

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 Name: Diana Radulescu | File No.: A-046/25 |
| Author’s Phone: (519) 255-6543 ext. 6918 | Report Date: June 6, 2025 |
| Author’s E-mail: dradulescu@citywindsor.ca | Committee Meeting Date: June 12, 2025 |

To: Committee of Adjustment

Subject Application: Relief from the provisions of By-law 170-2012

Owner: Kenneth Hart

Location: 820 Rossini Blvd

Legal Description: CON. 1; PT LOT 107; PLAN 813; LOT 36; PT CLOSED ALLEY & PT ROSSINI PARK

1. RECOMMENDATION:

1. That the Minor Variance application of Kenneth Hart for relief from the provisions of By-law 170-2012 for increased maximum fence height for the side/ rear yard for the property municipally known as 820 Rossini Blvd **BE GRANTED** with no conditions.

2. That the Minor Variance application of Kenneth Hart for relief from the provisions of By-law 170-2012 for increased maximum fence height for the front yard for the property municipally known as 820 Rossini Blvd **BE DENIED**.

2. THE REQUESTED VARIANCES:

Accommodating an increased front and side/rear yard maximum fence height as per By-Law 170-2012:

Section 4.1a - Maximum Residential Side or Rear Yard Fence Height

| By Law Requirements | Proposed |
|---------------------|----------|
| 2.20 m | 2.55 m |

Section 4.1b - Maximum Residential Front Yard Fence Height

| By Law Requirements | Proposed |
|---------------------|----------|
| 1.2 m | 1.85 m |

Note: An approved variance is valid and must be acted upon before the expiration date. The application is deemed null and void if a granted variance is not used within the required timeline. A new Committee of Adjustment application will be required for any expired application.

3. PLANNING ANALYSIS:

The subject property, known municipally as 820 Rossini Blvd, currently contains a single detached dwelling and accessory structures. The applicant received an Order to Comply from the Building department which noted that the front and side/year yard fences exceed the maximum height as per Fence By-Law 170-2012.

The applicant is seeking relief from Fence By-Law 170-2012 for an increased maximum height for the front yard fence of 1.85m and side/rear yard fence of 2.55m. There are no variances required to Zoning By-law 8600 or implications with respect to the Planning Act.

4. FENCE BY-LAW 170-2012

The Fence By-Law 170-2012 prescribes for a maximum of 1.2m for a front yard fence and the applicant is proposing 1.85m. As well, the By-Law prescribes a maximum of 2.20m for a side yard fence and the applicant is proposing 2.55m.

The Building Department has advised that a variance to the side/ rear yard fence height is supported, whereas a variance to the front yard fence height is not supported (Appendix B).

5. PLANNER'S OPINION:

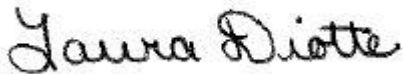
In consultation with the Building department, Planning Staff provide the following recommendations:

1. Approval of the applicant's request for increased maximum side/rear yard fence height with no conditions.
2. Denial of the applicant's request for increased maximum front yard fence height.



Diana Radulescu, Msc
Planner II – Development Review

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



Laura Diotte, MCIP, RPP
Manager of Development Applications

CONTACT:

Name: Diana Radulescu
Phone: (519) 255-6543 ext. 6918

Fax: (519) 255-6544
Email: dradulescu@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

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|---------------------------------|----------|--|
| <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 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. |

APPENDIX “B”

Comments Received by the Secretary Treasurer of the Committee of Adjustment

BUILDING DEPARTMENT

Fence Bylaw Background:

- The Council of the corporation of the City of Windsor has, pursuant to the Municipal Act, 2001, Section 10 as amended, the authority to pass By-laws for prescribing the height and description of fences.
- The City of Windsor passed Bylaw 170-2012 on the 19th day of November 2012, the bylaw prescribes the height and description of fences in the City of Windsor.
- Fence bylaws have existed in our city since 1960's, they ensure the safety, privacy and aesthetics of properties while maintaining community harmony.

Core functions of the fence bylaw:

- Safety Concerns: Taller fences can create visibility issues, making it difficult for drivers and pedestrians to see oncoming traffic at intersections. This is particularly relevant for fences near sidewalks, roads, or driveways.
- Property Rights and Neighbor Relations: Height restrictions help prevent disputes between neighbours. A very tall fence can block sunlight or views, leading to conflicts.
- Aesthetic Considerations: Communities often aim for a certain aesthetic or character. Fence regulations are in place to ensure that fences do not detract from the overall look of the neighbourhood.

820 Rossini Blvd. Fence violation investigation [FE 2024 032201]:

- *July 15, 2024 – 311 received a ‘Service Request’ related to fence exceeding maximum height allowances under Fence Bylaw 170-2012. specifically residential maximum height requirements in a side-yard, front and rear-yard.*
- *July 24, 2024 – Building Bylaw Officer Robertson (BBO) attended the subject property and noted the following fence violations:*
 - *Wood fence with vinyl lattice in both ‘side-yards’ and the ‘rear-yard’ measured 2.55 m – allowable under Section 4.1 (a) of the bylaw is 2.2 m.*
 - *Wood fence with vinyl lattice along the south property line in the ‘front-yard’ (as defined in the ZBL) measured 1.85 m – Allowable under Section 4.1 (b) of the bylaw is 1.2 m.*

Building department comments:

1. No objection with the fence height of 2.55 meters in the ‘side-yard’ & ‘rear-yard’ - Fence construction and condition of the existing fence complies with section 7 – *Maintenance Standards*.
2. Building objects to the fence height of 1.85 meters in the ‘front-yard’, we recommend compliance with the bylaw, maximum 1.2 m - from the front wall of the main building to the front property line (aka ‘front-yard’) to preserve sight lines and conformity with the neighbourhood.

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 II

PUBLIC WORKS DEPARTMENT - TRANSPORTATION PLANNING

Transportation planning has no comments.

FORESTRY

There are two City owned trees on this property

There was one Private tree on this property.

Forestry has no further concerns at this time.

ENVIRONMENTAL POLICY

Environmental Policy staff advises that the development proposal is anticipated to have no negative impact on ecological features, areas, and functions. To maintain high regard for Natural Heritage in the City during development, the following applies:

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.ontario.ca/page/make-natural-heritage-area-map>
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, particularly window collision mitigation. Options for integrating bird friendly design can be found here: www.birdsafe.ca and bird friendly guidelines can be found here: [Bird-Friendly Guidelines – City of Toronto](#).

WINDSOR POLICE SERVICES

This application involves a very unique situational context, particularly in its correlation to public safety and security. From a *general* public safety perspective, it would not typically be desirable to have a fence of this height and degree of opacity in place, as this reduces overall natural surveillance capacity for witnesses (including patrolling and responding police officers) to observe potentially suspicious and/or criminal behaviour occurring on the property. However, in this particular case, the security quality of the fence is very high, thus offering very good illegal access prevention for the property owner. Therefore, the Windsor Police Service has no objections to the request for relief in this situation to retain the fence, as it offers a discernible degree of protection against trespassing that could lead to problematic behaviour/activity. Furthermore, the fact the applicant's neighbour located directly across the road is supportive of the fence strengthens the reasoning to retain it.

Barry Horrobin, Director of Planning & Physical Resources

HERITAGE PLANNING

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 & Development Services Department:

519-255-6543 x6179, ttang@citywindsor.ca, planningdept@citywindsor.ca

Windsor Manager of Culture and Events (A):

Michelle Staaedegaard, (O) 519-253-2300x2726, (C) 519-816-0711, mstaaedegaard@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

BELL CANADA

No comments were received at the time of this report.