

City of Philadelphia



(Bill No. 080207)

AN ORDINANCE

Granting permission to ABEER, LP, owner of the property Oak Lane Diner, 6528 N. Broad Street, to legalize an existing vestibule entrance and for the operation and maintenance of a sidewalk cafe covered by a canvas tent on 66th Avenue, under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Permission is hereby granted to ABEER, LP, 2457 N. 54th Street, Philadelphia, PA 19131, owner of the property Oak Lane Diner, 6528 N. Broad Street, Philadelphia, PA 19126, to legalize an existing vestibule entrance and for the operation and maintenance of a sidewalk cafe covered by a canvas tent on 66th Avenue as follows:

Vestibule Entrance

The existing 1-story vestibule dimensions are approximately eighteen feet (18'-0") in length by eighteen feet (18'-0") in height projecting seven feet (7'-0") onto the west sidewalk of N. Broad Street leaving fifteen feet (15'-0") of clear footway. The vestibule is located approximately one hundred and seventy feet (170'-0") south of the south curb line of 66th Avenue.

Sidewalk Café with Canvas Tent Cover

The proposed sidewalk café with canvas tent cover will be situated upon new concrete sidewalk placed at the former grassy area located on the north end of the diner near the turning lane of Old York Road at N. Broad Street. The area described is wholly in the public right-of-way.

A total of seventeen (17) tables are proposed: seven (7) tables approximately three feet (3'-0") diameter to accommodate twenty-eight (28) occupants and ten (10) tables approximately two feet (2'-0") by four feet (4'-0") to accommodate forty (40) occupants. The café area starts approximately one hundred and twenty-seven feet (127'-0") south of the south curb line of 66th Avenue and ends approximately one hundred and sixty-five feet (165'-0") south of the south curb line of 66th Avenue. The proposed café area will result in unobstructed clear footway distances of approximately fifteen feet (15'-0") at the west sidewalk of N. Broad Street, eight feet six inches (8'-6") on the east sidewalk of Old York Road and fifteen feet (15'-0") on the south sidewalk of the turning lane. The café area is enclosed by a forty-two inch (42") high protective railing.

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The canvas tent approximate dimensions are twenty-three feet (23'-0") average width by thirty-eight feet (38'-0") average length by fifteen feet (15'-0") height. The tent is supported by six (6) exterior columns with pole mounted light fixtures and three (3) interior columns.

SECTION 2. Before exercising any rights or privileges under this Ordinance, ABEER, LP must first obtain all required 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, ABEER, LP shall enter into an agreement ("Agreement") with the appropriate City department(s), in a form satisfactory to the Law Department, which shall:

(a) furnish the City with a bond with corporate surety in the amount required by the Streets Commissioner and in a form satisfactory to the Law Department to insure compliance with all of the terms and conditions of this Ordinance and the aforementioned agreement;

(b) protect, indemnify and save harmless the City from all suits or claims for damages which may arise directly or indirectly as a result of the vestibule, sidewalk café and canvas tent;

(c) comply with the provisions of The Philadelphia Code thereby securing all required permits, licenses and approvals from all appropriate departments, boards, agencies or commissions, as may be required;

(d) agree in writing that when, at the determination of the City of Philadelphia, the vestibule, sidewalk cafe and canvas tent necessitates relocation and/or removal of any underground structure, either publicly or privately owned, ABEER, LP will absorb all costs and expenses for the performance of such work at no cost to the City;

(e) insure that the seventeen (17) tables for the sidewalk cafe encroach on the west sidewalk of N. Broad Street and east sidewalk of Old York Road no more than the dimensions listed in Section 1, provided that the Streets Department, in its sole unreviewable discretion, may allow minor variations of the dimension limits of Section 1, within standard tolerances of current engineering practice;

(f) 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; and

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(g) remove the sidewalk café and canvas tent within thirty (30) days upon service of lawful written notice from the Streets Department and remove the vestibule within one hundred eighty (180) days upon service of lawful written notice from the Streets Department.

SECTION 3. The Law Department shall include in the Agreement such other terms and conditions, as shall be deemed necessary or appropriate in the interest of the City.

SECTION 4. The permission granted to ABEER, LP to legalize an existing vestibule entrance and for the operation and maintenance of a sidewalk cafe covered by a canvas tent on N. Broad Street and Old York Road shall expire without any further action by the City of Philadelphia if ABEER, LP has not entered into the Agreement and satisfied all requirements of the Agreement that are listed in Section 2 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) 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 April 10, 2008. The Bill was Signed by the Mayor on April 21, 2008.

A handwritten signature in black ink that reads "Patricia Rafferty". The signature is written in a cursive style with a large, prominent initial "P".

Patricia Rafferty
Chief Clerk of the City Council