

42.



City of West Allis

Matter Summary

7525 W. Greenfield Ave.
West Allis, WI 53214

File Number	Title	Status
R-2008-0025	Resolution	In Committee
Resolution Granting a Privilege for Encroachment (Major) to New Owner Donnelly Real Estate LLC for property located at 7301 West National Avenue.		
Introduced: 2/5/2008		Controlling Body: Public Works Committee
		Sponsor(s): Public Works Committee

COMMITTEE RECOMMENDATION

ADOPT

ACTION
DATE:

2-5-08

MOVER SECONDER

_____	_____	Barczak
_____	_____	Czaplewski
_____	_____	Dobrowski
_____	_____	Kopplin
_____	_____	Lajsic
_____	_____	Narlock
_____	_____	Reinke
_____	_____	Sengstock
_____	_____	Vitale
_____	_____	Weigel

AYE	NO	PRESENT	EXCUSED
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

TOTAL

SIGNATURE OF COMMITTEE MEMBER

[Signature]

Chair

Vice-Chair

Member

COMMON COUNCIL ACTION

ADOPT

ACTION
DATE:

FEB 05 2008

MOVER SECONDER

_____	_____	Barczak
_____	_____	Czaplewski
_____	_____	Dobrowski
_____	_____	Kopplin
_____	_____	Lajsic
_____	_____	Narlock
_____	_____	Reinke
_____	_____	Sengstock
_____	_____	Vitale
_____	_____	Weigel

AYE	NO	PRESENT	EXCUSED
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

TOTAL

10

1



City of West Allis

7525 W. Greenfield Ave
West Allis, WI 53214

Resolution

File Number: R-2008-0025

Final Action:

Sponsor(s): Public Works Committee

FEB 05 2008

Resolution Granting a Privilege for Encroachment (Major) to New Owner Donnelly Real Estate LLC for property located at 7301 West National Avenue.

WHEREAS, by Resolution No. R-2006-0130, adopted May 2nd, 2006, the City of West Allis granted to Mark and Cathy Jorgensen (d/b/a Mc Drywall LLC), a certain Privilege for Encroachment Beyond the Lot Line and Within Public Street Right-of-Way consisting of a mansard roof extending and encroaching eighteen inches (18") over the public sidewalk the full thirty-two foot (32') width of the building on that portion of the right-of-way on West National Avenue located at 7301 West National Avenue, in the City of West Allis, WI (the "Privilege"); and,

WHEREAS, the property has now changed ownership to Donnelly Real Estate LLC, who desires to retain the Privilege.

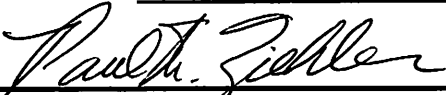
NOW, THEREFORE, BE IT RESOLVED that the City of West Allis grants to Donnelly Real Estate LLC, the Privilege for Encroachment Beyond the Lot Line and Within Public Street Right-of-Way consisting of a mansard roof extending and encroaching eighteen inches (18") over the public sidewalk the full thirty-two foot (32') width of the building on that portion of the right-of-way on West National Avenue located at 7301 West National Avenue, in the City of West Allis, WI.

BE IT FURTHER RESOLVED that additional improvements on said area must require prior approval of the Board of Public Works.

BE IT FURTHER RESOLVED that the Mayor and City Administrative Officer, Clerk/Treasurer of the City of West Allis are hereby authorized and directed to execute and deliver the aforesaid Privilege on behalf of the City of West Allis.

ATTR-Encroachment-Donnelly Real Estate LLC

ADOPTED FEB 05 2008



Paul M. Ziehler, City Admin. Officer, Clerk/Treas.

APPROVED February 8, 2008



Jeannette Bell, Mayor

PRIVILEGE FOR ENCROACHMENT
Major

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

Donnelly Real Estate LLC, owner(s) of property located at 7301 West National Avenue, West Allis, hereinafter "Grantee(s)", desire to maintain an encroachment extending beyond the lot line and within the public street right-of-way consisting of a mansard roof, extending and encroaching eighteen inches (18") over the public sidewalk the full thirty-two foot (32') width of the building on that portion of the right-of-way on West National Avenue adjoining Lot 1 in McKowens Subdivision No. 1, Block 2, being a subdivision of the Northwest ¼ of Section 3, Township 6 North, Range 21 East, in the City of West Allis, County of Milwaukee, State of Wisconsin, more particularly described as follows:

Beginning at the Northwest corner of said Lot 1; thence Northerly, 1.60 feet; thence Northeasterly, 38.24 feet, parallel with the North right-of-way line of West National Avenue; thence Southerly, 1.60 feet, to said North right-of-way line; thence Southwesterly, 38.24 feet, along said North line to the Point of Beginning of this description. Tax Key No. 453-0550-000.

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 Common Council of the City of West Allis 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 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 mansard roof shall extend beyond the sidewalk below a height of nine feet six inches (9'6"); and no part of the mansard roof shall extend farther from the face of the building than eighteen inches (18") over the public right-of-way of West National Avenue.

6. The mansard roof consisting of cedar shakes over a wooden 2"x4" frame shall be constructed and maintained in a manner to safeguard the public and shall specifically comply with the West Allis Municipal Code.

7. Plans and specifications of any repair/alterations being performed in the public right-of-way for which this privilege is granted, other than the mansard roof as provided herein, shall require submission to, and final approval of, the City Engineer of the City of West Allis.

8. It is understood that Grantee(s), their heirs, successors and assigns, shall file a Bond with the City Clerk/Treasurer in the amount of One Thousand Dollars (\$1,000) and a Certificate of Insurance in the amount of at least Ten Thousand Dollars (\$10,000.00), 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.

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

10. 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.

11. 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 8 day of February, 2008.

CITY OF WEST ALLIS

BY: Jeannette Bell
Jeannette Bell, Mayor

BY: Paul M. Ziebler
Paul M. Ziebler
CAO, City Clerk/Treasurer

ACCEPTED BY:

DONNELLY REAL ESTATE LLC

BY: Kevin Donnelly

Date: 1-10-08

Approved as to form this 18 day
of January, 2008.

Scott J. [Signature]
City Attorney
C/Encrprimajor-Donnelly Real Estate LLC