

Refusal of a boulevard cafe permit application located at 477 Church Street, Maitland Street flankage

Date: March 26, 2019
To: Toronto and East York Community Council
From: Fiona Chapman, Director, Business Licensing and Regulatory Services,
Municipal Licensing & Standards
Wards: Ward 13- Toronto Centre

SUMMARY

This staff report is about a matter for which the Toronto and East York Community Council has delegated authority from City Council to make a final decision.

This is a report on the refusal to issue a permit by Municipal Licensing & Standards in the matter of an application for a boulevard cafe permit located at 477 Church Street, Maitland Street flankage.

RECOMMENDATIONS

The Director of Business Licensing and Regulatory Services, Municipal Licensing & Standards recommends that:

The application for the proposed boulevard cafe permit located at 477 Church Street, Maitland Street flankage be denied.

FINANCIAL IMPACT

There are no financial implications resulting from the adoption of this report.

DECISION HISTORY

An application for a boulevard cafe located at 477 Church Street, Maitland Street flankage was first received on February 28, 2013 from the business owner representing The Garage Grill Inc. operating as The Garage Grill. The application submitted was

seeking permission to establish a boulevard cafe on the Maitland Street flankage for 80.75 square metres which would accommodate approximately 60 patrons.

The business owner representing The Garage Grill Inc. operating as The Garage Grill was first issued a boulevard cafe permit on April 18, 2013 for a total of 55.20 square meters which would accommodate approximately 45 patrons.

The Boulevard Cafe permit expired on December 10, 2016 and subsequently was cancelled by Municipal Licensing and Standards on January 03, 2018.

The business owner representing The Garage Grill Inc. operating as The Garage Grill has submitted an application on March 13, 2018. As the permit expired on December 10, 2016 the application is considered as new.

COMMENTS

An application for a boulevard cafe located at 477 Church Street, Maitland Street flankage was received on March 13, 2018 from the business owner representing The Garage Grill Inc. operating as The Garage Grill. The application submitted was seeking permission to establish a boulevard cafe on the Maitland Street. flankage for 55.20 square metres which would accommodate approximately 45 patrons. (Appendix No. 1 and 2)

The Boulevard Cafe permit expired on December 10, 2016 and subsequently was cancelled by Municipal Licensing and Standards on January 03, 2018.

The business owner representing The Garage Grill Inc. operating as The Garage Grill has submitted an application on March 13, 2018. As the permit expired on December 10, 2016 the application is considered as new.

A site inspection conducted on April 1, 2018 determined that the fence installed with the sidewalk boulevard cafe area has been constructed of aluminum-framed tempered glass with concrete planters. The applicant was advise on June 29, 2018 that the cafe fence does not meet the criteria contained of the former City of Toronto Municipal Code Chapter 313-36 C (1).

The former City of Toronto, Municipal Code Chapter 313-36 G(1) provides specific criteria for the installation of a cafe fence within the public street allowance as follows:

- (a) The fence shall be located on the perimeter of the licensed boulevard cafe area and shall be constructed of materials such as metal railings and posts with or without fabric inserts, which enhance the light appearance of the fence and permit visual accessibility to the cafe;
- (b) To maximize visual access between the sidewalk and the cafe, the height of the railing of the fence shall not be less than nine-tenths (0.9) metre or more than one and two-tenths (1.2) metres;

- {c) The fence may be free-standing if its supports do not project beyond the limits of the boulevard cafe area, or the fence may be supported on removable plates anchored to the paved surface of the boulevard cafe area, as determined satisfactory by the Commissioner, but any post shall not penetrate below the surface grade and footings shall not be used;
- {d) The fence shall be easily removable.

The applicant was proposing to install a deck at 477 Church Street. In accordance with the provisions of the former City of Toronto, Municipal Code, Chapter 313, Section C(1) {a) where the application includes permission to construct a boulevard cafe deck within the licensed boulevard cafe area a requirement of a 5% slope is required. The installed deck does not provide this requirement.

The proposed boulevard cafe flanks a residential zone, and the former City of Toronto Municipal Code Chapter 313-36 F requires that no part of the boulevard cafe is less than 25 metres from a residential zone. A site inspection conducted on April 11, 2018 revealed that the boulevard cafe area is located within 3.50 metres from a residential zone and therefore it is recommended that the application be refused.

On October 12 2018 and on November 29, 2018, a letter was sent to the business owner advising that the boulevard cafe permit application does not have the required 25 metres from a residential zone.

A letter dated on December 17, 2018, was received by Municipal Licensing & Standards from the business owner to appeal the decision of the denial for a boulevard cafe permit on the Maitland Street flankage.

The former City of Toronto Municipal Code Chapter 313-368 (4) also requires a public poll of owners and tenants within 120 metres of the proposed cafe on a residential flank.

A poll was conducted on May 24, 2018 in English with the last date for filing a response being June 22, 2018 by the City Clerk's Office, Elections and Registry Services, and included the premises between 84-135 Maitland and 432, 438, 440 and 475 Church Street to determine neighbourhood support.

The results of the poll received from the City Clerk's Office, Election and Registry Services indicate that the number of the ballots received did not meet the minimum response rate. The provisions of Municipal Code Chapter 190 indicate that if the minimum response is not met, the application must be refused.

On June 29, 2018 a letter was sent to the business owner advising that the boulevard cafe permit application was denied due to the negative response during the polling process.

Furthermore, when there is a negative response, re-polling for the same purpose may not take place until two years have passed from the closing date of the previous poll.

Accordingly, no further application for boulevard cafe privileges at this location can be accepted until June 22, 2020.

CONTACT

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SIGNATURE


Fiona Chapman
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ATTACHMENTS

1. Sketch of boulevard cafe
2. Photos of proposed cafe area