



Office of the Commissioner of Economic  
Development 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.”*

<b>Author’s Name: Simona Simion</b>	<b>File No.: A-036/24</b>
<b>Author’s Phone: (519) 255-6543 ext. 6397</b>	<b>Report Date: July 18, 2024</b>
<b>Author’s E-mail: ssimion@citywindsor.ca</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:** Colette St. Jules and Gilles St Jules

**Location:** 1617-1629 Mark Ave

**Legal Description:** PLAN 1342 LOTS 28 TO 30, PLAN 1342 LOT 31 PT LOT 32, RP 12R12944 PART 1

**1. RECOMMENDATION:**

That the Minor Variance application of Colette St. Jules and Gilles St Jules for relief from the provisions of the By-law 8600 to accommodate an accessory building exceeding maximum lot coverage with reduced minimum accessory building separation from rear lot line for the property municipally known as 1629 Mark Ave only, **BE GRANTED** with no condition.

**2. THE REQUESTED VARIANCES:**

Accommodate an accessory building exceeding max lot coverage with reduced minimum accessory building separation from rear lot line on retained lot (1629 Mark Ave only), 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%	15%

Section 5.10.7 – Minimum Accessory Building Separation from Rear Lot Line

<b>By Law Requirements</b>	<b>Proposed</b>
0.60m	0.00m

Please refer to file(s) B-024/24.

*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 properties consist of single unit dwellings municipally known as 1617 Mark Ave - 1629 Mark Ave. Both properties are owned by the applicants.

The applicants are seeking relief from Zoning By-law 8600 to accommodate an accessory building - roof over hot tub without permit - exceeding maximum lot coverage with reduced minimum accessory building separation from rear lot line for the property municipally known as 1629 Mark Ave only. Total lot coverage of 1629 Mark Ave is compliant with the zoning provisions (35.3%).

**PLANNING ACT**

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) 2024**

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 variances are consistent with these policies promoting cost-effective development.

**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 and desirable for the subject property.

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 bylaw provisions with the exception of the variances being requested. Therefore, the general intent and purpose of the by-law being varied is maintained as per Section 11.6.6.2(b).

The accessory building 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 variances have no impact on the neighbouring properties Section 11.6.6.2 (d).

**ZONING BY-LAW 8600**

The subject land is zoned Residential District 1.2 (RD1.2) per By-law 8600, permitting a single unit dwelling.

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

**COMMENTS**

Applicant to contact Building Department for questions regarding outstanding Permit No 2011 130466 000 00 (exterior and interior renovations, two new furnaces, plumbing, eaves, alter existing sanitary sewer).

**4. PLANNER’S OPINION:**

The requested variances 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 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**  
**Manager of Development**

**CONTACT:**

Name: Simona Simion  
Phone: (519) 255-6543 ext. 6397

Fax: (519) 255-6544  
Email: [ssimion@citywindsor.ca](mailto:ssimion@citywindsor.ca)

**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**

*COMMITTEE OF  
ADJUSTMENT*

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 bylaw that implements the Official Plan.

*EVALUATION  
CRITERIA*

11.6.6.2 When reviewing an application for minor variance the Committee of Adjustment shall be satisfied that:

- (a) The general intent and purpose of the Official Plan is maintained;
- (b) The general intent and purpose of the By-law being varied is maintained;
- (c) The variance is minor in nature; and
- (d) The variance is desirable for the appropriate use of the land, building or structure.

*TERMS &  
CONDITIONS*

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.

*AGREEMENTS  
WITH  
MUNICIPALITY*

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 Minor Variances \***

1. Maximum Lot Coverage for All Accessory Buildings: (5.10.9.10) (Retained lot)
  - a. 10% (Required)
  - b. 15% (Provided)
2. Minimum Accessory Building Separation from Rear Lot Line: (5.10.7) (Retained lot)
  - a. 0.60m (Required)
  - b. 0.00m (Provided)

*Conner O'Rourke, Zoning Coordinator*

#### **PUBLIC WORKS DEPARTMENT - ENGINEERING AND GEOMATICS**

While this is not a condition of the application, the owner of 1629 Mark Street did not obtain building permits for the accessory structure, 1617 Mark Street has an outstanding building permit from 2011\*. Right of way permits must be obtained for any work within the right of way. Encroaching items within Superior Park must be removed or contact Planning and Real Estate Services to apply to purchase portion of closed alley.

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 Marshalls, Technologist*

\*Applicant to contact Building Department [buildingdept@citywindsor.ca](mailto:buildingdept@citywindsor.ca) or Phone: (519) 255-6267 for questions regarding outstanding Permit No 2011 130466 000 00 (exterior and interior renovations, two new furnaces, plumbing, eaves, alter existing sanitary sewer).

#### **PUBLIC WORKS DEPARTMENT - TRANSPORTATION PLANNING**

Transportation planning has no comments.

*Elara Mehriou, Transportation Planner*

#### **PARKS & FACILITIES**

The development is existing and has been established for some time now. There are no objections from landscape architectural or urban design perspective.

*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 & Archaeological Comments**

There is no apparent built heritage concern with this property and it is located on an area of low archaeological potential.

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 & Building 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, [ktang@citywindsor.ca](mailto:ktang@citywindsor.ca), [planningdept@citywindsor.ca](mailto:planningdept@citywindsor.ca)

Windsor Manager of Culture and Events (A):

Michelle Staadegaard, (O) 519-253-2300x2726, (C) 519-816-0711,

[mstaadegaard@citywindsor.ca](mailto:mstaadegaard@citywindsor.ca)

Ontario Ministry of Citizenship and Multiculturalism

Archaeology Programs Unit, 1-416-212-8886, [Archaeology@ontario.ca](mailto: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](mailto:Crystal.Forrest@ontario.ca)

***Kristina Tang, Planner III***