

**ORDINANCE NO. 2020-17
OF THE TOWN OF ZIONSVILLE, INDIANA**

**AN ORDINANCE VACATING A PORTION OF A PUBLIC RIGHT-OF-WAY
WITHIN THE ZIONSVILLE CORPORATE BOUNDARIES
PURSUANT TO INDIANA CODE § 36-7-3-12**

WHEREAS, Indiana Code § 36-7-3-12 provides for the process by which public ways may be vacated; and,

WHEREAS, on September 19, 2020, Douglas and Amy Fisher (“Petitioner”), petitioned the Town of Zionsville (“Town”) to vacate a portion of a public right-of-way (a north/south platted alley) located between Maple Street and Fitch Place, extending from Ash Street northward approximately 157.6 feet, pursuant to Indiana Code § 36-7-3-12; and,

WHEREAS, the Town caused to be published notice of the petition and the time and place of the public hearing in the October 8, 2020 issue of the Lebanon Reporter, a copy of which proof of publication was submitted to the Town Council of Zionsville, Indiana (“Town Council”) and the Petitioner notified by certified mail each owner of land abutting the portions of the public alley right-of-way proposed to be vacated; and,

WHEREAS, on October 19, 2020, the Town Council held a public hearing on the petition to vacate the portion of the right-of-way, with proper notice under Indiana Law to all interested and potentially aggrieved parties; and,

WHEREAS, no potentially aggrieved individual has objected under the statutory grounds provided under Indiana Code § 36-7-3-13; and,

WHEREAS, the Town Council, after due investigation and consideration, has determined that the nature and extent of the public use and the public interest to be served is such as to warrant vacation of the portion of the public alley right-of-way described herein.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Town Council of the Town of Zionsville, Indiana, that:

Section 1: Description of the Right-of-Way. The Right-of-way legally described herein and schematically illustrated on Exhibit A attached hereto, under the terms set forth herein, is hereby vacated;

A part of Martha E. Millers Addition to the Town of Zionsville, Indiana, as per plat thereof recorded in Plat Book 2, Page 67, in the Office of the Recorder of Boone County, Indiana, being the southern 157.6 feet of the western-most 5-foot alley in said subdivision, more particularly described as follows:

Beginning at the southwest corner of said Martha E. Millers Addition; thence north 157.6 feet to a rebar found; thence east parallel to the North line of Ash Street 5 feet to the West line of Lot 3; thence south along the West line of Lots 1-3 and the vacated 12-foot alley, per Misc. Record 63, Pages 314-315, a distance of 157.6 feet to the Southwest corner of Lot 1; thence west along the North line of said Ash Street 5 feet to the point of beginning. (See survey attached as Exhibit A.)

Section 2: Ownership, Maintenance, Repair and Liability. The portion of the Alley to be vacated measuring 5.0 feet in width and 157.6 lineal feet (“Vacated Area”) is bordered on the west by property addressed as 50 E. Ash Street (“Property Owner One”) and bordered on the east by properties addressed as 410 N. Maple Street (“Property Owner Two), 420 N. Maple Street (“Property Owner Three), and 440 N. Maple Street (“Property Owner Four). This vacation will transfer the ownership of the Vacated Area, including all ongoing maintenance, repair obligations and all liability, with the width of the Vacated Area to be transferred equally to the Property Owners One, Two, Three, and Four based upon the length of their property’s shared property line with the Vacated Area.

Section 3: Utilities. The portion of the alley to be vacated shall remain as a perpetual drainage and utility easement (“D.&U.E.”). The Town retains the right to maintain, operate, repair and replace, by itself or by any licensee or holder of a franchise from the Town, any poles, wires, pipes, conduits, sewer mains, water mains, or any other facility or equipment for the maintenance or operations of any utility now, or as may be necessarily installed in the future, located in the portion of the public alley right-of-way vacated by this Ordinance. The rights afforded to the Town in this section shall also apply to any and all independent utilities legally operating within the state of Indiana.

Section 4: Costs. Petitioner for this public alley right-of-way vacation shall, within 90 days after the passage of this Ordinance, pay to the Town of Zionsville the amount necessary to defray all costs of removing any items from the Right-of-way, including paving and curb returns abutting the vacated Right-of-way, if any.

Section 5: Recording. The Municipal Relations Coordinator of the Town of Zionsville, Indiana shall provide a copy of this Ordinance to the Boone County Recorder for recording and shall file the same with the Boone County Auditor. All such filings shall be in compliance with Ind. Code § 32-21-2-3(a). The mailing address of the grantee, Douglas and Amy Fisher, is 50 East Ash Street, Zionsville, IN 46077.

Section 6: Construction of Clause Headings. The clause headings appearing herein have been provided for convenience and reference and do not purport and shall not be deemed to define, limit or extend the scope of intent of the clause to which the appertain.

Section 7: Repeal of Conflicting Ordinances. The provisions of all other Town ordinances in conflict with the provisions herein, if any, are of no further force or effect and are hereby repealed.

Section 8: Severability. If any part of the Ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remainder of this Ordinance.

Section 9: Duration and Effective Date. The provisions of this Ordinance shall become and remains in full force and effect upon passage and until its repeal by ordinance.

Introduced and filed on the _____ day of October, 2020. A motion to consider on First Reading was sustained by a vote of _____ in favor and _____ opposed, pursuant to Ind. Code § 36-5-2-9.8.

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ORDINANCE NO: 2020-17

DULY PASSED AND ADOPTED this ____ day of November, 2020, by the Town Council of the Town of Zionsville, Boone County, Indiana, having been passed by a vote of _____ in favor and ____ opposed.

**TOWN COUNCIL OF THE TOWN OF ZIONSVILLE,
BOONE COUNTY, INDIANA**

	YEA Signature	NAY Signature
Josh Garrett, President		
Bryan Traylor, Vice-President		
Brad Burk Member		
Alexander Choi, Member		
Joe Culp, Member		
Craig Melton, Member		
Jason Plunkett, Member		

I hereby certify that the foregoing Resolution was delivered to the Town of Zionsville Mayor Emily Styron on the _____ day of _____, 2020, at _____ .m.

ATTEST: _____
Amelia Anne Lacy,
Municipal Relations Coordinator

MAYOR'S APPROVAL

Emily Styron, Mayor

Date

MAYOR'S VETO

Emily Styron, Mayor

Date

ORDINANCE NO: 2020-17

This instrument was prepared by: Heather H. Willey, Partner, Barnes & Thornburg LLP,
11 South Meridian Street, Indianapolis, IN 46202, (317) 231-6448.

This Ordinance contains no Social Security Numbers. As required by Ind. Code § 36-2-11-15, I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law.

ORDINANCE NO: 2020-17

NOTARY

STATE OF INDIANA)

) SS:

COUNTY OF BOONE)

Before me, a Notary Public, in and for said County and State, personally appeared

_____,
_____,
_____,
_____,
_____,
_____,
_____.

who acknowledged the execution of the foregoing document.

WITNESS my hand and Notarial Seal this ____ day of _____, 20____.

Notary Public – Signature

Notary Public – Printed

My Commission Expires: _____

County of Residence: _____

ORDINANCE NO: 2020-_____

EXECUTED AND DELIVERED in my presence:

Signature

Printed Name

EXHIBIT A



Formerly SEA Group
494 Gradle Drive Carmel, Indiana 46032
Phone: 317.844.3333 Fax: 317.844.3383
infocarmel@v3co.com V3co.com
Surveyors - Scientists - Engineers

VACATION EXHIBIT

PT OF SW 1/4 OF SE 1/4 OF S35-T18N-R2E

Drawing Prepared By: HMS

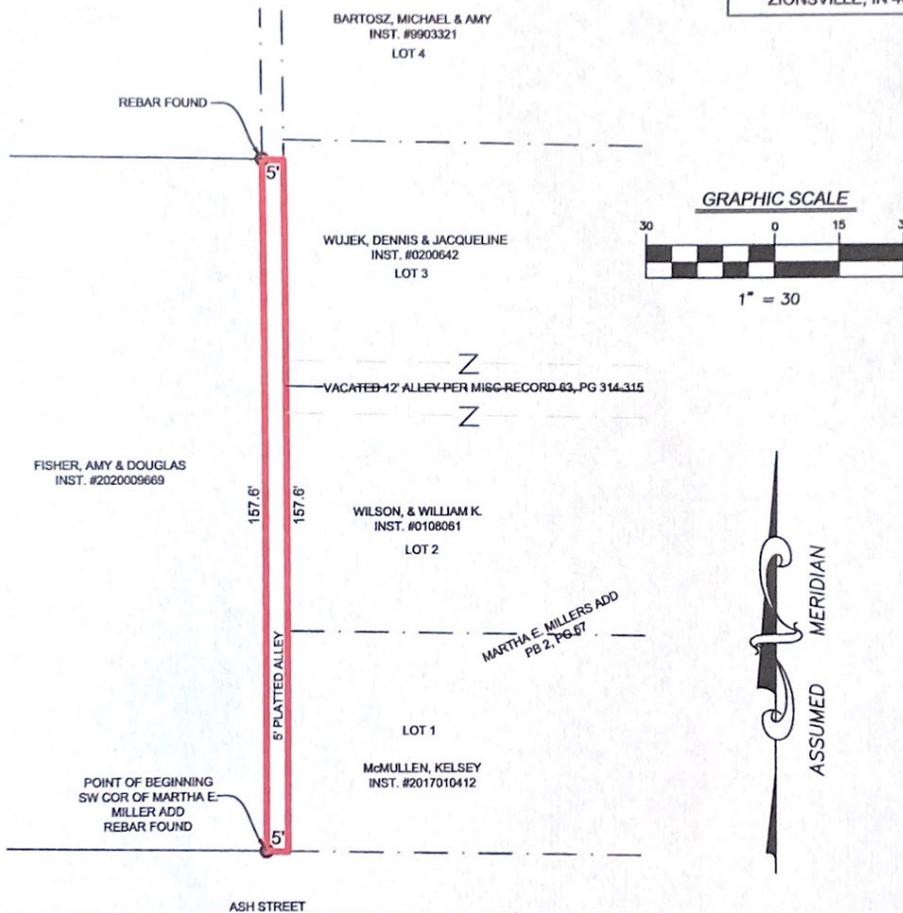
Drawing Scale: 1" = 30'

Drawing Date: 8/14/2020

Project Number: 20324

DOUGLAS & AMY FISHER

50 E ASH STREET
ZIONSVILLE, IN 46077



PARTIAL ALLEY VACATION

A PART OF MARTHA E. MILLERS ADDITION TO THE TOWN OF ZIONSVILLE, INDIANA, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGE 67 IN THE OFFICE OF THE RECORDER OF BOONE COUNTY, INDIANA, BEING THE SOUTHERN 157.6 FEET OF THE WESTERN-MOST 5-FOOT ALLEY IN SAID SUBDIVISION, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID MARTHA E. MILLERS ADDITION; THENCE NORTH 157.6 FEET TO A REBAR FOUND; THENCE EAST PARALLEL TO THE NORTH LINE OF ASH STREET 5 FEET TO THE WEST LINE OF LOT 3; THENCE SOUTH ALONG THE WEST LINE OF LOTS 1-3 AND THE VACATED 12-FOOT ALLEY PER MISC. RECORD 63, PAGES 314-315 A DISTANCE OF 157.6 FEET TO THE SOUTHWEST CORNER OF LOT 1; THENCE WEST ALONG THE NORTH LINE OF SAID ASH STREET 5 FEET TO THE POINT OF BEGINNING.