

## 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:</b> Zaid Zwayyed	<b>File No.:</b> A-096/25
<b>Author's Phone:</b> (519) 255-6543 ex 6198	<b>Report Date:</b> Dec 31, 2025
<b>Author's E-mail:</b> ZZwayyed@citywindsor.ca	<b>Committee Meeting Date:</b> Jan 08, 2026

**To:** Committee of Adjustment

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

**Owner:** Nubatia Pharmacy Inc. (Haitham Osman)

**Location:** 572 Mill Street

**Legal Description:** PLAN 49 LOT 45 W PT LOT 47

### 1. RECOMMENDATION:

That the Minor Variance application of Nubatia Pharmacy Inc. (Haitham Osman) for the relief from the provisions of By-Law 8600 to permit a medical office with pharmacy with a reduced number of parking spaces and reduced parking area separation from an interior lot line on the property municipally known as 572 Mill Street, **BE GRANTED** with no conditions.

### 2. THE REQUESTED VARIANCES:

Request for relief from the required parking spaces and from the minimum parking area separation from an interior lot line for a medical office with pharmacy, thereby seeking the following relief from Zoning By-law 8600:

	PROVISION	PROVISION DESCRIPTION	REQUIRED	PROPOSED
1	24.20.5.1	Required Parking Spaces- Medical Office	12 spaces	5 spaces
2	25.5.20.1.3	Parking Area Separation from an Interior Lot Line	0.90 m	0.80 m

### 3. PLANNING ANALYSIS:

The subject property, legally described as Plan 49 Lot 45 and West Part Lot 47, contains an existing building that was previously used as a restaurant. The applicant proposes to repurpose the building for a medical office with an associated pharmacy. The site's existing layout constrains the ability to provide the required number of parking spaces for the proposed use, resulting in a parking deficiency. Notably, the former restaurant use also operated with a parking deficiency, despite requiring a greater number of parking spaces than the proposed medical office. As part of the proposal, the applicant intends to improve the functionality and safety of the existing parking area through the installation of proper curbing, provision of an accessible parking space, fencing, and the maintenance of appropriate internal circulation and separations. Due to the fixed site configuration and the need to maintain a functional access aisle, a minor reduction in the required separation from the side lot line is also requested. Accordingly, the applicant is seeking relief from Zoning By-law 8600 to permit the change of use with a reduced number of parking spaces and a reduced parking area separation. All other applicable provisions of the By-law are satisfied.

#### 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 2.8.1.a of the PPS). The requested minor variance is consistent with these policies, providing for an appropriate mix and range of employment, institutional, and broader mixed uses to meet long-term needs.

#### 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 Residential per the Official Plan. The proposed development is permitted as a neighbourhood commercial use (6.3.2.2.c) and conforms to the associated objectives and policies. 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 variances. 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 variances are minor in nature as per Section 11.6.6.2(c).

There are no modifications proposed to the existing building envelope. Therefore, the proposal complies with Section 11.6.6.2(d).

The variances are 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**

The subject land is subject to split zoning under By-law 8600, including Commercial District 1.1 (CD1.1), Residential District 1.2 (RD1.2), Residential District 3.1 (RD3.1), and is subject to a site-specific provision S.20(1)236 per By-law 8600. The proposed use is permitted under the commercial district zoning, which applies to the portion of the site on which the existing building is located, and complies with the applicable provisions of the By-law, except for the variances being requested. 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 variances meet the intent of Zoning By-law 8600.

#### **4. PLANNER'S OPINION:**

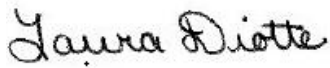
The requested variances are minor in nature and maintain the general intent and purpose of the Official Plan and Zoning By-law 8600. Therefore, the variances are consistent with section 45 (1) of the Planning Act. The Planning Division recommends approval of the applicant's request with no conditions.

**Zaid Zwayyed MCIP, RPP**

**Planner II - Development Review – Development Review**



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



**Laura Diotte MCIP, RPP**

**Manager of Development Applications**

#### **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"> <li>(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;</li> <li>(b) The general intent and purpose of the By-law being varied is maintained;</li> <li>(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;</li> <li>(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</li> <li>(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.</li> </ul>
<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 &amp; 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

Requested variances of Zoning By-law 8600:

	PROVISION	PROVISION DESCRIPTION	REQUIRED	PROPOSED
1	24.20.5.1	Required Parking Spaces- Medical Office	12	5
2	25.5.20.1.3	Parking Area Separation from an Interior Lot Line	0.90 m	0.80 m

[ Samuel Perry- 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.

[ Andrew Boroski- Technologist ]

#### Heritage Planner

Heritage

There is no apparent built heritage concern with this property.

Archaeology

The subject property is located within the Archaeological Potential Zone (APZ) and Archaeologically Sensitive Area (ASA) (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, no ground disturbances are proposed, and 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

[ *Sohpia Di Blasi- Heritage Planning* ]

## Transportation Planner

Transportation Planning has no concerns.

[ *Elara Mehirlou- Transportation Planning* ]

## Windsor Police Service

This application involves a request for a reduction in the on-site parking being supplied. Often, reductions in required parking translate into situations where parking demand subsequently spills over into the abutting neighbourhood, creating problems for residents and property owners therein. When this occurs, we often make note of our concerns as such. However, in this particular case, the proposed use (pharmacy with medical office) actually has a lower parking demand than what existed on the site previously (a restaurant). In reviewing our past incident response records, the restaurant use generated only a very modest amount of activity requiring police response and intervention, and none of the incidents appeared to have been related to the reduced parking supply. We also acknowledge and accept the reasoning to allow the parking reduction, as articulated by the applicant's transportation consultant. For all the aforementioned reasons, the Windsor Police Service has no concerns or objections with this application.

[ *Barry Horrobin- Windsor Police Service* ]

## Landscape Architect

There are no concerns with the proposed variance. Should the applicant pursue grant funding, it is recommended that they consult with the City's Special Projects Planner and consider incorporating appropriate landscaping elements.

[ *Ryan Upton- Landscape Architect* ]

## Environmental Policy

Environmental Policy staff have no objection to the proposal, and nothing further is required at this time. 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. Active nests of most bird species are protected under the Migratory Birds Convention Act (1994), the Fish and Wildlife Conservation Act (1997), and/or the Endangered Species Act (2007). If trees, shrubs or ground area 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 these regulations. Protect any trees, shrubs, or ground area where an active nest is found, and leave the nest unharmed until the young have permanently left the vicinity of the nest.

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](http://www.birdsafe.ca) and bird friendly guidelines can be found here: Bird-Friendly Guidelines – City of Toronto.
6. Ontario has a list of Regulated Species in the Ontario Invasive Species Act (ISA) (2015). If any species on this list are identified on site, it is recommended that Best Management Practices be followed to remove the invasive species from the site prior to starting development activities. If guidance is required, report the occurrence to the City Naturalist. For a list of ISA Regulated species: Ontario Invasive Species Act – Invasive Species Centre.

### Contacts:

Karen Alexander

City of Windsor Naturalist and Supervisor of Natural Areas

[kaalexander@citywindsor.ca](mailto:kaalexander@citywindsor.ca)

Connor Wilson

Planner II – Revitalization & Policy Initiatives

[conwilson@citywindsor.ca](mailto:conwilson@citywindsor.ca)