



Date: January 28, 2021

To: Chair Stephen Gavard and Committee Members

From: Robert Lamarre Manager of Building and Planning

Subject: 44 Bridge Street

Status: For Direction

Recommendation

That the report prepared by the Manager of Building and Planning regarding 44 Bridge Street, Lakefield be received; and

That the Committee consider the options available as detailed in the body of this report and formulate a recommendation for Council's consideration during their February 9th Council meeting.

Background

The Committee held a special meeting on January 13, 2020 to discuss the fact that a permit has been issued for the demolition of the structure located at 44 Bridge Street in the Village of Lakefield. I provided the Committee with a summary of my involvement with the file as Chief Building Official charged with issuing building/demolition permits. In addition, I advised the Committee that I would be meeting with a prospective purchaser of the property on January 19th to discuss their development intentions.

The Committee resolved as follows:

- 1) That Township staff follow-up with the existing land owners to request access to the property by the Heritage Committee in order that members can document the historical attributes of the property via photographs and/or video.
- 2) That Township staff consult with the prospective purchasers to:
 - determine their development intentions;
 - discuss the heritage significance of the property;
 - discuss the potential of preserving/adaptively reusing the "core" section of the structure and other means of preserving the structure (ie. relocation).

In accordance with the Committee's direction, we have reached out to the current owner. They are currently considering our request for access in light of the current COVID19 lockdown provisions.

I can confirm that I met with the prospective purchasers of the property and discussed the heritage value of the existing structure and the community's concern with its possible demolition. Their development intentions, as preliminary as they are, do not include preserving the existing structure. They are open to discussing other ways of preserving the structure.

In the days since we met, the Township has received numerous emails and letters from residents expressing concern for the loss of the structure and the historic and cultural value it represents to them. A list of people who have expressed their concerns is attached to this report.

The Committee's mandate is to advise Township Council on matters relating to heritage conservation including acting as a resource for Council on built heritage and making recommendations regarding properties considered to be of historical and/or architectural significance. In the Background information provided at the end of this report there is further information about the role of the Committee.

In the context of what has transpired in relation to 44 Bridge Street, it would be appropriate for the Committee to provide Township Council with guidance consistent with its mandate.

Three options are outlined below that could form the basis of a recommendation to Township Council.

Option 1 – Status Quo

The Committee could recommend to Council that the status quo be maintained in response to the redevelopment of 44 Bridge Street.

Based upon the discussions the Committee had during the January 13, 2020 meeting, Committee members do believe that, at the very least, the original stone structure is a structure worthy of consideration for listing on the Township's Municipal Heritage Registry. Should the status quo be recommended, there would be value in ensuring there is documentation of the history and features of the structure. Staff have been in contact with a Heritage Planner who has indicated that they would be available to complete a Heritage Brief for the property (more details noted under Option 3).

The process of identifying and designating properties for inclusion on the Municipal Heritage Registry has been a collaborative process wherein the property owner is engaged and is supportive of the designation. Designation of a property does have implications for property owners and as such an owner's support and buy-in has been a key component of the process. The prospective purchaser has indicated that they do not

plan to preserve the structure. The prospective purchaser also made an offer on the property with the knowledge that there was no heritage designation assigned to the property.

Option 2 – Work with the Property Owner

The Committee could recommend that Council direct Township staff to work with the land owner with a view to finding a way to preserve the structure on or off site. As noted earlier in the report, conversations with the prospective purchaser have established that it is not their current intention to adaptively reuse the structure on site.

Given this above information, preservation of the structure on site does not appear likely.

The prospective purchaser seems open to the notion of relocating the structure off site. Clearly, timing and other logistical considerations would play a vital role in establishing the feasibility of this option from their perspective.

There are a number of unanswered questions that create uncertainty whether or not this way forward would be viable.

- Is moving the structure feasible given its construction methodology and condition?
- To where would it be located, at what and whose cost?
- Who would own and maintain it, and what would be its use etc.?

Option 3 – Pursue Notice of Intention to Designate

The Committee could recommend that Township Council pursue the process of reviewing the property for inclusion on the Municipal Heritage Registry as a designated property.

The legislation that gave Township Council the authority to establish the Committee provides the regulations that apply in this context. The Ontario Heritage Act (OHA) provides authority for Municipalities to identify, evaluate and conserve properties that have lasting heritage value and interest. Properties that are designated under the OHA or placed on a heritage register are afforded some protection from demolition. As the Committee is aware, the subject structure is **neither designated, nor listed**, on the heritage registry and consequently these provisions of the OHA were not in place to forestall the issuance of the demolition permit.

The OHA does provide a way forward to preserve threatened properties that have no Heritage Act protection.

Section 30 1) of the OHA regulates as follows:

30 (1) If a notice of intention to designate a property as property of cultural heritage value or interest is given under section 29, any permit that allowed for the alteration or demolition of the property and that was issued by the municipality under any Act, including a building permit, before the day the notice was served on the owner of the property and on the Trust and published in a newspaper is void as of the day

the notice of intention is given in accordance with subsection 29 (3). 2005, c. 6, s. 18.

Process Notice of Intention to Designate:

1) Heritage Designation Brief Prepared

Individual properties being considered for protection under section 29 must undergo an evaluation in accordance with Regulation 9/06. To ensure a thorough, objective and consistent evaluation across the province, the Ontario Heritage Act provides that:

29 (1) The council of a municipality may, by bylaw, designate a property within the municipality to be of cultural heritage value or interest if,

Where criteria for determining whether property is of cultural heritage value or interest have been prescribed by regulation, the property meets the prescribed criteria;

Regulation 9/06 prescribes the criteria for determining property of cultural heritage value or interest in a municipality. The regulation requires that, to be designated, a property must meet “one or more” of the criteria grouped into the categories of Design/Physical Value, Historical/ Associative Value and Contextual Value.

In order to determine the heritage value, the Township would engage a third party consultant to undertake the required research and to develop a Heritage Designation Brief. This brief is analysed and the property is scored in accordance with the Township’s Designation Evaluation Manual – Score Sheet. The outcome of that review provides the basis for the Committee’s recommendation to Council as it relates to whether or not to move forward with a designation. In addition, the Heritage Designation Brief provides the statement of cultural heritage value and a description of heritage attributes required to support the designation.

Staff have contacted an individual that could prepare the Heritage Brief. The individual has indicated that this work could be completed within a few weeks (subject to access to archival records that may be impacted by COVID) and that there would be no cost to complete the Brief. Given the Committee’s desire to ensure the documentation of the history and features of the structure, it would be wise to move forward with the engagement of the Heritage Planner to complete the Heritage Brief as soon as possible to ensure there is an opportunity to do so.

2) MHC Committee – Evaluation of the Heritage Brief

The MHC would review the Heritage Brief in light of the designation criteria, score it in accordance with the Designation Evaluation Manual and make a recommendation to Council on whether the structure should be considered for designation.

3) Council - Consideration of the Heritage Brief and MHC Recommendation

Council would consider the recommendation of the MHC and review the Heritage Brief and would then determine whether or not to provide a Notification of Intention to Designate.

4) Notice of Intent to Designate

If Council determines it wishes to provide Notice of Intention to designate, under section 29 of the Ontario Heritage Act, the notice to the owner and the Ontario Heritage Trust must include the following:

- The Description of Property so that it can be readily ascertained;
- The Statement of Cultural Heritage Value or Interest, which identifies the property's heritage significance;
- The Description of Heritage Attributes outlining the particular features that should be protected for the future; and
- A statement that notice of objection to the designation must be filed with the municipality within 30 days after the date of publication of the newspaper notice

Section 30 1) of the OHA provides the authority for Council to forestall the demolition of a building, providing certain interim protections, subject to giving Notice of its Intention to Designate in accordance with Section 29 noted above.

Note: there is an appeal mechanism in place wherein an objection to Council's Notice of Intention to Demolition can be challenged.

Any existing permit that allowed for the alteration or demolition of the property, including a building permit or a demolition permit, becomes void i.e. held in abeyance until the appeal process is complete.

5) No Appeal

Should a Notice of Intention to Designate not be appealed, the property would be added to the Municipal Heritage Registry. Any proposed demolition or alteration affecting the property's heritage attributes would then require Council's consent.

Should the Committee resolve this to be the appropriate way forward, the recommendation to Council could advise that the MHC considers the property worthy of consideration for designation, subject to completion of the required Municipal Heritage Brief, and requesting that Council confirm that it would consider the matter upon receiving a final recommendation from the Committee subsequent to the completion of the Brief and evaluation thereof by the MHC.

Summary:

The Committee consider the three options outlined in this report generally summarized as

follows:

- status quo
- work with land owner to explore options to retain the existing structure either in its current location or relocating the structure off site.
- request that Council engage a third party to prepare a Municipal Heritage Brief for the purposes of evaluating the heritage features of 44 Bridge Street in order to make an informed recommendation to Council on the merits of possibly designating the property for inclusion on the Municipal Heritage Registry

Regardless of which option is selected, given the Committee's desire to ensure the documentation of the history and features of the structure, it would be wise to move forward with the engagement of the Heritage Planner to complete the Heritage Brief as soon as possible to ensure there is an opportunity to do so.

The Committee's recommendation would be forwarded to Council for their consideration at the February 9, 2021 Council meeting agenda.

Attachments:

- List of citizens who have expressed concern with the loss of the structure.
- Backgrounder (see below)

Robert Lamarre

Prepared By: Robert Lamarre, Manager of Building and Planning

Backgrounder

44 Bridge Street, Lakefield – 1.22 Acres – currently comprised of a residential building and various out buildings

Planning History:

1988 - Village of Lakefield Official Plan designates the property District Commercial.

1992 – Village of Lakefield Zoning By-law Zones property as C2 District Commercial.

2008 - Consolidated Official Plan Selwyn Township Designates property District Commercial.

2009 – Consolidated Zoning By-law Selwyn Township Zones property as Local Commercial C2.

Although Zoned District Commercial, the property continued to be used as a residence (legal non-conforming) at least until it was sold in 2018.

A demolition permit was issued in August of 2020 in accordance with Section 8 (2) of the Ontario Building Code Act:

- (2) The chief building official shall issue a permit referred to in subsection (1) unless,
- (a) the proposed building, construction or demolition will contravene this Act, the building code or any other applicable law;
 - (b) the applicant is a builder or vendor as defined in subsection 1 (1) of the *New Home Construction Licensing Act, 2017* and is not licensed under that Act;
 - (b.1) the *Architects Act* or the *Professional Engineers Act* requires that the proposed construction of the building be designed by an architect or a professional engineer or a combination of both and the proposed construction is not so designed;
 - (c) a person who prepared drawings, plans, specifications or other documents or gave an opinion concerning the compliance of the proposed building or construction with the building code does not have the applicable qualifications, if any, set out in the building code or does not have the insurance, if any, required by the building code;
 - (d) the plans review certificate, if any, required for the application does not contain the prescribed information;
 - (e) the application for the permit is not complete; or
 - (f) any fees due have not been paid. 2002, c. 9, s. 14 (2); 2014, c. 7, Sched. 3, s. 1; 2015, c. 28, Sched. 1, s. 147.

The demolition permit application was properly vetted against these very specific criteria and deemed to be in accordance with this regulation compelling its issuance.

As it currently stands, the structure can be demolished if the permit holder determines to act on the permit i.e. the demolition permit is not void until a Notice of Designation is filed.

Municipal Heritage Register and Ontario Heritage Designations

The *Ontario Heritage Act* states that a municipality must keep a register of property situated in the municipality that is of cultural heritage value or interest, and this list must contain properties that have been designated under Parts IV and V of the Act. The Act also states that the register may include properties that have not been designated under the Act, but that the council of the municipality believes to be of cultural heritage value or interest. The list must contain information that is sufficient to readily identify the property, ie. legal description and municipal address, and a description of the significant features of the property.

The Register includes **Designated Properties** and **Listed Properties**.

1) Designated Properties on the Register

In addition there are 7 properties **designated** under Section 4 of the Ontario Heritage Act – see link below (*4 of the 7 were designated under the former Village of Lakefield LACAC and 3 of the 7 were designated under the current MHC*):

<https://www.selwyntownship.ca/en/township-hall/heritage.aspx#Designated-Heritage-Properties>

The designation process strikes a balance between the freedom of individual property owners and the recognized need of the community to preserve its heritage resources. Heritage designation prohibits unwarranted demolition and controls major alterations that might otherwise harm specific heritage features. Designation also makes property owners eligible for preservation grants and the Township's tax relief program.

2) Listed Properties on the Register

There are 23 properties currently **listed** on the Municipal Heritage Register – see link below:

<https://www.selwyntownship.ca/en/township-hall/heritage.aspx#Municipal-Heritage-Register>

The Register can also include properties that have not been designated but that the Council of the municipality believes to be of cultural heritage value or interest. A listing on this Register differs from the designation in that it does not result in the requirement for a Council approval when making alterations to a property and the municipality cannot

indefinitely refuse a demolition permit for a listed property. Listing properties on the heritage register is an important heritage conservation tool, which allows the municipality to delay issuance of a demolition permit for 60 days, while conservation options are considered, including proceeding to designation or removing the property from the Register.

Heritage Committee

In 2010, Council established a Municipal Heritage Committee (MHC) to advise and assist the Council on matters relating to the conservation of properties of local heritage value or interest.

The process of identifying and designating properties for inclusion on the Municipal Heritage Registry has been a collaborative process wherein the property owner is engaged and is supportive of the designation. A Listing or a Designation of a property does have implications for property owners and as such an owner's support and buy-in has been a key component of the process.

The Committee recommended that Township Council adopt a Municipal Heritage Register the development of which was approved in September of 2018. The approval was granted subject to holding a public information session where affected property owners would be afforded an opportunity to learn about the process.

Note: prior to amalgamation, the former Village of Lakefield had a Local Architectural Advisory Committee (LACAC). The LACAC functioned in a similar manner to the current MHC by reviewing potential properties for heritage designation.

Appeal to the Notice of Intention to Designate Re: Municipal Heritage Register

Current – Conservation Review Board (CRB)

The Notice of Intention to Designation is subject to appeal for 30 days. At the present time an appeal would be heard by the Conservation Review Board (CRB). The decision of the CRB is not binding on Council. The CRB would provide their decision and Council can uphold the CRB decision or chose to not uphold the CRB decision.

Potential Appeal Changes – Local Planning Appeals Tribunal (LPAT)

The Province has introduced an amendment through Bill 108 to the appeal procedure which, when implemented, would change the appeal body from the CRB to the Local Planning Appeals Tribunal (LPAT). An appeal to LPAT and the decision of LPAT is binding on Council.

Depending on the timing of the filing of the Notice of Intention to Designate, an appeal may be considered by the CRB or LPAT.

Correspondence from the following community members has been received by the Township in opposition to the potential demolition of 44 Bridge Street, Lakefield:

(Last updated 9:00 AM – Jan. 27, 2021)

1. Tom McAllister
2. Joe Latour
3. Michael Chappel, Lakefield Historical Soc.
4. Callie Stacey & Chuck Richard
5. Sonja Miller
6. Bonnie Morrison
7. Dr. Bruce Evans & Dr. Susan Gleeson
8. Susan Twist
9. Lynda & Alan Saxby
10. Gail & Bill Corbett
11. Gord Young, Lakefield Heritage
12. Deborah Hodgkinson
13. Alistair Wray
14. Ed Paleczny & Jackie Ouellette
15. Sara Reid
16. Derek Doucet
17. Merrilyn Lindsay
18. Linda Eales
19. John Draper
20. Kristin Macrae
21. Alice Gibson
22. Michael deCat
23. Dennis Davenport
24. Carol Ingleton
25. Sandi Shortt
26. Stan & Mary Garason
27. Fran Pereira
28. Kathryn White
29. Sharon Ragaz
30. Roy & Sheila Garrett, Lakefield Historical Soc.
31. Robert Green, Lakefield Historical Society
32. Lucille Strath
33. Wendy Zelsman
34. Shirley Ralston
35. Chris Wells
36. Myra Collins
37. Sharon Ragaz
38. Susan Jardine
39. Larissa Nituch & Matthew Purvis
40. Patricia Piggott
41. Dr. Trina Macrae
42. Montye Bruce Macrae
43. Samantha Overall
44. Josephine Munar
45. Jennifer Guertin
46. Catherine Stephenson
47. Nancy & Jeff Kemp
48. Jody & Cathy Ellis
49. Sharon Clancy
50. Sandy McCracken
51. Mary-Anne Johnston
52. Lizzie & Peter Shanks
53. John Marsh
54. Marcel Van Der Mark
55. Martha Whatley
56. John W Millage