

City of Philadelphia



(Bill No. 070226)

AN ORDINANCE

Authorizing Kevin Alsbrook, 400 Gypsy Lane, Apartment 735, Philadelphia, PA 19129, owner of Bazini's Café and the property at 1800 Lindley Avenue, Philadelphia, PA 19141, his successors and assigns, to legalize an existing deck encroachment, which partially encroaches onto the public sidewalks of Lindley and Ogontz Avenues, for use as accessory outdoor seating for Bazini's Café.

WHEREAS, Kevin Alsbrook owns Bazini's Café and the property located 1800 Lindley Avenue, Philadelphia, PA 19141; and

WHEREAS, Kevin Alsbrook currently owns, uses and maintains an existing deck encroachment, which partially encroaches onto the public sidewalks of Lindley and Ogontz Avenues, for use as accessory outdoor seating for Bazini's Café; now, therefore

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

Section 1. Kevin Alsbrook, his successors and assigns, is hereby authorized to own, use and maintain the existing deck encroachment, which partially encroaches onto the public sidewalk of Lindley and Ogontz Avenues, for use as accessory outdoor seating for Bazini's Café.

Encroachment Description

The existing deck, which is built predominately within the property lines of 1800 Lindley Avenue, Philadelphia, PA 19141, partially encroaches upon the south sidewalk of Lindley Avenue and the west sidewalk of Ogontz Avenue. The deck, which is approximately one foot six inches (1'-6") in height, encroaches approximately three feet (3'-0") onto the Lindley Avenue sidewalk leaving approximately nine feet (9'-0") of clear footway. The deck also encroaches approximately eight feet six inches (8'-6") onto the Ogontz Avenue sidewalk leaving approximately eleven feet six inches (11'-6") of clear footway. The structure will be used for outdoor seating accessory to a restaurant (Bazini's Café) at this location.

Section 2. The existing deck encroachment on the public sidewalks of Lindley and Ogontz Avenues listed in Section 1 shall be in accordance with the laws, rules and regulations of the City of Philadelphia, and specifically those of the Department of Licenses and Inspections, the Department of Streets and the Art Commission.

Section 3. Before exercising any rights or privileges under this Ordinance, Kevin Alsbrook must first obtain or have their contractor(s) obtain all required permits, licenses

City of Philadelphia

BILL NO. 070226 continued

Certified Copy

and approvals from all appropriate departments, boards, agencies or commissions. No such department, board, agency or commission shall be required to issue any such permit, license or approval solely because this Ordinance has been enacted, it being the express intent of this Ordinance not to supersede any other provision of law governing the issuance of such permits, licenses or approvals. In addition, before exercising any rights and privileges under this Ordinance, Kevin Alsbrook shall enter into an agreement (“Agreement”) with the appropriate City department or departments, in a form satisfactory to the Law Department, to provide that Kevin Alsbrook shall, *inter alia*:

- (a) agree that upon one hundred and eighty (180) days notice from the City, he shall remove the existing deck encroachment on the public sidewalks of Lindley and Ogontz Avenues without cost or expense to the City, and shall restore the cartway and footways adjacent to the bank entrance at Lindley and Ogontz Avenues at no cost and expense to the City when given written notice to do so by the City to accommodate a municipal or municipal-sponsored construction project;
- (b) furnish the City with either a bond with corporate surety in an amount required by the Department of Streets and in a form satisfactory to the Law Department to insure the compliance with all the terms and conditions of this Ordinance and the Agreement, and to protect and indemnify the City from and against all damages or claims for damages which may arise directly or indirectly as a result of the existing deck encroachment on the public sidewalks of Lindley and Ogontz Avenues or its removal, or in lieu thereof, submit documentation in a form and content acceptable to the City that Kevin Alsbrook self-assumes liabilities and obligations normally covered by Surety Bond;
- (c) secure all necessary permits, licenses and approvals from all appropriate departments, agencies, boards or commissions of the City as may be required by regulation or law. No such department, board, agency or commission shall be required to issue any such permit, license or approval solely because this Ordinance has been enacted;
- (d) assume the costs of all changes and adjustments to, and relocation or abandonment of City utilities and City structures, wherever located, as may be necessary by the reason of the existing deck encroachment on the public sidewalks of Lindley & Ogontz Avenues;
- (e) carry public liability and property damage insurance, co-naming the City of Philadelphia as an insured party, in such amounts as shall be satisfactory to the Law Department, or in lieu thereof, submit documentation in form and content acceptable to the City that Kevin Alsbrook is self-insured and is providing the City of Philadelphia the same

City of Philadelphia

BILL NO. 070226 continued

Certified Copy

coverage and benefits had the insurance requirements been satisfied by an insurance carrier authorized to do business in the Commonwealth of Pennsylvania;

- (f) insure that all construction contractors for the existing deck encroachment on the public sidewalks of Lindley & Ogontz Avenues carry public liability and property damage insurance, naming the City of Philadelphia as an insured party in such amounts as shall be reasonably satisfactory to the Law Department; and
- (g) give the City and all public utility companies the right of access, ingress and egress for the purpose of inspection, maintenance, alteration, relocation or reconstruction of any of their respective facilities which may lie within the public right-of-way on the sidewalks of Lindley and Ogontz Avenues.

Section 4. The Law Department shall include in the Agreement such other terms and conditions as shall be deemed necessary to protect the interests of the City.

Section 5. The permission granted to Kevin Alsbrook for the existing deck encroachment on the public sidewalks of Lindley & Ogontz Avenues described in Section 1 shall expire without any further action by the City of Philadelphia if Kevin Alsbrook has not entered into an Agreement and satisfied all requirements of the Agreement that are listed in Section 3 of this Ordinance within one (1) year after this Ordinance becomes law.

Section 6. This Ordinance shall not become effective unless the sum of two hundred dollars (\$200.00), toward the costs thereof, is paid into the City Treasury within sixty (60) days after this Ordinance becomes law.

City of Philadelphia

BILL NO. 070226 continued

Certified Copy

CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on May 3, 2007. The Bill was Signed by the Mayor on May 24, 2007.



Patricia Rafferty
Chief Clerk of the City Council