

11-162

Ordinance No. 00-2

AN ORDINANCE PARTIALLY VACATING
A CITY RIGHT OF WAY

Rand J. H.

WHEREAS, recent surveys have revealed that Essex Street in the City of Lebanon in an Easterly direction from North Lebanon Street is in fact a fifty foot (50') right of way rather than the forty foot (40') right of way previously platted on other surveys; and

WHEREAS, certain surrounding properties on the South side of the right of way are now encroaching upon said right of way; and

WHEREAS, a forty foot (40') right of way is adequate to protect the public interest in safety and traffic flow; and

WHEREAS, the Board of Public Safety has recommended that the Common Council vacate ten feet (10') of said right of way thereby reverting five feet (5') to adjoining land owners on each side of said right of way; and

WHEREAS, the adjoining landowners have joined in the request for vacation as recommended herein; and

WHEREAS, a vacation of the right of way will effect a limited area from North Lebanon Street on the West side of the right of way to the junction of Ulen Drive on the East side of said right of way.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF LEBANON, INDIANA as follows:

1. That Essex Street in the City of Lebanon from North Lebanon Street on its Western boundary to the intersection of Ulen Drive on its Eastern boundary is now declared to be a forty foot (40') right of way.

2. That as a result of the establishment of a forty foot (40') right of way ten feet (10') of existing right of way is hereby vacated with five feet (5') of right of way abandoned to adjoining land owners on the North side of the street and five feet (5') of right of way is abandoned to adjoining landowners on the South side of the street as recommended by the City Plan Commission.

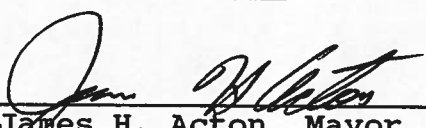
3. A copy of this Ordinance partially vacating a City right of way shall be furnished to the Boone County Recorder for

recording and a copy shall also be furnished to the Boone County Auditor as required by law.

4. This Ordinance shall take effect after its passage and any publication required by law.

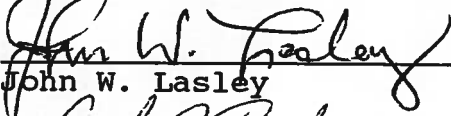
5. Any and all easements for utilities running to the City of Lebanon across, over, under or through the vacated portion of said right of way shall remain in full force and effect in favor of said City of Lebanon, Indiana and shall be reserved thereto.

ALL OF WHICH IS CONSIDERED AND PASSED by the Common Council of the City of Lebanon, Indiana, on this 1st day of March, 2000.

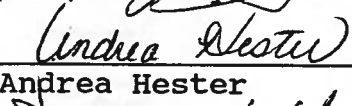

James H. Acton, Mayor

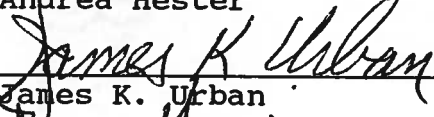
COMMON COUNCIL OF THE CITY OF
LEBANON, INDIANA


Harold E. Lewis


John W. Lasley

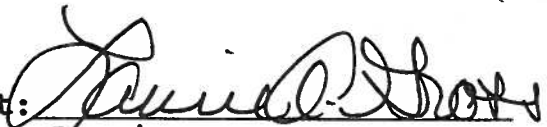

Carl J. Rady


Andrea Hester


James K. Urban


Kay Geisler


Emmadell Sturgis

Attest: 
Laurie A. Gross
Clerk/Treasurer

RIGHT TO ENCROACH

WHEREAS, the Office of the City Attorney of the City of Lebanon has been informed that a recent survey has revealed that a portion of five (5) parking spaces, the mini barn and concrete slab serving the English Assisted Living Nursing Home, as well as the roof overhang of the English Assisted Living Nursing Home are encroaching upon the public right of way known as Essex Street located in the City of Lebanon, Boone County, Indiana; and

WHEREAS, the Office of the City Attorney of the City of Lebanon has been informed that a recent survey has revealed that a portion of nine (9) parking spaces serving the English Assisted Living Nursing Home are encroaching upon the public right of way known as Ulen Drive located in the City of Lebanon, Boone County, Indiana

WHEREAS, a title survey was recently prepared in accordance with the 1997 Minimum Standard Detail Requirements for Land Title Surveys, jointly established and adopted by the American Land Title Association, the American Congress on Surveying and Mapping and the National Society of Professional Surveyors, Inc.. said survey being prepared by Anderson & Associates, being certified by Cary B. Dodge, and being dated October 8, 1999, with a last revision date of January 14, 2000, and said survey did reveal the supposed encroachments. all as aforesaid; and

WHEREAS, Metro Health/Indiana III, ("Metro Health"), the owners of English Assisted Living Nursing Home have approached the Board of Public Works and Safety of the City of Lebanon, Indiana, and have requested that the City grant a "Right to Encroach" in favor of the English Assisted Living Nursing Home with respect to the encroachments onto Essex Street and Ulen Drive in the City of Lebanon.

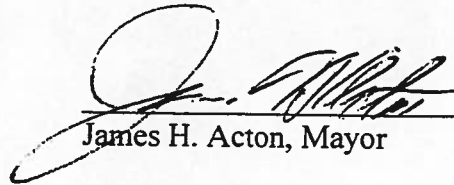
NOW, THEREFORE, the City of Lebanon, being duly advised, determines that the right to encroach is necessary in order to accommodate the sale and ownership of the English Assisted Living Nursing Home which is more particularly described as follows:

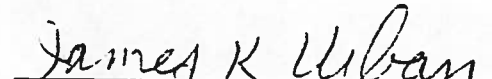
A part of the southeast quarter of Section 25, Township 19 North, Range 1 West, situated in the City of Lebanon, Boone County, Indiana, particularly described as follows: Begin at the intersection of the centerline of North Lebanon Street (as determined from the Plat of Fairview Addition, shown in Plat Book #3, page 80), with the south line of Essex Street (as determined from the Plat of Fairview Addition, shown in Plat Book #3, page 107), and proceed thence South 89°38'54" East (an assumed bearing), 294.46 feet (shown in old deeds as 287.5 feet), along the south line of Essex Street; thence South 41°20'51" West, 372.30 feet (shown in old deeds as 365 feet) along the center line of an existing street designated as Ulen Drive; thence North 09°47'00" West 285.45 feet (shown as 281.5 in old deeds), along the centerline of Lebanon Street, to the point of beginning.

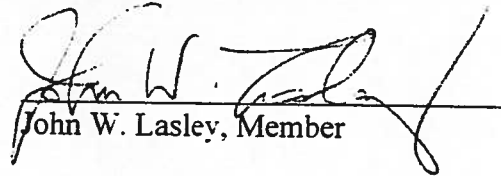
The City, through its designee the Board of Public Works and Safety, now hereby authorizes the right to encroach for the English Assisted Living Nursing Home on to the rights of way of Essex Street and Ulen Drive in the City of Lebanon, all as further set out in the Surveyor's Report attached hereto and made a part hereof.


This "Right to Encroach" shall run with the title to English Assisted Living Nursing Home and shall inure to the benefit of Metro Health, and the successors and assigns of Metro Health.

All of which is CONSIDERED AND ADOPTED by the Mayor of the City of Lebanon, Indiana, and its Board of Public Works and Safety this ___ day of March, 2000.


James H. Acton, Mayor


Douglas W. Campbell, Member


John W. Lasley, Member

Attest: 
Laurie A. Gross
Clerk/Treasurer
City of Lebanon, Indiana

This instrument prepared by: Michael M. Metz
Dykema Gossett PLLC
400 Renaissance Center
Detroit, Michigan 48243-1668

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