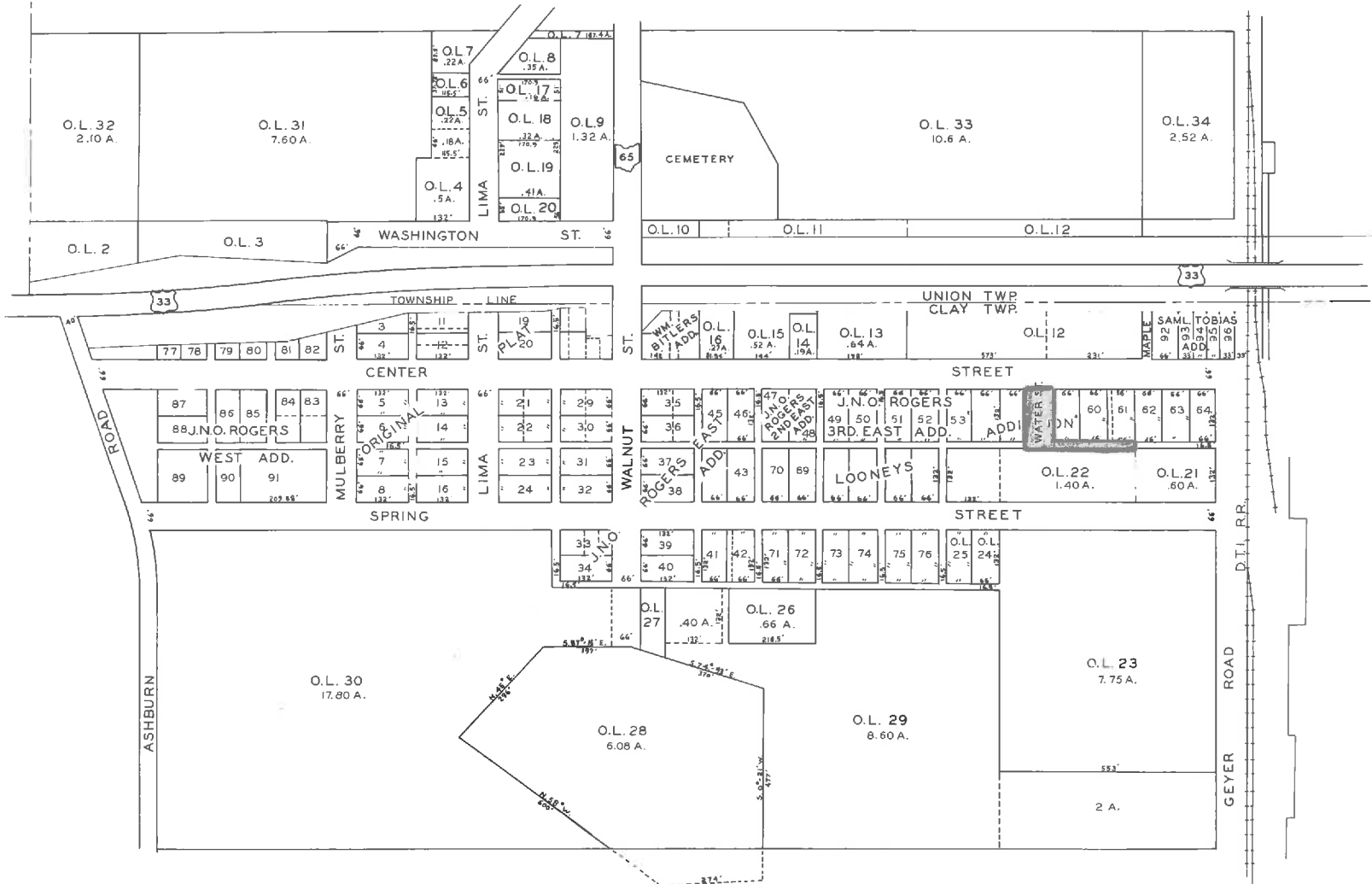


ST. JOHNS

NO.	REVISION	DATE
1	SCALE 1" = 200'	NOV. 1971
2	DATE NOV. 1971	DRWN L.M.K.E.-EE

CLAY & UNION TOWNSHIP
AUGLAIZE CO., OHIO

CLAYTON H. STIMMEL, P.E.
AUGLAIZE COUNTY ENGINEER



8-6
11

PETITION TO VACATE STREET AND ALLEY
(5553.042)

Now comes Winifred Thrush and states that she is an abutting land owner, whose property abuts upon the hereinafter described street and alley located within the unincorporated Village of St. Johns, Clay Township, Auglaize County, Ohio, and files her petition with the Board of County Commissioners requesting the vacation of the hereinafter described street and alley.

Petitioner states that said street and alley has been abandoned and has not been used for a period of more than 21 years. Petitioner states that the area to be vacated does not begin on a public road and end on a public road and therefore would not be suitable for a trail right of way as provided in Section 5553.044 Ohio Revised Code.

The street and alley to be vacated is all that part of Water Street situated within the Village of St. Johns, Clay Township, Auglaize County, Ohio as is located south of Center Street. Said street is bounded on the north by Center Street, on the west by Lot Number 58, on the south by a east west alley, and on the east by Lot Number 59.

Petitioner also requests the vacation of so much of the north of the east west alley lying one lot south of Center Street in the eastern part of the Village of St. Johns, Ohio where said alley abuts upon the north and south of petitioner's property (Lots 59 and 60 and 61) and part of Outlot 22, and also as said alley may be extended into Water Street. The precise area to be vacated is indicated on the attached sketch.

Abutting property owners entitled to notice of the filing of the petition and hearing upon the petition under Section 5553.05 Ohio Revised Code are:

William E. Gross
Howard L. Brandehoff
Marilyn K. Brandehoff
Wilden L. Detrick
V. Maxine Detrick
Also entitled to notice under said Section is the Ohio
Director of Natural Resources.

Petitioner states that the attorneys representing her in the matter of the alley vacation are Attorneys Henkener & Miller, 5 Willipie Street, Wapakoneta, Ohio.

LAW OFFICES

HENKENER AND MILLER

5 WILLIPIE STREET

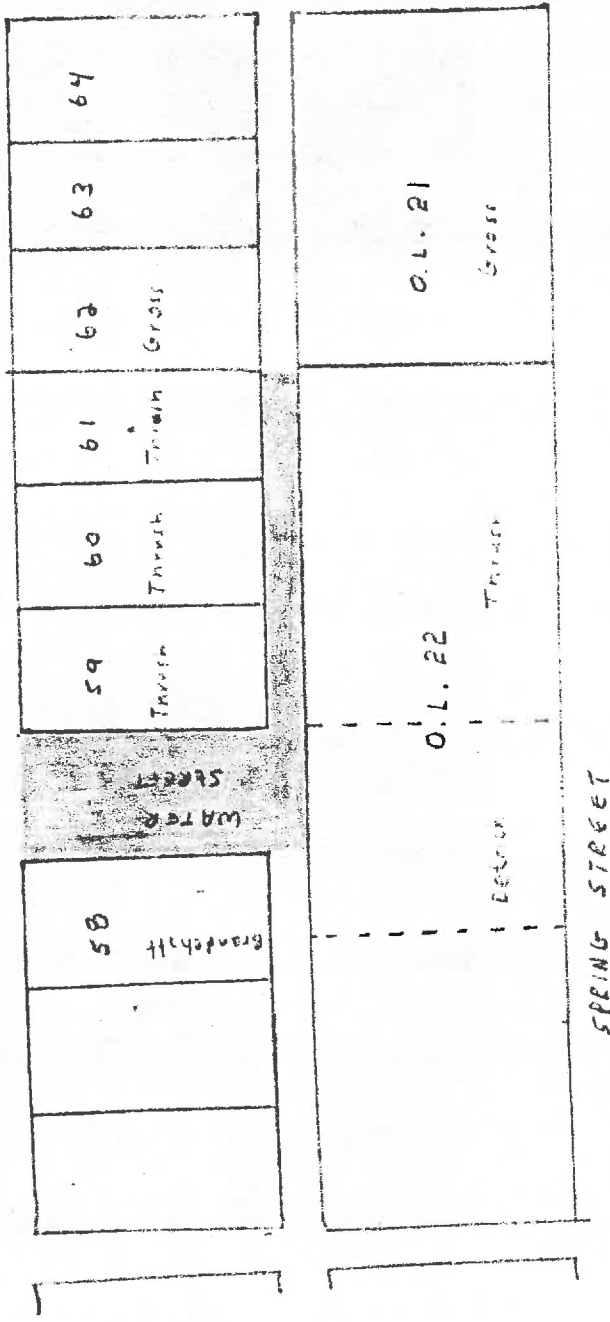
WAPAKONETA, OHIO 45685

12/11/80 1sz

Winifred Thrush
Winifred Thrush, Petitioner

Drawing of Area to be Vacated

CENTER STREET



(copy 10/20/20)

County Commissioners' Office
Auglaize County, Ohio
December 19th, 1980

The Board of County Commissioners met this day in Regular session with the following members present:

Paul F. Reinhart

William Link

Howard Werner

Mr. Werner made the motion that the following be adopted:

R E S O L U T I O N

WHEREAS

Copy
a petition to vacate ~~Nand~~ alley located in the village of St. Johns Clay Twp- Auglaize County, Ohio; was filed with the Board of County Commissioners this 19th day of December; by Attorney R. Miller; representing Winifred Thrush; and

WHEREAS,

copy of said petition does appear on page 308 of county commissioners' journal # 68-; therefore be it

RESOLVED,

the Board do this day accept the above mentioned petition and will hold a Viewing on same on the 30th day of January, 1981- at site and will hold a Hearing on said vacation on the 10th day of February, 1981. Said Hearing to be held in the office of the Board of County Commissioners- basement of county courthouse with both the viewing and hearing at 10 o'clock A. M. and be it further

RESOLVED,

the Clerk of Board is hereby authorized to place proper Legal Notice in a local newspaper-- also notifying Township Trustees and abutting property owners of view and hearing in connection with vacation of afore mentioned alley; and also ask the engineer to give the Board of County Commissioners a report in connection with the vacation of the alley in question. Report due on or before the 10th day of February, 1981.

Mr. Link seconded the motion, and the roll being called on its adoption- the vote resulted as follows:

Mr. Reinhart yes;

Mr. Link yes;

Mr. Werner yes

cc: county engineer

William E. Gross

Howard L. & Marilyn Brandehoff

Wilden L. & V Maxine Detrick

Marvin Regula- Route 5- Wapakoneta, clerk of Clay Twp.

Agent for petitioner- Ron Miller- Atty.-at-law

Robert W. Texter Chairman of Nat'l. Road. Reservation

Spokane, Idaho

December 4 1980

St. Johns - Ohio
St. Johns, Ohio

Step #3:

LEGAL NOTICE

Notice is hereby given that the Board of County Commissioners of Auglaize County, Ohio, will view a proposed vacation of an alley- located in the Village of St. Johns, Auglaize County, Ohio on the 30th day of January- 1981 at 10 o'clock A. M.

The area proposed to be vacated is.

Street and alley has not been used for a period of more than 21 years. Petitioner stated that the area to be vacated does not begin on a public road and end on a public road and therefore would not be suitable for a trail right of way as provided in Section 5553.044- Ohio revised code.

The street and alley to be vacated is all that part of Water street situated within the Village of St. Johns, Clay Twp. Auglaize County, Ohio as is located south of Center Street. Said street is bounded on the north by Center street, on the West by Lot number 58, on the South by a East-West alley, and on the east by lot number 59.

Petitioner also requests the vacation of so much of the north of the east-west alley lying one lot south of Center street in the eastern part of the Village of St. Johns, Ohio, where said alley abuts upon the north and south of petitioner's property (lots 59 and 60 and 61) and part of out-lot 22, and also as said alley may be extended into Water street.

The final Hearing on said Petition will be held at the office of the Board of County Commissioners- basement-county courthouse on the 10nth day of February, 1981 at 10 o'clock A. M.

Board of County Commissioners
Auglaize County, Ohio

by: Alberta Maxson
clerk of board

2-14

**AUGLAIZE COUNTY
ENGINEERING DEPARTMENT**

P. O. BOX 178
1014 SOUTH BLACKHOOF STREET
WAPAKONETA, OHIO 45895
TELEPHONE (419) 738-3219
738-2713



PER 1 0 RECD

Clayton H. Ginnard
COUNTY ENGINEER

Auglaize County Commissioners
Court House Basement
Wapakoneta, Ohio

Feb. 9, 1981

The attached petition for vacation of Water Street and the alley in St, Johns has been approved by the Engineer's Office.
There are however three words on the description which have been noted, that may be a little confusing and could be deleted without changing the intension of the petition.

Larry McLean
Larry McLean
Design & Drafting

g.v.
PETITION TO VACATE STREET AND ALLEY
(5553.042)

Now comes Winifred Thrush and states that she is an abutting land owner, whose property abuts upon the hereinafter described street and alley located within the unincorporated Village of St. Johns, Clay Township, Auglaize County, Ohio, and files her petition with the Board of County Commissioners requesting the vacation of the hereinafter described street and alley.

Petitioner states that said street and alley has been abandoned and has not been used for a period of more than 21 years. Petitioner states that the area to be vacated does not begin on a public road and end on a public road and therefore would not be suitable for a trail right of way as provided in

Section 5553.044 Ohio Revised Code.

The street and alley to be vacated is all that part of Water Street situated within the Village of St. Johns, Clay Township, Auglaize County, Ohio as is located south of Center Street. Said street is bounded on the north by Center Street, on the west by Lot Number 58, on the south by a east west alley, and on the east by Lot Number 59.

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Abutting property owners entitled to notice of the filing of the petition and hearing upon the petition under Section 5553.05 Ohio Revised Code are

William E. Gross
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Wilden L. Detrick
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Also entitled to notice under said Section is the Ohio
Director of Natural Resources.

Petitioner states that the attorneys representing her in the matter of the

alley vacation are Attorneys Henkener & Miller, 5 Willipie Street, Wapakoneta, Ohio.

LAW OFFICES
KENER AND MILLER
WILLIPIE STREET
WAPAKONETA, OHIO 45885

Winifred Thrush
Winifred Thrush, Petitioner

2/11/80 lsz

9 Misc 39, 219 N.E.(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.

1964 OAG 1517. A street is "abandoned" within the meaning of 5553.042 when the township fails to exercise control over it and otherwise manifests an intent to surrender its right to maintain it as a public way.

5553.043 Permanent easement to public utility in vacated road

When any street, highway, or road, or a portion thereof, is vacated pursuant to the provisions of any section of Chapters 5553. or 5571. of the Revised Code, and the relocation of any conduits, cables, wires, towers, poles, sewer lines, steam lines, pipelines, gas and water lines, trucks, or other equipment or appliances of any railroad or public utility, whether owned privately or by any governmental authority, located on, over, or under the portion of the street, highway, or road affected by any such vacation, is not required for purposes of the vacating authority, any affected railroad or public utility company shall be deemed to have a permanent easement in such vacated portion of such street, highway, or road for the purpose of maintaining, operating, renewing, reconstructing, and removing said utility facilities and for purpose of access to said facilities. Nothing in this section shall be construed to relieve an owner of the right to mine coal who petitions for a proposed improvement from the obligation to pay the relocation costs and expenses of public utility facilities as provided in Chapter 5553. or 5571. 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 on a public road, the board of county commissioners may determine the suitability of the road for public nonmotorized vehicular recreational use. Such uses include, but are not limited to, hiking, bicycling, horseback riding, and ski touring. They do not include use by motorcycles, snowmobiles, all purpose vehicles, or any other form of motorized vehicle. If the board finds that such uses will not unreasonably interfere with current land uses along 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, map of roads, bridges, and trails, 5543.04
Trail intersection markers, 5543.21

5553.05 Improvements, notice of view and final hearing; vacation, notice of hearing

(A) In the resolution required by section 5553.04 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 for both such view and hearing by publication once a week

Step #5

County Commissioners' Office
Auglaize County, Ohio
February 10, 1981

The Board of County Commissioners met this day in special session with the following members present:

Paul F. Reinhart Wilbur B. Jauert Sara Jane Kern

Miss Kern made the motion that the following be adopted:

R E S O L U T I O N

WHEREAS, this being the date set in their order of December 19th, 1980 to hold a hearing on the vacation of an alley in the Village of St. Johns, Clay Township, Auglaize County Ohio; and

WHEREAS, proper advertisement having been made, according to law- and county engineer's department reviewing the map of the proposed area; and

WHEREAS, the following persons did attend the hearing today: Mrs. Winifred Thrush, Mr. Howard Brandehoff, and the Clay Township Trustees (Mr. Bernard Thrush, Mr. Lloyd E. Helmlinger, and Mr. Marvin Regula); and therefore be it

RESOLVED, after discussing the proposed petition for vacation with the above mentioned persons, the Board of County Commissioners do hereby grant the petition as filed on December 19th, 1980 - and do also hereby authorize the county engineer, Clayton Stimmel to see that the county maps for Clay Township are corrected in accordance with said petition; and also be it

RESOLVED, that a copy of this resolution be given to the Clay Township Trustees, the county engineer, and the agent for the petitioner - Attorneys Henkener & Miller of Wapakoneta; and

RESOLVED, according to law, the following persons were notified of the hearing that was held today: William Gross, Howard & Marilyn Brandehoff, Wilden & Maxine Detrick, Township Trustees, agent for the petitioner, and Mrs. Thrush; and also the Dept. of Natural Resources.

Mr. Jauert seconded the motion, and the roll being called on its adoption - the vote resulted as follows:

Mr. Reinhart yes; Mr. Jauert yes; Miss Kern yes.

cc: county engineer
 agent for petitioner
 Clay Township trustees

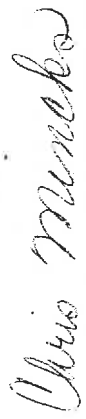
Step #6

AFFIDAVIT

I, Chris Mincks, Assistant Clerk of the Board of Auglaize County Commissioners, do hereby certify that the following steps were taken in connection with the vacation of an alley in Clay Township, Village of St. Johns, Auglaize County, Ohio:

Journal Number	Page	Remarks
68	308	Petition filed with the Board for the vacation of an alley in St. Johns, Clay Township - petitioner, Winifred Thrush.
68	311	resolution accepting the petition for vacation of an alley, and setting a date for the hearing.
68	312	copy of the legal notice
68	371	resolution ^{to} grant the vacation of the alley, per the original petition.
68	372	affidavit of the proceedings.

cc: county engineer
Clay Township Trustees
agent - Henkener & Miller
petitioner


Chris Mincks, Asst. Clerk

February 10, 1981