

**Office of the Commissioner of Economic
Development and Innovation – Planning &
Building Services – Planning Division
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.”

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Author’s Phone: (519) 255-6543 ext. 6457	Report Date: July 17, 2024
Author’s E-mail: bvelocci@citywindsor.ca	Committee Meeting Date: July 25, 2024

To: Committee of Adjustment

Subject Application: Minor Variance Zoning By-law 8600 Provisions

Applicant / Owner: Corporation of the City of Windsor

Location: 3940 Carmichael Rd.

Legal Description: CON 1; PT 59; PLAN 40; PT PARK LOTS 3 & 4;
PLAN 656; PT CLOSED ALLEY

1. RECOMMENDATION:

That the Minor Variance application of **Corporation of the City of Windsor** from the provisions of Zoning Bylaw- 8600, **BE GRANTED** with no conditions outside of those established through Site Plan Control. `

2. REQUESTED VARIANCE:

1. Minimum width and height of Parking Area Perimeter Curbing. (25.5.10.5)
2. a. 15.0 cm (Required)
3. b. 0.0 cm (Provided)

3. PLANNING ANALYSIS:

The subject property is located at 3940 Carmichael (Mic Mac Park). The property is designated Open Space within the Official Plan and zoned Green District 1.2 (GD1.2).

The variance requested is to accommodate a Storm Water Management system that employs bioswales to capture water run-off from the parking area.

The requested variances meet the four minor variance tests and are recommended for approval with no conditions.

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.*”

COMMENT:

1. This application for minor variance meets and maintains the general intent and purpose of the Zoning By-law and Official Plan, and is desirable for the appropriate development of the land.

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 Open Space in the Official Plan and the proposed development maintains the same use and conforms to the associated objectives and policies; therefore, the requested variance meets the general intent and purpose of the Official Plan per Section 11.6.6.2(a).

The subject land is zoned Green District (GD1.2) by By-law 8600 and the proposal maintains the same permitted use. The aim of the variances sought is to allow an exemption from the regulations requiring a continuous concrete curb to bound the perimeter of a parking area. This variance will allow the proposed parking area to direct surface water run-off into proposed bioretention swales. Thus, the requested variances meet the general intent and purpose of the Zoning By-law 8600 per Section 11.6.6.2(b).

The proposal will be complimentary to and contiguous with the existing development and will have minimal impact on the properties in the immediate neighbourhood, therefore, these variances are minor in nature per Section 11.6.6.2(c).

The variances sought are in line with the permitted use as it allows for an environmentally friendly and more cost effective approach for delivering the proposed onsite storm water management system. Therefore, the subject variances are desirable for the appropriate use of the land per Section 11.6.6.2(d).

ZONING BY-LAW 8600

The subject land is zoned Green District 1.2 (GD1.2) through By-law 8600 and the proposal is a permitted use under that zoning.

The proposed variance satisfies the general intent of the Zoning By-law and are minor in nature. The proposal allows storm water to be managed using a cost-effective type of green infrastructure

that will result in a reduction in the amount of storm water being discharged to the municipal sewer system.

PLANNER'S OPINION:

This minor variance maintains the general intent and purpose of the Official Plan and Zoning By-law, is minor in nature, and is desirable and appropriate use of the subject lands. The requested minor variance is consistent with the PPS, complies with the Planning Act and conforms to the Official Plan.

The requested minor variance deviates from the requirements of the by-law, however, maintains the general intent and purpose of the by-law. The current proposal calls for an exemption from the regulations requiring a continuous concrete curb to bound the perimeter of a parking area to allow for natural drainage towards the proposed bioretention swales.

The proposed Site Plan Control Application is in process but requires the approval of the requested minor variances from the Committee of Adjustment. The proposed variances are minor in nature and meet the general intent of the City of Windsor Zoning By-laws and Official Plan.

The requested variances meet the four minor variance tests and are recommended for approval with no conditions by Planning.



Brian Velocci
Site Plan Approval Officer

I concur with the above comments and opinion of the Site Plan Approval Officer.



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

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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 and Planning Act

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 by-law 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

PUBLIC WORKS DEPARTMENT - ENGINEERING AND GEOMATICS

The department has no objection to the proposed application. Comments remain consistent with SPC-PCS2. Right of way permits must be obtained for any work within the right of way.

Lea Marshall