

ORDINANCE NO. 2024-1519

**BOROUGH OF TINTON FALLS
COUNTY OF MONMOUTH**

**AN ORDINANCE VACATING THE RIGHTS OF THE PUBLIC IN A PORTION OF A
PAPER STREET DESIGNATED ON THE TAX MAPS AS WARDELL ROAD**

WHEREAS, there exists on the official Tax Maps of the Borough of Tinton Falls an unimproved paper street known as Wardell Road (33' R.O.W. – unimproved) in Block 125 between lots 2 & 3, at Deed Book 5556, Page 662; and

WHEREAS, the Planning Board has recommended the vacation of Wardell Road by imposing a condition on the approval of a Minor Subdivision Plan for 5171 Asbury Avenue, Lots 1.02 & 2 & 3, Block 125 to mandate such roadway vacation; and

WHEREAS, the paper street serves no public purpose, requires unwarranted maintenance costs by the Borough and needs to be vacated; and

WHEREAS, the entirety of the street to be vacated is neither open to the public for the purposes of vehicular traffic nor publicly maintained as a street; and

WHEREAS, N.J.S.A. 40:67-1(b) and N.J.S.A. 40:67-19 empower the governing body of a municipality to make, amend, repeal and enforce ordinances to vacate any public street, including the vacation of a portion of any public street, and to vacate any street or any part thereof dedicated to public use but not accepted by the municipality, whether or not the same, or any part, has actually been opened or improved; and

WHEREAS, the Borough Council, upon the recommendation of the Borough Engineer and Director of Law, has concluded that the street to be vacated is not needed by the general public as a public thoroughfare and lend themselves to higher and better uses that as a public thoroughfare and for use by the general public, and that the public interest will best be served by vacating, releasing and extinguishing any and all public rights with the Borough may have in and to the street being vacated;

NOW THEREFORE BE IT ORDAINED, by the Borough Council of the Borough of Tinton Falls that:

1. Subject to the conditions herein, the rights of the public in an to the portion of Wardell Road to be vacated, as more particularly delineated in the attached Exhibit A (survey prepared by Clearpoint Services LLC dated 11-12-2021, revised 11-21-2023, of the portion of Wardell Road to be vacated) and Exhibit B (legal description prepared by Clearpoint Services LLC entitled “Wardell Rd R.O.W. Vacation”), are hereby vacated, released and extinguished.
2. Pursuant to N.J.S.A. 40:67-1(b), all public easements, rights and interests in the vacated street, as particularly described in Exhibits A and B hereto, are hereby vacated, released and extinguished, except for all rights and privileges now possessed by public utilities, if any, as defined in N.J.S.A. 48:2-13, and by any cable television company, as defined in the “Cable

Television Act,” N.J.S.A. 48:5A-1 et seq., to maintain, repair, and replace their existing facilities, if any, in, adjacent to, over or under the street, or any part thereof, to be vacated.

3. Pursuant to N.J.S.A. 40:67-21, the Township Clerk shall, within 60 days after this Ordinance becomes effective, file a copy of this ordinance, certified by her, under the seal of the Borough of Tinton Falls, to be a true copy of such ordinance, together with a copy of proof of publication, if publication be required, in the office where conveyances of land are recorded in Monmouth County and such certified copy shall be recorded in a book with proper index to be provided for the purpose and entitled “Vacations.”
4. At least seven (7) days prior to the time fixed for the consideration of this Ordinance for final passage, a copy of this Ordinance, together with a notice of its introduction and the time and place when and where the Ordinance will be considered for final passage, shall be given by the Borough Clerk to the owners of all real property whose lands may be affected by this Ordinance or any assessment which may be made in pursuance thereof, so far as the same may be ascertained, directed to his or her last known post-office address. At least ten (10) days prior to the time fixed for the consideration of this Ordinance for final passage, a copy of this Ordinance, together with a notice of its introduction and the time and place when and where the Ordinance will be considered for final passage, shall be published at least once in a newspaper published and circulated in the Borough of Tinton Falls. This is the notice required by N.J.S.A. 40:67-19 and N.J.S.A. 40:49-6.
5. All Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistency.
6. This Ordinance shall take effect upon its passage and publication according to law.

Introduced:

Adopted:

RISA CLAY
COUNCIL PRESIDENT

VITO PERILLO
MAYOR

ATTEST:

MICHELLE HUTCHINSON
BOROUGH CLERK

APPROVED AS TO FORM:

KEVIN N. STARKEY, ESQ.
DIRECTOR OF LAW