

AN ORDINANCE authorizing the owner of premises numbered 801 Devon Place, and his successors in title, to maintain an encroachment consisting of a six-foot (6') high basketweave fence atop a twenty-one inch (21") high stone retaining wall in, upon and over the public rights-of-way of Michigan Avenue and Bernard Street, which are public streets in the City of Alexandria, Virginia.

WHEREAS, KENNETH W. FRASER is the owner of premises known as 801 Devon Place, in the City of Alexandria, Virginia; and

WHEREAS, the said premises are bounded by Bernard Street on the northerly side and by Michigan Avenue on the easterly side; and

WHEREAS, the owner of said premises proposes to replace an existing three-foot (3') wood picket fence atop a twenty-one inch (21") high stone retaining wall with a six-foot (6') basketweave type fence; and

WHEREAS, the said retaining wall and fence encroach approximately ten feet (10') into the public right-of-way of Bernard Street and approximately three feet (3') into the public right-of-way of Michigan Avenue; and

WHEREAS, the said encroachment has been approved by the Planning Commission of the City of Alexandria, Virginia and it is determined that this encroachment is not detrimental to the public interest; therefore

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That KENNETH W. FRASER, and his successors in title, be, and they hereby are authorized to construct and maintain the above described six-foot (6') basket-weave type fence atop a stone retaining wall into the public right-of-way of Bernard Street to a total depth of ten feet (10') and into the public right-of-way of Michigan Avenue to a total depth of three feet (3'), until such encroachment is removed or destroyed, provided this authority shall not be construed to relieve such owner of any negligence on his part on account of such encroachment, and subject to the hereinafter contained provisions.

Section 2. That the privilege hereby granted to construct and maintain this encroachment shall be subject to the maintaining by the owner of the encroachment of public liability and property damage insurance indemnifying the City of Alexandria, such policy to be presented forthwith to the City Attorney for approval.

Section 3. That the privilege hereby granted to construct and maintain this encroachment shall be subject to the Board of Zoning Appeals of the City granting an appropriate variance for vision clearance.

Section 4. That the construction and use of the encroachment pursuant to the authority hereby granted shall be considered an agreement by the said owner, his successors and assigns, to save harmless the City of Alexandria from any liability by reason of the construction, use or maintenance of the said encroachment.

Section 5. That the privilege hereby granted to construct and maintain the encroachment, as aforesaid, shall be terminated and extinguished whenever the City of Alexandria shall need that portion of the public right-of-way for street widening or for any other public purpose and shall, by written notification, demand from the owner of the subject property the removal of such encroachment, which said removal shall be completed promptly within thirty (30) days from the date of notice of removal and without cost to the City of Alexandria.

Section 6. That this ordinance shall be published in a newspaper of general circulation published in the City not later than five days following its introduction together with a notice containing the time and place for a public hearing. The Clerk of the Council shall note the date of introduction and first reading, the date of publication, the date of the public hearing, and the date of the second reading and final passage in the minutes of the meeting. This ordinance shall become effective the date of its final passage.

Charles E. Beatley, Jr.  
Mayor

FINAL PASSAGE: APRIL 11, 1972