



PORT COLBORNE

Subject: Noise Variance Request 250 Pleasant Beach Road, Capri Restaurant

To: Council

From: Community Safety & Enforcement Department

Report Number: 2025-121

Meeting Date: May 27, 2025

Recommendation:

That Community Safety & Enforcement Department Report 2025-121 be received; and

That Council approve a permit to exempt 250 Pleasant Beach Rd Capri Restaurant from Section 4(3) of By-law 4588/119/04 with the following terms and conditions:

- That a noise variance with modifications be approved for the period starting from May 1, 2025, to October 31, 2025 from noon to 10:00 p.m. Sunday through Thursday and ending at 11:00 p.m. on Fridays and Saturdays for a variety of amplified noise, including Karaoke and live bands being able to amplify music.
- The permit is applicable only to the production, reproduction, and amplification of sound in connection with events at this property with the modifications by the City of Port Colborne.

Purpose:

The purpose of this report is to allow the applicant to send their Noise Variance request to Council. The applicant, 250 Pleasant Beach Rd Capri Restaurant is requesting numerous variances from the Noise By-law to allow for a variety of activities with amplification of noise including music at their facility.

Background:

The City's Noise By-law 4588/119/04 Section 4(3) Schedule 2 (2) states:

“No person shall emit or cause to permit the emission of sound resulting: From any act listed in Schedule 2 – Prohibitions Time and Place if clearly audible at a point of reception; the operation of any electronic device or group of connected electronic devices incorporating one or more loudspeakers or other electromechanical transducers, and intended for the production, reproduction or amplification of sound in a residential area at any time.”

Section 8.

“(1) The Clerk may, upon written application by any person, issue a “permit” of a temporary nature to exempt the applicant from any such provisions and requirements of this by-law as the Clerk deems appropriate.”

“(2) The Council may, upon written application by any person, issue a “permit” of a permanent nature to exempt the applicant from any such provisions and requirements of this by-law, as the Council deems appropriate.”

“(3) Any “permit” issued in accordance with the provisions of Section 8. (1) or Section 8. (2) of this by-law, by the Clerk or Council, shall specify the terms and conditions under which the permit is issued.”

Staff are aware that some residents who are near the restaurant have brought noise complaints forward to individual Councillors in the past, therefore By-law Services staff are providing this report for Council consideration. Of the two types of variances permitted under the by-law – temporary and permanent – staff consider this request to be of a permanent nature, therefore Council consideration is required.

Discussion:

Staff posted the variance application on the City of Port Colborne website. Application closed for comments on April 25, 2025. Staff received 6 comments/responses from the public.

When considering the variance request, the City of Port has an obligation to balance the commerce of the business and the peace and enjoyment of the residents in this area.

At the time of writing this report, no website, no information on bands through Facebook or Instagram beyond May 11, 2025. Band list not included with Variance package.

Application Summary of request – Amplified music to cease by 12:00 a.m. (midnight)

An email was received from 250 Pleasant Beach Rd Capri Restaurant requesting that the cut off time in the application be switched from 12:00 a.m. to 11:00 p.m. after engagement from the community.

The variance comments received request that:

- The noise not last until midnight.
- There is a discrepancy of Midnight on the application and the letter to the community has 10:00 p.m.
- The music end at 9:00 p.m. during the week and 10:00 p.m. on weekends.
- 11:00 p.m. is a reasonable cut off time as the people in the area are elderly and retire early, or young families with children.
- Too many vehicles parked illegally or on vacant lots.

Staff suggest two options for Council's consideration.

Option One

Council grant approval of the noise variance for 2025 as requested by 150 Pleasant Beach Rd, Capri Restaurant.

Option two

Council grant approval of the noise variance for 2025, with modifications to the received application.

1. Reduce times limiting the noise to 11:00 p.m. or earlier
2. Establish times, dates and restrictions that events can occur.

Staff recommend Option Two which is outlined in the recommendation of this report, thus allowing the City of Port Colborne to enforce the variance through penalty notices or rescind the noise variance should adjustments not be complied with to the satisfaction of the City.

Council may choose to implement one, two or all the options to control the noise at the applicants property of 250 Pleasant Beach Rd, Port Colborne ON.

1. Noise within buildings with doors remaining closed throughout the duration of the music may occur until 11:59 p.m.
2. Noise created in the open air must conclude by 10:00 p.m.
3. Outdoor open-air noise may only occur three of the four weekends per month.
4. Outdoor open-air noise may only occur four of the seven days of the week.

Internal Consultations:

No internal consultation was obtained.

Financial Implications:

There are no financial implications for the municipality or the public, as By-law Services uses a user fee system.

Public Engagement:

Staff placed the variance application on the City's website on ***. Communications staff place a Public Notice on the City of Port Colborne's Facebook

By-law Compliance Applications, Appeals, and Variances - City of Port Colborne

Screening Package redacted.pdf

By-law services did receive some comments from the public, for and against the proposed variance application and some requesting modifications to the request, while other comments also included other activities at 250 Pleasant Beach Rd and the surrounding properties.

Strategic Plan Alignment:

The initiative contained within this report supports the following pillar(s) of the strategic plan:

- Welcoming, Livable, Healthy Community
-

Conclusion:

Staff have minor objections to the proposed noise variance and would like to revoke the variance permit, should Capri Restaurant fail to mitigate any noise that has disturbed the neighbouring area and/or vary from the dates and times approved by council.

Appendices:

- a. 2025-121 App. A-Noise Variance Application

Respectfully submitted,

Travis Morden

Senior Municipal Law Enforcement Officer
905-228-8076
Travis.Morden@portcolborne.ca

Report Approval:

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final review and approval by the Chief Administrative Officer.

