



Office of the Commissioner of Economic  
Development  
Planning & Development Services  
**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.”*

<b>Author’s Name: Simona Simion, Planner II</b>	<b>File No.: A-034-24</b>
<b>Author’s Phone: (519) 255-6543 ext. 6397</b>	<b>Report Date: July 18, 2024</b>
<b>Author’s E-mail: <a href="mailto:ssimion@citywindsor.ca">ssimion@citywindsor.ca</a></b>	<b>Committee Meeting Date: July 25, 2024</b>

**To:** Committee of Adjustment

**Subject Application:** Relief from the provisions of the By-Law 8600

**Owner:** NC Capital Inc

**Agent:** n/a

**Location:** 854-856 University Ave E

**Legal Description:** Plan 140 S Pt Lot 9; N Pt Lot 10

**1. RECOMMENDATION:**

That the Minor Variance application of NC Capital Inc for relief from the provisions of the By-law 8600 to accommodate a semi-detached dwelling/ADUs and detached ADUs exceeding maximum lot coverage for all accessory buildings, for the property municipally known as 854-856 University Ave E, **BE GRANTED** with condition:

- I. The applicant/owner shall provide a Stage 1 archaeological assessment and any further recommended assessments to the satisfaction of the City of Windsor and the Ontario Ministry of Citizenship and Multiculturalism.\*

*\*For questions, please contact Kristina Tang, Heritage Planner, at [ktang@citywindsor.ca](mailto:ktang@citywindsor.ca)*

*Note: An approved variance is valid for two (2) years 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.*

**2. THE REQUESTED VARIANCE:**

Construction of a semi-detached dwelling with detached ADUs exceeding maximum lot coverage for all accessory buildings, thereby seeking the following relief:

Section 5.10.9.10 - Maximum lot coverage for all accessory buildings

<b>By Law Requirements</b>	<b>Proposed</b>
10%	14.3%

**3. PLANNING ANALYSIS:**

The subject property consists of Plan 140 S Pt Lot 9; N Pt Lot 10, municipally known as 854-856 University Ave E. The property consists of vacant land.

The applicant is seeking to construct a semi-detached dwelling/ADUs with detached accessory dwelling units (ADUs). The detached accessory dwelling units (ADUs) are exceeding maximum lot coverage for all accessory buildings.

The applicant states in the application that the requested variance will accommodate pre-fabricated dwellings as detached ADUs.

**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 POLICY STATEMENT (PPS) 2020**

The Planning Staff has reviewed the relevant policies of the PPS - “Healthy, livable and safe communities” (Policy statement 1.1.1 of the PPS). The requested minor variance is consistent with these policies promoting cost-effective development to minimize land consumption and servicing costs.

**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 subject land is designated Residential per the Official Plan. The proposed development as semi-detached dwelling with accessory buildings is permitted and conforms to the associated objectives and policies. Therefore, the requested variance meets the general intent and purpose of the Official Plan.

The proposed development conforms to the zoning bylaw provisions with the exception of the variance being requested. Therefore, the general intent and purpose of the by-law being varied is maintained.

The proposal will have minimal impact on the properties in the immediate neighbourhood. Therefore, the variance is minor in nature.

The variance is desirable for the appropriate use of the land providing additional dwelling units.

**ZONING BY-LAW 8600**

The subject land is zoned Residential District 2.2 (RD2.2) as per By-law 8600 permitting the proposed semi-detached unit dwelling and accessory uses.

The requested variance will not result in undue hardship on the owner, adjoining properties or the public realm; therefore, the variance is minor in nature. The proposed minor variance meets the intent of Zoning Bylaw 8600.

To be noted that Zoning bylaw 8600 requires two (2) parking spaces and four (4) parking spaces are being provided.

**COMMENT**

The applicant to acknowledge that there is an existing municipal Silver Maple on the boulevard. The site plan indicates that a sidewalk is proposed to fall with the drip line of this tree. The applicant is to consult with the City Forester (Contact: Yemi Adeyeye, [yadeyeye@citywindsor.ca](mailto:yadeyeye@citywindsor.ca) or (519) 253-2300x2760 ) to ensure that the tree is preserved.

The new construction shall be subject to Building Permit application and approval. Contact [buildingdept@citywindsor.ca](mailto:buildingdept@citywindsor.ca) for questions.

**4. PLANNER’S OPINION:**

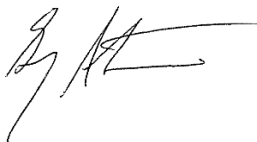
The requested variance is minor in nature and maintains the general intent and purpose of the Official Plan and Zoning By-Law 8600. Therefore, the variance is consistent with section 45 (1) of the Planning Act. The Planning Division recommends approval of the applicant’s request with condition.



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**Simona Simion, MCIP RPP**  
**Planner II – Research and Policy Support**

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



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**Greg Atkinson, MCIP RPP**  
**Development Manager / Deputy City Planner**

SS/

**CONTACT:**

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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 the Official Plan Volume I**

	<b>4.2.3</b>	<b>Quality of Life</b>
<i>COMMUNITY NEEDS</i>	4.2.3.3	To recognize the needs of the community in terms of shelter, support services, accessibility and mobility.
	<b>11.6.6</b>	<b>Minor Variance Policies</b>
<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	When reviewing an application for minor variance the Committee of Adjustment shall be satisfied that: <ul style="list-style-type: none"> <li>(a) The general intent and purpose of the Official Plan is maintained;</li> <li>(b) The general intent and purpose of the By-law being varied is maintained;</li> <li>(c) The variance is minor in nature; and</li> <li>(d) The variance is desirable for the appropriate use of the land, building or structure.</li> </ul>
<i>TERMS &amp; CONDITIONS</i>	11.6.6.3	The Committee of Adjustment may attach such terms and conditions as it deems appropriate to the approval of the application for a minor variance.
<i>AGREEMENTS WITH MUNICIPALITY</i>	11.6.6.4	The Committee of Adjustment may require the owner of the land to enter into one or more agreements with the Municipality 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.

**APPENDIX “B”**  
**Comments received by the Secretary Treasurer of the Committee of Adjustment**

**PLANNING DEPARTMENT - ZONING**

Required Min Maximum Lot Coverage – Accessory Buildings (5.10.9.10)

- a. 10.0% (Required)
- b. 14.3% (Provided)

*Conner O’Rourke, Zoning Coordinator*

**PUBLIC WORKS DEPARTMENT - ENGINEERING AND GEOMATICS**

The department has no objection to the proposed application. Right of way permits must be obtained for any work within the right of way.

*Lea Marshall, Technologist*

**PUBLIC WORKS DEPARTMENT - TRANSPORTATION PLANNING**

Transportation planning has no comments.

*Elara Mehrilou, Transportation Planner*

**PARKS & FACILITIES**

There are no objections from a landscape architectural or urban design perspective for this variance.

The applicant acknowledges that there is an existing municipal Silver Maple on the boulevard. The site plan indicates that a sidewalk is proposed to fall with the drip line of this tree. The applicant is to consult with the City Forester to ensure that the tree is preserved.

*Stefan Fediuk, Landscape Architect*

**WINDSOR POLICE SERVICES**

None of the other applications being considered present outcomes that will negatively impact public safety or the ability of the Windsor Police Service to provide proper and adequate response to incidents and other service delivery requirements. As such, we have no concerns or objections with any of the remaining applications on the July 25<sup>th</sup> meeting agenda.

*Barry Horrobin, Director of Planning & Physical Resources*

**HERITAGE PLANNING**

**Built Heritage Concerns**

There is no built heritage concerns.

**Archaeological Concerns**

The subject property is located within an area of high archaeological potential as identified on the current Official Plan Schedule C-1 (adopted in 2006), with special interest factors as per the 2005 Windsor Archaeological Management Plan- Figure 2 Cultural Factors for Modelling (factors include: proximity to Detroit River, Part of Ottawa Village/Burying Grounds; Part of Pre-1800 Euro-Canadian Settlements area; within 1881 Historic City of Windsor Settlement area). A Stage 1 archaeological

assessment and any further recommended assessments are required to be entered into the Ontario Public Register of Archaeological Reports to the satisfaction of the City of Windsor and the Ontario Ministry of Citizenship and Multiculturalism, prior to any additional land disturbances. A final copy of these relevant archaeological reports and GIS study area must be submitted to the City of Windsor.

The updated archaeological potential model also indicates the subject property to be an Area of Archaeological Potential and within the Archaeological Sensitive Area. Should the 2024 Windsor Archaeological Management Plan and associated Official Plan policies be adopted and come into effect in the near future, please note that archaeological assessment(s) would also have been required.

***Kristina Tang, Planner III***