



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.”*

<b>Author’s Name: Zaid Zwayyed</b>	<b>File No.: A-037/24</b>
<b>Author’s Phone: (519) 255-6543 ext. 6198</b>	<b>Report Date: July 18, 2024</b>
<b>Author’s E-mail: zzwayyed@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:** Basemah Bosso

**Location:** 1485 Erie Street East

**Legal Description:** PLAN 646; LOTS 178 TO 180

**1. RECOMMENDATION:**

That the Minor Variance application of Basemah Bosso for relief from the provisions of the By-law 8600 to construct a combined use building with reduced front yard depth and reduced parking area separation from a building wall with a habitable room window for the property municipally known as 1485 Erie Street East, **BE GRANTED** with no conditions.

**2. THE REQUESTED VARIANCES:**

Construction of a combined use building, thereby seeking the following reliefs:

Section 14.3.5.50.c – Minimum Front Yard Depth – Combined Use Building

<b>By Law Requirements</b>	<b>Proposed</b>
6.0 m	5.22 m

Section 25.5.20.6 – Minimum Parking Area Separation from a Wall with Habitable Room Window

<b>By Law Requirements</b>	<b>Proposed</b>
4.50 m	0.0 m

*Note: An approved variance is valid and must be acted upon before the expiration date. If a granted variance is not used within the 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, consisting of plan 646 lots 178 to 180, has an existing commercial building with a parking area, and the applicant seeks to convert the building into a combined use building and intends to construct an additional storey above the existing building to accommodate dwelling units. The change of use results in a deficiency in the minimum front yard depth requirement of the zoning district for a combined use building and the minimum required parking area separation from a building wall with a habitable room window. Therefore, the applicant is seeking relief from Zoning By-law 8600 to accommodate a combined use building with reduced front yard depth and reduced separation of the parking area from a building wall with a habitable room window. There is no adverse impact on the site as a result of the conversion, the proposal adheres to all other provisions and the required number of parking spaces will be provided on site.

#### **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” (Section 1.3.1 of the PPS). The requested minor variance is consistent with these policies encouraging compact, mixed-use development that incorporates compatible employment uses.

#### **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 variance is minor in nature and desirable for the subject building.

The subject land is designated Mixed Use Corridor per the Official Plan. The proposed development is permitted and conforms to the associated objectives and policies. Therefore, the requested variance 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 except for 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 proposal will have minimal impact on the properties in the immediate neighbourhood. Therefore, the variance is minor in nature as per Section 11.6.6.2(c).

The variance is desirable for the appropriate use of the land, promoting residential intensification (Section 6.5.1.8) and accommodating an appropriate range of commercial uses (Section 6.5.1.7).

## **ZONING BY-LAW 8600**

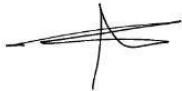
The subject property is zoned Commercial District 1.3 (CD1.3) and Residential District 2.1 (RD2.1) per By-law 8600, the existing building is located in the commercial district zoning and a combined use building is a permitted use. The building complies with the applicable provisions, except for the requested minor variances for reduced front yard depth and reduced parking area separation from a habitable room window.

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.

### **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 variance is consistent with section 45 (1) of the Planning Act. The Planning Division recommends approval of the applicant's request with no condition.

**Zaid Zwayyed**  
**Planner II – Development Review**



*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: Zaid Zwayyed  
Phone: (519) 255-6543 ext. 6198

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

<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 bylaw 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 Minor Variances \***

Minimum front yard depth is not met (section 14.3.5.50.c)

- 6.0 m required
- 5.22 m provided

Minimum parking area separation from a wall with a habitable room window is not met (section 25.5.20.6)

- 4.50 m required
- 0.0 m provided

*Conner O'Rourke, Zoning Coordinator*

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

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

*Lea Marshall, Technologist I*

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

Transportation Planning has no concerns. Parking spaces to comply with the requirements of ZBL/8600.

*Elara Mehrilou, Planner I- Transportation Planning Department*

#### **PARKS & FACILITIES**

There are no objections from a landscape architectural or urban design perspective related to the proposed minor variances.

*Stefan Fediuk, Landscape Architect*

#### **WINDSOR POLICE SERVICES**

The application being considered does not 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, the Windsor Police Service have no concerns or objections.

*Barry Horrobin, Director of Planning & Physical Resources*

## **HERITAGE PLANNING**

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, Heritage Planner; Tracy Tang, Planner II***