

**Markham Sub-Committee – April 11, 2012**  
**Revision to Approved Plans due to Unauthorized Demolition of Heritage Dwelling**  
**Building Permit Application HP 11 122569 000 01**  
**41 Albert Street, Markham Village**

Clarification was requested on specific items raised at the March 27, 2012 Development Services Committee:

**a) Contravention of Heritage standards by the previous owner and a comparison of the current contraventions**

The current owners indicated that the previous owners had not obtained approval for exterior alterations. In fact, the previous owners did obtain five Heritage Permits for exterior work.

March 13, 2002 (Heritage Permit)

(Heritage Markham member related to owner declared conflict of interest)

- Re-shingle original roof
- Repair addition roof
- Restore original windows to 2/2 pane division
- Re-build chimney
- Remove Board and Batten to reveal original siding
- Restore original doors and windows if evidence can be found
- Traditional picket fence
- Remove tree
- Paint in traditional colours

September 5, 2002 (Heritage Permit)

- Painting of cladding, trim and doors as per paint scrapings
- Approved by staff

September 11, 2002 (Heritage Permit)

- Erection of picket fence
- Approved by Heritage Markham

July 14, 2003 (Heritage Permit)

- Re-clad 1972 addition (presently plywood with battens) with recycled 1930s Manitoba siding.
- Approved by Staff

September 26, 2007 (Heritage Permit)

- Change cladding colour to grey/blue, trim white.
- Approved by Staff

### Building Code Issues

April 5, 2002 – Building Code Investigation- Renovations without a permit

June 3, 2002 – Building Permit 02 109110 – new gable over addition and extension of rear wall. No final inspection.

#### April 24 and May 8, 2002 (Building Permit)

(Heritage Markham member related to owner declared conflict of interest at both meetings)

- Roof alteration- gable at rear
- Reviewed at Architectural Review Sub-Committee and Heritage Markham Committee
- No objection subject to standard recommendations (Colours and materials)

October 4, 2005 – moving a garage from 43 to 41 Albert St without a permit. Issue cleared as the garage was considered to be in storage- no foundation.

### Complaint by a "Concerned Neighbour"- April 8, 2002

- complaint that work was being done without permits
- letter was taken to Heritage Markham on April 10, 2002 (attached) and the Heritage Markham member related to the owner declared a conflict of interest
- staff indicated that the letter is incorrect as the owner did secure a Heritage Permit. Building Department staff were also notified to investigate if any of the work required a Building Permit.

### Complaint by owner of 29 Albert St – November 13, 2003

- complaint about the exterior appearance of the dwelling, weeds, rodents
- Heritage staff contacted the owner of 41 Albert Street and conveyed the concerns and issues
- the owner of 29 Albert St was copied on this information.
- Heritage Markham Committee was advised of this issue on December 10, 2003 and the Chair (Mrs. Christian) advised she had visited the site and noted it was boarded and no other concerns were apparent.

### Demolition Permit – Garage- May 2010

(Heritage Markham member related to owner declared conflict of interest at meeting)

- Heritage Markham Committee reviewed permit on May 12, 2010- no objection
- Council approved the demolition of the garage on May 25, 2010.

### Contraventions by Current Owner

- Failure to comply with approved site plan agreement
- Failure to comply with approved Building Permit drawings
- Demolition of dwelling without approval.

#### **b) participation in the Town's Property Tax Reduction Program by the previous owner**

The previous owner applied for the 2003/2004 tax reduction program in February 2004. The owner had previously secured a Heritage Easement Agreement which is an eligibility requirement of the program. Upon circulation of the application, it was noted that there was a Bylaw Enforcement issue. On May 15, 2004, the Manager of By-law Enforcement called to report that the issues were resolved. The owners received a reduction for the 2003 and 2004 tax years.

A renewal application for 2005 and 2006 tax years was received in February 2006. Upon circulation of the application, it was noted that there was a Building Standards issue that needed to be resolved. No further tax reduction monies were provided to the owners.

**c) Status of Property in the Heritage District Plan**

- in 1989 the property was classified as a type B property- complementary to the district
- in 2005, the Town undertook a complete review of all properties in the district and this property was classified at a type A as were 6% of other B properties. Overall 20% of the building stock was re-classified. Approved by Council – January 17, 2006.

**d) History of the Property**

- the owners indicated that they could find little historical information about the house.
- when the current issue arose, Staff undertook further research and found:
  - the house was likely built on this site c.1860 by William Leaper, an English immigrant and an employee of the Speight Wagon Company. He was the owner of Lot 4 from 1858 to 1871.
  - the 1861 census for this lot indicates William Leaper, labourer lives in a frame 1 storey dwelling with his wife and 3 children.
  - in the early 20th C, the house was enlarged with a rear kitchen lean-to, updated with an Edwardian Classical porch and board and batten siding, and placed on a new poured concrete foundation.
  - the building is not illustrated on the June 1910 Fire Insurance Map since staff has learned that this map did not extend to show the area and buildings as far south as the site of 41 Albert St. When the map was updated in 1927, the house is shown as the area covered was enlarged.
  - the glazed and panelled front door (which the current applicant indicated was not original) actually came from the back of the house (according to the previous owner).

**e) Professionalism of Staff**

- the applicant indicated that G. Duncan "decreed" that the floors had to be retained.
  - Staff typically advise owners undertaking renovations to heritage buildings about the importance of retaining interior features even though the interiors are typically not regulated by heritage planning.
  - in this case, the pine flooring was the only significant interior feature remaining and the applicant was encouraged to retain it.
- the applicant reported confusion between G. Duncan and C. Bird.
  - in fact, it was G. Duncan trying to find a solution at the request of the applicant to allow the relocation of the building off its foundation prior to site plan approval. This is not standard practice for the Town. The Building Dept was not prepared to issue a permit to allow this until the applicant obtained site plan approval and a variance through the Committee of Adjustment for change of use.
  - However, to help the applicant, Mr. Duncan suggested the use of a separate undertaking related to the demolition of the additions and temporary relocation. He negotiated this solution with Building and Zoning Dept staff and they agreed to accept this approach. He prepared the undertaking and the owner signed it on July 21, 2011 allowing the applicant's building permit to be issued on July 22nd.

- the applicant raised the issue of being placed on committee agendas without adequate notice
- the applicant submitted a revised building permit reflecting the work they had undertaken on January 13, 2012 after the Heritage Markham meeting. Staff had to obtain Council's recommendation within 90 days as per the Ontario Heritage Act. The revised permit was placed on the next available meeting of Heritage Markham (February 8th) as the issue had to be in front of Markham Council by April 13. Reports are written 6 weeks in advance of the meetings as per Town requirements which required obtaining Heritage Markham's input in February. Contrary to the applicant's claim, disciplinary action was not being discussed at the meeting, merely the revised Building Permit they had submitted. Applicants are not normally advised of application review by the Committee as the Heritage Markham comments are just part of the Town's normal review process.
- As to notification regarding the March 27 meeting, the applicant should have been informed that this was the tentative date of the meeting. However, staff cannot confirm a date until the staff report has received the CAO sign-off. The staff report was emailed to the applicant on March 23, 2012.

**f) Markham Listing of Contractors**

- Property owners can choose anyone they wish to undertake alterations to their heritage property. They are in no way required or advised that they must use this listing. The listing is a customer service initiative provided to further help property owners in their quest to find the right professional for their specific project.
- A separate memo is being sent to all members of Council on this issue.

**g) Conflict of Interest**

- the applicant has indicated that the previous owner who was a member of the Heritage Markham Committee should not have participated in the review of this project.
- the previous owner indicated that she had no pecuniary interest in the property as it had been sold and felt she could participate as a Committee member.
- from 2002-2010, the property was owned by the son and husband of a member of Heritage Markham and whenever the issue came before the Committee, the member declared a conflict of interest.
- the Clerks Dept has informed all committee members that it is up to the individual member to determine if they have a conflict of interest and staff will not advise members in this matter.

**h) At what point did the Town become aware of the current contravention and what actions were taken**

The Manager of Heritage Planning was contacted by the Manager of Building Inspections on November 17, 2011 that the owners of 41 Albert Street did not appear to be following approved plans. It was indicated that apparently the structure of the dwelling was been totally rebuilt except for a few components. Heritage Section staff attended the site on November 18 with the Building Inspector. Photographs were taken by the Inspector.

The Building Department undertook an investigation of the matter which resulted in the issuance of an Order to Comply. A Stop Work Order was issued in late December 2011.

**i) what actions can be reasonably taken to rectify the unauthorized alterations**

The following options could be considered:

1. Alter new building by correcting wall height, roof slope and porch gable to reflect the former dwelling design.
2. Alter the new building by correcting porch gable
3. Pay for a Markham Remembered plaque that would be installed at the front of the property detailed the former heritage building.
4. Approve the building as constructed.

**j) costs associated with the options**

1. Would have to be determined by builder. This would be the most intrusive and expensive
2. Would have to be determined by builder. This cost would be less than option 1
3. Cost is approximately \$1200.00 for a Markham Remembered Plaque
4. No cost.

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