

ORDINANCE NO. 2021-05__
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 March 19, 2021, Steve and Salli Betz & William McGraw and Susanne Blix (collectively "Petitioner"), petitioned the Town of Zionsville ("Town") to vacate a portion of a public right-of-way (an east/west platted alley) located between Hawthorne Street and Sycamore Street, beginning approximately 230.0 feet west of the western right-of-way line of Sixth Street and extending westward 69.86 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 April 8, 2021 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 April 19, 2021, 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 the East-West Alley laying between Lots 22 and 35 in Laughlin, Fouts and Hardin's Addition to the Town of Zionsville, as per plat thereof recorded in Plat Book 3, Page 1, in the Office of the Recorder of Boone County, Indiana, being more particularly described as follows:

Beginning at the Southwest described corner of said Lot 22, thence South 00 degrees 51 minutes 27 seconds West 16.50 feet to the Northwest corner of said Lot 35, said point being on the Northern described line of the McGraw Parcel recorded in Deed Record 222, Pages 392-393, in said Recorder's Office; thence North 90 degrees 00 minutes 00 seconds East 69.86 feet along the Northern described line of said McGraw Parcel to the center of vacated Seventh Street; thence North 00 degrees 51 minutes 27 seconds East 16.50 feet along the center of said vacated Seventh Street to the Southeast described corner of the Betz Parcel recorded in Instrument Number 2020000720, in said Recorder's Office; thence South 90 degrees 00 minutes 00 seconds West 69.86 feet along the Southern described line of said Betz Parcel to the Point of Beginning. Containing 0.03 acres (1153 square feet), more or less, and being subject to all Legal Highways, Rights-of-way and Easements of Record.

- Section 2: Ownership, Maintenance, Repair and Liability. The portion of the Alley to be vacated measuring 16.50 feet in width and 69.86 lineal feet ("Vacated Area") is bordered on the north by property addressed as 715 West Hawthorne Street ("Betz Property") and bordered on the south by property addressed as 720 West Sycamore Street ("McGraw and Blix Property"). This vacation will transfer the ownership of the entire Vacated Area, including all ongoing maintenance, repair obligations and all liability, to Betz Property Owners.
- 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, Steve and Salli Betz, is 715 West Hawthorne 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.

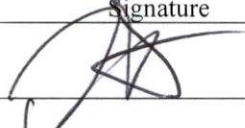
Introduced and filed on the 19th day of April, 2021. A motion to consider on First Reading was sustained by a vote of 7 in favor and 0 opposed, pursuant to Indiana Code § 36-5-2-9.8.

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ORDINANCE NO: 2021- _05_

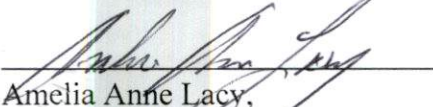
DULY PASSED AND ADOPTED this 3rd day of May, 2021, by the Town Council of the Town of Zionsville, Boone County, Indiana, having been passed by a vote of 6 in favor and 0 opposed.

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

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

I hereby certify that the foregoing Resolution was delivered to the Town of Zionsville Mayor Emily Styron on the 4th day of May, 2021, at 8:00 a.m.

ATTEST:


Amelia Anne Lacy,
Municipal Relations Coordinator

MAYOR'S APPROVAL



Emily Styron, Mayor

5/4/2021

Date

MAYOR'S VETO

Emily Styron, Mayor

Date

ORDINANCE NO: 2021-05_

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: 2021- _05_

NOTARY

STATE OF INDIANA)

) SS:

COUNTY OF BOONE)

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

__Josh Garrett_____,

__Jason Plunkett_____,

__Brad Burk_____,

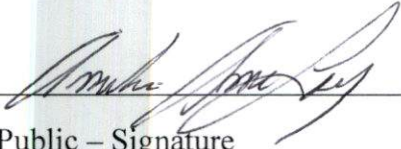
__Alexander Choi_____,

__Craig Melton_____,

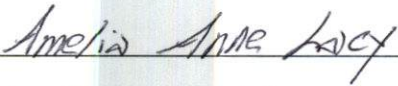
__Bryan Traylor_____,

who acknowledged the execution of the foregoing document.

WITNESS my hand and Notarial Seal this _3rd_ day of _May_,
20_21_.



Notary Public – Signature



Notary Public – Printed

My Commission Expires: 9/06/2028

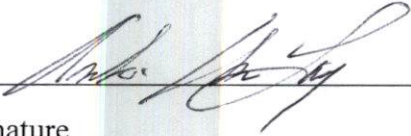
County of Residence: Boone



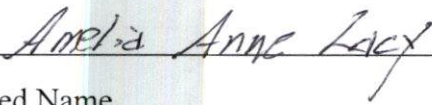
AMELIA ANNE LACY
Notary Public, State of Indiana
Boone County
Commission Number NP0638253
My Commission Expires
September 6, 2028

ORDINANCE NO: 2021-05_____

EXECUTED AND DELIVERED in my presence:

_____

Signature

_____

Printed Name

