Legislation Details (With Text)

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Title:	Authorizing the installation, ownership, and maintenance of various encroachments in the vicinity of 3931 Walnut Street, Philadelphia, PA 19104, under certain terms and conditions.				
Sponsors:	Councilmember Gauthier				
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Date	Ver.	Action By	Action	Result	Tally
7/5/2023	0	MAYOR	SIGNED		
6/15/2023	0	CITY COUNCIL			
6/8/2023	0	CITY COUNCIL			
6/8/2023	0	CITY COUNCIL			
6/8/2023	0	CITY COUNCIL			
6/1/2023	0	Committee on Streets and Services	HEARING NOTICES SENT		
6/1/2023	0	Committee on Streets and Services	HEARING HELD		
6/1/2023	0	Committee on Streets and Services	REPORTED FAVORABLY, RULE SUSPENSION REQUESTED		
4/20/2023	0	CITY COUNCIL			

Authorizing the installation, ownership, and maintenance of various encroachments in the vicinity of 3931 Walnut Street, Philadelphia, PA 19104, under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Permission is hereby granted to the owner of 3931 Walnut Street, currently NETZ, YARON and SAADOUN, FABRICE (the "Owner"), to install, own, and maintain encroachments at 3931 Walnut Street (the "Property") as follows:

Encroachment Description (collectively as described below, the "Encroachments"):

A. Three (3) proposed planters, located along the north property line of Walnut Street, from a point approximately eighty-six feet (86'-0") east of the South 40th Street east curbline to a point approximately ten feet (10'-0") farther east and encroaching upon the north footway of Walnut Street starting at the property line to a point approximately six feet four inches (6'-4") farther south.

B. One (1) proposed circular wooden picnic table, located along the north property line of Walnut Street, from a point approximately eighty-six feet (86'-0") east of the South 40th Street east curbline to a point approximately four feet eight inches (4'-8") farther east and encroaching upon the north footway of Walnut Street starting at the property line to a point approximately four feet eight inches (4'-8") farther south.

A minimum of nine feet (9'-0") of clear passable sidewalk space is to remain after installation.

SECTION 2. The construction, use and maintenance of the Encroachments described and 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, provided that the Department of Streets, in its sole, unreviewable discretion, may allow minor variations of the dimension limits of Section 1, within standard tolerances of current engineering practice.

SECTION 3. Before exercising any rights or privileges under this Ordinance, Owner must first obtain or have its contractor(s) 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, before exercising any rights and privileges under this Ordinance, Owner shall enter into an agreement ("Agreement") with the appropriate City department or departments, satisfactory to the City Solicitor, to provide that Owner, *inter alia*:

(a) maintains and keeps in good repair and working order the Encroachments to the satisfaction of the Streets Department;

(b) agrees that upon one hundred and eighty (180) days' notice from the City, it shall remove the Encroachment(s) at no cost and expense to the City of Philadelphia when given written notice to do so by the City of Philadelphia to accommodate a municipal or municipal-sponsored construction project;

(c) shall 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) shall 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 construction of the Encroachment;

(e) shall 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 City Solicitor, or in lieu thereof, submit documentation in form and content acceptable to the City that Owner 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) shall insure that all construction contractors for the Encroachments 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 City Solicitor;

(g) shall 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 footway adjacent to the Encroachments described in Section 1;

(h) indemnifies and holds harmless the City, its officers, employees and agents from and against any and all loss resulting from injury or death to persons or damage to property arising out of, resulting from, or in any manner caused by the presence, location, use, operation, installation, maintenance, replacement or removal of the Encroachment. Owner shall also agree to release the City from any and all claims relating to the Encroachment,

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including if ordered removed or when street, sidewalk or utility construction occurs; and

(i) furnishes 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 compliance with all the terms and conditions of this Ordinance and the Agreement, or in lieu thereof, submit documentation in a form and content acceptable to the City that Owner self-assumes the liabilities and obligations normally covered by the Surety Bond.

SECTION 4. The City Solicitor 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 Owner to install, own, and maintain the Encroachments described in Section 1 shall expire without any further action by the City of Philadelphia if Owner 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 costs thereof, is paid into the City Treasury within sixty (60) days after the date this Ordinance becomes law.

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