

Property Line Easement Waiver(s)

Resolution 2013- 6

Whereas, deeds for properties in the Borough typically have easement/rights of way (ROW) called out along all property lines. These are typically worded as follows:

The said Lot and Park above described and the use thereof are UNDER AND SUBJECT to an easement to grantor, its successors and assigns that no private dwelling, other structure or improvement of any nature whatsoever (excepting boat docks, along the lake), or excavation, shall be made within ten (10) feet of each and every property line of the above described Lot as the said area is designated and shown on the attached draft of the said premises, and grantor, its successors and assigns, agents and/or employees shall have an easement to lay, maintain construct, replace and/or repair within said ten (10) foot distance along and back from all said property lines, all utilities, including, but not limited to: water lines, sewer lines, roads, electric lines, telephone lines and/or gas lines, without compensation of any type to owners, their heirs, executors, administrators, successors and assigns therefore, and without liability for damages except for negligence on the part of grantor, its successors and assigns, agents and/or employees ...

and,

Whereas, for some time, DEP sewer regulations have been the most limiting factor to developing the Lake community more fully, it being just over 1/3 developed per original plans. When a lot does pass 'perc' testing for an on-lot system, the owner may be further limited by DEP requirements that all sewer components be 10 feet away from the extent of these easement/ROW. Our 'typical' lakefront lot is long and narrow, most often 90 to 100 feet wide. Some lots, due to terrain, are irregular shaped and may be as narrow as 50-60 feet in spots. With 10 feet allotted to the ROW on both sides and the DEP mandated and "non-negotiable" added 10 foot barrier, subtracting 40 feet total from the width can leave no room left for the on-lot sewer components.

Therefore, be it resolved that the Borough, in trying to facilitate growth, and in looking objectively at the situation, has concluded that in many cases, we can safely vacate the ROW on one side of a property as long as there is ample room on the other side of the property to serve future needs. In doing so, however, we feel it necessary to have the full 20 feet of access [10 on either side of the property line...] available on the other side before agreeing to vacate an easement /ROW, and


Further, one or more of the adjoining property owners may be aggrieved or harmed by vacating an easement/ROW on one property line if there is not ample room/ROW remaining on the other side of his property as well. Thus at least 3 property lines need to be researched for sufficient ROW, and previously vacated easements, and

Further, that the Borough does not have the wherewithal, the records, nor the responsibility to do the primary research to ensure the full 20 feet is available on all **other** relevant property lines; nor is the Borough obliged to grant a waiver. There may also be occasions where a simple boundary change is the best, or only acceptable, alternative.


DULY PRESENTED AND ADOPTED by the Borough Council of Indian Lake,
Somerset County, Pennsylvania, this 10th day of July, 2013.

ATTEST:

BOROUGH OF INDIAN LAKE



Theresa L. Weyant, Borough Secretary



Patricia A. Dewar, Council President