

ISSUE DATE:

Dec. 19, 2007



PL070565

Ontario  
Ontario Municipal Board  
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant and Appellant:	Gary Ceppetelli
Subject:	Minor Variance
Property Address/Description:	175 Young Street
Variance from By-law:	6593
Municipality:	City of Hamilton
OMB Case No.:	PL070565
OMB File No.:	V070297
Municipal File No.:	A-13/07

**APPEARANCES:**

**Parties**

Garry Ceppetelli  
1087257 Ontario Inc.  
1694512 Ontario Inc.  
(the "Appellants")

**Agent**

Gary Ceppetelli

**DECISION DELIVERED BY H. S. GOLDKIND AND ORDER OF THE BOARD**

**Nature of the Proceeding**

This appeal is in relation to 175 Young Street, Hamilton.

This is an Appeal of the decision of the Committee of Adjustment's refusing to grant a minor variance of Zoning By-law 6593 to permit the installation of an outdoor patio accessory to the existing legally established non-conforming use as a tavern notwithstanding that this property abuts residentially zoned lands and would therefore be in violation of this By-law.

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#### Background

Mr. G. Ceppetelli, a principal of the corporate Appellants, gave evidence on behalf of the Appellants. The Appellants called no other witness. The following is a summary of Mr. Ceppetelli's evidence.

The Appellants purchased the tavern located at 175 Young Street in 2006 and recently renovated the tavern, known as Corktown Pub and Fare, in September 2006.

The Pub serves food and alcoholic beverages and tries to encourage a reputable clientele. Drug dealers, who formerly gathered around the pub, have been discouraged and replaced by a reputable clientele.

The hours of operation are 11:30 a.m. to 1:00 a.m. from Monday to Wednesday and to 2:00 a.m. from Thursday to Saturday and to 11:00 p.m. on Sunday.

The property is situated at the corner of Young and Ferguson Streets in a residential area.

The Appellants want to install a 60-seat outdoor patio on their property, adjacent to the street and to residential property. The By-law prohibits an outdoor patio adjacent to residentially zoned property.

The witness advised of two other taverns with outdoor patios, but gave very little evidence in relation to their legal context, location and operation.

Mr. Ceppetelli submitted that the Appellants need the outdoor patio in order to be financially successful.

#### Opinion of Neighbours

The following neighbours and/or property owners attended the hearing:

Kathleen Hagan and Nora Grancich.

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The neighbours advised that the Appellants have improved the quality of the operation and clientele at the tavern. However, they fear that an outdoor patio will result in increased noise and adversely affect the neighbourhood.

Board's Analysis and Conclusions

The Appellants did not present any planning evidence in support of the minor variance and have not satisfied the "four tests" for a minor variance under section 45(1) of the *Planning Act*. R.S.O.

The Board Orders that the appeal is dismissed and the variance is not authorized.

So orders the Board.

"H. S. Goldkind"

H. S. GOLDKIND  
MEMBER