

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.: B-031-25
Author’s Phone: (519) 255-6100 ext. 6397	Report Date: May 30th, 2025
Author’s E-mail: aparent@citywindsor.ca	Committee Meeting Date: May 8th, 2025

To: Committee of Adjustment

Subject Application: Consent to create a new lot

Owner: Yafei Corporation

Agent: N/A

Location: 3376 Byng Road

Legal Description: Plan 1126, Lots 1304 and 1305 and Pt closed alley

1. RECOMMENDATION:

That the Consent application of Yafei Corporation for conveyance of part of the subject lands, described as Plan 1126, Lots 1304 and 1305 and Pt closed alley, also municipally known as 3376 Byng Rd., for the creation of a new lot as shown on the drawing attached to the application **BE GRANTED** with conditions¹:

- I. Conditions described in file B-006-24 to be satisfied.
- II. The applicant is to obtain a driveway permit to legalize the existing approach. (A permit is required for each side of the approach).

¹For questions regarding Engineering conditions, please contact Andrew Boroski at (519) 255-6257x6538 or aboroski@citywindsor.ca.

Note: Severance conditions must be fulfilled within TWO (2) years after consent has been granted. If a condition is not satisfied within required timeline, the application is deemed to be null and void. A new Committee of Adjustment application will be required for any expired application.

2. THE REQUESTED LAND SEVERANCE:

Land conveyance of part of the subject land, 3376 Byng Rd., as shown on the attached drawing, for the purpose of creating a new lot.

The property at 3376-3382 Byng Rd has been the subject of previous applications under the Planning Act. In March 2024 the Committee considered and approved consents to sever (B-006/24), create an easement and right of way (B-007/24) and minor variances for reduced minimum lot width and minimum lot area for the property known as 3382 Byng Rd. The applicant is currently fulfilling conditions described in consent report B-006/24 and as described in the recommendation, these conditions must be cleared before this current application can be processed.

3. PLANNING ANALYSIS:

The subject property, identified as Plan 1126, Lots 1304 and 1305 and Pt closed alley, contains a single unit dwelling and a vacant portion north of the dwelling. The applicant is seeking severance to create a new lot while retaining part of the lot for the existing dwelling. The subject land is designated Residential in the Official Plan. The proposed use of both the severed and retained lots is residential. Lots 1304 and 1305 are established lots on a registered plan.

This application is submitted concurrently with a Minor Variance application (A-036-35) seeking relief for reduced minimum side yard width for the retained parcel, as well as reduced minimum lot width and lot area for the severed parcel.

PLANNING ACT

Subsection 53(1) of the Planning Act gives council the authority to grant consent if satisfied that a plan of subdivision of land is not necessary for the proper and orderly development of the municipality. Council for the Corporation of the City of Windsor has delegated its consent authority to the Committee of Adjustment of the City of Windsor.

Subsection 51(25) of the Planning Act allows the approval authority to impose such conditions to the approval of an application as it considers reasonable having regard to the nature of the development proposed.

PROVINCIAL POLICY STATEMENT (PPS) 2020

The Planning Staff has reviewed the relevant policies of the PPS - “*Building Homes, Sustaining Strong and Competitive Communities*” (Policy statement 2.2.1. of the PPS). The requested minor variance is consistent with these policies permitting and facilitating housing options required to meet the social, health, economic, and well-being requirements of residents while efficiently utilizing land, resources, and infrastructure.

OFFICIAL PLAN (OP)

The Consent Policies, Section 11.4.3 of the Official Plan provide evaluation criteria and conditions of approval for consent applications. Appendix “A” attached herein shows the Consent Policies 11.4.3.

This consent to sever application is for creating a new lot, representing an appropriate consent per Section 11.4.3.2(a).

The severed and retained lots have access to a public highway paved with a hard surface and are serviced by municipal sanitary and storm services, complying with sections Section 11.4.3.4 and 11.4.3.5.

This consent satisfies the evaluation criteria in Section 11.4.3.6 for continuation of an orderly development pattern.

Section 11.4.3.7 of the Official Plan states that the Committee of Adjustment may attach conditions as deemed appropriate to the approval of a consent.

ZONING BY-LAW 8600

The subject land is zoned as Residential District 1.1 (RD1.1) permitting an existing duplex dwelling, semi-detached dwelling or one single unit dwelling. This application is submitted concurrently with a Minor Variance application (A-036-35) seeking relief for reduced minimum side yard width for the retained parcel, as well as reduced minimum lot width and lot area for the severed parcel.

4. PLANNER'S OPINION:

The requested consent complies with the Official Plan and Zoning By-law 8600. This consent application is consistent with the Planning Act and Provincial Policy Statement and represents good planning. The Planning Division in consultation with Engineering recommends approval of the applicant's request.



Averil Parent
Planner II – Development Review

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



Greg Atkinson, MCIP RPP
Development Manager / Deputy City Planner

AP/

CONTACT:

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Phone: (519) 255-6100 ext. 6397

Fax: (519) 255-6544
Email: aparent@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 "C" – Order for Committee of Adjustment file B-006/24

Appendix “A” – Excerpts from Official Plan Volume I

11.4.3 Consent Policies

- 11.4.3.1 Council has delegated to the City of Windsor Committee of Adjustment Council’s consent granting authority.
- 11.4.3.2 Consents may only be granted when it is not necessary for the proper and orderly development of the city. Accordingly, consents will generally be limited to:
- (a) Creation of lots for minor infilling; and
 - (b) The mortgaging or leasing of land beyond 21 years;
 - (c) Lot boundary adjustments; and
 - (d) Easements and rights-of-ways.
- 11.4.3.3 Consents shall only be granted for the creation of lots which comply with the Zoning By-law and/or unless appropriate minor variances are also granted concurrently.
- 11.4.3.4 Consents shall only be granted for lots which have access to a public highway which is paved with a hard surface and is of a reasonable standard of construction.
- 11.4.3.5 All lots created by consent shall be serviced by municipal sanitary sewer and water services.
- 11.4.3.6 The Committee of Adjustment will evaluate consent applications according to the following criteria:
- (a) Provincial legislation, policies and applicable guidelines;
 - (b) The physical layout of the proposed lots having regard to the Urban Design policies of this Plan, Volume II: Secondary Plans & Special Policy Areas and other relevant standards and guidelines;
 - (c) The continuation of an orderly development pattern;
 - (d) Impact upon the comprehensive development of adjacent properties;
 - (e) The requirements or comments of Municipal departments and public agencies or authorities; and
 - (f) Previous consents granted on the land holdings on or in the area.
- 11.4.3.7 The Committee of Adjustment may attach such conditions as it deems appropriate to the approval of a consent. Such conditions may include, but are not limited to, the following:
- (a) The fulfillment of any financial requirement to the Municipality;
 - (b) The conveyance of lands for public open space purposes or payments-in-lieu thereof in accordance with the Open Space policies of this Plan;
 - (c) The conveyance of lands for public highways or widenings as may be required;
 - (d) The conveyance of appropriate easements;
 - (e) The application of the site plan control process;
 - (f) The provision of municipal infrastructure or other services; and
 - (g) Other such matters as the Committee of Adjustment considers necessary appropriate.

PLANNING DEPARTMENT - ZONING

Required Minor Variances *

- 1. Minimum Side Yard Width – Retained Lot [10.1.5.7]:**
 - a) 1.20m (Required)
 - b) 1.00m (Provided)

- 2. Minimum Lot Width – Severed Lot [10.1.5.1]:**
 - a) 15.0m (Required)
 - b) 10.7m (Provided)

- 3. Minimum Lot Area – Severed Lot [10.1.5.2]:**
 - a) 450.0m² (Required)
 - b) 380.3m² (Provided)

Stefan Pavlica – Zoning Coordinator

PUBLIC WORKS DEPARTMENT - ENGINEERING AND GEOMATICS

It should be noted that the approach is in disrepair and the applicant will be required to place hard surface for the existing driveway as per the Residential Driveway Best Practice BP2.2.1 and AS-209A for the culvert.

The department has no concerns with the proposed application, subject to the following condition:

1. Conditions described in file B-006-24, B-007-24 and A-010-24 to be satisfied prior to approval of B-031-25
2. The applicant is to obtain a driveway permit to legalize the existing approach. (A permit is required for each side of the approach)

Andrew Boroski – Technologist

PUBLIC WORKS DEPARTMENT - TRANSPORTATION PLANNING

All parking must comply with ZBL 8600 for retained and severed lots. The existing driveway must be legalised.

Elara Mehrilou - Transportation Planner

FORESTRY

There is 1 City owned tree on the property line.

Forestry has no concerns at this time, regarding creating a new lot. However, for any future development plans, a tree inventory and tree preservation plan may be requested during the Approval/Site plan process.

Marc Edwards – Supervisor, Forestry

NATURAL AREAS

No comments or concerns with the creation of a new lot.

Future developments must regard general protections for Natural Heritage:

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.lioapplications.lrc.gov.on.ca/Natural_Heritage/index.html?viewer=Natural_Heritage.Natural_Heritage&locale=en-CA
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. Bird Friendly Design Guidelines are available from the City of Toronto (<https://www.toronto.ca/city-government/planning-development/official-plan-guidelines/design-guidelines/bird-friendly-guidelines/>).

Karen Alexander, Naturalist

LANDSCAPE ARCHITECT/URBAN DESIGN

No comments.

Hoda Kameli, Landscape Architect

WINDSOR POLICE SERVICES

No comment provided at time of writing.

Barry Horrobin, Director of Planning & Physical Resources

HERITAGE PLANNING

Heritage

There is no apparent built heritage concern with this property.

Archeology

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 & Building 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 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

APPENDIX “C” – Order for Committee of Adjustment File B-006/24

IN THE MATTER of the Planning Act, 1990 as amended;

AND IN THE MATTER pursuant to the provisions of Section 53 of the Planning Act, 1990, as amended;

AND IN THE MATTER of the application of YAFEI CORPORATION, Owner(s), for consent pursuant to the provisions of Section 53 of the Planning Act;

ORDER OF THE COMMITTEE OF ADJUSTMENT OF THE CITY OF WINDSOR

WHEREAS, YAFEI CORPORATION, Owner(s), of PLAN 1126 LOT 1304 LOT 1305;PT CLSD ALLEY and known as Municipal Number 3376/3382 BYNG RD, did on February 20, 2024, make application to the Committee of Adjustment for the Corporation of the City of Windsor, for consent to convey a part of the above described lands pursuant to the provisions of Subsection (1) of Section 53 of the Planning Act;

AND WHEREAS, notice of the application has been duly given, as directed by the Committee of Adjustment for the City of Windsor;

AND WHEREAS, it is made to appear that no objections were filed in response to the notice;

AND WHEREAS, the Committee did on March 28, 2024, conduct a hearing into the merits of the application on the considering what was requested by the applicant;

AND WHEREAS, in considering the application, the Committee had regards to the items listed in paragraph 51(24) of the Planning Act and concluded that the severance would conform with the Official Plan of the City of Windsor, the Provincial Policy Statement, and **Zoning By-Law 8600** of the Corporation of the City of Windsor, as amended, and noted that in their opinion, there were no adjacent Plans of Subdivision affected;

AND WHEREAS, in the opinion of the Committee, the granting of the application will not alter the character and nature of the subject lands or surrounding properties;

AND WHEREAS, the Committee is satisfied that a Plan of Subdivision under Section 51 of the Planning Act is not necessary for the proper and orderly development of the municipality;

IT IS HEREBY DECIDED that the application **BE GRANTED ON CONDITION** that the applicant(s) provide at their entire expense:

- I. The applicant shall obtain a driveway permit to legalize the existing driveway approach for both sides of the approach, to the satisfaction of the City Engineer.
- II. The applicant shall provide a paved (hard surface) parking space (2.5mx5.5m) on the severed part, to the satisfaction of the City Planner.
- III. The owner/applicant shall register, at the time of the first transfer, an easement for a reciprocal driveway/easement over Part 8 in favour of the severed parcel (Parts 1, 6, and 7), to the satisfaction of the City Solicitor.

AND IT IS HEREBY ORDERED that the lands and premises above described be and the same are hereby exempt from the provisions of Section 53 of the Planning Act, 1990, as amended, so as to permit in a **Residential RD1.1 District, the severed lands as Part__ on 12R__** for the purpose of creating of a new lot (Parts 1, 6, 7) and reserving an easement and right-of-way over Part 7 in favour of the retained lands (Parts 2, 3, 4, 5 and 8),

NOTE: Section 53(41) of the Planning Act, 1990, as amended, indicates that where conditions have been imposed and the applicant has not, within a period of two year after notice was given under subsection (17) or (24), whichever is later, fulfilled the conditions, the application for consent shall be deemed to be refused but, if there is an appeal under subsection (14), (19) or (27), the application for consent shall not be deemed to be refused for failure to fulfil the conditions until the expiry of two years from the date of the order of the Tribunal issued in respect of the appeal or from the date of a notice issued by the Tribunal under subsection (29) or (33) 2017. Section 53(19) appeal – states that any person or public body may, not later than 20 days after the giving of notice under subsection (17) is completed, appeal the decision or any condition imposed by the council or the Minister or appeal both the decision and any condition to the Tribunal by filing with the clerk of the municipality or the Minister a notice of appeal setting out the reasons for the appeal, accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*.

Please refer to Files A-010/24 and B-007/24

File No. B-006/24

This decision of the Committee of Adjustment shall lapse at the expiration of 2 YEAR(S) after the date of notice of the decision as provided for under Section 53(43) of The Planning Act R.S.O. 1990, as amended, unless, within the said period, the land for which this consent was given was conveyed and the Certificate of The Secretary-Treasurer pursuant to Section 53(42) obtained.

DATE DECISION RENDERED: March 28, 2024

Miko Sleiman
M.Sleiman, Chairperson

Joe Balsamo
J.Balsamo, Member

Dante Gatti
D.Gatti, Vice-Chairperson

Mohammad Baki
M.Baki, Member

Frank Cerasa
F.Cerasa, Member

CERTIFICATION OF SECRETARY-TREASURER PURSUANT TO SECTION 45(8):

I HEREBY CERTIFY this to be a true copy of the decision of the Committee of Adjustment for The City of Windsor, and that this decision was concurred in by the majority of the members who heard the application.



Jessica Watson, Secretary-Treasurer
Committee of Adjustment

The Final copy of this decision was forwarded to: KATHERINE ZHANG
1033 WYANDOTTE ST W Unit 2
WINDSOR, ON N9A 5Y6

DATE Notice of Decision sent: April 6, 2024
LAST DATE to appeal decision: April 26, 2024
LAST DATE to document removal of condition(s): March 28, 2026
EXPIRY DATE of Order: March 28, 2026 (2 Year)
(Refer to 1st Paragraph above)

CERTIFICATION OF SECRETARY-TREASURER PURSUANT TO SECTION 53(22):

I HEREBY CERTIFY that notice was given under Section 53(17) in the manner deemed appropriate by The Committee of Adjustment/Consent Authority for The City of Windsor, and that no notice of appeal was filed with this office under Section 53(19), with the time allowed for appeal.

DATED: April 27, 2024



Jessica Watson
Secretary-Treasurer
Committee of Adjustment

NOTE: Any consent granted by this Committee of Adjustment/Consent Authority pursuant to The Planning Act, R.S.O. 1990, as amended; shall be registered at the responsibility of the applicant(s) or authorized agent(s).