

2024-04-24



**MINOR VARIANCE APPLICATION
COMMENTS TO THE COMMITTEE OF ADJUSTMENT
PANEL 1**

PLANNING, REAL ESTATE AND ECONOMIC DEVELOPMENT DEPARTMENT

Site Address: 482 Preston Street
Legal Description: Part of Lot 1541, Reg Plan 38
File No.: D08-02-24/A-00064
Report Date: April 25, 2024
Hearing Date: May 1, 2024
Planner: Margot Linker
Official Plan Designation: Downtown Core, Mainstreet Corridor
Zoning: TM[86] (Traditional Mainstreet, Urban Exception 86)

REQUESTED VARIANCES

The Owner/Applicant requires the Committee's authorization for minor variances from the Zoning By-law as follows:

- a) To permit outdoor commercial patio ~~within 14.1 metres of a residential zone with a 1.72 metre high screen facing the residential zone~~, whereas the Zoning By-law ~~prohibits outdoor commercial patios within 30 metres of residential zones~~ requires that commercial patios within 30m of a residential zone must be screened from that zone by a structure, screen or wall that is at least 2 metres in height. (as amended)
- b) To permit an outdoor commercial patio to be located 5.21 metres above the existing grade, whereas the By-law requires outdoor commercial patios to be no higher than 2 metres above ground level.
- c) To permit amplified sound on a commercial patio within 14.1 metres of a residential zone, whereas the Zoning By-law does not permit amplified sound on a commercial patio within 30 metres of a residential zone.

DEPARTMENT COMMENTS

The Planning, Real Estate and Economic Development Department **has no concerns with** the application.

DISCUSSION AND RATIONALE

Staff have reviewed the subject minor variance application against the "four tests" as outlined in Section 45 (1) of the *Planning Act*, R.S.O. 1990 c. P.13, as amended.

The subject site is located within the Downtown Core Transect and Designated Corridor in the Official Plan, and zoned Traditional Mainstreet. This area is planned to permit both residential and non-residential uses to integrate a dense, mixed-use urban environment. The site is also located within the Dow's Lake District in the West Downtown Core Secondary Plan. Preston Street is intended to continue to evolve as the commercial spine of the district, with a plan to foster a lively and engaging public realm to support community life (5.2.3) as well as prioritizing creating generous pedestrian zones for walking and seasonal outdoor patios (5.1.3(2)).

The Zoning By-law was updated in 2021 to respond to COVID-19 business recovery efforts to allow more permissions for on-site outdoor patios to be located along main streets which are often directly adjacent to residential zones. Staff have no concerns regarding the requested reduction in screen height. The intent of retaining requirements for opaque screening facing a residential zone was to require visual screening to mitigate potential concerns with respect to privacy that may occur from patios in close proximity to residential zones. The patio faces a blank wall side yard condition of the abutting residential property and will not overlook a residential-zoned rear yard. Similarly, staff have no concerns regarding the patio being located 5.21 metres in height and do not anticipate any adverse impacts given the site context.

Staff have no concerns regarding the request to permit an amplified sound system on the outdoor patio during the daytime hours. The three residential-zoned lots that are within 30 metres of the outdoor patio include 88, 90, and 92 Adeline Street. The closest lot, 88 Adeline, does not have any windows directly facing the outdoor patio and the other lots are physically separated by buildings from the outdoor patio.

The noise study confirms that patrons and the proposed type of speaker, positioned as outlined in the study and oriented towards the building façade, can exist while complying with the daytime limit (between 7:00am and 11:00pm). If the patio is to be used during nighttime hours (11:00pm to 7:00am), mitigation measures per the Noise Study will be required.

By-laws such as the Noise By-law can be enforced to address nuisances if they arise. The applicant has confirmed that they will be installing the noise indicator to ensure that noise levels are kept at the given maximum SPL required by the City of Ottawa, as recommended by the noise study.

ADDITIONAL COMMENTS

Transportation Engineering

The site is located within 300 m of the OLRT rail corridor (Line 2). The City of Ottawa will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way.

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