

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: Diana Radulescu	File No.: A-047/25
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 8600
Owner: Toby Karchuk and Averie Hutnik
Location: 866 Frank Ave
Legal Description: PLAN 1112 LOTS 39 & 40 &; PT CLOSED ALLEY

1. RECOMMENDATION:

That the Minor Variance application of Toby Karchuk and Averie Hutnik for relief from the provisions of By-law 8600 for increased maximum lot coverage for all accessory buildings for the property municipally known as 866 Frank Avenue **BE GRANTED** with no conditions.

2. THE REQUESTED VARIANCES:

Accommodating a new detached additional dwelling unit (ADU) which would result in increased maximum lot coverage for all accessory buildings.

Section 5.10.9.10 – Maximum lot coverage for all accessory buildings

By Law Requirements	Proposed
10%	12%

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 866 Frank Avenue, currently contains a single detached dwelling and a detached garage. The applicant proposes to build a new detached one-storey additional dwelling unit next to the existing residence. Part of the existing garage is proposed to be demolished as shown on the site plan attached to the application.

The applicant is seeking relief from Zoning By-law 8600 for increased maximum lot coverage for all accessory buildings on the parcel. The proposal adheres to the other relevant provisions of the zoning by-law.

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

Planning Staff have reviewed the relevant policies of the PPS - “Building Homes, Sustaining Strong and Competitive Communities” (Policy statement 2.2.1.b of the PPS). The requested minor variances are consistent with these policies permitting and facilitating all housing options required to meet the social, health, economic, and well-being requirements of current and future residents.

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.

The subject land is designated Residential per the Official Plan. The proposed development is permitted and conforms to the objectives and policies of the Plan. Therefore, the requested variances meet the general intent and purpose of the Official Plan as per Section 11.6.6.2(a).

The proposed development is permitted and conforms to the zoning by-law provisions, except for the requested variance. Therefore, the general intent and purpose of the by-law being varied is maintained as per Section 11.6.6.2(b).

The proposal is compatible and complementary to the neighbourhood and will have minimal impact on properties in the immediate neighbourhood. Therefore, the variance is minor in nature as per Section 11.6.6.2(c). The proposal also complies with Section 11.6.6.2 (e) with no anticipated adverse impacts to the neighbourhood.

ZONING BY-LAW 8600

The subject land is zoned Residential District 1.1 (RD1.1) per Zoning By-law 8600. The provisions of section 10.1.5 are met, except for the requested minor variance for total lot coverage for all accessory buildings. The total lot coverage provision (not including accessory buildings) is met.

The requested variance will not result in undue hardship on the owner, adjoining properties, or the public realm; therefore, the variance is minor in nature. The proposed minor variance meets the intent of Zoning By-law 8600.

4. PLANNER'S OPINION:

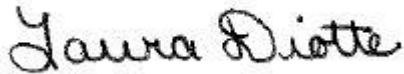
The requested variance is minor in nature and maintains the general intent and purpose of the Official Plan and Zoning By-law 8600. Therefore, the variance is consistent with section 45 (1) of the Planning Act.

The Planning Division recommends approval of the applicant's request for increased maximum lot coverage for all accessory buildings with no conditions.



Diana Radulescu
Planner II – Development Review

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



Laura Diotte, MCIP, RPP
Manager of Development Applications

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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 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 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

PLANNING DEPARTMENT - ZONING

Required Minor Variances *

1. Maximum lot coverage for all accessory buildings: [5.10.9.10]

- a. 10.0% (Required)
- b. 12.0% (Provided)

Conner O’Rourke, Zoning Coordinator

PUBLIC WORKS DEPARTMENT - ENGINEERING AND GEOMATICS

While it is not a condition of this application, it should be noted that only one driveway, one sanitary and one storm connection are permitted per property.

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

All parking must comply with ZBL 8600.

Elara Mehrilou, Transportation Planner

FORESTRY

There was one City owned tree on this property.

There are 2 Private trees on this property.

Forestry has concerns about the ability to preserve existing on-site and adjacent trees and tree canopy cover as per City Policy. A tree inventory and tree preservation plan may be requested during the Approvals/Site plan process.

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

The Windsor Police Service has no concerns or objections with any of the other applications listed in this agenda. In reviewing them, all are quite minor in terms of their potential impact to public safety and security. None of the applications to be considered are therefore anticipated to create outcomes that will negatively impact the ability of the Windsor Police Service to provide proper and adequate response to incidents and other service delivery requirements.

Barry Horrobin, Director of Planning & Physical Resources

HERITAGE PLANNING

Heritage

There is no apparent built heritage concern with this property.

Archeology

The subject property is located within the Archaeological Potential Zone (as per the recently adopted Windsor Archaeological Management Plan, 2024; OPA 181; and updated 2024 archaeological potential model OP Volume I Schedule C-1). However, the subject property is not within an Archaeologically Sensitive Area (ASA). Thus, an archaeological assessment is not requested at this time. 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 & Development Services 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:

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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

BELL CANADA

No comments were received at the time of this report.