

March 17, 2003

To the Public Improvements Committee

Subject: Common Council Resolution File Number 000487

Dear Honorable Members:

Returned herewith is Common Council Resolution File Number 000487, being a request for a special privilege to grant permission to the United Church for a fence to be located in the public right-of-way of South 29<sup>th</sup> Street adjacent to 2906-12 West Scott Street.

The fence is to establish a play area for the daycare facility located in the church building. They have indicated in their request, that the play area had, until recently (2000) been able to be located in the rear yard of an adjacent property. The relationship for that arrangement has terminated. There was also to be a low timber wall under the fence.

It was recently brought to our attention that this file was "still in committee". A search determined that somehow the file had never been referred to the Department of Public Works (DPW) for review. Nevertheless, it now has been and a field viewing revealed that a chain link fence was in place, abutting the sidewalk, in the west 15-foot wide sidewalk area of South 29<sup>th</sup> Street and that there was a low timber wall (2-3 timbers) surrounding the fence posts. That is, the fence was not on top of the wall, but among it and the wall was creating a level play area. The fence and timbers encroach approximately 4.8 feet for a length of approximately 65 feet, including a 4-foot wide people gate. The south end of the fence lines up with the south face of the church building. In addition, we observed that the timbers continue south along the sidewalk to approximately the northline of West Scott Street, then extend southwesterly and then westerly along the north edge of the sidewalk. This appears to create a landscaping area. The timbers, therefore, also encroach into the 15-foot wide north sidewalk area of West Scott Street.

A search of the permit records indicates that a building permit was obtained for the fence on July 27, 2000, but a DPW permit was not obtained. The permit did not indicate it was to be located in the right-of-way. The Department of Neighborhood

Services does not perform inspections of fences, except in instances of complaints. However, if an inspection had been performed, they would have noted that the fence was in the right-of-way (abutting the sidewalk) and we could have resolved the permission aspect much sooner than this.

To the Public Improvements Committee  
March 17, 2003  
Page 2

Nevertheless, the fence has been in place approximately 2 ½ years and it appears that it has not adversely affected the use of the public right-of-way in this residential neighborhood nor do we think that it will. We have, therefore, prepared the attached special privilege resolution, which, if adopted, will allow the fence and timbers to occupy portions of the west side of South 29<sup>th</sup> Street and the north side of West Scott Street.

Very truly yours,

Jeffrey S. Polenske, P.E.  
City Engineer

Mariano A. Schifalacqua  
Commissioner of Public Works

Martin G. Collins  
Commissioner  
Department of Neighborhood Services

JJM:cjt

Attachments