



Office of the Commissioner of Economic
Development & Innovation Planning &
Building Department
Committee of Adjustment

MISSION STATEMENT:

“Our City is built on relationships – between citizens and their government, businesses and public institutions, city and region – all interconnected, mutually supportive, and focused on the brightest future we can create together.”

Author’s Name: Averil Parent	File No.: A-026/25
Author’s Phone: (519) 255-6543 ext. 6397	Report Date: April 2nd, 2025
Author’s E-mail: aparent@citywindsor.ca	Committee Meeting Date: April 10th, 2025

To: Committee of Adjustment

Subject Application: Relief from the provisions of the By-law 8600

Owner: Haocheng Yu and Feng Yu

Location: 425-429 Partington Ave

Legal Description: PLAN 933 LOT 24

1. RECOMMENDATION:

That the Minor Variance application of Haochang and Feng Yu for property described as Lot 24 on Registered Plan 933 municipally known as 425-429 Partington Ave. for relief from the provisions of By-law 8600 for the purpose of constructing a detached additional dwelling unit (ADU) with increased maximum lot coverage for an accessory building and increased maximum gross floor area for a detached ADU **BE GRANTED** with the following condition:

- I. The applicant/owner shall obtain a Driveway permit to legalize the front yard driveway.¹

¹For questions regarding Engineering conditions, please contact Thomas Huynh, Technologist, at 519-255-6257 ext.6335 or thuynh@citywindsor.ca.

2. THE REQUESTED VARIANCES:

To construct a detached ADU, thereby seeking the following relief:

Section 5.10.9.10 – Maximum Lot Coverage for an Accessory Building

By Law Requirements	Proposed
10%	12.3%

Section 5.99.80.5b – Maximum GFA for Detached ADU

By Law Requirements	Proposed
100 m2	106 m2

Note: An approved variance is valid and must be acted upon before the expiration date. If a granted variance is not used within required timeline, the application is deemed to be null and void. A new Committee of Adjustment application will be required for any expired application.

3. PLANNING ANALYSIS:

The subject property, legally described as Plan 933 Lot 24, and municipally known as 425-429 Partington Ave. currently contains a semi-detached dwelling. The applicant is proposing construction of a new detached ADU at the rear of the property. To facilitate this, the applicant is seeking relief from Zoning By-law 8600 for maximum lot coverage for an accessory building, and maximum GFA for a detached ADU.

The property currently does not contain any legal parking spaces. This deficiency is an existing condition. As per the Zoning By-law, the property is exempt from requiring a parking space for the proposed detached ADU. As a condition of this application, the Engineering department is requiring the applicant to apply for a driveway permit to legalise the existing driveway.

PLANNING ACT

Subsection 45(1) of the Planning Act states that the Committee of Adjustment “*may, despite any other Act, authorize minor variance from the provisions of the by-law, in respect of the land building or structure or the use thereof, as in its opinion is desirable for the appropriate development or use of the land, building or structure, if in the opinion of the committee the general intent and purpose of the by-law and of the official plan, if any, are maintained.*”

PROVINCIAL PLANNING STATEMENT (PPS) 2024

Planning Staff has reviewed the relevant policies of the PPS - “*Building Homes, Sustaining Strong and Competitive Communities*” (Policy statement 2.2.1. of the PPS). The requested variance(s) are consistent with these policies permitting and facilitating housing options required to meet the social, health, economic, and well-being requirements of residents while efficiently utilizing land, resources, and infrastructure.

OFFICIAL PLAN (OP)

The Minor Variance Policies in Section 11.6.6 are hereto attached as **Appendix A**. Section 11.6.6.2 outlines the evaluation criteria for minor variance applications. The general intent and purpose of the Official Plan is maintained with the proposed development; the requested variances are minor in nature.

The subject land is designated Residential per the Official Plan. The proposed development is permitted and conforms to the associated objectives and policies. Therefore, the requested variances meet the general intent and purpose of the Official Plan per Section 11.6.6.2(a).

The proposed development is permitted and conforms to the zoning by-law provisions, except for the requested variances. Therefore, the general intent and purpose of the by-law being varied is maintained as per Section 11.6.6.2(b).

The proposal is compatible and complementary to existing buildings on the street and will have minimal impact on the properties in the immediate neighbourhood. Therefore, the variances are minor in nature as per Section 11.6.6.2(c).

The recommended variances do not exceed a 20 per cent variation above the bylaw regulations which complies with Section 11.6.6.2(d). The variances are desirable for the appropriate use of land promoting infill development.

The variances are desirable for the appropriate use of the land, building, or structure and would not hinder the reasonable development and/or use of properties in the neighbourhood, thus complying with Section 11.6.6.2(e).

ZONING BY-LAW 8600

The subject land is zoned Residential District 1.3 (RD1.3) per By-law 8600, permitting a semi-detached dwelling. The overall lot coverage complies with the maximum of 45% as per the By-law. The proposed detached ADU requires minor variances for maximum lot coverage for an accessory building, and maximum GFA for a detached ADU.

The recommended variances will not result in undue hardship on the owner, adjoining properties, or the public realm; therefore, the variance is minor in nature. The recommended variances meet the intent of Zoning By-law 8600.

4. PLANNER'S OPINION:

The recommended variances for maximum lot coverage for an accessory building, and maximum GFA for a detached ADU are minor in nature and maintain the general intent and purpose of the Official Plan and Zoning By-law 8600. Therefore, the variances are consistent with section 45 (1) of the Planning Act. The Planning Division recommends approval of the applicant's request with no conditions.



Averil Parent
Planner II – Development Review

I concur with the above comments and opinion of the Planner II.



Greg Atkinson, MCIP, RPP
Deputy City Planner - Development

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APPENDICES:

Appendix "A" - Excerpts from the Official Plan Volume I
Appendix "B" - Comments received by the Secretary Treasurer of the Committee of Adjustment

APPENDIX “A” – Excerpts from Official Plan Volume I

11.6.6 Minor Variance Policies

<i>COMMITTEE OF ADJUSTMENT</i>	11.6.6.1	Council has appointed a Committee of Adjustment pursuant to the Planning Act to consider applications for minor variance from the Zoning By-law (s) and/or any other by-law that implements the Official Plan.
<i>EVALUATION CRITERIA</i>	11.6.6.2	<p>When reviewing an application for minor variance the Committee of Adjustment shall be satisfied that:</p> <ul style="list-style-type: none">(a) The general intent and purpose of the Official Plan, including the Strategic Directions, Goals and Objectives of the land use designation in which the property is located, is maintained;(b) The general intent and purpose of the By-law being varied is maintained;(c) The variance or the number of variances to the By-law are minor in nature, would not more appropriately be considered through an application to amend the Zoning By-law due to the cumulative impacts of the variances, preserves the pattern, scale and character of the blockface;(d) The variance(s) are generally not more than 20 percent above the By-law regulation being varied where the variances would increase the building envelope of a main building or accessory building containing a dwelling unit. For clarity this includes variances related to lot width; lot area; lot coverage; front, rear, and side yard depth; building height; and maximum gross floor area; and(e) The variance is desirable for the appropriate use of the land, building or structure and would not hinder the reasonable development and/or use of properties in the neighbourhood, would City of Windsor Official Plan1 Volume I 1 Tools 11 - 22 not cause a detriment, safety concerns, or would not detract from the character or amenity of nearby properties or the neighbourhood. The area of influence or the neighbourhood will vary with the scale of development and associated areas of potential impact.
<i>EXISTING UNDERSIZED LOTS</i>	11.6.6.3	Notwithstanding the provisions of sub-section (d) above, the Committee may give further consideration to variances required to enable appropriate development for existing undersized lots, where existing non-complying structures are being altered or where infilling and intensification is occurring provided that the Committee is satisfied that the provisions of 11.6.6.2 subsections (c) and (e) have been fully addressed.
<i>TERMS & CONDITIONS</i>	11.6.6.4	The Committee of Adjustment may attach such terms and conditions as it deems reasonable and appropriate to the approval of the application for a minor variance. The conditions shall relate directly to the impact of the variance and may include measures required to mitigate the impact of altering the zoning regulations on the resulting built form or property development, including but not limited to: a) Specifying architectural elements such as window location, outdoor amenity space, fencing or other screening and door location; b) Requiring additional landscaping including low impact design elements; c) Providing additional bicycle facilities in lieu of motor vehicle parking; and d) Improvement to grading and stormwater management.
<i>AGREEMENTS</i>	11.6.6.5	The Committee of Adjustment may require the owner of the land to enter into one or more agreements with the Municipality and address the impacts of the variance dealing with some or all of the terms and conditions of its decision. An agreement may be registered against the land to which it applies, and the Municipality is entitled to enforce the agreement against the owner and, subject to the Registry Act and the Land Titles Act, against any and all subsequent owners of the land.

PLANNING DEPARTMENT - ZONING

Required Minor Variances

1. **Maximum Lot Coverage for an Accessory Building:** [5.10.9.10]
 - a. 10% (Required)
 - b. 12.3% (Provided)

2. **Maximum GFA for Detached ADU:** [5.99.80.5b.7]
 - a. 100m² (Required)
 - b. 106m² (Provided)

Conner O'Rourke, Zoning Coordinator

PUBLIC WORKS DEPARTMENT - ENGINEERING AND GEOMATICS

This department has no objection to the proposed application. Right-of-Way permits are required for any work within the Right-of-Way. Driveway permit is required to legalize Front yard driveway. Please note that the existing parking pad on the north side of the property is not allowed and should be restored back to grass.

Thoman Huynh – Technologist I – Engineering

PUBLIC WORKS DEPARTMENT - TRANSPORTATION PLANNING

One parking space is provided for a semi detached building as it is considered an existing condition. It is observed that the north side of the front yard is used as a parking space. Parking violation can be opposed.

Elara Mehrilou, Transportation Planner I – Transportation Planning Department

FORESTRY

There are No City owned trees on the property. Forestry has no further concerns regarding tree preservation at this time.

Mitchell Schinkel, Supervisor – Forestry

LANDSCAPE ARCHITECT/URBAN DESIGN

No comment.

Ryan Upton, Landscape Architect

NATURAL AREAS

If development involves removal of vegetation, there must be regard to breeding birds:

- Active nests of most bird species are protected under the Migratory Birds Convention Act (1994), the Fish and Wildlife Conservation Act (1997), and/or the Endangered Species Act (2007)
- Active nests, i.e., nests occupied by an adult bird, chick, and/or viable egg, must not be disturbed or removed
- The breeding bird window for southwestern Ontario is April 1st – August 31st
- To prevent potential harm to nests, any vegetation disturbance should occur outside of the breeding bird window

- Should disturbance be unavoidable during this window, surveys for nests must be completed by a Qualified Professional immediately prior to (i.e., within 48 hours) site alteration
- If an active nest is found, it should remain unharmed, protected by a buffer zone, until the young have permanently left the vicinity of the nest

Karen Alexander, Naturalist

WINDSOR POLICE SERVICES

The Windsor Police Service has no concerns or objections with any of the applications listed in this agenda. In reviewing them, all are relatively minor in terms of their potential impact to public safety and security. None of the applications to be considered are therefore anticipated to create outcomes that will negatively impact the ability of the Windsor Police Service to provide proper and adequate response to incidents and other service delivery requirements.

Barry Horrobin, Director of Planning & Physical Resources

HERITAGE PLANNING

Heritage

There is no apparent built heritage concern with this property.

Archeology

The subject property is located within the Archaeological Potential Zone (as per the recently adopted Windsor Archaeological Management Plan, 2024; OPA 181; and updated 2024 archaeological potential model OP Volume I Schedule C-1). However, the subject property is not within an Archaeologically Sensitive Area (ASA). Thus, an archaeological assessment is not requested at this time. Nevertheless, the Applicant should be notified of the following archaeological precaution.

1. Should archaeological resources be found during grading, construction or soil removal activities, all work in the area must stop immediately and the City's Planning & Development Services Department, the City's Manager of Culture and Events, and the Ontario Ministry of Citizenship and Multiculturalism must be notified and confirm satisfaction of any archaeological requirements before work can recommence.
2. In the event that human remains are encountered during grading, construction or soil removal activities, all work in that area must be stopped immediately and the site secured. The local police or coroner must be contacted to determine whether or not the skeletal remains are human, and whether the remains constitute a part of a crime scene. The Local police or coroner will then notify the Ontario Ministry of Citizenship and Multiculturalism and the Registrar at the Ministry of Government and Consumer Services if needed, and notification and satisfactory confirmation be given by the Ministry of Citizenship and Multiculturalism.

Contacts:

Windsor Planning & Building Department:

519-255-6543 x6179, ttang@citywindsor.ca, planningdept@citywindsor.ca

Windsor Manager of Culture and Events (A):

Michelle Staadegaard, (O) 519-253-2300x2726, (C) 519-816-0711, mstaadegaard@citywindsor.ca

Ontario Ministry of Citizenship and Multiculturalism

Archaeology Programs Unit, 1-416-212-8886, Archaeology@ontario.ca

Windsor Police: 911

Ontario Ministry of Government & Consumer Services

A/Registrar of Burial Sites, War Graves, Abandoned Cemeteries and Cemetery Closures, 1-416-212-7499, Crystal.Forrest@ontario.ca

Tracy Tang, Heritage Planner