

ORDINANCE NO. 5-2020

ORDINANCE OF THE TOWNSHIP OF ABERDEEN AUTHORIZING THE ACCEPTANCE OF A PERMANENT DRAINAGE EASEMENT OVER AND THROUGH PORTIONS OF LAND COMMONLY KNOWN AS 38 WEST CONCOURSE IN THE TOWNSHIP OF ABERDEEN, MONMOUTH COUNTY, STATE OF NEW JERSEY

WHEREAS, pursuant to N.J.S.A. 40:48-2, the Township of Aberdeen (the “Township”) is authorized to adopt an Ordinance for the preservation of public health, safety and welfare; and

WHEREAS, pursuant to N.J.S.A. 40A:12-5, the Township has the power to acquire any real property or property interests for a public purpose through negotiated agreement; and

WHEREAS, there is an existing storm sewer drainage pipe (the “sewer pipe”) located on a portion of Block 341, Lot 11, Aberdeen, New Jersey (also known as “38 West Concourse” or the “Property”); and

WHEREAS, on August 24, 2010 the Township adopted Ordinance 19-2010 in which the Township agreed to “vacate Lot 39, Block 45...and convey the property to the owners of the abutting property.”; and

WHEREAS, Ordinance 19-2010 also stated that “the property shall include an easement for the Township, as necessary, and deed restriction prohibiting any subdivision of the properties following merger of the properties by the owners of the abutting property.”; and

WHEREAS, the Property has recently been purchased and the new owner of the Property notified the Township that Ordinance 19-2010 was not recorded but that he is willing to grant the Township a Permanent 10 foot wide Drainage Easement that also allows the Township to access the Property to perform any necessary construction, maintenance, or repairs to the sewer pipe (the “Drainage Easement”) as is required by Ordinance 19-2010; and

WHEREAS, in accordance with Ordinance 19-2010, it is necessary to accept the Drainage Easement over the Property, which also allows the Township to enter the Property to undertake such construction, maintenance, operation and repair of the sewer pipe if and when same becomes necessary; and

WHEREAS, a form of Deed of Easement for the Property is attached hereto as **Exhibit A**,

NOW THEREFORE BE IT ORDAINED by the Township Council of the Township of Aberdeen, County of Monmouth, State of New Jersey, as follows:

SECTION 1. In accordance with the authorization provided by the Local Land and Buildings Law under N.J.S.A. 40A:12-1 et. seq., the Township is hereby authorized to accept the Drainage Easement, subject to lawful conditions, restrictions and limitations of use as placed upon municipal governing bodies.

SECTION 2. The Township finds that the Drainage Easement is needed for the public purpose of continued construction, maintenance, operation and repair of the sewer pipe and hereby authorizes the Township to accept the Drainage Easement.

SECTION 3. The Mayor and Municipal Clerk are authorized to accept the Drainage Easement, and to execute any documents as may be necessary in order to effectuate this Ordinance and the transaction contemplated herein, in such form and substance as attached hereto as Exhibit A.

SECTION 4. The Municipal Clerk shall record Ordinance 19-2020 and this Ordinance with the County of Monmouth for the purposes of title clarity.

SECTION 5. If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

SECTION 6. All ordinances or parts of ordinances inconsistent with or in conflict with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 7. This Ordinance shall take effect after final passage and adoption according to the law.

Karen Ventura, Township Clerk

Fred Tagliarini, Mayor

EXHIBIT A

Deed of Easement