

City of Mississauga Department Comments

Date Finalized: 2024-02-07	File(s): A667.22
To: Committee of Adjustment	Ward: 7
From: Committee of Adjustment Coordinator	Meeting date:2024-02-15 1:00:00 PM

Consolidated Recommendation

The City recommends that the Committee have regard for all comments and evidence provided by the Applicant and area residents when assessing if the application, as requested, meets the requirements of Section 45(1) of the Planning Act. The applicant may wish to defer the application to ensure the accuracy of the requested variances and that additional variances are not required.

Application Details

The applicant requests the Committee to approve a minor variance to permit an outdoor patio ancillary to an existing restaurant within Unit #14 of the subject property whereas By-law 0225-2007, as amended, does not permit an outdoor patio in this instance.

Background

Property Address: 35 King St E, Unit 14

Mississauga Official Plan

Character Area: Downtown Cooksville
Designation: Mixed Use

Zoning By-law 0225-2007

Zoning: C4 - Commercial

Other Applications: None

Site and Area Context

The subject property is a restaurant unit located in an existing multi-tenant retail plaza located at the north-west corner of Shepard Ave and King St E. The property possesses little to no vegetative elements on the lot. The immediate neighbourhood is a mixture of commercial and residential uses; including restaurants, offices, a retirement home, and residential dwellings.

The applicant is proposing a minor variance application to allow the continued use of the existing outdoor patio ancillary to an existing restaurant.



Comments

Planning

Section 45 of the *Planning Act* provides the Committee of Adjustment with the authority to grant relief from the requirements of a municipal zoning by-law. Approval of applications must meet the requirements set out under 45(1) and/or 45(2) (a) or (b) in the *Planning Act*.

Staff comments concerning the application are as follows:

The subject property is located within the Downtown Cooksville Character Area, and is designated Mixed Use by the Mississauga Official Plan (MOP). Pursuant to Section 11.2.6, the Mixed Use designation permits a restaurant.

Previously, temporary approval was granted by the Committee for the outdoor patio in 2012 and 2016. Planning staff had no objections to the most recent application 'A-443/16', which was approved on September 30, 2016 for a temporary period of five (5) years and expired on November 30, 2021. The previous approval was subject to the following conditions:

1. There shall be no music, live or otherwise or speakers permitted in the patio area.
2. The patio shall be fenced and contain a maximum of sixteen (16) seats.
3. The patio hours of operation shall be restricted to 11:00am to 11:00 pm daily.

The applicant is seeking an extension of previous approvals for the seasonal outdoor patio on the subject property. No changes are proposed in the site conditions and operations. Staff note that the patio is relatively small with a gross floor area of 25.58 m² (275.4ft²) and directly faces high density apartment buildings. Staff are satisfied that the requested variance is minor and the patio use will not have a negative impact on the neighbouring properties.

Given the above, Planning staff are of the opinion that the application is appropriate to be handled through the minor variance process. Further, the application raises no concerns of a planning nature.

Comments Prepared by: Shivani Chopra, Planner in Training

Appendices

Appendix 1 – Transportation and Works Comments

This Department has no objections to permit the existing outdoor patio.

Comments Prepared by: Joe Alava, T&W Development Engineering





Appendix 2 – Zoning Comments

We note that a Building Permit is required. In the absence of a Building Permit we are unable to confirm the accuracy of the information provided, or determine whether additional variance(s) may be required. It should be noted that a zoning review has NOT been completed.

The applicant is advised that should they choose to proceed without zoning verification, a full zoning review may result in further variances being required in the future.

Comments Prepared by: Minan Song, Planner in Training

Appendix 3 – Metrolinx

A667.22 - 35 King St E Unit 14

Metrolinx is in receipt of the Minor Variance application for 35 King St E Unit 14 to permit an outdoor patio use, ancillary to the existing restaurant within Unit 14. Metrolinx's comments on the subject application are noted below:

Advisory Comments:

- The subject property is located within the Municipal Consent and Roadway Coordination review zone of Metrolinx's Hurontario LRT.
- At this stage Metrolinx doesn't have any major comments but any work within Metrolinx ROW or within 60 m of the HuLRT will require approval and coordination with Metrolinx through circulation by the City of Mississauga.

Comments Prepared by: Farah Faroque, Project Analyst, Third Party Projects Review

Appendix 4 – Region of Peel

We have no comments or objections.

Comments Prepared by: Ayooluwa Ayoola, Junior Planner

Appendix 5 – CVC

Re: CVC File No. A22/667, Municipality File No. A667.22

Mikhail Tchichart Ichuili

35 King Street East, Unit 14, Lot 15 Con 1 SDS, City of Mississauga

Credit Valley Conservation (CVC) staff have reviewed the subject application and offer comments based on the following roles and responsibilities:

1. Delegated Responsibilities providing comments representing the provincial interest regarding natural hazards (except forest fires) as identified in Section 3.1 of the Provincial Policy Statement (2020);
2. Regulatory Responsibilities providing comments to ensure the coordination of requirements under the Conservation Authorities Act Section 28 regulation, to eliminate unnecessary delay or duplication in process;
3. Source Protection Agency providing advisory comments to assist with the implementation of the CTC Source Protection Plan under the Clean Water Act, as applicable.

CVC REGULATED AREA

Based on our mapping, the subject property is regulated due flood hazard associated with Cooksville creek. As such, the property is regulated by CVC under Ontario Regulation 160/06. As such, the property is subject to the Development, Interference with Wetlands, and Alterations to Shorelines & Watercourses Regulation (Ontario Regulation 160/06). This regulation prohibits altering a watercourse, wetland or shoreline and prohibits development in areas adjacent to the Lake Ontario shoreline, river and stream valleys, hazardous lands and wetlands, without the prior written approval of CVC (i.e. the issuance of a permit).

PROPOSAL:

It is our understanding that the applicant requests the Committee to approve a minor variance to permit an outdoor patio ancillary to an existing restaurant within Unit #14 of the subject property whereas By-law 0225-2007, as amended, does not permit an outdoor patio in this instance.

COMMENTS:

Based on the review of the information provided, the subject property is in close proximity to Cooksville Creek floodplain. It appears, however that the outdoor patio is existing and as such CVC has no objection with the approval of the minor variance being proposed at this time. The applicant is to note that any new development involving but not limited to a change in grade will require a CVC permit.

The applicant is to note that CVC has not received payment of the review fee of \$478 for this Minor Variance application. The applicant should forward this directly to CVC at the earliest convenience.

I trust that these comments are sufficient. Please do not hesitate to contact the undersigned at stuti.bhatt@cvc.ca or 905-670-1615 (ext. 350) should you have any further questions. Please circulate CVC on any future correspondence or applications regarding this site.

Comments Prepared by: Stuti Bhatt, Junior Planner