

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-057/25
Author's Phone: (519) 255-6543 ext. 6397	Report Date: Jul 29, 2025
Author's E-mail: aparent@citywindsor.ca	Committee Meeting Date: Aug 07, 2025

To: Committee of Adjustment

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

Owner: NC Capital Holdings Inc.

Location: 0 FERNDAL AVE (between Tecumseh Rd E and Empress St)

Legal Description: PLAN 919 LOT 195;PT LOTS 9 & 10;RP 12R17715 PART 1; 9582.00SF
59.21FR 161.84D

1. RECOMMENDATION:

That the Minor Variance application of NC Capital Holdings Inc. for property described as Lot 195, Part Lots 9 & 10 on Registered Plan 919 municipally known as 0 Ferndale Ave. for relief from the provisions of By-law 8600 for the purpose of constructing a semi-detached dwelling with four internal additional dwelling units (ADUs) with increased maximum gross floor area – main building up to a **maximum of 480 meters squared BE GRANTED** with no conditions.

2. THE REQUESTED VARIANCES:

To construct a semi-detached dwelling with four internal ADU's, thereby seeking the following relief:

Section 11.1.5.10 – Maximum Gross Floor Area – Main Building

By Law Requirements	Proposed
400m ²	756m ² (The Planner's recommendation differs from the applicants proposal.)

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, legally described as Plan 919 Lot 195, Part Lots 9 & 10, and municipally known as 0 Ferndale Avenue is currently vacant. The property is located on the east side of Ferndale just north of Tecumseh Rd E (immediated north of the former Fire Hall that was located at 5650 Tecumseh Rd E). It is zoned Residential District 2.1 permitting a semi-detached dwelling among other uses. The applicant is proposing construction of a new semi-detached dwelling with two internal ADU's on each side, for a total of six units on the property. To facilitate this, the applicant is seeking relief from Zoning By-law 8600 for maximum gross floor area for a main building. The applicant must sever the property prior to establishing the ADUs.

The maximum gross floor area variance is more than 20 per cent above Zoning Bylaw regulations. This does not comply with Section 11.6.6.2(d) of the Official Plan which states that *“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.”* It is recommended that the proposed semi-detached building be re-designed to contain a maximum gross floor area of 480 m² therefore complying with Section 11.6.6.2(d) of the Official Plan.

In addition, the Engineering department notes that proposed layout for servicing, driveway and parking area does not comply with engineering standards. If the intent is to sever the lot, independent driveway permits shall be constructed in accordance with Best Practice BP2.2.2 and independent sewer connections shall be required in accordance with BP1.1.1. Only four parking spaces are required as per the zoning by-law. If the applicant proceeds with six parking spaces, this will be considered a “parking area” as per the zoning bylaw and other provisions may apply. A re-design of the site plan to include four spaces in total will likely result in the proposal meeting zoning provisions for parking as well as engineering standards.

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.b of the PPS). The requested minor variance is 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. As proposed, the requested variance is not minor in nature. As recommended and subject to a re-design, the recommended variance is minor in nature and desirable for the subject building.

The subject land is designated Residential per the Official Plan. The proposed semi-detached dwelling is permitted and conforms to the Strategic Directions, Goals and Objectives of the land use designation in which the property is located. 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 variance. Therefore, the general intent and purpose of the by-law being varied is maintained as per Section 11.6.6.2(b).

As requested, the proposal would be more appropriately considered through an application to amend the Zoning By-law due to the variation above the bylaw regulations. Along the subject block there is a mix of one and two storey houses with an average size of just over 100m². Further analysis is required to determine any impact of the proposed development on the existing neighbourhood. The recommended variance will have minimal impact on the properties in the immediate neighbourhood. Therefore, the recommended variance is minor in nature as per Section 11.6.6.2(c).

The requested variance to allow a maximum gross floor area – main building of 756m² exceeds a 20 per cent variation above the bylaw regulations (400m²) which does not comply with Section 11.6.6.2(d). The report recommends a maximum gross floor area – main building of 480m², which does not exceed a 20 per cent variation above the bylaw regulations and complies with Section 11.6.6.2(d). The recommended variance is desirable for the appropriate use of land promoting infill development.

The recommended 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, thus complying with Section 11.6.6.2(e).

ZONING BY-LAW 1. Zoning By-law 8600

The subject land is zoned Residential Residential RD2.1 per the zoning by-law permitting a semi-detached dwelling among other uses. The proposed semi-detached dwelling with four internal ADU's (two in each semi-detached dwelling unit) requires a minor variance for maximum gross floor area for a main building. The variance as requested differs from the recommendation of a maximum gross floor area – main building of 480m² provided. The recommended variance will not result in undue hardship on the owner, adjoining properties, or the public realm; therefore, the variance is minor in nature. The recommended variance meets the intent of Zoning By-law 8600.

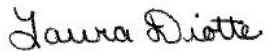
4. PLANNER'S OPINION:

The variance as recommended 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 with the conditions noted on the recommendation.



Averil Parent
PlannerII- Development Review – Development Review

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



Laura Diotte, MCIP, RPP
Manager of Development Applications

CONTACT:

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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 Plan1 Volume I 1 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

Zoning Review

1. Maximum Gross Floor Area – Main Building [11.1.5.10]
 - a) 400m² (Required)
 - b) 756m (Provided)

Stefan Pavlica – Zoning Coordinator

Development, Projects & Right-of-Way

This department has no objections to the proposed application. Right of way permits must be obtained for any work within the right of way. Please note the proposed layout for servicing and driveway does not support severance.

If the intent is to sever the lot, the following will be required:

- 1) Independent driveway permits are required for both lots, and both shall be constructed in accordance with Best Practice BP2.2.2.
- 2) Independent sewer connections as per Best Practice BP1.1.1 are required for each property.

Sandy Mio – Technologist

Heritage Planner, Planning and Build

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 & 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, 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 Public and Business Service Delivery and Procurement

Registrar of Burial Sites, War Graves, Abandoned Cemeteries and Cemetery Closures:

Ian Hember, 1-437-244-9840, Ian.hember@ontario.ca

Transportation Planner

All parking must comply with ZBL 8600.

Elara Mehrilou – Transportation Planning

Windsor Police Service

I have reviewed the agenda items for the August 7th meeting of the Committee of Adjustment and would advise as follows:

The Windsor Police Service has no concerns or objections with any of the applications listed in this agenda. In reviewing them, all are relatively 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, whether emergency or non-emergency in nature, and other service delivery requirements.

Barry Horrobin, B.A., M.A., CLEP, CMM-III
Director of Planning & Physical Resources

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.

Contacts:

Karen Alexander
City of Windsor Naturalist and Supervisor of Natural Areas
kaalexander@citywindsor.ca

Averil Parent
Planner II – Development Review
aparent@citywindsor.ca

Forestry

There are no City owned trees on this property.

There are Private trees on this property.

Forestry has no further concerns currently.

Marc Edwards – Forestry