

DEVELOPMENT SERVICES COMMITTEE
MARCH 27, 2012
EXTRACT

To: Manager, Heritage Planning (R. Hutcheson)
Heritage Planner (P. Wokral)

**8. REVISIONS TO APPROVED PLANS
DUE TO UNAUTHORIZED DEMOLITION OF
HERITAGE DWELLING BUILDING PERMIT
APPLICATION HP 11 122569 000 01
41 ALBERT STREET, MARKHAM VILLAGE (16.11)**
Report

The Committee was provided with two samples of several letters received by the Ward Councillor from neighbouring property owners, supporting the alterations made by the owners.

Jim Baird, Commissioner of Development Services, provided a brief explanation of the unauthorized alterations and outlined the options available.

Alexis and Brett Whalen, owners of the subject property, gave a presentation describing the alterations made to the property by themselves and the previous owners, and stated that it had not been their intention to demolish the building. The presentation outlined consultations with Heritage staff, the Heritage Markham Committee, and expert contractors. Plans were drawn up in accordance with heritage guidelines; however, major structural problems were identified and a structural engineer stated the building was unsafe. The owners advised that they did their reasonable best to retain as much of the structure as possible and to observe the basic requirements of Heritage guidelines while ensuring the building was safe.

Ms. Whalen provided research information she had undertaken, and questioned if there was significant heritage value in the building. Several photographs of the building were displayed.

The Committee discussed past building permits and alterations made to the building. Staff advised that no charges had been laid under the Ontario Heritage Act to the previous owner for past infractions. The Committee discussed the purpose of heritage easements, Council's authority and options regarding the heritage easement agreement, and the criteria for heritage grants and the heritage tax reduction program. It was noted that this property was only in the tax program for 2003/04 but was not eligible after this due to outstanding issues with the Building Department. The subject property had been reassessed from a Class B to a Class A structure in 2005 by Council as part of an overall review of all classifications in the Markham Village Heritage Conservation District.

Staff confirmed that the current owners entered into a Site Plan Agreement with the Town to retain and restore the structure and a Building Permit was issued; however, in the process of construction the entire original structure was replaced with new construction. Variations had occurred from the approved site plan involving an increase of eight inches to the height to the walls, and changes to the slope of the roof and the gable on the front verandah. The changes were noted by the Building Inspector and brought to the attention of Heritage staff.

Mr. Whalen stated that the Building Inspector agreed to the structural changes and the issue is the heritage approvals. Staff discussed Building Code regulations with respect to structural integrity and heritage aspects that are not in the Building Code. It was noted that it is not unusual to change building plans during the process, but staff must be consulted and approve the changes. The applicant discussed response times and delays caused by the Heritage Markham review process.

Russ Gregory, contractor for the applicant, described the condition of the building and the necessity of replacing the rafters and adding the ridge board, as well as adding headers to the windows and doors.

Moved by: Deputy Mayor Jack Heath
Seconded by: Councillor Carolina Moretti

That, in accordance with Section 239 (2) (e) of the Municipal Act, Development Services Committee resolve into an in-camera session to discuss the following confidential matter:

- 1) Litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board.

CARRIED

Moved by: Councillor Colin Campbell
Seconded by: Councillor Carolina Moretti

That the Development Services Committee rise from in-camera session (11:26 AM).

CARRIED

The Committee considered the applicant should have refrained from making the changes until approval was received, and suggested it would be unreasonable to tear it all down; however, it may be feasible to replace the gable roof.

Suggestions were made arising from the discussions, regarding the removal of any family members of Heritage Markham from the approved contractors list; buildings receiving relief under the heritage tax reduction program as an incentive to maintain the building; should be monitored; and, buildings on the Open Doors list must be structurally sound.

Clarification was requested on the following issues:

- contraventions of heritage standards by the previous owner, and a comparison of the current contraventions
- what actions can reasonably be taken to rectify the unauthorized alterations
- what costs are involved in restoring all the unauthorized alterations
- at what point did the Town become aware of contraventions and what actions were taken

The Committee spoke in support of staff's efforts and Heritage Markham, and agreed that this may be an opportunity to review the inspection, permit, and heritage processes.

The Committee considered convening a meeting of the Markham Subcommittee to examine the submission by the applicants and discuss this matter further, but noted that the deadline for approval is April 13, after which the application is deemed to be approved. Brett Whalen agreed to waive the deadline for a few days to allow the Markham Subcommittee to meet and report back to Development Services Committee and Council on April 17, 2012.

Moved by: Deputy Mayor Jack Heath

Seconded by: Mayor Frank Scarpitti

- 1) That the report entitled "Revisions to Approved Plans due to Unauthorized Demolition of Heritage Dwelling, Building Permit Application HP 11 122569 000 01, 41 Albert Street, Markham Village", dated March 27, 2012, be received; and,
- 2) **That written submissions by Robert Smith and Helen and Dave Lennon, supporting the alterations made by the owners of 41 Albert Street, be received;**
- 3) **That the deputation and written submission by Alexis and Brett Whalen, owners of 41 Albert Street, be received; and,**
- 4) **That this matter be referred to the Markham Subcommittee for further discussions prior to April 17, 2012; and**

- 5) **That the following recommendations be deferred to Development Services Committee on April 17, 2012, and directly to Council on April 17, 2012:**
- a) *That Council does not support the Building Permit application seeking approval for the unauthorized alteration of the single detached dwelling at 41 Albert St. Markham Village; and,*
 - b) *That Council would support a revised building permit application from the applicant, that replicates the original dimensions and form of the former heritage dwelling at 41 Albert St. which includes the retention of any of the historic materials that have not yet been disposed of; and further,*
- 6) That Staff be authorized and directed to do all things necessary to give effect to this resolution

CARRIED