

ORDINANCE NO. 5 of 2020

WHITE HAVEN BOROUGH, LUZERNE COUNTY, PENNSYLVANIA,

AN ORDINANCE VACATING A PORTION OF DAM II ROAD

WHEREAS, the White Haven Borough Council (the "Borough Council") intends to formally vacate a portion of Dam II Road, as more fully described herein;

WHEREAS, the Brough Council finds that vacating a portion of Dam II Road will not interfere with vehicular or pedestrian use of adjoining property owners;

WHEREAS, the vacating of a portion of Dam II Road is subject to the terms, conditions set forth in this ordinance; and

NOW, THEREFORE, be it enacted and ordained as follows:

Section 1. Portion of Dam II Road to be Vacated. The Borough Council hereby formally vacates a portion of Dam II Road, as more fully described as follows:

ALL THAT CERTAIN tract of land situated in the Borough of White Haven, Luzerne County, Pennsylvania, identified as an existing 33-foot-wide right-of-way, as shown on and described in accordance with the attached Exhibit A - Dam 2 Road Right-of-Way prepared by Barry Isett and Associates, Inc., dated October 13, 2022, as follows:

BEGINNING at a bent 3/4-inch iron pipe found at the intersection of the easterly right-of-way line of Old State Route 940 (50-foot right-of way) and the southerly line of the lands of William E. Kramer, Jr. and Janet M. Kramer, thence along said southerly line of the lands of William E. Kramer, Jr. and Janet M. Kramer the following two (2) courses and distances:

(1) North 80 degrees 37 minutes 50 seconds East, 207.91 feet to a bent 3/4-inch iron pin found;
(2) North 73 degrees 39 minutes 50 seconds East, 13.54 to the westerly right-of-way line of State Route 940 (S.R. 0940, variable width right-of-way); thence along said westerly right of-way line of State Route 940, along a non-tangent circular curve to the right, having a radius of 1036.28 feet and a central angle of 02 degrees 03 minutes 43 seconds, the arc length of 37.29 feet (chord bearing South 12 degrees 20 minutes 59 seconds West, 37.29 feet) to the northerly line of the lands of John F. & Regina Shrosky, husband and wife, and Suzanne M. Shrosky; thence along said lands of John F. & Regina Shrosky, husband and wife, and Suzanne M. Shrosky, South 80 degrees 37 minutes 50 seconds West, 232.93 feet to the aforesaid easterly right of-way line of Old State Route 940; thence along said easterly right-of-way line of Old State Route 940, North 28 degrees 11 minutes 26 seconds East, 41.63 feet to the POINT OF BEGINNING. CONTAINING: 7,500 square feet. SUBJECT TO any and all easements of record.

Section 2. Effect of Vacating of a Portion of Dam II Road upon Public and Private Rights. Upon the vacating of a portion of Dam II Road, all public rights in and to that portion of the road shall cease UNDER and SUBJECT TO any private easement rights.

Section 3. Quit Claim Deed. Upon request and after the adoption of this ordinance, the Borough Council may sign quit claim deed(s) to the property owners immediately adjoining that portion of Dam II Road. The issuance of any deed shall be under and subject to the following clause being included in the deed: "Each owner by acceptance of the property do hereby release and indemnify White Haven Borough and its elected and appointed officials, officers, employees, consultants, contractors, and assigns from any and all damages sustained as a result of the vacating of a portion of Dam II Road. This conveyance is UNDER and SUBJECT TO any private easement rights".

Section 4. Effective date. This ordinance shall be effective immediately following its adoption.

Section 5. Filing of Public Record. A copy of this ordinance and the plan attached hereto as Exhibit "A" shall be filed in the Court of Common Pleas of Luzerne County, Pennsylvania".

Section 6. Exceptions, Appointment of Board of Viewers. Any resident or property owner affected by this ordinance may, within thirty (30) days after its date of adoption and only after entering into court sufficient surety to indemnify the Borough Council for all costs incurred in the proceedings, file exceptions to this ordinance together with a petition for a review. Upon receipt of the exception and surety, the court of common pleas shall appoint viewers from the county board of viewers for the purpose of reviewing the ordinance and exceptions thereto. After the expiration of the term allowed for filing exceptions or upon the order of the court upon disposition of any exceptions, the court of common pleas, on application by petition by the Borough Council or any person interested, shall appoint three viewers from the county board of viewers to assess the damages and benefits occasioned by the proceeding unless the damages and benefits are otherwise agreed upon.

Section 7. Public Notice. This ordinance has been advertised in a newspaper of general circulation not less than seven (7) days and no more than sixty (60) days prior to the date of the hearing.

Adopted by the White Haven Borough Council after a public hearing held on Monday, November 28, 2022, at 7:00 p.m. at the White Haven Borough Building, 312 Main Street, White Haven, PA 18661.

**ENACTED BY THE WHITE HAVEN BOROUGH COUNCIL THIS 28TH DAY
OF NOVEMBER, 2022.**

ATTEST:



MANAGER – LINDA SZOKE

WHITE HAVEN BOROUGH COUNCIL:



VICE PRESIDENT - CHARLES BEST