

Department Of Public Works
City Engineering Division

April 20, 1998

Honorable City Council:

Petition No. 0192, Arrow Cold Storage. Requesting permission to construct and maintain non-standard driveway opening within the southern public sidewalk space of Maple Street between Rivard and Antietam.

Petition No. 0192 of "Arrow Cold Storage" requests permission to construct and maintain a non-standard commercial driveway [a single curb cut opening about 236.00 feet in length, including the turning radii] within the southern public sidewalk space of Maple Street (50 feet wide) between (vacated) Rivard and Antietam Streets. "Arrow Cold Storage" agrees to hold the city harmless from claims, damages and expenses to retain the non-standard driveway.

The petition was referred to City Engineering Division — DPW for investigation (utility clearances) and report. This is our report.

Traffic Engineering Division — DPW together with Street Design Bureau, City Engineering Division — DPW reviewed the construction plans.

Public Lighting Department (PLD) reports high voltage underground cables within the southern public sidewalk space. PLD requires "Arrow Cold Storage" to make use of "MISS DIG" facilities prior to any excavation.

City departments and privately owned utility companies reported no objections to the requested non-standard driveway opening.

I am recommending adoption of the attached resolution.

Respectfully submitted,
SUNDAY JAIYESIMI
City Engineer

By Council Member S. Crockrel:

Resolved, City Engineering Division — DPW is hereby authorized and directed to issue permits to "Arrow Cold Storage, Inc." whose post office address is 1300 Maple Street, Detroit, Michigan 48226 to construct and maintain a non-standard commercial driveway [a single curb cut opening about 236.00 feet in length, including the turning radii] within the following public sidewalk space [meaning the space between the lot line of the property and the street curb line]:

The southern berm area (about 10.00 feet wide; more or less) of Maple Street, 50 feet wide, between (vacated) Rivard and Antietam Streets [to construct and maintain a non-standard commercial driveway; a single curb cut opening about 236.00 feet in length, including two turning radii] said part of public street right-of-way lying northerly of and abutting the north line of Lots 154 through 156 of the "Plat of that Part of Claim No. 181, North of Jefferson Avenue for the heirs of Antoine Rivard as Subdivided into lots", City of Detroit, Wayne County, Michigan, as recorded on April 19, 1841, Book 12, Pages 348, 349, 350 and 351, City Records [Probate File 998]; also lying northerly of and abutting the north line of Lots 166 through 170 of "Cass Subdivision of part of the Mullett Farm", City of Detroit, Wayne County, Michigan as recorded in Liber 1, Page 6, Plats, Wayne County Records;

Provided, "Arrow Cold Storage, Inc." file with the Finance Department an indemnity agreement approved by the

Law Department, saving and protecting the City of Detroit from any and all claims which may arise therefrom. Also, the petitioner shall be required by the Law Department in conjunction with the Finance Department — Risk Management Division to present proof of financial capability (bonds and insurance; the City of Detroit shall be named as coinsured therein) to pay any claims, damages or expenses that may arise as a result of the installation, maintenance or use of a non-standard commercial driveway [a single curb cut opening about 236.00 feet in length, including two turning radii] within public street right-of-way. To protect the city in the event of petitioner default, a surety bond in a penal sum sufficient to pay the City of Detroit's cost to remove or alter the non-standard curb opening (if such removal or alteration becomes necessary) shall be maintained by "Arrow Cold Storage". Also, "Arrow Cold Storage" shall maintain said surety bond in perpetuity (with no expiration date). The petitioner shall be unable to obtain a release from said surety bond as long as the non-standard commercial driveway exists within the public right-of-way of Maple Street, 50 feet wide. The City Engineering Division Street Design Bureau in conjunction with the Traffic Engineering Division — DPW shall be responsible for determining the amount of said surety bond, and then to transmit the information to the Finance Department; and further.

Provided, That such use of public property shall be under the rules and regulations of the City Engineering Division — DPW in conjunction with the Traffic Engineering Division — DPW; and further

Provided, That the property owned by the petitioner and adjoining the herein above described part of public street right-of-way shall be subject to the proper zoning or regulated use (Board of Zoning Appeals Grant) over the total area of said southern public sidewalk space [meaning the space between the lot line of the property and the street curb line]; and further

Provided, All costs for the maintenance, permits and use of the non-standard commercial driveway within public street right-of-way shall be borne by "Arrow Cold Storage"; and further

Provided, That "Arrow Cold Storage, Inc." shall maintain a safe and convenient concrete public sidewalk space along said southern berm area of Maple Street. Also, the City Engineering Division — DPW, shall approve the line and grades of public sidewalk space prior to any new concrete pour in accord with Detroit Code Section 50, Article 4. The construction, placement, and maintenance of the non-standard commercial driveway within public sidewalk space shall be subject to city permits and inspection. Further, the petitioner shall pay all costs to maintain the non-standard commercial driveway in front of property owned by Arrow Cold Storage. The petitioner, Arrow Cold Storage, shall be liable for all claims, demands, costs, damages, expenses, and causes of action of every kind and character arising in favor of any person, or other legal entity on account of personal injuries or death or damage to property caused by or claimed or alleged to have arisen out of the installation and maintenance of a non-standard commercial driveway [a single curb cut opening about 236.00 feet in length, including two turning radii] within public street right-of-way. The installation and maintenance of said non-standard variance(s) shall comply with the rules and regulations of the City Engineering Division — DPW and the Department of Public Works — Traffic Engineering Division; and further

Provided, The City of Detroit retains all rights and interests in said above described public sidewalk space or part of public street right-of-way. Further, the city and all utility companies retain their rights to establish, maintain, inspect and service any utilities within, beneath, and/or over said public sidewalk space; and further

Provided, If it becomes necessary to repair or replace the utilities located or to be located in the public rights-of-way, by the acceptance of this permission, the non-standard variance owners, for themselves, their heirs or assigns, waive claims for any damages to the non-standard variance installations and agree to pay the costs incurred in their removal or alteration, if their removal or alteration becomes necessary, and to restore the property affected to a condition satisfactory to the City Engineering Division — DPW at expense of "Arrow Cold Storage", the non-standard variance owner; and further

Provided, Said permission to use the above-described public sidewalk space along the Department of Public Works may rescind said southern berm area of Maple Street at any time. Further, the issuance of permits does not waive the rights of the city to use the area for street widening or other purposes; and further

Provided, That "Arrow Cold Storage, Inc." shall be subject to any tax under the provisions of the General Property Tax Act which may be levied against it pursuant to law; and further

Provided, That no rights in the public streets, alleys or other public places shall be considered waived by this permission which is granted expressly on the condition that said non-standard variance shall be removed at the expense of the permittee at any time when so directed by the City Council, and the public property affected shall be restored to a condition satisfactory to the City Engineering Division — DPW at the sole cost and expense of "Arrow Cold Storage"; and further

Provided, That said permits issued by the City Engineering Division — DPW and/or the Buildings and Safety Engineering Department are granted with the distinct understanding that in the event the City Charter, or Detroit Code(s), or ordinance(s), or resolution(s), or City policies (governing the placement of non-standard variances in public rights-of-way) are amended to provide for the levying thereafter, of a fee, charge or rental, to be hereafter determined upon, for the occupancy of public streets, alleys or other public places, that the permittee will pay said fee, charge or rental provided for in said Charter, or code(s), or ordinance(s), or resolution(s), or policies; also said permittee does hereby bind itself thereunto, and to accept said permits on the conditions hereby imposed, and in the event said permittee shall contest the validity of said Charter, or code(s), or ordinance(s), or resolution(s), or policies of said fee, charge or rental, or upon refusal to pay same, these permits shall immediately become void; and further

Provided, This non-standard variance resolution is revocable at the will, whim or caprice of the City Council, and permittee hereby waives any right to claim damages or compensation for removal of non-standard variance(s), and further, that the permittee acquires no implied or other privileges hereunder not expressly stated herein; and further

Provided, The installation and maintenance of a non-standard commercial driveway [a single curb cut opening about 236.00 feet in length, including two turning radii, within public street right-of-way; said installation requires the filing of an indemnity agreement, bonds or insurance, and the securing of permit(s)] referred to herein shall be construed as acceptance of this resolution by the permittee; and further

Provided, That the non-standard variance permit shall not be assigned or

transferred without the written approval of the City Council; and further

Provided, That the City Clerk shall within 30 days record a certified copy of this resolution with the Wayne County Register of Deeds.

Adopted as follows:

Yeas — Council Members Cleveland, KzCockrel, Jr., S. Cockrel, Everett, Hood, Mahaffey, Scott, Tinsley-Williams, and President Hill — 9.

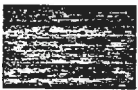
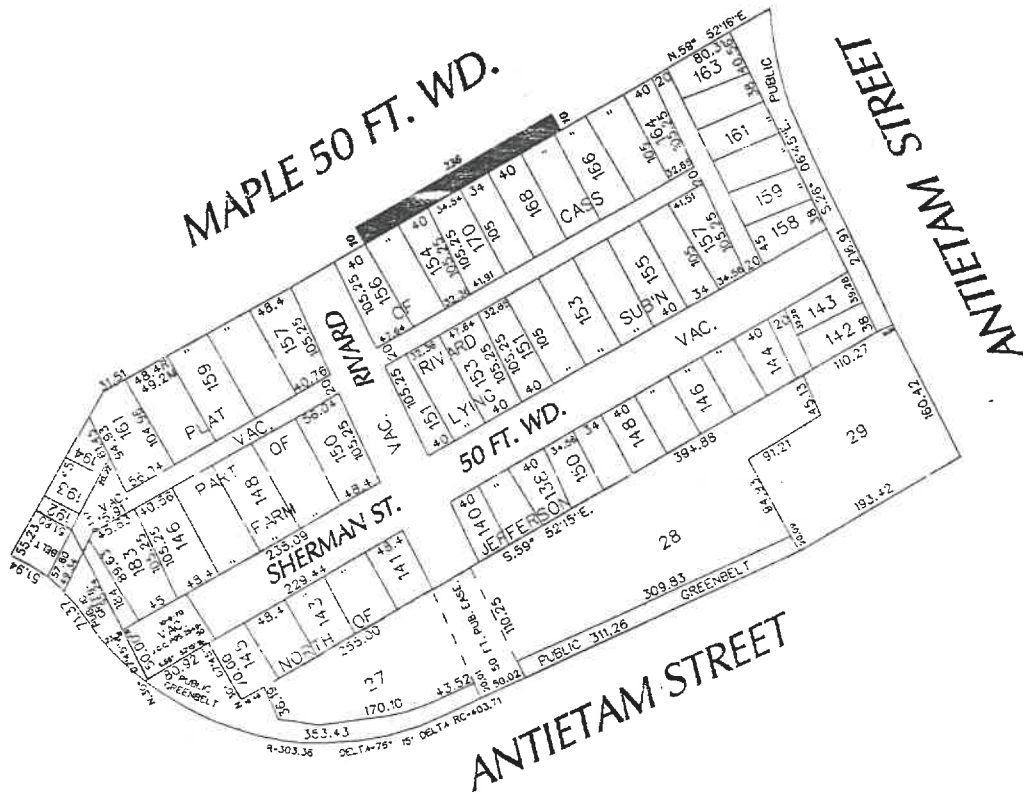
Nays — None.

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May 20, 1998

Pgs. 1272 - 1274

PETITION NO.0192
 ARROW COLD STORAGE
 P.O. BOX 7462
 C/O MIKE HECIMOVICH
 PHONE: 313-581-3762
 FAX: 313-581-0822



ENCROACHMENT (SEE ATTACH DRAWING FOR MORE DETAILS)

CARTO. 38-C

(FOR OFFICE USE ONLY)

B					
A					
DESCRIPTION	DRWN	CHKD	APPD	DATE	
REVISIONS					
DRAWN BY	CHECKED				
N. PERRY					
DATE	APPROVED				
03-13-96					

REQUESTED ENCROACHMENT 10 FT. x 236 FT. OF MAPLE 50 FT. WD. STREET IN THE AREA OF MAPLE, RIVARD AND ANTIETAM.

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CITY OF DETROIT	
CITY ENGINEERING DEPARTMENT	
SURVEY BUREAU	
JOB NO.	01-01
DRWG. NO.	X0192.DGN