



Committee of the Whole Report

| | |
|--------------------------|---|
| Report Number: | ED2021-025 |
| Meeting Date: | October 5, 2021 |
| Title: | Repeal and Replacement of Designating By-law – 28 Boyd Street, Bobcaygeon |
| Description: | Repeal and replacement of By-law 2021-003 to designate 28 Boyd Street under Part IV of the Ontario Heritage Act |
| Author and Title: | Emily Turner, Economic Development Officer – Heritage Planning |

Recommendations:

That Report ED2021-025, **Repeal and Replacement of Designating By-law – 28 Boyd Street, Bobcaygeon**, be received;

That the Municipal Heritage Committee's recommendation to repeal and replace By-law 2021-003 to designate 28 Boyd Street be endorsed;

That staff be authorized to issue a Notice of Repeal and Notice of Intention to Designate 28 Boyd Street, Bobcaygeon;

That a by-law to repeal and replace By-law 2021-003 be brought forward for adoption at the next Regular Council meeting following the end of the notice period; and

That this recommendation be brought forward to Council for consideration at the next Regular Council Meeting.

(Acting) Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

Background:

28 Boyd Street in Bobcaygeon was designated under Part IV of the Ontario Heritage Act in January 2021 by By-law 2021-003. The property contains the Edgewood dry stone wall, which is its primary heritage attribute. When the by-law was passed, it contained a map of the property, which indicated where the heritage features (the wall) were located. The map was included based on guidance from the Ministry of Heritage, Sport, Tourism and Culture Industries due to the new regulations under the Ontario Heritage Act, which were intended to come into effect on January 1, 2021. The proposed regulations had been circulated to heritage staff at municipalities across Ontario in October 2020. These regulations provided mandatory requirements for designation by-laws, including the provision of a map with the by-law, which outlines its heritage features. At that time, the Ministry provided verbal guidance to municipalities to ensure that heritage by-laws, which were to be passed early in the New Year, aligned with the requirements outlined in the new regulations.

The new regulation (Ontario Regulation 385/21) was eventually proclaimed on July 1, 2021. It did not include a map as a mandatory provision for a designating by-law because, in the interim between the draft regulations being provided to municipalities and the proclamation of the final regulations, it was discovered by the Ministry that the Ontario Land Registry Office would not register by-laws on title containing images, including maps. When this was discovered, the by-law for 28 Boyd Street had already been passed in accordance with the previous guidance from the Ministry.

As a result, the designation by-law for 28 Boyd Street cannot be registered on title against the property. In order to register the by-law, a new by-law will have to be passed. This will require the repeal of By-law 2021-003, which is attached as Appendix A for Council's reference, and the passage of a new designating by-law under the Ontario Heritage Act. Staff are proposing that an identical by-law with Schedule B, which contains the map of the property, removed, be passed by Council. The by-law as written aligns with the new requirements for designating by-laws under the Act.

The repeal of a designating by-law at Council's initiative and the passage of a new designating by-law are governed by Sections 31 and 29, respectively, of the Act. Both sections require Council to consult with its municipal heritage committee prior to making a decision. At its meeting of September 2, 2021, the Kawartha Lakes Municipal

Heritage Committee reviewed the proposed repeal and replacement of the by-law and passed the following motion:

KLMHC2021-97

Moved By A. Adare

Seconded By W. Bateman

That Report KLMHC2021-39, **Repeal and Replacement of Designation By-law - 28 Boyd Street, Bobcaygeon**, be received;

That By-law 2021-003 be repealed;

That a new designating by-law which does not include Schedule B be adopted;
and

That this recommendation be forwarded to Council for approval.

Carried

This report responds to that direction.

Rationale:

In order to ensure that a designating by-law is registered against the property, the old by-law could either be amended or repealed and replaced. While repealing and replacing the by-law is a slightly more involved process, staff feel that it is a better alternative because it presents a clean by-law, which can be registered on title for the property and creates clarity for the owner, or future owners who may purchase the property. Registration of a clean by-law on title will ensure that there is no confusion regarding the specifics of the heritage protection of the property for the current owner or, crucially, if the property is sold; for a potential future buyer, the registration of a clean by-law on title will ensure that they can be made fully aware of the heritage value of the property and the protected features through a title search. The Clerk's Office was consulted with regard to the proposed direction and is supportive of the option to repeal and replace the existing by-law.

The repeal of a designating by-law at Council's initiative is outlined under Section 31 of the Act. Should Council agree to this course of action, a notice of repeal of by-law will be issued. At the same time, a notice of intention to designate, with a new and revised by-law, will also be issued under Section 29 of the Act. These are separate legal

processes, but can be performed simultaneously, as is being proposed. As the by-laws will be repealed and replaced at the same time, there will be no lapse in heritage protection of the property.

The new by-law will be substantially the same as the old by-law, except for the deletion of the map which is attached to it as Schedule B and the removal of references to Schedule B in the main body of the by-law. There is no change to the content or intent of the by-law beyond the removal of Schedule B.

Under both Section 31 and 29 of the Act, notice is required to be provided to the owner of the property regarding the City's intent to repeal the original designating by-law and pass a new one. A public notice in the newspaper is also required. The Act provides for objection to be made to this process, either by the property owner or any member of the public, but staff do not anticipate this occurring. The owner of the property is aware of the issue with the current by-law and is supportive of the direction proposed by staff. The wall is currently undergoing a significant restoration and the process to correct the issues with the by-law will have no impact on the project.

This approach also ensures that heritage protection policies contained in the 2020 Provincial Policy Statement, 2019 Growth Plan for the Greater Golden Horseshoe, and the 2012 City of Kawartha Lakes Official Plan continue to be maintained.

Other Alternatives Considered:

There are no recommend alternatives.

Alignment to Strategic Priorities:

The designation of property under Part IV of the Ontario Heritage Act supports the following goals from the Council adopted Strategic Plan:

- A Vibrant and Growing Economy
- An Exceptional Quality of Life

The identification and protection of heritage assets in the community through designation promotes and exceptional quality of life by supporting and promoting arts, culture and heritage within the municipality. Designation provides long term protection and management for key heritage resources in the municipality and recognizes their

importance to the community. The repeal and replacement of the by-law for this property ensures that it is adequately protected.

The protection of heritage resources in the municipality also assists in the growth of the local economy in general by identifying, protecting, and celebrating places where people want to live, work and visit. It encourages investment in local communities by ensuring and promoting attractive places for residents and businesses to be. It also has a direct impact on developing local tourism through the preservation of sites and landscapes that people want to visit.

Financial/Operation Impacts:

There will be advertising costs and costs for the registration of the designation by-law associated with this application which are covered by the existing Heritage Planning budget.

Consultations:

Municipal Heritage Committee
Clerk's Office
Ministry of Heritage, Sport, Tourism and Culture Industries

Attachments:

Appendix A – By-law 2021-003 (Designate 28 Boyd Street)



Adobe Acrobat
Document

(Acting) Department Head email: rholy@kawarthalakes.ca

(Acting) Department Head: Richard Holy, (Acting) Director of Development Services