropriate action may be taken by any abutting landowner under 5553.042 to effect passage in fee of township road to that abutting landowner.

OAG 66-065. Not all abutting landowners are required to sign the petition mentioned in 5553.042.

OAG 66-065. Notice to the public and a hearing are not required under 5553.042.

OAG 66-065. 5553.042 is applicable to both platted and unplatted areas.

1964 OAG 1517. The use of a street by the abutting owners, their guests, milk trucks, meter readers and the like does not prevent a board of county commissioners from determining that such street has been abandoned and is not in use.

1964 OAG 1517. If a board of county commissioners acting pursuant to 5553.042 finds that a public road, highway, street, or alley has been abandoned and not used for a period of twenty-one years, it must by resolution, order such road, highway, street, or alley vacated.

1964 OAG 1517. A street is "not in use" as that term is used in 5553.042 when it is not used as a way which is open to the public at large for transportation or travel.

OPINION NO. 76-043

1. Where an unmaintained, unimproved township road has been used solely by abutting land owners, their guests, their service suppliers, etc., for a period in excess of twenty-one years, such road has been not in use, as this term is employed in R.C. 5553.042.

2. Under the terms of R.C. 5553.042, in the absence of formal vacation a township loses all interest in and right to township roads, streets, highways and alleys abandoned and not in use for a period in excess of twenty-one years. Where township rights to and in such roads have been lost through non-user and abandonment, township trustees have no duty and no authority to improve or maintain such roads.

in such vacated portion of such street, highway for the purpose of maintaining, operating, reconstructing, and removing said utility for purpose of access to said facilities. Nothing in this section shall be construed to relieve an owner of a right to mine coal who petitions for a proposed relocation from the obligation to pay the relocation expenses of public utility facilities as provided in R.C. 5553.042 or 5571.042 of the Revised Code.

HISTORY: 129 v 452, eff. 10-16-61

CROSS REFERENCES

OJur 2d: 27, Highways and Streets § 114

5553.044 Trail rights-of-way

In any proceeding on a petition or resolution to vacate a road which begins on a public road and ends at a public road, the board of county commissioners shall determine the suitability of the road for public nonmotorized vehicular recreational use. Such uses are not limited to, hiking, bicycling, horseback riding, and ski touring. They do not include use by snowmobiles, all purpose vehicles, or any other motorized vehicle. If the board finds that such use does not unreasonably interfere with current land use on the road, it may vacate the road subject to the preservation of a public right of way at least thirty feet wide within such roadway for such uses.

HISTORY: 1972 S 247, eff. 10-20-72

CROSS REFERENCES

Naming and numbering of roads and bridges, streets, bridges, and trails, 5543.04

Trail intersection markers, 5543.21

- 5553.05 Improvements, notice of view and hearing; vacation, notice of bearing

(A) In the resolution required by section 5553.05 of the Revised Code, the board of county commissioners shall fix a date when it will view the proposed improvement, and also a date for a final hearing thereon.

The board shall give notice of the time and place of both such view and hearing by publication in a newspaper of general circulation in the township.

LEGAL DESCRIPTION

Vacation of 15' Alley
Clearview Subdivision

Situated in the Township of Elyria, County of Lorain and State of Ohio and also known as being part of Clearview Subdivision as recorded in volume 10, Page 8 of Lorain County Plat Records, bounded and described as follows:

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Thence due West along the southerly lines of Sublot Nos. 357 thru 372 inclusive, of said Subdivision, a distance of 492.65 feet to the Southwest corner of Sublot No. 372;

Thence South $1^{\circ} 32' 30''$ West along the westerly line of said Subdivision, a distance of 15.00 feet to the Northwest corner of Sublot No. 373 of said Subdivision;

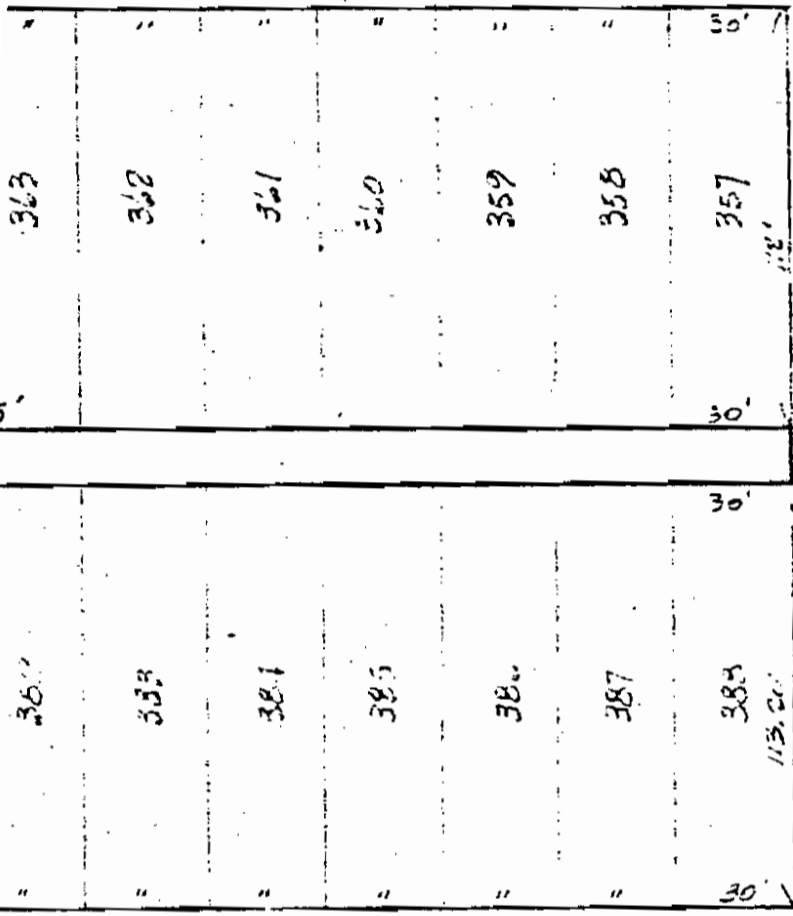
Thence due East along the northerly lines of Sublot Nos. 373 thru 388 inclusive, of said Subdivision, a distance of 493.03 feet to the westerly line of Gladys Avenue and being the Northeast corner of Sublot No. 388;

Thence North $00^{\circ} 05'$ East along the westerly line of Gladys Avenue, a distance of 15.00 feet to the place of beginning, embracing 0.17 acre of land; but being subject to all legal highways and easements of record.

10
170 AUG 1 1971

D.A. F. ...
ADMINISTRATOR

60'



GLADYS AVENUE - 60'

N 00° 05' E

NORTH

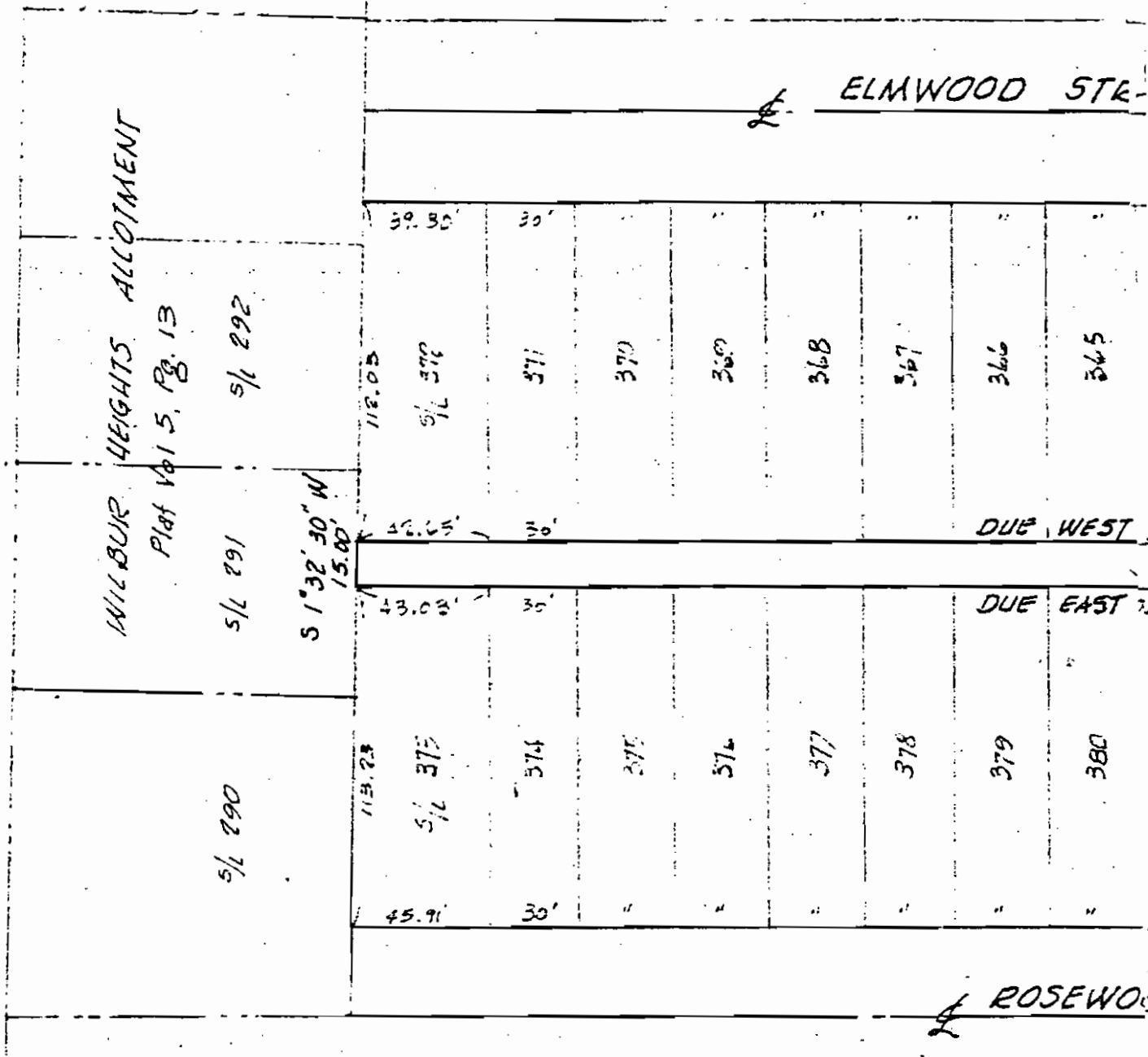
SCALE: 1" = 50'

TREET

ON

Vol. 10, Page 8
RELL & DAY TRACT
OHIO

McGLINCHY and ASSOCIATES
PROFESSIONAL ENGINEER & SURVEYOR
ELYRIA OHIO
AUGUST, 1978 #783690



MAP of REQUESTED ALLEY VA

PART of CLEARVIEW SUBDIVISION - P
 PART of ORIGINAL ELYRIA TWP. LOT 18
 TOWNSHIP of ELYRIA, LORAIN C