

FRANKLIN CO. O., ROAD RECORD No. 18 Vacation of Unopened and Unnamed Alley - Marion Twp. (O.R.C. Sec. 5553.10)

THE COL. B. B. WFG. CO. 86947

October 4, 1954

Board of County Commissioners of Franklin County
Court House
Columbus 15, Ohio

Attention: Miss McCarley

Gentlemen:-

Enclosed you will find affidavit of Harold W. Taylor, General Manager of Hercules Box Company. I have been requested by the Federal Glass Company to commence proceedings to vacate the alley described as follows:

Situate in Marion Township, Franklin County, Ohio, and being a part of C. L. and L. C. Marion et al Subdivision, beginning at the southeast corner of Lot No. 29, thence southerly 20 feet to the northeast corner of Lot No. 40; thence westerly along the northerly lines of Lots 40, 39 and 38 to a point in the westerly line of the premises conveyed to the Board of Education of Marion Township by conveyance recorded in Deed Book 361, Page 237, Recorder's Office, Franklin County, Ohio; thence northerly 20 feet, with the westerly line of the premises so conveyed to the Board of Education of Marion Township, to a point in the southerly line of Lot No. 27; thence easterly along the southerly lines of Lots Nos. 27, 28 and 29 to the place of beginning.

I have discussed this subject with Miss McCarley in your office, who suggested that the proceedings be commenced under Revised Code Sec. 5553.10. I enclose the Affidavit in order that it may be made clear to the Commissioners that the alley has in fact not been open for seven years after the order establishing it was made and, indeed, the alley has never been open.

Will you kindly consider this letter as a request for action on this matter.

Very truly yours,

Harrison W. Smith, Jr. (Signed)

HWSJr:WE

* * * * *

AFFIDAVIT

STATE OF OHIO
SS:
FRANKLIN COUNTY

Harold W. Taylor, being first duly sworn, deposes and says that he is General Manager of Hercules Box Company, of 521 Marion Road, Columbus, Ohio; that, on February 26, 1897, the plat of the C. L. and L. C. Marion, et al. Subdivision, and other papers concerning same, were filed with the Recorder of Franklin County, Ohio, and said plat is recorded in plat book 5, page 403 in said Recorder's Office; that in the same proceeding, and in a certificate dated January 9, 1897, all streets and alleys shown on said plat were properly dedicated as public highways; and that there was shown on said plat, and properly dedicated, the alley described as follows:

Beginning at the southwest corner of Lot No. 19, thence easterly, along the southerly line of Lots Nos. 19 through 29, to the southeast corner of Lot No. 29; thence southerly 20 feet to the northeasterly corner of Lot No. 40; thence westerly, along the northerly line of Lots Nos. 30 through 40, to the northwest corner of Lot No. 30; thence northerly 20 feet to the place of beginning.

Affiant further says that, on the 28th day of November, 1902, there was conveyed to the Board of Education of Marion Township the following described premises:

Situated in the County of Franklin, State of Ohio, and in the Township of Marion and bounded and described as follows:

Part of Half Section 41, Township No. 5, and Range No. 22, Refugee Lands, to-wit: Beginning at a stone in the Marion County Road, and in the north-west corner of Adaline Marion's land; thence S. 4-1/2° W. along her west line, 324.58 feet to an iron stake in the center of Kian Avenue; thence N. 85°-38' W. along the center of said Avenue, 134.13-1/2 feet to an iron stake; thence N. 4-1/2° E. 324.90 feet to a stake in said County Road, and in the north line of said Clinton L. Marion's land; thence S. 85-1/2° E. along the north line of said Marion's land, 134.13-1/2 feet to the place of beginning, containing one (1) acre of land; and being one acre of land off the East end of the five acre tract of land conveyed by Elijah Marion and Adaline L. Marion, his wife, to said Clinton L. Marion, by deed dated April 3rd, 1882, of record in Deed Book 223, pages 559 et seq., Recorder's Office, said County, subject to all legal highways and alleys, being Lots Nos. 28, 29, 39 and 40, and a strip off the east side of lots Nos. 27 and 38, 26.63-1/2 feet in width, as the same are numbered and delineated upon the Subdivision of Clinton L. and Louis C. Marion of record in Plat Book No. 5, page 403, Recorder's Office, Franklin County, Ohio.

Affiant further says that the deed for such conveyance to the Board of Education of Marion Township is recorded in Deed Book 361, Page 237, Recorder's Office, Franklin County, Ohio; that the premises so conveyed formed a part of the said C. L. and L. C. Marion, et al Subdivision and contained therein a part of the alley hereinabove described, which part of said alley is described as follows:

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THE COL. B. B. MFG. CO. 86947

Cont. - Vac. of Unopened & Unnamed Alley in Marion Twp.

Beginning at the southeast corner of Lot No. 29, thence southerly 20 feet to the northeast corner of Lot No. 40; thence westerly along the northerly lines of Lots 40, 39 and 38 to a point in the westerly line of the premises so conveyed to the Board of Education of Marion Township; thence northerly 20 feet, with the westerly line of the premises so conveyed to the Board of Education of Marion Township, to a point in the southerly line of Lot No. 27; thence easterly along the southerly lines of Lots Nos. 27, 28 and 29 to the place of beginning.

Affiant further says that, on the 26th day of August, 1954, the Board of Education of Marion Township conveyed the premises described in the second full paragraph hereof to Leigh Koebel, the deed for such conveyance being recorded in Deed Book 1831, Page 55, Recorder's Office, Franklin County, Ohio; and that on August 26, 1954 the said Leigh Koebel and Mary B. Koebel, his wife, conveyed the same premises to The Federal Glass Company, which deed is recorded in Deed Book 1831, Page 57, Recorder's Office, Franklin County, Ohio.

Affiant further says that the part of the alley, described in the third full paragraph hereof as being included in the premises so conveyed to The Federal Glass Company, has remained unopened for at least seven years after the order establishing it was made, and that said alley has never been opened or used and neither has it ever been vacated.

Harold W. Taylor (Signed)

SWORN to before me and subscribed in my presence this 30th day of September 1954.

E. L. Krauss (Signed)
Notary Public, Franklin County, Ohio.

SEAL

* * * * *

October 22, 1954

IN RE VACATION OF UNOPENED ALLEY IN MARION TOWNSHIP:
VIEW SET FOR WEDNESDAY, NOVEMBER 10, 1954.

Mr. Koontz offered the following preamble and resolution and moved the adoption of the same, which motion was duly seconded by Mr. Vigor:

WHEREAS, A request was filed with this Board on October 4, 1954, by Wilson & Rector, Attorneys, in behalf of The Federal Glass Company to vacate an unnamed and unopened alley in Marion Township, under Revised Code Sec. 5553.10; therefore

BE IT RESOLVED, By the Board of County Commissioners of Franklin County, Ohio, that 10 o'clock A.M. on Wednesday, November 10, 1954, be and it hereby is set as the time for a viewing of said alley in Marion Township as described in the affidavit filed with the request of The Federal Glass Company, to vacate said alley, by the Board of County Commissioners.

Voting Aye thereon: Harry T. Vigor and Henry A. Koontz

Absent and not voting: C. P. Lauderbaugh

* * * * *

November 12, 1954

Mr. Guy Elbin, Engineer
Franklin County, Ohio

Re: Vacation of Unopened Alley in Marion Township

Dear Mr. Elbin:

Will you please advise this Board as to whether the Alley in Marion Township which was viewed by this Board and a representative from your office on November 10, 1954, is a duly dedicated public way and, if so, when it was dedicated.

Also, will you please give us your recommendation as to whether or not it should be vacated as this time.

Very truly yours,

BOARD OF COUNTY COMMISSIONERS
FRANKLIN COUNTY, OHIO

By Ella A. McCarley, Ass't. Clerk

EAM/rm

FRANKLIN CO. O., ROAD RECORD No. 18

THE COL. B. B. MFG. CO. 86947

Contd. - Vac. of Unopened & Unnamed Alley in Marion Twp.

November 17, 1954

Board of County Commissioners
Franklin County, Ohio.

Re: Vacation of Unopened Alley in Marion Township.

Gentlemen:-

Answering your inquiry of November 12, the above mentioned Alley in Marion Township, viewed by your Honorable Board and a representative of the Engineer's Office on November 10th, 1954, is a duly dedicated public way as shown on the plat of C. L. and L. C. Marion, et al Subdivision, filed with the Recorder of Franklin County, Ohio, February 26, 1897.

Utilities that are now within this Alley and the easement granted by the sub-dividers for utilities are not to be vacated through this 20 foot alley sought to be vacated.

I am of the opinion that the proposed vacation of the aforesaid Alley, with the exception above stated will be of no inconvenience to the general public and I, therefore, recommend the said vacation as shown on the accompanying plat.

Respectfully submitted,

Guy Elbin (Signed)
County Engineer

GE:FRM:cd

CL...-N-28
11-1-54
R.M.G.

UNOPENED ALLEY IN MARION TOWNSHIP RUNNING EAST AND
WEST BETWEEN MARION ROAD AND KIAN AVENUE - VACATED
(Pursuant to 5553.10 OHIO REVISED CODE).

Mr. Vigor offered the following preamble and resolution and moved the adoption of the same, which motion was duly seconded by Mr. Lauderbaugh:

WHEREAS, the Ohio Revised Code, Section 5553.10, provides in part as follows:

"*** A road, or part thereof, which remains unopened for seven years after the order establishing it was made or authority granted for opening it, shall be vacated, and the right to build it pursuant to the establishment in the original proceedings therefor shall be barred."

and

WHEREAS, on October 4, 1954, Harrison Smith, Jr., Attorney for The Federal Glass Company, requested a proceeding to vacate the following described alley,

Situate in Marion Township, Franklin County, Ohio, and being a part of C. L. and L. C. Marion et al., Subdivision, beginning at the southeast corner of Lot No. 29, thence southerly 20 feet to the northeast corner of Lot No. 40; thence westerly along the northerly lines of Lots 40, 39 and 38 to a point in the westerly line of the premises conveyed to the Board of Education of Marion Township by conveyance recorded in Deed Book 361, Page 237, Recorder's Office, Franklin County, Ohio; thence northerly 20 feet, with the westerly line of the premises so conveyed to the Board of Education of Marion Township, to a point in the southerly line of Lot No. 27; thence easterly along the southerly lines of Lots Nos. 27, 28 and 29 to the place of beginning.

and filed the following affidavit:

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Cont. - Vac. of Unopened & Unnamed Alley in Marion Twp.

AFFIDAVIT

STATE OF OHIO

SS:

FRANKLIN COUNTY

Harold W. Taylor, being first duly sworn, deposes and says that he is General Manager of Hercules Box Company, of 521 Marion Road, Columbus, Ohio; that, on february 26, 1897, the plat of the C. L. and L. C. Marion, et al. Subdivision, and other papers concerning same, were filed with the Recorder of Franklin County, Ohio, and said plat is recorded in Plat Book 5, Page 403 in said Recorder's Office; that in the same proceeding, and in a certificate dated January 9, 1897, all streets and alleys shown on said plat were properly dedicated as public highways; and that there was shown on said plat, and properly dedicated, the alley described as follows:

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Affiant further says that, on the 28th day of November, 1902, there was conveyed to the Board of Education of Marion Township the following described premises:

Situated in the County of Franklin, State of Ohio, and in the Township of Marion, and bounded and described as follows:

Part of Half Section 41, Township No. 5, and Range No. 22, Refugee Lands, to-wit: Beginning at a stone in the Marion County Road, and in the north-west corner of Adaline Marion's land; thence S. 4-1/2° W. along her west line, 324.58 feet to an iron stake in the center of Kian Avenue; thence N. 85°-38' W. along the center of said Avenue, 134.13-1/2 feet to an iron stake; thence N. 4-1/2° E. 324.90 feet to a stake in said County Road, and in the north line of said Clinton L. Marion's land, thence S. 85-1/2° E. along the north line of said Marion's Land, 134.13-1/2 feet to the place of beginning, containing one (1) acre of land; and being one acre of land off the East end of the five acre tract of land conveyed by Elijah Marion and Adaline L. Marion, his wife, to said Clinton L. Marion, by deed dated April 3rd, 1882, of record in Deed Book 223, pages 559 et seq., Recorder's Office, said County, subject to all legal highways and alleys, being Lots Nos. 28, 29, 39 and 40, and a strip off the east side of Lots Nos. 27 and 38, 26.63-1/2 feet in width, as the same are numbered and delineated upon the Subdivision of Clinton L. and Louis C. Marion of record in Plat Book No. 5, page 403, Recorder's Office, Franklin County, Ohio.

Affiant further says that the deed for such conveyance to the Board of Education of Marion Township is recorded in Deed Book 361, Page 237, Recorder's Office, Franklin County, Ohio; that the premises so conveyed formed a part of the said C. L. and L. C. Marion, et al, Subdivision and contained therein a part of the alley hereinabove described, which part of said alley is described as follows:

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Affiant further says that, on the 26th day of August, 1954, the Board of Education of Marion Township conveyed the premises described in the second full paragraph hereof to Leigh Koebel, the deed for such conveyance being recorded in Deed Book 1831, Page 55, Recorder's Office, Franklin County, Ohio; and that on August 26, 1954 the said Leigh Koebel and Mary B. Koebel, his wife, conveyed the same premises to The Federal Glass Company, which deed is recorded in Deed Book 1831, Page 57, Recorder's Office, Franklin County, Ohio.

Affiant further says that the part of the alley, described in the third full paragraph hereof as being included in the premises so conveyed to The Federal Glass Company, has remained unopened for at least seven years after the order establishing it was made, and that said alley has never been opened or used and neither has it ever been vacated.

S/ Harold W. Taylor.

SWORN to before me and subscribed in my presence this 30th day of September, 1954.

S/ E. L. Krauss
Notary Public, Franklin County, Ohio.
My Commission Expires. 6/19/57

and whereas,

The Board of County Commissioners viewed said alley on November 10, 1954.

Contd. - Vac. of Unopened & Unnamed Alley in Marion Twp.

WHEREAS, on the 17th day of November, 1954, a letter was addressed to the Board of County Commissioners by the Franklin County Engineer, as follows:

"Board of County Commissioners
Franklin County, Ohio.

Re: Vacation of Unopened Alley in Marion Twp.

Gentlemen:- Answering your inquiry of November 12, the above mentioned Alley in Marion Township, viewed by your Honorable Board and a representative of the Engineer's Office on November 10th, 1954, is a duly dedicated public way as shown on the plat of C. L. and L. C. Marion, et al Subdivision, filed with the Recorder of Franklin County, Ohio, February 26, 1897.

Utilities that are now within this Alley and the easement granted by the sub-dividers for utilities are not to be vacated through this 20 foot alley sought to be vacated.

I am of the opinion that the proposed vacation of the aforesaid Alley, with the exception above stated will be of no inconvenience to the general public and I, therefore, recommend the said vacation as shown on the accompanying plat.

Respectfully submitted,
S/ Guy Elbin
County Engineer.

Now, therefore

BE IT RESOLVED, by the Board of County Commissioners of Franklin County, Ohio, that said Board finds that part of the above described alley in Marion Township, Franklin County, Ohio, was duly established as a public road by order of the Board of County Commissioners on February 26, 1897; that said portion of said portion of said road has remained unopened for more than seven years and, in fact, has never been opened, used or maintained as a public road after said order of establishment, and

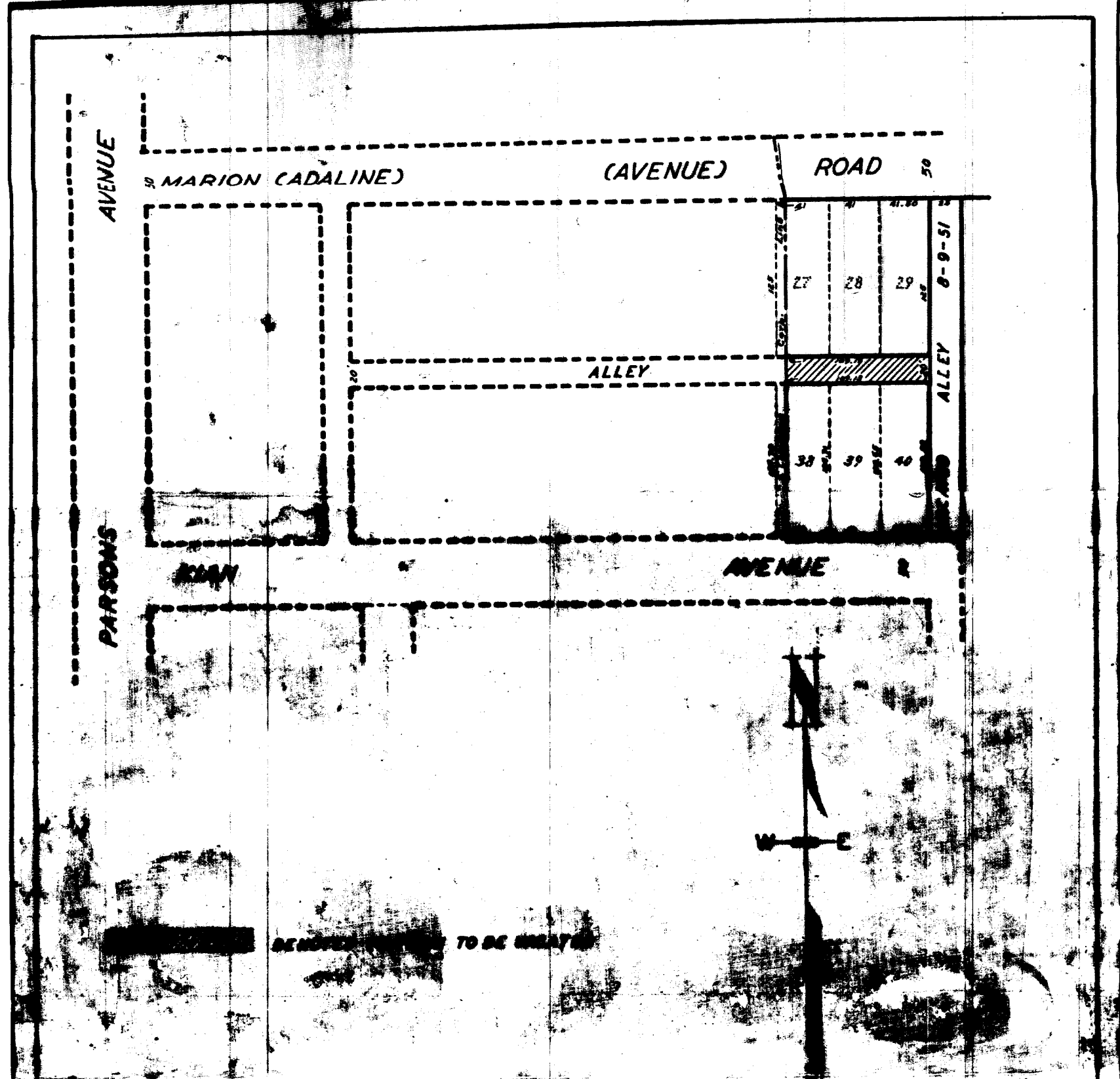
BE IT FURTHER RESOLVED, that in view of said findings, that portion of the unnamed alley in Marion Township, Franklin County, Ohio, running East and West between Marion Road and Kian Avenue and as more particularly above described, be and it hereby is ordered vacated and the right to build said portion of said road pursuant to the establishment in said original proceedings therefor, be and the same is hereby barred, pursuant to the authority granted by Section 5553.10 of the Ohio Revised Code, and, excepting therefrom any easement for utilities that are now within this Alley and the easement granted by the sub-dividers for utilities are not to be vacated through this 20 foot alley sought to be vacated.

BE IT FURTHER RESOLVED, that the Clerk or Assistant Clerk of this Board is hereby directed to certify copies of this Resolution to the Franklin County Engineer and the Franklin County Auditor.

Voting Aye thereon: C. P. Lauderbaugh and Harry T. Vigor.

Absent and not voting: Henry A. Koontz.

* * * * *



-VACATION
PORTION OF 20'-ALLEY

FORMERLY IN C.L. & L.C. MARION ET. AL. SUB.
IN PLAT BOOK 5 PAGE 403

MARION TWP. FRANKLIN COUNTY OHIO

APPROVED BY *Lucy E. Brown*
FRANKLIN COUNTY ENGINEER

DATE 11-16-54

SCALE 1" = 100'