



Committee of the Whole Report

Report Number:	ED2023-003
Meeting Date:	February 7, 2023
Title:	Objection to the Listing of Property – 12 Helen Street, Fenelon Falls
Description:	Objection by the owner to the listing of 12 Helen Street on the City's Heritage Register
Author and Title:	Emily Turner, Economic Development Officer – Heritage Planning

Recommendations:

That Report ED2023-003, **Objection to the Listing of 12 Helen Street, Fenelon Falls**, be received;

That the property be removed from the Heritage Register; and

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

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

Background:

The City of Kawartha Lakes regularly lists properties on its Heritage Register as properties of cultural heritage value or interest. Listed properties are not designated and are not subject to the same restrictions, such as the requirement to apply for a heritage permit to undertake certain types of alterations, as properties designated under Parts IV and V of the Act. The City is proactive identifying and protecting properties through listing. Properties are identified by staff, members of the Committee and Council, and members of the public.

At the meeting of the Committee of the Whole on June 7, 2022, Council was presented with a list of properties for listing on the Heritage Register. At the Council meeting of June 21, 2022, Council adopted the following resolution:

CR202-198

Moved By Councillor Dunn

Seconded By Councillor Elmslie

That Report ED2022-016, **Listing Properties on the Heritage Register**, be received; and

That the proposed addition of non-designated properties listed in Appendix A to the City of Kawartha Lakes Heritage Register, save and except for the properties located at 1464 Highway 7A, Bethany, 17 John Street, Fenelon Falls, 106 Elm Tree Road, Mariposa and 77-83 William Street North, Lindsay, be approved, as amended.

Carried

Changes made to the Ontario Heritage Act through the More Homes, More Choice Act (2019) came into effect on July 1, 2021. These changes introduced new processes for listing properties on the City's Heritage Register. These include both a statutory notice and a process for property owners to formally object to the listing of their property.

Property owners are notified twice regarding the listing of their property on the Heritage Register, both before and after it is considered by Council. The first of these notices is a courtesy notice, while the second, which provides the information on objecting to the listing, is the statutory notice required by the Act. In order to object to the listing of their property, the owner of a property must serve their objection on the

Clerk of the municipality, in writing, stating that they object to the listing and the reasons why. These are the requirements outlined by subsection 27(7) of the Ontario Heritage Act.

In October 2022, the owner of 12 Helen Street in Fenelon Falls submitted a notice of objection to the Clerk's Office. The objections identified in the form are as follows:

- The property is historically not a lumber mill;
- It was reconstructed in 1936 and is not 100 years old; and
- It has no heritage features or anything unique or special.

As with the addition of listed properties to the Register, Council makes the decision as to whether or not a property should be removed from the Register following an objection. Council must first consult with its Municipal Heritage Committee prior to making a decision. At its meeting of January 12, 2022, the Committee reviewed the objection and passed the following resolution:

KLMHC2023-011

Moved By T. Richards

Seconded By W. Bateman

That Report KLMHC2023-007, **Objection to the Listing of Property – 12 Helen Street, Fenelon Falls**, be received;

That 12 Helen Street, Fenelon Falls be removed from the Heritage Register; and

That this recommendation be forwarded to Council for approval.

Carried

This report addresses the objection received by the City.

Rationale:

12 Helen Street was identified by staff as an eligible property for listing on the Heritage Register. The rationale for listing the property was presented in the report to Council in June 2022 as follows:

12 Helen Street has cultural heritage value as an important surviving example of a historic planing mill in Fenelon Falls. The building was constructed in 1940 to replace an older planing mill on the same site and is one of the only industrial structures remaining

from the community's past as a lumbering centre in the region. The property has important historical associations with the development of the lumber industry in Fenelon Falls and yields information about the community's economic development. It also has important associations with the Handley family who have operated the business since 1936 and are well known in the community. The property supports the historic small town character of Fenelon Falls and is a landmark as a longstanding local business.

When the notices were provided to the owners, a heritage evaluation matrix was also included in the correspondence. This matrix is attached as Appendix A and demonstrates the property's heritage value in relation to Ontario Regulation 9/06. The excerpt for the property from the Heritage Register is attached as Appendix B.

The objection made by the owner is the property is based on its cultural heritage value which the owner believes is lacking, making the property not worthy of listing on the Register. At the time the property was listed, municipalities were not required to prove heritage value before listing a property as a property have to at that time only be believed to have heritage value for it to be listed. However, the City's practice was to undertake an evaluation based on Ontario Regulation 9/06 to ensure that each property had clearly identified cultural heritage value; the criteria and the way in which the property fulfils them is identified in the heritage evaluation matrix attached to this report. Amendments to the Ontario Heritage Act through Bill 23, the More Home Built Faster Act (2022) now require that a property be evaluated based on Ontario Regulation 9/06 and fulfil at least one criteria to be listed on the Register, which aligns the City's current practice with the legislation. The property has clearly identified cultural heritage value in relation to O. Reg 9/06 and is in compliance with the current requirements under the Act as it fulfils multiple criteria under the regulation. The items identified by the owner and their bearing on the cultural heritage value of the property are as follows:

- **The property is historically not a lumber mill:** the historic value of this property, as identified in its historic role as a planing mill, not a lumber mill. A planing mill was first built on the site around 1900 which was destroyed by a fire in 1936. It was reconstructed around that time, as the present building.
- **It was reconstructed in 1936 and is not 100 years old:** the age of a property is not identified as a criterion under O. Reg. 9/06 and has no bearing on its cultural heritage value.

- **It has no heritage features or anything unique or special:** the property is unique as the only structure of this type in Fenelon Falls. Its heritage features are reflective of its use as an industrial building and include its rectangular massing, limited ornamental details, large multipane windows, flat roof, and garage doors.

The property was also identified as having cultural heritage value through its relationship to the wider lumber industry in the region, its contextual relationship to the historic character of Fenelon Falls and its role as a landmark as a longstanding local business. Generally, staff would recommend that a property with this level of cultural heritage value remain listed on the Register.

However, despite the cultural heritage value of the property, both staff and the Municipal Heritage Committee are supportive of the request to remove the property from the Register due to the recent amendments to the Act made by Bill 23 which limit the time that a property may be listed on the Register. As the property was listed prior to the amendments coming into effect on January 1, 2023, it must either be designated or removed from the Register within two years, meaning that it will automatically be removed from the Register on January 1, 2025, unless it is designated under Part IV of the Ontario Heritage Act prior to this date. If removed automatically from the Register in this way, properties may not be listed again for five years. Staff will be bringing forward properties for designation throughout 2023 and 2024 and will be prioritizing properties with known or anticipated development pressures. A report detailing the high-level strategic approach to the designation of listed properties will be presented to Council by the end of Q1 2023. As this property is located within the Fenelon Falls Settlement Area, development pressures on this or adjacent properties are possible. However, should development be anticipated on this site at a future date and Council feels this property should be preserved as part of a new development, the property may be re-listed. There is no prohibition in the Act regarding re-listing a property which has been removed by Council's initiative prior to the two-year period identified in the Register. While staff do not view this as a good approach to cultural heritage management, removing the property from the Register at this time and revisiting it later, if and when required, is a practical alternative available in light of the recent amendments to the Act.

Other Alternatives Considered:

Council may choose to leave the property listed on the Register if it feels that the cultural heritage value of the property outweighs the considerations presented in response to Bill 23, as outlined above. Should Council wish to do so, it can make the following motion:

That Report ED2023-003, **Objection to the Listing of 12 Helen Street, Fenelon Falls**, be received;

That the property remains listed on the Heritage Register; and

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

Alignment to Strategic Priorities

In general, the listing of properties on the Heritage Register supports the strategic priority of An Exceptional Quality of Life by supporting and promoting arts, culture and heritage. Listing properties recognizes and promotes heritage resources in the municipality and supports long-term heritage conservation and planning. It also aligns with the municipality's guiding principle of Open and Transparent because it is a clear and transparent method of identifying and protecting heritage resources. In general, alignment with the City's strategic priorities would support the retention of the property on the Register, which is not the recommendation contained in this report.

However, the recommendation presented in this report is in response to the practical considerations imposed by the City due to amendments to the Ontario Heritage Act by Bill 23. Council may re-list it at a future date, which would align with the above noted priorities.

Financial/Operation Impacts:

There are no financial or operational impacts as a result of the recommendations of this report.

Consultations:

Property Owner
Municipal Heritage Committee

Attachments:

Appendix A – Heritage Evaluation Matrix: 12 Helen Street



Adobe Acrobat
Document

Appendix B – Summary Statement of Significance: 12 Helen Street



Adobe Acrobat
Document

Department Head email: rholy@kawarthalakes.ca

Department Head: Richard Holy, Director of Development Services