

**AN ORDINANCE OF THE BOROUGH OF EAST CONEMAUGH, PENNSYLVANIA
VACATING THAT PORTION OF ELDER COURT BETWEEN THE NORTHWESTERLY SIDE
OF 4TH STREET AND THE SOUTHEASTERLY SIDE OF DOGWOOD STREET**

ORDINANCE NO. 21-04

WHEREAS, Chapter 17 of the Pennsylvania Borough Code is titled "STREETS" and

WHEREAS, § 1721.1(a) of Chapter 17 grants a Borough the authority, with or without a petition from abutting property owners, to vacate the street or portion of a street if deemed expedient for the public good and provide for the costs of alteration; and

WHEREAS, § 1731(a)(2) of Chapter 17 authorizes Borough Council to by ordinance vacate or close a street or portion of a street previously opened or laid out provided that no street or portion of a street providing the sole means of access to a tract of land is vacated without the consent of those to whom access would be denied; and

WHEREAS, § 1731(a)(2) further states that the action of Borough Council in vacating a street only terminates the public right in or to the street but does not affect a private right acquired by an owner of abutting property; and

WHEREAS, § 1731(b) provides that the proposed ordinance vacating a street or portion of a street must be advertised in a newspaper of general circulation once a week for two successive weeks and requires that on or before the publication of the first advertisement, personal notice must be provided to the owners of a property abutting the street proposed to be vacated; and

WHEREAS, § 1731(b) further provides that the proposed ordinance must have a reference a map or survey sufficient to apprise the public of the proposed location, profile and dimensions of the street that is to be vacated attached to it and must list the names of the owners of a property abutting the street that is to be vacated; and

WHEREAS, the Borough of East Conemaugh wishes to vacate a portion of the alley known and identified as Elder Court between 4th and Dogwood Streets in the Borough of East Conemaugh as shown on the GIS map for Cambria County, Pennsylvania attached hereto and marked as Exhibit "A" and incorporated herein; and

WHEREAS, at a public meeting held on February 2, 2020, the Borough of East Conemaugh authorized its Solicitor to prepare an ordinance to vacate that portion of Elder Court between 4th and Dogwood Streets in the Borough of East Conemaugh as shown on the GIS map for Cambria County, Pennsylvania; and

WHEREAS, the proposed ordinance vacating that portion of Elder Court between 4th and Dogwood Streets in the Borough of East Conemaugh as shown on the GIS map for Cambria County, Pennsylvania, was advertised in the Johnstown Tribune Democrat on July 30, 2021 and again on August 6, 2021; and

ALEX L. SVIRSKO, JR.
ATTORNEY AND
COUNSELOR AT LAW
1021 Church Avenue
Johnstown, PA 15901
(814)535-2575

WHEREAS, Brian P. Feist and Janet T. Feist, husband and wife, is the abutting property owners on each side of that portion of Elder Court between 4th and Dogwood Streets in the Borough of East Conemaugh that is to be vacated as shown on Exhibit "A"; and

NOW THEREFORE, Borough of East Conemaugh hereby adopts the following ordinance:

I. AUTHORITY

- A. 8 Pa. C.S. § 1721.1(a) authorizes a Borough, with or without a petition from abutting property owners, to vacate the street or portion of a street if deemed expedient for the public good and provide for the costs of alteration.
- B. 8 Pa. C.S. § 1731(a)(2) authorizes a Borough to vacate or close a portion of a street previously opened or laid out by ordinance, provided that no street or portion of a street providing the sole means of access to a tract of land is vacated without the consent of those to whom access would be denied; and that vacating a street only terminates the public right in or to the street but does not affect a private right acquired by an owner of abutting property; and
- C. 8 Pa. C.S. § 1731(b) provides that the proposed ordinance vacating a street or portion of a street must be advertised in a newspaper of general circulation once a week for two successive weeks and requires that on or before the publication of the first advertisement, personal notice must be provided to the owners of a property abutting the street proposed to be vacated; and that a reference a map or survey sufficient to apprise the public of the proposed location, profile and dimensions of the street that is to be vacated attached to the ordinance along with a list the names of the owners of a property abutting the street that is to be vacated.

II. SCOPE

- A. To vacate that portion of Elder Court between 4th and Dogwood Streets as shown on Exhibit "A"

III. VACATION OF THAT PORTION OF ELDER COURT BETWEEN 4TH AND DOGWOOD STREETS IN EAST CONEMAUGH BOROUGH

- A. Elder Court is an alley located entirely within the Borough of East Conemaugh and is located between the northwesterly side 4th Street in East Conemaugh Borough and extends to the southeasterly side of Dogwood Street.
- B. That portion of Elder Court that is located between the northwesterly side of 4th Street and the southeasterly side of Dogwood Street is hereby vacated by this Ordinance.

IV. PUBLIC NOTICE

- A. Advertisement of Ordinance
 - 1. This ordinance was advertised in the Johnstown Tribune Democrat on July 30,

2021, and again on August 6, 2017.

B. Notice to Abutting Landowners

1. The abutting parcels of real estate that are located on the northerly and southerly sides of that portion of Elder Court that is vacated are owed by the same landowner;
2. The abutting parcels of real estate that are located on the easterly and westerly sides of that portion of Elder Court that is vacated are identified on Exhibit "A" by Cambria County Tax Map Numbers as follows:
 - a. 22- 006. - 104.000 (easterly side);
 - b. 22- 006. - 107.001 (westerly side); and
 - c. 22 - 006. -111.000 (westerly side).
3. The abutting parcels of real estate that are located on the easterly and westerly sides of that portion of Elder Court that is vacated are identified on Exhibit "A" are owned by:
 - a. 22- 006. - 104.000 (easterly side) Brian P. Feist and Janet T. Fiest;
 - b. 22- 006. - 107.001 (westerly side) Brian P. Feist and Janet T. Fiest; and
 - c. 22 - 006. -111.000 (westerly side) Brian P. Feist and Janet T. Fiest.
4. Notice requirements to the abutting landowner were fulfilled by virtue of the action taken by East Conemaugh Borough at its public meeting authorizing its Solicitor to prepare an ordinance to vacate that portion of Elder Court between 4th and Dogwood Streets in the Borough of East Conemaugh as shown on Exhibit "A".

V. VALIDITY

- A. If any clause, sentence or other provisions of this Ordinance should be declared unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect the remaining provisions of this Ordinance, and the Borough Council declares that it would have adopted this Ordinance had such unconstitutional, illegal or invalid provisions not been contained herein.
- B. The provisions of this ordinance are severable, and if any section, clause, sentence, part, or provision thereof shall be held illegal, invalid, or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, clauses, sentences, parts, or provisions of this ordinance.
- C. It is hereby declared to be the intent of the Borough Council that this ordinance would have been adopted if such illegal, invalid, or unconstitutional section, clause, sentence, part, or provision had not been included herein.

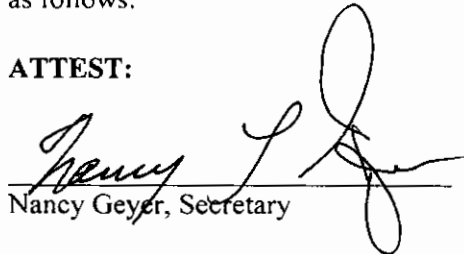
- D. All other Ordinances inconsistent with this Ordinance, are hereby repealed insofar, but only insofar, as they are inconsistent herewith.

VI. EFFECTIVE

- A. This Ordinance shall become effective thirty (30) days after it is adopted.

IT IS HEREBY ENACTED AND ORDAINED by the Borough Council of the Borough of East Conemaugh, County of Cambria, Commonwealth of Pennsylvania, this 18th day of August, 2021, as follows:

ATTEST:


Nancy Geyer, Secretary

EAST CONEMAUGH BOROUGH

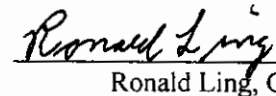
by:  (SEAL)
John A. Andrews, Council President

 (SEAL)
Martha Gregorchik, Council Member

____ (SEAL)
Roland Toth, Council Member


 (SEAL)
Charles Andrews, Council Member

 (SEAL)
Edward Grove, Council Member

 (SEAL)
Ronald Ling, Council Member

____ (SEAL)
Christopher DeFazio, Council Member

Approved by Aaron Ling, Mayor, this 19th day of August, 2021.


Aaron Ling, Mayor

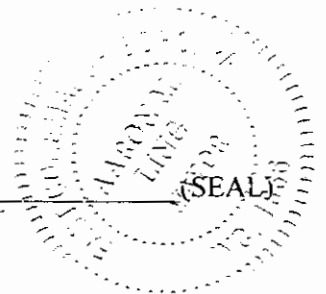
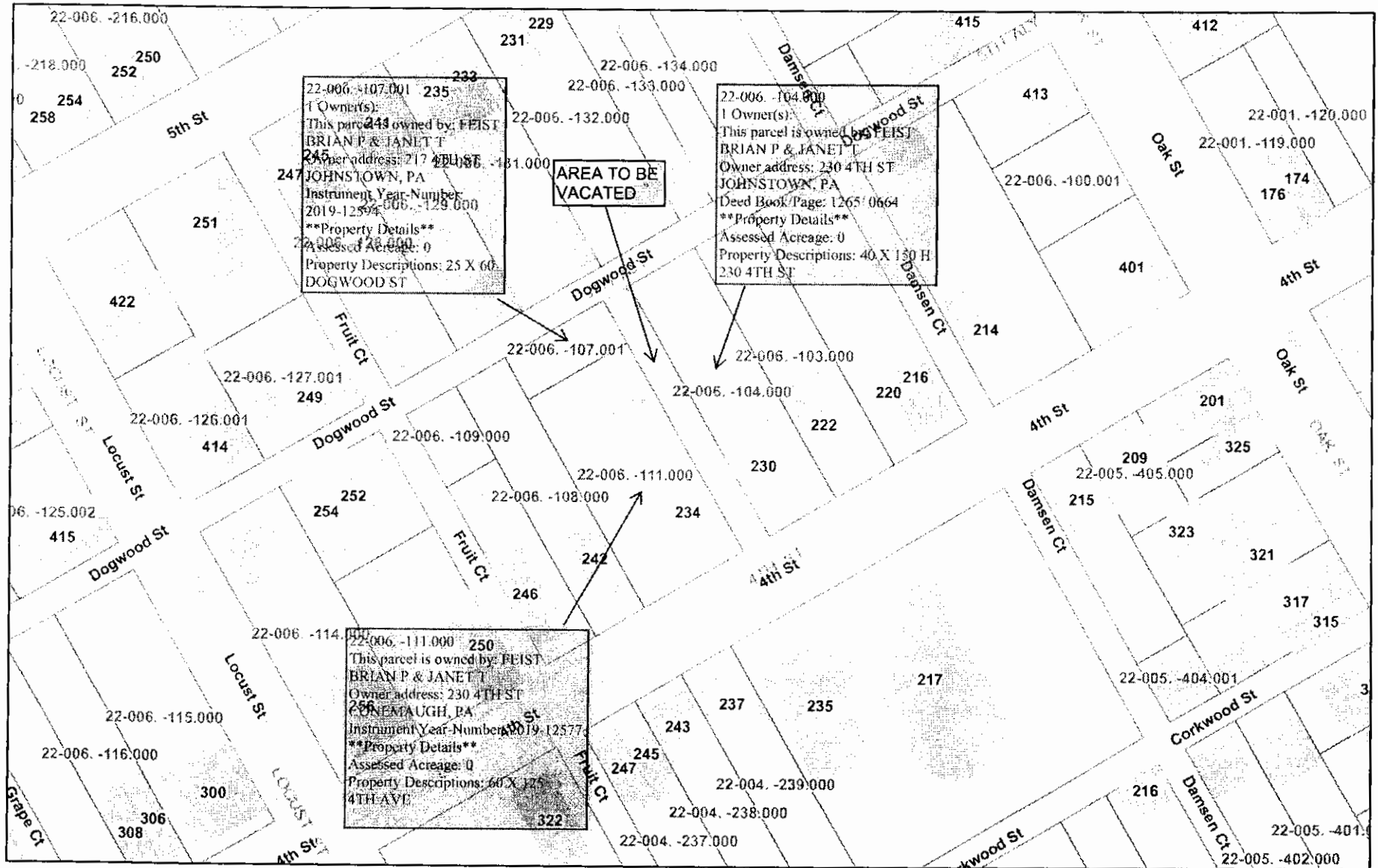


Exhibit "A" to Elder Court Vacation Ordinance



August 18, 2021

1:1,128

