



Hamilton

**COMMITTEE OF ADJUSTMENT**

City Hall, 5<sup>th</sup> floor, 71 Main Street West, Hamilton, ON L8P 4Y5

Telephone (905) 546-2424, ext. 4221

E-mail: [cofa@hamilton.ca](mailto:cofa@hamilton.ca)

**NOTICE OF DECISION**  
**Minor Variance**

<b>APPLICATION NO.:</b>	<b>HM/A-24:41</b>	<b>SUBJECT PROPERTY:</b>	195 Rebecca Street, Hamilton
<b>ZONE:</b>	"D5, Holding 17, 19 & 20" (Downtown Residential)	<b>ZONING BY-LAW:</b>	Zoning By-law City of Hamilton 05-200, as Amended

**APPLICANTS:** Owner: Keir McColl  
Agent: Michael Isotti Pongetti

The following variances are **GRANTED WITH CONDITIONS**:

1. An outdoor patio shall be permitted on a lot where any lot line abuts a Downtown (D5) Zone or where such lot is separated from a Downtown D5 Zone By a Laneway. Instead of the regulation that no outdoor patios shall be permitted in a lot where any lot line abuts a Residential Zone, Downtown D5 or Downtown D6 Zone or where such lot is separated from a Residential Zone, Downtown D5 or Downtown D6 Zone by a Laneway.

**Notes:**

1. Insufficient information was provided regarding proposed use/seating capacity for the proposed outdoor patio. Additional variances may be required if compliance with the Hamilton Zoning By-law 05-200 cannot be achieved.
2. The proposed Outdoor Patio is located on the neighboring property (199 Rebecca Street). Staff is unable to determine lot ownership at this time. For Consolidated lot development as per the By-law,

Where two or more abutting lots under one identical ownership are consolidated for the purpose of development, the internal lot lines of the original lots shall not be construed to be lot lines for the purposes of any zoning regulations provided that all applicable regulations of this By-law relative to the consolidated lot development and its external lot lines are complied with.

3. Please be advised If the Outdoor Patio is intended to be enclosed additional variances may be required.

**THE DECISION OF THE COMMITTEE IS:**

That the variances, as set out above, are **GRANTED WITH CONDITIONS** for the following reasons:

1. The Committee, having regard to the evidence, is of the opinion that the relief granted is of a minor nature.

2. The relief granted is desirable for the appropriate development of the land and building and is consistent with the general intent and purpose of the By-laws and the Official Plans as referred to in Section 45 of The Planning Act, 1990.
3. The Committee, having regard to the evidence, is satisfied that there will be no adverse impact on any of the neighbouring lands.
4. The submissions made regarding this matter affected the decision by supporting the granting of the application.

That the said application be GRANTED subject to the following conditions:

1. That no live music or amplified music shall be permitted on the outdoor patio.
2. That there shall be no use of the outdoor patio after 7pm.

DATED AT HAMILTON, April 23, 2024.

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D. Lord

D. Smith (Chairman)

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R. Reid

S. Rybarczyk

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N. Lauwers

M. Switzer

NOTES:

1. THE LAST DATE ON WHICH AN APPEAL TO THE ONTARIO LAND TRIBUNAL (OLT) MAY BE FILED IS **May 13, 2024** A Notice of Appeal must be filed with the Secretary-Treasurer of the Committee of Adjustment, must set out the reasons for the appeal and must be accompanied by the applicable fee. See Appeal Information – Minor Variances for more information.
2. **This Decision is not final and binding unless otherwise noted and must not be acted upon until the period of appeal has expired.**
3. The Decision does not release any persons from the necessity of observing the requirements of building regulations, the license by-law, or any other by-law of the City of Hamilton.



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### APPEAL INFORMATION – MINOR VARIANCES

#### 1. Who may file an appeal of the Decision of the Committee of Adjustment?

Please note neighbours and other interested parties not defined are no longer eligible to file Planning Act Section 45(12) appeals. See [Bill 23, More Homes Built Faster Act, 2022](#) for more information.

Planning Act Section 45(12) appeals may be filed by the applicant, the Minister of Municipal Affairs and Housing, a “specified person” (as defined by Planning Act 1(1)), and a “public body that has an interest in the matter” (as defined by Planning Act 1(1)).

#### 2. When must an appeal be received to be considered?

Planning Act Section 45(12) appeals must be received no later than the end of business on the last date of appeal listed on the Notice of Decision. The last date of appeal is 20 days from the date of the Decision. Please see Notice of Decision for exact date.

#### 3. Where must the appeal be filed to be considered?

Planning Act Section 45(12) appeals must be received either by hardcopy or electronic copy. Please see below for more information:

Hardcopy: at City Hall and addressed to the Secretary-Treasurer of the Committee of Adjustment, Hamilton City Hall, 5th Floor, 71 Main Street West, Hamilton, ON, L8P 4Y5. Do not address appeals to any other departments or locations. Appeals received by the office of the Committee of Adjustment after the last date of appeal as a result of second-hand mailing will be time barred and of no effect.

Electronic copy: by email delivered to [cofa@hamilton.ca](mailto:cofa@hamilton.ca). Do not address appeals to any other departments or locations. Appeals received by the office of the Committee of Adjustment after the last date of appeal as a result of incorrectly addressed emails will be time barred and of no effect. If the information submitted will include large file sizes not able to be sent in one email, please contact [cofa@hamilton.ca](mailto:cofa@hamilton.ca) in advance to request a file sharing link.

#### 4. What information must be submitted for the appeal to be considered?

Planning Act Section 45(12) appeals must include:

- Notice of appeal, the Ontario Land Tribunal (OLT) Appeal Form, this can be found by contacting Committee of Adjustment staff at the 5<sup>th</sup> floor of City Hall or at the OLT website <https://olt.gov.on.ca/appeals-process/forms/>, a cover letter, etc. may also be submitted if there is not sufficient room in the form;
- Filing fee, the fee is currently \$400 (subject to change) and must be paid as outlined on the OLT Appeal Form;

- All other information as required by the Appeal Form.