

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-036/25
Author's Phone: (519) 255-6543 ext. 6397	Report Date: March 30th, 2025
Author's E-mail: aparent@citywindsor.ca	Committee Meeting Date: May 8th, 2025

To: Committee of Adjustment

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

Owner: Yafei Corporation

Location: 3376 Byng Road

Legal Description: Plan 1126, Lots 1304 and 1305 and Pt closed alley

1. RECOMMENDATION:

That the Minor Variance application of Yafei Corporation for relief from the provisions of By-law 8600 to create a new lot with reduced minimum side yard width for the retained lot, and reduced lot width and lot area for the severed lot on the property municipally known as 3376 Byng Rd., **BE GRANTED** with no conditions.

2. THE REQUESTED VARIANCES:

Creation of a new lot (B-031/25) with reduced minimum side yard width for the retained lot, and reduced lot width and lot area for the severed lot thereby seeking the following relief:

Section 10.1.5.7 – Minimum Side Yard Width – Retained lot

By Law Requirements	Proposed
1.20 m	1.0 m

Section 10.1.5.1 – Minimum Lot Width – Severed lot

By Law Requirements	Proposed
15.0 m	10.7 m

Section 10.1.5.2 – Minimum Lot Area – Severed lot

By Law Requirements	Proposed
450.0 m2	380.3 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 1126, Lots 1304 and 1305 and Pt closed alley, and municipally known as 3376 Byng Rd. contains a single use dwelling with an attached garage. The applicant proposes to sever the property, retaining part of it for the existing dwelling and create a new vacant lot for future development. To facilitate this, the applicant is seeking relief from Zoning By-law 8600 for reduced minimum side yard width for the retained lot, and reduced lot width and lot area for the severed lot.

The owner obtained similar variances for 3382 Byng through Committee of Adjustment application A-010/24. This lot required variances for reduced minimum lot width and reduced minimum lot area.

There is currently no development proposed for the resulting vacant lot. Any proposed development on this lot would have to comply with current zoning or be brought forward to the Committee of Adjustment for minor variance.

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

The 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 variances 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 and desirable for the subject building.

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 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 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).

The requested minimum lot width variance exceeds a 20 per cent variation above the bylaw regulations which does not comply with Section 11.6.6.2(d). However, notwithstanding this provision, Section 11.6.6.3 allows for variances exceeding 20 per cent to enable appropriate development for existing undersized lots where infilling and intensification is occurring as long as Sections 11.6.6.3(c) and (e) have been fully addressed. The variances are desirable for the appropriate use of land promoting infill development.

ZONING BY-LAW 8600

The subject land is zoned Residential District 1.1 (RD1.1) per By-law 8600, permitting a single unit dwelling. The proposed severance requires minor variances for reduced minimum side yard width for the retained lot, and reduced lot width and lot area for the severed lot.

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 variances meet the intent of Zoning By-law 8600.

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.



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

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 Plan Volume I 11 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. Minimum Side Yard Width – Retained Lot [10.1.5.7]:**
 - a) 1.20m (Required)
 - b) 1.00m (Provided)
- 2. Minimum Lot Width – Severed Lot [10.1.5.1]:**
 - a) 15.0m (Required)
 - b) 10.7m (Provided)
- 3. Minimum Lot Area – Severed Lot [10.1.5.2]:**
 - a) 450.0m² (Required)
 - b) 380.3m² (Provided)

Stefan Pavlica, 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.

Andrew Boroski – Technologist

PUBLIC WORKS DEPARTMENT - TRANSPORTATION PLANNING

Transportation planning has no comments.

Elara Mehrilou – Transportation Planner

FORESTRY

There is 1 City owned tree on the property line.

Forestry has no concerns at this time, regarding creating a new lot. However, for any future development plans, a tree inventory and tree preservation plan may be requested during the Approval/Site plan process.

Marc Edwards – Forester

LANDSCAPE ARCHITECT/URBAN DESIGN

No comment.

Hoda Kameli – Landscape Architect

NATURAL AREAS

No comments or concerns with the creation of a new lot.

Future developments must regard general protections for Natural Heritage:

1. Should Species at Risk or their habitat be found at any time on or adjacent to the site, cease activity immediately and contact MECP at SAROntario@ontario.ca for recommendations on next steps to prevent contravention of the Endangered Species Act (2007). The City of Windsor SAR hotline (519-816-5352) can also be used for relevant questions and concerns.

2. For a list of Species at Risk and other provincially tracked species with potential to be around the site, use the Natural Heritage Information Centre (NHIC) Make A Map tool, found at https://www.lioapplications.lrc.gov.on.ca/Natural_Heritage/index.html?viewer=Natural_Heritage.Natural_Heritage&locale=en-CA
3. If trees or other vegetation (i.e., shrubs and unmaintained grasses) on/adjacent to the site are to be removed, damaged, or disturbed during the breeding bird season (April 1 – August 31), then sweeps for nesting birds should be conducted to prevent contravention of Migratory Bird Regulations (2022), the Migratory Birds Convention Act (1992), and section 7 of the Fish and Wildlife Conservation Act (1997). Visit <https://www.canada.ca/en/environment-climate-change/services/avoiding-harm-migratory-birds/reduce-risk-migratory-birds.html> for more information.
4. Beaver dams and dens of fur-bearing mammals are protected under section 8 of the Fish and Wildlife Conservation Act (1997) and are not to be damaged or destroyed without the proper authorization and/or license.
5. The City of Windsor is a Bird Friendly City. Bird Friendly Design is encouraged. Bird Friendly Design Guidelines are available from the City of Toronto (<https://www.toronto.ca/city-government/planning-development/official-plan-guidelines/design-guidelines/bird-friendly-guidelines/>).

Karen Alexander, Naturalist

WINDSOR POLICE SERVICES

No comments provided at time of writing.

Barry Horrobin, Director of Planning & Physical Resources

HERITAGE PLANNING

Heritage

There is no apparent built heritage concern with this property.

Archeology

There is no apparent built heritage concern with this property, and it is not located within an Archaeological Potential Zone (APZ). 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:

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Windsor Manager of Culture and Events (A):

Michelle Staaedegaard, (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