



STAFF REPORT

TO: LONG GROVE PCZBA  
FROM: JAMES M. HOGUE, VILLAGE PLANNER  
DATE: 6.22.20  
RE: PCZBA REQUEST 20-03 Request for Variations of the front and side yard setback requirement within the R-1 District; for property located at 3378 Old McHenry Road, Submitted by Mrs. Marcia Wachs Dam, Property Owner.

**Item:** PCZBA PETITION 20-03

**Status:** Petition submitted 6/7/20. Referral by Village Board not required. Publication in newspaper completed 6.19.18 and is therefore timely.

**History:** Property is located on the east side of Old McHenry Road and south of a private access easement commonly referenced as "Tee-Pee Lane". The property is zoned under the R-1 District Classification and consists of 4.1 acres (178,871 sq. ft. +/-). The property looks to be a "metes and bounds" parcel and was not formally subdivided and appears to have remained in the current configuration since divided.

The parcel is one of six properties under control of the applicant for a total of 21.21 acres including unbuilt property subdivided as the "Rosewood Subdivision".

The property contains a single family dwelling (built in 1943) and three accessory structures, 2 sheds and a guesthouse. The property is presently non-conforming to the R-1 District setback regulations for a front yard and side yard (east side), but is conforming regarding lot size. A 40' ingress\egress & utility easement runs across the northerly lot line (front) which is not used by this property for access.

**Proposal:** Consideration of a request for variations of the front yard set-back (north side) requirement from the required one-hundred (100') feet down to six (6') feet and the side yard setback from the required fifty (50') feet down to twenty (20') feet within the R-1 District to allow for the construction of a detached accessory structure (garage) measuring 50' x 36' (1,800 sq. ft.).

**Land Use, Zoning and Locational Data:**

1. Proposed Zoning: The subject property will retain the R-1 District classification.
2. Surrounding Land Uses and Zoning;

<i>Direction</i>	<i>Existing Use</i>	<i>Land Use Plan Designation/Zoning</i>
<b>NORTH</b>	Residential	Single Family Residential/"R-1".
<b>SOUTH</b>	Vacant (Rosewood Sub.)	Single Family Residential/"R-1".
<b>EAST</b>	Vacant\Open Space	Single Family Residential/"R-1"
<b>WEST</b>	Residential	Single Family Residential/"R-1".

3. Location; Common address of 3378 RFD.
4. Acreage; 4.1 Acres +/- (178,871 Sq. Ft.)
5. Based upon information available through Lake County GIS, the property contains no wetlands or floodplain (See Maps).
6. Topography; See topographic map from Lake County GIS.

**Zoning Data**

	<b>Existing</b>	<b>Proposed</b>	<b>Zoning Code</b>	<b>PUD</b>
<b>Lot Area</b>	<b>178,871 sq. ft.</b>	<b>No Change</b>	<b>3 Acre Minimum (R-3 Standard)</b>	<b>N/A</b>
<b>Floor Area (Total Floor Area)</b>	<b>3,165 sq. ft.*</b>	<b>Not applicable.</b>	<b>8,800 sq. ft. +.025 for each sq ft. over 43,560; sq. ft.</b>	<b>N/A</b>
<b>Lot Coverage (In Square Feet)</b>	<b>14,994 +/- sq. ft. (8.3 %)</b>	<b>16,794 sq. ft. (9.3%)</b>	<b>71,548 sq.ft. .40 (lot coverage) sq. ft. max.</b>	<b>N/A</b>
<b>Height</b>	<b>Unknown</b>	<b>Unknown</b>	<b>15 ft.**</b>	<b>N/A</b>

**\*Main House & Guest House**

**\*\*For proposed accessory structure; no change to principal structure**

**Yard Requirements (Set-Backs):**

	<b>Existing</b>	<b>Proposed</b>	<b>Zoning Ordinance</b>	<b>P.U.D.</b>
<b>Front Yard (North)</b>	<b>24.0' +/-* (Least Dimension)</b>	<b>6'***</b>	<b>100'</b>	<b>N/A</b>
<b>Side Yard (West)</b>	<b>158.8' +/-</b>	<b>No Change</b>	<b>50'</b>	<b>N/A</b>
<b>Side Yard (East)</b>	<b>33.5 +/- ***</b>	<b>20 feet**</b>	<b>50'</b>	<b>N/A</b>
<b>Rear Yard (South)</b>	<b>380.9' +/-</b>	<b>No Change</b>	<b>50'</b>	<b>N/A</b>

**\* To existing shed**

**\*\* To proposed accessory structure.**

**\*\*\* To existing 'Guest House'**

**Conclusions:**

As requested the petitioner is seeking variations of the front and side yard setback (north and east respectively) requirements from the required front yard of one hundred (100') feet down to six (6') feet and the required side yard of fifty (50') feet down to twenty (20') feet for a detached accessory structure (garage) measuring 50' x 36' (1800 sq. ft.). Such variations may be considered as authorized variations under the Long Grove Village Code (5-11-15) (E) (1) (a). The proposed use of the property, as well as the zoning, remains residential. This is consistent with properties within the vicinity of the subject property as well as the Village Master Plan.

The property, built upon in 1943, is presently non-conforming with regard to the front yard and east side yard setbacks. The rear yard (south) and west side yard setback both substantially exceed the minimum requirement of 50' feet. The property does conform to the lot size requirements for the R-1 District.

The property in question is 4.1 acre parcel which is one of six (6) parcels controlled by the petitioner (see attached map). Although this parcel and one other contain structures (built circa 1940), the vast majority of the 21.21 acres controlled by the petition (including the "Rosewood Subdivision") have been preserved as open space. A network of mowed pathways offering passive recreational opportunities occupies the vast majority of this property (see aerial photo).

A 40' foot easement of access utility easement runs across the north side (or front) of this property but appears not to have been utilized for either purpose. The property has a driveway running along the west side of the parcel with access from "Tee-Pee Lane". Per inquires made by the applicant, no utilities are located in the easement. Electrical service is provided by an overhead connection.

The petitioner has provided an exhibit which shows the footprint of a 50' x 36' accessory structure (1800 sq. ft. detached garage). Per the village code regarding detached accessory;

*(A) Authorization: Subject to the limitations of this section, and except as limited by the regulations of the district where located, accessory structures and uses are permitted in any zoning district in connection with any principal use lawfully existing within such district. (Ord. 2007-O-04, 4-24-2007).*

*(B) Definition: An "accessory structure or use" is a structure or use that:*

- 1. Is subordinate in purpose, use, and floor area to, and serves, a principal structure or use; and*
- 2. Is customarily incident to such principal structure or use; and*
- 3. Contributes to the comfort, convenience, or necessity of those occupying, working at, or being served by such principal structure or use; and*
- 4. Except as otherwise expressly authorized by the provisions of this title, is located on the same zoning lot as such principal structure or use; and*
- 5. Is used and controlled by the same person who, at the time of such use, is legally occupying and has legal control over such principal structure or use. (Ord. 2011-O-29, 10-25-2011).*

In determining the "subordinate" nature of an accessory structure, floor area in particular has been utilized. A policy for floor area of 50% or less of the principal structure ("The 50% Rule") has been utilized. However, the village code also indicates an accessory structure shall be subordinate to the principal structure or use of a property. In this instance the property is used for residential purposes. The property is unique in that it contains a primary residence and "guest house" (permissible on properties of 3 acres or more; not to exceed 850 sq. ft.). The primary residence is comprised of approximately 2,695 sq. ft. of floor area, the "guest house" approximately 470 sq. ft. of floor area. In total, 3165 sq. ft. of floor area is devoted to the principal use of the property.

Using the total floor area of the principal use vs the floor area of the accessory structure, the accessory structure contains 56.8% of the area of the principal use, which is subordinate to that use, but exceeds the maximum area established by policy (The 50% Rule).

Furthermore, the application notes the existing attached garage was converted to allow handicapped access to the principal structure for a family member. This conversion eliminated any sheltered indoor vehicle storage on the property.

The petitioner cites the need to locate the accessory structure in close the existing residential uses as well as the preservation of open space as a rationale for the variation request. As the majority of property controlled by the applicant remains vacant is used for open space, "clustering" of improvements in a compact area of the property does help in maximizing open space on the property.

Elevations of the proposed accessory structure have not yet been submitted. As such, the height of the structure is unknown but cannot exceed 15' feet from grade. All other Village code regulations regarding accessory structures, including obtaining building permits, would also need to be met.

The variation procedure is intended to provide a narrowly circumscribed means by which relief may be granted from unforeseen particular applications of this code that create practical difficulties or particular hardships on a particular property owner. Often these relate to the unique surroundings, configuration, or topography of a piece of property and are distinguished from a mere "inconvenience" should the regulations strictly implemented.

## **5-11-15 VARIATIONS**

- (A) Authority.** The board of trustees shall have the authority, by Ordinance duly adopted, to grant variations from the provisions of this code, but only in compliance with the procedures set forth in subsection (D) of this section and in those specific instances enumerated in subsection (E) of this section and then only in accordance with each of the standards enumerated in subsection (F) of this section.



**(E) Authorized Variations.**

1. **Permitted Variations.** The board of trustees may vary the provisions of this code only as provided in this paragraph (E) 1. The authority of the board of trustees to vary the provisions of this code is subject to the prohibitions set forth in paragraph (E) 2 of this section and proof by the owner of each of the standards set forth in subsection F of this section.

Under no circumstances shall the list of permitted variations in this paragraph (E) 1 be construed as an entitlement, right, or claim for any owner.

The board of trustees may vary the provisions of this code in the following cases and in no others:

- (a) **To permit a yard less than the yard required by the applicable regulations.**
- (b) To permit the use of a lot for a use otherwise prohibited solely because of the insufficient area of the lot, but in no event shall the area of the lot be less than ninety percent (90%) of the required lot area.
- (c) To permit variations from the sign regulations contained in section 5-9-5 of this code for businesses in the B1 and B2 districts.

2. **Prohibited Variations. Notwithstanding any other provision of this section, no variation shall be granted that:**

- (a) Is intended as a temporary measure only; or
- (b) Is greater than the minimum variation necessary to relieve the particular hardship or practical difficulty demonstrated by the owner.

**(F) Standards for Variations.**

1. **General Standards.** No variation shall be recommended or granted pursuant to this section unless the owner shall establish that carrying out the strict letter of the provisions of this code would create a particular hardship or a practical difficulty. Such a showing shall require proof that the variation being sought satisfies each of the standards set forth in this subsection (F):

- (a) That the lot in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located;
- (b) That the plight of the owner is due to unique circumstances; or
- (c) That the variation, if granted, will not alter the essential character of the locality.

2. **Supplemental Standards.** For the purpose of supplementing the above standards, the Board of appeals shall also, in making this determination whether there are practical difficulties or particular hardships, take into consideration the extent to which the following facts favorable to the owner have been established by the evidence:

- (a) That the particular physical surroundings, shape or topographical conditions of the specific lot involved would bring a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulation were to be carried out;
- (b) That the conditions upon which the petition for variation is based would not be applicable generally to other lots within the same zoning classification;

- (c) That the purpose of the variation is not based exclusively upon a desire to make more money out of the lot;
  - (d) That the alleged difficulty or hardship has not been created by any person presently having an interest in the lot;
  - (e) That the granting of the variation will not be detrimental to the public welfare or injurious to other lots or improvements in the neighborhood in which the lot is located; or
  - (f) That the proposed variation will not impair an adequate supply of light and air to adjacent lots or substantially increase the danger of fire or otherwise endanger the public safety, or substantially diminish or impair property values within the neighborhood.
3. **Specific Standards.** When the regulations authorizing a particular variation impose special standards to be met for such variation, a variation shall not be recommended or granted unless the owner shall establish compliance with such special standards.
- (G) **Variation Less Than Requested.** A variation less than or different from that requested may be granted when the record supports the owner's right to some relief but not to the relief requested.
  - (H) **Conditions on Variations.** The zoning board of appeals may recommend and the board of trustees may impose such specific conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of this code upon the premises benefited by a variation as may be necessary or appropriate to prevent or minimize adverse effects upon other lots and improvements in the vicinity of the subject lot or upon public facilities and services. Such conditions shall be expressly set forth in the Ordinance granting the variation. Violation of any such condition or limitation shall be a violation of this code and shall constitute grounds for revocation of the variation.
  - (I) **Effect of Grant of Variation.** The grant of a variation shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any permits and approval that may be required by the codes and ordinances of the village including, but not limited to, a certificate of zoning compliance, a building permit, a certificate of occupancy, and subdivision approval.
  - (J) **Limitations on Variations.** Subject to an extension of time granted by the building superintendent pursuant to section 5-11-1 of this code, no variation from the provisions of this code shall be valid for a period longer than one year unless a building permit is issued and construction is actually begun within that period and is thereafter diligently pursued to completion or unless a certificate of occupancy is issued and a use is commenced within that period.

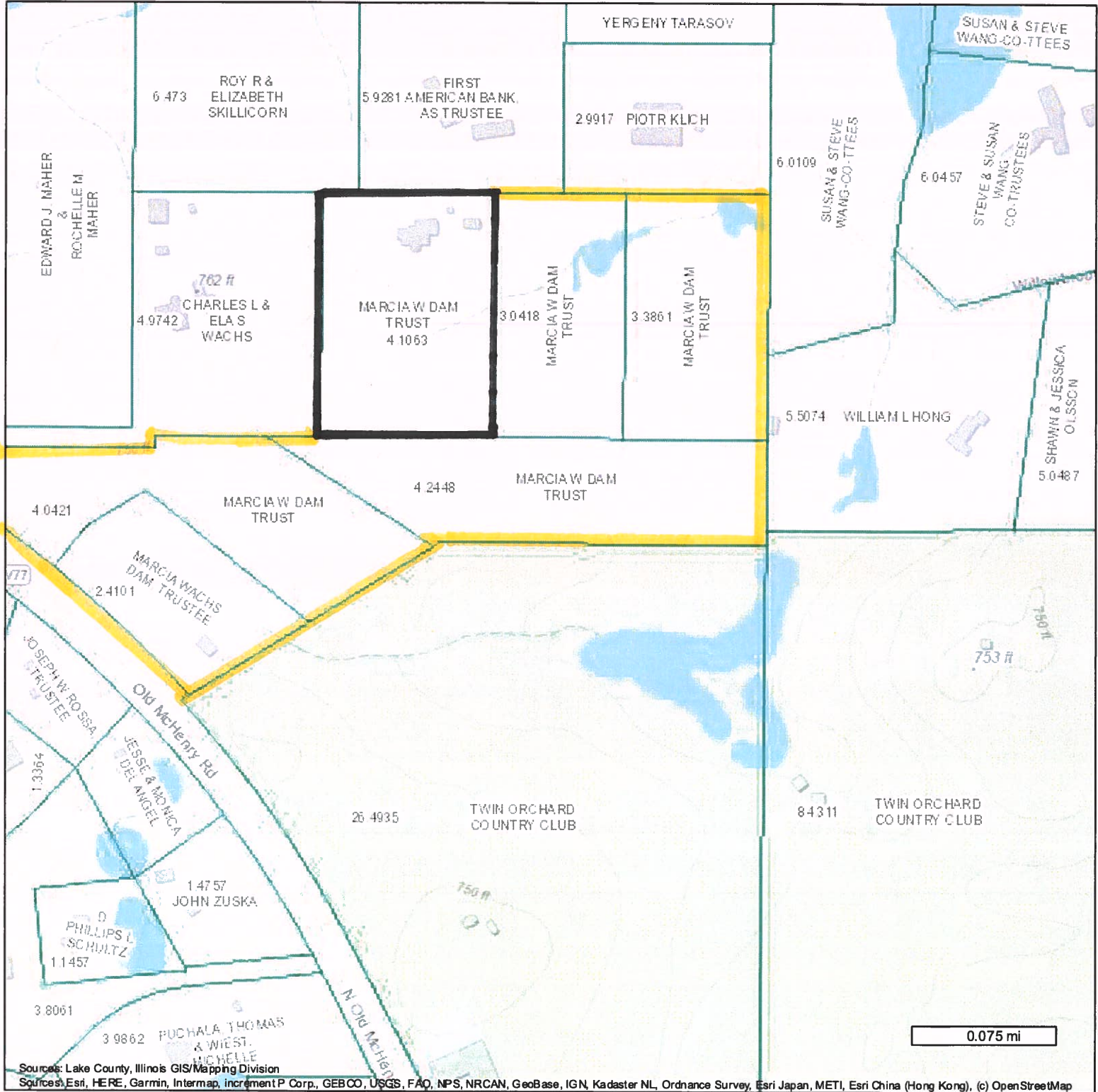
A variation shall be deemed to authorize only the particular construction or development for which it was issued and shall automatically expire and cease to be of any force or effect if such construction or development shall be removed and not replaced within six months following such removal.

The ZBA should review this petition in accordance with the criteria identified above, and in particular the "Standards for Variation", and make their findings of fact accordingly.

Respectfully Submitted,

**James M. Hogue**  
**Village Planner**

# Lake County, Illinois



Sources: Lake County, Illinois GIS/Mapping Division  
 Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap

Lake County, Illinois

**LakeCounty**

Map Printed on 6/22/2020

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**Taxpayer Name Labels**

**Acreage Labels**

**Tax Parcel Lines**

**Tax Parcel Information**

**Disclaimer:** The selected feature may not occur anywhere in the current map extent. A Registered Land Surveyor should be consulted to determine the precise location of property boundaries on the ground. This map does not constitute a regulatory determination and is not a base for engineering design. This map is intended to be viewed and printed in color.



# Lake County, Illinois



Lake County, Illinois



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Tax Parcel Lines

Tax Parcel  
Information



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Tax Parcel Lines

Tax Parcel  
Information

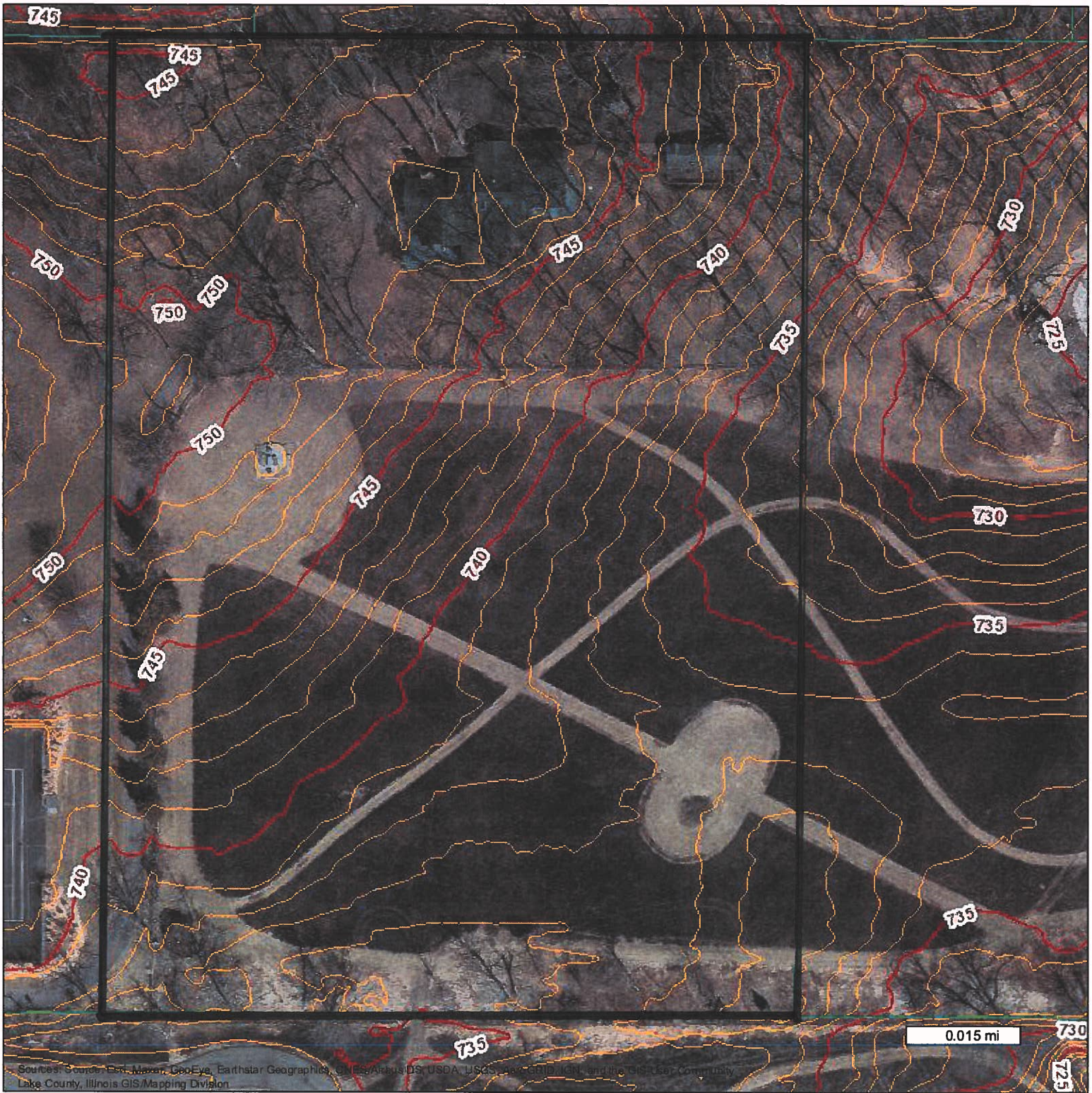


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Sources: Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community  
Lake County, Illinois GIS/Mapping Division



Lake County, Illinois



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Tax Parcel Lines

Intermediate

Tax Parcel  
Information



1ft Contours  
(2017)

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### Cross-Sections

Base Flood Elevations  
Political Jurisdictions  
Levees

### General Structures

Flood Structure  
Bridge  
Dam, Weir, Jetty  
Other Structure

### Flood Hazard Boundaries

Other Boundaries  
Limit Lines  
SFHA / Flood Zone Boundary

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