

PRIVILEGE FOR ENCROACHMENT
Minor/Major

Beyond Lot Line and Within a Public Street Right-of-Way

Hoss Bros., LLC, owner(s) of property located at 7530 West Lincoln Avenue, West Allis, hereinafter "Grantee(s)", desire to maintain a minor obstruction as defined in Section 11.165(1) of the City of West Allis Revised Municipal Code, extending beyond the lot line and within the public street right-of-way consisting of a lannon stone and mortar retaining wall on that portion of the right-of-way on South 76th Street adjoining Lots 22 and 23 and also desire to maintain a major obstruction, as defined in Section 11.165(2) of the City of West Allis Revised Municipal Code, consisting of an existing metal canopy on that portion of the right-of-way on West Lincoln Avenue adjoining Lot 20. Together, the minor and major obstructions shall be referred to as the "encroachment" or "privilege". Said encroachment is located within Agnew's Highland Acres Subdivision, Block 15, being a subdivision of the Southwest ¼ of Section 3, Township 6 North, Range 21 East, in the City of West Allis, Milwaukee County, State of Wisconsin. The location of the grant of privilege shall be referred to as the "encroachment area" and shall more particularly be described as follows:

Beginning at the Northwest corner of said Lot 23; thence Southerly, 32.00 feet, along East right-of-way line of South 76th Street; thence Westerly, 1.00 feet, at right angle to said right-of-way line; thence Northerly, 32.00 feet, parallel with said East right-of-way line; thence Easterly, 1.00 feet to the point of beginning.

Also, beginning at the Southwest corner of said Lot 20; thence Easterly, 120.00 feet along North right-of-way line of West Lincoln Avenue; thence Southerly, 2.00 feet at right angle to said right-of-way line; thence Westerly, 120.00 feet parallel with said North right-of-way line; thence Northerly, 2.00 feet to the point of beginning. Tax Key No. 476-0659-000.

The Board of Public Works is satisfied that the granting of this privilege is not adverse to the public interest.

NOW, THEREFORE, pursuant to the authority contained in Section 66.0425 of the Wisconsin Statutes, the Board of Public Works does hereby grant the above-described privilege, subject to the following terms and conditions:

1. Upon acceptance hereof, the Grantee(s) shall become primarily liable for damages to persons or property by reason of the granting of this privilege; and the Grantee(s) agree to hold the City harmless for any damage to their property resulting from snow plowing or snow removal operations.

2. The Grantee(s) shall be obligated to remove the encroachment, or part thereof, upon ten (10) days notice by the State of Wisconsin or City of West Allis, and shall be entitled to no damages for removal of the encroachment. Grantee(s) grant permission to the City of West Allis to remove the encroachment if it is not removed pursuant to Sec. 66.0425(2), Wisconsin Statutes, the cost of which shall be at Grantee's expense.

3. The Grantee(s), by acceptance hereof, waives any right to contest in any manner the validity of Section 66.0425 of the Wisconsin Statutes.

4. Any third parties whose rights are interfered with by the granting of this privilege shall have a right of action against the Grantee(s) only.

5. No part of the encroachment shall extend over the encroachment area; and no part of the encroachment shall extend farther than over the public right-of-way of South 76th Street or West Lincoln Avenue.

6. The encroachment shall be constructed and maintained in a manner to safeguard the public and shall specifically comply with the West Allis Municipal Code.

7. Grantee(s) shall be obligated to repair or replace the lannon stone brick and mortar retaining wall upon the request of the City's Building Inspector based on an inspection report.

8. Grantee(s) shall be obligated to maintain the capping/sealing of the drain pipes embedded within the retaining wall to prevent any water drainage on the City's sidewalk along South 76th Street.

9. Any modification in the above-described encroachment shall require approval of the Board of Public Works of the City of West Allis.

10. Plans and specifications of any construction being performed in the public right-of-way, for which this privilege is granted, other than the existing metal canopy as provided herein, shall require submission to, and final approval of, the Board of Public Works of the City of West Allis.

11. It is understood that Grantee(s), their heirs, successors and assigns, shall file a Performance Bond with the City Clerk/Treasurer in the amount of Ten Thousand Dollars (\$10,000.00) and a Certificate of Insurance in the amount of One Million Dollars (\$1,000,000.00), in a form approved by the City Attorney, for damages to person or property by reason of the granting of this privilege. The City of West Allis shall be named as an additional insured, as its interest may appear, on the certificate of insurance. The insurance certificate shall further provide that ten (10) day written notice to the City of West Allis shall be provided in the event of any material change, or cancellation of insurance coverage.

12. Grantee(s) shall pay to the City of West Allis as compensation for this privilege the sum of Fifty Dollars (\$50.00).

13. This privilege shall be in force and have effect only upon payment of the required fee and filing of the Certificate of Insurance and Bond referred to above. This privilege shall cease upon the lapse or cancellation of the said insurance coverage. New application and new payment shall then be required to extend grant of privilege.

14. This privilege shall be binding upon and inure to the benefit of the Grantee(s), their respective heirs, successors and assigns.

Dated at West Allis, WI, this ____ day of _____, 20__.

CITY OF WEST ALLIS

BY: *Dan Devine*
Dan Devine, Mayor

BY: *Monica Schultz*
Monica Schultz, City Clerk

ACCEPTED BY:
HOSS BROS., LLC

BY: *Jason Griepentrog*
Jason Griepentrog, Registered Agent

Date: 1-10-18

Approved as to form this 22 day
of January, 2018.

Richard S. Corwin
Richard S. Corwin
City Attorney
10/25/18
C/Enrprimajor-HossBros