

MEMO

TO: Chairperson Dana Davis and Committee Members
FROM: Andrew Beyer, P.E.
DATE: May 31, 2023
RE: Public Safety and Welfare Committee Wednesday, June 7, 2023 at 5:00 p.m.

Review and take possible action: Adopt street light checklist

BACKGROUND:

Review and take possible action: Proposed structure within N. Water Street public right-of-way

Enclosed:

Engineering received a request for a variance to Chapter 457-7 to occupy the N. Water Street public right-of-way adjacent to the eastern building face of 200 W. Main Street. The property owner is looking to place a seating platform over an existing open staircase that encroaches within the N. Water Street public right-of-way. The property owner has provided a brief description of the project, project drawings, and project information which are attached for review.

Variances are covered under City Code Section §457-7(D) Obstructions and Encroachments Application for Variance. (see attached to this memo). Engineering's interpretation of the code is as follows:

Variance Steps:

- 1) Wait for application and \$5 fee for variance from applicant.
- 2) Notice chairperson or acting chairperson that application and fee has been received – chair to set a hearing date, time and place and notify City staff of those.
- 3) Once City staff has public hearing date, time, and place for hearing, applicant is sent notice via regular mail a minimum of 72 hours prior to the hearing with hearing information including date, time, and place.
- 4) City Engineering Division, in concert with the City Attorney, will prepare what City ordinance and State statute states about encroachments within the ROW and will submit to Committee in meeting packets prior to hearing.
- 5) Applicant or their representative attends hearing.
- 6) The Public Safety & Welfare Committee will make determination within 30 days of hearing.

Engineering has received the application and fee (application is attached for your use). Wisconsin State Statute §86.04 (1) Highway Encroachments – Order For Removal states:

(1) ORDER FOR REMOVAL. *If any highway right-of-way shall be encroached upon, under or over by any fence, stand, building or any other structure or object, and including encroachments caused by acquisition by the public of new or increased widths of highway right-of-way, the department, in case of a state trunk highway, the county highway committee, in case of a county trunk highway, or the city council, village or town board, in case of a street or highway maintained by or under the authority of any city, village or town, may order the occupant or owner of the land through or by which the highway runs, and to which the encroachment shall be appurtenant, to remove the encroachment beyond the limits of the highway within 30 days. The order shall specify the extent and location of the encroachment with reasonable certainty, and shall be served upon the occupant or owner of the land through or by which the highway runs, and to which the encroachment shall be appurtenant.*

Encroachments are not allowed as found in City Ordinance Section §457-7 (A)(1) Obstructions and Encroachments Prohibited:

Obstructions and encroachments prohibited. No persons shall encroach upon or in any way obstruct or encumber any street, alley, sidewalk, public grounds or land dedicated to public use, or any part thereof, or permit such encroachments or encumbrances to be placed or remain in any public way adjoining the premises of which he is the owner or occupant, except as provided in Subsection [B](#).

Subsection B speaks to exceptions to the ordinance; the proposed obstruction at 200 W. Main Street doesn't meet Subsection B requirements, therefore the requirements of Chapter 457-7 apply to the property owner's proposal.

The City is aware that preexisting concrete ramps and steps can be found encroaching within City right-of-way. Most of these encroachments have no permits associated with the improvements. The Public Safety & Welfare committee approved two encroachments in the public right-of-way in 2021 and one encroachment in 2022. All encroachments had or will have recorded documentation as conditions of the encroachments. If the Committee chooses to allow the proposed encroachments, the City Attorney's office and Engineering Division recommend requiring the property owner record a revocable occupancy permit with the Jefferson County Register of Deeds for the proposed improvement.

If this Committee moves to approve the proposed encroachment within City right-of-way, the improvements will need to go before Historic Preservation Committee for review under City Ordinance Section §325-7A Certificate of Appropriateness. The Historic Preservation Committee would also weigh in on architectural design of each structure.

The proposed structure will need a building permit. As these are commercial use structures, a registered architect or professional engineer will need to stamp the plan set.

The Wisconsin Department of Transportation (WisDOT) is scheduled to reconstruct Main Street from Church Street to Market Street in 2028. The WisDOT project manager has been contacted to see if the improvement area will be in conflict during the 2028 project. Per WisDOT, the staircase area won't be impacted by the construction but the gate on the south end of the fencing will be temporarily inaccessible during sidewalk replacement immediately south.

If the encroachment is approved, Engineering would ask for the following contingencies to be tied to a motion:

1. The applicant work with the Engineering Division on the drafting of a revocable occupancy permit. Applicant to have the permit recorded with Jefferson County prior to the issuance of a building permit.
2. City of Watertown to be named as additional insured on contractor's certificate of insurance.
3. The City's Historic Preservation Committee review the project and issue a certificate of appropriateness per Section 324-7A of the City's Code.
4. A building permit be issued for the structure by the City's Building, Safety & Zoning Division.

Enclosed:

- Variance request letter & shop drawings
- City Code Section 457-7
- State Statute 86.04
- City Code Section 325-7A
- Revocable occupancy permit form