

Refusal of an application for a boulevard café permit located at 488 Wellington Street West

Date: May 29, 2019
To: Toronto and East York Community Council
From: Fiona Chapman, Director, Business Licensing and Regulatory Services,
Municipal Licensing & Standards
Wards: Ward 10 – Spadina – Fort York

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.

To report on the refusal to issue a permit by Municipal Licensing & Standards in the matter of an application for a boulevard café located at 488 Wellington Street West.

RECOMMENDATIONS

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

1. The application for the proposed boulevard café located at 488 Wellington Street West be denied.

FINANCIAL IMPACT

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

DECISION HISTORY

This is a new application for a boulevard café permit located at 488 Wellington Street West.

COMMENTS

An application was received from the business owner representing 2016728 Ontario Inc. operating as Marben on April 15, 2019. The application submitted was seeking permission to establish a boulevard café on the commercial frontage of 488 Wellington Street West for 48.73 square metres which would accommodate approximately 42 patrons. (Appendix 1 and 2).

Upon receipt of an application, it is reviewed for compliance with the physical criteria of Chapter 313-36 of the Former City of Toronto Municipal Code.

A site inspection conducted on April 29, 2019 revealed that a wooden deck has been installed within the proposed boulevard café area. In accordance with the provisions of the former City of Toronto, Municipal Code, Chapter 313-36C (1)(a) where the application includes permission to construct a boulevard café deck within the proposed boulevard café area a requirement of a 5% slope is required. The proposed deck only provides a 3.0% slope.

The application submitted included a cafe fence sketch to be constructed of partial planter boxes on the west side of the café area and a wooden café fence on the south side of the proposed café area. The proposed café fencing on the west side does not meet the criteria outlined in the Chapter.

A letter dated May 10, 2019 was sent to the business owner representing 2016728 Ontario Inc. operating as Marben, advising the applicant that the proposed cafe deck and fencing does not meet required criteria as outlined in the former City of Toronto, Municipal Code Chapter 313.

On May 17, 2019 a letter was received by Municipal Licensing & Standards from the business owner representing 2016728 Ontario Inc. operating as Marben, to appeal the decision to deny the proposed deck located at 488 Wellington Street West.

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

- (a) Boulevard cafe decks shall only be permitted on sidewalks or boulevards that exceed a slope of 5% and over.
- (b) The deck shall be no higher than what is required to accommodate a level area and the deck framing members (which shall be the minimum depth required).
- (c) A skirt or screen shall be provided where the distance between the grade and the top of the deck is greater than the total thickness of the deck and framing members.
- (d) Wood used for the decking, skirt, uprights, or railing shall be treated, painted, or stained.

- (e) When wood is used for the uprights;
 - (i) post widths shall not exceed 0.10 m x 0.10 m (4 x 4 inches);
 - (ii) top and bottom railings shall not exceed 0.06 m x 0.09 m (2.5 x 3.5 inches);
 - (iii) pickets or balusters shall not exceed 0.04 m x 0.04 m (1.5 x 1.5 inches); and
 - (iv) the spacing between the pickets or balusters shall not exceed 0.10 m (4 inches).
- (f) A minimum width of 1.03 m (3.3 ft.) break in the railing shall be provided at the high side of the slope to provide wheelchair access.

The former City of Toronto, Municipal Code Chapter 313-36G (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 café 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 café, 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 former City of Toronto, Municipal Code Chapter 313-36 which governs cafes within the public right of way, does not contain provisions for planters within the café fence.

CONTACT

Pat Thornback
Supervisor
Licensing Services
Municipal Licensing & Standards
Telephone: (416) 392-3128 Fax: (416) 392-4515
E-mail: pat.thornback@toronto.ca

SIGNATURE

Fiona Chapman
Director
Business Licensing and Regulatory Services
Municipal Licensing and Standards

ATTACHMENTS – 488 WELLINGTON STREET WEST

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