

City of Philadelphia



(Bill No. 090832)

AN ORDINANCE

Authorizing John Byrne, owner of Pasiano's, 7100 Tulip Street, Philadelphia, PA 19135, to legalize the construction, operation and maintenance of an existing enclosed set of stairs located on the Princeton Avenue side of that property, under certain terms and conditions.

THE CITY COUNCIL OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. John Byrne, his successors and assigns, are hereby authorized to legalize the construction, operation and maintenance of an existing enclosed set of stairs located on the Princeton Avenue side of the property located at 7100 Tulip Street, Philadelphia, PA 19135, as follows:

The existing enclosed set of stairs encroaches approximately three feet, seven and one-half inches (3', 7.5") onto the north public sidewalk of Princeton Avenue, leaving approximately five feet, six inches (5', 6") of clear unobstructed footway.

SECTION 2. Before exercising any rights or privileges under this Ordinance, John Byrne must first obtain all required as-built permits, licenses 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, John Byrne shall enter into an agreement ("Agreement") with the appropriate City department or departments, satisfactory to the Law Department, provided that John Byrne shall, *inter alia*:

(a) agree that when given thirty (30) days written notice from the City, John Byrne shall remove the enclosed set of stairs without cost or expense to the City and shall restore the footway at no cost or expense to the City to accommodate a municipal or municipal-sponsored construction project;

(b) furnish the City with 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 aforementioned Agreement;

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(c) assume the costs and expenses 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 legalization of the construction, operation and maintenance of the enclosed set of stairs;

(d) agree to defend, save harmless and indemnify the City from and against all damages or claims for damages which may arise directly or indirectly as result of the construction, operation and maintenance of the enclosed set of stairs, or its removal;

(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 John Byrne is self-insured and is providing the City of Philadelphia the same 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 enclosed set of stairs carry public liability and property damage insurance, naming the City of Philadelphia as an insured party in such amounts as shall be satisfactory to the Law Department;

(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 of any affected streets aforesaid; and

(h) insure that the existing enclosed set of stairs encroach on Princeton Avenue no more than the dimensions listed in Section 1, provided that the Streets Department, in its sole, unreviewable discretion, may allow minor variation of the dimension limits within the standard tolerance of current engineering practice.

SECTION 3. 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 4. The authorization granted to John Byrne in Section 1 shall expire without any further action by the City if he has not entered into the Agreement and satisfied all requirements of the Agreement within one (1) year after this Ordinance becomes law.

SECTION 5. This Ordinance shall not become effective unless the sum of two hundred dollars (\$200.00), towards the costs thereof, is paid into the City Treasury within sixty (60) days after this Ordinance becomes law.

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on December 17, 2009. The Bill was Signed by the Mayor on January 13, 2010.



Michael A. Decker
Chief Clerk of the City Council